

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC. and MEDTRONIC VASCULAR, INC.,
Petitioner,

v.

TELEFLEX INNOVATIONS S.À.R.L.,
Patent Owner.

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032),
IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380),
IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760),
IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,760),
IPR2020-00136 (Patent RE45,760), IPR2020-00137 (Patent RE47,379),
IPR2020-00138 (Patent RE47,379)¹

Before SHERIDAN K. SNEDDEN, JON B. TORNQUIST, and
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

PAULRAJ, *Administrative Patent Judge*.

¹ This Order addresses issues that are the same in all identified proceedings. We exercise our discretion to issue one Order to be filed in each proceeding. The parties, however, are not authorized to use this style heading in subsequent papers.

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032), IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380), IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760), IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,760), IPR2020-00136 (Patent RE45,760), IPR2020-00137 (Patent RE47,379), IPR2020-00138 (Patent RE47,379)

ORDER

Granting Patent Owner's Unopposed Motions to Seal
Granting Petitioner's Unopposed Motions to Seal
Requiring Parties to Submit Redacted Versions of Final Written Decisions
37 C.F.R. §§ 42.14, 42.54

Introduction

Patent Owner and Petitioner filed various unopposed Motions to Seal in the above-captioned proceedings. The Parties further submitted a stipulated Joint Protective Order to govern the treatment of the information and documents identified by the various Motions to Seal. Paper 10, Appendix A.²

Under 37 C.F.R. § 42.14, the default rule is that all papers filed in such proceedings are available to the public. Only “confidential information” is subject to protection against public disclosure. 35 U.S.C. § 326(a)(7); 37 C.F.R. § 42.55. The Board also observes a strong policy in favor of making all information filed in *inter partes* review proceedings open to the public. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27, 3–4 (PTAB Jan. 19, 2018) (informative). The moving parties bear the burden of showing the requested relief should be granted. 37 C.F.R. § 42.20(c). To establish “good cause” for the requested relief, the Parties must make a sufficient showing that:

- (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there

² Unless otherwise noted, all citations are to IPR2020-00126 with the understanding that the other proceedings include papers having substantially the same substantive content.

IPR2020-00126 (Patent 8,048,032), IPR2020-00127 (Patent 8,048,032), IPR2020-00128 (Patent RE45,380), IPR2020-00129 (Patent RE45,380), IPR2020-00130 (Patent RE45,380), IPR2020-00132 (Patent RE45,760), IPR2020-00134 (Patent RE45,760), IPR2020-00135 (Patent RE45,760), IPR2020-00136 (Patent RE45,760), IPR2020-00137 (Patent RE47,379), IPR2020-00138 (Patent RE47,379)

exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.

Argentum, Paper 27 at 3–4; *see also Corning Optical Commc 'ns RF, LLC, v. PPC Broadband, Inc.*, IPR2014-00440, Paper 46 at 2 (PTAB April 6, 2015) (requiring a showing that information has not been “excessively redacted”); *see also* 37 C.F.R. § 42.54(a).

We address the Parties’ motions and showings of good cause below.

Patent Owner’s Motions to Seal

On March 9, 2020; March 10, 2020; or April 8, 2020, Patent Owner filed unopposed Motions to Seal in IPR2020-00126, IPR2020-00128, IPR2020-00129, IPR2020-00132, IPR2020-00134, IPR2020-00135, IPR2020-00136, IPR2020-00137, IPR2020-00138. Paper 10. In the Motion, Patent Owner requested sealing: the redacted portions of Patent Owner’s Preliminary Response (Paper 8), and the entirety of Exhibits 2001–2011–2038, 2040, 2041, 2043, 2045, 2058, and 2074. *Id.* at 2. On March 7, 2021, Patent Owner removed the request to seal Exhibits 2002, 2004–2011, 2013, 2014, 2016, 2019–2035, and 2040. Paper 123.

Patent Owner contends that the “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 research, development, and/or commercial information.” Paper 10, 3. Patent Owner

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contends that the remaining portions of the Preliminary Response discuss:

(1) “business development information that Medtronic considers confidential” or (2) “revenue numbers for Patent Owner’s GuideLiner products and market share estimates.” *Id.* Patent Owner contends that the Exhibits include confidential research, development or commercial information. *See id.* at 4–9.

On April 7, 2020, Patent Owner filed unopposed Motions to seal in IPR2020-00127 and IPR2020-00130. IPR2020-00127, Paper 11; IPR2020-00130, Paper 11. In the Motion, Patent Owner requested sealing the redacted portions of Patent Owner’s Preliminary Response (Paper 10) and Exhibits 2043 and 2058. *Id.* at 2.

Patent Owner contends that the “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 research, development, and/or commercial information.” IPR2020-00127, Paper 11, 3. Patent Owner contends that the remaining portions of the Preliminary Response discuss: (1) “business development information that Medtronic considers confidential” or (2) “revenue numbers for Patent Owner’s GuideLiner products and market share estimates.” *Id.*

On October 1, 2020 or October 2, 2020, Patent Owner filed unopposed Motions to Seal in all of the above-captioned proceedings. Paper 42. In the Motion, Patent Owner requested sealing the redacted portions of Patent Owner’s Response (Paper 43) and the entirety of Exhibits 2139, 2140, 2141, 2153, 2154, 2197, 2198, 2201, 2202. *Id.* at 2.

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Patent Owner contends that the redacted portions of Patent Owner's response "on pages 45, 47, 50, and 53 contain confidential Patent Owner sales data regarding GuideLiner revenue and units sold, as well as reflect licensing strategy. The remaining redacted portions reflect information that Petitioner Medtronic has designated as confidential under" the protective order in the co-pending district court proceeding. *Id.* at 3. Patent Owner contends that the Exhibits include "confidential research, development, or commercial information." *Id.* at 4.

On November 24, 2020, Patent Owner filed unopposed Motions to Seal in all of the above-captioned proceedings. Paper 71. In the Motion, Patent Owner requested sealing Exhibit 2221. *Id.* at 2.

On February 1, 2021, Patent Owner filed unopposed Motions to Seal in all of the above-captioned proceedings. Paper 88. In the Motion, Patent Owner requested sealing portions of Patent Owner's Sur-Reply on Conception and Reduction to Practice ("CRTP") (Paper 103), the redacted portions of Exhibit 2242, and the entirety of Exhibit 2235. *Id.* at 2. Patent Owner contends that the Exhibit contains "confidential information concerning Patent Owner's business, pricing, and marketing strategy" and has been previously designated as confidential in the co-pending district court proceeding. *Id.* at 3.

On March 4, 2021, Patent Owner filed unopposed Motions to Seal in all of the above-captioned proceedings. Paper 119. In the Motion, Patent Owner requested sealing portions of Patent Owner's Demonstratives, namely slides 256, 262, 263, 274, and 276–278. *Id.* at 2. In the Motion,

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