

1 UNITED STATES PATENT AND TRADEMARK OFFICE  
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MEDTRONIC, INC., AND MEDTRONIC  
4 VASCULAR, INC.,

5 Petitioners,

6 vs.

7 TELEFLEX INNOVATIONS S.A.R.L.,

8 Patent Owner.  
9 

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10 IPR2020-00126 (Patent 8,048,032 B2)  
11 IPR2020-00127 (Patent 8,048,032 B2)  
12 IPR2020-00128 (Patent RE45,380 E)  
13 IPR2020-00129 (Patent RE45,380 E)  
14 IPR2020-00130 (Patent RE45,380 E)  
15 IPR2020-00132 (Patent RE45,760 E)  
16 IPR2020-00134 (Patent RE45,760 E)  
17 IPR2020-00135 (Patent RE45,776 E)  
18 IPR2020-00136 (Patent RE45,776 E)  
19 IPR2020-00137 (Patent RE47,379 E)  
20 IPR2020-00138 (Patent RE47,379 E)  
21 

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22 VIDEOTAPED DEPOSITION OF  
23 DR. PAUL ZALESKY

24 DATE: January 13, 2021

25 TIME: 9:13 a.m. (Central Standard Time)

PLACE: Veritext Virtual Videoconference

REPORTED BY: PAULA K. RICHTER, RMR, CRR, CRC

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1 APPEARANCES

2 (All parties appeared via videoconference)

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1 APPEARANCES (Continued)

2

3 ALSO PRESENT:

4 Phil Glauberson - Videographer

5 Greg Smock - Teleflex

6 Howard Cyr - Teleflex

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13 copies provided to counsel.)

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1 PROCEEDINGS  
2 THE VIDEOGRAPHER: Good morning. We  
3 are going on the record at 9:13 a.m. Central Time,  
4 January 13, 2021.  
5 Please note that the microphones are  
6 sensitive and may pick up whispering and private  
7 conversations. Please mute your microphone  
8 whenever possible. Audio and video recording will  
9 continue to take place unless all parties agree to  
10 go off the record.  
11 This is Media Unit 1 of the  
12 video-recorded deposition of Dr. Paul Zalesky in  
13 the matter of Medtronic, Inc., et al. versus  
14 Teleflex Innovations S.A.R.L. filed in the United  
15 States Patent and Trademark Office, IPR2020-00126,  
16 IPR2020-00128, IPR2020-00129, IPR2020-00134 --  
17 132, IPR2020-00134, IPR2020-00135, and  
18 IPR2020-00137.  
19 This deposition is being held  
20 remotely. My name is Phil Glauberson from the  
21 firm Veritext, and I am the videographer. The  
22 court reporter is Paula Richter from Veritext.  
23 I am not authorized to administer an  
24 oath, I am not related to any party in this  
25 action, nor am I financially interested in the

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1 outcome.  
2 Counsel will please now state their  
3 appearances and affiliations for the record. If  
4 there are any objections to proceeding or to the  
5 court reporter administering the oath virtually,  
6 please state them at the time of your appearance,  
7 beginning with the noticing attorney.  
8 MS. NORGDARD: Good morning. This is  
9 Tara Norgard on behalf of patent owner. Here  
10 appearing on the remote deposition with me today  
11 is Alex Rinn and Joe Winkels. The three of us are  
12 from the Carlson Caspers law firm. Also appearing  
13 on behalf of the patent owner is Greg Smock and  
14 Howard Cyr, both of whom are with Teleflex.  
15 MS. ROBERG-PEREZ: Sharon  
16 Roberg-Perez on behalf of Petitioner Medtronic.  
17 With me are my colleagues, Emily Tremblay and  
18 Cy Morton of the firm Robins Kaplan.  
19 DR. PAUL ZALESKY,  
20 duly sworn, was examined and testified as follows:  
21 EXAMINATION  
22 BY MS. NORGDARD:  
23 Q. Good morning, Dr. Zalesky. As I mentioned a  
24 moment ago, I am Tara Norgard. I'm with the  
25 Carlson Caspers law firm, and I represent the

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1 patent owner in this case.  
2 Have you ever been --  
3 A. Good morning.  
4 Q. Good morning. Have you ever been deposed  
5 before?  
6 A. I have.  
7 Q. How many times?  
8 A. Something between five and ten over the last,  
9 probably, 15 years.  
10 Q. And of those five to ten times that you've  
11 been deposed, about how many of those times were  
12 you serving as an expert witness?  
13 A. Approximately five or six.  
14 Q. And when is the most recent time you've been  
15 deposed?  
16 A. I think it was a year and a half, possibly  
17 two years ago. It was an IPR case.  
18 Q. Which case was that?  
19 A. I don't have the details in front of me. It  
20 regarded -- I was actually representing the patent  
21 owner with an attorney out of California.  
22 Q. And who was the patent owner in that case?  
23 A. Again, I don't have any of that file in front  
24 of me right now.  
25 Q. You don't know who you were representing in

