

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

RESMED CORP.,
Petitioner,

v.

CLEVELAND MEDICAL DEVICES, INC.,
Patent Owner.

IPR2025-00246 (Patent 11,857,333 B1)
IPR2025-00247 (Patent 11,872,029 B1)

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

DECISION
Denying Patent Owner's Request for Discretionary Denial

IPR2025-00246 (Patent 11,857,333 B1)

IPR2025-00247 (Patent 11,872,029 B1)

Cleveland Medical Devices, Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 6, “DD Req.”) in the above-captioned cases, and ResMed Corp. (“Petitioner”) filed an opposition (Paper 8, “DD Opp.”).¹

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is not appropriate in these proceedings. This determination is based on the totality of the evidence and arguments the parties have presented.

In particular, the district court proceeding involving the challenged patents has been stayed. DD Opp. 3. Although the parties appear to have invested some resources into the district court proceeding prior to being stayed (DD Req. 16–17), that consideration is outweighed by the early challenges to the patents at issue. The challenged patents were issued recently, in 2024. Early challenges favor robust, predictable patent rights and weigh against discretionary denial.

Although certain arguments are highlighted above, the determination not to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petition filed in each of the above-captioned cases is referred to the Board to handle the case in the normal course, including by issuing a decision on institution addressing the merits and other non-discretionary considerations, as appropriate.

In consideration of the foregoing, it is:

ORDERED that Patent Owner’s request for discretionary denial is *denied*;

¹ Citations are to papers in IPR2025-00246. The parties filed similar papers in IPR2025-00247.

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FURTHER ORDERED that the Petitions are referred to the Board;
and

FURTHER ORDERED that neither party shall file a request for rehearing or Director Review of this decision until the Board issues a decision on institution.

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