UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

MOSKOWITZ FAMILY LLC, Plaintiff, v. MEDTRONIC, INC., MEDTRONIC SOFAMOR DANEK, INC., MEDTRONIC SOFAMOR DANEK USA, INC., WARSAW ORTHOPEDIC, INC., and TITAN SPINE, INC., Defendants.	Case No.: 25-cv-00769-PJS-DLM **JURY TRIAL REQUESTED**

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Pursuant to Fed. R. Civ. P. 15(a)(2), and with the consent of the Medtronic Defendants, Plaintiff Moskowitz Family LLC files this First Amended Complaint and demand for a jury trial seeking relief for patent infringement by Defendants Medtronic, Inc., Medtronic Sofamor Danek, Inc., Medtronic Sofamor Danek USA, Inc., Warsaw Orthopedic, Inc., and Titan Spine, Inc. (collectively, "Medtronic" or the "Medtronic Defendants"). Plaintiff states and alleges the following:

THE PARTIES

1. This case is brought by Dr. Nathan Moskowitz, who pioneered and patented groundbreaking advances in the field of spinal surgery. Those patented advances were shared with Medtronic, the world's largest medical device company, which, despite knowing of Dr. Moskowitz's patents, used and continues to use his

patented technologies without permission, and without providing Dr. Moskowitz with any credit or compensation.

2. Moskowitz Family LLC was formed by Dr. Nathan C. Moskowitz. Dr. Moskowitz is the lead inventor of the patents assigned to Moskowitz Family LLC.

3. Dr. Moskowitz is a leading neurosurgeon and an innovator in the field of spinal surgery. He trained in General Surgery and Neurological Surgery at Johns Hopkins Hospital, where he became Chief Resident, and held several fellowship positions at Johns Hopkins University. He is a Fellow of the Academy of the College of Surgeons, the International College of Surgeons, and the American Academy of Neurological Surgeons.

4. Both a researcher and a medical doctor, Dr. Moskowitz received his Ph.D. in Neurochemistry in 1983 and his medical degree in 1984 from the Mount Sinai School of Medicine. He has served as the Chief of the Department of Neurosurgery for Shady Grove Adventist Hospital, Chief of the Department of Neurosurgery for Montgomery General Hospital, and Assistant Professor for the Department of Neurosurgery at Johns Hopkins University since 1992. After a decade of practicing clinical neurosurgery, and consulting on and treating many patients, he became acutely aware of the complications that can arise during and after surgical procedures. Dr. Moskowitz realized that the status quo of spinal surgery technology and methodology did not lead to the superlative quality of life that his patients deserved. With the belief that the field could be, and needed to be, advanced, Dr. Moskowitz focused his career on researching and developing devices, tools, and methods utilizing more minimally invasive and improved solutions for spinal

surgery to enhance the quality of life for his and other patients with debilitating spine disease.

5. Dr. Moskowitz has published more than thirty research articles and abstracts in leading scientific and medical publications, such as Science, the Journal of Neurochemistry, Brain Research, the Journal of Neurosurgery, Biochemical and Biophysical Research Communications, and Medical Hypotheses.

6. Dr. Moskowitz has been recognized with numerous awards for excellence in patient care and contributions to the medical field. Among these honors, Dr. Moskowitz has been named one of "America's Best Physicians" for six consecutive years and has been a recipient of the "Castle Connolly Top Doctor Award" every year since 2008. Additionally, Dr. Moskowitz has been awarded the "America's Most Honored Doctor Award" twice. Dr. Moskowitz has also been recognized as one of the best doctors in various publications, including *Washingtonian*, *Bethesda Magazine*, *Modern Luxury*, and *Consumers' Checkbook*. Reflecting on his contributions to the spine medical field, Dr. Moskowitz has been recognized as a Top Inventor in Spine by Spinemarket's Annual Patent Power Index and ranked as the number five inventor out of the top twenty.

7. Moskowitz Family LLC is a limited liability company organized and existing under the laws of the state of Maryland, with its principal place of business located at 212 North Adams Street, Suite 200, Rockville, MD 20850. The company was created to develop human spine related devices and protect and license any resulting inventions and intellectual property.

8. Moskowitz Family LLC owns a portfolio of nearly one hundred United States patents and nine pending patent applications related to new and improved fixation systems for minimally invasive spinal surgery. The technologies described and claimed in those patents have revolutionized spinal fusion procedures.

9. Before Moskowitz Family LLC's inventions, spinal fusion patients were far more likely to suffer a host of negative outcomes such as neural or vascular injury, esophageal injuries, excessive blood loss, prolonged length of surgical time, prolonged recovery, and incomplete return to work. These complications resulted largely from static and non-expandable implants, misplaced screws during the spinal fusion, and plate and/or screw pullout after the operations.

10. Moskowitz Family LLC's patents solve these issues by providing more minimally invasive spinal implants combined with improved surgical methods, tools, and systems of implantation for spinal fusion surgery. For example, some of these inventions include minimal impaction, steerable and controlled expandable (custom-fit) intervertebral implants that minimize the challenges of insertion and optimize the fit and placement of the implant between the vertebrae. Importantly, they also minimize disruption to the muscles and nerve roots. Another invention includes easily inserted, zero-profile, integrated stand-alone cervical and lumbar spacers, which provide the strength of traditional anterior cervical and lumbar fusions while avoiding high-profile plates and maximizing safe and multi-level placement. Other inventions include implants that can be inserted in a single step and continuously expanded to desired heights with automatic locking mechanisms to provide a customized fit. Moskowitz Family LLC's

patent portfolio has been recognized in the "Top 20 of Patent Portfolios" in Spinemarket's Annual Patent Power Index and ranked Top 10 in the Interbody category of the Index.

11. On information and belief, Defendant Medtronic, Inc. is a Minnesota corporation with its principal place of business at 710 Medtronic Parkway, Minneapolis, MN 55432. Medtronic, Inc. is the world's largest medical device company and a dominant force in the spinal surgery market. On information and belief, Medtronic, Inc. oversees and directs its extensive spinal business operations through a network of subsidiaries, including Medtronic Sofamor Danek USA, Inc., Medtronic Sofamor Danek, Inc., Warsaw Orthopedic, Inc., and Titan Spine, Inc. These subsidiaries function collectively to research, develop, manufacture, market, offer for sale, and sell spinal surgery products, including the Accused Instrumentalities: Elevate™ Spinal System ("Elevate"), Divergence™ Anterior Cervical Fusion System ("Divergence"), Sovereign™ Spinal System ("Sovereign"), Catalyft™ PL Expandable Interbody System ("Catalyft PL"), Catalyft™ PL40 Expandable Interbody System ("Catalyft PL40") (Catalyft PL and Catalyft PL40 collectively, "Catalyft"), Endoskeleton™ TAS Interbody System ("Endoskeleton TAS"), Endoskeleton™ TCS Interbody System ("Endoskeleton TCS"), and T2 Stratosphere™ Expandable Corpectomy System used in the thoracolumbar and/or cervical spine ("T2 Stratosphere"). On information and belief, Medtronic, Inc. directly benefits from and exercises control over the infringing activities of its subsidiaries, making it liable for their conduct.

12. On information and belief, Defendant Medtronic Sofamor Danek USA, Inc. ("MSDU") is a Tennessee corporation with a regular and established place of business at 710 Medtronic Parkway, Minneapolis, MN 55432. On information and belief, MSDU is responsible for the development, manufacturing, marketing, and sales of Medtronic's spinal surgery products in the United States. On information and belief, MSDU plays a key role in commercializing the Accused Instrumentalities, ensuring their widespread availability to hospitals, surgeons, and medical providers. On information and belief, MSDU actively promotes the Accused Instrumentalities to healthcare professionals across the country. On information and belief, MSDU collaborates closely with the other Medtronic Defendants in the spinal business unit, making it a central player in Medtronic's infringing conduct.

13. On information and belief, Defendant Medtronic Sofamor Danek, Inc. ("MSD") is an Indiana corporation with a regular and established place of business at 710 Medtronic Parkway, Minneapolis, MN 55432. On information and belief, MSD serves as Medtronic's engineering, research and development, and regulatory arm for spinal implant systems. On information and belief, MSD is heavily involved in designing, testing, and refining the Accused Instrumentalities and ensuring their compliance with regulatory standards. On information and belief, MSD worked in concert with the other Medtronic Defendants to develop the Accused Instrumentalities and supports the continued sale and distribution of the Accused Instrumentalities.

14. On information and belief, Defendant Warsaw Orthopedic, Inc. is an Indiana corporation with a regular and established place of business at 710 Medtronic

Parkway, Minneapolis, MN 55432. On information and belief, Warsaw Orthopedic plays a key role in the manufacturing and distribution of the Accused Instrumentalities. On information and belief, Warsaw Orthopedic is the successor by merger to Medtronic Sofamor Danek Holdings, Inc., further consolidating Medtronic's control over its spinal division. On information and belief, Warsaw Orthopedic is a crucial entity in Medtronic's infringing activities, leveraging its manufacturing capabilities to bring the Accused Instrumentalities to market.

15. On information and belief, Defendant Titan Spine, Inc. is a Delaware corporation with a regular and established place of business at 710 Medtronic Parkway, Minneapolis, MN 55432. On information and belief, Titan Spine specializes in titanium interbody fusion implants, which are incorporated into multiple Medtronic spinal systems, including the Endoskeleton TAS and Endoskeleton TCS devices. These devices are among the Accused Instrumentalities that infringe Moskowitz's patents. Titan Spine, on information and belief, collaborates with the other Medtronic Defendants to develop and market its spinal implant solutions.

16. On information and belief, Medtronic acquired Titan Spine, Inc. in or around 2019 as part of a strategic expansion of its spinal implant portfolio. Through this acquisition, Medtronic incorporated Titan Spine's product line into Medtronic's broader spinal division. On information and belief, Medtronic's acquisition allowed it to integrate Titan Spine's surface technology into its spinal implants, including the Accused Instrumentalities, further strengthening Medtronic's dominance in the market. On information and belief, Medtronic's continued commercialization of the Endoskeleton

devices and other Titan Spine technology post-acquisition infringes Moskowitz's patent rights.

17. On information and belief, Medtronic's acquisition and consolidation strategy has been instrumental in expanding its spinal implant offerings and reinforcing its control over the U.S. and global spinal surgery markets. On information and belief, by acquiring Titan Spine and integrating its operations with MSDU, MSD, and Warsaw Orthopedic, Medtronic has created a highly coordinated spinal implant division. On information and belief, this division systematically develops, manufactures, markets, and distributes the Accused Instrumentalities, ensuring their broad commercial availability while knowingly infringing Moskowitz's patents.

18. On information and belief, the Medtronic Defendants have entered into this joint enterprise for the purpose of exploiting and profiting from the Accused Instrumentalities, as detailed herein. On information and belief, the Medtronic Defendants have together entered into express and/or implied agreements to exploit and profit from the Accused Instrumentalities.

19. On information and belief, the Medtronic Defendants, via their joint enterprise, generate revenues, business goodwill, and market share, which bolsters their respective reputations and ability to generate sales of the Accused Instrumentalities. On information and belief, the actions of the Medtronic Defendants were carried out in furtherance of the common purpose of exploiting and profiting from the Accused Instrumentalities.

20. On information and belief, the actions of the Medtronic Defendants complained of herein benefit the Medtronic Defendants and, as such, exhibit a common pecuniary interest (including but not limited to revenues, goodwill, market share, and sales advantage) between the Medtronic Defendants. On information and belief, each of the Medtronic Defendants are sophisticated parties and entered into agreements with each other and mutually exercise control over the joint enterprise.