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1 that action?  
2 A. I was representing the patent owner, but I  
3 don't have any of that information in front of me.  
4 I'd have to go back to my records.  
5 Q. So as you sit here today, you do not know the  
6 name of the party for whom you served as an expert  
7 witness for the most recent IPR where you  
8 testified?  
9 A. I just don't recall the name because of the  
10 details and so many other projects in the  
11 meantime.  
12 Q. What was the technology?  
13 A. It was a complex algorithm for decomposing or  
14 deconstructing complex intracardiac wave forms in  
15 order to diagnose arrhythmia.  
16 Q. And did you participate in the IPR trial of  
17 that matter?  
18 A. I did not. I just prepared a formal report  
19 and I was deposed.  
20 Q. Was that deposition taken remotely or was it  
21 in person?  
22 A. It was in person in Providence, Rhode Island.  
23 Q. Well, obviously, this deposition is taking  
24 place remotely.  
25 Have you ever participated in a

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1 remote deposition?  
2 A. Not a deposition, per se. I've participated  
3 in a number of remote proceedings, including  
4 arbitration for hearings and trial, three judges.  
5 Q. And was that taken in a similar platform to  
6 the Zoom platform that we're experiencing here  
7 today?  
8 A. Yes.  
9 Q. Well, then you may know this from your  
10 experience in those proceedings, but it is  
11 important in any deposition, but especially when  
12 we are remote here today, that we speak slowly and  
13 clearly for our court reporter, so we get a clear  
14 record.  
15 It's also important we don't speak  
16 over each other. And it is important that we use  
17 words, not nods or hand gestures to make sure that  
18 our communications are accurately reflected in the  
19 record.  
20 Do you understand that?  
21 A. I do.  
22 Q. The goal here is to have a clear and accurate  
23 record, so if you don't understand a question I'm  
24 asking, please ask me to clarify or rephrase it.  
25 Can you do that?

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1 A. Yes.  
2 Q. Otherwise, if you answer the question that  
3 I'm asking, I'm going to assume that you  
4 understood the question; is that fair?  
5 A. That is.  
6 Q. We'll try to take breaks throughout the day,  
7 but if there's ever a point where you need a  
8 break, please let us know. I would only ask that  
9 you finish answering the question that's been  
10 asked before you intervene for that break.  
11 Is that a fair request?  
12 A. It is.  
13 Q. We may discuss some exhibits today, and  
14 before we got on the record, we got you on to  
15 Exhibit Share, which is the electronic version of  
16 the exhibits, and that's now up and running on  
17 your screen, correct?  
18 A. The my screen is largely the Zoom meeting.  
19 I'm going to need to minimize it to look at the  
20 rest of this. Is that what you want me to do?  
21 Q. Well, when we got on the record, you had  
22 access to Exhibit Share. We don't need to go  
23 there yet, but I want to make sure that you still  
24 have access to it.  
25 You haven't turned it off, have you?

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1 A. I have not.  
2 Q. A set of hard-copy exhibits was also  
3 delivered to your home.  
4 Did you receive them?  
5 A. I received them yesterday.  
6 Q. And do you have them with you?  
7 A. I do.  
8 Q. Have you opened them?  
9 A. I didn't hear that last part. Sorry.  
10 Q. Have you opened the package that was sent to  
11 you with the hard-copy exhibits?  
12 A. Yes.  
13 Q. And have you reviewed them?  
14 A. I have not re-reviewed the copies you sent.  
15 I have reviewed versions sent by Medtronic  
16 counsel.  
17 Q. So have you opened the package -- I'm sorry.  
18 Have you reviewed at all the packet -- the  
19 contents of the package that we sent to you for  
20 this deposition today?  
21 A. Yes. I opened each of the binders, and they  
22 look -- were very -- basically identical to  
23 binders I had already received in the past. I  
24 just verified the contents, for instance, of my  
25 declaration. I did not, you know, re-re-re-review

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1 the same contents I had seen in the past.  
2 Q. Do you have those hard-copy exhibits --  
3 A. Yes, I do.  
4 Q. -- that we sent you here today?  
5 A. I do.  
6 Q. Dr. Zalesky, where are you physically located  
7 today?  
8 A. In my home office in East Greenwich,  
9 Rhode Island.  
10 Q. And is there anyone in the room with you?  
11 A. No, there is not.  
12 Q. Is there any reason that you are not able to  
13 testify fully and truthfully here today?  
14 A. No.  
15 Q. Are you on any medications?  
16 A. Not anything, no.  
17 Q. Dr. Zalesky, when were you retained for this  
18 dispute?  
19 A. It was an or about October 1st of 2019.  
20 Q. And who contacted you?  
21 A. I was contacted by the attorney, Sherry and  
22 Emily.  
23 Q. And were you retained initially for the  
24 district court litigation that proceeded these IPR  
25 proceedings?

