

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC., MEDTRONIC VASCULAR, INC., AND
MEDTRONIC COREVALVE, LLC,
Petitioner,

v.

TROY R. NORRED, M.D.,
Patent Owner.

Case IPR2014-00110 and
IPR2014-00111¹
Patent 6,482,228 B1

Before SHERIDAN K. SNEDDEN, BARRY L. GROSSMAN, and
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

GROSSMAN, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

A conference call was conducted on October 8, 2014, during which
counsel for Petitioner, Mr. Finkel, and counsel for Patent Owner, Mr.
Marcus, appeared before Administrative Patent Judges Grossman and

¹ We use this caption in this paper to indicate that this Order is to be entered
in both trials. The parties are not authorized to use this caption.

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Snedden. Petitioner initiated the call to obtain guidance regarding the scope of Patent Owner's questions on re-direct examination of a deposition witness, Dr. Troy Norred. A court reporter transcribed the telephone conference.

Counsel for Petitioner, Mr. Finkel, questioned the witness about Exhibits 2001 and 2002 in IPR2014-00110 and the corresponding exhibits, Exhibits 2101 and 2102, in IPR2014-00111. On re-direct examination of the witness, Mr. Marcus questioned the witness about Exhibit 2003 in IPR2014-00110 and the corresponding exhibit, Exhibit 2103, in IPR2014-00111. Mr. Finkel objected to the use of Exhibits 2003 and 2103 as being beyond the scope of the cross-examination testimony of Dr. Norred. Mr. Finkel also objected to the lack of authentication of Exhibit 2003 (in IPR2014-00110) and Exhibit 2103 (in IPR2014-00111). Mr. Finkel brought this matter to our attention because he wanted to preclude testimony regarding Exhibits 2003 and 2103.

All exhibits identified above are exhibits in either IPR2014-00110 or IPR2014-00111, and thus have been proffered as evidence in the respective *inter partes* review. 37 C.F.R. § 42.63(a) ("Evidence consists of affidavits, transcripts of depositions, documents, and things. All evidence must be filed in the form of an exhibit.") The fact that a document is an exhibit and thus is proffered as evidence, does not establish that the document is admissible or establish its probative value. It does establish, however, that the document is relevant for inquiry during a deposition.

The cross-examination of Dr. Norred relied on Exhibits 2001, 2002, 2101 and 2102. These exhibits are hand-drawn sketches, asserted to be by Dr. Norred, and asserted to relate to Dr. Norred's development of the

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invention described and claimed in Patent No. 6,482,228. Exhibits 2003 and 2103 also are hand-drawn sketches, asserted to be by Dr. Norred, and asserted to relate to Dr. Norred's development of the invention described and claimed in Patent No. 6,482,228. Exhibits 2003 and 2103 are relevant for inquiry during re-direct examination of Dr. Norred based on the scope of the cross-examination. Any objections to the questions asked of Dr. Norred during re-direct testimony or objections to Exhibits 2003 and 2103 made on the record during the deposition are preserved for later consideration, if necessary. 37 C.F.R. § 42.53(f)(3) ("Exhibits objected to shall be accepted pending a decision on the objection."); *see also* § 42.53(f)(4), (8).

ORDER

For the reasons given, it is:

ORDERED that Patent Owner's counsel may obtain re-direct deposition testimony from Dr. Norred concerning Exhibit 2003 in IPR2014-00110 and Exhibit 2103 in IPR2104-00111 during the deposition held on October 8, 2014. Any objections to the questions asked of Dr. Norred during re-direct testimony or objections to Exhibits 2003 and 2103 made on the record during the deposition are preserved for later consideration, if necessary.

FURTHER ORDERED that the parties shall file a transcript of the telephone conference in each of IPR2014-00110 and IPR2014-00111.

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