

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 information remain under seal: the redacted portions of Patent Owner's Sur-Reply, as well as Exhibit 2235, and redacted portions of Exhibit 2242, filed therewith. The under-seal version of Patent Owner's Sur-Reply, along with the under-seal versions of Exhibits 2235 and 2242, are being filed concurrently with this motion.

Patent Owner has conferred with Petitioner, and Petitioner does not oppose this motion to seal; the information that is the subject of this motion is information that Petitioner (not Patent Owner) has designated as confidential.

In conjunction with the Patent Owner's Preliminary Responses, 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.” Patent Trial and Appeal Board Consolidated Trial Practice Guide (“TPG”), at 19 (Nov. 2019 ed.).

Each of the documents subject to this motion meets this standard, and for the reasons explained herein there is good cause for why these documents should remain under seal.

A. Under-Seal Version of Patent Owner Sur-Reply

Patent Owner has filed an under-seal version of the Patent Owner Sur-Reply and a public, redacted version of that Sur-Reply. The redacted portions on pages 28-29 contain information that Petitioner has contended is confidential research, development, and testing information related to its Telescope products.

Because Petitioner has designated this information as confidential under the protective order in the parallel district court case *Vascular Solutions, LLC, et al v. Medtronic, Inc. et al.*, 0:19-cv-01760 PJS-TNL (D. Minn.), it appears that there is good cause to keep the redacted information under seal.

B. Exhibit 2235: Telescope Guide Extension Catheter Clinical Evaluation Report

Exhibit 2235, filed under seal, is a document that was produced and designated confidential under the protective order by Petitioner in the parallel district court case *Vascular Solutions, LLC, et al v. Medtronic, Inc. et al.*, 0:19-cv-

01760 PJS-TNL (D. Minn.). This document relates to Petitioner's product development and regulatory communications.

Because Petitioner has designated this document as confidential under the protective order in the parallel district court case, it appears that there is good cause to keep this document under seal.

C. Exhibit 2242: Under Seal Version of the Deposition Transcript of Paul Zalesky, Ph.D.

Patent Owner has filed an under-seal version of Exhibit 2242, the January 25, 2021 remote videotaped deposition transcript of Paul Zalesky, Ph.D., as well as a public, redacted version of that transcript. Petitioner designated portions of the transcript as confidential during the deposition, as the deposition involved information that Petitioner had designated as confidential under the protective order in the parallel district court case *Vascular Solutions, LLC, et al v. Medtronic, Inc. et al.*, 0:19-cv-01760 PJS-TNL (D. Minn.). Petitioner supplied the redacted version of the transcript to Patent Owner, which contains redactions on pages 166-169, 177-181, and 195-200 related to Petitioner's confidential research, development, and testing information related to its Telescope products.

Because Petitioner has designated this information as confidential under the protective order in the parallel district court case, it appears that there is good cause to keep the redacted information under seal.

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 Petitioner 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. 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 Sur-Reply, Exhibit 2235, and the under-seal, unredacted version of Exhibit 2242.

Dated: February 1, 2021

Respectfully submitted,

/ J. Derek Vandenburg /

J. Derek Vandenburg (Lead Counsel)

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