UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Petitioners,

vs. Case No. IPR2020-00126
U.S. Patent No. 8,048,032

TELEFLEX INNOVATIONS
S.A.R.L.,

Patent Owner.

IPR2020-00126 (Patent 8,048,032 B2)
IPR2020-00127 (Patent 8,048,032 B2)
IPR2020-00128 (Patent RE45,380 E)
IPR2020-00129 (Patent RE45,380 E)
IPR2020-00130 (Patent RE45,380 E)
IPR2020-00132 (Patent RE45,760 E)
IPR2020-00135 (Patent RE45,776 E)
IPR2020-00136 (Patent RE45,776 E)
IPR2020-00137 (Patent RE47,379 E)
IPR2020-00138 (Patent RE47,379 E)

VIDEOCONFERENCE VIDEOTAPED
DEPOSITION OF
PETER T. KEITH

DATE: November 23, 2020

TIME: 8:58 a.m.

PLACE: Minneapolis, Minnesota

(via videoconference)

JOB NO.: MW 4338308

REPORTED BY: Dawn Workman Bounds, CSR

APPEARANCES
(ALL APPEARANCES VIA VIDEOCONFERENCE)

ON BEHALF OF PETITIONERS:
SHARON ROBERG-PEREZ, ESQ.
EMILY TREMBLAY, ESQ.
CYRUS A. MORTON, ESQ.
ROBINS KAPLAN LLP
2800 LaSalle Plaza
800 LaSalle Ave
Minneapolis, MN 55401
612.349.8500
sroberg-perez@robinskaplan.com
camorton@rkmc.com
ETremblay@RobinsKaplan.com

(APPEARANCES CONTINUED ON NEXT PAGE)

ON BEHALF OF PATENT OWNER:
DEREK VANDENBURGH, ESQ.
JOSEPH W. WINKELS, ESQ.
CARLSON CASPERS VANDENBURGH & LINDQUIST, PA.
Capella Tower, Suite 4200
225 South Sixth Street
Minneapolis, MN 55402
612.436.9623
dvandenburgh@carlsoncaspers.com
jwinkels@carlsoncaspers.com
KENNETH E. LEVITT, ESQ.
DORSEY & WHITNEY, LLP
50 S. Sixth Street, Suite 1500
Minneapolis, MN 55402
612.340.2600
levitt.kenneth@dorsey.com

ALSO PRESENT:
Greg Smock, Teleflex
Adam Venturini, Videographer

INDEX

PROCEEDINGS

THE VIDEOGRAPHER: Good morning. We are going on the record at 8:58 a.m. Eastern Standard Time, on November 23, 2020. Please note that the microphones are sensitive and may pick up whispering, private conversations, and cellular interference. Please turn off all cell phones and place them away from microphones as they can possibly interfere with deposition audio. Audio and video recording will continue to take place unless all parties agree to go off the record.

This is media unit 1 of the video-recorded deposition of Peter T. Keith, in the matter of Medtronic v. Teleflex Innovations. My name is Adam Venturini from the firm Veritext, and I'm the videographer. The court reporter is Dawn Bounds from the firm Veritext.

I'm not authorized to administer an oath. I'm not related to any party in this action nor am I finally interested in the outcome.

Counsel and all present remotely will now state their appearances and affiliations for the record. If there are any objections to proceeding, state them at the time of your appearance, beginning with the noticing attorney.

MS. ROBERG-PEREZ: Sharon Roberg-Perez representing Petitioner Medtronic of the firm Robins

Kaplan. With me are my colleagues Cy Morton and Emily Tremblay.

MR. VANDENBURGH: This is Derek Vandenburgh here today on behalf of Teleflex. Also appearing is Joe Winkels of the Carlson Caspers firm, as well as Ken Levitt of the Dorsey firm; and Greg Smock of Teleflex is here as well.

THE VIDEOGRAPHER: All right. Will the court reporter please swear in the witness.

THE REPORTER: Due to the need for this deposition to take place remotely because of the government's order for physical distancing, the parties will stipulate the court reporter may swear in the witness over the videoconference and that the witness has verified that he is in fact Peter T. Keith.

Agreed, counsel?

MS. ROBERG-PEREZ: Agreed.

MR. VANDENBURGH: Agreed.

PETER T. KEITH,

duly sworn via videoconference as stipulated by counsel was examined and testified as follows:

EXAMINATION

BY MS. ROBERG-PEREZ:

Q. Good morning, Mr. Keith.

You've been deposed before, haven't you?

