

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**EDWARDS LIFESCIENCES CORPORATION,**  
Petitioner

v.

**BOSTON SCIENTIFIC SCIMED, INC.,**  
Patent Owner

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Case No. IPR2017-00444  
Patent 6,915,560

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**REVISED MOTION TO SEAL UNDER 37 C.F.R. § 42.54**

Mail Stop PATENT BOARD  
Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

## **I. STATEMENT OF RELIEF REQUESTED (37 C.F.R. § 42.22(A)(1))**

Pursuant to 37 C.F.R. § 42.54, and in accordance with the Board's Decision of June 27, 2017 (Paper 41) granting-in-part the Parties Joint Motion to Seal (Paper 19), Patent Owner Boston Scientific Scimed, Inc. hereby moves to seal portions of Exhibit 1128, which includes Patent Owner's confidential business and technical information.

## **II. FULL STATEMENT OF RELIEF REQUESTED**

### **(37 C.F.R. § 42.22(A)(2))**

Patent Owner requests that its confidential business and technical information, contained in Exhibit 1128, originating from a document produced as part of the co-pending District Court Action, *Boston Scientific Corp. and Boston Scientific Scimed, Inc. v. Edwards Lifesciences Corp.*, Civil Action No. 8:16-cv-0730 (C.D.Cal.) ("District Court Action"), be sealed because good cause exists for sealing the confidential information contained therein. The exhibit was produced by Patent Owner as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to a protective order entered in the District Court Action.

### **A. Good Cause Exists For Sealing**

Exhibit 1128 is an invention disclosure by the named inventor on U.S. Patent No. 6,915,560 ("the '560 patent"). Portions of Exhibit 1128 include confidential information considered sensitive by Patent Owner. Specifically, those

portions include descriptions of the invention and its advantages, sketches of the invention, and descriptions of embodiments of the invention provided by the inventor during the development stage, prior to filing the application for the '560 patent or any related application.

The Parties initially sought to seal Exhibit 1128 in its entirety. Paper 19. Finding that good cause did not exist to seal the entire document, the Board granted an opportunity to file this Revised Motion to Seal with a redacted version of Exhibit 1128. Paper 41. The redactions are limited to isolated passages consisting entirely of confidential information, and the thrust of the underlying argument remains clearly discernible in view of the unredacted portions of Exhibit 1128 and the publicly available version of Petitioner's Reply Brief (Paper 17).

### **III. CERTIFICATION OF NON-PUBLICATION**

Undersigned counsel certifies that, to the best of its knowledge, the information sought to be sealed by this Revised Motion to Seal has not been published or otherwise made available to the public. Efforts to maintain the confidentiality of this information have been undertaken by Patent Owner.

### **IV. CERTIFICATION OF CONFERENCE (37 C.F.R. § 42.54)**

The Parties have conferred in good faith via email regarding this Revised Motion to Seal and Petitioner confirmed that it does not oppose this motion.

## **V. PROTECTIVE ORDER (37 C.F.R. § 42.54)**

The Parties have previously conferred in good faith via telephone and email and agreed to the terms of a proposed Stipulated Protective Order, which is a modified version of the Board's Default Protective Order. *See* Paper 14. On June 26, 2018, the Board entered that Stipulated Protective Order. Paper 40.

## **VI. CONCLUSION**

In accordance with the above, the Patent Owner submits that it has complied with the formal requirements of a motion to seal and has provided sufficient basis to justify placing the unredacted version of Exhibit 1128 under seal. Therefore, the Patent Owner respectfully request that the Board grant this Motion.

Dated: July 10, 2018

Respectfully Submitted,

By: /s/ Wallace Wu

Wallace Wu (Reg. No. 45,380)

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