

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

3 MEDTRONIC, INC., AND MEDTRONIC
4 VASCULAR, INC.,

5 Petitioners,

6 vs.

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

8 Patent Owner.

9 IPR2020-00126 (Patent 8,048,032 B2)

10 IPR2020-00127 (Patent 8,048,032 B2)

11 IPR2020-00128 (Patent RE45,380 E)

12 IPR2020-00129 (Patent RE45,380 E)

13 IPR2020-00130 (Patent RE45,380 E)

14 IPR2020-00132 (Patent RE45,760 E)

IPR2020-00134 (Patent RE45,760 E)

IPR2020-00135 (Patent RE45,776 E)

IPR2020-00136 (Patent RE45,776 E)

IPR2020-00137 (Patent RE47,379 E)

IPR2020-00138 (Patent RE47,379 E)

15 VOLUME I

16 REMOTE VIDEOTAPED DEPOSITION OF
17 MICHAEL JONES

18 DATE: January 18, 2021

19 TIME: 8:00 a.m. (Pacific)

20 PLACE: Veritext Virtual Videoconference

21 PAGES: 1 to 189

22 JOB NO.: MW 4402816

23 REPORTED BY: Merilee Johnson, RDR, CRR, CRC, RSA

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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES (All appearing remotely via videoconference)</p> <p>2</p> <p>3 ON BEHALF OF THE PETITIONERS: 4 ROBINS KAPLAN LLP BY: Cyrus A. Morton, Esq. 5 Christopher A. Pinahs, Esq. Shelley R. Gilliss, Ph.D. 6 800 LaSalle Avenue Suite 2800 7 Minneapolis, Minnesota 55402 Phone: (612) 349-8500 8 Email: CMorton@RobinsKaplan.com Email: CPinahs@RobinsKaplan.com 9 Email: SGilliss@RobinsKaplan.com 10</p> <p>11 ON BEHALF OF THE PATENT OWNERS: 12 CARLSON, CASPERS, VANDENBURGH, LINDQUIST & SCHUMAN, PA 13 BY: Joseph W. Winkels, Esq. Peter M. Kohlhepp, Esq. 14 225 South Sixth Street Suite 4200 15 Minneapolis, Minnesota 55402 Phone: (612) 436-9600 16 Email: JWinkels@CarlsonCaspers.com Email: PKohlhepp@CarlsonCaspers.com 17</p> <p>18 ALSO APPEARED: 19 Greg Smock (Teleflex) Peter Keith (Teleflex) 20 Howard Cyr (Teleflex) Justin Bond (Videographer) 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBITS (Continued)</p> <p>2</p> <p>3 Exhibit 1033 United States Patent Application . 141 4 Publication, US 2004/0236215 A1, 5 Pub. Date: November 24, 2004</p> <p>6 Exhibit 1114 Deposition transcript of Howard .. 38 7 Charles Root, dated June 27, 2013 8 CONFIDENTIAL-ATTORNEYS' EYES ONLY 9 VSIQXM_E00055124 to 55172</p> <p>10 Exhibit 1242 Declaration of Richard A. 70 11 Hillstead, Ph.D., FAHA</p> <p>12 Exhibit 1807 Declaration of Michael Jones 13 Submitted in Support of 14 Petitioner's Replies</p> <p>15 Exhibit 1829 United States Patent No. 91 16 6,361,529 B1, Date of Patent: 17 March 26, 2002</p> <p>18 Exhibit 2228 Diagram..... 170 19 Exhibit 2229 Diagram..... 174 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2</p> <p>3 WITNESS: MICHAEL JONES PAGE</p> <p>4 Examination by Mr. Winkels..... 