

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3 MEDTRONIC, INC., and
4 MEDTRONIC VASCULAR, INC.,

5 Petitioners,

6 vs.

Case No. IPR2020-00126
U.S. Patent No. 8,048,032

7 TELEFLEX INNOVATIONS
8 S.A.R.L.,

Patent Owner.

9
10 IPR2020-00126 (Patent 8,048,032 B2)
11 IPR2020-00127 (Patent 8,048,032 B2)
12 IPR2020-00128 (Patent RE45,380 E)
13 IPR2020-00129 (Patent RE45,380 E)
14 IPR2020-00130 (Patent RE45,380 E)
15 IPR2020-00132 (Patent RE45,760 E)
16 IPR2020-00135 (Patent RE45,776 E)
17 IPR2020-00136 (Patent RE45,776 E)
18 IPR2020-00137 (Patent RE47,379 E)
19 IPR2020-00138 (Patent RE47,379 E)

20 VIDEOCONFERENCE VIDEOTAPED
21 DEPOSITION OF
22 PETER T. KEITH

23 DATE: November 23, 2020

24 TIME: 8:58 a.m.

25 PLACE: Minneapolis, Minnesota

(via videoconference)

JOB NO.: MW 4338308

REPORTED BY: Dawn Workman Bounds, CSR

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Page 2	<p>1 A P P E A R A N C E S</p> <p>2 (ALL APPEARANCES VIA VIDEOCONFERENCE)</p> <p>3 ON BEHALF OF PETITIONERS:</p> <p>4 SHARON ROBERG-PEREZ, ESQ.</p> <p>5 EMILY TREMBLAY, ESQ.</p> <p>6 CYRUS A. MORTON, ESQ.</p> <p>7 ROBINS KAPLAN LLP</p> <p>8 2800 LaSalle Plaza</p> <p>9 800 LaSalle Ave</p> <p>10 Minneapolis, MN 55401</p> <p>11 612.349.8500</p> <p>12 sroberg-perez@robinskaplan.com</p> <p>13 camorton@rkmc.com</p> <p>14 ETremblay@RobinsKaplan.com</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 (APPEARANCES CONTINUED ON NEXT PAGE)</p> <p>24</p> <p>25</p>	Page 4
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	<p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: Good morning. We are</p> <p>3 going on the record at 8:58 a.m. Eastern Standard Time,</p> <p>4 on November 23, 2020. Please note that the microphones</p> <p>5 are sensitive and may pick up whispering, private</p> <p>6 conversations, and cellular interference. Please turn</p> <p>7 off all cell phones and place them away from microphones</p> <p>8 as they can possibly interfere with deposition audio.</p> <p>9 Audio and video recording will continue to take place</p> <p>10 unless all parties agree to go off the record.</p> <p>11 This is media unit 1 of the video-recorded</p> <p>12 deposition of Peter T. Keith, in the matter of Medtronic</p> <p>13 v. Teleflex Innovations. My name is Adam Venturini from</p> <p>14 the firm Veritext, and I'm the videographer. The court</p> <p>15 reporter is Dawn Bounds from the firm Veritext.</p> <p>16 I'm not authorized to administer an oath.</p> <p>17 I'm not related to any party in this action nor am I</p> <p>18 finally interested in the outcome.</p> <p>19 Counsel and all present remotely will now</p> <p>20 state their appearances and affiliations for the record.</p> <p>21 If there are any objections to proceeding, state them at</p> <p>22 the time of your appearance, beginning with the noticing</p> <p>23 attorney.</p> <p>24 MS. ROBERG-PEREZ: Sharon Roberg-Perez</p> <p>25 representing Petitioner Medtronic of the firm Robins</p>	

