

1 [List of Counsel Appears on Last Page]

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA, a California  
corporation,

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Plaintiff,

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v.

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MICRO THERAPEUTICS, INC., a Delaware  
corporation, and DENDRON GmbH, a  
German corporation,

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Defendants and Third Party Plaintiffs,

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v.

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BOSTON SCIENTIFIC CORPORATION, a  
Delaware corporation, and TARGET  
THERAPEUTICS, INC., a Delaware  
corporation,

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Third Party Defendants.

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Case No: C 03 05669 JW

**DECLARATION OF DR.  
KATHRYN D. MAROCCHINO**

1 I, Dr. Kathryn D. Marocchino, hereby declare:

2 1. I make this declaration in support of Micro Therapeutics, Inc.’s and Dendron  
3 GmbH’s (collectively “MTI”) Opposition to Plaintiff’s Motion for Summary Judgment of  
4 No Inequitable Conduct.

5 2. I hold a doctorate in Modern Foreign Languages and Literature from the  
6 Faculty of Letters of the University of Turin, Italy and trained in biological sciences for two  
7 years at the same institution. I also graduated from the Istituto Tecnico per Periti Aziendali  
8 e Corrispondenti in Lingue Estere “Santorre di Santarosa,” where I majored in languages  
9 and business. I spent most of my life in Europe, arriving permanently in the United States  
10 at the end of 1982.

11 3. I am currently a full professor in the Department of General Studies at  
12 California State University Maritime, and I also direct the Community Service Learning  
13 Center there, which I established in 2000. I previously held appointments as a lecturer at  
14 UC Davis, Stanford University and the University of Turin, Italy, as well as in various  
15 Italian technical institutes. Overall, my academic career spans over thirty years.

16 4. I am perfectly bilingual in both Italian and English and have published  
17 extensively in both languages, including numerous books, articles, anthologies and  
18 conference papers. I have also taught translation theory and methodology at the Istituto  
19 IPSEIT in Turin, Italy—a professional school for translators and interpreters—and have  
20 worked as a professional translator, interpreter and linguistic consultant for thirty-five years.

21 5. Although my research interests include literary translations (I am currently  
22 translating Lorenzo Stecchetti’s *Postuma* into English and have completed an Italian  
23 translation of a children’s book, *The Night Wears a Velvet Glove*, as well as a photography  
24 book, *Cuore di Tonno*, that is to be published shortly), I have dealt extensively with  
25 scientific and technical texts throughout my entire translating career, concentrating on  
26 technological, legal, pharmaceutical, and medical translations for the past seventeen years.  
27 A partial list of my publications, which I have either authored or translated, can be found in  
28 my curriculum vitae, which is attached hereto as Exhibit A. Within the same document is

1 an exhaustive listing of agencies, firms or institutions for whom I have done translation  
2 work as well as details on my academic service, awards and honors I have received, my  
3 educational background, my teaching career, and my grants.

4 6. I have been retained as a translation expert in this case by MTI.

5 7. I have reviewed the following in forming the opinions expressed herein:

6 a. The Italian language article by Guerrisi, et al., III Congresso Nazionale Di  
7 Neuroradiologia 09/29/1983 - 09/30/1983 Bari Atti Del Congresso;

8 *L'Elettrotrombosi Intravasale Nelle Malformazioni Vascolari Sperimentalmente*  
9 *Provocate* ("1983 Congresso Nazionale Paper"), attached hereto as Exhibit B.

10 b. A translation of the 1983 *Congresso Nazionale Paper* by Franco Cossu,  
11 dated May 27, 1995 (the "Cossu translation"), attached hereto as Exhibit C.

12 c. The Declaration of Jeffrey Schnapp, Ph.D., signed January 22, 2005 (the  
13 "Schnapp Declaration"), and the exhibits attached thereto.

14 8. The most obvious, plain and literal translation of the phrase "con rottura della  
15 punta dell'elettrodo nel fondo dell'aneurisma" is "with the tip of the electrode breaking  
16 inside the lower portion of one aneurysm," as in the certified translation of the 1983  
17 *Congresso Nazionale Paper* that I prepared, which is attached hereto as Exhibit D.

