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AGA MEDICAL CORPORATION

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION
18

19 MEDTRONIC, INC., a Minnesota
corporation, MEDTRONIC USA, INC., a
20 Minnesota corporation, and MEDTRONIC
VASCULAR, INC., a Delaware
21 corporation,

22 Plaintiffs,

23 v.

24 AGA MEDICAL CORPORATION, a
Minnesota corporation,

25 Defendant.
26

Case No. C07-00567 MMC

**STIPULATION AND ~~PROPOSED~~
ORDER REQUESTING SPECIAL STATUS
CONFERENCE TO REQUEST TWO
WEEK EXTENSION OF TIME TO
COMPLETE FACT DEPOSITIONS AND
EXPERT DISCOVERY ; ORDER**

Date: November 14, 2008

Time: 10:30 a.m.

Location: Courtroom 7, 19th Floor

1 Pursuant to Fed. R. Civ. P. 16, Civ. L. R. 6-2 , 16-10(c), and Rule 6 of the Court's
2 Standing Order, Medtronic, Inc., Medtronic USA, Inc., and Medtronic Vascular, Inc.
3 (collectively, "Medtronic") hereby submit this stipulated request for a special status conference in
4 accordance with the Court's September 22, 2008 Order to request the Court for an order granting
5 a two week extension of time within which to complete fact depositions and expert discovery,
6 including the exchange of expert reports. This modification to the Court's March 11, 2008
7 Pretrial Preparation Order (Dkt. No. 100) is requested to accommodate the schedules of witnesses
8 and counsel for depositions that have already been noticed. This time modification will not alter
9 any other dates on the schedule for this case.

10 On September 4 and 12, 2008, Medtronic and AGA (collectively, the "Parties") filed
11 Stipulated Requests for Continuance of Pretrial and Trial Dates. Dkt. Nos. 110, 112. These
12 Requests were denied for *inter alia*, failing to show good cause for the relief requested and
13 because the proposed schedule did not provide sufficient time between the proposed dispositive
14 motion hearing date and the proposed deadline for filings submitted in connection with the
15 Pretrial Conference. Dkt. Nos. 111, 113. In its September 22, 2008 Order, the Court indicated
16 that a Stipulated Request for a Status Conference should be filed if the Parties wished to further
17 pursue the continuance of any pretrial dates. Medtronic, therefore, submits this stipulation to
18 request a special status conference to request a two week extension within which to complete fact
19 depositions and expert discovery. This request is supported by good cause and will not affect any
20 additional dates, including dispositive motion dates.

21 Good cause exists to extend the fact discovery cut-off date because of scheduling conflicts
22 related to a number of fact witnesses sought to be deposed within the limited number of days
23 remaining in the current discovery period. Counsel for the Parties have met and conferred
24 multiple times in an attempt to schedule all remaining depositions within the existing timeframe.
25 However, due to the number of party and third-party witnesses requested, scheduling difficulties,
26 and geographic locations of these witnesses, a schedule could not be reached for all the witnesses
27 by December 5, 2008, the current fact discovery cut-off deadline. To date, the Parties have
28 noticed multiple third party and party witnesses. The geographic locations of these witnesses

1 extend from Anchorage, Alaska to Boston, Massachusetts, and include Minneapolis, Minnesota,
2 Pasadena, Santa Rosa and Palo Alto, California.

3 As a consequence of an extension to complete fact depositions by two weeks, good cause
4 also exists to extend the date within which to complete expert discovery by two weeks, including
5 the exchange of expert reports. Allowing the parties to complete fact depositions by December
6 19, 2008 and expert discovery by February 27, 2009 will ease the burden imposed on witnesses,
7 counsel and the Parties, without imposing any burdens on judicial resources. All remaining
8 pretrial dates are unaffected by this requested extension.

9 Previously, the Parties have stipulated to extending the times to Answer the Complaint,
10 Reply to the Answer and Counterclaims, Exchange Preliminary Claim Constructions and
11 Extrinsic Evidence, Disclose Expert Witnesses, Exchange Claim Construction Exhibits and
12 Tutorial Materials, and Filing a Redacted Claim Construction Brief and Declaration Exhibits.

13 Although the Court's September 22, 2008 Order indicates that a Stipulated Request for a
14 Status Conference should be filed if the Parties wish to pursue the continuance of any pretrial
15 dates, Counsel for Medtronic spoke to the Court's clerk, Tracy Lucero, today who indicated that a
16 status conference may not be necessary. However, Counsel for the Parties are available for a
17 further status conference if the Court believes it is necessary.

18 .Dated: November 13, 2008

Respectfully submitted,

19 DECHERT LLP

20 By: /s/ Noemi C. Espinosa
21 Noemi C. Espinosa

22 Counsel for Plaintiffs
23 MEDTRONIC, INC., MEDTRONIC
24 USA, INC., AND MEDTRONIC
25 VASCULAR, INC.

26 Dated: November 13, 2008

ALSTON & BIRD LLP

27 By: /s/ Steven D. Hemminger
28 Steven D. Hemminger

Counsel for Defendant
AGA MEDICAL CORPORATION

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FILER'S ATTESTATION

I, Noemi C. Espinosa, attest pursuant to General Order No. 45 that concurrence in the filing of this document has been obtained from Steven D. Hemminger.

Dated: November 13, 2008

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~~PROPOSED~~ ORDER

Before this Court is the Stipulated Request for a Special Status Conference to request a two week extension of time within which to complete fact depositions and expert discovery, including the exchange of expert reports.

This Court, having considered the Stipulated Request, hereby orders the following:

~~1. The Special Status Conference is scheduled for November 14, 2008 at 10:30 a.m., Courtroom 7, 19th Floor, OR~~

2. The fact discovery cut-off date of December 5, 2008 is extended two weeks to December 19, 2008 solely to permit completion of fact depositions already noticed. The last day for expert discovery is extended two weeks, including the exchange of expert reports, to February 27, 2009. The above extensions, however, shall not serve as good cause to extend the trial date or any other pretrial dates, including the dispositive motion filing date.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: November 17, 2008 _____



HON. MAXINE M. CHESNEY
UNITED STATES DISTRICT COURT JUDGE