5</p> <p>5 Examination by Mr. Morton.....178</p> <p>6 Further Examination by Mr. Winkels.....186</p> <p>7</p> <p>8 CAUTION OR INSTRUCTIONS NOT TO ANSWER:</p> <p>9 Page 75, Line 14</p> <p>10 Page 76, Line 11</p> <p>11</p> <p>12 EXHIBITS</p> <p>13</p> <p>14 EXHIBITS MARKED AND FIRST REFERRED TO: PAGE</p> <p>15 Exhibit 1007 United States Patent No. 32 16 7,736,355 B2, 17 Date of Patent: June 15, 2010</p> <p>18 Exhibit 1008 United States Patent No. 78 19 7,604,612 B2, 20 Date of Patent: October 20, 2009</p> <p>21 Exhibit 1030 United States Patent No. 132 22 5,413,560, 23 Date of Patent: May 9, 1995 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 (PROCEEDINGS, 01/18/2021, 8:00 a.m.) 2 THE VIDEOGRAPHER: Good morning. Today 3 is January 18, 2021. We're on the record at 4 8:00 a.m. Today we'll take the videotaped 5 deposition in Case No. IPR2020-00138. This 6 deposition is being held remotely. 7 Counsel, please state your appearance and 8 affiliation for the record. 9 MR. WINKELS: On behalf of patent 10 owner, Joe Winkels with the Carlson Caspers firm. 11 With me, from my firm, is Peter Kohlhepp. As well, 12 Pete Keith is with us today. And two 13 representatives from Teleflex, Howard Cyr and 14 Greg Smock, are with us today. 15 MR. MORTON: This is Cyrus Morton, law 16 firm of Robins Kaplan, representing petitioner, 17 Medtronic. With me in the room are also Chris 18 Pinahs and Shelley Gilliss. 19 THE VIDEOGRAPHER: Thank you. Would 20 you please swear the witness. 21 MICHAEL JONES, 22 duly sworn, was examined and testified as follows: 23 EXAMINATION 24 BY MR. WINKELS: 25 Q. Good morning, Mr. Jones.</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. Good morning.</p> <p>2 Q. So I understand it's 8:00 a.m. your time.</p> <p>3 It's 10:00 a.m. our time. I think we'll need to</p> <p>4 take a lunch break at some point today. I'm happy</p> <p>5 to do that whenever you would like to. You know,</p> <p>6 I'm happy to go through our lunch break, so I was</p> <p>7 kind of -- you know, if we went for maybe three,</p> <p>8 three and a half hours, something like that, is</p> <p>9 kind of what I would think for a lunch break. Does</p> <p>10 that sound fine with you?</p> <p>11 A. That sounds like a decent plan.</p> <p>12 Q. Okay. So we'll stick with that.</p> <p>13 Have you ever been deposed before?</p> <p>14 A. Yes, I have.</p> <p>15 Q. How many times?</p> <p>16 A. I believe it's twice.</p> <p>17 Q. And when were you last deposed?</p> <p>18 A. I think it was early November of 2020.</p> <p>19 And, I mean, if you need a specific date, I could</p> <p>20 look it up, but it was late October/early</p> <p>21 November of 2020.</p> <p>22 Q. Okay. And what type of matter was that</p> <p>23 that you were deposed in?</p> <p>24 A. Products liability case.</p> <p>25 Q. Okay. And who were you testifying on</p>	<p style="text-align: right;">Page 8</p> <p>1 about that case, but -- so since you've been</p> <p>2 deposed in November of 2020, was that deposition</p> <p>3 virtually done via Zoom or WebEx or something</p> <p>4 like we're -- a platform like we have today?