

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MEDTRONIC, INC., AND MEDTRONIC VASCULAR, INC.  
Petitioners,

v.

TELEFLEX INNOVATIONS S.A.R.L.  
Patent Owner.

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Case IPR2020-01342  
U.S. Patent No. 8,142,413

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**PATENT OWNER SUR-REPLY**

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## I. INTRODUCTION

Kontos discloses a specific device designed for a specific purpose: a “support catheter” having a narrow tube to protect a “relatively fragile PTCA catheter balloon” from bending, buckling, or kinking during use. Kontos’s device had a deliberately asymmetric exterior, with a proximal protrusion to accommodate secure attachment of a pushwire and to provide “leverage,” a distal marker band and soft tip covering, and a proximal funnel structure. The Petition posited that a POSITA would be motivated replace Kontos’s proximal funnel with an angled side opening. After Patent Owner (“Teleflex”) pointed out numerous problems with this theory, Petitioner changed course in Reply and proposed *numerous additional modifications* to Kontos.

Regardless of whether the Board considers Petitioner’s new hindsight-driven redesign of Kontos, Petitioner has not carried its burden. As the Board found in a related IPR proceeding, “the funnel portion of Kontos appears to be crucial to the device’s ability to receive and facilitate exchange of balloon catheters.” IPR2020-00136, Paper 104 at 24 (PTAB June 7, 2021). In this proceeding, Petitioner again fails to establish why—absent hindsight—a POSITA would substantially redesign Kontos to provide the claimed side opening configuration. Further, compelling real-world objective evidence, including GuideLiner’s striking success and

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