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Page 1
 1
           UNITED STATES PATENT AND TRADEMARK OFFICE
           BEFORE THE PATENT TRIAL AND APPEAL BOARD
 2
 3
     MEDTRONIC, INC., AND MEDTRONIC
     VASCULAR, INC.,
 4
             Petitioners,
 5
     vs.
 6
      TELEFLEX INNOVATIONS S.A.R.L.,
 7
             Patent Owner.
 8
 9
      IPR2020-00126 (Patent 8,048,032 B2)
      IPR2020-00127 (Patent 8,048,032 B2)
10
      IPR2020-00128 (Patent RE45,380 E)
      IPR2020-00129 (Patent RE45,380 E)
      IPR2020-00130 (Patent RE45,380 E)
11
      IPR2020-00132 (Patent RE45,760 E)
      IPR2020-00134 (Patent RE45,760 E)
12
      IPR2020-00135 (Patent RE45,776 E)
      IPR2020-00136 (Patent RE45,776 E)
13
      IPR2020-00137 (Patent RE47,379 E)
14
      IPR2020-00138 (Patent RE47,379 E)
15
16
                    VIDEOTAPED DEPOSITION OF
17
                         HOWARD C. ROOT
18
19
     DATE: November 13, 2020
20
             9:32 a.m. Central Time
     TIME:
21
     PLACE: Veritext Virtual Videoconference
22
23
                      PAULA K. RICHTER, RMR, CRR, CRC
24
     REPORTED BY:
25
                      (By videoconference)
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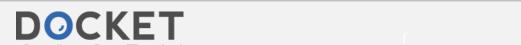
Veritext Legal Solutions



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1	APPEARANCES	1	INDEX
2 0	N BEHALF OF THE PETITIONERS (By videoconference):	2	
3	Mr. Cyrus A. Morton, Esq.	3	WITNESS: HOWARD C. ROOT PAGE:
4	Ms. Sharon Roberg-Perez, Esq.	4	EXAMINATION BY MR. MORTON 8
5	Ms. Emily J. Tremblay, Esq.	5	
6	ROBINS KAPLAN, LLP	6	
7	800 LaSalle Avenue, Suite 2800	7	EXHIBITS MARKED: PAGE:
8	Minneapolis, Minnesota 55401	8	EXHIBIT 1114 6/27/13 Depo of Howard Root in
9	(612) 349-8500	9	Boston Scientific Case,
10	cmorton@robinskaplan.com	10	VSIQXM_E0005514-55172 16
11	sroberg-perez@robinskaplan.com	11	EXHIBIT 1115 6/15/18 Deposition of Howard
12	etremblay@robinskaplan.com	12	Root in QXMedical Case,
13		13	VSIMDT00028870-28948 16
14 O	N BEHALF OF THE PATENT OWNER (By videoconference):	14	EXHIBIT 1116 Drawing of Narrow Guideliner
15	Mr. J. Derek Vandenburgh, Esq.	15	with Red Circles Drawn by Mr.
16	Ms. Tara C. Norgard, Esq.	16	Root212
17	Mr. Alexander S. Rinn, Esq.	17	
18	CARLSON, CASPERS, VANDENBURGH & LINDQUIST	18	
19	225 South Sixth Street, Suite 4200	19	EXHIBITS PREVIOUSLY MARKED AND REFERRED TO:
20	Minneapolis, Minnesota 55402	20	EXHIBIT 2002 Lab Notebook 83,
21	(612) 436-9600	21	VSIMDT00030683-30690 47
22	dvandenburgh@carlsoncaspers.com	22	EXHIBIT 2003 2/4/05 Memo to GuideLiner DHF
23	tnorgard@carlsoncaspers.com	23	from Howard Root Re: Market
24	arinn@carlsoncaspers.com	24	Feasibility for GuideLiner
25 (£	APPEARANCES continued on next page)	25	Catheters, VSI_00000774-775 37
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1	APPEARANCES (Continued)	1	(EXHIBITS continued)
2		2	EXHIBIT 2004 GuideLiner Drawing and Notes,
	ALSO PRESENT:	3	VSI_00000776-77839
l	Adam Wallin - Videographer	4	EXHIBIT 2017 6/23/05 Memo to GuideLiner DHF
l	Veronica Morrissey - Veritext Concierge	5	
I	Howard Cyr	I -	E 11 11 . C C 1 1 T 1
7 ]	Paul Zalesky	6	<b>3</b>
		7	•
	Gregg Smock	7	•
8 ( 9		7	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint
8 (		7 8	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon,
8 ( 9		7 8 9 10	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon,
8 ( 9 10		7 8 9 10	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922 64 EXHIBIT 2022 8/1/05 CAD Drawing,
8 9 10 11		7 8 9 10 11 12	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922 64 EXHIBIT 2022 8/1/05 CAD Drawing,
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8 9 10 11 12 13		7 8 9 10 11 12 13	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922
8 (9 10 11 12 13 14		7 8 9 10 11 12 13 14 15	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922
8 0 9 10 11 12 13 14 15		7 8 9 10 11 12 13 14 15	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922
8 0 9 10 11 12 13 14 15 16		77 8 9 10 11 12 13 14 15 16 17	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922
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8 9 10 11 12 13 14 15 16 17 18		7 8 9 10 11 12 13 14 15 16 17 18 19 20	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922 64 EXHIBIT 2022 8/1/05 CAD Drawing, PAT0000033-34 107 EXHIBIT 2024 Product Requirements for GuideLiner, VSIMDT00030178-30181
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8 0 9 10 11 12 13 14 15 16 17 18 19 20 21		7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922
8 0 9 10 11 12 13 14 15 16 17 18 19 20 21 22		7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Catheters, VSIMDT00030170-30171. 59 EXHIBIT 2018 Vascular Solutions PowerPoint on New Products on the Horizon, VSIMDT00029897-29922

