

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.

IPR2020-00126

IPR2020-00127

IPR2020-00128

IPR2020-00129

IPR2020-00130

IPR2020-00132

IPR2020-00134

IPR2020-00135

IPR2020-00136

IPR2020-00137

IPR2020-00138

**PETITIONERS' OBJECTIONS TO PATENT OWNER'S
DEMONSTRATIVES**

Pursuant to the Board’s February 16, 2021 Order Setting Oral Argument (Paper 110¹), Petitioners Medtronic, Inc., and Medtronic Vascular, Inc., file the following objections to Patent Owners’ demonstratives.

I. Slide 55

Petitioners object to Patent Owner’s demonstrative slide 55 as improper new evidence and new argument because Patent Owner does not cite or argue those pages of the excerpted deposition transcript (Ex-1756 at 94-95) in its conception and reduction to practice briefing, and no paper—Patent Owner’s or Petitioners’—in these proceedings cites the portion of the excerpt highlighted in red, below.

¹ IPR2020-00126, -00128: Paper 110. IPR2020-00127: Paper 93. IPR2020-00129, -00132: Paper 108. IPR2020-00130: Paper 91. IPR2020-00134: Paper 105. IPR2020-00135: Paper 109. IPR2020-00136, -00138: Paper 92. IPR2020-00137: Paper 111.

Slide 55:

Corroborating Testimony - Erb

Page 94	Page 95
1 Q. So if you look at the drawing, it's dated 2 June 21st, 2005?	1 A. Yes. I remember the turned-out end there, 2 that 50-thousandths part to the left of the distal 3 end.
3 A. Correct.	4 Q. Okay. Now, you -- you testified on 5 questioning from counsel that you witnessed 6 testing of prototypes.
4 Q. Is this a Vascular Solutions drawing?	7 Do you recall that -- that 8 questioning?
5 A. Yes.	9 A. Correct.
6 Q. And if you look at the drawing, you can see 7 that there's a -- I guess, does the drawing look 8 to you to be a cut-down hypotube?	10 Q. Was the prototype shown in Exhibit 2114 11 tested and -- and shown to work?
9 A. Yes, it does.	12 A. Yes.
10 Q. And do you recall seeing a prototype like 11 this that was made in 2005?	13 Q. And what do you mean by it worked?
12 A. I do not remember.	14 A. Well, it -- it functioned. It -- it did what 15 we thought it would do. It could go inside of a 16 vessel on the -- on the benchtop, and we could 17 launch -- use it as a launching pad to further 18 another catheter.
13 Q. And if you look at the bottom left on the 14 notes of the drawing, it says, "Material: 15 Stainless Steel Hypotube .068 by .004 Wall" 16 Do you see that?	19 Q. Counsel asked you, Mr. Erb, questions 20 regarding prototypes that you made in January of 21 2005. 22 Do you recall that questioning?
17 A. Yes.	23 A. Yes.
18 Q. Does that refresh your memory at all of 19 whether this -- this -- a prototype was made using 20 this part in 2005?	24 Q. If you could go into the Exhibit Share folder 25 and if you click the little black arrow back, it
21 A. Yes, it does. Yeah. That's the same 22 hypotube we -- we would have used.	
23 Q. And so do you -- looking more at the 24 document, do you recall seeing a prototype made 25 using this part in 2005?	

DEMONSTRATIVE EXHIBIT-NOT EVIDENCE Ex-1756 at 94-95

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II. Slide 66

Petitioners object to Patent Owner's demonstrative slide 66 as improper new evidence and new argument because no paper—Patent Owner's or Petitioners'—cites those deposition excerpts (Ex-2237 at 37:11-13, 39:7-9).

Slide 66:

Zalesky Testimony (Medtronic Expert)

Q. Can you assess backup support qualitatively?
A. You can do it both qualitatively and quantitatively.

Q. Is quantitative data required to show intended purpose?
A. I don't think it's necessarily required.

Ex-2237 at 37:11-13, 39:7-9
Response at 12, 25

DEMONSTRATIVE EXHIBIT-NOT EVIDENCE 66

III. Slide 97

Petitioners object to Patent Owner's demonstrative slide 97 as improper new argument because Patent Owner does not argue that Exhibit 2019 shows that "GuideLiner Narrow SST-02 Flatt Pattern engineering drawing" was created November 1, 2005, as part of its diligence case in its conception and reduction to practice briefing.

Slide 97 (red box added identifying new argument):

Evidence Shows Reasonable Diligence

Date	Corroborating Evidence Showing Diligence
August 2005	VSI patent counsel performs patent search related to GuideLiner (Ex-2096 at 8)
August 11, 2005	VSI patent counsel opens patent search for GuideLiner (Ex-2023 at 5)
September 14, 2005	VSI patent counsel reports results of patent search related to GuideLiner (Ex-2098 at 2)
October 2005	Report to the VSI Board on favorable physician feedback regarding GuideLiner, and plan for 510(k) regulatory submission for Rx version in 1 st quarter 2006 (Ex-2133 at 4, 7)
October 10, 2005	VSI patent counsel opens patent prosecution matter for GuideLiner (Ex-2023 at 5)
November 1, 2005	GuideLiner Narrow SST-02 Flatt Pattern engineering drawing created (Ex-2019 at 2)
November 22, 2005	Gregg Sutton reported that for Rx GuideLiner VSI planned to complete design verification testing in June 2006 and to submit an FDA application in July 2006 (Ex-2099)

DEMONSTRATIVE EXHIBIT-NOT EVIDENCE 97

IV. Slide 99

Petitioners object to Patent Owner's demonstrative slide 99 as improper new evidence and new argument because Patent Owner does not cite or argue Exhibit 2115 as part of its diligence case in its conception and reduction to practice briefing.

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