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1 A. I was, in 2019.  
2 Q. And you prepared a declaration in that  
3 litigation, right?  
4 A. Yes, I did.  
5 MS. NORGDARD: I'm going to ask that  
6 we mark Exhibit 2225, please.  
7 MS. ROBERG-PEREZ: I'm going to  
8 object on scope.  
9 THE VIDEOGRAPHER: This is the  
10 videographer. Are we okay with the witness's --  
11 the humming that's going on or should we try to  
12 correct it or should we just move forward?  
13 MS. NORGDARD: It is rather  
14 distracting. We were able to correct it before,  
15 Dr. Zalesky. I'm not sure if that was because you  
16 moved away a cell phone or some other electronic  
17 device, but there is a fair bit of feedback that's  
18 happening right now.  
19 THE WITNESS: The only thing I can  
20 guess is, I hear a very slight hum from the fan in  
21 my laptop.  
22 BY MS. NORGDARD:  
23 Q. Well, it's pretty well amplified for us, but  
24 let's just continue on, and if anybody finds it to  
25 be overbearing, perhaps we can address it at a

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1 break. How does that sound?  
2 Dr. Zalesky, do you see Exhibit 2225  
3 on your screen?  
4 A. I'm sorry. Please repeat that. I was trying  
5 to adjust the laptop to see if I could knock down  
6 the sound.  
7 What was the question?  
8 Q. In the Marked Exhibit folder on Exhibit  
9 Share, you should be seeing Exhibit 2225.  
10 Do you see that?  
11 A. It still says folder is empty.  
12 Q. If you go to the top, the top and refresh, as  
13 your counsel has advised you earlier.  
14 A. I'm sorry. You want me to do what?  
15 Q. I want you to go to the top of the screen and  
16 refresh the screen.  
17 Do you know how to refresh the  
18 screen?  
19 A. 2225?  
20 Q. Correct.  
21 A. You want me to open that?  
22 Q. Please.  
23 A. Okay.  
24 Q. Do you have it there in front of you now?  
25 A. I do.

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1 Q. And feel free to scroll through it,  
2 Dr. Zalesky, but is this the declaration that you  
3 submitted in the litigation in the district court  
4 in Minnesota in the same dispute between Vascular  
5 Solutions, et al., and Medtronic regarding these  
6 patents?  
7 MS. ROBERG-PEREZ: Objection; scope.  
8 THE WITNESS: Yes, I believe it is.  
9 BY MS. NORGDARD:  
10 Q. Go to the last page, please.  
11 A. Signature page or before that?  
12 Q. The signature page.  
13 A. Okay.  
14 Q. Are you there?  
15 A. I am.  
16 Q. Is that your signature on page 48 of this  
17 declaration that's been marked as Exhibit 2225?  
18 A. Yes.  
19 Q. And it's dated November 14th, 2019.  
20 Do you see that?  
21 A. Yes.  
22 Q. Did you sign this document on November 14th  
23 of 2019?  
24 A. I believe so.  
25 Q. And you declared under the penalty of perjury

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1 that the contents of this declaration at  
2 Exhibit 2225 are true and correct, right?  
3 A. Yes.  
4 Q. Thank you.  
5 It's up to you how you want to deal  
6 with the exhibits on your screen, but I'm just  
7 going tell you right now that if you want to exit  
8 out of an exhibit at any time, there is a caret at  
9 the upper left-hand corner right next to the  
10 label.  
11 Do you see it, right next to  
12 Exhibit 2225 PDF?  
13 A. I do.  
14 Q. And if you hit that, it will take you back to  
15 the folder.  
16 A. Okay.  
17 Q. You're welcome to navigate how you wish, but  
18 I just wanted to let you know that that's the way  
19 you get back to the exhibit list.  
20 A. Okay.  
21 Q. So, Dr. Zalesky, this deposition is taking  
22 place in the context of the IPRs, correct?  
23 A. Yes.  
24 Q. Did you help prepare Medtronic's petitions in  
25 these IPRs?

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