

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ST. JUDE MEDICAL, LLC,
Petitioner,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
Patent Owner.

Case IPR2017-01338 (Patent 6,502,576)
Case IPR2017-01339 (Patent 6,164,283)¹

Before PATRICK R. SCANLON and JAMES A. WORTH,
Administrative Patent Judges.

WORTH, *Administrative Patent Judge.*

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ Although the proceedings have not been consolidated, this Order addresses issues that are common to each of the above-referenced proceedings. The parties may use this style caption when filing a single paper in multiple proceedings, provided that such caption includes a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the caption.”

IPR2017-01338 (Patent 6,502,576)

IPR2017-01339 (Patent 6,164,283)

On July 20, 2017, the Board granted Patent Owner, The Regents of the University of California (“The Regents”), authorization to file a motion to dismiss based on Eleventh Amendment immunity and postponed the due date for the Patent Owner Preliminary Response to October 16, 2017. Paper 7. On July 25, 2017, The Regents filed “Patent Owner’s Motion to Dismiss.” Paper 9. On August 1, 2017, Petitioner, St. Jude Medical, LLC (“St. Jude”), filed “Petitioner’s Opposition to Motion to Dismiss.” Paper 13. On August 8, 2017, The Regents filed “Patent Owner’s Reply to Opposition to Motion to Dismiss.” Paper 14. The Board denied a request from St. Jude to file a sur-reply. Paper 17.

On September 12, 2017, the Board granted The Regents a two-month extension of the due date for the Patent Owner Preliminary Response, i.e., until December 16, 2017.

On November 16, 2017, a conference call was held between Judges Scanlon, Worth, Woods, and counsel for the parties. The Regents requested a further extension of the due date for the Patent Owner Preliminary Response. St. Jude expressed an interest in completing these proceedings in advance of the trial for the parallel district court proceeding, which is scheduled for February, 2019. The Regents referred to its motion to dismiss. After considering the timing of these Board proceedings, we find a further two-month postponement for the Patent Owner Preliminary Response to be reasonable.

Accordingly, it is

ORDERED that Patent Owner Preliminary Response is due February 16, 2018.

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