

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.,  
Petitioner,

v.

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

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Case IPR2020-00128  
Patent RE 45,380

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

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners Medtronic, Inc. and Medtronic Vascular, Inc. (“Medtronic”), hereby submit the following objections to certain evidence filed by Patent Owner Teleflex Innovations S.À.R.L (“Teleflex”) in conjunction with its Patent Owner Preliminary Response.

***I. Exhibits 2001, 2015, 2046, 2074: Declarations/Transcript of Howard Root***

Medtronic has yet to cross-examine Mr. Root, but intends to do so in advance of DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibits 2001, 2015, 2046, 2074 and/or any testimony therein on the bases of 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 2001, 2015, 2046, and 2074 under FRE 802 (hearsay) to the extent Medtronic does not have the opportunity to cross-examine Mr. Root regarding his declaration/transcript.

***II. Exhibits 2002-2011, 2013-2014, 2016-2038, 2040-2041, 2058, 2061-2063, 2065-2067: Documents/Evidence Submitted with Mr. Root Declaration***

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).

***III. Exhibit 2039: Declaration of Deborah Schmalz***

Medtronic has yet to cross-examine Ms. Schmalz, but intends to do so in advance of DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2039 and/or any testimony therein on the bases of 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 2039 under FRE 802 (hearsay) to the extent Medtronic does not have the opportunity to cross-examine Ms. Schmalz regarding her declaration.

***IV. Exhibits 2043-2044: Declarations of Amy Welch***

Medtronic has yet to cross-examine Ms. Welch, but intends to do so in advance of DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibits 2043-2044 and/or any testimony therein on the bases of 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). Further, Medtronic objects to Exhibits 2043-2044 under FRE 106 (completeness) and FRE 1002 (requirement for original). In addition, Medtronic objects to Exhibits 2043-2044 under FRE 802 (hearsay) to the extent Medtronic

does not have the opportunity to cross-examine Ms. Welch regarding her declaration.

***V. Exhibit 2056 & 2072: Expert Report/Declaration of Peter T. Keith***

Medtronic has yet to cross-examine Mr. Keith, but intends to do so in advance of DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibits 2056, 2072 and/or any testimony therein on the bases of 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 2056, 2072 under FRE 802 (hearsay) to the extent Medtronic does not have the opportunity to cross-examine Mr. Keith regarding his expert report/declaration.

***VI. Exhibits 2057, 2060: Teleflex Website***

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

***VII. Exhibits 2069 & 2071: Exhibits to Complaint***

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

***VIII. Exhibit 2070: Guide Catheters***

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

***IX. Exhibit 2073: Declaration of Alexander S. Rinn***

Medtronic has yet to cross-examine Mr. Rinn, but intends to do so in advance of DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2073 and/or any testimony therein on the bases of FRE 602 (lack of personal knowledge), FRE 401/402 (relevance), and FRE 403 (probative value outweighed by prejudice, confusing, waste of time). In addition, Medtronic objects to Exhibit 2073 under FRE 802 (hearsay) to the extent Medtronic does not have the opportunity to cross-examine Mr. Rinn regarding his declaration.

***X. Exhibits 2045, 2048-2051, 2053-2054, 2059: Litigation Documents***

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

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