

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RESMED CORP.,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No. 1:23-CV-0221-BMB
CLEVELAND MEDICAL DEVICES, INC.,)	
)	
Defendant.)	
)	

PLAINTIFF RESMED CORP.’S INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1), Plaintiff ResMed Corp. (“ResMed”) submits this Initial Disclosure Statement to Defendant Cleveland Medical Devices Inc. (“CleveMed”). ResMed makes these initial disclosures based upon information reasonably available at this time. ResMed reserves the right to amend or supplement these disclosures based on its ongoing investigation and discovery. These disclosures are made without waiving any right to object to the discoverability or admissibility of the subject matter of these disclosures, or any document or individual identified herein, on the basis of any privilege, the work product doctrine, relevance, undue burden, or any other valid objection.

I. INDIVIDUALS

In accordance with Fed. R. Civ. P. 26(a)(1)(A)(i), the following table sets forth the name and potential areas of knowledge for those individuals that ResMed presently has reason to believe are likely to have discoverable information that ResMed may use to support its claims and defenses (unless the use would be solely for impeachment). To the extent ResMed intends to rely on expert witnesses, they will be identified prior to trial in accordance with a schedule to be set by the Court. All current and former ResMed employees and consultants should be

contacted only through ResMed’s counsel, DLA Piper LLP (US), 4365 Executive Drive, Suite 1100, San Diego, California 92121, (858) 677-1400.

A. Employees With Potential Relevant Knowledge

Name	Title	Contact Information	Summary of Information Possibly Known
Brian Hickey	Director of Engineering	ResMed c/o DLA Piper	Structure, function, operation, design, development, and features of the ResMed accused myAir/AirMini app.
Kate Molony	Senior Director, Product Management for Digital Patient Experience	ResMed c/o DLA Piper	Structure, function, operation, design, development, and features of the ResMed accused myAir/AirMini app.
Bob Nadler	Senior Systems Architect	ResMed c/o DLA Piper	Structure, function, operation, design, development, and features of the ResMed accused AirView software system.
Manish Ladha	Senior Director, Global Product Management	ResMed c/o DLA Piper	Structure, function, operation, design, development, and features of the ResMed accused AirView software system.
Bart Van Pee	Senior Manager, Market and Commercial Development	ResMed c/o DLA Piper	Structure, function, operation, design, development, and features of the ResMed accused NightOwl device, app, and cloud portal products.
Frederik Massie	Senior Manager, Product Development	ResMed c/o DLA Piper	Structure, function, operation, design, development, and features of the ResMed accused NightOwl device, app, and cloud portal products

Kylie Canaday	Vice President, Business FP&A	ResMed c/o DLA Piper	Sales and financial information related to the ResMed accused products.
Gregory Dench	Senior Director, Product Marketing – Connected Solutions	ResMed c/o DLA Piper	Marketing and promotional information related to the ResMed accused products.
Gina Robledo	Manager, Global Compliance and Trade Facilitation	ResMed c/o DLA Piper	Importation of the ResMed accused products.
Dwayne Wheatley	Vice President, Commercial Operations Americas	ResMed c/o DLA Piper	Supply chain functions related to the ResMed accused products.
Michael Pinczuk	Vice President, Intellectual Property	ResMed c/o DLA Piper	Communications with CleveMed regarding CleveMed's patent portfolio. ResMed patent licenses and agreements.

B. Other Persons With Potential Relevant Knowledge

Name	Title	Contact Information	Summary of Information Possibly Known
Hani Kayyali	Inventor; Chief Executive Officer of CleveMed	4415 Euclid Ave., Suite 400, Cleveland, OH 44103	Information relating to the conception, development, reduction to practice, patent prosecution, claim construction, scope, invalidity, and/or unenforceability of the alleged inventions of the '284, '921, '512, or '680 patents. Information relating to CleveMed's corporate structure and operations. Information relating to the acquisition and assignment of CleveMed's asserted patents. CleveMed's evaluation of infringement,

			invalidity, and/or enforceability issues relating to the asserted patents and accused ResMed products. Information relating to valuations of the asserted patents or related technologies. Information related to the 2007 Product Development and Marketing Agreement and related agreements between CleveMed and ResMed Ltd. Information related to communications between CleveMed and ResMed entities.
Robert Schmidt	Inventor; Founder and Chairman of CleveMed	Last Known Address: Ft. Meyers, FL	Information relating to the conception, development, reduction to practice, patent prosecution, claim construction, scope, invalidity, and/or unenforceability of the alleged inventions of the '284, '921, or '512 patents.
Brian Kolkowski	Inventor; Executive Vice President & General Counsel of CleveMed	4415 Euclid Ave., Suite 400, Cleveland, OH 44103	Information relating to the conception, development, reduction to practice, patent prosecution, claim construction, scope, invalidity, and/or unenforceability of the alleged inventions of the '284, '921, '512, or '680 patents. Information relating to communications with ResMed regarding the CleveMed patent family. Information related to the 2007 Product Development and Marketing Agreement and related agreements between CleveMed and ResMed Ltd. Information related to communications

