

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 IPR2020-00131
Patent RE 45,380E

PATENT OWNER PRELIMINARY RESPONSE TO PETITION

TABLE OF CONTENTS

I.	INTRODUCTION COMMON TO ALL IPR PETITIONS	1
II.	INTRODUCTION TO THE PRESENT PATENT OWNER RESPONSE	3
III.	BACKGROUND	5
	A. The Revolutionary GuideLiner Product	5
	B. The '380 Patent	6
	C. The <i>QXM</i> and <i>Medtronic</i> Cases: Parallel Litigation Regarding the Validity of the '380 Patent in the District of Minnesota.....	11
IV.	THE PERSON OF ORDINARY SKILL IN THE ART	14
V.	CLAIM CONSTRUCTION	14
	A. Means-Plus-Function Limitations (Claim 25)	14
	B. Other Claim Terms.....	20
VI.	MEDTRONIC'S REFERENCES	20
	A. Kontos (Ex. 1809)	20
	B. Adams (Ex. 1835).....	22
VII.	THE BOARD SHOULD DECLINE TO INSTITUTE REVIEW	24
	A. ALL GROUNDS: The Petition Should Be Denied Under 35 U.S.C. § 314(a).....	24
	B. ALL GROUNDS: The Petition Should Be Denied Because Medtronic Failed to Justify Its Four-Petition Attack on the '380 Patent.....	28

C.	ALL GROUNDS: Medtronic Has Not Shown that Any Challenged Claim Is Rendered Obvious by Kontos in View of Adams and/or the Knowledge of a POSITA.....	32
1.	“[M]eans for receiving the interventional device from an intermediate or distal portion of the means for guiding the interventional device to the location near the ostium of the branch vessel and guiding the interventional device deeper into the branch vessel” (Claim 25.b).....	33
2.	“... a side opening . . .” (Claim 25.c.i.)	38
D.	ALL GROUNDS: The Petition Should Be Denied Because Medtronic Failed to Address Compelling Objective Evidence of Non-Obviousness that Medtronic Was Aware Of.....	46
1.	Commercial Success	49
2.	Industry Praise.....	53
3.	Licensing and Licensing Attempts	55
4.	Copying.....	55
5.	Long-Felt Need	58
E.	The Petition Should Be Denied Because <i>Inter Partes</i> Review Is Unconstitutional	59
VIII.	CONCLUSION.....	60

TABLE OF AUTHORITIES

Cases

<i>Apple Inc. v. ContentGuard Holdings, Inc.,</i> IPR2015-00353, Paper 9 (PTAB June 25, 2015).....	34
<i>Apple Inc. v. Samsung Elecs. Co.,</i> 839 F.3d 1034 (Fed. Cir. 2016)	52
<i>Arthrex, Inc. v. Smith & Nephew, Inc.,</i> 941 F.3d 1320 (Fed. Cir. 2019)	59
<i>Askeladden L.L.C. v. Encoditech, LLC,</i> IPR2017-00452, Paper 12 (PTAB July 31, 2017).....	41
<i>Coalition for Affordable Drugs V LLC v. Hoffman-LaRoche Inc.,</i> IPR2015-01792, Paper 14 (PTAB Mar. 11, 2016).....	49
<i>Comcast Cable Commc'ns, LLC v. Rovi Guides, Inc.,</i> IPR2019-01354, -01355, Paper 10 at 6 (PTAB Jan. 27, 2020).....	31
<i>Dropbox, Inc. v. Whitserve LLC,</i> IPR2019-01018, Paper 13 (PTAB Nov. 1, 2019)	31
<i>Ecolochem, Inc. v. S. Cal. Edison Co.,</i> 227 F.3d 1361(Fed. Cir. 2000)	50
<i>E-One, Inc. v. Oshkosh Corp.,</i> IPR2019-00161, Paper 16 (PTAB May 15, 2019)	25, 27
<i>Freebit AS v. Bose Corp.,</i> IPR2018-00142, Paper 7 (PTAB May 11, 2018)	41
<i>Gilead Scis., Inc. v. United States,</i> IPR2019-01453, Paper 14 (PTAB Feb. 20, 2020)	49
<i>Gilead Scis., Inc. v. United States,</i> IPR2019-01455, Paper 16 (PTAB Feb. 5, 2020)	49
<i>In re Beigel,</i> 7 F. App'x 959 (Fed. Cir. 2001)	34

<i>In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig.</i> , 676 F.3d 1063 (Fed. Cir. 2012).....	46
<i>Institut Pasteur v. Focarino</i> , 738 F.3d 1337 (Fed. Cir. 2013).....	53, 55
<i>Intri-Plex Techs. Inc. v. Saint-Gobain Performance Plastics Rencol Ltd.</i> , IPR2014-00309, Paper 83 (PTAB Mar. 23, 2014).....	56
<i>Kingston Tech. Co., Inc. v. SPEX Techs., Inc.</i> , IPR2017-00824, Paper 8 (PTAB Aug. 17, 2017)	34
<i>Lucia v. SEC</i> , 138 S. Ct. 2044 (2018).....	59
<i>Marvell Semiconductor, Inc. v. Spectra Licensing Grp., LLC</i> , IPR2017-01240, Paper 5 (PTAB Oct. 10, 2017).....	34
<i>Merial Ltd. v. Virbac</i> , IPR2014-01279, Paper 13 (PTAB Jan. 22, 2015).....	49
<i>Net MoneyIN, Inc. v. VeriSign, Inc.</i> , 545 F.3d 1359 (Fed. Cir. 2008)	15
<i>NHK Spring Co., Ltd., v. Intri-Plex Technologies, Inc.</i> , IPR2018-00752, Paper 8 (PTAB Sept. 12, 2018)	24, 26
<i>Pfenex, Inc. v. GlaxoSmithKline Biologicals SA</i> , IPR2019-01027, Paper 12 at 13–14 (PTAB Nov. 13, 2019).....	32
<i>Polaris Indus. v. Arctic Cat, Inc.</i> , 882 F.3d 1056 (Fed. Cir. 2018)	50
<i>QXMédical, LLC v. Vascular Sols. LLC</i> , No. 17-cv-01969-PJS-TNL, (D. Minn. June 8, 2017).....	11
<i>R.J. Reynolds Vapor Co. v. Fontem Holdings 1 B.V.</i> , IPR2018-00629, Paper 10 (PTAB Aug. 29, 2018)	41
<i>Robert Bosch Tool Corp. v. SD3, LLC</i> , IPR2016-01753, Paper 15 (PTAB Mar. 22, 2017).....	48, 53

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.