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1 Kaplan. With me are my colleagues Cy Morton and Emily
2 Tremblay.
3 MR. VANDENBURGH: This is Derek
4 Vandenburg here today on behalf of Teleflex.
5 Also appearing is Joe Winkels of the Carlson Caspers
6 firm, as well as Ken Levitt of the Dorsey firm; and Greg
7 Smock of Teleflex is here as well.
8 THE VIDEOGRAPHER: All right. Will the
9 court reporter please swear in the witness.
10 THE REPORTER: Due to the need for this
11 deposition to take place remotely because of the
12 government's order for physical distancing, the parties
13 will stipulate the court reporter may swear in the
14 witness over the videoconference and that the witness has
15 verified that he is in fact Peter T. Keith.
16 Agreed, counsel?
17 MS. ROBERG-PEREZ: Agreed.
18 MR. VANDENBURGH: Agreed.
19 PETER T. KEITH,
20 duly sworn via videoconference as stipulated by counsel
21 was examined and testified as follows:
22 EXAMINATION
23 BY MS. ROBERG-PEREZ:
24 Q. Good morning, Mr. Keith.
25 You've been deposed before, haven't you?

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1 A. I have, yes.
2 Q. About how many times?
3 A. I -- it's -- I've been deposed many times over
4 a long career in medical devices, so I don't really have
5 a particular figure, but probably could be approaching 20
6 times maybe.
7 Q. Okay. Have you ever testified at trial?
8 A. I have.
9 Q. How many times?
10 A. Just one time for that.
11 Q. And when was that?
12 A. That was, I believe, in the early 2000s.
13 Q. Was that a patent matter?
14 A. Yes.
15 Q. And who did you testify for?
16 A. I testified on behalf of Boston Scientific.
17 Q. Was Boston Scientific the plaintiff in that
18 case or defendant?
19 A. Well, it was a complicated proceeding that I
20 think they were a plaintiff in aspects and a defendant in
21 aspects, I believe.
22 Q. Were you an expert witness in that trial?
23 A. Yes, I was.
24 Q. Do you recall who prevailed in that trial?
25 A. I believe it was a settlement.

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1 Q. Okay. Is there any reason today, such as
2 illness or medication, that you will not be able to
3 testify fully and accurately?
4 A. No.
5 Q. You've submitted declarations in several IPRs
6 initiated by Medtronic, right?
7 A. Yes.
8 Q. You've also submitted declarations in
9 connection with the district court litigation that
10 Teleflex initiated against Medtronic, right?
11 A. Yes.
12 Q. Aside from counsel, have you spoken about the
13 IPRs with anyone?
14 A. No.
15 Q. What about the district court litigation?
16 A. No.
17 Q. You're familiar with the name Tom Ressemann,
18 right?
19 A. Yes, I am.
20 Q. Have you spoken with him in the last six
21 months?
22 A. Yes, I have.
23 Q. What about?
24 A. Well, we're -- we have a friendship. We've
25 worked together professionally. I've spoken to him about

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1 some companies that he's involved with that I have
2 offered some thoughts and comments in terms of potential
3 employment opportunities that he's looked into.
4 He sits on the board of directors of a few
5 companies, one of which he talked with -- or he and I
6 talked about, and I have done a little bit of consulting
7 with that company.
8 Q. And to confirm, you have not spoken with him
9 about the subject matter of these IPRs, correct?
10 A. Correct. He knows that I'm involved in this
11 patent litigation, but I've not spoken about any subject
12 matter.
13 Q. Okay. Who wrote your declarations submitted in
14 these IPRs?
15 A. They're my declarations.
16 Q. And so you wrote these declarations?
17 A. I -- they're certainly my words. The process
18 of the writing was done, you know, in coordination with
19 the lawyers; but I -- I -- you know, I drafted much of --
20 you know, did the initial drafts of much of them.
21 You know, they may have done some initial
22 drafting of portions, and -- but it was always -- there
23 was always an extraordinary amount of discussion and
24 editing; and at the end of the day, they're my words.
25 Q. Okay. Now, in connection with the drafting,

