

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioners,

v.

TELEFLEX INNOVATIONS S.À.R.L.,

Patent Owner.

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IPR2020-00126

IPR2020-00128

IPR2020-00129

IPR2020-00132

IPR2020-00134

IPR2020-00135

IPR2020-00137

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**PETITIONERS' UNOPPOSED MOTION TO FILE UNDER SEAL**

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Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioners submit this Unopposed Motion to File Under Seal, requesting that the following information and documents remain sealed: portions of Petitioners' Reply to Patent Owner's Response Addressing Conception and Reduction to Practice, portions of Exhibit 1755 (Declaration of Paul Zalesky Submitted in Support of Petitioners' Reply to Patent Owner's Response Addressing Conception and Reduction to Practice), and Exhibits 1108/1308/1708,<sup>1</sup> 1114/1314/1714,<sup>2</sup> 1758, 1759, 1760, 1761, 1763, 1765, 1767, 1768, 1769, 1770, 1774, 1775, 1778, 1779, 1782, 1783, 1786, 1787, 1788, 1789, 1790, 1791, 1792, and 1793 filed in support. Petitioners file the under-seal version of Petitioners' Reply to Patent Owner's Response Addressing Conception and Reduction to Practice, the under-seal version of Exhibit 1755, and the identified under-seal exhibits with this motion.

Petitioners conferred with Patent Owner, and Patent Owner does not oppose this motion.

In conjunction with Patent Owner's Preliminary Responses, Petitioners and

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<sup>1</sup> In IPRs -126 / -128 / -132 / -135 / -137: Ex-1108. In IPR -129: Ex-1308. In IPR -134: 1708.

<sup>2</sup> In IPRs -126 / -128 / -132 / -135 / -137: Ex-1114. In IPR -129: Ex-1314. In IPR -134: 1714.

Patent Owner agreed to and submitted a stipulated Joint Protective Order.

Petitioners request that the Board enter that stipulated Joint Protective Order in the above-captioned cases to govern treatment of the information and documents identified herein.

## **I. Good Cause**

For good cause, the Board may “issue an order to protect a party or person from disclosing confidential information.” 37 C.F.R. § 42.54(a). “The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” Patent Trial and Appeal Board Consolidated Trial Practice Guide, at 19 (Nov. 2019 ed.).

The documents subject to this motion contain confidential information and, thus, qualify for protection, and for the reasons explained below, there is good cause to keep the documents sealed.

### **A. Under-Seal Version of Petitioners’ Reply to Patent Owner’s Response Addressing Conception and Reduction to Practice**

Petitioners file an under-seal version of Petitioners’ Reply to Patent Owner’s Response Addressing Conception and Reduction to Practice and a public, redacted version of that Reply. The redacted portions discuss Patent Owner’s confidential information, specifically, information related to Patent Owner’s product development, product design, marketing, and related efforts and strategies. Patent

Owner has designated this information as confidential under the protective order governing the parallel district court litigation in the United States District Court for the District of Minnesota. This information qualifies as “confidential information” under the Trial Practice Guide.

Because Patent Owner has designated this information as confidential under the district court protective order, it appears that there is good cause to keep the redacted information under seal. Presumably, publicly revealing the information that Patent Owner has designated as confidential could put Patent Owner at a competitive disadvantage in the marketplace.

**B. Under-Seal Version of Ex. 1755 (Declaration of Paul Zalesky)**

Petitioners file an under-seal version of Exhibit 1755 and a public, redacted version of that exhibit. The redacted portions discuss Patent Owner’s confidential information, specifically, information related to Patent Owner’s product development, product design, marketing, and related efforts and strategies. Patent Owner has designated this information as confidential under the protective order governing the parallel district court litigation in the United States District Court for the District of Minnesota. This information qualifies as “confidential information” under the Trial Practice Guide.

Because Patent Owner has designated this information as confidential under the district court protective order, it appears that there is good cause to keep the

redacted information under seal. Presumably, publicly revealing the information that Patent Owner has designated as confidential could put Patent Owner at a competitive disadvantage in the marketplace.

**C. Exhibits 1108/1308/1708, 1114/1314/1714, 1758, 1759, 1760, 1761, 1763, 1765, 1767, 1768, 1769, 1770, 1774, 1775, 1778, 1779, 1782, 1783, 1786, 1787, 1788, 1789, 1790, 1791, 1792, and 1793: Patent Owner Confidential Documents**

Exhibits 1108/1308/1708, 1114/1314/1714, 1758, 1759, 1760, 1761, 1763, 1765, 1767, 1768, 1769, 1770, 1774, 1775, 1778, 1779, 1782, 1783, 1786, 1787, 1788, 1789, 1790, 1791, 1792, and 1793, filed under seal, are documents produced and designated confidential under the protective order by Patent Owner in the parallel district court litigation in the United States District Court for the District of Minnesota. These documents describe Patent Owner's product development, product design, marketing, and related efforts and strategies.

Because Patent Owner has designated these documents as confidential under the district court protective order, it appears that there is good cause to keep these documents under seal. Presumably, publicly revealing the information that Patent Owner has designated as confidential could put Patent Owner at a competitive disadvantage in the marketplace.

**II. Certification of Conference**

Pursuant to 37 C.F.R. §§ 42.54(a), Petitioners certify that they, in good faith,

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