</p> <p>5 A. Yes, a platform --</p> <p>6 Q. And so -- yeah. So I just did exactly what</p> <p>7 we're not supposed to do. And that's what I wanted</p> <p>8 to caution both of us to do is not talk over each</p> <p>9 other because it's going to make our court</p> <p>10 reporter's job very difficult. So I will do my</p> <p>11 best to not interrupt you when you're answering a</p> <p>12 question, if you can do your best to not interrupt</p> <p>13 me, when I'm asking a question, even if you know</p> <p>14 what my question is and you're anticipating it.</p> <p>15 Just let's try to -- try not to talk over each</p> <p>16 other. Okay?</p> <p>17 A. Yes, sir.</p> <p>18 Q. All right. The patent litigation case, the</p> <p>19 SenoRx, is that the --</p> <p>20 A. SenoRx. S-e-n-o-R-x.</p> <p>21 Q. SenoRx. And who was the defendant in that</p> <p>22 case?</p> <p>23 A. I believe we were the defendant.</p> <p>24 Q. That was -- that was SenoRx is who</p> <p>25 you represented?</p>
<p style="text-align: right;">Page 7</p> <p>1 behalf of?</p> <p>2 A. The plaintiff.</p> <p>3 Q. Okay. Just generally, what was the</p> <p>4 technology at issue? What was the general nature</p> <p>5 of that case?</p> <p>6 A. I'm trying to figure what I -- I'm trying</p> <p>7 to figure out what I can tell you.</p> <p>8 Q. Let me ask this: Did it relate to a</p> <p>9 medical device?</p> <p>10 A. Yes, it did.</p> <p>11 Q. Okay. Did it relate to a medical device</p> <p>12 that would be used in the coronary arteries?</p> <p>13 A. No, it did not.</p> <p>14 Q. Okay. Did it relate to a medical device</p> <p>15 that had anything to do with the heart?</p> <p>16 A. No, it did not.</p> <p>17 Q. Okay. And you said you've been deposed</p> <p>18 twice. One time was in early November of last</p> <p>19 year. What was the other time that you've been</p> <p>20 deposed?</p> <p>21 A. The other time was in a patent litigation</p> <p>22 between SenoRx, Inc., which -- and Scitech, over a</p> <p>23 radiation balloon catheter that I was an inventor</p> <p>24 of.</p> <p>25 Q. Okay. I want to ask some more questions</p>	<p style="text-align: right;">Page 9</p> <p>1 A. Well, SenoRx, that was the -- an inventor</p> <p>2 of their radiation balloon catheter.</p> <p>3 Q. Okay.</p> <p>4 A. And they were being sued by Scitech.</p> <p>5 Q. And what year were you deposed in that</p> <p>6 case?</p> <p>7 A. 2007 or 2008, I believe.</p> <p>8 Q. Okay. Did that case go to trial?</p> <p>9 A. No, it did not.</p> <p>10 Q. Were you only deposed once in that case?</p> <p>11 A. Yes.</p> <p>12 Q. And you said it was about a radiation</p> <p>13 balloon catheter. What's a radiation balloon</p> <p>14 catheter?</p> <p>15 A. A radiation balloon catheter is used by</p> <p>16 radiation oncologists. It's a catheter. It goes</p> <p>17 into a -- specifically in the case for what we were</p> <p>18 making and selling, went into a woman's breast</p> <p>19 after surgery to remove a cancerous lesion. It</p> <p>20 filled the cavity and then it provided high-dose</p> <p>21 radiation therapy over a short period of time for</p> <p>22 follow-up treatment after surgery.</p> <p>23 Q. Do you recall what year was the filing date</p> <p>24 of that invention?</p> <p>25 A. I don't recall directly.</p>

