

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

_____)	
VASCULAR SOLUTIONS, INC.,)	
)	0:13-cv-01172-JRT-SER
Plaintiff,)	
)	
v.)	
)	
BOSTON SCIENTIFIC CORPORATION,)	JOINT CLAIM CONSTRUCTION
)	STATEMENT
Defendant.)	
_____)	
BOSTON SCIENTIFIC CORPORATION)	
and BOSTON SCIENTIFIC SCIMED, INC.,)	
)	
Counter-Plaintiffs,)	
)	
v.)	
)	
VASCULAR SOLUTIONS, INC.,)	
)	
Counter-Defendant.)	
_____)	

PLEASE TAKE NOTICE that the parties to this action, Plaintiff and Counterclaim-Defendant Vascular Solutions, Inc. (“VSI”), and Defendant and Counter-Claimants Boston Scientific Corporation and Boston Scientific Scimed, Inc. (collectively “BSC”) hereby serve their Joint Claim Construction Statement. Pursuant to the Scheduling Order, set forth in the attached exhibits regarding VSI’s Root Patents (Exhibit A), and BSC’s Adams patent (Exhibit B), are the claim terms (and their corresponding claims) that the Parties have identified as in dispute and which require construction by the Court, and further contains each Party’s proposed construction for the disputed claim terms, along with an identification of all

references from the specification and prosecution history to support that construction and any extrinsic evidence known to the Party on which it intends to rely either in support of its proposed construction or to oppose the other Party's proposed construction.

The parties were unable to reach agreement on the construction of any claim term, phrase, or clause proposed for construction by the Court. While all parties believe a claim construction hearing is necessary, no party intends to call witnesses to provide live testimony, unless the Court believes such testimony would be of assistance.

BY:

DORSEY & WHITNEY LLP

Dated: February 21, 2014.

s/Heather D. Redmond
J. Thomas Vitt (# 0183817)
Heather D. Redmond (# 0313233)
Shannon L. Bjorklund (# 0389932)
Forrest Tahdooahnippah (# 0391459)
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
Tel: (612) 340-2600
Fax: (612) 340-8856
Email: vitt.thomas@dorsey.com
Email: redmond.heather@dorsey.com
Email: bjorklund.shannon@dorsey.com
Email: tahdooahnippah.f@dorsey.com

**Attorneys for Plaintiff Vascular Solutions,
Inc.**

ARNOLD & PORTER LLP

Dated: February 21, 2014

/s/ Tara Williamson

Matthew Wolf (admitted *pro hac vice*)

Edward Han (admitted *pro hac vice*)

John Nilsson (admitted *pro hac vice*)

Tara Williamson (admitted *pro hac vice*)

555 Twelfth Street, N.W.

Washington, DC 20004

Tel: (202) 942-5000

Fax: (202) 942-5999

Email: matthew.wolf@aporter.com

Email: edward.han@aporter.com

Email: john.nilsson@aporter.com

Jeffer Ali (# 0247947)

Sarah M. Stensland (# 0387051)

CARLSON, CASPERS, VANDENBURGH,
LINDQUIST & SCHUMAN, P.A.

225 South Sixth Street, Suite 4200

Minneapolis, MN 55402

Tel: (612) 436-9600

Fax: (612) 436-9605

Email: jali@carlsoncaspers.com

Email: sstensland@carlsoncaspers.com

**Attorneys for Defendant and Counter-
Plaintiffs Boston Scientific Corporation and
Boston Scientific Scimed, Inc.**

EXHIBIT A

U.S. Patent Nos. 8,048,032 (“032 patent”); 8,142,413 (“413 Patent”); 8,292,850 (“850 Patent”) (collectively, the “VSI Patents”):

I. The Parties’ Constructions of Disputed Claim Terms in VSI Patents:

Disputed Claim Terms	Appears in Claims	VSI’s Proposed Construction	BSC’s Proposed Construction
"a substantially rigid portion ... defining a rail structure without a lumen" / "a substantially rigid portion ... defining a structure without a lumen"	'032 patent cls. 1, 11 '850 patent cl. 1 '413 patent cl. 1 '850 patent cl. 12	The phrase “without a lumen” modifies the “rail structure” or “structure,” not the “substantially rigid portion” in these claim limitations, and the substantially rigid portion and rail structure are not coextensive.	BSC proposes that no construction is necessary for the claim term “defining” within the claim phrases “a substantially rigid portion ... defining a rail structure without a lumen” and “a substantially rigid portion ... defining a structure without a lumen.” It should be construed in accordance with its plain and ordinary meaning, which is ‘coextensive with and describes the exact boundaries of’

a. VSI’s Supporting Intrinsic and Extrinsic Evidence

VSI proposes that the phrase “without a lumen” modifies the “rail structure” or “structure,” not the “substantially rigid portion” in these claim limitations, and the substantially rigid portion and rail structure are not coextensive.

i. Intrinsic Evidence:

In support of VSI’s construction, VSI reserves the right to rely upon the entire intrinsic record to establish the meaning of the claim limitations in the context of the

patented invention. VSI also reserves the right to rely on BSC's proposed intrinsic evidence. The specific intrinsic evidence on which VSI may rely includes, but is not limited to:

The claims of VSI's patents, including but not limited to:

- '032 patent, claims 1, 11
- '032 patent, claim 9 ("substantially rigid portion includes from distal to proximal direction, a cross-sectional shape having a full circumference portion, a hemi-cylindrical portion and an arcuate portion").
- '032 patent, claim 13 ("the substantially rigid portion further includes a partially cylindrical portion defining an opening extending for a distance along a side thereof defined transverse to a longitudinal axis that is adapted to receive an interventional cardiology device passed through continuous lumen of the guide catheter . . .").
- '032 patent, claim 18 ("substantially rigid portion includes, starting at a from distal to proximal direction, a cross-sectional shape having a full circumference portion, a hemicylindrical portion and an arcuate portion").
- '413 patent, claim 1
- '413 patent, claim 4 ("selecting the substantially rigid portion of the coaxial guide catheter such that it comprises a cylindrical portion and a partially cylindrical portion defining an opening along a side thereof").
- '413 patent, claim 14 ("further comprising extending the interventional cardiology device through the substantially rigid portion from proximal to distal through a cross-sectional shape having an arcuate portion, a hemicylindrical portion and a full circumference portion").
- '850 patent, claims 1, 12
- '850 patent, claim 9 ("substantially rigid portion includes from distal to proximal direction, a cross-sectional shape having a full circumference portion, a hemicylindrical portion and an arcuate portion").
- '850 patent, claim 14 ("substantially rigid portion further includes a partially cylindrical portion defining an opening extending for a distance along a side thereof defined transverse to a longitudinal axis that is adapted

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.