

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

TELEFLEX LIFE SCIENCES LIMITED,
Patent Owner.

Case IPR2020-01343
Patent RE46,116

**PATENT OWNER'S CONSOLIDATED BRIEF ADDRESSING THE
APPLICABILITY OF COLLATERAL ESTOPPEL / ISSUE PRECLUSION**

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There is a tremendous amount of overlap between the factual and legal issues in this set of IPRs and the prior, related IPRs that the Board already has ruled on. Those prior decisions should be persuasive as the Board addresses the issues raised in the present IPRs. Further, there are several specific issues where the Board likely can apply the doctrine of collateral estoppel. However, consistent with the Board's prior practice, Patent Owner suggests that, to the extent the Board chooses to rely on collateral estoppel, out of an abundance of caution it should also address the issues on the merits and/or adopt its prior findings. Regardless of whether the Board decides to apply collateral estoppel to any particular issue, the Board's prior Final Written Decisions are highly relevant, persuasive authority.

I. THE PRIOR, RELATED IPRS MAY TRIGGER COLLATERAL ESTOPPEL/ISSUE PRECLUSION

“When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.” *B&B Hardware, Inc. v. Hargis Indus.*, 575 U.S. 138, 148 (2015) (quoting Restatement (Second) of Judgments § 27). Collateral estoppel applies if: (1) a prior action presents an identical issue; (2) the prior action actually litigated and adjudged that issue; (3) the judgment in that prior action necessarily required determination of the identical issue; and (4) the prior action featured full representation of the estopped party. *VirnetX Inc. v. Apple, Inc.*, 909

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