

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

MEDTRONIC, INC., et al.,
Plaintiffs,
v.
AGA MEDICAL CORPORATION,
Defendant.

No. C-07-567 MMC

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
ADMINISTRATIVE REQUEST TO FILE
DOCUMENTS UNDER SEAL**

Before the Court is defendant AGA Medical Corporation's ("AGA") Administrative Request, filed January 21, 2009, to file under seal documents relating to its motion for leave to amend its Answer. Having read and considered the request and the declarations of Marissa R. Ducca and Joshua C. Walsh-Benson in support thereof, the Court rules as follows:

1. With respect to page 3, lines 3-5 and 9-10, of AGA's Motion for Leave to Amend Its Answer and Counterclaims ("Motion for Leave"); paragraph 7 of the Declaration of Steven D. Hemminger in support of AGA's Motion for Leave ("Hemminger declaration"); and Exhibit E to the Hemminger declaration, the motion is hereby GRANTED.

2. With respect to page 6, lines 15-16, and page 9, lines 16-17, of AGA's Motion for Leave, and paragraphs 24, 25, and 60 of Exhibit A to the Hemminger declaration, AGA states such material was designated confidential by plaintiffs Medtronic, Inc., Medtronic

1 USA, Inc., and Medtronic Vascular, Inc. (collectively, "Medtronic"). (See Ducca Decl. ¶ 3.)

2 Under the Local Rules of this District, where a party seeks to file under seal any
3 material designated as confidential by another party, the submitting party must file a motion
4 for a sealing order. See Civ. L.R. 79-5(d). "Within five days thereafter, the designating
5 party must file with the Court and serve a declaration establishing that the designated
6 information is sealable, and must lodge and serve a narrowly tailored proposed sealing
7 order, or must withdraw the designation of confidentiality." Id. "If the designating party
8 does not file its responsive declaration as required . . . the document or proposed filing will
9 be made part of the public record." Id.

10 Here, Medtronic has stated it does not seek to have the above-referenced material
11 filed under seal. (See Walsh-Benson Decl. ¶¶ 5, 7.) Accordingly, with respect to such
12 material, the motion is hereby DENIED.

13 3. The Clerk shall file under seal unredacted versions of AGA's Motion for Leave,
14 the Hemminger declaration, and Exhibit E thereto. AGA shall file in the public record, no
15 later than February 5, 2009, redacted versions of the Motion for Leave and the Hemminger
16 declaration, redacting only the above-referenced portions thereof. If AGA wishes the Court
17 to consider Exhibit A to the Hemminger declaration, AGA shall file such exhibit, no later
18 than February 5, 2009, in the public record.

19 **IT IS SO ORDERED.**

20
21 Dated: January 29, 2009


MAXINE M. CHESNEY
United States District Judge

22
23
24
25
26
27
28