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<p style="text-align: right;">Page 10</p> <p>1 Q. Sometime before 2007, though?</p> <p>2 A. Yes.</p> <p>3 Q. Do you think it was before 2005?</p> <p>4 A. I honestly can't recall that far back.</p> <p>5 It's -- I'm almost a hundred percent certain it's</p> <p>6 in my CV.</p> <p>7 Q. Okay.</p> <p>8 A. With the -- not necessarily the invention</p> <p>9 date but the date the patent was issued.</p> <p>10 Q. Okay. And that radiation balloon catheter,</p> <p>11 that was not a catheter that was used in the</p> <p>12 coronary arteries, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. Now, have you done any work for Medtronic</p> <p>15 before?</p> <p>16 A. Not to the best of my recollection, I have</p> <p>17 not.</p> <p>18 Q. Have you ever received any grants from</p> <p>19 Medtronic for any work?</p> <p>20 A. No, I have not.</p> <p>21 Q. Have you ever licensed any of your patents</p> <p>22 to Medtronic?</p> <p>23 A. I think -- not directly. I was an inventor</p> <p>24 on a number of products at Micro Therapeutics.</p> <p>25 Micro Therapeutics was -- through a number of sales</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Have you spoken to any of the other experts</p> <p>2 in this case?</p> <p>3 A. No, I have not.</p> <p>4 Q. So you have not spoken to Dr. Hillstead; is</p> <p>5 that right?</p> <p>6 A. I have not spoken with Dr. Hillstead.</p> <p>7 Q. You have not spoken with Dr. Brecker,</p> <p>8 correct?</p> <p>9 A. I have not.</p> <p>10 Q. And you have not spoken with Mr. Zalesky,</p> <p>11 correct?</p> <p>12 A. No, I have not.</p> <p>13 Q. Do you have any understanding of why</p> <p>14 Mr. Hillstead is not offering any reply opinions in</p> <p>15 this matter?</p> <p>16 A. No, I do not.</p> <p>17 Q. Have you spoken with anyone else in this</p> <p>18 case other than counsel from Medtronic?</p> <p>19 A. No, I have not.</p> <p>20 Q. Now, when were you hired to perform any</p> <p>21 work in this matter?</p> <p>22 A. I believe it was late June or early July of</p> <p>23 2019.</p> <p>24 Q. Late June/early July 2019, did you do any</p> <p>25 work in connection with the district court</p>
<p style="text-align: right;">Page 11</p> <p>1 of the entity, those products ended up in</p> <p>2 Medtronic's product portfolio.</p> <p>3 Q. Are you still receiving royalty payments</p> <p>4 from Medtronic?</p> <p>5 A. No, never received any royalty payments</p> <p>6 from Medtronic.</p> <p>7 Q. Had you sold any companies to Medtronic?</p> <p>8 A. I have not.</p> <p>9 Q. Have any companies that you've been a</p> <p>10 shareholder in been sold to Medtronic?</p> <p>11 A. Well, Micro Therapeutics was sold to</p> <p>12 Medtronic. I was a shareholder of Micro</p> <p>13 Therapeutics. I believe I was -- I believe I had</p> <p>14 sold all my stock in Micro Therapeutics well before</p> <p>15 Medtronic ended up purchasing the remnants of the</p> <p>16 company.</p> <p>17 Q. Now, what did you do to prepare for your</p> <p>18 deposition today?</p> <p>19 A. I've reviewed my declaration. I've</p> <p>20 reviewed the key exhibits in regards to my</p> <p>21 declaration. I've had declaration preparation with</p> <p>22 my attorneys.</p> <p>23 Q. Did you speak with anyone other than the</p> <p>24 Medtronic attorneys?</p> <p>25 A. No, I did not.</p>	<p style="text-align: right;">Page 13</p> <p>1 litigation in this case?</p> <p>2 A. I believe so.</p> <p>3 Q. And starting in late June/early July, did</p> <p>4 you also do some work in connection with the IPRs</p> <p>5 in this case?</p> <p>6 A. Not that -- not to my knowledge.</p> <p>7 Q. When did you first start doing any work on</p> <p>8 the IPRs in this case?</p> <p>9 A. I believe that was in late September or</p> <p>10 early October of 2020.</p> <p>11 Q. What were you hired to do in late</p> <p>12 September/early October of 2020 in connection with</p> <p>13 the IPRs?</p> <p>14 A. To produce a -- sorry. To produce an</p> <p>15 expert report or declaration to review patents and</p> <p>16 make comments as a person of skill in the art.</p> <p>17 Q. Did you understand at that time that you</p> <p>18 were going to be providing a declaration in support</p> <p>19 of petitioners' replies in the IPRs?</p> <p>20 A. Yeah, I believe that was explained.</p> <p>21 Q. Did you gain any understanding of why</p> <p>22 Mr. Hillstead was not providing any declaration in</p> <p>23 support of the replies?</p> <p>24 A. No, I do not.</p> <p>25 MR. MORTON: Asked and answered.</p>

