

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

3 MEDTRONIC, INC., AND MEDTRONIC
4 VASCULAR, INC.,

5 Petitioners,

6 vs.

7 TELEFLEX INNOVATIONS S.A.R.L.,

8 Patent Owner.

9 IPR2020-00126 (Patent 8,048,032 B2)
10 IPR2020-00127 (Patent 8,048,032 B2)
11 IPR2020-00128 (Patent RE45,380 E)
12 IPR2020-00129 (Patent RE45,380 E)
13 IPR2020-00130 (Patent RE45,380 E)
14 IPR2020-00132 (Patent RE45,760 E)
15 IPR2020-00134 (Patent RE45,760 E)
16 IPR2020-00135 (Patent RE45,776 E)
17 IPR2020-00136 (Patent RE45,776 E)
18 IPR2020-00137 (Patent RE47,379 E)
19 IPR2020-00138 (Patent RE47,379 E)

20 VIDEOTAPED DEPOSITION OF
21 DR. PAUL ZALESKY

22 DATE: January 13, 2021

23 TIME: 9:13 a.m. (Central Standard Time)

24 PLACE: Veritext Virtual Videoconference

25 REPORTED BY: PAULA K. RICHTER, RMR, CRR, CRC

Page 2

1 APPEARANCES

2 (All parties appeared via videoconference)

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Page 3

1 APPEARANCES (Continued)

2

3 ALSO PRESENT:

4 Phil Glauberson - Videographer

5 Greg Smock - Teleflex

6 Howard Cyr - Teleflex

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Page 4

1 INDEX

2 WITNESS: DR. PAUL ZALESKY PAGE:

3 EXAMINATION BY MS. NORGARD..... 7

4 EXAMINATION BY MS. ROBERG-PEREZ..... 236

5 FURTHER EXAMINATION BY MS. NORGARD..... 247

6

7

8 EXHIBITS REFERRED TO: PAGE:

9 Exhibit 1755 Declaration of Dr. Zalesky in

10 Support of Petitioner's Reply

11 Addressing Conception and

12 Reduction to Practice..... 25

13 EXHIBIT 1763 Drawings of GuideLiner,

14 VSI_00000818-829..... 163

15 EXHIBIT 1771 3/11/97 FDA Design Control

16 Guidance for Medical Device

17 Manufacturers..... 98

18 EXHIBIT 1772 FDA 21 CFR Parts 808, 812 and

19 820..... 99

20 EXHIBIT 2005 Part List for GuideLiner..... 144

21 EXHIBIT 2022 Rapid Exchange Concept Drawing,

22 PAT0000033..... 180

23 EXHIBIT 2024 8/24/05 Product Requirements

24 for GuideLiner Catheter System,

25 VSIMDT00030178-30181..... 244

Page 5

1 (EXHIBITS continued)

2 EXHIBIT 2089 February and April 2005 MED

3 Sales Documents and Invoice..... 146

4 EXHIBIT 2092 April and June 2005 MED Sales

5 Documents and Invoice..... 146

6 EXHIBIT 2113 Drawings of Hypotube..... 167

7 Exhibit 2225 Declaration of Dr. Paul Zalesky

8 in Opposition to Motion for

9 Preliminary Injunction..... 14

10 EXHIBIT 2227 Label for Pronto V3..... 171

11

12 (Original exhibits attached to original transcript;

13 copies provided to counsel.)

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Page 6

1 PROCEEDINGS
 2 THE VIDEOGRAPHER: Good morning. We
 3 are going on the record at 9:13 a.m. Central Time,
 4 January 13, 2021.
 5 Please note that the microphones are
 6 sensitive and may pick up whispering and private
 7 conversations. Please mute your microphone
 8 whenever possible. Audio and video recording will
 9 continue to take place unless all parties agree to
 10 go off the record.
 11 This is Media Unit 1 of the
 12 video-recorded deposition of Dr. Paul Zalesky in
 13 the matter of Medtronic, Inc., et al. versus
 14 Teleflex Innovations S.A.R.L. filed in the United
 15 States Patent and Trademark Office, IPR2020-00126,
 16 IPR2020-00128, IPR2020-00129, IPR2020-00134 --
 17 132, IPR2020-00134, IPR2020-00135, and
 18 IPR2020-00137.
 19 This deposition is being held
 20 remotely. My name is Phil Glauberson from the
 21 firm Veritext, and I am the videographer. The
 22 court reporter is Paula Richter from Veritext.
 23 I am not authorized to administer an
 24 oath, I am not related to any party in this
 25 action, nor am I financially interested in the

