

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COOK INCORPORATED, COOK GROUP INCORPORATED, AND COOK
MEDICAL LLC,
Petitioners,

v.

MEDTRONIC, INC.,
Patent Owner

IPR2019-00123
U.S. Patent No. 6,306,141

**DECLARATION OF HYUN-JOONG KIM IN SUPPORT OF PATENT
OWNER'S PRELIMINARY RESPONSE**

I, Hyun-Joong Kim, make the following Declaration pursuant to 28 U.S.C. § 1746:

1. I am an associate at the law firm of Ropes & Gray LLP.
2. I provide this Declaration in connection with the above-identified *Inter Partes* Review proceeding requested at the United States Patent and Trademark Office by Cook Incorporated, Cook Group Incorporated, and Cook Medical LLC (“Petitioners”). Unless otherwise stated, the facts stated in this Declaration are based on my personal knowledge.
3. **Exhibit 2001** is a true and correct copy of Medtronic, Inc.’s opposition to Defendant AGA Med. Corp.’s motion for summary judgment of obviousness, filed in *Medtronic, Inc. v. AGA Med. Corp.*, No. 07-00567 MMC, Dkt. No. 339 (N.D. Cal. Mar. 13, 2009). Ex. 2001 was downloaded on March 11, 2019 from the Public Access to Court Electronic Records (“PACER”). An exhibit label and page numbers on all pages have been added to the bottom of this document, but no other alterations have been made.
4. **Exhibit 2002** is a true and correct copy of Biscarini et al., “Enhanced Nitinol Properties for Biomedical Applications,” *Recent Patents on Biomed. Eng’g*, No. 1, 180-196 (2008), also filed as Ex. 2002 in *Edwards Lifesciences Corp. v. Medtronic, Inc.*, IPR2014-00362. Ex. 2002 was downloaded from the United States Patent and Trademark Office Patent Trial and Appeal Board’s (“PTAB”) publicly accessible website on March 11, 2019. An exhibit label and page numbers on all

pages have been added to the bottom of this document, and the first page containing previous exhibit label from the IPR2014-00362 proceeding has been shrunk, but no other alterations have been made.

5. **Exhibit 2003** is a true and correct copy of the declaration of Dr. Christopher K. Zarins in support of Medtronic, Inc.'s memorandum in opposition to AGA Med. Corp.'s motion for summary judgment of obviousness, filed in *Medtronic, Inc. v. AGA Med. Corp.*, No. 07-00567 MMC, Dkt. No. 372 (N.D. Cal. Mar. 16, 2009). Ex. 2003 was downloaded on March 11, 2019 from PACER. An exhibit label and page numbers on all pages have been added to the bottom of this document, but no other alterations have been made.

6. **Exhibit 2004** is a true and correct copy of an Order denying Defendant AGA Med. Corp.'s motion for summary judgment of obviousness, *Medtronic, Inc. v. AGA Med. Corp.*, No. 07-00567 MMC, 2009 WL 1163976 (N.D. Cal. Apr. 28, 2009), also filed as Ex. 2004 in *Edwards Lifesciences Corp. v. Medtronic, Inc.*, IPR2014-00362. Ex. 2004 was downloaded from the PTAB's publicly accessible website on March 11, 2019. An exhibit label and page numbers on all pages have been added to the bottom of this document, and the first page containing previous exhibit label from the IPR2014-00362 proceeding has been shrunk, but no other alterations have been made.

7. **Exhibit 2005** is a true and correct copy of the jury verdict form from *Medtronic, Inc. v. AGA Med. Corp.*, No. 07-00567 MMC, Dkt. No. 993 (N.D. Cal. Aug. 6, 2009), also filed as Ex. 2005 in *Edwards Lifesciences Corp. v. Medtronic, Inc.*, IPR2014-00362. Ex. 2005 was downloaded on March 11, 2019 from the PTAB's publicly accessible website. An exhibit label and page numbers on all pages have been added to the bottom of this document, and the first page containing previous exhibit label from the IPR2014-00362 proceeding has been shrunk, but no other alterations have been made.

8. **Exhibit 2006** is a true and correct copy of an Order denying Defendant W.L. Gore & Associates' motion for summary judgment of obviousness, *Medtronic, Inc. v. W.L. Gore & Associates*, No. 06-04455 JSW, 2008 WL 5191846 (N.D. Cal. Dec. 9, 2008), also filed as Ex. 2006 in *Edwards Lifesciences Corp. v. Medtronic, Inc.*, IPR2014-00362. Ex. 2006 was downloaded on March 11, 2019 from the PTAB's publicly accessible website. An exhibit label and page numbers on all pages have been added to the bottom of this document, and the first page containing previous exhibit label from the IPR2014-00362 proceeding has been shrunk, but no other alterations have been made.

9. **Exhibit 2007** is a true and correct copy of a press release informing the settlement between Medtronic and W.L. Gore & Associates, dated September 16, 2009, also filed as Ex. 2007 in *Edwards Lifesciences Corp. v. Medtronic, Inc.*,

IPR2014-00362. Ex. 2007 was downloaded on March 11, 2019 from the PTAB's publicly accessible website. An exhibit label and page numbers on all pages have been added to the bottom of this document, and the first page containing previous exhibit label from the IPR2014-00362 proceeding has been shrunk, but no other alterations have been made.

10. **Exhibit 2008** is a true and correct copy of the petition requesting *inter partes* review of U.S. Patent No. 6,306,141 filed in *Lombard Medical Techs. PLC v. Medtronic, Inc.*, IPR2013-00269, Paper 1. Ex. 2008 was downloaded on March 11, 2019 from the PTAB's publicly accessible website. An exhibit label and page numbers on all pages have been added to the bottom of this document, but no other alterations have been made.

11. **Exhibit 2009** is a true and correct copy of the petition requesting *inter partes* review of U.S. Patent No. 6,306,141 filed in *Edwards Lifesciences Corp. v. Medtronic, Inc.*, IPR2014-00362, Paper 1. Ex. 2009 was downloaded on March 11, 2019 from the PTAB's publicly accessible website. An exhibit label and page numbers on all pages have been added to the bottom of this document, but no other alterations have been made.

12. I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both. I make this declaration of my own

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