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1 BY MR. WINKELS:
2 Q. Now, what have you all reviewed in
3 connection with this case? You said in preparation
4 for the deposition you reviewed your declaration
5 and some of the key exhibits. But in your work on
6 this case, what documents have you all reviewed?
7 A. Well, I believe --
8 MR. MORTON: Objection.
9 A. -- let's see -- so I've looked at, read --
10 trying to think what the best way to go through the
11 list is.
12 Q. I'll start identifying some things and you
13 can tell me, yes or no, you've reviewed it, and
14 then we'll see if I missed anything.
15 A. Okay.
16 Q. Have you reviewed the five patents that are
17 at issue in these IPRs?
18 A. Can you cite the patent numbers? Because
19 I've reviewed the one -- a Root patent, 8,048,032.
20 Q. Okay. And in your binder, that's listed as
21 Exhibit 1001, right?
22 A. Yes.
23 Q. Have you also reviewed the next tab in your
24 binder, which is also Exhibit 1001 but it's in a
25 different IPR, and it's the patent that is the

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1 No. RE45,380?
2 A. I have not. I think I just looked at the
3 cover page to verify it's a re-exam patent, but I
4 haven't reviewed the contents of it.
5 Q. Okay. So you have not looked at the claims
6 of the '380 patent; is that right?
7 A. That is correct.
8 Q. And the next tab in your binder is
9 Patent RE45,760. Have you reviewed the '760
10 patent?
11 A. Same thing. Just looked at the cover page
12 of it and that was all.
13 Q. And so you have not reviewed the claims of
14 the '760 patent, correct?
15 A. No, I have not.
16 Q. And if I refer to patent numbers by their
17 last three numbers, will you understand what I'm
18 referring to?
19 A. Yes.
20 Q. Okay. Next tab in your binder is
21 Exhibit 1001, Patent No. RE45,776. Am I correct
22 that you have not reviewed the '776 patent or
23 patent claims?
24 A. Same thing. I've looked at the cover page,
25 verify what it is, and then did not review the

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1 claim.
2 Q. And then lastly, the next tab in your
3 binder is Exhibit 1001. It's Patent RE47,379. Am
4 I correct that you did not review the '379 patent
5 or the '379 claims?
6 A. Same thing. I looked at the cover page,
7 verify what it was, and then did not review the
8 claims.
9 Q. Did you review the '032 patent claims?
10 A. I think I looked at Claim 1 of the '032
11 when I originally was interviewed for the case.
12 Q. But in connection with your work on these
13 IPRs, you have not reviewed all of the claims of
14 the '032 patent, right?
15 A. That is correct.
16 Q. Okay. Have you reviewed the file histories
17 for the five patents that we just went over?
18 A. No, I have not.
19 Q. Have you reviewed any aspect of the file
20 histories?
21 A. No, I have not.
22 Q. Now, based on your declaration, I take it
23 you've reviewed some prior patents, correct?
24 A. Yes, I have.
25 Q. Have you reviewed any prior patents that

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1 are not identified in your declaration?
2 A. Oh. No. No. I think the declaration
3 covers pretty much everything that -- or everything
4 that we reviewed or referenced in my declaration.
5 Q. Okay. Have you reviewed the declarations
6 that Dr. Brecker or Mr. Hillstead provided in this
7 case?
8 A. I reviewed the declaration of
9 Dr. Hillstead. I don't think I've seen the
10 declaration of Dr. Brecker.
11 Q. And did you just review one declaration of
12 Dr. Hillstead?
13 A. Yes. I believe it was just one.
14 Q. And have you reviewed any declarations from
15 Mr. Zalesky?
16 A. Not to my knowledge, I have not.
17 Q. Have you reviewed the declarations from
18 patent owners' expert Mr. Keith?
19 A. Yes.
20 Q. Do you recall how many declarations from
21 Mr. Keith you reviewed?
22 A. No, I don't. I think it was -- I believe
23 it to be just one.
24 Q. Have you reviewed the declaration or
25 declarations from Dr. Graham, who was a

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