

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

TELEFLEX INNOVATIONS S.A.R.L.
Patent Owner.

Case IPR2020-00128
Case IPR2020-00129
Case IPR2020-00130
Patent RE 45,380

**PATENT OWNER'S REPLY IN SUPPORT OF CONTINGENT MOTION
TO AMEND U.S. PATENT RE 45,380 UNDER 37 C.F.R. § 42.121**

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I. INTRODUCTION

Patent Owner Teleflex submits this Reply in Support of Contingent Motion to Amend U.S. Patent RE 45,380, with the Second Declaration of Peter T. Keith in Support of Motions to Amend (“Ex-2243”), under 37 C.F.R. § 42.121. Teleflex submits that Petitioner has failed to show that any of the substitute claims presented in this motion is unpatentable.

II. SUBSTITUTE CLAIM 44 IS NOT INDEFINITE

Petitioner’s only § 112 challenge to the ’380 patent’s claims is that claim 44 is indefinite because it recites that the substantially rigid portion is “connected to” the flexible tip portion. Opp., 1. “[A] claim ... is unpatentable for indefiniteness if the claim, read in light of the specification delineating the patent, and the prosecution history, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” Memorandum re: Approach to Indefiniteness Under 35 U.S.C. § 112 in AIA Post-Grant Proceedings (January 6, 2021), 3. Petitioner’s argument incorrectly assumes that “connected to” requires a direct connection. Ex-2243, ¶46. “Connected to” includes direct and indirect connections. *E.g., Douglas Dynamics, LLC v. Buyers Prods. Co.*, 717 F.3d 1336, 1342 (Fed. Cir. 2013). Its expert confirms “the specification teaches an indirect connection, such that the flexible tip portion is connected to the reinforced portion, which is connected to the substantially rigid portion.” Ex-1902, 36 n.5, 93 n.10. It

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