

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 LIFE SCIENCES LIMITED,

Patent Owner.

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Case IPR2020-01341  
U.S. Patent No. 8,142,413

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

Case IPR2020-01343  
U.S. Patent No. RE 46,116

Case IPR2020-01344  
U.S. Patent No. RE 46,116

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**DECLARATION OF PAUL ZALESKY REGARDING COPYING  
SUBMITTED IN SUPPORT OF PETITIONER'S REPLY**

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I, Paul Zalesky, declare as follows:

1. I have been retained by Robins Kaplan LLP on behalf of Medtronic, Inc., and Medtronic Vascular, Inc., (“Petitioner” or “Medtronic”) as an independent expert to provide my opinions in connection with the following *Inter Partes* Review (“IPR”) proceedings: IPR2020-01341 and IPR2020-01342 (U.S. Patent No. 8,142,413), and IPR2020-01343 and IPR2020-01344 (U.S. Patent No. RE 46,116) (“second set of IPRs”).

2. I make this declaration based on personal knowledge. I am over the age of 21 and am otherwise competent to make this declaration.

3. I have reviewed the Patent Owner Responses in the second set of IPRs, Patent Owner’s Contingent Motion to Amend in the ’1341 and ’1342 IPRs, and the declarations, exhibits, and other materials that Patent Owner cited in support of its copying arguments in those materials.

4. I previously offered opinions in connection with related IPR proceedings: IPR2020-00126, -00127, -00128, -00129, -00130, -00132, -00134, -00135, -00136, -00137, and -00138 (“first set of IPRs”). I previously reviewed materials related to the first set of IPRs before rendering my opinions. I have reviewed the Board’s Final Written Decision related to copying in the first set of IPRs.

5. My December 21, 2020 declaration submitted in support of Petitioner's Replies to Patent Owner's Responses in the first set of IPRs, attached here as Appendix A, remains true and correct.

6. I understand that, in connection with its arguments regarding secondary considerations of non-obviousness, Patent Owner has accused Medtronic of copying GuideLiner Version 3 when Medtronic developed its Telescope product. I understand that Patent Owner has alleged copying of various GuideLiner Version 3 components, including its "half-pipe" design.

7. Based on my review of the materials submitted in connection with Patent Owner's copying arguments in this second set of IPRs, the arguments and evidence are virtually identical to the copying arguments and evidence submitted in the first set of IPRs.

8. Consistent with the opinions that I offered in the first set of IPRs, based on my experience and expertise and the materials that I have reviewed, it is my opinion that there are several differences between Patent Owner's GuideLiner Version 3 and Medtronic's Telescope device, indicating that Medtronic did not replicate a specific product.

9. In short, Telescope is not a copy of GuideLiner Version 3. There are several differences between the two products, none of which are small or insubstantial to the operation of the devices. The differences between the two

products directly affect pushability, deliverability, and overall handling of the devices.

10. Because I have already reviewed the copying arguments and evidence submitted in the first set of IPRs, and because the vast majority of those arguments and evidence are submitted in the second set of IPRs, I adopt my copying opinions from the first set of IPRs here.

11. In signing this declaration, I understand that the declaration will be filed as evidence in the contested cases before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. I acknowledge that I may be subject to cross-examination in this case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

12. I declare that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code

Dated: August 6, 2021

By: \_\_\_\_\_

  
Paul Zalesky, PhD.

# Appendix A

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