Page 7

1 outcome.
 2 Counsel will please now state their
 3 appearances and affiliations for the record. If
 4 there are any objections to proceeding or to the
 5 court reporter administering the oath virtually,
 6 please state them at the time of your appearance,
 7 beginning with the noticing attorney.
 8 MS. NORGDARD: Good morning. This is
 9 Tara Norgard on behalf of patent owner. Here
 10 appearing on the remote deposition with me today
 11 is Alex Rinn and Joe Winkels. The three of us are
 12 from the Carlson Caspers law firm. Also appearing
 13 on behalf of the patent owner is Greg Smock and
 14 Howard Cyr, both of whom are with Teleflex.
 15 MS. ROBERG-PEREZ: Sharon
 16 Roberg-Perez on behalf of Petitioner Medtronic.
 17 With me are my colleagues, Emily Tremblay and
 18 Cy Morton of the firm Robins Kaplan.
 19 DR. PAUL ZALESKY,
 20 duly sworn, was examined and testified as follows:
 21 EXAMINATION
 22 BY MS. NORGDARD:
 23 Q. Good morning, Dr. Zalesky. As I mentioned a
 24 moment ago, I am Tara Norgard. I'm with the
 25 Carlson Caspers law firm, and I represent the

Page 8

1 patent owner in this case.
 2 Have you ever been --
 3 A. Good morning.
 4 Q. Good morning. Have you ever been deposed
 5 before?
 6 A. I have.
 7 Q. How many times?
 8 A. Something between five and ten over the last,
 9 probably, 15 years.
 10 Q. And of those five to ten times that you've
 11 been deposed, about how many of those times were
 12 you serving as an expert witness?
 13 A. Approximately five or six.
 14 Q. And when is the most recent time you've been
 15 deposed?
 16 A. I think it was a year and a half, possibly
 17 two years ago. It was an IPR case.
 18 Q. Which case was that?
 19 A. I don't have the details in front of me. It
 20 regarded -- I was actually representing the patent
 21 owner with an attorney out of California.
 22 Q. And who was the patent owner in that case?
 23 A. Again, I don't have any of that file in front
 24 of me right now.
 25 Q. You don't know who you were representing in

Page 9

1 that action?
 2 A. I was representing the patent owner, but I
 3 don't have any of that information in front of me.
 4 I'd have to go back to my records.
 5 Q. So as you sit here today, you do not know the
 6 name of the party for whom you served as an expert
 7 witness for the most recent IPR where you
 8 testified?
 9 A. I just don't recall the name because of the
 10 details and so many other projects in the
 11 meantime.
 12 Q. What was the technology?
 13 A. It was a complex algorithm for decomposing or
 14 deconstructing complex intracardiac wave forms in
 15 order to diagnose arrhythmia.
 16 Q. And did you participate in the IPR trial of
 17 that matter?
 18 A. I did not. I just prepared a formal report
 19 and I was deposed.
 20 Q. Was that deposition taken remotely or was it
 21 in person?
 22 A. It was in person in Providence, Rhode Island.
 23 Q. Well, obviously, this deposition is taking
 24 place remotely.
 25 Have you ever participated in a

Page 10

1 remote deposition?
2 A. Not a deposition, per se. I've participated
3 in a number of remote proceedings, including
4 arbitration for hearings and trial, three judges.
5 Q. And was that taken in a similar platform to
6 the Zoom platform that we're experiencing here
7 today?
8 A. Yes.
9 Q. Well, then you may know this from your
10 experience in those proceedings, but it is
11 important in any deposition, but especially when
12 we are remote here today, that we speak slowly and
13 clearly for our court reporter, so we get a clear
14 record.
15 It's also important we don't speak
16 over each other. And it is important that we use
17 words, not nods or hand gestures to make sure that
18 our communications are accurately reflected in the
19 record.
20 Do you understand that?
21 A. I do.
22 Q. The goal here is to have a clear and accurate
23 record, so if you don't understand a question I'm
24 asking, please ask me to clarify or rephrase it.
25 Can you do that?

Page 11

1 A. Yes.
2 Q. Otherwise, if you answer the question that
3 I'm asking, I'm going to assume that you
4 understood the question; is that fair?
5 A. That is.
6 Q. We'll try to take breaks throughout the day,
7 but if there's ever a point where you need a
8 break, please let us know. I would only ask that
9 you finish answering the question that's been
10 asked before you intervene for that break.
11 Is that a fair request?
12 A. It is.
13 Q. We may discuss some exhibits today, and
14 before we got on the record, we got you on to
15 Exhibit Share, which is the electronic version of
16 the exhibits, and that's now up and running on
17 your screen, correct?
18 A. The my screen is largely the Zoom meeting.
19 I'm going to need to minimize it to look at the
20 rest of this. Is that what you want me to do?
21 Q. Well, when we got on the record, you had
22 access to Exhibit Share. We don't need to go
23 there yet, but I want to make sure that you still
24 have access to it.
25 You haven't turned it off, have you?

