

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

TMT SYSTEMS, INC., )  
)  
Plaintiff, )  
)  
v. )  
)  
MEDTRONIC, INC. and )  
MEDTRONIC USA, INC. )  
)  
Defendants. )

C.A. No. 6:20-cv-00973-ADA

**JOINT CLAIM CONSTRUCTION STATEMENT**

In accordance with the Proposed Order Governing Proceedings (ECF Nos. 25-1 and 25-2) submitted by the parties and the joint notice to the Court sent on June 15, 2021, Plaintiff TMT Systems, Inc. (“TMT”) and Defendants Medtronic, Inc. and Medtronic USA, Inc. (“Defendants”) submit this Joint Claim Construction Statement. The patent involved in this case is U.S. Patent No. 7,101,393 (the “’393 patent”), attached as Exhibit A. The ’393 patent claims that are asserted in the above-referenced case are claims 1, 2, 4, 10, 11, and 26.

## I. LIST OF DISPUTED TERMS FOR CONSTRUCTION

The parties provide the following list of disputed terms for construction:

| Claim Term (Claim No.)   | TMT’s Proposed Construction   | Defendants’ Proposed Construction  |
|--|---|--|
| whether the preamble is limiting<br><br>(claims 1, 26)<br><br>Proposed by TMT. | the preamble is limiting in its entirety  | preamble is not limiting   |
| “endovascular apparatus”<br><br>(claims 1, 26)<br><br>Proposed by TMT.         | “endovascular graft for the treatment of aneurysms or arterial blockages”         | preamble is not limiting   |
| “telescoping arms”<br><br>(claims 1, 26)<br><br>Proposed by TMT.               | “arms that telescope in the manner of a presentation pointer and/or an accordion” | “plain and ordinary meaning, which is more than one telescoping arm”   |
| “telescoping arm”<br><br>(claim 26)<br><br>Proposed by Defendants.             | “plain and ordinary meaning, which is one of the telescoping arms”                | “plain and ordinary meaning, which is an arm that telescopes, such as in the manner of a presentation pointer or an accordion” |
| “perimeter of variable length”<br><br>(claim 1)<br><br>Proposed by Defendants. | no construction required;<br>plain and ordinary meaning                           | “boundary that has a varying length as each arm telescopes”  |

| Claim Term (Claim No.)   | TMT's Proposed Construction   | Defendants' Proposed Construction  |
|--|---|--|
| <p>“the arms being operatively connected to one another so as to form a perimeter of variable length”</p> <p>(claim 1)</p> <p>Proposed by TMT.</p><br><p>“operatively connected” / “connected”</p> <p>(claims 1, 26)</p> <p>Proposed by Defendants.</p>                            | <p>“the arms being connected to one another to form a perimeter of variable length capable of reducing leakage around the perimeter of the tubular sleeve”</p><br><p><u>[the arms being] “operatively connected” [to one another so as to form a perimeter of variable length]:</u></p> <p>“the arms being connected to one another to form a perimeter of variable length capable of reducing leakage around the perimeter of the tubular sleeve”</p><br><p><u>“connected”</u>: no construction required; plain and ordinary meaning</p> | <p>“the arms being distinct structures functionally connected to one another so as to form a boundary that has a varying length as each arm telescopes”</p><br><p>“distinct structures functionally connected”</p> |
| <p>“the telescoping arms are operatively coupled to one another at an angle so that multiple telescoping arms form the shape of a M”</p> <p>(claim 1)</p> <p>Proposed by TMT.</p><br><p>“operatively coupled” / “coupled”</p> <p>(claims 1, 26)</p> <p>Proposed by Defendants.</p> | <p>“the telescoping arms are positioned in multiple planes at an angle so that multiple telescoping arms form the shape of a M capable of exerting enough radial force when expanded to fix into the aorta and thereby reduce blood leaks around the endovascular graft”</p><br><p><u>[the telescoping arms are] “operatively coupled” [to one another at an angle so that multiple telescoping arms form the shape of a M]:</u></p> <p>“the telescoping arms are positioned in multiple planes</p>                                       | <p>“the telescoping arms are distinct structures functionally coupled to one another at an angle so that multiple telescoping arms form the shape of a M”</p><br><p>“distinct structures functionally coupled”</p> |

| Claim Term (Claim No.)   | TMT's Proposed Construction   | Defendants' Proposed Construction |
|--|---|-----------------------------------|
|  | <p>at an angle so that multiple telescoping arms form the shape of a M capable of exerting enough radial force when expanded to fix into the aorta and thereby reduce blood leaks around the endovascular graft”</p> <p>“coupled”: no construction required; plain and ordinary meaning</p> |                                   |
| <p>“shape of a M” /<br/>“shape of multiple Ms” /<br/>“M configuration”<sup>1</sup></p> <p>(claims 1, 2, 26)</p> <p>Proposed by Defendants.</p> | <p>no construction required;<br/>plain and ordinary meaning</p>   | <p>plain and ordinary meaning</p> |

<sup>1</sup> TMT contends that the plain and ordinary meaning requires the shape of an M to consist of four arms where the pair of inner arms and the pair of outer arms differ in length. TMT believes the parties simply have a factual dispute over infringement or invalidity, not claim construction. Defendants contend that the plain and ordinary meaning of the “M” shape terms is not limited to any specific configuration. Defendants request that the Court construe these terms because the parties disagree on the terms’ plain meaning.

Dated: June 28, 2021

Respectfully submitted,

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