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Paper No. 20
Date: June 26, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC., AND MEDTRONIC VASCULAR, INC.,
Petitioner,

v.

TELEFLEX INNOVATIONS S.À.R.L.,
Patent Owner.

IPR2020-00134
Patent RE45,760 E

Before SHERIDAN K. SNEDDEN, JON B. TORNQUIST, and CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges.*

SNEDDEN, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Medtronic, Inc. and Medtronic Vascular, Inc. ("Petitioner") filed a Petition for *inter partes* review of claims 48 and 51–53 of U.S. Patent No. RE45,760 E ("the '760 patent," Ex. 1601). Paper 1 ("Pet."). Teleflex Medical Devices S.A.R.L. ("Patent Owner") filed a Preliminary Response. Paper 10 ("Prelim. Resp."). Pursuant to our authorization, Petitioner filed a Reply addressing its burden on secondary considerations and reduction to practice, and Patent Owner filed a Sur-Reply addressing Petitioner's burden on those issues. Paper 14; Paper 15. Also pursuant to our authorization, Petitioner filed another Reply (Paper 17) and Patent Owner filed another Sur-Reply (Paper 18) addressing the factors for discretionary denial under 35 U.S.C. § 314(a).

To institute an *inter partes* review, we must determine that the information presented in the Petition shows "a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a) (2012). The Supreme Court has held that a decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018) ("*SAS*"). After considering the parties' arguments and evidence, we determine that Petitioner has demonstrated a reasonable likelihood that it would prevail with respect to at least one of the claims challenged in the Petition. Accordingly, an *inter partes* review of all of the claims and all of the grounds presented in the Petition is hereby instituted.

A. Real Parties in Interest

Petitioner identifies its real parties-in-interest as Medtronic, Inc. and Medtronic Vascular, Inc., and notes that "Medtronic plc is the ultimate parent of both entities." Pet. 5. Patent Owner identifies its real parties-in-

interest as Teleflex Medical Devices S.A.R.L.; Vascular Solutions LLC; Arrow International, Inc.; and Teleflex LLC. Paper 4, 2. Patent Owner also notes that "Teleflex Incorporated is the ultimate parent of the entities listed above."

B. Related Matters

The '760 patent is also at issue in IPR2020-00132 and IPR2020-00133. Paper 4, 2–3; Pet. 5. We instituted *inter partes* review in IPR2020-00132 on June 9, 2020. IPR2020-00132, Paper 22.

The parties indicate that the '760 patent is the subject of litigation in *Vascular Solutions LLC, et al. v. Medtronic, Inc., et al.* No. 19-cv-01760 (D. Minn. filed July 2, 2019) ("*Medtronic*") and *QXMedical, LLC v. Vascular Solutions, LLC*, No. 17-cv-01969 (D. Minn., filed June 8, 2017) ("*QXM*"). Pet. 5–6; Paper 4, 2.

The '760 patent is a reissue of U.S. Pat. No. 8,292,850 ("the '850 patent). The '850 patent was the subject of two previous *inter partes* reviews: IPR2014-00762, filed May 16, 2014 and terminated August 11, 2014 by way of joint motion to terminate, and IPR2014-00763, filed May 16, 2014 and terminated August 11, 2014 by way of joint motion to terminate. Pet. 6; Paper 4, 2–3. The '850 patent was also at issue in the U.S. District Court for the District of Minnesota in *Vascular Solutions, Inc. v. Boston Scientific Corp.*, No. 13-cv-01172 (D. Minn., filed May 16, 2013). *Id.*

C. The '760 Patent

1. Specification

The subject matter claimed in the '760 patent is directed to a device for use with a standard guide catheter. Ex. 1601, 13:36–17:13. Figures 1

and 5 of the ’760 patent, reproduced below, depict a coaxial guide catheter and a tapered inner catheter.