Page 12

1 A. I have not.
2 Q. A set of hard-copy exhibits was also
3 delivered to your home.
4 Did you receive them?
5 A. I received them yesterday.
6 Q. And do you have them with you?
7 A. I do.
8 Q. Have you opened them?
9 A. I didn't hear that last part. Sorry.
10 Q. Have you opened the package that was sent to
11 you with the hard-copy exhibits?
12 A. Yes.
13 Q. And have you reviewed them?
14 A. I have not re-reviewed the copies you sent.
15 I have reviewed versions sent by Medtronic
16 counsel.
17 Q. So have you opened the package -- I'm sorry.
18 Have you reviewed at all the packet -- the
19 contents of the package that we sent to you for
20 this deposition today?
21 A. Yes. I opened each of the binders, and they
22 look -- were very -- basically identical to
23 binders I had already received in the past. I
24 just verified the contents, for instance, of my
25 declaration. I did not, you know, re-re-re-review

Page 13

1 the same contents I had seen in the past.
2 Q. Do you have those hard-copy exhibits --
3 A. Yes, I do.
4 Q. -- that we sent you here today?
5 A. I do.
6 Q. Dr. Zalesky, where are you physically located
7 today?
8 A. In my home office in East Greenwich,
9 Rhode Island.
10 Q. And is there anyone in the room with you?
11 A. No, there is not.
12 Q. Is there any reason that you are not able to
13 testify fully and truthfully here today?
14 A. No.
15 Q. Are you on any medications?
16 A. Not anything, no.
17 Q. Dr. Zalesky, when were you retained for this
18 dispute?
19 A. It was an or about October 1st of 2019.
20 Q. And who contacted you?
21 A. I was contacted by the attorney, Sherry and
22 Emily.
23 Q. And were you retained initially for the
24 district court litigation that proceeded these IPR
25 proceedings?

1 A. I was, in 2019.
 2 Q. And you prepared a declaration in that
 3 litigation, right?
 4 A. Yes, I did.
 5 MS. NORGDARD: I'm going to ask that
 6 we mark Exhibit 2225, please.
 7 MS. ROBERG-PEREZ: I'm going to
 8 object on scope.
 9 THE VIDEOGRAPHER: This is the
 10 videographer. Are we okay with the witness's --
 11 the humming that's going on or should we try to
 12 correct it or should we just move forward?
 13 MS. NORGDARD: It is rather
 14 distracting. We were able to correct it before,
 15 Dr. Zalesky. I'm not sure if that was because you
 16 moved away a cell phone or some other electronic
 17 device, but there is a fair bit of feedback that's
 18 happening right now.
 19 THE WITNESS: The only thing I can
 20 guess is, I hear a very slight hum from the fan in
 21 my laptop.
 22 BY MS. NORGDARD:
 23 Q. Well, it's pretty well amplified for us, but
 24 let's just continue on, and if anybody finds it to
 25 be overbearing, perhaps we can address it at a

1 break. How does that sound?
 2 Dr. Zalesky, do you see Exhibit 2225
 3 on your screen?
 4 A. I'm sorry. Please repeat that. I was trying
 5 to adjust the laptop to see if I could knock down
 6 the sound.
 7 What was the question?
 8 Q. In the Marked Exhibit folder on Exhibit
 9 Share, you should be seeing Exhibit 2225.
 10 Do you see that?
 11 A. It still says folder is empty.
 12 Q. If you go to the top, the top and refresh, as
 13 your counsel has advised you earlier.
 14 A. I'm sorry. You want me to do what?
 15 Q. I want you to go to the top of the screen and
 16 refresh the screen.
 17 Do you know how to refresh the
 18 screen?
 19 A. 2225?
 20 Q. Correct.
 21 A. You want me to open that?
 22 Q. Please.
 23 A. Okay.
 24 Q. Do you have it there in front of you now?
 25 A. I do.

1 Q. And feel free to scroll through it,
 2 Dr. Zalesky, but is this the declaration that you
 3 submitted in the litigation in the district court
 4 in Minnesota in the same dispute between Vascular
 5 Solutions, et al., and Medtronic regarding these
 6 patents?
 7 MS. ROBERG-PEREZ: Objection; scope.
 8 THE WITNESS: Yes, I believe it is.
 9 BY MS. NORGDARD:
 10 Q. Go to the last page, please.
 11 A. Signature page or before that?
 12 Q. The signature page.
 13 A. Okay.
 14 Q. Are you there?
 15 A. I am.
 16 Q. Is that your signature on page 48 of this
 17 declaration that's been marked as Exhibit 2225?
 18 A. Yes.
 19 Q. And it's dated November 14th, 2019.
 20 Do you see that?
 21 A. Yes.
 22 Q. Did you sign this document on November 14th
 23 of 2019?
 24 A. I believe so.
 25 Q. And you declared under the penalty of perjury

1 that the contents of this declaration at
 2 Exhibit 2225 are true and correct, right?
 3 A. Yes.
 4 Q. Thank you.
 5 It's up to you how you want to deal
 6 with the exhibits on your screen, but I'm just
 7 going tell you right now that if you want to exit
 8 out of an exhibit at any time, there is a caret at
 9 the upper left-hand corner right next to the
 10 label.
 11 Do you see it, right next to
 12 Exhibit 2225 PDF?
 13 A. I do.
 14 Q. And if you hit that, it will take you back to
 15 the folder.
 16 A. Okay.
 17 Q. You're welcome to navigate how you wish, but
 18 I just wanted to let you know that that's the way
 19 you get back to the exhibit list.
 20 A. Okay.
 21 Q. So, Dr. Zalesky, this deposition is taking
 22 place in the context of the IPRs, correct?
 23 A. Yes.
 24 Q. Did you help prepare Medtronic's petitions in
 25 these IPRs?

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