

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ResMed Limited, ResMed Inc., ResMed Corp.,
Petitioners

v.

Fisher & Paykel Healthcare Limited,
Patent Owner

Case IPR2019-000179

U.S. Patent 9,333,315

DECLARATION OF ANTHONY MICHAEL GING

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I, Anthony Michael Ging, of Christchurch, New Zealand, declare that:

INTRODUCTION AND BACKGROUND

1. I have reviewed the specification, including the claims, of U.S. Patent No. 9,974,914 (“the ’914 patent,” Ex. RMD1001); U.S. Patent No. 9,333,315 (“the ’315 patent,” Ex. RMD1003); and U.S. Patent No. 9,539,405 (“the ’405 patent, Ex. RMD1005).

2. In this declaration I provide my independent analysis of the ’315 patent in light of the materials cited below and my knowledge and experience in this field during the relevant time frame. I have been asked to consider what one of ordinary skill in the art at the time of the invention of the ’315 patent (a “POSITA”; refer to ¶¶20-21) would have understood from the specification, including scientific and technical knowledge related to the patents. I have also been asked to consider whether certain references disclose or render obvious the inventions described by claims 1-19 of the ’315 patent.

3. My findings, as explained below, are based on my study, experience, and background in the fields discussed below, informed by my education in Product Design, and my extensive experience in the fields of medical devices and respiratory therapy. I have also relied on my review and analysis of the prior art, information provided to me, and information I have independently reviewed.

4. I am being compensated for my independent analysis as an expert with respect to this *inter partes* review proceeding, but my compensation is not contingent in any way on the content of my analysis or the outcome of this proceeding. I have no financial interest in Petitioner (Resmed) and I have no financial interest in the challenged patent.

QUALIFICATIONS

5. From 1991 to 1994, I studied Industrial Design at the University of New South Wales. I received my Bachelor of Industrial Design degree from the University of New South Wales in 1994, with minors in Commerce and Mechanical Engineering.

6. From approximately June 1995 to December 1998, I worked for ASP Plastic in a product design and development role, which involved taking an initial concept of a safety storage/disposal container for hypodermic-needles to reduce needle related injuries, and turning that into a commercial product. I was responsible for all aspects of the process to get the product coming off the production line. The product was intended to be fixed in different locations and to be used by intravenous drug users and, to a smaller degree, diabetics. My job required an understanding of the end product's usability to enable effective product design. For instance, it was necessary to consider how user factors such as a medical condition or addiction could affect how someone used the product. For

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