

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 IPR2020-00135
Patent RE45,776 E

**PATENT OWNER'S UNOPPOSED MOTION TO FILE UNDER SEAL
PURSUANT TO 37 C.F.R. §§ 42.14 AND 42.54**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner respectfully submits this Patent Owner's Unopposed Motion to File Under Seal, requesting that the following information remain under seal: portions of Patent Owner's Response, as well as Exhibits 2139, 2140, 2141, 2197, 2198, 2201, and 2202, filed therewith. The under-seal version of the Patent Owner Response, along with the identified under-seal exhibits, are being filed concurrently with this motion.

Patent Owner has conferred with the Petitioner, and the Petitioner does not oppose this motion to seal.

In conjunction with the Patent Owner's Preliminary Responses, the Patent Owner and Petitioner agreed to and submitted a stipulated Joint Protective Order. Patent Owner respectfully requests that the Board enter that stipulated Joint Protective order in the above captioned case to govern treatment of the documents and information identified herein.

I. Good Cause

For good cause, the Board may “issue an order to protect a party or person from disclosing confidential information.” 37 C.F.R. § 42.54. The rules “identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

Each of the sets of information below meets this standard, and for the reasons explained there is good cause for why those documents should remain under seal.

A. Under-Seal Version of Patent Owner’s Response

Patent Owner has filed an under-seal Patent Owner Response and a public, redacted version of that Response. The redacted portion on page 61 reflects Patent Owner’s confidential licensing strategy. The remaining redacted portions reflect information that Petitioner Medtronic has designated as confidential under the district court protective order governing the parties in parallel litigation in the District of Minnesota.

All of this information fits squarely within the kinds of information that the Trial Practice guide considers to be “confidential information,” such as “confidential research, development, or commercial information.” 77 Fed. Reg. 48756, 48760.

There is good cause for keeping the redacted information contained in Patent Owner’s Response under seal. Publicly revealing the sensitive, competitive information could put the parties at a disadvantage in the marketplace.

B. Exhibits 2139-2141: Engineering Drawings

Exhibits 2139, 2140, and 2141, filed as protective order material, are documents that were designated confidential in the case of *QXMédical, LLC v.*

Vascular Solutions, LLC, et al., 0:17-cv-01969-PJS-TNL (D. Minn.). These documents contain confidential information about Patent Owner’s product design and manufacture specifications. This information fits squarely within the kinds of information that the Trial Practice guide considers to be “confidential information,” such as “confidential research, development, or commercial information.” 77 Fed. Reg. 48756, 48760.

There is good cause for Patent Owner’s confidential product design and manufacture specifications under seal. Publicly revealing the sensitive, competitive information would put Patent Owner at a disadvantage in the marketplace.

C. Exhibits 2197, 2198, 2201, 2202: Petitioner Medtronic Confidential Documents

Exhibits 2197-2199, 2201 and 2202, filed under seal, are documents produced by Petitioner Medtronic in the parallel District of Minnesota ligation and designated as confidential under the protective order in that case. These documents describe Petitioner Medtronic’s product development and marketing.

Because Petitioner has designated these documents as confidential under the District of Minnesota protective order, it appears that there is good cause for keeping these documents under seal. Presumably, publicly revealing the information Petitioner Medtronic has designated as confidential could put Petitioner Medtronic at a competitive disadvantage in the marketplace.

II. Certification of Conference

Pursuant to 37 C.F.R. §§ 42.54(a), Patent Owner certifies that it has in good faith conferred with Petitioners' counsel. Petitioners' counsel does not oppose this motion to seal.

Both Petitioners and Patent Owner agree to abide by the parties' stipulated Protective Order pending a decision by the Board on the motion for entry thereof.

III. Request for Conference Call with the Board

Should the Board not be inclined to grant the present Unopposed Motion to File Under Seal, Patent Owner hereby requests a conference call with the Board to discuss any concerns prior to the Board issuing a decision on the Motion.

IV. Conclusion

Patent Owner respectfully requests that the Board grant this Unopposed Motion to File Under Seal, and keep the following documents under seal: the under-seal, unredacted version of the Patent Owner Response, and Exhibits 2139, 2140, 2141, 2197, 2198, 2201, and 2202.

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