

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LOMBARD MEDICAL TECHNOLOGIES PLC  
Petitioner

v.

MEDTRONIC VASCULAR, INC.  
Patent Owner

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Case IPR2013-00269  
Patent 6,306,141 B1

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Before SALLY C. MEDLEY, STEPHEN C. SIU, and JOSIAH C. COCKS,  
*Administrative Patent Judges.*

MEDLEY, *Administrative Patent Judge.*

ORDER  
Conduct of the Proceeding  
37 C.F.R. § 42.5

On October 1, 2013, a conference call was held between counsel for the respective parties and Judges Medley, Siu and Cocks.

The purpose of the call was to discuss Exhibit 1009, filed by the Petitioner in support of its petition. Specifically, on the front cover of

Exhibit 1009 is styled, in part, “DECLARATION OF SCOTT M. RUSSELL PURSUANT TO 37 C.F.R. §§ 1.68, 42.63, AND 42.65.” However, Exhibit 1009 fails to comply with the requirements of 37 C.F.R. § 1.68 provided here:

Declarations may be presented in lieu of an oath:

if, and only if, the declarant is on the same document, warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant’s own knowledge are true and that all statements made on information and belief are believed to be true. 37 C.F.R. § 1.68.

Missing from the Declaration of Scott Russell is a statement made by him that complies with the rule. Counsel for Petitioner indicated that they understood the issue and could resubmit shortly a corrected declaration. Counsel for Patent Owner indicated that Patent Owner did not, at this time, oppose the correction of the exhibit for the sole purpose of adding the required statement.

Counsel for the respective parties indicated that a settlement agreement may be forthcoming. If the parties reach a settlement agreement, the parties shall arrange a conference call with the Board.

Upon consideration, it is

ORDERED that Petitioner shall file, no later than October 4, 2013, a corrected declaration of Scott M. Russell;

FURTHER ORDERED that the corrected declaration shall contain the same content as the original declaration (Exhibit 1009) along with the addition of the required statement as set forth per 37 C.F.R. § 1.68, and that

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no other changes shall be made to the declaration;

FURTHER ORDERED that the corrected declaration shall be uploaded into PRPS with a new exhibit number that is sequential to those exhibits already filed by the Petitioner; and

FURTHER ORDERED that Petitioner shall file, along with the corrected declaration, a paper indicating that the corrected declaration is being submitted in accordance with this order, and that the corrected declaration contains the same content as the original declaration (Exhibit 1009) along with the addition of the required statement as set forth per 37 C.F.R. § 1.68, and that no other changes have been made to the declaration.

PETITIONER:

Steven D. Hemminger  
Christopher B. Kelly  
ALSTON & BIRD LLP  
steve.hemminger@alston.com  
chris.kelly@alston.com

PATENT OWNER:

Justin J. Oliver  
Daniel S. Glueck  
FITZPATRICK, CELLA, HARPER & SCINTO  
MEDVASCIPR@fchs.com