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BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORP., EDWARDS LIFESCIENCES LLC, AND
EDWARDS LIFESCIENCES AG,

Petitioners,

v.

BOSTON SCIENTIFIC SCIMED, INC.,

Patent Owner.

Case IPR2017-01293

Patent 8,992,608

**PATENT OWNER'S OPPOSITION
TO MOTION FOR JOINDER**

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.23(a), Patent Owner hereby respectfully opposes Petitioner’s Motion for Joinder with IPR2017-00060 (“’060 IPR”) (Paper 3) (“Motion” or “Mot.”). As shown below, Petitioner has failed to meet its burden of establishing that joinder would promote efficient resolution of the new issues of patentability first raised in the Petition filed in this IPR2017-01293 without substantially affecting the schedule for the ‘060 IPR and prejudicing Patent Owner. Petitioner has also failed to provide an adequate justification for its failure to raise the new grounds asserted in the current Petition when it filed the ‘060 IPR. Petitioner’s motion should therefore be denied.

II. STATEMENT OF MATERIAL FACTS

On April 19, 2016, Patent Owner asserted U.S. Patent No. 8,992,608 (“’608 patent”) against Petitioner in the U.S. District Court for the District of Delaware. *Boston Scientific Corp. v. Edwards Lifesciences Corp.*, Case No. 1:16-cv-00275-SLR-SRF, Dkt. No. 1. Petitioner was served on the same day. *Id.*, Dkt. No. 6. On October 12, 2016, Petitioner filed a 75-page Petition for *Inter Partes* Review challenging claims 1-4 of the ‘608 patent in the ‘060 IPR on eleven grounds. ‘060 IPR, Paper 1. On March 29, 2017, the Board instituted trial on three grounds¹ –

¹ The Board instituted review on three obviousness grounds: WO 03/047468 A1 (“Spenser”) in light of U.S. Patent App. Pub. No. 2003/0236567 A1 (“Elliot”);

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