

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

QXMÉDICAL, LLC,

Case No. 17-CV-1969 (PJS/TNL)

Plaintiff,

v.

ORDER

VASCULAR SOLUTIONS, LLC; TELEFLEX
INNOVATIONS S.À.R.L.; and ARROW
INTERNATIONAL, INC.,

Defendants.

Courtland C. Merrill and Philip J. Kaplan, ANTHONY OSTLUND BAER
& LOUWAGIE P.A., for plaintiff.

J. Thomas Vitt, Emily Justine Tait, Patrick J. O’Rear, and Sanjiv Prakash
Laud, JONES DAY; Kenneth E. Levitt, DORSEY & WHITNEY, for
defendants.

Plaintiff QXMédical, LLC (“QXMédical”) filed this action in June 2017, seeking a declaration that its Boosting Catheter does not infringe any of defendants’ (collectively “Teleflex’s”) patents and that Teleflex’s patents are invalid. Teleflex counterclaimed for infringement, asserting claims in six patents. The Court issued an order construing certain terms of the patents in October 2018 and an order on the parties’ motions for summary judgment in October 2019. ECF Nos. 102, 156. Trial is scheduled to begin on February 24, 2020.

In July 2019, Teleflex and related parties brought an infringement action against Medtronic, Inc. and related parties (collectively “Medtronic”), asserting many of the same patent claims at issue in this case. See *Vascular Solutions LLC v. Medtronic, Inc.*, No. 19-CV-1760 (PJS/TNL). Between November 12 and 14, 2019, Medtronic filed 13 petitions for *inter partes* review of a number of Teleflex’s patent claims, including all but two of the claims at issue in this case. A decision on whether to institute review is due in mid-May 2020. See 35 U.S.C. § 314(b); 37 C.F.R. § 42.107(b).

In light of the pendency of Medtronic’s petitions, QXMédical seeks a stay of this action. QXMédical states that, if the Court grants a stay, it will suspend domestic sales of its Boosting Catheter during the pendency of the stay and waive two of its remaining invalidity defenses (obviousness and anticipation¹), thus simplifying the trial. Given these concessions, the Court finds that a stay until such time as the Patent Trial and Appeal Board decides whether to institute review on Medtronic’s petitions is warranted. The Court will therefore reschedule the trial for June 22, 2019. A formal trial notice setting forth all deadlines will follow. If the Patent Trial and Appeal Board decides to institute review, the Court will invite the parties to brief whether the stay should extend through the conclusion of the review process.

¹QXMédical’s remaining anticipation defense relates to claim 1 of the RE45,380 patent; QXMédical retains its right to appeal the Court’s rejection, at summary judgment, of its anticipation defense relating to claim 53 of the RE46,116 patent.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Plaintiff's motion to stay [ECF No. 173] is GRANTED in part.
2. This case is STAYED until such time as the Patent Trial and Review Board issues a decision on whether to institute review in response to any of the petitions filed by Medtronic, Inc., that seek review of patent claims involved in this case.
3. The parties must notify the Court of the Patent Trial and Review Board's decision as soon as reasonably possible after it is rendered.
4. Until further order of the Court, plaintiff is enjoined from selling its infringing Boosting Catheter product in the United States.
5. Plaintiff's remaining defenses of obviousness and anticipation are waived.
6. Trial in this matter is scheduled to begin on June 22, 2019.

Dated: December 26, 2019

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge