

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC., AND MEDTRONIC VASCULAR, INC.
Petitioners,

v.

TELEFLEX INNOVATIONS S.A.R.L.
Patent Owner.

Case IPR2020-00128
Patent RE 45,380

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner hereby submits its notice of objections to certain evidence that Petitioner submitted in connection with IPR2020-00128.

Patent Owner notes that Petitioner cites or relies on evidence in its Opposition to Patent Owner's Motion to Amend that was previously filed in this or other IPRs and does not refile that evidence in connection with its Opposition. Thus, in addition to the objections set forth below, Patent Owner reasserts and preserves all objections previously made to each such previously-filed exhibit.

Patent Owner further objects to any declaration testimony previously filed in this or any other IPR proceeding, in the absence of an opportunity for Patent Owner to depose the declarant specifically in the context of the Petitioner's Opposition to Patent Owner's Motion to Amend and during the discovery period for Patent Owner's Reply to Petitioner's Opposition to the Motions to Amend. Absent this opportunity, Patent Owner objects to the previously-filed testimony as hearsay (FRE 802).

1902 ¹	Patent Owner objects to Exhibit 1902 to the extent Dr. Brecker has not disclosed materials considered other than
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¹ In Paragraph 4 of Ex-1902, Dr. Brecker asserts that the '380 patent is at issue in IPR2020-00127. Patent Owner assumes this was inadvertent and understands that Ex. 1902 was filed in connection with IPR2020-00128, IPR2020-00129, and IPR2020-00130, consistent with the caption of Ex. 1902.

those referenced in his declaration. *See* 37 C.F.R. §§ 42.65(a) and (b).

FRE 702, 703, 37 C.F.R. §§ 42.65:

¶¶ 4,18, 22-23, 25, 27, 37-39, 45-46, 48-51, 56-67, 69-87, 88-90, 92-94, 96-106, 108-110, 112-120, 122-147, 149-150, 152-160, 162-164, 171-174, 178, 182-190, 192-193, 195-200, 202, 204, 206-207, 209-213 are not based on sufficient facts and data and do not reliably apply facts and data using scientific principles.

FRE 401, 402, 403:

¶¶ 27-29, 40-42, 45-46, 56-67, 114-19, 125-127, 157, 166-170, 175-178, 180-181, 198, 208 are not relevant; to the extent they are relevant, their probative value is outweighed by the danger of causing unfair prejudice and confusing the issues.

FRE 702, 703, 704:

¶¶ 4, 6-9, 11, 49-50, 85, 87, 94, 110, 120, 129, 174, 207 and the headings of §§ IV.B, IV.C, V, and VI state improper legal conclusions.

FRE 602:

¶¶ 4, 6-11, 58, 81, 84, 143, 159, 188, 204 are not based on personal knowledge.

Patent Owner additionally objects to Exhibit 1902 under FRE 802 (hearsay) to the extent that Patent Owner does not have the opportunity to cross-examine Dr. Brecker regarding his declaration.

Patent Owner additionally objects to Exhibit 1902 to the extent it incorporates arguments from Dr. Brecker's previously-filed declarations. Patent Owner reasserts and

	<p>incorporates herein all objections previously made to Dr. Brecker's previously-filed declarations.</p> <p>Patent Owner additionally objects to Exhibit 1902 to the extent it incorporates arguments from Dr. Hillstead's previously-filed declarations. Patent Owner reasserts and incorporates herein all objections previously made to Dr. Hillstead's previously-filed declarations.</p>
1905	<p>Patent Owner reasserts and incorporates herein all objections previously made to Dr. Hillstead's previously-filed declaration.</p> <p>Patent Owner additionally objects to Exhibit 1905 under FRE 802 (hearsay) to the extent that Patent Owner does not have the opportunity to cross-examine Dr. Hillstead specifically regarding the claims and arguments discussed in the Petitioner's Opposition to the Motion to Amend, during the discovery period available to Patent Owner following the filing of Petitioner's Opposition to the Motion to Amend.</p>
1906	<p>Rule 106: Petitioner has filed only certain excerpts of the file history. Patent Owner reserves the right to introduce all or any portion of the cited file history that in fairness ought to be considered at the same time.</p> <p>FRE 401, 402, 403: Petitioner has not cited this document in its brief or supporting declarations. Therefore, this document is not relevant.</p>
1907	<p>Patent Owner reasserts and incorporates herein all objections previously made to Dr. Hillstead's previously-filed declaration.</p> <p>Patent Owner additionally objects to Exhibit 1907 under FRE 802 (hearsay) to the extent that Patent Owner does not have the opportunity to cross-examine Dr. Hillstead specifically regarding the claims and arguments discussed in the Petitioner's Opposition to the Motion to Amend, during the discovery period available to Patent Owner</p>

	<p>following the filing of Petitioner’s Opposition to the Motion to Amend.</p>
1908	<p>Rule 106: Petitioner has cited only certain excerpts of the file history. Patent Owner reserves the right to introduce all or any portion of the cited file history that in fairness ought to be considered at the same time.</p> <p>FRE 401, 402, 403: The cited portion of this document is not relevant to the proposition it purportedly supports. To the extent this portion is relevant to the proposition for which it is cited, its probative value is outweighed by the danger of causing unfair prejudice, confusing the issues, causing undue delay, wasting time, or needlessly presenting cumulative evidence, and therefore the document is inadmissible under Rule 403.</p>
1919	<p>Patent Owner objects to Exhibit 1919 to the extent Dr. Zalesky has not disclosed materials considered other than those referenced in his declaration. <i>See</i> 37 C.F.R. §§ 42.65(a) and (b).</p> <p><u>FRE 702, 703, 37 C.F.R. §§ 42.65:</u></p> <p>¶¶ 28, 32-35, 37, 41, 43-46, 48-69, and 71-75 are not based on sufficient facts and data and do not reliably apply facts and data using scientific principles.</p> <p><u>FRE 702, 703, 704:</u></p> <p>¶¶ 28, 46-47, 49, 52, 54, 56, 59, 62, 67 and 69 state improper legal conclusions.</p> <p><u>FRE 401, 402, 403:</u></p> <p>Petitioner has not cited this document in its brief or supporting declarations. Therefore, this document is not relevant.</p> <p><u>FRE 602:</u></p>

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