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<p style="text-align: right;">Page 10</p> <p>1 was there any material, other than what you've cited in 2 your declarations, that you considered? 3 A. I don't believe so. 4 Q. Anything that -- any material that you reviewed 5 but did not cite in your declarations? 6 A. I don't think so. 7 Q. How did you prepare for your deposition today? 8 A. I rereviewed my declarations and some of the 9 other materials in the case, and I had some conversations 10 with counsel. 11 Q. How long were those conversations? 12 A. I mean, in the last several days, say, the 13 conversations that I've had with counsel have probably 14 been maybe 10 hours. 15 Q. Did you review any of the material cited in 16 your declarations? 17 A. I think so. 18 Q. What material? 19 A. I looked at the root patents. I looked at a 20 number of the prior art patents that are of relevance to 21 the case. Those are things that I can think of. 22 I probably looked at more, but I can't 23 recall them right now. 24 Q. Did you review any material not cited in your 25 declarations?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Well, what is a cutting balloon? 2 A. There's one product in particular -- this is a 3 long, long time ago. 4 But there's one product in particular that 5 was referred to as a "cutting balloon" that had 6 essentially some short longitudinal razor blades affixed 7 to the surface of the balloon. 8 Q. Was that a Boston product or a Grayzel product? 9 A. This was so long ago, I -- honestly, I don't 10 remember. 11 Q. You testified on behalf of Boston, though, 12 right? 13 A. Yes. 14 Q. What was your opinion in the case? 15 A. I don't recall. 16 Q. To the extent you can -- okay. 17 Do you remember if you opined on claim 18 construction? 19 A. I don't recall. 20 Q. Okay. You also in your CV list a case Boston 21 Scientific v. Cordis on behalf of the plaintiffs. 22 What was the technology at issue in that 23 case? 24 A. That, I believe, was related to multilayer 25 extrusions used in angioplasty catheters.</p>
<p style="text-align: right;">Page 11</p> <p>1 A. I don't think so. 2 Q. Did you attend the depositions given by 3 Dr. Graham? 4 A. No. 5 Q. Have you reviewed his testimony? 6 A. No. 7 Q. Okay. You testified that you've previously 8 been deposed. 9 And am I correct those depositions were 10 largely in patent cases? 11 A. Yes. 12 Q. And you testified truthfully in those cases, 13 right? 14 A. Yes. 15 Q. I'd like to understand what types of cases 16 those were. 17 Your CV mentions a matter Grayzel versus 18 Boston Scientific? 19 A. Yes. 20 Q. What was the technology at issue in that case? 21 A. I believe that related to balloon angioplasty 22 catheters and some aspects of -- of the balloon itself in 23 terms of having cutting elements or rigid elements. 24 Q. Does that refer to a cutting balloon? 25 A. Yes. Sure, that's one way to describe it.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Was that the case that you testified at trial? 2 A. Yes. 3 Q. Do you remember what your -- and you testified 4 as an expert, right? 5 A. Correct. 6 Q. Did you also testify at a claim construction 7 hearing in that case? 8 A. I don't think so. 9 Q. Do you remember what your opinion was in that 10 case? 11 A. No. Again, that was so long ago and, you know, 12 very involved. I do not recall. 13 Q. Okay. Your CV also lists a matter SciCo v. 14 Boston Scientific. 15 What was the technology in that case? 16 A. I believe that was related to some design 17 aspects of rapid exchange angioplasty catheters. 18 Q. Do you -- do you remember what your opinion was 19 in that case? 20 A. No. 21 Q. Okay. Aside from those three matters, what 22 other patent matters have you offered testimony in? 23 A. I have been a fact witness in a number of 24 patent cases. I think at least primarily related to my 25 work at SCIMED Life Systems, which became part of Boston</p>

