

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.  
Petitioner,

v.

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

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Case IPR2020-01343  
Patent RE46,116

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**PATENT OWNER'S UNOPPOSED MOTION FOR CONTINUED  
SEALING 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 for Continued Sealing, requesting that the following information remain under seal: portions of Petitioner's Motion for Additional Discovery: Motion for Leave to Subpoena Non-Party Witnesses, Petitioner's Reply, and Exhibits 1755, 1758, 1760, 1761, 1765, 1767, 1768, 1769, 1770, 1774, 1775, 1806, 1821, 1822, 1830, 1850, and 1851. The under-seal version of Petitioner's Motion for Additional Discovery, along with Exhibits 1758, 1760, 1761, 1768, and 1774, were filed by Petitioner on July 1, 2021; the under-seal versions of Petitioner's Reply and Exhibits 1755, 1765, 1767, 1769, 1770, 1775, 1806, 1821, 1822, 1830, 1850, and 1851 were filed on August 6, 2021.

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

In conjunction with the Patent Owner's Preliminary Responses, Patent Owner and Petitioner agreed to and submitted a stipulated Joint Protective Order. 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 Version of Petitioner’s Motion for Additional Discovery: Motion for Leave to Subpoena Non-Party Witnesses**

Petitioner has filed under-seal its Petitioner’s Motion for Additional Discovery: Motion for Leave to Subpoena Non-Party Witnesses, as well as a public, redacted version of this Paper. The redacted portions on pages 4, 5, and 6 of Petitioner’s Motion for Additional Discovery contain confidential Patent Owner research, development, and testing information. Patent Owner has designated this information as confidential under the protective order in the parallel district court case *Vascular Solutions, LLC, et al v. Medtronic, Inc. et al.*, 0:19-cv-01760 PJS-TNL (D. Minn.).

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 Petitioner's Motion for Additional Discovery: Motion for Leave to Subpoena Non-Party Witnesses under seal. Publicly revealing the sensitive, competitive information could put the parties at a disadvantage in the marketplace. Additionally, Petitioner does not oppose this information remaining under seal.

**B. Under-Seal Version of Petitioner's Reply**

Petitioner has filed under-seal its Petitioner's Reply, as well as a public, redacted version of this Paper. The redacted portions on pages 5, 19-21, 26-27, 38, and 42 of Petitioner's Reply contain confidential Patent Owner information related to the development of Patent Owner's GuideLiner products. Patent Owner has designated this information as confidential under the protective order in the parallel district court case *Vascular Solutions, LLC, et al v. Medtronic, Inc. et al.*, 0:19-cv-01760 PJS-TNL (D. Minn.).

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 Petitioner's Reply under seal. Publicly revealing the sensitive, competitive

information could put the parties at a disadvantage in the marketplace.

Additionally, Petitioner does not oppose this information remaining under seal.

**C. Exhibits 1758, 1760, 1761, 1765, 1767, 1768, 1769, 1770, 1774, 1775, 1821, 1822, 1850, and 1851: Development-Related Documents**

Exhibits 1758, 1760, 1761, 1765, 1767, 1768, 1769, 1770, 1774, 1775, 1821, 1822, 1850, and 1851, filed under seal, are development documents related to the development of Patent Owner's GuideLiner products. These development documents include laboratory notebook pages, the transcript from the June 20, 2018 deposition of Gregg Sutton, the transcript from the October 30, 2019 deposition of Amy Welch in the parallel district court litigation, the transcript from the June 27, 2013 deposition of Howard Root in *Vascular Solutions, Inc. v. Boston Scientific Corporation*, the transcript from the June 15, 2018 deposition of Howard Root in *QXMedical, LLC v. Vascular Solutions, LLC, et al*, a concept drawing, product requirements, R&D ideas, and an internal R&D work order. These documents were produced and/or designated confidential under the protective order by Patent Owner in the parallel district court litigation in the United States District Court for 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.

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