21. On information and belief, the joint enterprise exists and operates in this judicial District.

THE ASSERTED PATENTS

22. This is a civil action for infringement of U.S. Patent No. 9,005,293 ("the '293 patent"), U.S. Patent No. 9,907,674 ("the '674 patent"), U.S. Patent No. 10,016,284 ("the '284 patent"), U.S. Patent No. 10,064,738 ("the '738 patent"), U.S. Patent No. 10,238,505 ("the '505 patent"), U.S. Patent No. 10,426,633 ("the '633 patent"), U.S. Patent No. 10,603,183 ("the '183 patent"), U.S. Patent No. 11,096,797 ("the '797 patent"), U.S. Patent No. 11,376,136 ("the '136 patent"), U.S. Patent No. 11,864,755 ("the '755 patent"), and U.S. Patent No. 12,011,367 ("the '367 patent") (collectively, the "Asserted Patents").

23. The '293 patent is entitled "Bi-directional fixating transvertebral body screws and posterior cervical and lumbar interarticulating joint calibrated stapling devices for spinal fusion" and was duly and legally issued by the United States Patent and Trademark Office on April 14, 2015. The '293 patent stems from Application No. 13/108,982, filed on May 16, 2011. Moskowitz Family LLC owns the entire right, title,

and interest in and to the ’293 patent, including the right to sue for and collect past damages. A true and correct copy of the ’293 patent is attached to this Complaint as Exhibit A1.

24. The ’674 patent is entitled “Bi-directional fixating transvertebral body screws and posterior cervical and lumbar interarticulating joint calibrated stapling devices for spinal fusion” and was duly and legally issued by the United States Patent and Trademark Office on March 6, 2018. The ’674 patent stems from Application No. 13/210,168, filed on August 15, 2011. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’674 patent, including the right to sue for and collect past damages. A true and correct copy of the ’674 patent is attached to this Complaint as Exhibit B1.

25. The ’284 patent is entitled “Zero-profile expandable intervertebral spacer devices for distraction and spinal fusion and a universal tool for their placement and expansion” and was duly and legally issued by the United States Patent and Trademark Office on July 10, 2018. The ’284 patent stems from Application No. 15/820,232, filed on November 21, 2017. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’284 patent, including the right to sue for and collect past damages. A true and correct copy of the ’284 patent is attached to this Complaint as Exhibit C1.

26. The ’738 patent is entitled “Bi-directional fixating/locking transvertebral body screw/intervertebral cage stand-alone constructs having a central screw locking lever, and pliers and devices for spinal fusion” and was duly and legally issued by the United States Patent and Trademark Office on September 4, 2018. The ’738 patent stems

from Application No. 15/490,107, filed on April 18, 2017. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’738 patent, including the right to sue for and collect past damages. A true and correct copy of the ’738 patent is attached to this Complaint as Exhibit D1.

27. The ’505 patent is entitled “Bi-directional fixating/locking transvertebral body screw/intervertebral cage stand-alone constructs” and was duly and legally issued by the United States Patent and Trademark Office on March 26, 2019. The ’505 patent stems from Application No. 15/678,401, filed on August 16, 2017. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’505 patent, including the right to sue for and collect past damages. A true and correct copy of the ’505 patent is attached to this Complaint as Exhibit E1.

28. The ’633 patent is entitled “Zero-profile expandable intervertebral spacer devices for distraction and spinal fusion and a universal tool for their placement and expansion” and was duly and legally issued by the United States Patent and Trademark Office on October 1, 2019. The ’633 patent stems from Application No. 16/025,667, filed on July 2, 2018. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’633 patent, including the right to sue for and collect past damages. A true and correct copy of the ’633 patent is attached to this Complaint as Exhibit F1.

29. The ’183 patent is entitled “Bi-directional fixating/locking transvertebral body screw/intervertebral cage stand-alone constructs having a central screw locking lever, and pliers and devices for spinal fusion” and was duly and legally issued by the United States Patent and Trademark Office on March 31, 2020. The ’183 patent stems

from Application No. 16/100,410, filed on August 10, 2018. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’183 patent, including the right to sue for and collect past damages. A true and correct copy of the ’183 patent is attached to this Complaint as Exhibit G1.

30. The ’797 patent is entitled “Zero-profile expandable intervertebral spacer devices for distraction and spinal fusion and a universal tool for their placement and expansion” and was duly and legally issued by the United States Patent and Trademark Office on August 24, 2021. The ’797 patent stems from Application No. 16/587,993, filed on September 30, 2019. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’797 patent, including the right to sue for and collect past damages. A true and correct copy of the ’797 patent is attached to this Complaint as Exhibit H1.

31. The ’136 patent is entitled “Expandable spinal implant and tool system” and was duly and legally issued by the United States Patent and Trademark Office on July 5, 2022. The ’136 patent stems from Application No. 16/744,755, filed on January 16, 2020. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’136 patent, including the right to sue for and collect past damages. A true and correct copy of the ’136 patent is attached to this Complaint as Exhibit I1.

32. The ’755 patent is entitled “Artificial expandable implant systems” and was duly and legally issued by the United States Patent and Trademark Office on January 9, 2024. The ’755 patent stems from Application No. 17/208,640, filed on March 22, 2021. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’755 patent,

including the right to sue for and collect past damages. A true and correct copy of the ’755 patent is attached to this Complaint as Exhibit J1.

33. The ’367 patent is entitled “Expandable intervertebral device” and was duly and legally issued by the United States Patent and Trademark Office on June 18, 2024. The ’367 patent stems from Application No. 17/408,068, filed on August 20, 2021. Moskowitz Family LLC owns the entire right, title, and interest in and to the ’367 patent, including the right to sue for and collect past damages. A true and correct copy of the ’367 patent is attached to this Complaint as Exhibit K1.

34. Moskowitz Family LLC has not practiced any of the Asserted Patents through commercial manufacture, sale, offer for sale, or importation of patented articles and, therefore, is exempt from the marking requirements under 35 U.S.C. § 287(a). While Moskowitz Family LLC developed and manufactured certain prototypes embodying aspects of the claimed inventions, those prototypes were created solely for research and demonstration purposes and were manufactured prior to the issuance of any of the Asserted Patents. These prototypes were never sold, offered for sale, or otherwise commercialized. Further, no licensee or sublicensee has made, sold, offered for sale, or imported any article practicing any claim of the Asserted Patents. Accordingly, Moskowitz Family LLC’s ability to recover pre-suit damages is not barred by § 287(a).

35. To the extent applicable, Moskowitz Family LLC has complied with 35 U.S.C. § 287 for each of the Asserted Patents.

JURISDICTION AND VENUE

36. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 101, *et seq*. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

37. This Court has personal jurisdiction over Defendant Medtronic, Inc. because it is incorporated and maintains its principal place of business in Minnesota, rendering it "at home" in the State for personal jurisdictional purposes.

38. This Court has personal jurisdiction over the Medtronic Defendants consistent with the Due Process Clause of the United States Constitution and the Minnesota Long-Arm Statute (Minn. Stat. § 543.19) because the claims asserted herein arise from and relate to Defendants' extensive and continuous business activities in this State and this judicial District. On information and belief, the Medtronic Defendants have substantial, continuous, and systematic contacts with Minnesota, establishing both general and specific jurisdiction. Medtronic, Inc. is headquartered in this State and, along with its subsidiaries, has long conducted continuous and systematic business operations in Minnesota, including the research, design, development, manufacturing, marketing, sale, and distribution of spinal implant products, including the Accused Instrumentalities. On information and belief, each Medtronic Defendant has a physical presence in Minnesota and considers the State a key operational hub. Furthermore, the Medtronic Defendants have purposefully directed their activities toward Minnesota and committed acts of patent infringement within this judicial District and throughout the State. On information and belief, the Medtronic Defendants—collectively and individually,

including through their agents, subsidiaries, intermediaries, and/or affiliates—have made, used, sold, offered for sale, and/or imported the Accused Instrumentalities that infringe one or more claims of the Asserted Patents in this judicial District. On information and belief, the Medtronic Defendants—collectively and individually—also own, lease, and/or operate physical offices and/or facilities in Minnesota; employ a substantial workforce, including contractors, sales representatives, and engineers, within the State; enter into contracts with Minnesota-based entities; solicit business from Minnesota residents; and market, sell, ship, and distribute their infringing products throughout the State and this judicial District. The activities described in this paragraph, including those constituting patent infringement, are detailed further in the following sections of this Complaint.

39. Venue is proper in this judicial district as to the Medtronic Defendants pursuant to at least 28 U.S.C. § 1400(b). As noted above, the Medtronic Defendants maintain regular and established places of business in this judicial District, at which they have committed acts of infringement and placed the Accused Instrumentalities into the stream of commerce throughout the State of Minnesota. Further, Defendant Medtronic, Inc. is incorporated in the State of Minnesota and, therefore, resides in this State under §1400(b).

PRE-SUIT DISCUSSIONS

40. Dr. Moskowitz has engaged in extensive discussions with the Medtronic Defendants regarding his patented and patent-pending spinal inventions. These interactions spanned from 2005 to at least 2016, and involved multiple meetings, technology presentations, email exchanges, and direct correspondence with Medtronic

executives, engineers, and legal counsel. Throughout this time, Dr. Moskowitz disclosed his innovative spinal technologies, including expandable and non-expandable interbody fusion devices, endoscopic surgical tools, facet fusion devices, and artificial discs. Despite Medtronic's repeated expressions of interest, they ultimately chose not to license or otherwise acquire rights to his technology. Instead, the Medtronic Defendants systematically absorbed Dr. Moskowitz's proprietary technologies, by developing and commercializing competing products incorporating his innovations—all without any compensation to him.

41. Dr. Moskowitz's first interaction with Medtronic dates back to 2005, when he reached out to Frank Bono, then Vice President of Product Development, to discuss his spinal fusion innovations, including his bi-directional screw and standalone intervertebral fusion devices. Mr. Bono responded with interest but conditioned further discussions on the patents being publicly disclosed. By 2010, Dr. Moskowitz's inventions had progressed significantly, with issued and pending patents in the spinal space, and Medtronic took active steps to engage with him.

42. The spinal fusion and spinal implant industry is among the most patent-intensive segments of the medical device sector. Hundreds of new spine-related patents issue each year, and market participants—including the Medtronic Defendants—routinely monitor competitor patent activity to assess design clearance, evaluate acquisition opportunities, and manage IP risk. The Medtronic Defendants are one of the world's largest spine implant manufacturers and are active participants in patent due diligence, prosecution, and enforcement within the spinal device space. As such, they are

uniquely positioned to monitor—and in fact, on information and belief, do monitor—publicly available patent activity related to spinal fusion innovations, including those of Moskowitz Family LLC.

43. In a series of 2010 and 2011 communications, Medtronic's Director of Advanced Technologies, Newton Metcalf, expressed interest in reviewing Dr. Moskowitz's intellectual property. In early 2011, the parties held multiple meetings regarding Dr. Moskowitz's posterior fixation and interbody fusion technologies. Medtronic sought to evaluate these devices, requested PowerPoint presentations, and reviewed Dr. Moskowitz's patent claims—all clear indications that Medtronic was aware of the scope of his patents. Notably, a March 2011 email from Mr. Metcalf explicitly states Medtronic's interest in reviewing Dr. Moskowitz's "published IP," confirming that they had knowledge of at least some of his patent rights as early as that time.

44. By 2013, the Medtronic Defendants' awareness of Dr. Moskowitz's patent portfolio had expanded. In a March 2013 meeting, Dr. Moskowitz demonstrated his endoscopic surgical prototype to Mr. Metcalf, who was "very impressed" with its clarity and functionality. Medtronic requested additional patent details but refused to make any financial commitments. During this same meeting, Mr. Metcalf acknowledged that Medtronic was actively developing expandable interbody fusion devices—contradicting his prior statements that he had never seen similar technology. This shifting narrative, coupled with Medtronic's growing internal developments, strongly suggests that Medtronic was taking Dr. Moskowitz's concepts and integrating them into their own product pipeline.

