

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.

Case IPR2020-00128
Patent RE 45,380

**PETITIONERS' OBJECTIONS UNDER 37 C.F.R. § 42.64 TO PATENT
OWNER'S POST-INSTITUTION EVIDENCE**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners Medtronic, Inc. and Medtronic Vascular, Inc. (“Medtronic”) submit the following objections to certain post-institution evidence filed by Patent Owner Teleflex Innovations S.À.R.L (“Teleflex”) on September 24, 2020.

Medtronic renews and incorporates its objections to Patent Owner’s pre-institution evidence.

I. Exhibit 2118: Declaration of Howard Root

Medtronic has yet to cross-examine Mr. Root, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2118 and/or any testimony therein based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge), FRE 701 (opinion by lay witness), and FRE 702/703 (insufficient support for expert testimony). In addition, Medtronic objects to Exhibit 2118 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Mr. Root regarding his declaration.

II. Exhibit 2119: Declaration of Gregg Sutton

Medtronic has yet to cross-examine Mr. Sutton, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2119 and/or any testimony therein based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602

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(lack of personal knowledge), FRE 701 (opinion by lay witness), and FRE 702/703 (insufficient support for expert testimony). In addition, Medtronic objects to Exhibit 2119 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Mr. Sutton regarding his declaration.

III. Exhibit 2120: Declaration of Mark Goemer

Medtronic has yet to cross-examine Mr. Goemer, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2120 and/or any testimony therein based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge), FRE 701 (opinion by lay witness), and FRE 702/703 (insufficient support for expert testimony). In addition, Medtronic objects to Exhibit 2120 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Mr. Goemer regarding his declaration.

IV. Exhibits 2095, 2111, 2113-2115: Exhibits Submitted with the Declaration of Mark Goemer

Medtronic objects under FRE 106 (completeness), FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 802 (hearsay), FRE 901 (authenticity), and FRE 1002 (requirement for original).

V. *Exhibit 2121: Declaration of Amanda O'Neil*

Medtronic has yet to cross-examine Ms. O'Neil, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2121 and/or any testimony therein based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), and FRE 602 (lack of personal knowledge). In addition, Medtronic objects to Exhibit 2121 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Ms. O'Neil regarding her declaration.

VI. *Exhibits 2089, 2092: Exhibits Submitted with the Declaration of Amanda O'Neil*

Medtronic objects under FRE 106 (completeness), FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 802 (hearsay), FRE 901 (authenticity), and FRE 1002 (requirement for original).

VII. *Exhibit 2122: Declaration of Steven Erb*

Medtronic has yet to cross-examine Mr. Erb, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2122 and/or any testimony therein based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge), FRE 701 (opinion by lay witness), and FRE 702/703 (insufficient support for expert testimony). In addition, Medtronic objects to

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Exhibit 2122 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Mr. Erb regarding his declaration.

VIII. Exhibits 2110: Exhibits Submitted with the Declaration of Steven Erb

Medtronic objects under FRE 106 (completeness), FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 802 (hearsay), FRE 901 (authenticity), and FRE 1002 (requirement for original).

IX. Exhibits 2123-2124: Declarations of Peter Keith

Medtronic has yet to cross-examine Mr. Keith, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibits 2123 and 2124 and/or any testimony therein based on FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time), FRE 602 (lack of personal knowledge), FRE 701 (opinion by lay witness), and FRE 702/703 (insufficient support for expert testimony). In addition, Medtronic objects to Exhibits 2123 and 2124 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Mr. Keith regarding his declarations.

X. Exhibits 2090-2091, 2093-2094, 2097, 2104, 2106-2108, 2112: Invoices and Other Third-Party Purchasing Documents

Medtronic objects under FRE 106 (completeness), FRE 401/402 (relevance), FRE 403 (probative value outweighed by prejudice, confusing, waste of time),

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