

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC., AND MEDTRONIC VASCULAR, INC.

Petitioners,

v.

TELEFLEX INNOVATIONS S.À.R.L.,

Patent Owner.

Case No.: IPR2020-00136
U.S. Patent No. RE 45,776

PETITIONERS' UNOPPOSED MOTION TO FILE UNDER SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioners submit this Unopposed Motion to File Under Seal, requesting that the following information and documents remain sealed: portions of Petitioners' Reply to Patent Owner's Response, portions of Exhibit 1755, 1806, 1807, and 1830 (Declarations of Stephen Jon David Brecker, Mike Jones, and Paul Zalesky), and Exhibits 1114-1115, 1819, and 1821-1823. Petitioners file the under-seal version of Petitioners' Reply, the under-seal version of Exhibits 1114-1115, 1819, and 1821-1823, and the Declarations of Stephen Jon David Brecker, Mike Jones, and Paul Zalesky with this motion.

Petitioners conferred with Patent Owner, and Patent Owner does not oppose this motion.

In conjunction with Patent Owner's Preliminary Responses, Petitioners and Patent Owner agreed to and submitted a stipulated Joint Protective Order. Petitioners request that the Board enter that stipulated Joint Protective Order in the above-captioned cases to govern treatment of the information and documents 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(a). "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.” Patent Trial and Appeal Board Consolidated Trial Practice Guide, at 19 (Nov. 2019 ed.).

The documents subject to this motion contain confidential information and, thus, qualify for protection, and for the reasons explained below, there is good cause to keep the documents sealed.

A. Under-Seal Version of Petitioners’ Reply

Petitioners file an under-seal version of Petitioners’ Reply to Patent Owner’s Response and a public, redacted version of that Reply. The redacted portions discuss Patent Owner’s confidential information, specifically, information related to Patent Owner’s product development, product design, marketing, and related efforts and strategies. Patent Owner has designated this information as confidential under the protective order governing the parallel district court litigation in the United States District Court for the District of Minnesota. This information qualifies as “confidential information” under the Trial Practice Guide.

Because Patent Owner has designated this information as confidential under the district court protective order, it appears that there is good cause to keep the redacted information under seal. Presumably, publicly revealing the information that Patent Owner has designated as confidential could put Patent Owner at a competitive disadvantage in the marketplace.

B. Under-Seal Version of Exhibits 1755, 1806, 1807, and 1830 (Declarations of Stephen Jon David Brecker, Mike Jones, and Paul Zalesky)

Petitioners file under-seal versions of Exhibits 1755, 1806, 1806, and 1830 and public, redacted versions of those exhibits. The redacted portions discuss Patent Owner’s confidential information, specifically, information related to Patent Owner’s product development, product design, marketing, and related efforts and strategies, as well as deposition testimony regarding the same. Patent Owner has designated this information as confidential under the protective order governing the parallel district court litigation in the United States District Court for the District of Minnesota. This information qualifies as “confidential information” under the Trial Practice Guide.

Because Patent Owner has designated this information as confidential under the district court protective order, it appears that there is good cause to keep the redacted information under seal. Presumably, publicly revealing the information that Patent Owner has designated as confidential could put Patent Owner at a competitive disadvantage in the marketplace.

C. Exhibits 1114-1115, 1819, and 1821-1823: Patent Owner Confidential Documents

Exhibits 1114-1115, 1819, and 1821-1823, filed under seal, are documents produced and designated confidential under the protective order by Patent Owner

in the parallel district court litigation in the United States District Court for the District of Minnesota. These documents describe Patent Owner's product development, product design, marketing, and related efforts and strategies.

Because Patent Owner has designated these documents as confidential under the district court protective order, it appears that there is good cause to keep these documents under seal. Presumably, publicly revealing the information that Patent Owner has designated as confidential could put Patent Owner at a competitive disadvantage in the marketplace.

II. Certification of Conference

Pursuant to 37 C.F.R. §§ 42.54(a), Petitioners certify that they, in good faith, conferred with Patent Owner. Patent Owner does not oppose this motion. 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 this Unopposed Motion to File Under Seal, Petitioners request a conference call with the Board to discuss any concerns prior to the Board issuing a decision on the motion.

IV. Conclusion

Petitioners respectfully request that the Board grant this Unopposed Motion to File Under Seal and keep the following information and documents under seal:

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