

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RTI SURGICAL, INC.,  
Petitioner

v.

LIFENET HEALTH,  
Patent Owner

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Case Nos. IPR2019-00569 and IPR2019-00570<sup>1</sup>  
Patent Nos. 6,458,158 and 8,182,532

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**PETITIONER'S REQUEST FOR ORAL ARGUMENT PURSUANT TO 37  
C.F.R. §42.70(a)**

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<sup>1</sup> A word-for-word identical paper has been filed in each proceeding identified in the heading.

Pursuant to 37 C.F.R. §42.70(a) and the Scheduling Order (Paper 16), Petitioner RTI Surgical, Inc. (“RTI”) respectfully requests oral argument in this matter. Oral argument is scheduled for June 2, 2020.

The issues to be argued include:

1. Whether the challenged claims of U.S. Patent Nos. 6,458,158 and 8,182,532 are unpatentable based on the instituted grounds;
2. The proper construction of disputed claim terms, including “cortical bone portion,” “cancellous bone portion,” “disposed between,” “plate like,” and “through-hole”;
3. Any issues raised by Petitioner or Patent Owner LifeNet Health (“LifeNet”) in these proceedings, including in each of the Petitions for *Inter Partes* Review, Patent Owner Responses, Replies and Sur-Replies in these proceedings;
4. Any Motions to Exclude Evidence filed by Petitioner or Patent Owner;
5. Any other motions or filings pending before this Board;
6. Any additional issues raised by Patent Owner in its Request for Oral Argument; and
7. Any additional issues raised by the panel or Patent Owner at oral argument.

Petitioner requests that the two related proceedings referenced above be argued in one hearing. To ensure the parties have sufficient time to discuss each patent, Petitioner requests that each side have sixty minutes for oral argument.

As for the hearing logistics, the September 3, 2019, Order stated that the panel intended to hear oral argument (if it is held) at the USPTO regional office in San Jose, California. If the oral argument is held in person, Petitioner anticipates that up to six people may attend the hearing on its behalf. However, Petitioner understands that the Board has indicated that all oral arguments after March 13, 2020 (which would include the oral argument in these reviews) will occur remotely, with attorney participation by videoconference and/or telephone. (See <https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/hearings>.) Petitioner understands that further instructions will be forthcoming. Petitioner notes that at least two members of its team, including the attorney who is likely to present oral argument, are “at high-risk for severe illness from COVID-19.” (COVID-19 FAQs, Higher Risk, <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#high-risk>).

Finally, Petitioner requests permission to use audio/visual conferencing software and/or equipment—including a computer, document camera, and monitor or electronic screen—to display demonstratives and exhibits remotely to other participants during the oral argument.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Dated: April 21, 2020

By: /David D. Headrick/  
David D. Headrick  
Reg. No. 40,642  
*Counsel for Petitioner*  
*RTI Surgical, Inc.*

## CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e)(4), the undersigned certifies on this date, a true and correct copy of this **PETITIONER'S REQUEST FOR ORAL ARGUMENT PURSUANT TO 37 C.F.R. §42.70(a)** was served by e-mail on counsel for Patent Owner:

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Dated: April 21, 2020

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