

From: [Director Discretionary Decision](#)
To: [Eric Enger](#); [Director Discretionary Decision](#)
Cc: [Sharifahmadian, Ali R.](#); [Miller, Jeffrey](#); [Caine, David A.](#); [xSamsung Four Batons AP](#); [Michael Heim](#); [Chris Limbacher](#); [Suzie Wilson](#); [Kelsey Kirk](#)
Subject: RE: IPR2025-00495 ('671): Supplemental Discretionary Denial Briefing
Date: Monday, June 16, 2025 12:45:44 PM

Patent Owner is authorized to file a 2-page reply in IPR2025-00495 due no later than Wednesday, June 18, 2025, limited to addressing the arguments raised below.

Petitioner is authorized to file a 2-page sur-reply in IPR2025-00495, due no later than Friday, June 20, 2025, limited to addressing arguments made in Patent Owner's reply brief.

From: Eric Enger <eenger@hpcllp.com>
Sent: Monday, June 16, 2025 10:44 AM
To: Director_Discretionary_Decision <Director_Discretionary_Decision@uspto.gov>
Cc: Sharifahmadian, Ali R. <Ali.Sharifahmadian@arnoldporter.com>; Miller, Jeffrey <Jeffrey.Miller@arnoldporter.com>; Caine, David A. <David.Caine@arnoldporter.com>; xSamsung Four Batons AP <xSamsungFourBatonsAP@arnoldporter.com>; Michael Heim <mheim@hpcllp.com>; Chris Limbacher <climbacher@hpcllp.com>; Suzie Wilson <swilson@hpcllp.com>; Kelsey Kirk <kkirk@hpcllp.com>
Subject: IPR2025-00495 ('671): Supplemental Discretionary Denial Briefing

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Dear Honorable Board,

I am counsel for Patent Owner in IPR2025-00495. I write to request a short supplemental brief re discretionary denial that addresses the Board's recent *iRhythm* decision and how it directly applies to the facts of this case.

On May 21, 2025, Patent Owner filed its Bifurcated Discretionary Denial Briefing advocating for the Board to discretionarily deny the Petition. (Paper 10.) Since that filing, the Board recently issued its decision in the *iRhythm* IPRs. *iRhythm Technologies, Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 (P.T.A.B. June 6, 2025). That decision declined to institute the Petition because "Petitioner was aware of [the challenged patent] as early as 2013—having cited the then-pending application that issued as the challenged patent in an Information Disclosure Statement Petitioner filed in its own patent application—[so] settled expectations favor denial of institution." *Id.* at 3. Similarly, in the present case, Petitioner was aware of the challenged '671 Patent as early as 2012—having learned of the then-pending application that

issued as the challenged '671 patent in an Information Disclosure Statement the Examiner filed in Petitioner's own patent application—so settled expectations similarly favors denial of institution. If permitted, Patent Owner's supplemental brief will be short (two pages or less) and expeditious (within two days of the Board's ruling).

Petitioners oppose Patent Owner's request, and object to Patent Owner's email as impermissibly argumentative (but to which Petitioners are forced to respond). The facts with which Patent Owner now seeks to supplement its request were known to Patent Owner before it filed its request for discretionary denial, and nothing prevented Patent Owner from addressing them in its request as originally filed. To the extent that the Acting Director permits Patent Owner to file a supplemental brief and the brief is filed after Petitioners file their opposition to the originally-filed request for discretionary denial (currently due June 23, 2025), Petitioners respectfully request an opportunity to supplement their opposition by an equal number of pages afforded Patent Owner, after having an opportunity to review Patent Owner's supplemental brief.

If necessary, the Parties are available to discuss this request Wednesday June 18 through Friday June 20 after 11am ET each day.

Best,

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