# 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.

PATENT OWNER RESPONSE

Case IPR2020-00130 Patent RE45,380



### **TABLE OF CONTENTS**

**PAGE** 

I.	INTRODUCTION1				
II.	BACKGROUND2				
III.	THE '380 PATENT4				
IV.	THE PERSON OF ORDINARY SKILL IN THE ART9				
V.	CLAIM CONSTRUCTION9				
	A.	be inst coaxi interv	estem for use with interventional cardiology devices adapted to sertable" and a flexible tip portion/tubular portion "defining a al lumen having a cross-sectional inner diameter through which rentional cardiology devices are insertable" (Independent claims 12)	5	
VI.	THE REFERENCES THE PETITION RELIES ON				
	A.	Konto	os (Ex-1409)1	1	
	B.	Adan	ns (Ex-1435)1	5	
VII.	CHA	LLEN	I: THE PETITION FAILS TO SHOW THAT THE GED CLAIMS ARE INVALID IN VIEW OF <i>KONTOS</i> , ND THE KNOWLEDGE OF A POSITA1	9	
	A.	Teach Havir	neendent Claims 1, 12: The Petition Fails to Show that Kontos nees a "system for use with interventional cardiology devices" and the Claimed Device with a Flexible Tip Portion "defining a all lumen having a cross-sectional inner diameter through which wentional cardiology devices are insertable"		
		1.	Under the Correct Construction, the Petitioner Fails to Show that Any Challenged Claim Is Invalid	.0	
		2.	Even Under the Board's Preliminary Construction, Petitioner Still Fails to Show that Any Challenged Claim Is Invalid2	1	
	B.	_	pendent Claim 1: The Petitioner Does Not Show that Kontos oses a "Cylindrical" Reinforced Portion	:2.	



C.	Discl resist cardi woul	endent Claims 2 and 13: Petitioner Has Not Shown that Kontos loses a Structure Configured as Claimed Such that it "assists in ting axial and shear forces exerted by the interventional ology device passed through and beyond the coaxial lumen that d otherwise tend to dislodge the guide catheter from the branch y"	
D. Dependent Claim 3: The Petition Does Not Show that a Syste wherein the proximal portion of the tubular structure further comprises structure defining a proximal side opening extendidistance along the longitudinal axis to receive the intervecardiology devices into the coaxial lumen while the proximal remains within the lumen of the guide catheter" Would Have Obvious Based on Kontos in view of Adams			
	1.	No Motivation or Reasonable Expectation of Success— Removing Kontos' Funnel Portion would <i>Create</i> Problems29	
	2.	Petitioner's Modification Requires Ignoring What Adams Actually Teaches	
	3.	Petitioner's Alleged Motivations Are Based on Hindsight And/or Unsupported by the Evidence	
	4.	If Modified as Proposed in the Petition, the Resulting Structure Would No Longer Meet the Requirement for a "Coaxial Lumen"	
Е.	_	endent Claims 4, 9, 14, and 19: Petitioner's Arguments Fail For Same Reasons as For Claim 343	
18 A	RE IN	II: THE PETITION FAILS TO SHOW THAT CLAIMS 8 AND VALID IN VIEW OF <i>KONTOS, ADAMS, TAKAHASHI</i> , AND WLEDGE OF A POSITA44	
INV	ALID I	III: THE PETITION FAILS TO SHOW THAT CLAIM 21 IS IN VIEW OF <i>KONTOS, ADAMS, BERG,</i> AND THE DGE OF A POSITA49	
	ns 3, 9	, 14, and 19: Strong Objective, Real-World Evidence Shows	

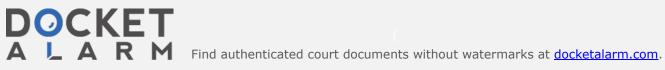


VIII.

IX.

X.

	A.	Long	-Felt Need	52		
	B.	Com	mercial Success	55		
	C.	Industry Praise				
	D.	Licensing				
	E.	Сору	ving	62		
		1.	Boston Scientific's Guidezilla	63		
		2.	QXM's Boosting Catheter	65		
		3.	Petitioner's Telescope	65		
	F.		e Is Nexus Between the Invention of Claims 3, 9, 14, and Objective Evidence of Nonobviousness			
XI.		PETITION SHOULD BE DENIED BECAUSE <i>INTER PARTES</i> TIEW IS UNCONSTITUTIONAL76				
XII.	CON	NCLUSION77				



# **TABLE OF AUTHORITIES**

### Cases

Arctic Cat Inc. v. Bombardier Rec. Prods., 876 F.3d 1350 (Fed. Cir. 2017)	32
Arthrex, Inc. v. Smith & Nephew, Inc., 941 F.3d 1320, 1325 (Fed. Cir. 2019)	.76
Aspex Eyewear, Inc. v. Marchon Eyewear, Inc., 672 F.3d 1335 (Fed. Cir. 2012)	24
Fox Factory, 944 F.3d at 1373	75
Gambro Lundia AB v. Baxter Healthcare Corp., 110 F.3d 1573 (Fed. Cir. 1997)	.72
In re Schreiber, 128 F.3d 1473 (Fed. Cir. 1997)	25
Institut Pasteur & Universite Pierre Et Marie Curie v. Focarino, 738 F.3d 1337 (Fed. Cir. 2013)	62
Intri-Plex Techs. Inc. et al. v. Saint-Gobain Performance Plastics Rencol Ltd., IPR2014-00309, Paper 83 (PTAB Mar. 23, 2014)	.63
Jack Guttman, Inc. v. Kopykake Enters., 302 F.3d 1352 (Fed. Cir. 2002)	10
Lectrosonics, Inc. v. Zaxcom, Inc., IPR2018-01129, Paper 33 at 33 (PTAB Jan. 24, 2020)	.70
Lucia v. SEC, 138 S. Ct. 2044 (2018)	.76
Mytee Prods., Inc. v. Harris Research, Inc., 439 F. App'x 882 (Fed. Cir. 2011)	25
Panduit Corp. v. Dennison Mfg. Co., 774 F.2d 1082 (Fed. Cir. 1985)	.62



# DOCKET

# Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

# **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

# **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

### API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### **LAW FIRMS**

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### **FINANCIAL INSTITUTIONS**

Litigation and bankruptcy checks for companies and debtors.

### **E-DISCOVERY AND LEGAL VENDORS**

Sync your system to PACER to automate legal marketing.

