

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 IPR2020-00129
Patent RE 45,380

**PATENT OWNER'S UNOPPOSED MOTION TO FILE UNDER SEAL
PURSUANT TO 37 C.F.R. §§ 42.14 AND 42.54**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner respectfully submits this Patent Owner’s Unopposed Motion to File Under Seal, requesting that the following documents remain under seal: portions of Patent Owner’s Preliminary Response and certain exhibits filed with the Preliminary Response which are identified as Exhibits 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2040, 2041, 2043, 2045, 2058, and 2074. These documents are being filed concurrently with this motion.

Patent Owner has conferred with the Petitioner, and the Petitioner does not oppose this motion to seal.

Further, Patent Owner and Petitioner have conferred and agreed to the attached stipulated Joint Protective Order. A copy of the stipulated Joint Protective Order is attached as Appendix A. Patent Owner respectfully requests that the Board enter the attached stipulated Joint Protective order in the above captioned case.

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. 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.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

Each of the seven categories of documents listed below meet this standard and for the reasons explained there is good cause for why those documents should remain under seal.

A. Patent Owner’s Preliminary Response

Patent Owner has filed an under seal and a public, redacted version of its Preliminary Response. Those portions of the under seal version of the Preliminary Response corresponding to the redacted portions of the public version of the Preliminary Response contain confidential research, development, and/or commercial information that should remain under seal.

The redacted portions in the Introduction of the Preliminary Response and the second paragraph of section VIII.E.1 and first redacted sentence of the third paragraph of that section, discuss business development information that Medtronic considers confidential.

The remaining redacted portions of the Preliminary Response discuss revenue numbers for Patent Owner’s GuideLiner products and market share estimates. All of this information fits squarely within the kinds of information that the Trial Practice guide considers to be “confidential information,” such as

“confidential research, development, or commercial information.” 77 Fed. Reg. 48756, 48760.

There is good cause for keeping the redacted information contained in Patent Owner’s Preliminary Response under seal. Publicly revealing business development information, Patent Owner’s revenue numbers, and market share estimates could put Patent Owner (and possibly a competitor) at a competitive disadvantage in the marketplace. Additionally, Petitioners do not oppose this information remaining under seal.

B. Exhibit 2001: Declaration of Howard Root Submitted in Connection with Patent Owner’s Preliminary Responses

Exhibit 2001, filed under seal, is the Declaration of Howard Root Submitted in Connection with Patent Owner’s Preliminary Responses. Mr. Root’s declaration describes in detail the research and development of Patent Owner’s GuideLiner products, including component sourcing information, pricing information, and engineering and business decisions related to the development of the GuideLiner products. This information fits squarely within the kinds of information that the Trial Practice guide considers to be “confidential information,” such as “confidential research, development, or commercial information.” 77 Fed. Reg. 48756, 48760.

There is good cause for keeping Mr. Root’s declaration under seal. Publicly revealing the research and development activities of Patent Owner, along with

details regarding component sourcing, pricing, and engineering and business decisions related to the development of the GuideLiner products could put Patent Owner at a competitive disadvantage in the marketplace. Additionally, Petitioners do not oppose this information remaining under seal.

C. Exhibits 2002-2011, 2013-2014, 2016-2038, 2040-2041, 2045: Development-Related Documents

Exhibits 2002-2011, 2013-2014, 2016-2038, 2040-2041, 2045, filed under seal, are development documents related to the development of Patent Owner's GuideLiner products. These development documents include laboratory notebook pages, market feasibility documents, technical design drawings, internal regulatory documents, an interrogatory response describing the development of the GuideLiner products and invoices and purchasing documents, which among other things show confidential sourcing and pricing information. All of this information fits squarely within the kinds of information that the Trial Practice guide considers to be "confidential information," such as "confidential research, development, or commercial information." 77 Fed. Reg. 48756, 48760.

There is good cause for keeping Exhibits 2002-2011, 2013-2014, 2016-2038, 2040-2041, 2045 under seal. Publicly revealing the development information related to the GuideLiner products described above could put Patent Owner at a competitive disadvantage in the marketplace. Additionally, Petitioners do not oppose this information remaining under seal.

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