

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 IPR2020-01341
Patent 8,142,413

**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: portions of Patent Owner's Response, portions of Patent Owner's Request for Preliminary Guidance on Contingent Motion to Amend U.S. Patent No. 8,142,413 Under 37 C.F.R. § 42.121, and Exhibits 2254, 2017, 2018, 2036, 2037, 2038, 2041, 2058, 2139, 2140, 2141, 2153, and 2154 filed therewith. The under-seal version of the Patent Owner Response and Patent Owner's Request for Preliminary Guidance on Contingent Motion to Amend U.S. Patent No. 8,142,413 Under 37 C.F.R. § 42.121, along with the identified under-seal exhibits, are being filed concurrently with this motion.

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

The Patent Owner and Petitioner have agreed to a stipulated Joint Protective Order attached hereto as Appendix A. 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.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

Each of the sets of information below meets this standard, and for the reasons explained there is good cause for why those documents should remain under seal.

A. Under-Seal Versions of Patent Owner’s Response and Request for Preliminary Guidance on Contingent Motion to Amend

Patent Owner has filed under-seal its Patent Owner Response and Patent Owner’s Request for Preliminary Guidance on Contingent Motion to Amend U.S. Patent No. 8,142,413 Under 37 C.F.R. § 42.121, as well as public, redacted versions of both Papers. The redacted portions on pages 60, 62, and 64 of the Patent Owner Response and page 22 of Patent Owner’s Request for Preliminary Guidance on Contingent Motion to Amend U.S. Patent No. 8,142,413 Under 37 C.F.R. § 42.121 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 district court protective order governing the parties in parallel litigation in the District of Minnesota.

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 Response and Patent Owner’s Request for Preliminary Guidance on Contingent Motion to Amend under seal. Publicly revealing the sensitive, competitive information could put the parties at a disadvantage in the marketplace.

B. Exhibits 2254, 2017, 2018, 2036, 2037, 2038, 2041: Development-Related Documents

Exhibits 2254, 2017, 2018, 2036, 2037, 2038, and 2041, filed under seal, are development documents related to the development of Patent Owner’s GuideLiner products. These development documents include laboratory notebook pages, market feasibility documents, technical design drawings, internal regulatory documents, an interrogatory response describing the development of the GuideLiner products and invoices and purchasing documents, which among other things show confidential sourcing and pricing information. 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 Exhibits 2254, 2017, 2018, 2036, 2037, 2038, and 2041 under seal. Publicly revealing the development information related to the GuideLiner products described above could 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 competitive disadvantage in the marketplace. Additionally, Petitioners do not oppose this information remaining under seal.

D. Exhibits 2139-2141: Engineering Drawings

Exhibits 2139, 2140, and 2141, filed as protective order material, are documents that were designated confidential in the case of *QXMédical, LLC v. Vascular Solutions, LLC, et al.*, 0:17-cv-01969-PJS-TNL (D. Minn.). These documents contain confidential information about Patent Owner's product design and manufacture specifications. This information fits squarely within the kinds of

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