45. By 2015, after years of meetings, product demonstrations, and disclosures, Dr. Moskowitz had his attorney formally put the Medtronic Defendants on notice regarding his patent rights. In two separate letters sent via Federal Express—one addressed to Brad Lerman, Medtronic's Senior Vice President and General Counsel, and another to Newton Metcalf, the Director of Advanced Technologies—Dr. Moskowitz's legal counsel informed Medtronic of his patent portfolio. The letters identified the more than thirty issued patents and pending applications contained in Dr. Moskowitz's patent portfolio at the time. The letters specifically identified the asserted '293 patent, as well as U.S. Patent App. Pub. No. 2013/0018469, which issued as the asserted '674 patent. A copy of the asserted '293 patent was attached to the letters. The other asserted patents are all continuations of the pending applications identified in the letters, meaning they share the same technical description and figures as the applications Dr. Moskowitz shared with Medtronic. The letters stated that the identified patents "may be of interest to Medtronic," sought confirmation that they were the appropriate people for this type of correspondence, and informed Mr. Lerman and Mr. Metcalf that Dr. Moskowitz looked forward to Medtronic's response.

46. After Dr. Moskowitz notified Medtronic of his patent portfolio, Medtronic's counsel, Jason Piche, acknowledged receipt of the letter and confirmed Medtronic's awareness of the portfolio. In August 2015, Mr. Piche left a voicemail for Dr. Moskowitz's attorney, explicitly stating that he was calling "regarding the Moskowitz patent portfolio." He further indicated that Medtronic had been "working [their] way through the … list of patents in that portfolio" and was actively trying to coordinate

discussions with their R&D leadership to review the portfolio, particularly certain "targeted references" that Medtronic believed were of particular relevance.

47. In subsequent communications, Medtronic confirmed that they were still actively evaluating the Moskowitz patent portfolio and consulting with key business and R&D personnel. As part of this review, Medtronic expressed interest in potential acquisition or licensing opportunities, signaling their recognition of the portfolio's relevance and value.

48. However, in January 2016, Mr. Piche sent an email to "close the loop" on Medtronic's inquiry into the Moskowitz patent portfolio and the parties' conversations from fall 2015. In the email, he briefly stated that "Medtronic does not wish to pursue acquisition or license of the noted portfolio at this time." The email provided no explanation of Medtronic's evaluation process or findings, offering only a conclusory statement with no further detail or opportunity for discussion.

49. Before Medtronic acquired Titan Spine, Dr. Moskowitz took steps to put Titan Spine on notice of his patent rights. In July 2015, Dr. Moskowitz's attorney sent a letter via Federal Express to Titan Spine's Chief Executive Officer, Dr. Peter Ullrich. The letter enclosed a list of Dr. Moskowitz's issued patents and pending applications, as well as a copy of the asserted '293 patent. It expressly stated that the identified patents "may be of interest to Titan Spine" and requested confirmation that Dr. Ullrich was the appropriate point of contact for such correspondence. The letter also invited Titan Spine to engage in discussions regarding Dr. Moskowitz's patent portfolio. Unlike Medtronic,

Titan Spine did not even acknowledge the letter, nor did it provide any response or engage in any dialogue with Dr. Moskowitz.

50. On information and belief, the Medtronic Defendants maintain a dedicated intellectual property team within its spinal division that systematically monitors competitor patents and patent applications relevant to spinal implants and related surgical systems. This team routinely tracks filings with the United States Patent and Trademark Office (USPTO) to assess competitive threats and opportunities. Given the long-standing visibility of Dr. Moskowitz's work, and Medtronic's direct prior interactions with his portfolio, on information and belief, Medtronic's IP personnel continued to monitor for the issuance of patents related to the applications and continuations previously identified in Dr. Moskowitz's 2015 notice letters.

51. On further information and belief, the Medtronic Defendants regularly receive and review a variety of industry publications and patent monitoring services that track innovation and intellectual property developments in the spinal surgery and spinal implant fields. These include, but are not limited to, SpineMarket's Patent Power Index, which highlights top inventors, portfolios, and newly issued patents in the spine industry. Dr. Moskowitz has been repeatedly featured in these publications, with each of the Asserted Patents identified by name and inventor. The Medtronic Defendants' routine engagement with these industry-standard sources, combined with its internal intellectual property surveillance practices, further supports the inference that the Medtronic Defendants had actual knowledge of—or were at minimum willfully blind to—the existence and relevance of each of the Asserted Patents.

52. Alternatively, and in addition to the Medtronic Defendants' actual knowledge of the Asserted Patents, the Medtronic Defendants were willfully blind to the fact that its spinal implant systems infringed Dr. Moskowitz's patents. On information and belief, the Medtronic Defendants have deliberately avoided confirming whether their products overlapped with the patent claims that Dr. Moskowitz repeatedly disclosed between 2011 and 2015. This includes detailed technical presentations, PowerPoint slides, and claim summaries—as well as two formal notice letters in 2015 that identified the '293 patent by number and attached a copy of the issued patent, and identified over thirty related applications, including the published application that issued as the '674 patent.

53. Despite this detailed notice, the Medtronic Defendants provided only a conclusory "not interested" email in early 2016 and never initiated a clearance analysis, infringement review, or licensing discussion with Dr. Moskowitz. On information and belief, the Medtronic Defendants then proceeded to commercialize multiple product families—Divergence, Sovereign, Catalyft, Elevate, Endoskeleton, and T2 Stratosphere—that embodied technologies described in the disclosed patents and applications, without conducting a good-faith inquiry into infringement.

54. This pattern of avoidance persisted even as the Medtronic Defendants repeatedly cited Dr. Moskowitz's patent publications—more than 100 times—in Information Disclosure Statements submitted to the USPTO during their own patent prosecutions. Upon information and belief, the Medtronic Defendants also receive and review industry publications, including the SpineMarket Patent Power Index, which

repeatedly listed Dr. Moskowitz and his Asserted Patents. Taken together, these facts indicate that the Medtronic Defendants subjectively believed there was a high risk their products infringed Dr. Moskowitz's patents but deliberately avoided confirming that fact—constituting willful blindness.

55. To this day, the Medtronic Defendants have never engaged in meaningful licensing discussions with Dr. Moskowitz or Moskowitz Family LLC. Instead, they have proceeded to launch spinal fusion products that embodied the same technologies that Dr. Moskowitz had disclosed years earlier—technologies the Medtronic Defendants had repeatedly expressed interest in but refused to license.

56. The Medtronic Defendants do not have a license to any of the Asserted Patents, either express or implied.

57. On information and belief, the Medtronic Defendants have not taken any affirmative steps to avoid infringing any of the Asserted Patents after learning of them.

MEDTRONIC'S KNOWLEDGE AND WILLFULNESS

58. Moskowitz Family LLC incorporates by reference all factual allegations set forth in the preceding sections, including those regarding the Medtronic Defendants' direct communications with Dr. Moskowitz, review of his patent portfolio, receipt of formal notice letters in 2015, and internal citation of Moskowitz patents during their own patent prosecutions. The allegations of actual knowledge and willful blindness set forth in the Pre-Suit Discussions section apply equally to each of the Asserted Patents. The Medtronic Defendants' conduct as described—both prior to and following issuance of the Asserted Patents—demonstrates a pattern of deliberate indifference, inaction, and

continued commercialization of products embodying the patented inventions, supporting a uniform inference of willful infringement.

59. For example, between 2015 and 2024, the Medtronic Defendants cited patents and published applications from the Moskowitz patent families over 130 times in Information Disclosure Statements submitted to the U.S. Patent and Trademark Office. On information and belief, these citations occurred across multiple business units and prosecution matters, spanning at least 10 different Medtronic spinal implant patent applications. This pattern demonstrates repeated internal recognition of Moskowitz Family LLC's inventions over an extended period.

60. To the extent necessary, these allegations are pled in the alternative to reinforce that the Medtronic Defendants either had actual knowledge of, or were willfully blind to, each of the Asserted Patents and their infringement thereof.

COUNT I

(Infringement of the '293 Patent)

61. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

62. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the '293 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the '293 Accused Instrumentalities. Medtronic's '293 Accused Instrumentalities include, but are not limited to, the

Divergence, Sovereign, Endoskeleton TAS, and Endoskeleton TCS systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

63. Attached to this Complaint as Exhibits A2-A5 are representative charts that, on information and belief, describe how, as a non-limiting example, the elements of exemplary claim 43 of the ’293 patent are met by the ’293 Accused Instrumentalities.

64. The Medtronic Defendants’ infringement of the ’293 patent has also been indirect.

65. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’293 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’293 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’293 patent.

66. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’293 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 43 of the ’293

patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’293 Accused Instrumentalities in ways that directly infringe the ’293 patent, and Medtronic has and will continue to encourage these acts with the specific intent to infringe the ’293 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’293 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the ’293 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the use of Medtronic’s ’293 Accused Instrumentalities constitutes direct infringement of the ’293 patent but took deliberate actions to avoid learning of these facts.

67. On information and belief, the Medtronic Defendants’ inducement of third parties occurred after they had actual knowledge of, or were willfully blind to, the ’293 patent. The timing of their conduct and the nature of their continued support to third parties demonstrates specific intent to cause infringement.

68. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the ’293 patent since at least shortly after its issuance in April 2015, as described in Paragraphs above and below.

69. Alternatively, to the extent actual knowledge is disputed, the Medtronic Defendants were willfully blind to the existence and relevance of the ’293 patent. Despite receiving a full copy of the issued patent from Dr. Moskowitz’s counsel in June 2015, the Medtronic Defendants failed to conduct any known non-infringement or clearance analysis, terminated discussions without explanation, and proceeded to commercialize spinal implants aligned with the technologies claimed in the patent. As further detailed above, the Medtronic Defendants’ deliberate avoidance of confirming infringement—despite USPTO citations and industry publications (such as, for example, SpineMarket’s publications) repeatedly referencing the ’293 patent—supports a strong inference of willful blindness.

70. For example, the Medtronic Defendants have been aware of the specific inventions described and claimed in the ’293 patent since well before the patent issued in April 2015. As early as 2011, Medtronic received PowerPoint presentations, claim charts, and product demonstrations from Dr. Moskowitz detailing technologies that were ultimately claimed in the ’293 patent. In 2015, Dr. Moskowitz’s legal counsel sent letters to Medtronic executives expressly identifying the ’293 patent by number, title, filing date, and issue date, and attaching a full copy of the patent. These letters expressly stated that the enclosed patents “may be of interest to Medtronic” and offered to initiate further discussions.

71. The Medtronic Defendants responded by acknowledging receipt and stating that they were reviewing the Moskowitz portfolio, including specific “targeted references.” On information and belief, these targeted references included the ’293

patent, which aligns with the technologies the Medtronic Defendants were actively developing at the time. For example, the publication of the ’293 patent application (U.S. Pat. Pub. No. 2011/029537 A1) was cited by the Examiner in September 2015 during prosecution of the Medtronic Defendants’ own application that issued as U.S. Patent No. 9,918,848, which relates to spinal implant systems.

72. Furthermore, the technologies described in the ’293 patent are embodied in Medtronic’s Divergence, Sovereign, Endoskeleton TAS, and Endoskeleton TCS systems. On information and belief, at least some of these systems—or substantially similar precursors—were in development and/or on the market at the time Medtronic received the 2015 notice letter. Medtronic continued to develop and commercialize these product families through the damages period beginning in 2019. The continuity in product line and technology, coupled with Medtronic’s contemporaneous internal citations to the ’293 patent, support a plausible inference of knowledge of infringement.

73. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's “published IP.” By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within

Dr. Moskowitz's portfolio, including the publication number, filing date, issue date, and title of each. The '293 patent was discussed in the body of the letters, and a copy of the patent was attached thereto.

74. On information and belief, the Medtronic Defendants' patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC's patent portfolio and the inventions described and claimed in the '293 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, in September 2015, the Patent Examiner cited the publication of the '293 patent application (U.S. Pat. Pub. No. 2011/029537 A1) in a Notice of References Cited during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,918,848, titled Spinal Implant System and Method. And the Medtronic Defendants have disclosed the '293 patent to the Patent Office at least 21 times in Information Disclosure Statements submitted during prosecution of their own patent applications—starting as early as March 2018.

75. On information and belief, the Medtronic Defendants have known that the making and/or using of their '293 Accused Instrumentalities constitutes an act of direct infringement of the '293 patent since at least shortly after the issuance of the '293 patent in April 2015. The Medtronic Defendants have also had this knowledge since at least June 2015, when they received Dr. Moskowitz's letters, which expressly discussed and attached the '293 patent. The Medtronic Defendants were further aware of their infringement as of at least March 2018, when they first cited the '293 patent during

prosecution of their own patents, and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’293 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’293 patent.

76. The Medtronic Defendants’ infringement of the ’293 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance, and alternatively were willfully blind to its existence and relevance. On information and belief, the Medtronic Defendants’ internal IP team reviewed the ’293 patent during prosecution of closely related spinal fusion patents. They cited the ’293 patent and/or its publication, received direct notice of the patent and its family in 2015, and monitored spine-related patent portfolios, including that of Moskowitz Family LLC.

77. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the accused spinal implant systems. They did not seek a license from Moskowitz Family LLC, did not redesign the relevant features, and did not assert any non-infringement or invalidity positions. Nor did they take any steps to resolve their infringement risk or seek clarification from Dr. Moskowitz. These facts, in

conjunction with their failure to act despite repeated indicators of risk, demonstrate that any absence of actual knowledge was the result of willful blindness.

78. The Medtronic Defendants' ongoing commercialization of the accused systems—despite notice and without asserting any good-faith basis for believing the '293 patent was invalid or not infringed—demonstrates egregious disregard for Moskowitz Family LLC's patent rights and supports an award of enhanced damages.

79. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants' willful infringement.

80. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the '293 patent unless and until it is enjoined by this Court.

81. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the '293 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the '293 patent.

COUNT II

(Infringement of the '674 Patent)

82. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

83. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the '674 patent under 35

U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’674 Accused Instrumentalities. Medtronic’s ’674 Accused Instrumentalities include, but are not limited to, the Divergence systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

84. Attached to this Complaint as Exhibit B2 is a representative chart that, on information and belief, describes how, as a non-limiting example, the elements of exemplary claim 34 of the ’674 patent are met by the ’674 Accused Instrumentalities.

85. The Medtronic Defendants’ infringement of the ’674 patent has also been indirect.

86. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’674 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’674 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’674 patent.

87. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials,

promotional materials, and the like that instructed/instructs them how to use the ’674 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 34 of the ’674 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’674 Accused Instrumentalities in ways that directly infringe the ’674 patent, and Medtronic has and will continue to encourage these acts with the specific intent to infringe the ’674 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’674 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the ’674 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic’s ’674 Accused Instrumentalities constitutes direct infringement of the ’674 patent but took deliberate actions to avoid learning of these facts.

88. On information and belief, the Medtronic Defendants’ inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to,

the ’674 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

89. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the ’674 patent since at least shortly after its issuance in March 2018. In 2015, Dr. Moskowitz’s counsel sent formal notice letters to Medtronic executives expressly identifying the published application that later issued as the ’674 patent—U.S. Patent App. Pub. No. 2013/0018469—and enclosing a full list of patent applications within his portfolio, including the subject matter of the ’674 family.

90. After the ’674 patent issued in March 2018, the Medtronic Defendants’ actions indicate knowledge of its existence. On information and belief, the Medtronic Defendants cited family members of the ’674 patent more than 20 times in Information Disclosure Statements submitted to the USPTO during prosecution of its own spinal implant applications. In addition, the Patent Examiner cited a parent application to the ’674 patent (U.S. Pat. Pub. No. 2011/029537 A1) during prosecution of the Medtronic Defendant’s U.S. Patent No. 9,918,848. These repeated citations reflect Medtronic’s internal awareness of the ’674 patent and its technological relevance.

91. The technologies described and claimed in the ’674 patent are embodied in Medtronic’s Divergence system, which was publicly marketed and in commercial use during the damages period. The Divergence system incorporates bi-directional fixation and interbody fusion innovations directly derived from Dr. Moskowitz’s disclosed portfolio.

92. Alternatively, and to the extent the Medtronic Defendants did not have actual knowledge of the ’674 patent, the Medtronic Defendants were willfully blind to its existence and relevance. Despite receiving notice of the patent family in 2015 and regularly citing related publications in its own patent filings, on information and belief, the Medtronic Defendants made no known effort to investigate or analyze whether its Divergence system infringed the ’674 patent. On information and belief, the Medtronic Defendants’ IP department monitored spinal fusion patent activity—including by reviewing publications such as the SpineMarket Patent Power Index, which identified the ’674 patent after issuance and highlighted Dr. Moskowitz’s continuing patent activity. These facts support a plausible inference of deliberate indifference and willful blindness.

93. The Medtronic Defendants were aware of the patent application that later issued as the ’674 patent no later than June 2015, when they received written notice identifying U.S. Patent Application Pub. No. 2013/0018469 (which later issued as the ’674 patent). A full citation to that publication was included in Dr. Moskowitz’s letters to Medtronic’s General Counsel and Director of Advanced Technologies. Although the ’674 patent had not yet issued at that time, the letter provided the application’s title, publication number, and filing date, placing Medtronic on notice of its subject matter.

94. After issuance of the ’674 patent in March 2018, the Medtronic Defendants had repeated opportunities to become aware of the patent’s content and relevance. For example, the Medtronic Defendants cited family members of the ’674 patent at least 20 times in Information Disclosure Statements submitted during prosecution of its own spinal implant patent applications. Additionally, on two separate occasions, a parent

application to the ’674 patent (U.S. Pat. Pub. No. 2011/029537 A1 and U.S. Pat. Pub. No. 2008/0033440 A1) was cited by the Examiner, including in a Notice of Allowance, during prosecution of the Medtronic Defendants’ own applications that issued as U.S. Patent Nos. 9,918,848 and 9,283,089.

95. The technologies described in the ’674 patent are embodied in the Medtronic Defendants’ Divergence system, which was publicly released no later than 2018 and marketed throughout the damages period. The Divergence system reflects the same interbody screw and cage innovations Dr. Moskowitz disclosed and which are claimed in the ’674 patent. The Medtronic Defendants’ internal awareness of the family lineage, coupled with its technical alignment with the accused products, supports a plausible inference of pre-suit knowledge of infringement.

96. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz’s “published IP.” By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz’s portfolio, including the publication number, filing date, issue date, and

title of each. The letters identified the patent application that later issued as the asserted ’674 patent.

97. On information and belief, the Medtronic Defendants’ patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC’s patent portfolio and the inventions described and claimed in the ’674 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC’s patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner identified a published parent application of the ’674 patent (U.S. Pat. Pub. No. 2008/0033440 A1) as one of six references in a Notice of References Cited attached to the Examiner’s Notice of Allowance during prosecution of the Medtronic Defendants’ application that issued as U.S. Patent No. 9,283,089, titled Interbody Bone Implant Device. Additionally, the Patent Examiner cited a published parent application (U.S. Pat. Pub. No. 2011/029537 A1) in a Notice of References Cited during prosecution of the Medtronic Defendants’ application that issued as U.S. Patent No. 9,918,848, titled Spinal Implant System and Method. And the Medtronic Defendants have disclosed family members of the ’674 patent to the Patent Office at least 20 times in Information Disclosure statements submitted during prosecution of their own patent applications—including as early as May 2018.

98. On information and belief, the Medtronic Defendants have known that the making and/or using of their ’674 Accused Instrumentalities constitutes an act of direct infringement of the ’674 patent since at least shortly after the issuance of the ’674 patent in March 2018. Medtronic was further aware of their infringement as of at least May

2018, when they first cited family members of the ’674 patent during prosecution of their own patent applications and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’674 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’674 patent.

99. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe the ’674 patent under 35 U.S.C. § 271(c) because they have contributed to direct infringement, and continues to contribute to direct infringement, by third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) of at least claim 34 of the ’674 patent. For example, the Medtronic Defendants have sold, offered for sale, and/or imported into the United States and are currently selling, offering for sale, and/or importing into the United States components of the ’674 Accused Instrumentalities (such as intervertebral cages and/or inserter tools) to these third parties with full knowledge of the ’674 patent. These third parties have assembled the components to make and use the ’674 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to assemble and use the

components of the ’674 Accused Instrumentalities in ways that infringed/infringe the ’674 patent. The Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses. Further, the Medtronic Defendants’ components constituted/constitute a material part of the inventions claimed in the ’674 patent. The Medtronic Defendants supplied/supply these components with knowledge of the ’674 patent and knowledge that the components were/are especially made for use in an infringing manner.

100. On information and belief, the Medtronic Defendants have also indirectly infringed and continue to indirectly infringe the ’674 patent under 35 U.S.C. § 271(f)(2) by supplying in or from the United States, one or more components of the ’674 Accused Instrumentalities (such as intervertebral cages and/or inserter tools) to third parties (including foreign subsidiaries, hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) and intending that these third parties combine the components in a manner that would directly infringe at least claim 34 of the ’674 patent if such combination occurred within the United States. For example, the Medtronic Defendants have supplied, and continue to supply, such third parties outside of the United States with one or more components of the ’674 Accused Instrumentalities with full knowledge of the ’674 patent. These third parties have made or used the ’674 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to combine the components of the ’674 Accused Instrumentalities and use them in ways that would infringe the ’674

patent if such combination occurred within the United States. The Medtronic Defendants provide these instructions to the third parties with the knowledge that assembly and usage in accordance with their instructions would infringe the ’674 patent if such assembly and usage took place in the United States. Additionally, the Medtronic Defendants’ components are especially made and/or especially adapted for use in an infringing manner and the Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses.

101. On information and belief, the Medtronic Defendants’ actions demonstrate an intent not only to cause the acts described herein that form the basis of direct infringement by third parties (or would form the basis of direct infringement if they occurred within the United States), but also to cause these acts with the specific intent to infringe the ’674 patent. At a minimum, the Medtronic Defendants’ conduct demonstrates that Medtronic either knew or should have known that the acts of such third parties directly infringed/infringe the ’674 patent (or would infringe if those acts occurred within the United States).

102. The Medtronic Defendants’ infringement of the ’674 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. On information and belief, the Medtronic Defendants had actual knowledge of the ’674 patent since shortly after its issuance in March 2018. As alleged above, Dr. Moskowitz placed the Medtronic Defendants on notice of the family of patents to which the ’674 belongs in 2015, and the Medtronic Defendants repeatedly cited related patent publications during their own prosecution activities starting in 2015 and continuing after

the ’674 patent issued. These facts establish that the Medtronic Defendants knew of the patent and proceeded to infringe it deliberately.

