

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Inter Partes Review of:

Trial Number: To Be Assigned

U.S. Patent No. 6,482,228

Filed: November 14, 2000

Issued: March 25, 2003

Attorney Docket No.: 058888-000014

Inventor(s): Norred, Troy R.

Assignee: Norred, Troy R.

Title: PERCUTANEOUS AORTIC VALVE
REPLACEMENT

Panel: To Be Assigned

Mail Stop Patent Board
Patent Trial and Appeal Board
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF FELIX HARBSMEIER

I, Felix Harbsmeier, declare as follows:

1. I am admitted as a European Patent Attorney and I am admitted to the bar of German Patent Attorneys. I practice in the law firm of UEXKÜLL & STOLBERG located at Beselerstrasse 4, D-22607 Hamburg, Germany. I am fluent in English and German. I am over 18 years of age. I make this declaration based on my own personal knowledge, personal experience, and belief. If called upon, I can competently testify to the facts stated in this declaration.

2. This declaration is submitted in support of the petition for inter partes review to be filed by Medtronic, Inc. in respect to U.S. Patent No. 6,482,228 to Norred, issued November 19, 2002 and titled “Percutaneous aortic valve replacement.”

3. Attached hereto are true and correct copies of the following documents:

(a) **Exhibit 1:** German Patent DE 195-46-692 C2 as granted on November 7, 2002. The specification of this patent describes four figures numbered 1 through 4, and the patent includes the four figures described in the patent specification.

(b) **Exhibit 2:** The complete prosecution history for patent DE 195-46-692 C2, that was obtained at my request and under my direction from the German Patent and Trade Mark Office (“German Patent Office” or “DPMA”).

(c) **Exhibit 3:** German Patent Application No. 19546692 as filed on December 14, 1995, which is included in Exhibit 2 (the prosecution history for DE 195-46-692 C2). The specification of this patent application describes four figures numbered 1 through 4, and the patent application includes the four figures described in the specification of the patent application.

(d) **Exhibit 4:** German Patent Application DE 195-46-692 A1 as published on June 19, 1997. The specification of this patent application describes four figures numbered 1 through 4. However, the patent application includes only two figures, neither one of which corresponds to any of the figures as described in the specification of the patent application.

(e) **Exhibit 5:** Sections 31 and 32 of the German Patent Act in effect as of June 19, 1997 through November 14, 2000.

4. Under Section 32 of the German Patent Act, German Patent Application No. 19546692 was published as DE 195-46-692 A1 on June 19, 1997. Under Section 31 of the German Patent Act, the file wrapper for German Patent Application No. 19546692 was publicly available for inspection at the German Patent Office from and after the date the application was published on June 19, 1997.

5. The file wrapper for German Patent Application No. 195-46-692 included the correct 4 figures of the application (as published in DE 195-46-692 C2) as of the date the application was filed on December 14, 1995.

6. In addition, from and after the date the patent application DE 195-46-692 A1 was published on June 19, 1997, an on-line search in a database would allow any member of the public to search for patent applications by title and to obtain printed copies of any published patent application identified in such a

search. Further, it was possible in Patent Information Centers of the German Patent and Trademark Office such as the Center at the University of Aachen to inspect all German patent publications in the IPC class A61F 2/24 covering heart valve prostheses and to obtain copies of publications at these centers.

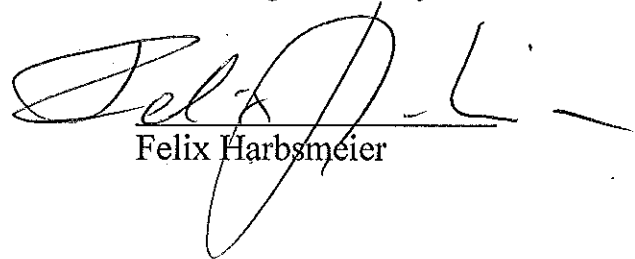
7. The title of patent application DE 195-46-692 A1 published on June 19, 1997, translated into English, is “Self-expanding heart valve prosthesis for implantation in the human body and insertion via a catheter system.” Thus, any member of the public interested in published patent applications that relate to a “heart valve prosthesis” would have been able to conduct a search for patent applications by title using the phrase “heart valve prosthesis” or to conduct a search in the publications having the IPC class A61F 2/24 in a Patent Information Center. Such a search would have identified published patent application DE 195-46-692 A1. The person that conducted such a search would have then been able to obtain the published patent application DE 195-46-692 A1.

8. Any person reading published patent application DE 195-46-692 A1 as published on June 19, 1997 (Exhibit 4) would notice that the two figures included with the published application did not correspond to the four figures described in the specification of the published application.

9. Under Section 31 of the German Patent Act, any person noticing the incorrect published figures would have been able to inspect the file wrapper for the application (Exhibit 2) that included the actual patent application as filed (Exhibit 3) that included the four figures described in the specification of the published application.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 30 day of September, 2013 in Hamburg, Germany.



Felix Harbsmeier

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