

## Stuart Nelson

---

**From:** Michael A. Amon  
**Sent:** Tuesday, September 09, 2014 1:08 PM  
**To:** Schwartz, Jeff E.; Stuart Nelson  
**Cc:** Kramer, Seth A.; Michael Hawkins; Steve Schaefer  
**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Hi Jeff,

The only procedures we are aware of for conducting a deposition in Switzerland is either through the Hague Convention or through the letters rogatory process. We don't have time for either of these procedures given the deadlines imposed by the IPR schedule. Please let us know if you are aware of other procedures that do not violate Swiss law for deposing individuals in Switzerland. In addition, please let us know Medtronic's position as to why Loic Josse should be deposed in Switzerland as opposed to the United States, as required by 37 C.F.R. 42.53(b)(2).

The documents cited in the Josse Declaration are routine discovery under 37 CFR 42.51(b)(1)(i). Thus, please produce unredacted versions.

We will accept Sept. 30 for the deposition of Dr. Hynes.

Best,  
Mike

Michael A. Amon

**FISH**

FISH & RICHARDSON  
12390 El Camino Real | San Diego, CA 92130  
[amon@fr.com](mailto:amon@fr.com) | Direct (858) 678-4708 | Cell (619) 865-7095

---

**From:** Schwartz, Jeff E. [<mailto:JESchwartz@foxrothschild.com>]  
**Sent:** Monday, September 08, 2014 4:28 PM  
**To:** Michael A. Amon; Stuart Nelson  
**Cc:** Kramer, Seth A.; Michael Hawkins; Steve Schaefer  
**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Mike

There are procedures available to enable the taking of depositions in Switzerland and to the extent you need our cooperation in that process we are certainly willing to cooperate.

As to your request for unredacted documents, please advise as to the basis for your request. That is, on what basis do you believe that you are entitled to this confidential information and on what basis do you believe Medtronic is obliged to produce it.

As a separate matter, you are no doubt fully aware of the communications we have previously had pertaining to the terms of a protective order. Our position remains unchanged on that issue.

Dr. Hynes is not available for deposition on September 23<sup>rd</sup>. He can move around some surgeries to make the 30<sup>th</sup> of September available instead of the 16<sup>th</sup> of September, but would need to know by mid-day tomorrow so that he can make the necessary arrangements to reschedule the O-R and make the necessary arrangements to shift around his patients' surgeries.

Sincerely,

Jeff

**Jeff Schwartz**

Partner

**Fox Rothschild LLP**

1030 15th Street, N.W.

Suite 380 East

Washington, DC 20005

(202) 696-1470 - direct

(202) 461-3102- fax

[JESchwartz@foxrothschild.com](mailto:JESchwartz@foxrothschild.com)

[www.foxrothschild.com](http://www.foxrothschild.com)

---

**From:** Michael A. Amon [<mailto:Amon@fr.com>]

**Sent:** Monday, September 08, 2014 6:01 PM

**To:** Schwartz, Jeff E.; Stuart Nelson

**Cc:** Kramer, Seth A.; Michael Hawkins; Steve Schaefer

**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Dear Jeff,

Regarding the deposition of Loic Josse, while we are, in principle, willing to discuss jointly requesting that the Board provide an order with a variance to the mandate of 37 C.F.R. 42.53(b)(2) which requires that IPR depositions be conducted within the United States, it is our understanding that Swiss law (including Penal Code Section 271) prohibits taking depositions in Switzerland related to non-Swiss legal proceedings. Please let us know your thoughts on how to proceed.

Relatedly, please produce the redacted documents from Loic Josse in unredacted format. Even though they may have been produced unredacted in the district court litigation, we are unable to use them in these IPR proceedings because of the Protective Order entered by the district court. As such, please produce them unredacted in these proceedings within two days. To the extent Medtronic believes the redacted portions are truly confidential, we will agree to your use of the default protective order in the IPR proceedings.

Regarding Dr. Hynes, we cannot proceed on Sept. 16 and request he be available for deposition on Sept. 23. Please confirm whether that date will work so that we can make the necessary arrangements.

