

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MINNESOTA

3 -----  
4 VASCULAR SOLUTIONS, LLC,  
5 TELEFLEX INNOVATIONS, S.à r.l.,  
6 ARROW INTERNATIONAL, INC.,  
7 and TELEFLEX, LLC,  
8 Plaintiffs,

9 vs. No. 0:19-cv-01760-PJS-TNL  
10 MEDTRONIC, INC., and  
11 MEDTRONIC VASCULAR, INC.,  
12 Defendants.

13 -----  
14 VIDEO EXPERT DEPOSITION TESTIMONY OF  
15 PETER T. KEITH  
16 WEDNESDAY, OCTOBER 16, 2019  
17 MINNEAPOLIS, MINNESOTA

18 \* \* \*

Page 2

1 \* \* \*

2

3 Video Expert Deposition Testimony of

4 PETER T. KEITH taken at the law offices of

5 Fredrikson & Byron, P.A., Suite 4000, 200 South

6 Sixth Street, Minneapolis, Minnesota on

7 Wednesday, October 16, 2019, commencing at 9:00

8 a.m. before Rebecca L. Klanderud, a Certified

9 Shorthand Reporter.

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14 \* \* \*

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1 APPEARANCES (continued):

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21 Also Present:

22 Greg Smock, Vascular Solutions, Inc.

23 \* \* \*

24

25

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1 INDEX:

2 EXAMINATION: PAGE

3 By Mr. Niederluecke . . . . . 9, 291

4 By Mr. Winkels. . . . . 286

5 \* \* \*

6 EXHIBITS:

7 MEDTRONIC EXHIBITS: PAGE MARKED

8 Exhibit 1 United States Patent No.

9 US 8,048,032 B2, Root, et al. 8

10 Exhibit 2 United States Reissued Patent No.

11 US RE45,380 E, Root, et al. 8

12 Exhibit 3 United States Reissued Patent No.

13 US RE45,776 E, Root, et al. 8

14 Exhibit 4 United States Reissued Patent No.

15 US RE47,379 E, Root, et al. 8

16 Exhibit 5 United States Reissued Patent No.

17 US RE45,760 E, Root, et al. 8

18 Exhibit 6 Declaration of Peter Keith in

19 Support of Plaintiffs' Motion for

20 Preliminary Injunction 12

21 Exhibit 7 Teleflex GuideLiner V3 Catheter

22 product brochure 14

23 Exhibit 8 Curriculum Vitae of Peter T.

24 Keith, also marked Exhibit Q

25 to his declaration 18



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1 EXHIBITS (continued):  
 2 MEDTRONIC EXHIBITS: PAGE MARKED  
 3 Exhibit 9 Article by Takahashi, et al.  
 4 entitled: "New Method to Increase  
 5 a Backup Support of Six French  
 6 Guiding Coronary Catheter." 50  
 7 Exhibit 10 Medtronic Telescope Guide  
 8 Extension Catheter - Retained by  
 9 Counsel, Mr. Niederluecke 91  
 10 Exhibit 11 Claim chart for U.S. Patent No.  
 11 RE45,380, also marked as  
 12 Exhibit M to Mr. Keith's  
 13 declaration 96  
 14 Exhibit 12 Claim chart for U.S. Patent No.  
 15 RE45,776, also marked as  
 16 Exhibit N to Mr. Keith's  
 17 declaration 143  
 18 Exhibit 13 Claim chart for U.S. Patent No.  
 19 RE47,379, also marked as  
 20 Exhibit O to Mr. Keith's  
 21 declaration 174  
 22 Exhibit 14 Order in the QXMédical vs.  
 23 Vascular Solutions, LLC, et al.  
 24 case, dated 10/2/19 187  
 25

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1 EXHIBITS (continued):  
 2 MEDTRONIC EXHIBITS: PAGE MARKED  
 3 Exhibit 15 Claim chart for U.S. Patent No.  
 4 RE45,760, also marked as  
 5 Exhibit P to Mr. Keith's  
 6 declaration 201  
 7 Exhibit 16 Declaration of Peter T. Keith in  
 8 Support of Defendants' Opposition  
 9 to Plaintiff's Motion for Summary  
 10 Judgment and Defendants'  
 11 Cross-Motion for Summary Judgment  
 12 in the QXMédical vs. Vascular  
 13 Solutions, LLC, et al. case 215  
 14 Exhibit 17 Demonstrative exhibit titled  
 15 "Straw Side Views" 276  
 16 \* \* \*  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 \* \* \*  
 2 (Whereupon, Deposition Exhibits 1  
 3 through 5 were marked for  
 4 identification.)  
 5 \* \* \*  
 6 THE VIDEO TECHNICIAN: We are going  
 7 on the record at 9:02 a.m.  
 8 Today's date is October 16th, 2019.  
 9 This is media unit one of the video-recorded  
 10 deposition of Peter T. Keith taken by counsel  
 11 for the defendant in the matter of Vascular  
 12 Solutions, LLC, et al. versus Medtronic,  
 13 Incorporated, et al., filed in the United States  
 14 District Court, District of Minnesota, Court  
 15 File Number 0:19-CV-1760 PJS/TNL. This  
 16 deposition is being held at Fredrikson & Byron  
 17 in Minneapolis, Minnesota.  
 18 My name is Adam Wallin from the firm  
 19 Veritext, and I'm the videographer. The court  
 20 reporter is Rebecca Klanderud from Veritext.  
 21 Will counsel please identify  
 22 themselves for the record?  
 23 MR. NIEDERLUECKE: Kurt Niederluecke  
 24 from Fredrikson & Byron on behalf of the  
 25 Medtronic defendants.

