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 THE REGENTS OF THE UNIVERSITY OF  
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12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14  
 15 BOSTON SCIENTIFIC CORPORATION  
 AND TARGET THERAPEUTICS, INC., a  
 16 California corporation,

17 Plaintiff,

18 v.

19 CORDIS NEUROVASCULAR,

20 Defendant.

Case No. 02-1474JW

**DECLARATION OF PATRICK PREMO IN  
 SUPPORT OF NON-PARTY THE  
 REGENTS OF THE UNIVERSITY OF  
 CALIFORNIA'S EX PARTE  
 APPLICATION COMPELLING THE  
 RETURN OF IMPROPERLY PRODUCED  
 DOCUMENTS**

Judge: Mag. Judge Bernard Zimmerman  
 Courtroom G, 15th Floor

21  
 22  
 23 I, PATRICK PREMO, declare:

24 1. I am an attorney duly licensed to practice in the state of California and before this  
 25 Court, and an associate with the law firm of Fenwick & West LLP in Mountain View, California.  
 26 Fenwick & West is counsel of record for Non-Party The Regents of the University of California  
 27 ("The Regents") in this action. I make the following statements based on my personal  
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1 knowledge. If I am called as a witness, I would and could testify competently regarding each of  
2 these statements.

3 2. I am the attorney coordinating The Regents' response to three subpoenas issued by  
4 Defendant Cordis Neurovascular in the above litigation. One of the subpoenas is directed to the  
5 University of California, Los Angeles ("UCLA") Medical Center and seeks production of  
6 confidential documents, including private medical records for patients treated for brain  
7 aneurysms using a medical device called the Guglielmi Detachable Coil.

8 3. I have attempted to work with counsel for the subpoenaing party, Lisa Schneider  
9 of Sidley Austin, to appropriately narrow the requests and ensure that patient privacy interests  
10 are protected. Although we were making progress, we had not reached an agreement. The  
11 parties were still exchanging proposals for resolution of our dispute. Attached as Exhibit A is a  
12 copy of Ms. Schneider's letter dated December 11, 2003.

13 4. During the week of December 15, Ms. Schneider and I exchanged multiple  
14 voicemail messages regarding the scope of the protective order applicable to this case, HIPAA  
15 compliance, and the meaning and scope of a court order issued against the University of  
16 Wisconsin. Attached as Exhibit B is a copy of the letter dated December 17, 2003 from Ms.  
17 Schneider responding in part to my concerns. Attached as Exhibit C is a copy of the Protective  
18 Order entered in the *Boston Scientific v. Cordis* action, which was sent for my review by Ms.  
19 Schneider on December 17, 2003.

20 5. In addition to the outstanding discovery dispute, I needed to conclude my analysis  
21 and review of documents under HIPAA to ensure that any production fully complied with the  
22 detailed provisions aimed at protecting patient privacy.

23 6. On the afternoon of December 18, 2003, before any agreement had been reached, I  
24 learned for the first time that IKON delivered a box of UCLA documents directly to Ms.  
25 Schneider without authorization from me or any other person at Fenwick & West. I immediately  
26 contacted, Adam Manezes, the IKON account representative. Mr. Manezes admitted he had not  
27 received instructions from my firm to produce the documents. He thought it was alright to  
28

1 produce the documents to Ms. Schneider because she had asked him to send the documents  
2 directly to her and provided a Federal Express account number to facilitate delivery. He later  
3 told me he had requested return of the documents from Ms. Schneider, but that she had refused.  
4 Attached as Exhibit D is a copy of Adam Manezes' letter dated December 19, 2003.

5 7. After talking with Mr. Manezes, I called and left a message for Ms. Schneider  
6 informing her that I had not authorized release of the documents and requested return of the  
7 documents. I followed up with a letter, which is attached as Exhibit E. At first, she seemed  
8 willing to return the box. However, in a letter sent the next day, she refused. Attached as  
9 Exhibit F is a copy of Lisa Schneider's letter dated December 19, 2003.

10 8. Ms. Schneider has refused subsequent requests for return of the documents, even  
11 though there is also a provision for inadvertent production of documents in the *Cordis* protective  
12 order. Attached as Exhibit G is a copy of my letter dated December 19, 2003.

13 9. Ms. Schneider will only return the documents if I comply with her demands, which  
14 were the subject of our meet and confer discussions leading up to IKON's improper disclosure.  
15 Attached as Exhibit H is a copy of Lisa Schneider's letter dated December 22, 2003. Attached as  
16 Exhibit I is a copy of my letter in response to Ms. Schneider, which is also dated December 22,  
17 2003.

18  
19 I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct. Executed this \_\_\_\_ day of December 2003 at Mountain View,  
21 California.  
22

23  
24 \_\_\_\_\_  
Patrick E. Premo

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