

From: [Director_DI](#)
To: [Modi, Naveen](#); [Trials](#); [Director_DI](#)
Cc: [Kristi Sawert](#); [Michael Kane](#); [Casey Kraning](#); PGR60676-0002PS1@fr.com; [Dittmann, Eric W.](#); [Zeilberger, Daniel](#); [Peachman, Scott](#); [Peter Bernstein](#); [Mark Cohen](#)
Subject: RE: PGR2025-00076
Date: Tuesday, November 18, 2025 2:09:38 PM

Petitioner is authorized to file a motion under 37 C.F.R. 42.71(a) in PGR2025-00076 to dismiss the petition. Petitioner should file the motion by Thursday, November 20, 2025. Patent Owner may file an opposition within 5 days of the filing of the motion if they choose to do so.

From: Modi, Naveen <naveenmodi@paulhastings.com>
Sent: Monday, November 17, 2025 2:55 PM
To: Trials <Trials@USPTO.GOV>; Director_DI <Director_DI@uspto.gov>
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Subject: PGR2025-00076

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Dear Honorable Director Squires and the Honorable Board,

Petitioner in PGR2025-00076 respectfully requests leave to withdraw the Petition. As in the Board's recent decision in *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-01081, Paper 10 (Oct. 17, 2025), the Board has not yet decided the merits of the Petition. Rather, as in *iRhythm*, Patent Owner has filed a Discretionary Denial request but otherwise no substantive papers have been filed.

Petitioner first reached out to Patent Owner regarding this request on November 4. On November 10, Patent Owner indicated it needed more time to consider Petitioner's request. On November 13, Patent Owner inquired whether Petitioner would stipulate that Petitioner and any RPIs would never file any other petition against the patent at issue (U.S. Patent No. 12,138,276). On November 14, Petitioner indicated that it would not enter into such a broad stipulation, but confirmed that it did "not currently have any plans to file another petition." On November 17 (today), Patent Owner indicated that it would oppose Petitioner's request "[b]ecause Petitioner/RPIs will not stipulate." Petitioner respectfully submits that such a stipulation was not required in *iRhythm*, nor should be required here particularly given the circumstances surrounding Petitioner recently becoming a wholly owned subsidiary of Warka Intermediate LLC, which is in turn a wholly owned subsidiary of AbbVie Inc. See Paper 8. In addition, Petitioner disagrees with Patent Owner's characterizations and arguments below.

Patent Owner requested to add the following position to this email:

Patent Owner strongly opposes Petitioner's request to withdraw the Petition. First, Patent Owner has already expended significant funds and resources defending the '276 patent against the Petition. Patent Owner filed its Request for Discretionary Denial (which is a substantive paper) on October 24. Patent Owner is also currently preparing its Patent Owner Preliminary Response, which is due for filing next week. Petitioner recently named AbbVie—a large, multibillion-dollar biopharmaceutical company—as a RPI. Patent Owner, in contrast, is a micro entity that simply cannot afford multiple attacks on the '276 patent. It would be manifestly unfair for such a well-resourced Petitioner to withdraw the current Petition while retaining the right to file another petition at some unknown date in the future, presumably correcting the significant and pervasive mistakes in the original petition that Patent Owner highlighted in its Request for Discretionary Denial and effectively giving Petitioner two bites at the apple, as Petitioner has refused to stipulate that it will not file a subsequent IPR petition.

Second, the Board's decision in *iRhythm* (IPR2025-01081, Paper 10) should not dictate the correct procedure here. That decision is not precedential and was issued by three APJs who had been paneled under the March 26, 2025 Interim Director Discretionary Process. That process has been superseded by the Director's October 17, 2025 memo. Accordingly, Patent Owner respectfully requests that the Director decide institution according to the October 17, 2025 memo. At minimum, Patent Owner requests that the Director require Petitioner to file a brief in support of a motion to withdraw and permit Patent Owner a response.

Respectfully,
Naveen Modi
Counsel for Petitioner

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