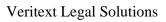
2 (Pages 2 - 5)

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(EXHIBITS continued)	1	reporter please swear in the witness.
EXHIBIT 2099 VSI 2006 Planned Product	2	HOWARD C. ROOT,
Development Projects,	3	duly sworn, was examined and testified as follows:
VSI_00034001 142	4	EXAMINATION
EXHIBIT 2100 Vascular Solutions 2006	5	BY MR. MORTON:
	6	Q. Good morning, Mr. Root. I will try to say
	l	Root instead of Root (pronounced differently)
	l	today. I am from Minnesota, but I would have said
		Root.
		In any event, I know you've had your
		deposition taken before, so I'll skip some of that
=	l	stuff, but did you have a chance to prepare for
	l	this deposition with your attorneys?
_		A. Yes.
• =		Q. How much time did you spend preparing?
EXHIBIT 2118 Declaration of Howard Root 23		A. For this deposition, somewhere around five to
		ten hours.
	l	Q. And what did you do specifically to prepare?
copies provided to counsel.)	l	Obviously, not revealing attorney-client
	l	privilege. But in general, what did you do?
	l	A. I read my declaration and the claim charts,
		reviewed the patents, read my former my prior
	23	deposition transcripts, and some documents that
	24	were attached as exhibits to my declaration.
	25	Q. All right. Did you do any of the preparation
Page 7		Page 9
Page 7 PROCEEDINGS	1	Page 9 in person with your lawyers?
PROCEEDINGS	l	in person with your lawyers?
PROCEEDINGS THE VIDEOGRAPHER: We are going on	2	in person with your lawyers?  A. No, I don't think so.
PROCEEDINGS THE VIDEOGRAPHER: We are going on the record at 9:06 a.m. on November 13th, 2020.	2 3	in person with your lawyers?  A. No, I don't think so.  Q. Do you personally have any objection to
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	EXHIBIT 2099 VSI 2006 Planned Product Development Projects, VSI_00034001142	EXHIBIT 2099 VSI 2006 Planned Product Development Projects, VSI_00034001

3 (Pages 6 - 9)





