

Filed: January 22, 2021

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MEDTRONIC COREVALVE LLC,

PETITIONER,

V.

COLIBRI HEART VALVE LLC,

PATENT OWNER.

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Case No. IPR2020-01454

U.S. Patent No. 9,125,739

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**DECLARATION OF SARAH E. SPIRES IN SUPPORT OF SUR-REPLY TO  
PATENT OWNER'S PRELIMINARY RESPONSE  
UNDER 35 U.S.C. § 313 AND 37 C.F.R. § 42.107**

Pursuant to 28 U.S.C. § 1746, I, Sarah E. Spires, hereby declare as follows:

1. I am over the age of eighteen and otherwise competent to make this declaration. I have personal knowledge of the facts contained in this declaration, and they are true and correct.

2. I am a Partner with the law firm of Skiermont Derby LLP, which represents the Patent Owner, Colibri Heart Valve, LLC (“Colibri”) in this proceeding. I am a registered patent attorney and am lead counsel in this proceeding.

3. Ex. 2012 is a true and correct copy of docket entry 71 in Case No. 8:19-cv-02105-DOC-ADS, filed March 19, 2020, in the United States District Court for the Central District of California Southern Division, and entitled “Stipulated Request to Suspend Case Schedule and Set April 8, 2020, Deadline for Filing Joint Status Report.” This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

4. Ex. 2013 is a true and correct copy of Judge Carter’s “Judges’ Requirements” page on the website <https://www.cacd.uscourts.gov/honorable-david-o-carter>, as it existed and was printed to PDF on January 21, 2021. This document has been marked with an exhibit label and page numbers on each page at

the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

5. Ex. 2014 is a true and correct copy of Judge Carter's Amended Calendar for Wednesday, January 13, 2021. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

6. Ex. 2015 is a true and correct copy of an article entitled "Fauci says herd immunity possible by fall, 'normality' by end of 2021" from the December 10, 2020 Harvard Gazette. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

7. Ex. 2016 is a true and correct copy of an email chain entitled "Re: Colibri v. Medtronic, 8:20-cv-847 (C.D. Cal.) – Medtronic's [sic] Rebuttal Claim Construction Brief, with the top email being sent on January 21, 2021 by the Technical Special Master, David Keyzer, to Colibri's counsel in Case No. 8:20-cv-00847-DOC-JDE. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

8. Ex. 2017 is a true and correct copy of an email entitled “Stipulation Regarding IPRs” sent on December 2, 2020 by Petitioner’s counsel in Case No. 8:20-cv-00847-DOC-JDE to Colibri’s counsel in Case No. 8:20-cv-00847-DOC-JDE. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

Under penalty of perjury, I declare the above statements as true and accurate to the best of my recollection. I further state that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the U.S. Code.

Executed on this 22<sup>nd</sup> day of January, 2021.

/Sarah E. Spires/

Sarah E. Spires (Reg. No. 61,501)