

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 IPR2020-00129
Patent RE 45,380

**PETITIONERS' OBJECTIONS UNDER 37 C.F.R. § 42.64 TO PATENT
OWNER'S POST-INSTITUTION EVIDENCE FILED OCTOBER 1, 2020**

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 October 1, 2020.

Medtronic renews and incorporates its objections to Patent Owner’s pre-institution evidence and its objections to Patent Owner’s post-institution evidence filed on September 24, 2020.

I. Exhibit 2138: Declaration of Peter T. 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 Exhibit 2138 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 2138 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Mr. Keith regarding his declaration.

II. Exhibits 2139-2144, 2155-2165, 2167, 2168, 2170, 2172-2194, 2213: GuideLiner Documents, Articles, and other Exhibits Cited in the Declaration of Peter T. Keith

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 2145: Declaration of Dr. John J. Graham

Medtronic has yet to cross-examine Dr. Graham, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2145 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 2145 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Dr. Graham regarding his declaration.

IV. Exhibits 2146-2150, 2166, 2169, 2171: Exhibits Cited in the Declaration of Dr. John J. Graham

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 2151: Declaration of Dr. Lorenzo Azzalini

Medtronic has yet to cross-examine Dr. Azzalini, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2151 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 2151 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Dr. Azzalini regarding his declaration.

VI. Exhibit 2215: Declarations of Dr. Craig Thompson

Medtronic has yet to cross-examine Dr. Thompson, but it intends to do so before DUE DATE 2. Medtronic therefore reserves the right to move to exclude Exhibit 2215 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 2215 under FRE 802 (hearsay) to the extent that Medtronic does not have the opportunity to cross-examine Dr. Thompson regarding his declaration.

VII. Exhibits 2197, 2198, 2201, 2202, 2204: Medtronic Documents

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

VIII. Exhibits 2196, 2200, 2210, 2211, 2214: Third-Party Documents

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 2135, 2136, 2203, 2208, 2209: Miscellaneous Documents

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).

X. Exhibit 2212: U.S. Patent No. 5,290,247

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

Dated: October 8, 2020

Respectfully submitted,

/Cyrus A. Morton/

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