

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MEDTRONIC, INC.,
Plaintiff

No. 07-00567 MMC

v.

AGA MEDICAL CORPORATION,
Defendant

**ORDER DENYING DEFENDANT'S
NOVEMBER 23, 2009 ADMINISTRATIVE
REQUEST TO FILE DOCUMENTS
UNDER SEAL**

Before the Court is defendant's administrative request, filed November 23, 2009, to file under seal Exhibit 3 to the Declaration of Steven D. Hemminger ISO AGA's Motion in Limine to Preclude Prof. Janicke's Testimony and Opinions (1) Regarding Inequitable Conduct, and (2) Included in His Suppl. Rebuttal Expert Report Regarding File Histories, Obviousness-Type Double Patenting, and Applicability of 35 U.S.C. § 121. Having read and considered the administrative request, the Court rules as follows.

Defendant seeks leave to file under seal the entirety of the above-referenced exhibit on the ground that plaintiff has designated the entirety of such document as confidential.

Under the Local Rules of this District, where a party seeks to file under seal any material designated as confidential by another party, the submitting party must file a motion for a sealing order. See Civil L.R. 79-5(d). "Within five days thereafter, the designating party must file with the Court and serve a declaration establishing that the designated

1 information is sealable, and must lodge and serve a narrowly tailored proposed sealing
2 order, or must withdraw the designation of confidentiality.” Id. “If the designating party
3 does not file its responsive declaration as required by this subsection, the document or
4 proposed filing will be made part of the public record.” Id.

5 Here, the designating party, plaintiff, has not filed a responsive declaration within the
6 requisite time.

7 Accordingly, the administrative request is hereby DENIED, and the Clerk is
8 DIRECTED to file the above-referenced exhibit in the public record.

9 **IT IS SO ORDERED.**

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11 Dated: January 4, 2010


MAXINE M. CHESNEY
United States District Judge

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