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<p style="text-align: right;">Page 14</p> <p>1 Scientific, related to various angioplasty catheters that 2 I either designed or was an inventor on. 3 Q. So did those matters account for the lion's 4 share of the 20 or so depositions you mentioned? 5 A. Yes. 6 Q. Okay. You've got a bachelor's degree in 7 mechanical engineering, right? 8 A. Yes. 9 Q. And you mentioned your work for SCI -- SCIMED. 10 And when did you start working at SCIMED? 11 A. Well, I think all this is laid out on my 12 resume, but I believe that was 1985. 13 Q. And SCI -- I'm correct in understanding that 14 SCIMED's products included interventional cardiology 15 products? 16 A. Well, I mean, interventional cardiology 17 products is a particular term that's used in some of the 18 patents at issue here, so I -- I -- I don't know what 19 context you're asking me that question. 20 Q. Do the patents use the term "interventional 21 cardiology products"? 22 A. I think they use "interventional cardiology 23 devices." 24 Q. Okay. Understood. 25 So I'm not -- I'm trying to stay away from</p>	<p style="text-align: right;">Page 16</p> <p>1 A. No, they're not exactly the same. 2 Q. Okay. All I want to know is what kind of 3 products -- I won't even use a modifier. 4 What kind of products did you do work on 5 at SCIMED? 6 A. So I worked on fixed wire angioplasty catheter 7 products. I worked on rapid exchange angioplasty 8 catheter products. I worked on guidewires. I worked on 9 atherectomy catheters. I worked on vascular sealing 10 products. I worked on drug delivery products. 11 And I probably worked on other products, 12 but I can't recall other ones sitting here right now. 13 Q. Okay. So you mentioned fixed wire angioplasty 14 products, rapid exchange angioplasty products, 15 guidewires, atherectomy catheters, vascular sealing 16 products, and drug delivery products. 17 Of those six categories, which of those 18 products are introduced into the coronary vasculature? 19 A. I would say all of those with the exception of 20 vascular sealing products. 21 Q. So when you mentioned drug delivery products, 22 what type of products were you referring to? 23 A. These would be products that -- they were 24 catheters that would go into coronary arteries for the 25 purpose of being able to deliver a drug.</p>
<p style="text-align: right;">Page 15</p> <p>1 patent terms, and I'm really just interested in the types 2 of products that you worked on when you were at SCIMED. 3 You mentioned one type, balloon 4 angioplasty catheters, I think; is that correct? 5 A. Yes. 6 Q. What other types of interventional cardiology 7 products did you work on at SCIMED? 8 A. Well, I just want to be clear that we're 9 talking about -- I mean -- 10 Q. Products. 11 A. -- not specifically to what that term might 12 strictly mean in the context of the patents, but if -- I 13 mean, it sounds like you're trying to ask it in -- you 14 know, in maybe a broader sense of interventional 15 cardiology. 16 Q. Mr. Keith -- 17 A. I -- 18 Q. -- can we agree that the patents do not refer 19 to "interventional cardiology products"? 20 A. They refer to "interventional cardiology 21 devices." 22 Q. Correct. 23 And my question to you -- 24 A. Very similar terms. 25 Q. But they're not the same term, are they?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Were these drug-eluting stents? 2 A. No. 3 Q. So of the fixed wire angioplasty products, how 4 many were there? 5 Do you remember their names? 6 A. There were -- the first family of products -- 7 and by family I'm referring to that the balloons were 8 available in different inflated diameters as well as 9 different coil tip lengths. Those were referred to the 10 as the ACE catheters. 11 And then I was involved in some -- some 12 more recent products after the ACE was introduced that 13 were called the Pivot products. Again, there may be 14 more. I'm just recalling all of them as I sit here 15 today. 16 Q. But for the fixed wire angioplasty products, 17 there were at least the ACE and the Pivot products, 18 right? 19 A. Correct. 20 Q. Do you remember what the names were of the 21 rapid exchange angioplasty products? 22 A. The one I was most directly involved with was 23 the Express catheter. And then there were some more 24 recent products that -- one was referred to as the Rally. 25 And, again, there may be some others that</p>

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