A. I have, yes.

Q. About how many times?

A. I -- it's -- I've been deposed many times over a long career in medical devices, so I don't really have a particular figure, but probably could be approaching 20 times maybe.

Q. Okay. Have you ever testified at trial?

A. I have.

Q. How many times?

A. Just one time for that.

Q. And when was that?

A. That was, I believe, in the early 2000s.

Q. Was that a patent matter?

A. Yes.

Q. And who did you testify for?

A. I testified on behalf of Boston Scientific.

Q. Was Boston Scientific the plaintiff in that case or defendant?

A. Well, it was a complicated proceeding that I think they were a plaintiff in aspects and a defendant in aspects, I believe.

Q. Were you an expert witness in that trial?

A. Yes, I was.

Q. Do you recall who prevailed in that trial?

A. I believe it was a settlement.

Q. Okay. Is there any reason today, such as illness or medication, that you will not be able to testify fully and accurately?

A. No.

Q. You've submitted declarations in several IPRs initiated by Medtronic, right?

A. Yes.

Q. You've also submitted declarations in connection with the district court litigation that Teleflex initiated against Medtronic, right?

A. Yes.

Q. Aside from counsel, have you spoken about the IPRs with anyone?

A. No.

Q. What about the district court litigation?

A. No.

Q. You're familiar with the name Tom Ressemann, right?

A. Yes, I am.

Q. Have you spoken with him in the last six months?

A. Yes, I have.

Q. What about?

A. Well, we're -- we have a friendship. We've worked together professionally. I've spoken to him about

some companies that he's involved with that I have offered some thoughts and comments in terms of potential employment opportunities that he's looked into.

He sits on the board of directors of a few companies, one of which he talked with -- or he and I talked about, and I have done a little bit of consulting with that company.

Q. And to confirm, you have not spoken with him about the subject matter of these IPRs, correct?

A. Correct. He knows that I'm involved in this patent litigation, but I've not spoken about any subject matter.

Q. Okay. Who wrote your declarations submitted in these IPRs?

A. They're my declarations.

Q. And so you wrote these declarations?

A. I -- they're certainly my words. The process of the writing was done, you know, in coordination with the lawyers; but I -- I -- you know, I drafted much of -- you know, did the initial drafts of much of them.

You know, they may have done some initial drafting of portions, and -- but it was always -- there was always an extraordinary amount of discussion and editing; and at the end of the day, they're my words.

Q. Okay. Now, in connection with the drafting,

was there any material, other than what you've cited in your declarations, that you considered?
A. I don't believe so.
Q. Anything that -- any material that you reviewed but did not cite in your declarations?
A. I don't think so.
Q. How did you prepare for your deposition today?
A. I rereviewed my declarations and some of the other materials in the case, and I had some conversations with counsel.
Q. How long were those conversations?
A. I mean, in the last several days, say, the conversations that I've had with counsel have probably been maybe 10 hours.
Q. Did you review any of the material cited in your declarations?
A. I think so.
Q. What material?
A. I looked at the root patents. I looked at a number of the prior art patents that are of relevance to the case. Those are things that I can think of.
I probably looked at more, but I can't recall them right now.
Q. Did you review any material not cited in your declarations?

A. I don't think so.
Q. Did you attend the depositions given by Dr. Graham?
A. No.
Q. Have you reviewed his testimony?
A. No.
Q. Okay. You testified that you've previously been deposed.
And am I correct those depositions were largely in patent cases?
A. Yes.
Q. And you testified truthfully in those cases, right?
A. Yes.
Q. I'd like to understand what types of cases those were.
Your CV mentions a matter Grayzel versus Boston Scientific?
A. Yes.
Q. What was the technology at issue in that case?
A. I believe that related to balloon angioplasty catheters and some aspects of -- of the balloon itself in terms of having cutting elements or rigid elements.
Q. Does that refer to a cutting balloon?
A. Yes. Sure, that's one way to describe it.

Q. Well, what is a cutting balloon?
A. There's one product in particular -- this is a long, long time ago.
But there's one product in particular that was referred to as a "cutting balloon" that had essentially some short longitudinal razor blades affixed to the surface of the balloon.
Q. Was that a Boston product or a Grayzel product?
A. This was so long ago, I -- honestly, I don't remember.
Q. You testified on behalf of Boston, though, right?
A. Yes.
Q. What was your opinion in the case?
A. I don't recall.
Q. To the extent you can -- okay.
Do you remember if you opined on claim construction?
A. I don't recall.
Q. Okay. You also in your CV list a case Boston Scientific v. Cordis on behalf of the plaintiffs.
What was the technology at issue in that case?
A. That, I believe, was related to multilayer extrusions used in angioplasty catheters.