18 9. I prepared my certified translation (Exhibit D) of the 1983 *Congresso*  
19 *Nazionale Paper* after a request by Michelle Umberger in late June 2004. Prior to my  
20 translation, Ms. Umberger spoke to me by telephone about my availability to translate the  
21 1983 *Congresso Nazionale Paper* from Italian to English. Ms. Umberger told me that the  
22 translation was in connection with a lawsuit between MTI, which her firm represented, and  
23 the University of California and Boston Scientific Corporation. She did not tell me  
24 anything further about the dispute. She then sent me a copy of the article for which she  
25 requested a translation, the 1983 *Congresso Nazionale Paper*.

26 10. On June 29, 2004, I e-mailed my translation of the 1983 *Congresso Nazionale*  
27 *Paper* to Ms. Umberger. I subsequently sent her the certified translation that is attached  
28 hereto as Exhibit D by Federal Express. At no time prior to my preparation of Exhibit D

1 did Ms. Umberger discuss the contents of the 1983 paper, nor did she indicate or suggest in  
2 any way how I should translate the 1983 paper, or any word or portion thereof, nor did she  
3 tell me what the article discussed. Exhibit D is what I consider an accurate translation,  
4 without information beyond that disclosed in the *1983 Congresso Nazionale Paper*, and  
5 without any input, information or suggestion from any other person.

6 11. As to the Cossu translation and the Schnapp Declaration, while it is possible  
7 for “rottura” to mean “breakdown” in some contexts, the primary meaning of “rottura” is to  
8 “rupture” or to “break.” This is aptly shown in the Italian-English dictionaries that I  
9 routinely use, which are attached hereto as Exhibit E and include several technical  
10 dictionaries, all of which give “break,” “breaking” or “rupture” as the first English  
11 translation for “rottura.” I do not believe that any competent translator would likely choose  
12 “breakdown” or “decomposition” as the English translation of this phrase unless the  
13 translator was influenced to select such a translation by communication with another person  
14 or by reason of information that is not contained in the *1983 Congresso Nazionale Paper*  
15 itself.

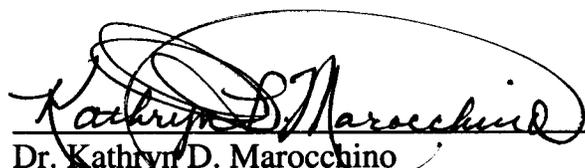
16 12. Furthermore, I strongly feel that if a native Italian speaker intended or wished  
17 to convey a “breakdown” or “decomposition,” that person would not have used the word  
18 “rottura;” rather, he would have used another Italian word that would much more precisely  
19 convey this meaning. For example, if the authors had intended to convey “decomposition,”  
20 they would have used the word “decomposizione,” which would be much more commonly  
21 understood as such and would more precisely convey “decomposition,” or if the authors had  
22 intended to convey “dissolution,” they would have used the word “dissoluzione” [as used in  
23 Guglielmi’s 1988 Italian patent application (Exhibit F hereto) at page 7, where it is obvious  
24 that “rottura” is distinct from dissolution – “rottura” is used to indicate breaking of the wire,  
25 and “dissoluzione” is used to indicate dissolution of a part of the wire to achieve breaking].

26 13. I also prepared a certified translation of an Italian Patent Application  
27 48707A88, 1224838 by Guglielmi, Dieci and Dominici for an Endovascular Device to  
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1 Occlude Endocranial Saccular Aneurysms Induced By Ferromagnetic Thrombosis. My  
2 certified translation of this Italian patent application is attached hereto as Exhibit F.

3 14. As with the translation of the *1983 Congresso Nazionale Paper*, Ms.  
4 Umberger requested the translation of the 1988 Italian patent application. Around  
5 November 24, 2004, I e-mailed my translation of the 1988 Italian patent application to Ms.  
6 Umberger and sent the certified translation to her by Federal Express. Ms. Umberger did  
7 not discuss the contents of the 1988 Italian patent application and neither indicated nor  
8 suggested to me how to translate the document, any word or portion thereof, prior to my  
9 preparation of this translation.

10 I declare under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct and that this declaration was executed this 2nd day of February  
12 2005, in Vallejo, California.

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14 Dr. Kathryn D. Marocchino  
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