

Appendix A-2
Invalidity of U.S. 9,125,739 in View of Bessler, Klint and Teitelbaum

The asserted claims of the '739 patent are anticipated or obvious over United States Patent No. 5,855,601 ("Bessler"), U.S. Patent Publication No. 2001/0044633 ("Klint") and U.S. Patent No. 5,332,402 ("Teitelbaum"), alone or in combination with the common knowledge of a person of ordinary skill in the art ("POSITA") and/or in combination with one or more other references cited in Medtronic's Invalidation Contentions, including other charted references.

Bessler was filed on June 21, 1996, published on January 5, 1999, so it is prior art under 35 U.S.C. § 102(a), (b).

The citations provided below are exemplary and do not necessarily include each and every disclosure of the limitations of the asserted claims. Medtronic has endeavored to cite to the most relevant portions of the identified prior art, but other portions may be disclosed either expressly or inherently, and/or render obvious one or more limitations of the asserted claims. Thus, Medtronic has the right to rely on: (1) uncited portions of the identified prior art; (2) other prior art not identified herein; (3) references to the state of the art (irrespective of whether such references themselves qualify as prior art to the asserted patents); (4) testimony from the inventors or authors of the prior art references, or purveyors of prior art devices; and/or (5) expert testimony in the context to or aid in understanding the prior art and the state of the art at the time of the alleged invention.

The lack of a citation for an element should not be deemed an admission that the element is not disclosed or is not disclosed by the reference. When the chart indicates a particular reference discloses or embodies a limitation, the terms "disclosed," "embodies," and "embodied" refer to explicit and/or inherent disclosure and/or obvious variations of the actual limitation. To the extent Medtronic asserts that a claim is indefinite, Medtronic has used its best efforts to reasonably interpret the claim and their duties in charting the prior art references.

Where Medtronic cites to a particular drawing or figure in the accompanying charts, the citation encompasses the drawing or figure, as well as any text associated with the drawing or figure. Similarly, where citations are made to text concerning a drawing or figure, the citation encompasses that drawing or figure. Certain identified prior art inherently disclose features of the asserted claims. Medtronic reserves the right to rely on inherency to demonstrate the invalidity of the asserted claims. Moreover, certain prior art references may inherently disclose certain features of the asserted claims as construed. Medtronic may rely on cited or uncited portions of the prior art, other documents, factual testimony, and expert testimony to demonstrate the inherency of certain features of the prior art to invalidate the asserted claims.

To the extent Colibri contends that the prior art reference does not disclose any particular limitation of the asserted patent, either expressly or inherently, it would have been obvious to a person of ordinary skill in the art as of the time of the invention to modify the reference and/or to combine its teachings with other prior art references, including but not limited to the prior art references identified in Medtronic's invalidity contentions and the relevant sections of the claim charts for the asserted patent in a manner that renders such claims invalid as obvious.

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It would have been obvious under 35 U.S.C. § 103 to a person having ordinary skill in the art at the time of the invention to combine the teachings of Bessler with the following references:

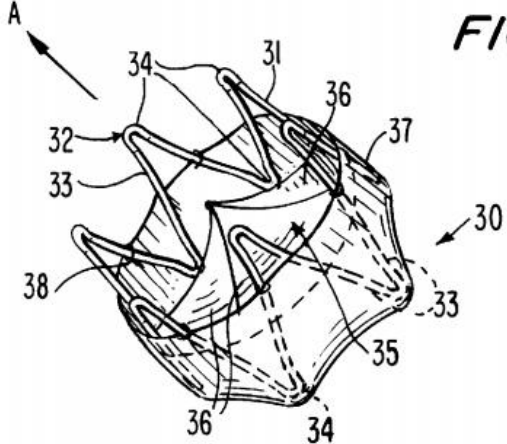
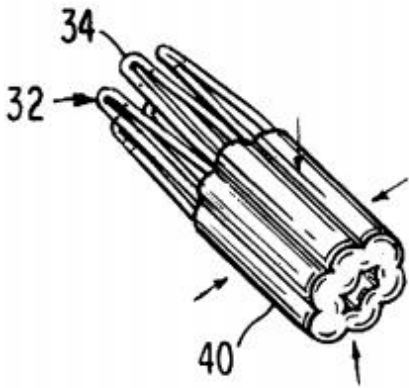
1. Klint, which was filed on January 28, 2000, published on July 8, 2003, so it is prior art under 35 U.S.C. § 102(b) and (e).
2. Teitelbaum, which was filed on May 12, 1992, published on July 26, 1994, so it is prior art under 35 U.S.C. § 102(b) and (e).