			between CleveMed and ResMed entities.
Craig A. Frederick	Inventor	Last Known Address: Solon, OH	Information relating to the conception, development, reduction to practice, patent prosecution, claim construction, scope, invalidity, and/or unenforceability of the alleged inventions of the '512 patent.
Daniel Bishop	Inventor	Last Known Address: Talmadge, OH	Information relating to the conception, development, reduction to practice, patent prosecution, claim construction, scope, invalidity, and/or unenforceability of the alleged inventions of the '512 or '680 patents.
Mohammad Modarres	Inventor	Last Known Address: Southborough, MA	Information relating to the conception, development, reduction to practice, patent prosecution, claim construction, scope, invalidity, and/or unenforceability of the alleged inventions of the '284 or '921 patents.

ResMed reserves the right to modify or supplement the lists of persons disclosed above during discovery or otherwise during this action.

II. DOCUMENTS

In accordance with Fed. R. Civ. P. 26(a)(1)(A)(ii), ResMed identifies the categories of documents, electronically stored information, and tangible things listed below which may be used to support ResMed's claims and defenses, some of which are within the possession, custody, or control of ResMed:

1. Documents and materials relating to the asserted patents, including documents and materials concerning the prosecution of the applications leading to the asserted patents.
2. Documents and materials relating to CleveMed's and any prior assignees of the asserted patents' transfer, assignment, purchase, sale, attempted sale, licensing, and attempted licensing of the asserted patents or related technology.
3. Documents and materials relating to the conception, design, and reduction to practice of the subject matter disclosed and claimed in the asserted patents.
4. Documents and materials regarding the development, structure, function, operation, design, and features of accused products and/or other products alleged to practice the asserted patents.
5. Documents and materials relating to the marketing, licensing, sales and offers for sale of the accused products.
6. Documents and materials relating to end users' use of the accused products.
7. Documents relating to CleveMed's damages claim.
8. Documents and materials evidencing, among other things, state of the art, invalidity and/or unenforceability of the asserted patents.
9. Documents and materials relating to "potential partnership opportunities" between CleveMed and ResMed as referenced in the Complaint.

III. COMPUTATION OF DAMAGES.

In accordance with Fed. R. Civ. P. 26(a)(1)(A)(iii), ResMed denies that CleveMed is entitled to any damages or attorneys' fees for the claims it asserts in this action. ResMed reserves the right to seek its attorneys' fees and costs incurred in this action.

IV. INSURANCE

In accordance with Federal Rule of Civil Procedure 26(a)(1)(A)(iv), ResMed is not aware at this time of any insurance agreements that may be applicable to this action.

Dated: January 2, 2024

Respectfully submitted,

/s/ David R. Knudson

Michael R. Reed (0063995) Trial Attorney

Elisé K. Yarnell (0093996)

HAHN LOESER & PARKS LLP

65 East State Street, Suite 1400

Columbus, Ohio 43215

Tel. (614) 221-0240

Fax: (614) 221-5909

Email: mreed@hahnlaw.com

eyarnell@hahnlaw.com

Sean C. Cunningham (*pro hac vice*)

Tiffany Miller (*pro hac vice*)

David R. Knudson (*pro hac vice*)

DLA PIPER LLP (US)

4365 Executive Drive, Suite 1100

San Diego, California 92121

Tel. (858) 677-1400

Fax: (858) 677-1401

Email: sean.cunningham@us.dlapiper.com

tiffany.miller@us.dlapiper.com

david.knudson@us.dlapiper.com

Angela Whitesell (*pro hac vice*)

DLA PIPER LLP (US)

1201 North Market Street, Suite 2100

Wilmington, Delaware 19801

Tel. (302) 468-5700

Fax: (302) 468-5701

Email: angela.whitesell@us.dlapiper.com

Counsel for Plaintiff ResMed Corp.

CERTIFICATE OF SERVICE

I, David R. Knudson, do hereby certify that on this 2nd day of January, 2024, I caused a true and correct copy of the foregoing **PLAINTIFF RESMED CORP.'S INITIAL**

DISCLOSURES to be served on the following attorneys of record via electronic mail:

Joshua Friedman
Calfee, Halter & Griswold LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114-1607
(216) 622-8200
jfriedman@calfee.com

Benu Wells
**KRAMER LEVIN NAFTALIS &
FRANKEL LLP**
1177 Avenue of the America
New York, NY 10036
(212) 715-7590
bwells@kramerlevin.com

Paul J. Andre
Lisa Kobialka
James Hannah
Timothy Layden
Sabah Khokhar
Jennifer L. Gilbert
**KRAMER LEVIN NAFTALIS &
FRANKEL LLP**
333 Twin Dolphin Drive, Suite 700
Redwood Shores, CA 94065
(650) 752-1700
pandre@kramerlevin.com
lkobialka@kramerlevin.com
jhannah@kramerlevin.com
tlayden@kramerlevin.com
skhokhar@kramerlevin.com
jgilbert@kramerlevin.com

/s/ David R. Knudson

David Knudson