103. Alternatively, and to the extent the Court finds that the Medtronic Defendants lacked actual knowledge, the Medtronic Defendants were willfully blind to the existence and relevance of the ’674 patent. Despite years of direct engagement with Dr. Moskowitz and clear indicators of potential infringement—including detailed disclosures, citation activity, and industry publication references—the Medtronic Defendants deliberately avoided confirming whether its Divergence system infringed the ’674 patent.

104. On information and belief, since obtaining actual knowledge of, or becoming willfully blind to, the ’674 patent, the Medtronic Defendants have not taken any meaningful steps to avoid infringement. They have not redesigned the Divergence system to avoid the claimed inventions, nor have they sought a license or issued a non-infringement position to Dr. Moskowitz. On further information and belief, the Medtronic Defendants have no reasonable basis for believing that the asserted claims of the ’674 patent are invalid or not infringed.

105. Instead, the Medtronic Defendants have continued to manufacture, market, and sell the Divergence system while reaping the benefits of Dr. Moskowitz’s innovations—despite repeated indicators of its infringement risk. These facts demonstrate egregious disregard for Moskowitz Family LLC’s patent rights and support an award of enhanced damages.

106. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants' willful infringement.

107. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the '674 patent unless and until they are enjoined by this Court.

108. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the '674 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the '674 patent.

COUNT III

(Infringement of the '284 Patent)

109. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

110. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the '284 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the '284 Accused Instrumentalities. Medtronic's '284 Accused Instrumentalities include, but are not limited to, the Elevate and Catalyft systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

111. Attached to this Complaint as Exhibits C2 and C3 are representative charts that, on information and belief, describe how, as a non-limiting example, the elements of exemplary claim 1 of the ’284 patent are met by the ’284 Accused Instrumentalities.

112. The Medtronic Defendants’ infringement of the ’284 patent has also been indirect.

113. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’284 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’284 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’284 patent.

114. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’284 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 1 of the ’284 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’284 Accused Instrumentalities in ways that directly

infringe the ’284 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’284 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’284 Accused Instrumentalities with knowledge that such use constitutes an act of direct infringement of the ’284 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the use of Medtronic’s ’284 Accused Instrumentalities constitutes direct infringement of the ’284 patent but took deliberate actions to avoid learning of these facts.

115. On information and belief, the Medtronic Defendants’ inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the ’284 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

116. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the ’284 patent since at least shortly after its issuance in July 2018. Dr. Moskowitz’s 2015 notice letters expressly identified multiple pending applications—including the application that led to U.S. Pat. Pub. No. 2014/0249629 A1, the parent of the ’284 patent—and provided detailed disclosures of his

expandable intervertebral implant technologies. The ’284 patent is a continuation of these applications and contains the same figures and technical subject matter disclosed to the Medtronic Defendants in 2015.

117. After issuance, the Medtronic Defendants continued to cite the ’284 patent and its family members in Information Disclosure Statements. For example, the Medtronic Defendants cited the ’284 patent at least 15 times during prosecution of its own applications, beginning in May 2021. Additionally, the Examiner cited U.S. Pat. Pub. No. 2014/0249629 A1, along with four other published Moskowitz applications, during prosecution of the Medtronic Defendants’ own spinal implant application that issued as U.S. Patent No. 9,364,341. These repeated citations demonstrate internal awareness and recognition of the patent’s relevance.

118. The ’284 patent covers innovations directly embodied in the Medtronic Defendants’ Elevate and Catalyft systems, which were commercialized during the damages period. The Medtronic Defendants’ continued development, marketing, and use of these systems after receiving notice of Dr. Moskowitz’s patent family and the ’284 patent’s issuance supports a plausible inference of actual knowledge.

119. Alternatively, to the extent the Medtronic Defendants lacked actual knowledge, they were willfully blind to the existence and relevance of the ’284 patent. The Medtronic Defendants’ internal patent monitoring systems, repeated citation of Dr. Moskowitz’s patent family members, and receipt of industry publications such as the SpineMarket Patent Power Index—where Dr. Moskowitz and his newly issued patents were prominently featured—make it implausible that the Medtronic Defendants were

unaware of the ’284 patent. The Medtronic Defendants’ failure to investigate or evaluate potential infringement after receiving detailed disclosures supports a strong inference of willful blindness.

120. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which Medtronic sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's “published IP.” By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed Medtronic on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within Moskowitz Family LLC’s portfolio, including the publication number, filing date, issue date, and title of each. The asserted ’284 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

121. On information and belief, the Medtronic Defendants patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC’s patent portfolio and the inventions described and claimed in the ’284 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC’s patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner cited a published parent application of the ’284 patent (U.S. Pat.

Pub. No. 2014/0249629 A1), along with four other published Moskowitz applications, in a Notice of References Cited during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,364,341, titled Spinal Implant System and Method. The '284 patent is a continuation of U.S. Pat. Pub. No. 2014/0249629 A1. And the Medtronic Defendants have disclosed the '284 patent to the Patent Office at least 15 times in Information Disclosure statements submitted during prosecution of their own patent applications—starting as early as May 2021.

122. On information and belief, the Medtronic Defendants have known that the making and/or using of their '284 Accused Instrumentalities constitutes an act of direct infringement of the '284 patent since at least shortly after the issuance of the '284 patent in July 2018. The Medtronic Defendants were further aware of their infringement as of at least May 2021, when they cited the '284 patent during prosecution of their own patent applications, and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the '284 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the '284 patent.

123. The Medtronic Defendants' infringement of the '284 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had

actual knowledge of the patent shortly after its issuance and repeatedly cited it during prosecution of their own spinal implant patents. Alternatively, they were willfully blind to its existence and relevance. As described above, the Medtronic Defendants received notice of the ’284 patent’s parent applications in 2015, cited them in their patent filings, and were repeatedly exposed to Dr. Moskowitz’s innovations through patent monitoring efforts and public industry reports.

124. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Elevate and Catalyft systems. On information and belief, they have not sought a license from Moskowitz Family LLC, have not redesigned those systems to avoid infringement, and have not asserted any good-faith basis for non-infringement or invalidity. They did not undertake any meaningful clearance review or infringement analysis before or after the ’284 patent issued.

125. Their continued commercialization of the ’284 Accused Instrumentalities, including the Elevate and Catalyft systems—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

126. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

127. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’284 patent unless and until they are enjoined by this Court.

128. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the ’284 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’284 patent.

COUNT IV

(Infringement of the ’738 Patent)

129. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

130. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’738 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’738 Accused Instrumentalities. Medtronic’s ’738 Accused Instrumentalities include, but are not limited to, the Sovereign systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

131. Attached to this Complaint as Exhibit D2 is a representative chart that, on information and belief, describes how, as a non-limiting example, the elements of exemplary claim 1 of the ’738 patent are met by the ’738 Accused Instrumentalities.

132. The Medtronic Defendants’ infringement of the ’738 patent has also been indirect.

133. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’738 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’738 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’738 patent.

134. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’738 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 1 of the ’738 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’738 Accused Instrumentalities in ways that directly infringe the ’738 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’738 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website

materials, and promotional materials, encouraging them to make, purchase, and use Medtronic's '738 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the '738 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic's '738 Accused Instrumentalities constitutes direct infringement of the '738 patent but took deliberate actions to avoid learning of these facts.

135. On information and belief, the Medtronic Defendants' inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the '738 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

136. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the '738 patent since at least shortly after its issuance in September 2018. The '738 patent is a continuation of patents and applications disclosed in Dr. Moskowitz's 2015 notice letters, including the parent application U.S. Pat. Pub. No. 2008/0177307 A1. These letters provided the Medtronic Defendants with the title, publication information, filing date, and issue date of over thirty applications—including those directly leading to the '738 patent.

137. Following issuance of the '738 patent, the Medtronic Defendants cited its family members extensively during prosecution of their own spinal implant applications. For example, they cited family members of the '738 patent at least 18 times in

Information Disclosure Statements, including after the ’738 patent issued. And a Patent Examiner cited U.S. Pat. Pub. No. 2008/0177307 A1, along with other Moskowitz publications, during prosecution of Medtronic Defendants’ own U.S. Patent No. 9,364,341. These repeated citations indicate internal awareness and relevance of the ’738 patent to the Medtronic Defendants’ own patent strategies.

138. The ’738 patent describes technology embodied in the Medtronic Defendants’ Sovereign system, which they promoted and sold throughout the damages period. On information and belief, the Sovereign system’s structure and function directly correspond to the technologies Dr. Moskowitz disclosed and which are now claimed in the ’738 patent. These facts support a plausible inference of actual knowledge.

139. Alternatively, to the extent the Medtronic Defendants lacked actual knowledge, they were willfully blind to the existence and relevance of the ’738 patent. After receiving detailed disclosures of its parent application, repeatedly citing related publications in their own filings, and receiving industry publications such as the SpineMarket Patent Power Index that identified Dr. Moskowitz and his newly issued patents, the Medtronic Defendants made no apparent effort to assess whether their products infringed. These facts demonstrate deliberate indifference.

140. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's “published IP.” By 2015, after years of

meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to Medtronic explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz's portfolio, including the publication number, filing date, issue date, and title of each. The asserted '738 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

141. On information and belief, the Medtronic Defendants' patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC's patent portfolio and the inventions described and claimed in the '738 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner cited a published parent application of the '738 patent (U.S. Pat. Pub. No. 2008/0177307 A1), along with four other published Moskowitz applications, in a Notice of References Cited during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,364,341, titled Spinal Implant System and Method. And the Medtronic Defendants have disclosed family members of the '738 patent to the Patent Office at least 18 times in Information Disclosure Statements submitted during prosecution of their own patent applications—including as early as May 2021.

142. On information and belief, the Medtronic Defendants have known that the making and/or using of their ’738 Accused Instrumentalities constitutes an act of direct infringement of the ’738 patent since at least shortly after the issuance of the ’738 patent in September 2018. The Medtronic Defendants were further aware of their infringement as of at least May 2021, when they first cited family members of the ’738 patent during prosecution of their own patent applications and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’738 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’738 patent.

143. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe the ’738 patent under 35 U.S.C. § 271(c) because they have contributed to direct infringement, and continues to contribute to direct infringement, by third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) of at least claim 1 of the ’738 patent. For example, the Medtronic Defendants have sold, offered for sale, and/or imported into the United States and are currently selling, offering for sale, and/or importing into the United States components of the ’738 Accused Instrumentalities (such as intervertebral cages and/or screw locking brackets) to these third parties with full

knowledge of the ’738 patent. These third parties have assembled the components to make and use the ’738 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to assemble and use the components of the ’738 Accused Instrumentalities in ways that infringed/infringe the ’738 patent. The Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses. Further, the Medtronic Defendants’ components constituted/constitute a material part of the inventions claimed in the ’738 patent. The Medtronic Defendants supplied/supply these components with knowledge of the ’738 patent and knowledge that the components were/are especially made for use in an infringing manner.

144. On information and belief, the Medtronic Defendants have also indirectly infringed and continue to indirectly infringe the ’738 patent under 35 U.S.C. § 271(f)(2) by supplying in or from the United States, one or more components of the ’738 Accused Instrumentalities (such as intervertebral cages and/or screw locking brackets) to third parties (including foreign subsidiaries, hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) and intending that these third parties combine the components in a manner that would directly infringe at least claim 1 of the ’738 patent if such combination occurred within the United States. For example, the Medtronic Defendants have supplied, and continue to supply, such third parties outside of the United States with one or more components of the ’738 Accused Instrumentalities with full knowledge of the ’738 patent. These third parties have made

or used the ’738 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to combine the components of the ’738 Accused Instrumentalities and use them in ways that would infringe the ’738 patent if such combination occurred within the United States. The Medtronic Defendants provide these instructions to the third parties with the knowledge that assembly and usage in accordance with their instructions would infringe the ’738 patent if such assembly and usage took place in the United States. Additionally, the Medtronic Defendants’ components are especially made and/or especially adapted for use in an infringing manner and the Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses.

