

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MEDTRONIC, INC., AND MEDTRONIC VASCULAR, INC.  
Petitioners,

v.

TELEFLEX INNOVATIONS S.A.R.L.  
Patent Owner.

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Case IPR2020-00135  
Patent RE45,776

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**PATENT OWNER SUR-REPLY**

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## I. INTRODUCTION

Using improper hindsight, the Petition sought to use advantages of the '776 patent's claimed two-incline side opening as motivations to argue that it would have been obvious to add such an opening to Itou's suction catheter. Patent Owner's ("Teleflex") Response proved that none of the cited secondary references actually show such a two-incline proximal side opening, much less provide a motivation to add one to Itou. So in Reply, Petitioner totally changed positions, now arguing that these claims are unpatentable because the two-incline side opening "provide[s] no benefit" over a single incline. Paper 82 ("Reply"), 12-13. Petitioner's new position is contradicted by its own experts. Moreover, *all* of Teleflex's competitors (including Petitioner) copied Teleflex's multiple-incline side opening design, and *none* used a single-incline design. Petitioner touts the advantage of its two-incline "on-ramp" in advertising, and its own documents show that it [REDACTED] but ultimately ended up "[REDACTED]

[REDACTED] Ex-2071, 15, 18, 20; Ex-2197, 1; Ex-2138, ¶218.

This is but one example of the improper, illogical, and unpersuasive positions taken by Petitioner. The Petition should be rejected in its entirety.

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