

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC. and MEDTRONIC VASCULAR, INC.,
Petitioner

v.

TELEFLEX INNOVATIONS S.À.R.L.,
Patent Owner

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032),
IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380),
IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760),
IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,776),
IPR2020-00136 (Patent RE45,776), IPR2020-00137 (Patent RE47,379),
IPR2020-00138 (Patent RE47,379)¹

Before SHERIDAN K. SNEDDEN, JON B. TORNQUIST, and
CHRISTOPHER G. PAULRAJ, Administrative Patent Judges.

TORNQUIST, Administrative Patent Judge.

¹ This Order addresses overlapping issues in the above-captioned cases. We issue one order for all cases. We cite to papers in IPR2020-00126 as representative, unless otherwise noted.

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032), IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380), IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760), IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,776), IPR2020-00136 (Patent RE45,776), IPR2020-00137 (Patent RE47,379), IPR2020-00138 (Patent RE47,379)

ORDER

Granting-in-part Petitioner's Unopposed Motion to File Under Seal
Denying-in-part Petitioner's Unopposed Motion to File Under Seal
37 C.F.R. §§ 42.5, 42.14, 42.54

A. Background

We previously granted Petitioner's and Patent Owner's unopposed Motions to Seal various papers and exhibits in each of the above-captioned proceedings, finding that the information identified by both parties was confidential. *See* IPR2020-00126, Paper 128. We also ordered the parties to review the Final Written Decisions "to verify if any confidential information is mentioned" and, if so, to "meet and confer in good faith, and submit joint proposed redacted versions of the Decisions." *Id.* at 7–8.

In each of the above-captioned proceedings, Petitioner filed motions to seal the Board's Final Written Decisions² and submitted sealed and redacted versions for each of the Final Written Decisions. *See id.* at Paper 129. Petitioner states that Patent Owner does not oppose the Motions. *See* IPR2020-00126, Paper 134, 1.

B. Whether There is Good Cause to Seal

"In an *inter partes* review, the moving party bears the burden of showing that the relief requested should be granted." *Argentum Pharms,*

² *See* IPR2020-00126, Paper 131; IPR2020-00127, Paper 110; IPR2020-00128, Paper 134; IPR2020-00129, Paper 132; IPR2020-00130, Paper 108; IPR2020-00132, Paper 132; IPR2020-00134, Paper 129; IPR2020-00135, Paper 133; IPR2020-00136, Paper 109; IPR2020-00137, Paper 135; IPR2020-00138, Paper 111 ("Motions").

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032), IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380), IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760), IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,776), IPR2020-00136 (Patent RE45,776), IPR2020-00137 (Patent RE47,379), IPR2020-00138 (Patent RE47,379)

LLC v. Alcon Research, LTD, IPR2017-01053, Paper 27 at 2 (PTAB Jan. 19, 2018) (informative) (citing 37 C.F.R. § 42.20(c)). A party moving to seal must show “good cause” for the relief requested. *Id.* “Good cause” may be established by (1) providing a sufficient explanation as to why the information sought to be sealed is confidential information, (2) demonstrating that the information is not excessively redacted, and (3) showing that, on balance, the strong public interest in maintaining a complete and understandable record is outweighed by the harm any disclosure may have on a party and the need of either party to rely on the identified information. *Id.* at 3–4 (citing *Garmin Int’l v. Cuozzo Speed Techs.*, IPR2012-00001, Paper 34 (PTAB Mar. 14, 2013) and *Corning Optical Commc’ns RF, LLC v. PPC Broadband, Inc.*, IPR2014-00440, Papers 43, 47, 49 (PTAB April 6, 14, and 17, 2015, respectively)).

Petitioner contends that the redacted portions of the Final Written Decisions in the above-captioned cases “discuss Patent Owner’s confidential information, specifically, information related to Patent Owner’s product development, product design, marketing, and related efforts and strategies.” IPR2020-00126, Paper 134, 1–2. Upon review of the identified information, we agree that there is good cause to seal the Final Written Decisions in IPR2020-00127 (Paper 105), IPR2020-00130 (Paper 103), and IPR2020-00136 (Paper 104).

We note, however, that the Final Written Decisions in IPR2020-00126 (Paper 127), IPR2020-00128 (Paper 127), IPR2020-00129 (Paper 125),

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032), IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380), IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760), IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,776), IPR2020-00136 (Patent RE45,776), IPR2020-00137 (Patent RE47,379), IPR2020-00138 (Patent RE47,379)

IPR2020-00132 (Paper 125), IPR2020-00134 (Paper 122), IPR2020-00135 (Paper 126), IPR2020-00137 (Paper 128), and IPR2020-00138 (Paper 104) do not appear to include confidential information, and the redacted and public versions of the Final Written Decisions appear to be identical. *See e.g.*, IPR2020-00126, Papers 127, 129. Moreover, Petitioner's Motions do not identify any specific information in these Decisions that it contends is confidential. Accordingly, Petitioner has not shown that there is good cause to seal the Final Written Decisions in IPR2020-00126, IPR2020-00128, IPR2020-00129, IPR2020-00132, IPR2020-00134, IPR2020-00135, IPR2020-00137, and IPR2020-00138. Thus, we provisionally deny the Motions as to these proceedings. *See Argentum*, IPR2017-01053, Paper 27 at 2 (“in an *inter partes* review, ‘the default rule is that all papers . . . are open and available for access by the public.’”).

To the extent that Petitioner believes that good cause exists to seal the unredacted Final Written Decisions, it may file, within two weeks of this Order, Motions to show good cause for sealing the relevant papers. The Final Written Decisions will remain under seal while such Motions are pending, or until the expiration of the two-week period for filing the Motion for good cause.

In view of the foregoing, it is:

ORDERED that Petitioner's Motions to Seal the Final Written Decisions in IPR2020-00127 (Paper 105), IPR2020-00130 (Paper 103), and IPR2020-00136 (Paper 104) are *granted*;

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032), IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380), IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760), IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,776), IPR2020-00136 (Patent RE45,776), IPR2020-00137 (Patent RE47,379), IPR2020-00138 (Patent RE47,379)

FURTHER ORDERED that Petitioner's Motions to Seal the Final Written Decisions in IPR2020-00126 (Paper 127), IPR2020-00128 (Paper 127), IPR2020-00129 (Paper 125), IPR2020-00132 (Paper 125), IPR2020-00134 (Paper 122), IPR2020-00135 (Paper 126), IPR2020-00137 (Paper 128), and IPR2020-00138 (Paper 104), are *provisionally denied without prejudice*; and

FURTHER ORDERED that Petitioner may file, within two weeks of this Order, Motions to show good cause why the relevant Final Written Decisions should remain under seal.

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