Page 10 Page 12

- 1 as an engineer or product development person; is
- 2 that right?
- 3 A. Well, I was originally an attorney, and then
- 4 I worked in medical devices in marketing and
- 5 product development before starting Vascular
- 6 Solutions.
- 7 Q. And what was the impetus to start Vascular
- 8 Solutions?
- 9 A. I had the entrepreneurial bug. I wanted to
- 10 start a company, and I knew medical devices. I
- 11 thought if I found the right idea, that I could
- 12 put a company together in Minneapolis, which is
- 13 the hotbed of medical device companies, and try to
- 14 grow a company from scratch.
- 15 Q. Okay. And what was your first idea?
- 16 A. The first idea we licensed in was called the
- 17 Duett sealing device. It's D-U-E-T-T, two Ts.
- 18 Q. And what was your role with respect to the
- 19 Duett in terms of coming up with the idea, working
- 20 on and developing it?
- 21 A. I evaluated it. It was an idea by my
- 22 co-founder, Dr. Gary Gershoney, who's a
- 23 cardiologist out in California. I evaluated and
- 24 then negotiated the license to acquire the rights
- 25 and then started a development team to bring it

- 1 first starting to think about GuideLiner.
- 2 A. So prior to 2005, we probably had somewhere
- 3 around 10 to 20 medical devices that we had
- 4 developed and brought to market.
- 5 Q. And how big of a company did you have during
- 6 that time?
- 7 A. Big in terms of number of employees or
- 8 revenue or --
- 9 Q. Yeah, I was thinking of both.
- 10 A. Revenue, in 2005, we were somewhere around 50
- 11 million in sales, worldwide revenue, and we
- 12 probably had somewhere around 100 employees.
- 13 Q. Okay. And so for those -- I forget already
- 14 how many products you said, but for each of those
- 15 products, did you have patent work done, patenting
- 16 on those products?
- 17 A. Not each of them. Some of them weren't
- 18 patentable. Some of them were.
- 19 Q. Okay. Roughly how many -- how many of the
- 20 products were patented and how many patents did
- 21 you get on them?
- 22 A. If I go down the list, Duett had probably
- 23 somewhere around five patents at that period of
- 24 time.
- D-Stat flowable, I think we had two

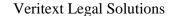
Page 11

- 1 from a concept to a finished medical device.
- 2 Q. And did you work with engineers or other
- 3 people on that?
- 4 A. Yes.
- 5 Q. The Duett, that was involved in litigation;
- 6 is that right?
- 7 A. Yes.
- 8 Q. Patent litigation?
- 9 A. Yes.
- 10 Q. You probably don't remember. I
- 11 second-chaired your deposition in that case. I
- 12 was about a second-year lawyer.
- 13 A. Which case was that?
- 14 Q. Datascope.
- 15 A. Okay.
- 16 Q. Yeah, we were on the Datascope side, so we
- 17 were on opposite sides as we are today.
- 18 A. Okay.
- 19 Q. Okay. So, again, prior to GuideLiner, how
- 20 many products did Vascular Solutions come up with?
- 21 A. Well, prior to when we launched GuideLiner or
- 22 prior to when we invented GuideLiner, or what date
- 23 are we talking about?
- 24 Q. Prior to the dates we'll be talking about
- 25 later, the 2005, 2006 time frame. So prior to

- 1 additional patents on that.
  - 2 Vari-Lase, we had one or two patents
  - 3 on that.
  - 4 Pronto, I think we had just one
  - 5 patent on that.
  - 6 Langston, we had a patent on that.
  - 7 Twin-Pass, I don't think we had a
  - 8 patent on it.
  - 9 Skyway, we did not have a patent on
  - 10 it.
  - 11 Micro-introducer kits, we did not
  - 12 have a patent on.
  - That's -- I think there's more, but
  - 14 that's the gist of it.
  - I can't hear.
  - MR. VANDENBURGH: Cy, we can't hear
  - 17 you.
  - THE COURT REPORTER: Adam, he wants
  - 19 to go off the record.
  - THE VIDEOGRAPHER: We are going off
  - 21 the record at 9:14 a.m.
  - (Off the record from 9:14 a.m. until
  - 23 9:19 a.m.)
  - 24 THE VIDEOGRAPHER: We are back on
  - 25 the record at 9:19 a.m.