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1 MS. MYERS: Laura Myers from  
 2 Fredrikson & Byron also on behalf of Medtronic  
 3 defendants.  
 4 MR. MORTON: This is Cyrus Morton  
 5 from Robins Kaplan. I also represent Medtronic.  
 6 MR. WINKELS: On behalf of the  
 7 plaintiffs, Joe Winkels and Derek Vandenburg  
 8 with Carlson Caspers. And we've got Ken Levitt  
 9 with the Dorsey Firm and Greg Smock.  
 10 THE VIDEO TECHNICIAN: Will the court  
 11 reporter please swear in the witness?  
 12 \* \* \*  
 13 PETER T. KEITH,  
 14 a witness in the above-entitled matter,  
 15 having been first duly sworn,  
 16 testified on his oath as follows:  
 17 \* \* \*  
 18 EXAMINATION  
 19 \* \* \*  
 20 BY MR. NIEDERLUECKE:  
 21 Q. Good morning, Mr. Keith.  
 22 A. Good morning.  
 23 Q. Mr. Keith, I understand that you are  
 24 here today in your capacity as an expert witness  
 25 in this case; is that correct?

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1 A. Yes.  
2 Q. And who are you retained by?  
3 A. Uh, by, uh, the plaintiffs.  
4 Q. Okay. The plaintiffs are the group I  
5 presume?  
6 A. Yes.  
7 Q. Okay. Mr. Keith, I'm going to hand  
8 you what's been marked as Medtronic Exhibits 1  
9 through 5.  
10 MR. NIEDERLUECKE: And for record,  
11 Exhibit 1 is U.S. Patent 8,048,032; Exhibit 2 is  
12 U.S. Reissued 45,380; Exhibit 3 is U.S. Reissued  
13 45,776; Exhibit 4 is U.S. Reissue 47,379, and  
14 Exhibit Number 5 is U.S. Reissue 45,760.  
15 BY MR. NIEDERLUECKE:  
16 Q. And did I -- did I read those  
17 accurately?  
18 A. I think so, yes.  
19 Q. Okay. And, um, does it appear to you  
20 that those are the patents related to this  
21 matter?  
22 A. Um, yes.  
23 Q. And those are the, to your  
24 understanding, the five patents that the  
25 plaintiffs have asserted that Medtronic is

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1 infringing?  
2 A. Yes.  
3 Q. Who owns the -- and I'll -- if you  
4 don't mind, I'll refer to those as the  
5 patents-in-suit, okay?  
6 A. Yes.  
7 Q. Who do you understand owns the  
8 patents-in-suit?  
9 A. I believe they're owned by Vascular  
10 Solutions.  
11 Q. So you think Vascular Solutions, the  
12 company, owns them?  
13 A. Well, and I -- I mean Vascular  
14 Solutions is part of Teleflex Medical, so --  
15 Q. And so what I'm asking is who -- do  
16 you understand what entity actually owns the  
17 patents?  
18 A. I guess I don't know for sure.  
19 Q. Okay. Do you know what entity has  
20 the exclusive rights in the patent?  
21 A. Um, I'm not sure.  
22 Q. Okay. Do you know what entity has  
23 the exclusive rights to sell products under  
24 these patents?  
25 A. Well, I do -- there -- there may be

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1 some information in my report on that. I don't  
2 recall it exactly right now --  
3 Q. Okay.  
4 A. -- but I did bring a copy of my  
5 report (witness indicating).  
6 Q. And I will mark it, and you're  
7 welcome if -- if you feel the need to look at  
8 it.  
9 A. Yeah, I mean because that might  
10 clarify that. I'm not sure --  
11 Q. Sure.  
12 A. -- if it does exactly but --  
13 Q. Okay. Why don't we go ahead. In  
14 fact, I've got a copy of your report right here.  
15 MR. NIEDERLUECKE: Why don't we mark  
16 that as Exhibit 6?  
17 \* \* \*  
18 (Whereupon, Deposition Exhibit 6 was  
19 marked for identification.)  
20 \* \* \*  
21 MR. WINKELS: And just for the  
22 record, so Exhibit 6 does not include the  
23 exhibits, right?  
24 MR. NIEDERLUECKE: Yes.  
25 BY MR. NIEDERLUECKE:

