Trials@uspto.gov
571-272-7822

Paper 22
Date: June 8, 2020

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.

IPR2020-00129
Patent RE45,380

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

TORNQUIST, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

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INTRODUCTION

Medtronic, Inc. and Medtronic Vascular, Inc. (collectively "Petitioner") filed a Petition (Paper 1, "Pet.") requesting an *inter partes* review of claims 25–39 of U.S. Reissue Patent RE45,380 (Ex. 1201, "the '380 patent"). Teleflex Innovations S.À.R.L. ("Patent Owner") filed a Preliminary Response to the Petition (Paper 8, "Prelim. Resp."). Pursuant to our authorization, Petitioner filed a Reply (Paper 12) addressing its burden on secondary considerations and reduction to practice, and Patent Owner filed a Sur-Reply (Paper 14) addressing Petitioner's burden on those issues. Also pursuant to our authorization, Petitioner filed another Reply (Paper 19) and Patent Owner filed another Sur-Reply (Paper 20) addressing the factors for discretionary denial under 35 U.S.C. § 314(a).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2019). The standard for institution is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted "unless the Director determines . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition."

After considering the parties' arguments and evidence, we determine that Petitioner has demonstrated a reasonable likelihood that it would prevail with respect to at least one of the claims challenged in the Petition. Accordingly, we institute an *inter partes* review of all challenged claims and all asserted grounds set forth in the Petition. *See SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1355–56 (2018); *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018) (interpreting the statute to require "a simple yes-

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or-no institution choice respecting a petition, embracing all challenges included in the petition").

A. Related Matters

The parties indicate that the '380 patent is the subject of litigation in *Vascular Solutions LLC, et al. v. Medtronic, Inc., et al.*, No. 19-cv-01760 (D. Minn.) ("*Medtronic* case") and *QXMedical, LLC v. Vascular Solutions, LLC*, No. 17-cv-01969 (D. Minn) ("*QXM* case"). Pet. 5; Paper 4, 2–3. The '380 patent is also at issue in IPR2020-00128, IPR2020-00130, and IPR2020-00131. Paper 4, 3; Pet. 5.

B. The '380 Patent

The '380 patent relates to catheters used in interventional cardiology procedures and, in particular, to "methods and apparatus for increasing backup support for catheters inserted into the coronary arteries from the aorta." Ex. 1201, 1:31–35.

"In coronary artery disease the coronary arteries may be narrowed or occluded by atherosclerotic plaques or lesions." *Id.* at 1:44–46. This narrowing is referred to as stenosis. *Id.* at 1:48–49. To treat a stenosis, "it is commonly necessary to pass a guidewire or other instruments through and beyond the occlusion or stenosis of the coronary artery." *Id.* at 1:49–52. To achieve this result, a guide catheter is inserted through the aorta and into the ostium of the coronary artery where it is typically seated into the opening or ostium of the artery to be treated. *Id.* at 1:53–57. A guidewire or other instrument is then passed through the lumen of the guide catheter and inserted into the artery beyond the stenosis. *Id.* at 1:39–41, 1:57–59. Crossing the tough lesions, however, may create enough backwards force to dislodge the guide catheter from the ostium of the artery being treated,

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making it difficult or impossible to treat certain forms of coronary artery disease. *Id.* at 1:59–63.

Figures 1 and 2 of the '380 patent are reproduced below:

