

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION, EDWARDS LIFESCIENCES
LLC, AND EDWARDS LIFESCIENCES AG

Petitioners

v.

BOSTON SCIENTIFIC SCIMED, INC.

Patent Owner

Case IPR2017-01293

Patent 8,992,608

MOTION FOR JOINDER
PURSUANT TO 35 U.S.C. § 315(c) AND 37 C.F.R. § 42.122(b)

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Edwards Lifesciences Corporation, Edwards Lifesciences LLC, and Edwards Lifesciences AG (collectively, “Petitioners”) respectfully request joinder pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b) of the concurrently filed Petition for *Inter Partes* Review of Claims 1–9 of U.S. Patent No. 8,992,608 (the “’608 Patent”) (the “Second IPR Petition”) with their pending *inter partes* review, IPR2017-00060. IPR2017-00060 involves the same parties and was instituted on March 29, 2017 on three grounds, all based on obviousness of claims 1–4 over combinations with the Spenser reference (Ex. 1004 in IPR2017-00060; Ex. 1104 in the Second IPR Petition). *See* IPR2017-00060, Paper No. 7 at 24.

Joinder of the limited grounds raised in the Second IPR Petition to the instituted grounds in IPR2017-00060 is appropriate because such joinder will not unduly delay the resolution of either proceeding, and instead will help “secure the just, speedy, and inexpensive resolution” of these proceedings. *See* 37 C.F.R. § 42.1(b). The Second IPR Petition seeks *inter partes* review of (1) claims 1–9 over the grandparent application of the ’608 Patent, which published in 2005 as U.S. 2005/0283231 (Ex. 1135); and (2) claims 1–4 over Seguin (Ex. 1150; Ex. 1153) in view of Lazarus (Ex. 1147) and Lawrence-Brown (Ex. 1149) based on Patent Owner’s recently-explicated interpretation of the terms “sacs,” “flaps,” and “pockets” in a closely related patent in a European proceeding. Neither of these

grounds was previously considered by the Board in the petition in IPR2017-00060. However, there is sufficient similarity between the issues and the evidence relied upon in these two new grounds of the Second IPR Petition and the issues and evidence relied upon in the grounds already instituted in IPR2017-00060 that Patent Owner will not be prejudiced by adding these grounds; there will be minimal impact on the briefing, discovery and trial schedule; and joining them will lead to the most efficient resolution of these significant questions of patentability for the Board, the public, and all of the parties.

II. STATEMENT OF MATERIAL FACTS

1. On October 12, 2016, Petitioners filed a petition for *inter partes* review of the '608 Patent. IPR2017-00060, Paper No. 1.
2. In that petition, which resulted in IPR2017-00060, Petitioners requested *inter partes* review of claims 1–4 of the '608 Patent on eleven grounds of unpatentability:

Ground 1: Anticipation by Cribier

Ground 2: Obviousness over Cribier in view of Spiridigliozzi

Ground 3: Obviousness over Cribier in view of Elliot

Ground 4: Obviousness over Cribier in view of Thornton

Ground 5: Obviousness over Cribier in view of Cook

Ground 6: Obviousness over Cribier in view of De Paulis

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