Best regards,  
Mike

Michael A. Amon

**FISH**

FISH & RICHARDSON  
12390 El Camino Real | San Diego, CA 92130  
[amon@fr.com](mailto:amon@fr.com) | Direct (858) 678-4708 | Cell (619) 865-7095

---

**From:** Schwartz, Jeff E. [<mailto:JESchwartz@foxrothschild.com>]  
**Sent:** Monday, September 08, 2014 8:22 AM  
**To:** Stuart Nelson  
**Cc:** Michael A. Amon; Kramer, Seth A.; Michael Hawkins; Steve Schaefer  
**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Stuart

Loic Josse is available for deposition in Switzerland on the following dates:

- Sept 11
- Sept 19
- Sept 22

Please confirm if you plan to go forward with Dr. Hynes on September 16<sup>th</sup>.

Jeff

---

**From:** Schwartz, Jeff E.  
**Sent:** Saturday, September 06, 2014 12:03 AM  
**To:** 'Stuart Nelson'  
**Cc:** Michael A. Amon; Kramer, Seth A.; Michael Hawkins; Steve Schaefer  
**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Stuart

Loic Josse is located in Switzerland, therefore he is not available at the same location. He is also not available on 16 September.

I will report back on what days he is available, in Switzerland, for a deposition. .

Jeff

**Jeff Schwartz**

Partner

**Fox Rothschild LLP**

1030 15th Street, N.W.

Suite 380 East

Washington, DC 20005

(202) 696-1470 - direct

(202) 461-3102- fax

[JESchwartz@foxrothschild.com](mailto:JESchwartz@foxrothschild.com)

[www.foxrothschild.com](http://www.foxrothschild.com)

---

**From:** Stuart Nelson [<mailto:snelson@fr.com>]

**Sent:** Friday, September 05, 2014 11:52 PM

**To:** Schwartz, Jeff E.

**Cc:** Michael A. Amon; Kramer, Seth A.; Michael Hawkins; Steve Schaefer

**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Jeff:

Is Loic Josse available the same date and location? Are there other dates available?

Thanks,

**Stuart Nelson :: Associate**

---

---

Fish & Richardson P.C.

+1-612-337-2538 direct :: [snelson@fr.com](mailto:snelson@fr.com)

[fr.com](http://fr.com)

---

**From:** Schwartz, Jeff E. [<mailto:JESchwartz@foxrothschild.com>]

**Sent:** Friday, September 05, 2014 10:40 PM

**To:** Stuart Nelson

**Cc:** Michael A. Amon; Kramer, Seth A.; Michael Hawkins; Steve Schaefer

**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Stuart

As I mentioned at Dr Yuan's deposition, the 16th of September is when our declarant is available. That is Dr Hynes and would be in the same location as last time.

Jeff

Sent from my Verizon Wireless 4G LTE Smartphone

----- Original message -----

From: Stuart Nelson

Date:09/05/2014 10:48 PM (GMT-05:00)

To: "Schwartz, Jeff E."

Cc: "Michael A. Amon" , "Kramer, Seth A." , Michael Hawkins , Steve Schaefer

Subject: RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition Dates

Dear Jeff:

Could you please confirm the dates and locations that your reply witnesses can be available for deposition before Due Date 4?

Thanks,

**Stuart Nelson** :: Associate

---

---

Fish & Richardson P.C.

+1-612-337-2538 direct :: [snelson@fr.com](mailto:snelson@fr.com)

[fr.com](http://fr.com)

---

**From:** Stuart Nelson

**Sent:** Tuesday, July 15, 2014 9:01 AM

**To:** 'Schwartz, Jeff E.'

**Cc:** Michael A. Amon; Kramer, Seth A.; Michael Hawkins; Steve Schaefer

**Subject:** RE: IPR2013-00506; IPR2013-00507; and IPR2013-00508 - Deposition of Dr. Yuan: August 22

Jeff:

Yes, we have confirmed with Dr. Yuan, and the deposition is officially scheduled for August 22 in Syracuse, NY. Please let us know when you have scheduled the location. Also, we are in agreement to extend your reply deadline (Due Date 2) to September 5. Will you be preparing the requisite Notice of Stipulation?

Also, and importantly, if you submit any declarations with your reply, we plan to depose the declarants. Please consider this the official request to you for deposition dates. Given what we have learned about the challenges with scheduling depositions for the witnesses for both parties (e.g. Dr. Hynes, Mr. Messerli, and Dr. Yuan), we should work to get dates scheduled as soon as we can. Such depositions will need to occur in early-to-middle September if Observations are to be completed by Due Date 4. So if you could please check with your witnesses that you plan to use for new declarations (if any) to ensure availability, it would be much appreciated. We would be happy to work with you well before September 5 to ensure we have deposition dates scheduled afterwards.

Thanks,

**Stuart Nelson** :: Associate

---

---

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.