145. On information and belief, the Medtronic Defendants’ actions demonstrate an intent not only to cause the acts described herein that form the basis of direct infringement by third parties (or would form the basis of direct infringement if they occurred within the United States), but also to cause these acts with the specific intent to infringe the ’738 patent. At a minimum, the Medtronic Defendants’ conduct demonstrates that the Medtronic Defendants either knew or should have known that the acts of such third parties directly infringed/infringe the ’738 patent (or would infringe if those acts occurred within the United States).

146. The Medtronic Defendants’ infringement of the ’738 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance and cited related family members

repeatedly during prosecution of their own spinal implant patents. Alternatively, they were willfully blind to the existence and relevance of the ’738 patent. The Medtronic Defendants received detailed disclosures of the patent’s parent application in 2015, engaged in active patent monitoring, and were repeatedly exposed to the ’738 patent family through industry reports and publications.

147. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Sovereign system, which incorporates the very design concepts Dr. Moskowitz disclosed. On information and belief, they did not seek a license, did not redesign the accused system, and did not assert any good-faith basis for non-infringement or invalidity. Nor did they conduct a clearance analysis or evaluate potential infringement.

148. Their continued commercialization of the ’738 Accused Instrumentalities, including the Sovereign system—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

149. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

150. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’738 patent unless and until they are enjoined by this Court.

151. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing

the ’738 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’738 patent.

COUNT V

(Infringement of the ’505 Patent)

152. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

153. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’505 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’505 Accused Instrumentalities. Medtronic’s ’505 Accused Instrumentalities include, but are not limited to, the Divergence systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

154. Attached to this Complaint as Exhibit E2 is a representative chart that, on information and belief, describes how, as a non-limiting example, the elements of exemplary claim 1 of the ’505 patent are met by the ’505 Accused Instrumentalities.

155. The Medtronic Defendants’ infringement of the ’505 patent has also been indirect.

156. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’505 patent under

35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’505 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’505 patent.

157. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’505 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 1 of the ’505 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’505 Accused Instrumentalities in ways that directly infringe the ’505 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’505 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’505 Accused Instrumentalities with knowledge that such making and/or use

constitutes an act of direct infringement of the ’505 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic’s ’505 Accused Instrumentalities constitutes direct infringement of the ’505 patent but took deliberate actions to avoid learning of these facts.

158. On information and belief, the Medtronic Defendants’ inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the ’505 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

159. On information and belief, the Medtronic Defendants had actual knowledge of the ’505 patent and its claimed inventions since at least shortly after its issuance in March 2019. Although the ’505 patent was not listed in the 2015 notice letters, it is a continuation of U.S. Pat. App. Pub. No. 2012/0330419 A1, which was specifically identified in those letters. The ’505 patent shares the same technical disclosure and figures as its predecessors, placing the Medtronic Defendants on notice of the subject matter later claimed.

160. The Medtronic Defendants’ actual knowledge is further supported by their repeated citation of the ’505 patent’s family members in their own patent prosecutions. For example, the Medtronic Defendants cited family members of the ’505 patent at least five times in Information Disclosure Statements. Additionally, U.S. Pat. Pub. No. 2012/0330419 A1 and U.S. Pat. Pub. No. 2008/0177307 A1 were cited by Examiners

during the prosecution of Medtronic Defendants' own U.S. Patent No. 9,364,341. These activities reflect active internal monitoring and notice of the patent family that led to the '505 patent.

161. The '505 patent claims technologies embodied in the Medtronic Defendants' Divergence system, which was marketed and sold during the damages period. The '505 Accused Instrumentalities implement features that align closely with the patented inventions, supporting a strong inference that the Medtronic Defendants knew of the '505 patent and its applicability.

162. Alternatively, to the extent the Medtronic Defendants lacked actual knowledge, they were willfully blind to the existence and relevance of the '505 patent. Having received detailed notice of its parent applications, and having cited and encountered family members multiple times in their own prosecution activity, the Medtronic Defendants failed to conduct any known analysis of infringement. Moreover, they routinely receive spine industry publications, including the SpineMarket Patent Power Index, which identified Dr. Moskowitz and the '505 patent after its issuance. These facts support a plausible inference of deliberate indifference.

163. The Medtronic Defendants' awareness of Moskowitz Family LLC's patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's "published IP." By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally

placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to Medtronic explicitly identified more than thirty issued patents and pending applications within Moskowitz Family LLC's portfolio, including the publication number, filing date, issue date, and title of each. The asserted '505 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

164. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner cited two published parent applications of the '738 patent (U.S. Pat. Pub. Nos. 2008/0177307 A1 and 2012/0330419 A1), along with three other published Moskowitz applications, in a Notice of References Cited during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,364,341, titled Spinal Implant System and Method. The '505 patent is a continuation of U.S. Pat. Pub. No. 2012/0330419 A1. And the Medtronic Defendants have disclosed family members of the '505 patent to the Patent Office at least 5 times in Information Disclosure Statements submitted during prosecution of their own patent applications.

165. On information and belief, the Medtronic Defendants have known that the making and/or using of their '505 Accused Instrumentalities constitutes an act of direct infringement of the '505 patent since at least shortly after the issuance of the '505 patent in March 2019. The Medtronic Defendants received additional notice through the filing

and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’505 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’505 patent.

166. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe the ’505 patent under 35 U.S.C. § 271(c) because they have contributed to direct infringement, and continue to contribute to direct infringement, by third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) of at least claim 1 of the ’505 patent. For example, the Medtronic Defendants have sold, offered for sale, and/or imported into the United States and are currently selling, offering for sale, and/or importing into the United States components of the ’505 Accused Instrumentalities (such as intervertebral spacers and/or screw locking mechanisms) to these third parties with full knowledge of the ’505 patent. These third parties have assembled the components to make and use the ’505 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to assemble and use the components of the ’505 Accused Instrumentalities in ways that infringed/infringe the ’505 patent. The Medtronic Defendants’ components were and are not staple articles or

commodities of commerce suitable for substantial noninfringing uses. Further, the Medtronic Defendants' components constituted/constitute a material part of the inventions claimed in the '505 patent. The Medtronic Defendants supplied/supply these components with knowledge of the '505 patent and knowledge that the components were/are especially made for use in an infringing manner.

167. On information and belief, the Medtronic Defendants have also indirectly infringed and continue to indirectly infringe the '505 patent under 35 U.S.C. § 271(f)(2) by supplying in or from the United States, one or more components of the '505 Accused Instrumentalities (such as intervertebral spacers and/or screw locking mechanisms) to third parties (including foreign subsidiaries, hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) and intending that these third parties combine the components in a manner that would directly infringe at least claim 1 of the '505 patent if such combination occurred within the United States. For example, the Medtronic Defendants have supplied, and continues to supply, such third parties outside of the United States with one or more components of the '505 Accused Instrumentalities with full knowledge of the '505 patent. These third parties have made or used the '505 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to combine the components of the '505 Accused Instrumentalities and use them in ways that would infringe the '505 patent if such combination occurred within the United States. The Medtronic Defendants provide these instructions to the third parties with the knowledge

that assembly and usage in accordance with their instructions would infringe the '505 patent if such assembly and usage took place in the United States. Additionally, the Medtronic Defendants' components are especially made and/or especially adapted for use in an infringing manner and the Medtronic Defendants' components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses.

168. On information and belief, the Medtronic Defendants' actions demonstrate an intent not only to cause the acts described herein that form the basis of direct infringement by third parties (or would form the basis of direct infringement if they occurred within the United States), but also to cause these acts with the specific intent to infringe the '505 patent. At a minimum, the Medtronic Defendants' conduct demonstrates that the Medtronic Defendants either knew or should have known that the acts of such third parties directly infringed/infringe the '505 patent (or would infringe if those acts occurred within the United States).

169. The Medtronic Defendants' infringement of the '505 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance, and alternatively were willfully blind to its existence and relevance. The '505 patent continues from earlier applications that were disclosed to the Medtronic Defendants in 2015 and cited repeatedly in their own patent prosecution. On information and belief, the Medtronic Defendants also reviewed and responded to USPTO rejections involving members of the same patent family.

170. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Divergence system. They did not seek a license from Moskowitz Family LLC, did not redesign the accused system, and did not assert any good-faith basis for non-infringement or invalidity. They also failed to conduct any known clearance or infringement analysis before or after the ’505 patent issued.

171. Their continued commercialization of the ’505 Accused Instrumentalities, including the Divergence system—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

172. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

173. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’505 patent unless and until they are enjoined by this Court.

174. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the ’505 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’505 patent.

COUNT VI

(Infringement of the ’633 Patent)

175. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

176. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’633 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’633 Accused Instrumentalities. Medtronic’s ’633 Accused Instrumentalities include, but are not limited to, the Elevate and Catalyft systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

177. Attached to this Complaint as Exhibits F2 and F3 are representative charts that, on information and belief, describe how, as a non-limiting example, the elements of exemplary claim 1 of the ’633 patent are met by the ’633 Accused Instrumentalities.

178. The Medtronic Defendants’ infringement of the ’633 patent has also been indirect.

179. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’633 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’633

Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’633 patent.

180. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’633 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 1 of the ’633 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’633 Accused Instrumentalities in ways that directly infringe the ’633 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’633 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’633 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the ’633 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or

use of Medtronic's '633 Accused Instrumentalities constitutes direct infringement of the '633 patent but took deliberate actions to avoid learning of these facts.

181. On information and belief, the Medtronic Defendants' inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the '633 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

182. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the '633 patent since shortly after its issuance in October 2019. Although the '633 patent was not listed by number in Dr. Moskowitz's 2015 notice letters, it is a continuation of U.S. Pat. Pub. No. 2014/0249629 A1, which was identified by publication number and title in those letters. The '633 patent shares the same figures and subject matter, indicating the Medtronic Defendants were on notice of the subject matter later claimed.

183. The Medtronic Defendants' internal patent prosecution activity confirms awareness of the '633 patent and its family. For example, the Medtronic Defendants cited the '633 patent in at least 15 Information Disclosure Statements, beginning no later than May 2021. And an Examiner cited U.S. Pat. Pub. No. 2014/0249629 A1 and other Moskowitz applications during prosecution of Medtronic Defendants' own U.S. Patent No. 9,364,341.

184. The '633 patent claims technology embodied in the Medtronic Defendants' Elevate and Catalyft systems. These product families, launched prior to or during the

damages period, implement key features covered by the ’633 patent. These facts support a plausible inference of actual knowledge.

185. Alternatively, the Medtronic Defendants were willfully blind to the ’633 patent. After receiving detailed disclosures of its parent application, citing it internally, and being exposed to its issuance through industry publications such as SpineMarket’s Patent Power Index, the Medtronic Defendants made no known effort to evaluate whether their spinal systems infringed the patent. These facts demonstrate deliberate indifference and support an inference of willful blindness.

186. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's “published IP.” By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz’s portfolio, including the publication number, filing date, issue date, and title of each. The asserted ’633 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

187. On information and belief, the Medtronic Defendants' patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC's patent portfolio and the inventions described and claimed in the '633 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner cited a published parent application of the '633 patent (U.S. Pat. Pub. No. 2014/0249629 A1), along with four other published Moskowitz applications, in a Notice of References Cited during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,364,341, titled Spinal Implant System and Method. And the Medtronic Defendants have disclosed the '633 patent to the Patent Office at least 15 times in Information Disclosure Statements submitted during prosecution of their own patent applications—starting as early as May 2021.