Fig. 1

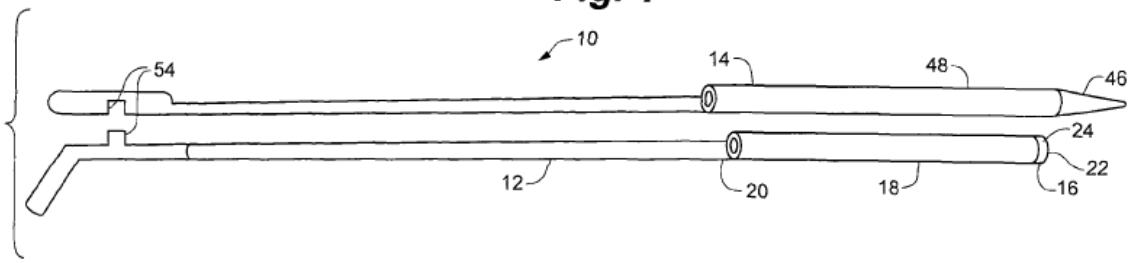

Fig. 2

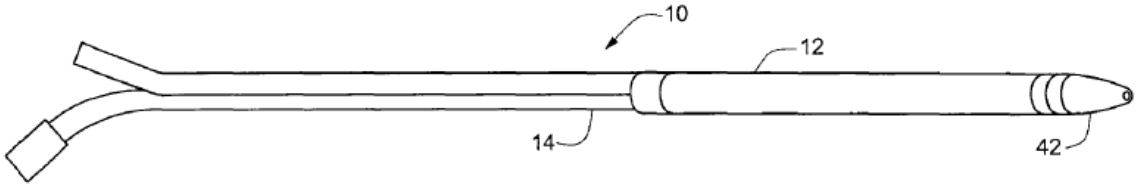

Figure 1 is a schematic depiction of a coaxial guide catheter and a tapered inner catheter and Figure 2 is a schematic depiction of these two elements assembled together. *Id.* at 5:40–45. As shown in Figure 1, coaxial guide catheter 12 includes tip portion 16, reinforced portion 18, and rigid portion 20. *Id.* at 6:34–35. Tapered inner catheter 14 includes tapered portion 46 at a distal end thereof and straight portion 48, both of which are pierced by lumen 50 (not labeled in Figure 1). *Id.* at 7:16–20. Clip 54 releasably joins tapered inner catheter 14 to coaxial guide catheter 12. *Id.* at 7:21–23.

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Figure 8 of the ’380 patent is reproduced below:

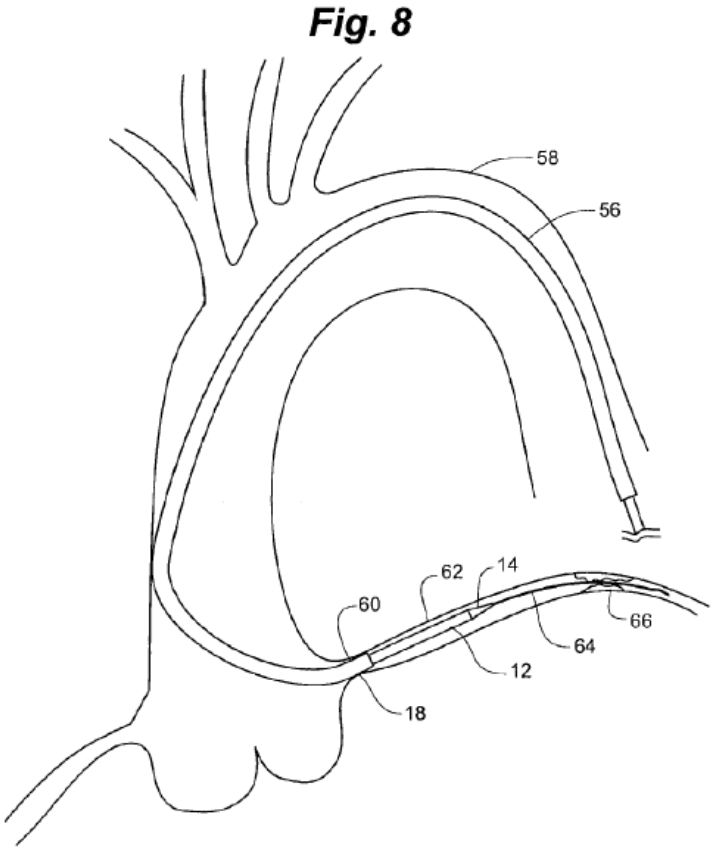

Figure 8 is a schematic view of a guide catheter, a guidewire, a coaxial guide catheter, and a tapered inner catheter located in the aortic arch and coronary artery. *Id.* at 5:61–64. In Figure 8, “coaxial guide catheter 12 with tapered inner catheter 14 is passed through guide catheter 56 and over guidewire 64 into coronary artery 62 after the guide catheter 56 has been placed in the ostium 60 of coronary artery 62.” *Id.* at 8:6–10. According to the ’380 patent, “[c]oaxial guide catheter 12, with tapered inner catheter 14, provides an inner support member for proper translation over guidewire 64.” *Id.* at 8:10–14. “Once coaxial guide catheter 12 is in place, tapered inner catheter 14 is removed from the inside of coaxial guide catheter 12.” *Id.* at 8:14–17. At this point, coaxial guide catheter 12 is ready to accept a treatment

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