

From: Derek Vandenburg <DVandenburg@carlsoncaspers.com>
Sent: Tuesday, September 14, 2021 12:00 PM
To: Trials <Trials@USPTO.GOV>
Cc: VSI-MDT <VSI-MDT@carlsoncaspers.com>; MDT-IPR <MDT-IPR@RobinsKaplan.com>
Subject: IPR2020-01341, -01342, -01343, and -01344

Dear Board:

I represent Patent Owner in the above-listed IPRs. I am writing to request leave to file a motion to strike certain improper new arguments and evidence contained in Petitioner's reply briefs, or in the alternative to file a paper that identifies improper new evidence and argument in connection with Patent Owner's sur-replies. In particular, we would move to strike:

1. Petitioner's new obviousness argument based on additional modifications to Kontos that were not contained in the original petitions (see, e.g. IPR2020-01342, Paper 40 at 11, 14-15, 19-20; IPR2020-01344, Paper 37 at 7, 13, 17-18). This aspect of our motion applies to IPR2020-01342 and -01344.
2. Petitioner's new obviousness argument based on the theory that Ressemann's collar discloses three inclined portions, not two (see, e.g. IPR2020-01343, Paper 46 at 28-31, 34; IPR2020-01344, Paper 37 at 13-16). This aspect of our motion applies to IPR2020-01343 and -01344.
3. Petitioner's new evidence purporting to show stents that were insertable through an opening of 0.046 inches: Ex-1806 ¶¶127-34; Ex-1807, ¶143; Ex-1015b, 189; Ex-1802; Ex-1803; Ex-1804 (see, e.g. IPR2020-01341, Paper 51 at 33-34; IPR2020-01343, Paper 46 at 25-26). This aspect of our motion applies to IPR2020-01341 and -1343.

Patent Owner has conferred with Petitioner, and Petitioner opposes Patent Owner's request. The parties are available for a call with the Board on Thursday (9/16) between 10am-1pm ET and Friday (9/17) after 1pm ET.

Respectfully submitted,

Derek Vandenburg

CARLSON

CASPERS

Intellectual Property Law

J. Derek Vandenburg
Carlson, Caspers, Vandenburg, &
Lindquist, P.A.
225 S. Sixth St., Suite 4200,
Minneapolis, MN 55402
Direct: 612.436.9618
Cell: 612-991-3952
DVandenburg@carlsoncaspers.com
carlsoncaspers.com
[BIO](#) | [vCard](#) | [Disclaimers](#)

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