Q. Was that the case that you testified at trial?
A. Yes.
Q. Do you remember what your -- and you testified as an expert, right?
A. Correct.
Q. Did you also testify at a claim construction hearing in that case?
A. I don't think so.
Q. Do you remember what your opinion was in that case?
A. No. Again, that was so long ago and, you know, very involved. I do not recall.
Q. Okay. Your CV also lists a matter SciCo v. Boston Scientific.
What was the technology in that case?
A. I believe that was related to some design aspects of rapid exchange angioplasty catheters.
Q. Do you -- do you remember what your opinion was in that case?
A. No.
Q. Okay. Aside from those three matters, what other patent matters have you offered testimony in?
A. I have been a fact witness in a number of patent cases. I think at least primarily related to my work at SCIMED Life Systems, which became part of Boston

Scientific, related to various angioplasty catheters that I either designed or was an inventor on.
Q. So did those matters account for the lion's share of the 20 or so depositions you mentioned?
A. Yes.
Q. Okay. You've got a bachelor's degree in mechanical engineering, right?
A. Yes.
Q. And you mentioned your work for SCI -- SCIMED. And when did you start working at SCIMED?
A. Well, I think all this is laid out on my resume, but I believe that was 1985.
Q. And SCI -- I'm correct in understanding that SCIMED's products included interventional cardiology products?
A. Well, I mean, interventional cardiology products is a particular term that's used in some of the patents at issue here, so I -- I -- I don't know what context you're asking me that question.
Q. Do the patents use the term "interventional cardiology products"?
A. I think they use "interventional cardiology devices."
Q. Okay. Understood. So I'm not -- I'm trying to stay away from

patent terms, and I'm really just interested in the types of products that you worked on when you were at SCIMED. You mentioned one type, balloon angioplasty catheters, I think; is that correct?
A. Yes.
Q. What other types of interventional cardiology products did you work on at SCIMED?
A. Well, I just want to be clear that we're talking about -- I mean --
Q. Products.
A. -- not specifically to what that term might strictly mean in the context of the patents, but if -- I mean, it sounds like you're trying to ask it in -- you know, in maybe a broader sense of interventional cardiology.
Q. Mr. Keith --
A. I --
Q. -- can we agree that the patents do not refer to "interventional cardiology products"?
A. They refer to "interventional cardiology devices."
Q. Correct. And my question to you --
A. Very similar terms.
Q. But they're not the same term, are they?

A. No, they're not exactly the same.
Q. Okay. All I want to know is what kind of products -- I won't even use a modifier. What kind of products did you do work on at SCIMED?
A. So I worked on fixed wire angioplasty catheter products. I worked on rapid exchange angioplasty catheter products. I worked on guidewires. I worked on atherectomy catheters. I worked on vascular sealing products. I worked on drug delivery products. And I probably worked on other products, but I can't recall other ones sitting here right now.
Q. Okay. So you mentioned fixed wire angioplasty products, rapid exchange angioplasty products, guidewires, atherectomy catheters, vascular sealing products, and drug delivery products. Of those six categories, which of those products are introduced into the coronary vasculature?
A. I would say all of those with the exception of vascular sealing products.
Q. So when you mentioned drug delivery products, what type of products were you referring to?
A. These would be products that -- they were catheters that would go into coronary arteries for the purpose of being able to deliver a drug.

Q. Were these drug-eluting stents?
A. No.
Q. So of the fixed wire angioplasty products, how many were there? Do you remember their names?
A. There were -- the first family of products -- and by family I'm referring to that the balloons were available in different inflated diameters as well as different coil tip lengths. Those were referred to the as the ACE catheters. And then I was involved in some -- some more recent products after the ACE was introduced that were called the Pivot products. Again, there may be more. I'm just recalling all of them as I sit here today.
Q. But for the fixed wire angioplasty products, there were at least the ACE and the Pivot products, right?
A. Correct.
Q. Do you remember what the names were of the rapid exchange angioplasty products?
A. The one I was most directly involved with was the Express catheter. And then there were some more recent products that -- one was referred to as the Rally. And, again, there may be some others that

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.