

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC.
Petitioner

v.

NUVASIVE, INC.
Patent Owner

Case IPR2013-00506
Patent 8,361,156

**PETITIONER'S NOTICE OF SUPPLEMENTAL
EVIDENCE IN RESPONSE TO PATENT OWNER'S
OBJECTION TO EVIDENCE UNDER 37 CFR § 42.64(B)(1)**

Petitioner Medtronic, Inc. (“Petitioner”) submits this Notice of Supplemental Evidence in response to Patent Owner’s Objection to Evidence Under 37 C.F.R. § 42.64(b)(1), dated September 12, 2014. In response to Patent Owner’s objections, Petitioner submits excerpts from the transcript of the Deposition of Dr. Hansen A. Yuan, taken August 22, 2014. While Petitioner does not agree with the objections set forth by Patent Owner, this supplemental evidence provides further authentication of Exhibits 1154-1156.

Petitioner once again reminds Patent Owner that 37 C.F.R. § 42.64(b) requires that evidentiary objections “must identify the grounds for the objection with sufficient particularity to allow for correction in the form of supplemental evidence.” Many, if not all, of Patent Owner’s objections contain only conclusory references to the Federal Rules of Evidence and thus do not provide the required particularity. At a minimum, Patent Owner should supply the paragraph number related to each ground of objection related to the Declaration of Loic Josse (Exhibit 1116) and the Second Declaration of Dr. Richard A. Hynes (Exhibit 1157), otherwise it is virtually impossible and incredibly burdensome for Petitioner to correct any alleged evidentiary concerns with these documents. Petitioner thus reserves all rights to respond to any further explanations Patent Owner is allowed to provide regarding its evidentiary objections.

Respectfully submitted,

Dated: September 26, 2014

/Jeff E. Schwartz/
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on the 26th day of September 2014 a complete and entire copy of “Petitioner’s Notice of Supplemental Evidence in Response to Patent Owner’s Objection to Evidence Under 37 CFR § 42.64(B)(1)” was provided via email to the Patent Owner by serving the following email addresses:

schaefer@fr.com

hawkins@fr.com

Electronic service was used with the agreement of the Patent Owner’s counsel.

Dated: September 26, 2014

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Attorneys for Petitioner

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC.,

Petitioner,

-vs-

NUVASIVE, INC.,

Patent Owner.

Patent Number 8,361,156 B2

Issue Date: January 29, 2013

Case IPR2013-00506

MEDTRONIC, INC.,

Petitioner,

-vs-

NUVASIVE, INC.,

Patent Owner.

Patent Number 8,187,334 B2

Issue Date: May 29, 2012

Case IPR2013-00507

MEDTRONIC, INC.,

Petitioner,

-vs-

NUVASIVE, INC.,

Patent Owner.

Patent Number 8,187,334 B2

Issue Date: May 29, 2012

Case IPR2013-00508

Examination Under Oath of HANSEN A. YUAN, M.D.,

held at 211 West Jefferson Street, Suite 21,

Syracuse, New York, on August 22, 2014, before

MARITA PETRERA, Registered Professional Reporter,

and Notary Public in and for the State of New York.

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