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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION,

Petitioner

v.

BOSTON SCIENTIFIC SCIMED, INC.,

Patent Owner

Case No. IPR2017-00072

Patent 6,915,560

**PETITIONER'S REQUEST FOR REHEARING
PURSUANT TO 37 C.F.R. § 42.71(d)**

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.71(d), Petitioner Edwards Lifesciences respectfully requests rehearing of the Board's April 21, 2017 Decision Denying Institution of *Inter Partes* Review under 35 U.S.C. § 325(d) ("Decision," Paper 8). Petitioner seeks reconsideration of the denial because the Board was led astray by Patent Owner to find erroneously that the Petition raises "the same or substantially the same prior art or arguments as those previously presented to the Office." Decision at 11. As a result, the Board misapprehended or overlooked that the Petition raises new prior art combinations, arguments, and facts that were *not* previously considered by the Office.

As explained below, the Board was led astray by Patent Owner to believe that new prior art raised in the Petition was substantially the same as prior art before the Office. To the contrary, the Petition prior art combinations disclose claim limitations not disclosed by the Office prior art combinations. Those claim limitations formed the basis for the Examiner's allowance of the claims. As such, the Board's findings cannot be supported by substantial evidence and amount to an abuse of discretion necessitating rehearing. Thus, Petitioner respectfully requests that the Board reconsider its Decision denying institution.

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