Fig. 1

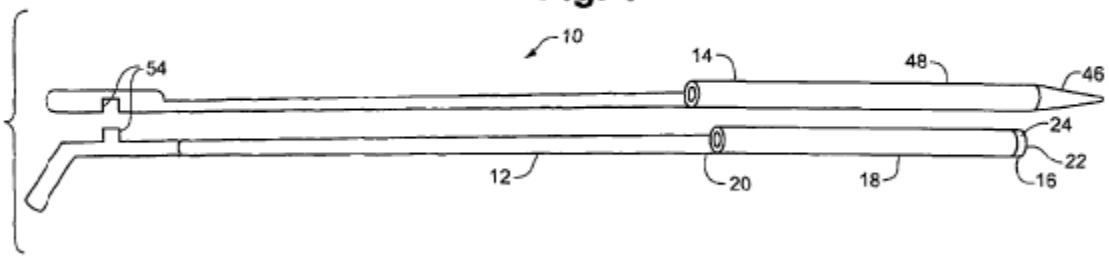

Figure 1 of the ’760 patent

Fig. 5

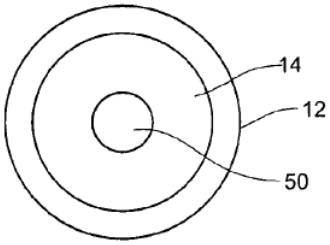

Figure 5 of the ’760 patent

As shown in Figures 1 and 5, above, coaxial guide catheter assembly 10 includes coaxial guide catheter 12 and tapered inner catheter 14. *Id.* at 6:37–39. Coaxial guide catheter 12 generally includes tip portion 16, reinforced portion 18, and rigid portion 20. *Id.* at 6:40–41. Tip portion 16 generally includes bump tip 22 and marker band 24. *Id.* at 6:44–45. Bump tip 22 includes taper 26 and is relatively flexible. *Id.* at 6:45–46. Marker band 24 is formed of a radiopaque material such as platinum/iridium alloy. *Id.* at 6:49–50. Tapered inner catheter tip 42 includes tapered portion 46 at a distal end thereof, and straight portion 48. *Id.* at 7:22–23. Both tapered portion 46 and straight portion 48 are pierced by lumen 50. *Id.* at 7:23–24. Tapered inner catheter 14 may also include clip 54 at a proximal end thereof to releasably join tapered inner catheter 14 to coaxial guide catheter 12. *Id.*

at 7:27–29. Thus, tapered inner catheter 14 is keyed to coaxial guide catheter 12. *Id.* at 7:29–30.

2. Illustrative Claim

Independent claim 48, reproduced below, is illustrative of the challenged claims.

48. A system, comprising:

a guide catheter configured to be advanceable through a main blood vessel to a position adjacent an ostium of a coronary artery, the guide catheter having a lumen extending from a hemostatic valve at a proximal end of the guide catheter to a distal end of the guide catheter that is adapted to be positioned adjacent the ostium of the coronary artery; and

a guide extension catheter configured to be partially advanceable through the guide catheter and into the coronary artery, the guide extension catheter having a length such that a distal end of the guide extension catheter is extendable through the lumen and beyond the distal end of the guide catheter, and a proximal end of the guide extension catheter is extendable through the hemostatic valve at the proximal end of the guide catheter,

the guide extension catheter including, in a proximal to distal direction, a substantially rigid segment, a segment defining a side opening, and a tubular structure defining a lumen coaxial and in fluid communication with the lumen of the guide catheter, the lumen of the tubular structure having a length that is shorter than the length of the lumen of the guide catheter and having a uniform cross-sectional inner diameter that is not more than one French size smaller than the cross-sectional inner diameter of the lumen of the guide catheter, the side opening extending/or a distance along a longitudinal axis of the segment defining the side opening and accessible from a longitudinal side defined transverse to the longitudinal axis, and the side opening and the lumen of the tubular structure configured to receive one or more stents or balloon catheters when the segment defining the side opening and a proximal end portion of the tubular structure are positioned within the lumen of the guide catheter and the distal end of the guide

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