

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 IPR2020-00136
Patent RE 45,776

**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 documents remain under seal: portions of Patent Owner's Preliminary Response and certain exhibits filed with the Preliminary Response which are identified as Exhibits 2043 and 2058. These documents are being filed concurrently with this motion.

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

Further, Patent Owner and Petitioner have conferred and agreed to the attached stipulated Joint Protective Order. A copy of the stipulated Joint Protective Order is attached as Appendix A. Patent Owner respectfully requests that the Board enter the attached stipulated Joint Protective order in the above captioned case.

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 categories of documents listed below meet this standard and for the reasons explained there is good cause for why those documents should remain under seal.

A. Patent Owner’s Preliminary Response

Patent Owner has filed an under seal and a public, redacted version of its Preliminary Response. Those portions of the under seal version of the Preliminary Response corresponding to the redacted portions of the public version of the Preliminary Response contain confidential commercial information that should remain under seal.

The redacted portions in the Introduction of the Preliminary Response and the first paragraph of section VII.F.1 and first redacted sentence of the second paragraph of that section, discuss business development information that Medtronic considers confidential.

The remaining redacted portions of the Preliminary Response discuss revenue numbers for Patent Owner’s GuideLiner products and market share estimates. 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 Preliminary Response under seal. Publicly revealing business development information, Patent Owner's revenue numbers, and market share estimates could put Patent Owner (and possibly a competitor) at a competitive disadvantage in the marketplace. Additionally, Petitioners do not oppose this information remaining under seal.

B. Exhibit 2043: Declaration of Amy Welch

Exhibit 2043, filed under seal, is the Declaration of Amy Welch in Support of Plaintiffs' Motion for Preliminary Injunction ("Welch Declaration") that was filed under seal in the related district court case *Vascular Solutions LLC v. Medtronic, Inc.*, 19-cv-01760-PJS-TNL (D. Minn.). Patent Owner has also filed Exhibit 2044, which is the public, redacted version of the same Welch Declaration filed in the district court. Those portions of the under-seal version of the Welch Declaration corresponding to the redacted portions of the public version of the Welch Declaration contain confidential research, development, and/or commercial information that should remain under seal. For example, the redacted portions discuss confidential information, including financial information like worldwide sales, profit, and pricing information related to Patent Owner's GuideLiner products, commercial strategy information related to the sale of GuideLiner products, market share estimates, information related to Patent Owner's accounts

and relationship with customers, licensing strategy, contract negotiations, and compensation for Patent Owner's sales representatives. All of this information fits squarely within the kinds of information that the Trial Practice guide considers to be confidential commercial information. 77 Fed. Reg. 48756, 48760.

There is good cause for keeping the redacted information contained in Exhibit 2043 under seal. Publicly revealing the commercially sensitive information noted above would put Patent Owner at a competitive disadvantage in the marketplace. Additionally, Petitioners do not oppose this information remaining under seal.

C. Exhibit 2058: Confidential Presentation

Exhibit 2058, filed under seal, is a Vascular Solutions PowerPoint. This presentation reflects commercially sensitive discussions with a competitor, and includes commercially sensitive financial information regarding Patent Owner's business. This information fits squarely within the kinds of information that the Trial Practice guide considers to be "confidential information," such as "confidential . . . commercial information." 77 Fed. Reg. 48756, 48760.

There is good cause for keeping Exhibit 2058 under seal. Publicly revealing the commercially sensitive discussions and Patent Owner's commercially sensitive financial information could put Patent Owner (and possibly a competitor) at a

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