

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

No. C-07-0567 MMC

**ORDER GRANTING IN PART AND DENYING IN PART MEDTRONIC'S MOTION TO FILE DOCUMENTS UNDER SEAL; DIRECTIONS TO MEDTRONIC; DIRECTIONS TO CLERK**

Before the Court is plaintiffs Medtronic, Inc., Medtronic USA, Inc., and Medtronic Vascular, Inc.'s (collectively, "Medtronic") Administrative Motion to File Documents under Seal, filed March 13, 2009. Having read and considered the motion and the declarations of James J. Elacqua and Marissa R. Ducca in support thereof, the Court rules as follows.

1. With respect to Exhibits 1-9, 12, 16, 17, 24-28, and 32-37 to the Declaration of Joshua C. Walsh-Benson in Support of Medtronic's Oppositions to defendant AGA Medical Corporation's ("AGA") Motions for Summary Judgment ("Walsh-Benson Opposition Declaration"), the Declaration of Jeffrey A. Feinstein, M.D., the Declaration of Dr. Robert Sinclair, and the unredacted versions of Medtronic's Opposition to AGA's Motion for Summary Judgment (#1) of Noninfringement on the Ground that the Accused Products Do Not Exhibit Stress-Induced Martensite and Medtronic's Opposition to AGA's Motion for Summary Judgment #3 (Infringement), the motion is GRANTED.

1           2. With respect to Exhibits 13 and 14 to the Walsh-Benson Opposition Declaration,  
2 Medtronic states such documents have been designated confidential by AGA. Under the  
3 Local Rules of this District, where a party seeks to file under seal any material designated  
4 as confidential by another party, the submitting party must file a motion for a sealing order.  
5 See Civ. L.R. 79-5(d). “Within five days thereafter, the designating party must file with the  
6 Court and serve a declaration establishing that the designated information is sealable, and  
7 must lodge and serve a narrowly tailored proposed sealing order, or must withdraw the  
8 designation of confidentiality.” Id.

9           Here, AGA has stated it does not seek to file under seal Exhibits 13 and 14 to the  
10 Walsh-Benson Opposition Declaration. (See Ducca Decl. ¶ 7.) Accordingly, with respect  
11 to such documents, the motion is DENIED.

12           Accordingly, the Clerk shall file under seal the above-referenced documents found in  
13 section 1 above to be sealable. If Medtronic wishes the Court to consider any document  
14 not found to be sealable, Medtronic shall file such document in the public record no later  
15 than March 27, 2009.

16           **IT IS SO ORDERED.**

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18 Dated: March 23, 2009

  
MAXINE M. CHESNEY  
United States District Judge

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