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1 Q. This is -- this is your report, and  
2 I'll mark different exhibits individually, but  
3 this is for the record your report without the  
4 attached exhibits.  
5 A. Okay.  
6 Q. If you just take a look and confirm  
7 for us that Exhibit 6 is -- is indeed the report  
8 that you submitted and signed on October 10th,  
9 2019?  
10 A. Yes. It appears to be.  
11 Q. Okay. And -- and you provided this  
12 report in support of the plaintiffs' Motion For  
13 Preliminary Injunction; is that correct?  
14 A. Yes.  
15 Q. And so, um, I think we were asking  
16 the question about the exclusive rights to sell  
17 under the patent, and I asked you whether you  
18 were aware what entity holds the exclusive  
19 rights to sell under the patent, um, and I think  
20 you suggested you would like to look -- take a  
21 look at your report in case that would refresh,  
22 um --  
23 A. Correct.  
24 Q. -- your recollection.  
25 A. Okay. I am not seeing anything that

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1 helps to clarify that --  
2 Q. Okay.  
3 A. -- in this report.  
4 Q. So as you testify today, you don't  
5 know who has the exclusive rights to sell under  
6 the patents-in-suit, correct?  
7 A. Correct.  
8 Q. Do you know what entity actually  
9 sells the GuideLiner -- your -- let me step  
10 back.  
11 You're familiar with a product called  
12 the GuideLiner?  
13 A. Yes.  
14 Q. Um, and the GuideLiner has had  
15 different versions, V1 through V3.  
16 Is that right?  
17 A. Yes.  
18 Q. Okay. Do you know who actually  
19 currently sells the GuideLiner V3 catheter?  
20 A. I believe it's Vascular Solutions.  
21 MR. NIEDERLUECKE: Can we have this  
22 marked?  
23 \* \* \*  
24 (Whereupon, Deposition Exhibit 7 was  
25 marked for identification.)

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1 \* \* \*  
2 MR. NIEDERLUECKE: And -- here, hold  
3 on.  
4 BY MR. NIEDERLUECKE:  
5 Q. And what do you base your belief that  
6 Vascular Solutions sells the GuideLiner V3  
7 product?  
8 On what do you base that?  
9 A. Um, well, I -- I understand there's  
10 -- Vascular Solutions as a company, I know there  
11 was some sort of an acquisition or a corporate,  
12 um, (witness indicating) transaction with  
13 Teleflex Medical. Um, I don't know all the  
14 details of what that arrangement might be but  
15 even prior to Teleflex, when it was Vascular  
16 Solutions, and I have been involved in both this  
17 proceeding with Medtronic, as well as a  
18 proceeding with QXMédical, so I have been  
19 working with Vascular Solutions for some time,  
20 um, that I believe that it was just Vascular  
21 Solutions when I first became involved, um, but  
22 I don't know exactly what dates that the  
23 corporate transaction with Teleflex took place  
24 (witness indicating).  
25 Q. And is it your understanding that

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1 Teleflex owns Vascular Solutions?  
2 A. I -- that's my guess. Again, I don't  
3 know the exact arrangement as far as the  
4 corporate relationships go (witness indicating).  
5 Q. I'm going to hand you what's been  
6 marked as Medtronic Exhibit Number 7.  
7 Can you take a look at that and --  
8 and tell me if you recognize this document?  
9 A. I don't think I've seen this  
10 document.  
11 Q. Does it appear to you to be a  
12 brochure for the GuideLiner V3 catheter?  
13 A. It does appear to be that, yes.  
14 Q. And on the front page, um, what  
15 entity do you see or -- or what name do you see  
16 as a -- as a tradename on the document?  
17 A. Uh, Teleflex.  
18 Q. And on this document, can you take a  
19 look at it and see if you see Vascular Solutions  
20 identified anywhere in this brochure?  
21 A. Um, I do not see it.  
22 Q. So at least based on this Exhibit 7,  
23 which appears to be a brochure for the  
24 GuideLiner V3, it appears that Teleflex and not  
25 VSI is selling the GuideLiner V3 catheter,

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1 correct?  
2 MR. WINKELS: Objection, lack of  
3 foundation.  
4 THE WITNESS: Again, I don't  
5 understand the whole corporate relationship  
6 between Teleflex and Vascular Solutions. The  
7 document says Teleflex, um, so that's as much as  
8 I know about that.  
9 BY MR. NIEDERLUECKE:  
10 Q. Why did you choose to refer to the  
11 group of entities in this case as -- as Vascular  
12 Solutions?  
13 A. Um, again, that's -- when I became  
14 involved in this, it was Vascular Solutions.  
15 Um, that was the name on the building, um, so  
16 that's how I've referred to them and I -- I have  
17 continued to refer to them mostly as Vascular  
18 Solutions.  
19 Q. And when did you first become  
20 involved with Vascular Solutions?  
21 A. I don't recall exactly. Sometime  
22 during the QXMédical litigation.  
23 Q. Was it prior to 2019?  
24 A. Yes.  
25 Q. Was it prior to 2018?

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