UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC., AND MEDTRONIC VASCULAR, INC.

Petitioner,

v.

TELEFLEX LIFE SCIENCES LIMITED,

Patent Owner.

Case No.: IPR2020-1342
U.S. Patent No. 8,142,413

PETITIONER'S REPLY

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I. INTRODUCTION

Patent Owner ("PO") does not dispute, because it cannot, that Kontos describes its "support catheter" as a "mini guide catheter." Ex-1409, 3:40-49. Nor does PO dispute that Kontos teaches, just like the coaxial guide catheter 12 of the Teleflex patent, that support catheter 10 includes a short distal lumen (body 12) coupled to a pushrod (wire 14). Kontos also describes the method of passing the support catheter "further through the coronary ostia than can guide catheter 38" to function as a "guide extension catheter" when "extending beyond the distal end of guide catheter 38" to help prevent a PTCA balloon catheter from bending, buckling, or kinking en route to treat a lesion. Other than the side opening, Kontos teaches each structural limitation of the method claims. But as explained herein, the use of a side opening was an obvious modification from several pieces of prior art—including Ressemann, which the Board already found anticipated similar claims in other IPRs. The challenged claims in this IPR are likewise invalid.

II. CLAIM CONSTRUCTION

A. "Interventional Cardiology Device(s)"

At institution, "interventional cardiology devices" was construed to refer to "at least two types of the devices selected from the group that includes, but is not limited to, guidewires, balloon catheters, stents, and stent catheters." Institution Decision (I.D.), Paper 9, 16. Patent Owner's Response does not dispute this construction. Thus, the Board should adopt its previous construction.

B. Claim-Step Order

The parties dispute whether steps in claim 1 must be performed in the sequence recited. As to limitation 1.f.i, the issue is whether the coaxial guide catheter must *already have been inserted* into the standard guide catheter ("GC") before an interventional cardiology device ("IVCD") is inserted thereto. The answer is no. Claim 1 allows for either preassembly of a coaxial guide and IVCD, or sequential insertion of the two.

"Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one." *Interactive Gift Express, Inc. v. Compuserve, Inc.*, 256 F.3d 1323, 1342 (Fed. Cir. 2001). PO argues that claim 1 "only makes sense if the steps take place in order," POR, 10, but that is only the case for a subset of steps. The parties agree that a GC must be inserted into a first artery (1.a) before its distal end can be positioned in a branch artery (1.b). Similarly, a GC must already be positioned before the coaxial guide extension catheter can be inserted thereto (1.c-1.e). As discussed in the Petition, however, and below, the plain language of the claims permits an IVCD to be advanced *either* simultaneously with the guide extension catheter *or* sequentially. Ex-1405, ¶¶200-205; Ex-1806, ¶¶17-23; Petition (Pet.), Paper 1, 49-52.

The specification's disclosure of an embodiment in which insertion is sequential does not limit the claims. *Altiris, Inc. v. Symantec Corp.*, 318 F.3d 1363,

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