	Claim language	Exemplary disclosure
1.pre	An assembly to treat a native heart valve in a patient, the assembly for use in combination with a guidewire, the assembly comprising:	<p>To the extent this preamble is limiting, Bessler and Leonhardt disclose “to treat a native heart valve in a patient, the assembly for use in combination with a guidewire, the assembly comprising.”</p> <p>For example, Bessler discloses an assembly (an “artificial heart valve”) for use in combination with a guidewire to treat a native heart valve in a patient:</p> <p style="padding-left: 40px;">The present invention relates to novel artificial heart valves. More specifically, the present invention relates to novel heart valves that are especially adapted for placement using minimally invasive surgical techniques and a delivery device useful for such placement.</p> <p>Bessler at col. 1, lines 7-11. Bessler further discloses that the artificial heart valve in combination with a guidewire:</p> <p style="padding-left: 40px;">A guidewire 94 having a blunt end 95 is disposed through a channel 93 of a pusher member 93 and is used to guide the distal end of the catheter to the desired site.</p> <p>Bessler at col. 7, lines 35-38.</p>
1.a	a prosthetic heart valve including: a stent member having an inner channel, the stent member collapsible,	Bessler discloses “a prosthetic heart valve including: a stent member having an inner channel, the stent member collapsible, expandable and configured for percutaneous delivery, wherein.”

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	<p>expandable and configured for transluminal percutaneous delivery, wherein</p>	<p>For example, Bessler discloses an artificial heart valve with a stent member and a valve means that is self-expandable:</p> <p style="padding-left: 40px;">The invention includes a new heart valve which may be delivered percutaneously and transluminally, which heart valve comprises a stent member and a valve means. The stent member is self-expanding and the valve means permit flow in only one direction.</p> <p>Bessler at col. 2, lines 57-62. Bessler further discloses that the replacement device is configured for percutaneous delivery.</p> <p style="padding-left: 40px;">The present invention includes methods and devices for installing a heart valve percutaneously and transluminally. The artificial heart valve of the invention, which are capable of exhibiting a variable diameter in a compressed or collapsed position and an expanded position, includes (1) a relatively rigid stent member and (2) a flexible valve means. The stent member is self-expanding and has a first cylindrical shape in its collapsed configuration and a second, larger cylindrical shape in its expanded configuration.</p> <p>Bessler at col. 3, lines 46-55. The drawings below show the stent member in its collapsed configuration:</p>
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		 <p align="right">FIG. 4</p> <p>Bessler at FIG. 4 (showing stent in an expanded configuration).</p>  <p align="right">FIG. 5</p> <p>Bessler at FIG. 5 (showing stent in a collapsed configuration).</p>
1.b	the stent member includes a tubular structure away from a central portion that flares at	The combination of Bessler and Teitelbaum discloses “the stent member includes a tubular structure away from a central portion that flares at both ends in a tubular structure” and”

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	both ends in a trumpet-like configuration; and	<p>For example, Teitelbaum teaches a tubular structure away from a ce at both ends in a trumpet-like configuration:</p> <p>The percutaneous cardiac valve has two possible design consists of two components. In the first design, one of the meshwork of nitinol wire of approximately 0.008 inch gau tubular structure with a minimum central diameter of 20 m central portion, the tubular structure flares markedly at both like configuration. The maximum longitudinal dimension o which shall be referred to as the stent or doubly-flared sten 20 mm. The maximum diameter of the flared ends of the sten 30 mm. The purpose of the stent is to maintain a semi-rig through the diseased cardiac valve following its balloon di ends of the stent maintain the position of this component valve following deployment. The stent contains a thin h coating that helps prevent thrombus formation along the in stent.</p> <p>Teitelbaum at col. 2, lines 21-39.</p>
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