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Page 14 1 BY MR. MORTON:

- 2 Q. Okay. Sorry about that, Mr. Root.
- 3 Can we go back to that same time
- 4 period we were talking about, the earlier days of
- 5 VSI, prior to thinking about GuideLiner in 2005.
- 6 Did you have any document retention policies at
- o Did you have any document retention policies at
- 7 that time?
- 8 A. I believe we did, but I don't remember
- 9 exactly when we created our first document
- 10 retention policy.
- 11 Q. Do you remember anything about the policy
- 12 from prior to GuideLiner?
- 13 A. No, not really.
- 14 Q. Were you in charge of developing the policy
- 15 or was somebody else?
- 16 A. I don't remember the specific policy, so I
- 17 may have done it. I'm not sure when we had our
- 18 first general counsel, and it may have been that
- 19 person's job.
- 20 Q. Okay. Do you recall at all if it had to do
- 21 with hard-copy documents versus electronic
- 22 documents?
- 23 A. Well, the policy we had covered both, but I'm
- 24 not sure when that came into being.
- 25 Q. Did you have any -- do you recall any policy

e 15

- 1 about document destruction after a certain amount
- 2 of time?
- 3 A. Again, the policies that we had covered that,
- 4 but I don't know when that policy was put in
- 5 place.
- 6 Q. Okay. We mentioned that you've had your
- 7 deposition taken before, right?
- 8 A. Correct.
- 9 Q. In how many patent cases have you had your
- 10 deposition taken?
- 11 A. Probably around five.
- 12 Q. And was your deposition typically taken as an
- 13 inventor on those patents?
- 14 A. I -- yeah. In a couple cases, yes. In a
- 15 couple cases, no.
- 16 Q. Okay. What were the cases where you were not
- 17 an inventor?
- 18 A. Well, inventor of the patent that was being
- 19 asserted, if you look at it that way. The
- 20 Datascope case, we were the defendant. And the
- 21 St. Jude Medical case we were the defendant. The
- 22 DialMED case we were the defendant. And the
- 23 Terumo case we were the defendant.
- 24 And then the Boston Scientific case
- 25 we were the plaintiff on the GuideLiner patents.

- 1 QXMedical we were the plaintiff -- at least in
- 2 substantive terms we were the plaintiff as -- on
- 3 my patent.
- 4 And I'm not sure if there's any
- 5 other cases that we have.
- 6 Q. Have you been deposed before on the issues of
- 7 conception and reduction to practice?
- 8 A. I think so, in relation to these earlier
- 9 GuideLiner cases.
- 10 Q. Okay. Any other cases besides the GuideLiner
- 11 cases?
- 12 A. I don't believe so.
- 13 Q. Was that the concept of conception and
- 14 reduction to practice, proving an earlier
- 15 invention date, was that something that you knew
- 16 and understood prior to GuideLiner?
- 17 A. I was not a patent lawyer. I knew the
- 18 general concept, but I wasn't an expert or
- 19 specifically trained in that area.
- 20 Q. All right. On these depositions, I want to
- 21 show you a couple of transcripts.
- 22 Can we put up the Boston transcript?
- 23 (Exhibit 1114 and Exhibit 1115 were
- 24 marked for identification.)
- | 25

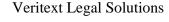
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Page 16

- 1 BY MR. MORTON:
- 2 Q. All right. Are you seeing this, Mr. Root,
- 3 Vascular Solutions v. Boston Scientific, video
- 4 depo of Howard Charles Root?
- 5 A. I'm just looking in the Exhibit Share, and
- 6 it's just 1114 and 1115. Is that --
- 7 Q. Yes, 1114.
- 8 A. Just open that?
- 9 Q. Yep.
- 10 A. Okay. Yeah, I see it now.
- 11 Q. All right. Thanks.
- 2 Do you recall having your deposition
- 13 taken in that Vascular Solutions v. Boston
- 14 Scientific case?
- 15 A. Yes.
- 16 Q. Do you recall being placed under oath and
- 17 swearing to tell the truth in that matter?
- 18 A. Yes.
- 19 Q. And you did testify truthfully, right?
- 20 A. To the best of my ability, yes.
- 21 Q. Were you given a chance to review the
- 22 transcript and make any changes that you felt were
- 23 necessary?
- 24 A. Yes.
- 25 Q. And you signed off on this transcript?

5 (Pages 14 - 17)

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