

Stock Exchange Announcement

STOCK EXCHANGE LISTINGS: NEW ZEALAND (FPH), AUSTRALIA (FPH)

German Court suspends patent proceedings against Fisher & Paykel Healthcare due to validity concerns

Auckland, New Zealand, 29 September 2017 - Fisher & Paykel Healthcare Corporation Limited announced today that it has been successful in having two patent proceedings brought by ResMed against Fisher & Paykel Healthcare entities in the Regional Court in Munich suspended.

The Court has ruled that both cases relating to ResMed's assertion of its patent numbers EP 2 708 258 B1 and EP 1 841 482 B1 be suspended pending the final outcome of oppositions filed by Fisher & Paykel Healthcare with the European Patent Office.

Background

In August 2016, the Regional Court in Munich granted two preliminary injunctions preventing the sale of Simplus™, Eson™ and Eson™ 2 masks in Germany by Fisher & Paykel Healthcare. These injunctions were based on EP'258 and EP'482 as granted by the European Patent Office. In two separate hearings in November and December 2016, the Regional Court ruled in favour of Fisher & Paykel Healthcare and both of these injunctions were overturned due to serious concerns about the validity of ResMed's patents.

ResMed appealed those decisions to the Higher Regional Court in Munich. In May 2017 the Higher Regional Court upheld one of the decisions of the Regional Court and ResMed withdrew its appeal of the other decision before the hearing in the Higher Regional Court took place.

ResMed continued the two actions on the merits with amended patent claims. However, the Regional Court in Munich has now also expressed serious doubts about the patentability of the asserted claims and has suspended the infringement cases.

Fisher & Paykel Healthcare still has two cases in progress in the Regional Court in Munich regarding the assertion of its patents against ResMed's AirSense 10 and AirCurve 10 range of flow generator products and Lumis series of noninvasive ventilators. The parties had earlier agreed to each suspend one of the patent proceedings they were bringing against the other in Germany, pending determinations on validity.

About Fisher & Paykel Healthcare

Fisher & Paykel Healthcare is a leading designer, manufacturer and marketer of products and systems for use in respiratory care, acute care, surgery and the treatment of obstructive sleep apnea. The company's products are sold in over 120 countries worldwide. For more information about the company, visit our website www.fphcare.com.

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