188. On information and belief, the Medtronic Defendants have known that the making and/or using of their '633 Accused Instrumentalities constitutes an act of direct infringement of the '633 patent since at least shortly after the issuance of the '633 patent in October 2019. The Medtronic Defendants were further aware of their infringement as of at least May 2021, when they first cited the '633 patent during prosecution of their own patent applications and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making

and/or using of the ’633 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’633 patent.

189. The Medtronic Defendants’ infringement of the ’633 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance and cited it repeatedly during prosecution of their own spinal implant patents. Alternatively, they were willfully blind to the existence and relevance of the ’633 patent. The patent is a continuation of applications disclosed to the Medtronic Defendants in 2015, and they actively cited members of its family in USPTO filings while monitoring spine-related patent activity.

190. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Elevate and Catalyft systems. On information and belief, they did not seek a license from Moskowitz Family LLC, did not redesign the relevant features, and did not assert any good-faith basis for non-infringement or invalidity. They also failed to conduct a clearance or infringement analysis despite repeated internal exposure to the asserted patent and its lineage.

191. Their continued commercialization of the ’633 Accused Instrumentalities, including the Elevate and Catalyft systems—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

192. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

193. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’633 patent unless and until they are enjoined by this Court.

194. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the ’633 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’633 patent.

COUNT VII

(Infringement of the ’183 Patent)

195. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

196. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’183 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’183 Accused Instrumentalities. Medtronic’s ’183 Accused Instrumentalities include, but are not limited to, the Sovereign systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

197. Attached to this Complaint as Exhibit G2 is a representative chart that, on information and belief, describes how, as a non-limiting example, the elements of exemplary claim 1 of the ’183 patent are met by the ’183 Accused Instrumentalities.

198. The Medtronic Defendants’ infringement of the ’183 patent has also been indirect.

199. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’183 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’183 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’183 patent.

200. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’183 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 1 of the ’183 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’183 Accused Instrumentalities in ways that directly

infringe the ’183 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’183 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’183 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the ’183 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic’s ’183 Accused Instrumentalities constitutes direct infringement of the ’183 patent but took deliberate actions to avoid learning of these facts.

201. On information and belief, the Medtronic Defendants’ inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the ’183 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

202. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the ’183 patent since shortly after its issuance in March 2020. Although the ’183 patent was not yet issued at the time of Dr. Moskowitz’s 2015 notice letters, it is a continuation of U.S. Pat. Pub. No. 2008/0177307 A1, which was expressly identified in the letters by publication number

and subject matter. The ’183 patent shares the same figures and core technical disclosures, placing the Medtronic Defendants on notice when the patent issued.

203. The Medtronic Defendants cited family members of the ’183 patent at least 18 times in Information Disclosure Statements during prosecution of their own spinal implant applications, including after the ’183 patent issued. A Patent Examiner also cited the ’183 patent’s parent publication, among other Moskowitz publications, in Medtronic Defendants’ earlier prosecution of U.S. Patent No. 9,364,341. These repeated citations reflect a high level of internal awareness and attention to the family of inventions claimed in the ’183 patent.

204. The ’183 patent claims technologies that are implemented in the Medtronic Defendants’ Sovereign system. The Sovereign product incorporates the very design concepts Dr. Moskowitz disclosed in his submissions and described in meetings with the Medtronic Defendants prior to the 2015 letter. These facts support a plausible inference of actual knowledge.

205. Alternatively, the Medtronic Defendants were willfully blind to the ’183 patent. They were aware of the family history, cited related publications internally, and continued to develop and promote infringing technologies without conducting any known investigation. On information and belief, the Medtronic Defendants also received industry publications—including the SpineMarket Patent Power Index—where Dr. Moskowitz and the ’183 patent were highlighted. The Medtronic Defendants’ failure to assess infringement risk under these circumstances demonstrates deliberate indifference.

206. The Medtronic Defendants' awareness of Moskowitz Family LLC's patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which Medtronic sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's "published IP." By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to Medtronic explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz's portfolio, including the publication number, filing date, issue date, and title of each. The asserted '183 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

207. On information and belief, the Medtronic Defendants' patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC's patent portfolio and the inventions described and claimed in the '183 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner cited a published parent application of the '183 patent (U.S. Pat. Pub. No. 2008/0177307 A1), along with four other published Moskowitz applications, in a Notice of References Cited during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,364,341, titled Spinal Implant System and

Method. And the Medtronic Defendants have disclosed family members of the ’183 patent to the Patent Office at least 18 times in Information Disclosure Statements submitted during prosecution of their own patent applications—including as early as May 2021.

208. On information and belief, the Medtronic Defendants have known that the making and/or using of their ’183 Accused Instrumentalities constitutes an act of direct infringement of the ’183 patent since at least shortly after the issuance of the ’183 patent in March 2020. The Medtronic Defendants were further aware of their infringement as of at least May 2021, when they first cited family members of the ’183 patent during prosecution of their own patent applications and received additional notice through the filing and service of this Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’183 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’183 patent.

209. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe the ’183 patent under 35 U.S.C. § 271(c) because they have contributed to direct infringement, and continue to contribute to direct infringement, by third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) of at least claim 1 of

the ’183 patent. For example, the Medtronic Defendants have sold, offered for sale, and/or imported into the United States and are currently selling, offering for sale, and/or importing into the United States components of the ’183 Accused Instrumentalities (such as intervertebral cages and/or screw locking brackets) to these third parties with full knowledge of the ’183 patent. These third parties have assembled the components to make and use the ’183 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to assemble and use the components of the ’183 Accused Instrumentalities in ways that infringed/infringe the ’183 patent. The Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses. Further, the Medtronic Defendants’ components constituted/constitute a material part of the inventions claimed in the ’183 patent. The Medtronic Defendants have supplied/supply these components with knowledge of the ’183 patent and knowledge that the components were/are especially made for use in an infringing manner.

210. On information and belief, the Medtronic Defendants have also indirectly infringed and continue to indirectly infringe the ’183 patent under 35 U.S.C. § 271(f)(2) by supplying in or from the United States, one or more components of the ’183 Accused Instrumentalities (such as intervertebral cages and/or screw locking brackets) to third parties (including foreign subsidiaries, hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) and intending that these third parties combine the components in a manner that would directly infringe at

least claim 1 of the ’183 patent if such combination occurred within the United States. For example, the Medtronic Defendants have supplied, and continue to supply, such third parties outside of the United States with one or more components of the ’183 Accused Instrumentalities with full knowledge of the ’183 patent. These third parties have made or used the ’183 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to combine the components of the ’183 Accused Instrumentalities and use them in ways that would infringe the ’183 patent if such combination occurred within the United States. The Medtronic Defendants provide these instructions to the third parties with the knowledge that assembly and usage in accordance with their instructions would infringe the ’183 patent if such assembly and usage took place in the United States. Additionally, the Medtronic Defendants’ components are especially made and/or especially adapted for use in an infringing manner and the Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses.

211. On information and belief, the Medtronic Defendants’ actions demonstrate an intent not only to cause the acts described herein that form the basis of direct infringement by third parties (or would form the basis of direct infringement if they occurred within the United States), but also to cause these acts with the specific intent to infringe the ’183 patent. At a minimum, the Medtronic Defendants’ conduct demonstrates that the Medtronic Defendants either knew or should have known that the

acts of such third parties directly infringed/infringe the ’183 patent (or would infringe if those acts occurred within the United States).

212. The Medtronic Defendants’ infringement of the ’183 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance and cited related family members during prosecution of their own spinal implant patents. Alternatively, they were willfully blind to the existence and relevance of the ’183 patent. The patent continues from applications disclosed to the Medtronic Defendants as early as 2015, and they repeatedly cited this patent family while actively monitoring competitive filings in the spine space.

213. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Sovereign system, which embodies the screw-integrated cage technologies described in the ’183 patent. On information and belief, they did not seek a license, did not redesign the accused system, and did not assert any good-faith basis for non-infringement or invalidity. They also did not conduct any known clearance analysis or investigate their infringement risk.

214. Their continued commercialization of the ’183 Accused Instrumentalities, including the Sovereign system—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

215. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

216. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’183 patent unless and until they are enjoined by this Court.

217. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the ’183 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’183 patent.

COUNT VIII

(Infringement of the ’797 Patent)

218. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

219. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’797 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’797 Accused Instrumentalities. Medtronic’s ’797 Accused Instrumentalities include, but are not limited to, the Elevate and Catalyft systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

220. Attached to this Complaint as Exhibits H2 and H3 are representative charts that, on information and belief, describe how, as a non-limiting example, the elements of exemplary claim 16 of the ’797 patent are met by the ’797 Accused Instrumentalities.

221. The Medtronic Defendants’ infringement of the ’797 patent has also been indirect.

222. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’797 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’797 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’797 patent.

223. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’797 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 16 of the ’797 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’797 Accused Instrumentalities in ways that directly

infringe the ’797 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’797 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’797 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the ’797 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic’s ’797 Accused Instrumentalities constitutes direct infringement of the ’797 patent but took deliberate actions to avoid learning of these facts.

224. On information and belief, the Medtronic Defendants’ inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the ’797 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

225. On information and belief, the Medtronic Defendants had actual knowledge of the ’797 patent since at least shortly after its issuance in August 2021. Although the ’797 patent was not identified by number in the 2015 notice letters, it is a continuation of U.S. Pat. Pub. No. 2014/0249629 A1, which was disclosed in detail. The ’797 patent shares the same figures and technical disclosure as the 2014 publication.

226. On information and belief, the Medtronic Defendants cited the ’797 patent in at least 11 Information Disclosure Statements submitted to the USPTO, beginning in November 2021. U.S. Pat. Pub. No. 2014/0249629 A1 was also cited by the Examiner in earlier prosecution of their own patents. These repeated citations show internal awareness and recognition of the relevance of the ’797 patent.

227. The ’797 patent claims expandable intervertebral implant devices that are directly embodied in the Medtronic Defendants’ Elevate and Catalyft systems, which were marketed during the damages period. On information and belief, these systems incorporate the same core principles that Dr. Moskowitz disclosed and patented. These facts support a strong inference of actual knowledge.

228. Alternatively, the Medtronic Defendants were willfully blind to the ’797 patent. They received detailed disclosures of the parent patent family in 2015, cited those same applications repeatedly during prosecution, and continued to commercialize infringing products without undertaking any known infringement analysis. On further information and belief, they also received spine industry publications, including SpineMarket’s Patent Power Index, that listed the ’797 patent and identified Dr. Moskowitz’s continued patent activity. These facts support a plausible inference of willful blindness.

229. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details,

and expressed interest in Dr. Moskowitz's "published IP." By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz's portfolio, including the publication number, filing date, issue date, and title of each. The asserted '797 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

230. On information and belief, the Medtronic Defendants' patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC's patent portfolio and the inventions described and claimed in the '797 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner cited a published parent application of the '797 patent (U.S. Pat. Pub. No. 2014/0249629 A1), along with four other published Moskowitz applications, in a Notice of References Cited during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,364,341, titled Spinal Implant System and Method. And the Medtronic Defendants have disclosed the '797 patent to the Patent Office at least 11 times in Information Disclosure Statements submitted during prosecution of their own patent applications—starting as early as November 2021.

231. On information and belief, the Medtronic Defendants have known that the making and/or using of their '797 Accused Instrumentalities constitutes an act of direct infringement of the '797 patent since at least shortly after the issuance of the '797 patent in August 2021. The Medtronic Defendants were further aware of their infringement as of at least November 2021, when they first cited the '797 patent during prosecution of their own patent applications and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the '797 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the '797 patent.

232. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe the '797 patent under 35 U.S.C. § 271(c) because they have contributed to direct infringement, and continue to contribute to direct infringement, by third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) of at least claim 16 of the '797 patent. For example, the Medtronic Defendants have sold, offered for sale, and/or imported into the United States and are currently selling, offering for sale, and/or importing into the United States components of the '797 Accused Instrumentalities (such as expandable intervertebral fusion devices and/or various inserter tools) to these third

parties with full knowledge of the ’797 patent. These third parties have assembled the components to make and use the ’797 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to assemble and use the components of the ’797 Accused Instrumentalities in ways that infringed/infringe the ’797 patent. The Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses. Further, the Medtronic Defendants’ components constituted/constitute a material part of the inventions claimed in the ’797 patent. The Medtronic Defendants supplied/supply these components with knowledge of the ’797 patent and knowledge that the components were/are especially made for use in an infringing manner.

233. On information and belief, the Medtronic Defendants have also indirectly infringed and continue to indirectly infringe the ’797 patent under 35 U.S.C. § 271(f)(2) by supplying in or from the United States, one or more components of the ’797 Accused Instrumentalities (such as expandable intervertebral fusion devices and/or various inserter tools) to third parties (including foreign subsidiaries, hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) and intending that these third parties combine the components in a manner that would directly infringe at least claim 16 of the ’797 patent if such combination occurred within the United States. For example, the Medtronic Defendants have supplied, and continue to supply, such third parties outside of the United States with one or more components of the ’797 Accused Instrumentalities with full knowledge of the ’797 patent. These third

parties have made or used the ’797 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to combine the components of the ’797 Accused Instrumentalities and use them in ways that would infringe the ’797 patent if such combination occurred within the United States. The Medtronic Defendants provide these instructions to the third parties with the knowledge that assembly and usage in accordance with their instructions would infringe the ’797 patent if such assembly and usage took place in the United States. Additionally, the Medtronic Defendants’ components are especially made and/or especially adapted for use in an infringing manner and the Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses.

234. On information and belief, the Medtronic Defendants’ actions demonstrate an intent not only to cause the acts described herein that form the basis of direct infringement by third parties (or would form the basis of direct infringement if they occurred within the United States), but also to cause these acts with the specific intent to infringe the ’797 patent. At a minimum, the Medtronic Defendants’ conduct demonstrates that the Medtronic Defendants either knew or should have known that the acts of such third parties directly infringed/infringe the ’797 patent (or would infringe if those acts occurred within the United States).

235. The Medtronic Defendants’ infringement of the ’797 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance and cited it repeatedly in their

own patent filings. Alternatively, they were willfully blind to its existence and relevance. The ’797 patent is a continuation of applications disclosed to the Medtronic Defendants in 2015, and on information and belief, they reviewed this patent family as part of their internal IP surveillance and cited it during active prosecution.

236. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Elevate and Catalyft systems, which embody the expandable, zero-profile implant innovations claimed in the ’797 patent. On information and belief, they did not seek a license, did not redesign the systems, and did not assert any good-faith basis for non-infringement or invalidity. They also failed to evaluate the patent’s applicability despite its visibility in the spine industry and Medtronic’s repeated citations.

237. Their continued commercialization of the ’797 Accused Instrumentalities, including the Elevate and Catalyft systems—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

238. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

239. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’797 patent unless and until it is enjoined by this Court.

240. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing

the ’797 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’797 patent.

COUNT IX

(Infringement of the ’136 Patent)

241. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

242. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’136 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’136 Accused Instrumentalities. Medtronic’s ’136 Accused Instrumentalities include, but are not limited to, the Elevate and Catalyft systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

243. Attached to this Complaint as Exhibits I2 and I3 are representative charts that, on information and belief, describe how, as a non-limiting example, the elements of exemplary claim 1 of the ’136 patent are met by the ’136 Accused Instrumentalities.

244. The Medtronic Defendants’ infringement of the ’136 patent has also been indirect.

245. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’136 patent under

35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’136 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’136 patent.

246. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use the ’136 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 1 of the ’136 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’136 Accused Instrumentalities in ways that directly infringe the ’136 patent, and Medtronic has and will continue to encourage these acts with the specific intent to infringe the ’136 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’136 Accused Instrumentalities with knowledge that such making and/or use constitutes an act

of direct infringement of the ’136 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic’s ’136 Accused Instrumentalities constitutes direct infringement of the ’136 patent but took deliberate actions to avoid learning of these facts.

247. On information and belief, the Medtronic Defendants’ inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the ’136 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

248. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the ’136 patent since at least shortly after its issuance in July 2022. Although the patent itself had not issued in 2015, it is a continuation of U.S. Pat. Pub. No. 2008/0033440 A1, which was expressly disclosed in the 2015 notice letters. The ’136 patent shares the same figures and technical disclosures as this parent application.

249. Upon information and belief, after issuance, the Medtronic Defendants cited the ’136 patent and/or its family members at least 20 times in Information Disclosure Statements, including citations made after the ’136 patent issued. These citations occurred during prosecution of their own spinal implant patent applications, and further reinforce internal awareness of the patent’s scope and relevance.

250. The ’136 patent claims technology directly embodied in the Medtronic Defendants’ Elevate and Catalyft systems, which incorporate tools and implant expansion mechanisms that track the patented inventions. These facts support a strong inference of actual knowledge.

251. Alternatively, the Medtronic Defendants were willfully blind to the ’136 patent. They received detailed disclosures of its parent patent family in 2015, cited family members extensively in their own prosecution activity, and continued to commercialize systems aligned with the patented technology. On information and belief, they also received industry publications such as SpineMarket’s Patent Power Index, which featured the ’136 patent and Dr. Moskowitz’s ongoing innovations. These facts support a plausible inference of willful blindness.

252. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's “published IP.” By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz’s portfolio, including the publication number, filing date, issue date, and title of each. The asserted ’136 patent is a continuation of the patents and pending

applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

253. On information and belief, the Medtronic Defendants' patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC's patent portfolio and the inventions described and claimed in the '136 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, the Patent Examiner identified a published parent application of the '136 patent (U.S. Pat. Pub. No. 2008/0033440 A1) as one of six references in a Notice of References Cited attached to the Examiner's Notice of Allowance during prosecution of the Medtronic Defendants' application that issued as U.S. Patent No. 9,283,089, titled Interbody Bone Implant Device. And the Medtronic Defendants have disclosed family members of the '136 patent to the Patent Office at least 20 times in Information Disclosure Statements submitted during prosecution of their own patent applications—including after the '136 patent issued.

254. On information and belief, the Medtronic Defendants have known that the making and/or using of their '136 Accused Instrumentalities constitute an act of direct infringement of the '136 patent since at least shortly after the issuance of the '136 patent in July 2022. The Medtronic Defendants were further aware of their infringement as of at least October 2024, when they first cited the family members of the '136 patent during prosecution of their own patents and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the

extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’136 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’136 patent.

255. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe the ’136 patent under 35 U.S.C. § 271(c) because they have contributed to direct infringement, and continue to contribute to direct infringement, by third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) of at least claim 1 of the ’136 patent. For example, the Medtronic Defendants have sold, offered for sale, and/or imported into the United States and are currently selling, offering for sale, and/or importing into the United States components of the ’136 Accused Instrumentalities (such as inserter tools/drive shafts and/or expandable spinal implants) to these third parties with full knowledge of the ’136 patent. These third parties have assembled the components to make and use the ’136 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to assemble and use the components of the ’136 Accused Instrumentalities in ways that infringed/infringe the ’136 patent. The Medtronic Defendants’ components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses. Further, the

Medtronic Defendants' components constituted/constitute a material part of the inventions claimed in the '136 patent. The Medtronic Defendants supplied/supply these components with knowledge of the '136 patent and knowledge that the components were/are especially made for use in an infringing manner.

256. On information and belief, the Medtronic Defendants have also indirectly infringed and continue to indirectly infringe the '136 patent under 35 U.S.C. § 271(f)(2) by supplying in or from the United States, one or more components of the '136 Accused Instrumentalities (such as inserter tools/drive shafts and/or expandable spinal implants) to third parties (including foreign subsidiaries, hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) and intending that these third parties combine the components in a manner that would directly infringe at least claim 1 of the '136 patent if such combination occurred within the United States. For example, the Medtronic Defendants have supplied, and continue to supply, such third parties outside of the United States with one or more components of the '136 Accused Instrumentalities with full knowledge of the '136 patent. These third parties have made or used the '136 Accused Instrumentalities according to instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instruct them how to combine the components of the '136 Accused Instrumentalities and use them in ways that would infringe the '136 patent if such combination occurred within the United States. The Medtronic Defendants provide these instructions to the third parties with the knowledge that assembly and usage in accordance with their instructions would infringe the '136 patent if such assembly and

usage took place in the United States. Additionally, the Medtronic Defendants' components are especially made and/or especially adapted for use in an infringing manner and the Medtronic Defendants' components were and are not staple articles or commodities of commerce suitable for substantial noninfringing uses.

257. On information and belief, the Medtronic Defendants' actions demonstrate an intent not only to cause the acts described herein that form the basis of direct infringement by third parties (or would form the basis of direct infringement if they occurred within the United States), but also to cause these acts with the specific intent to infringe the '136 patent. At a minimum, the Medtronic Defendants' conduct demonstrates that the Medtronic Defendants either knew or should have known that the acts of such third parties directly infringed/infringe the '136 patent (or would infringe if those acts occurred within the United States).

258. The Medtronic Defendants' infringement of the '136 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance and cited related family members repeatedly in their own patent filings. Alternatively, they were willfully blind to the existence and relevance of the '136 patent. The patent is a continuation of applications disclosed to the Medtronic Defendants in 2015, and they actively cited those family members in prosecution and routinely reviewed spine-related patent activity.

259. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Elevate and Catalyft systems, which incorporate the expandable implant technologies claimed in the '136 patent. On information and belief,

they did not seek a license, did not redesign the systems, and did not assert any good-faith basis for non-infringement or invalidity. They also did not conduct any clearance or infringement analysis after the patent issued.

260. Their continued commercialization of the ’136 Accused Instrumentalities, including the Elevate and Catalyft systems—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

261. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’136 patent unless and until they are enjoined by this Court.

262. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the ’136 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’136 patent.

COUNT X

(Infringement of the ’755 Patent)

263. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

264. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’755 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have

made, used, sold, offered for sale, and/or imported and are currently making, using, selling, offering for sale, and/or importing the ’755 Accused Instrumentalities. Medtronic’s ’755 Accused Instrumentalities include, but are not limited to, the T2 Stratosphere systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

265. Attached to this Complaint as Exhibit J2 is a representative chart that, on information and belief, describes how, as a non-limiting example, the elements of exemplary claim 1 of the ’755 patent are met by the ’755 Accused Instrumentalities.

266. The Medtronic Defendants’ infringement of the ’755 patent has also been indirect.

267. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’755 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’755 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’755 patent.

268. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use

the ’755 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claim 1 of the ’755 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’755 Accused Instrumentalities in ways that directly infringe the ’755 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’755 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’755 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the ’755 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic’s ’755 Accused Instrumentalities constitutes direct infringement of the ’755 patent but took deliberate actions to avoid learning of these facts.

269. On information and belief, the Medtronic Defendants’ inducement of third-party infringement—including hospitals, surgeons, distributors, and sales representatives—occurred after they had actual knowledge of, or were willfully blind to, the ’755 patent. They acted with the specific intent to cause those third parties to use the accused systems in a manner that infringes one or more claims of the patent.

270. On information and belief, the Medtronic Defendants had actual knowledge of the ’755 patent since shortly after its issuance in January 2024. While this patent was not listed in the 2015 notice letters, it is a continuation of U.S. Pat. Pub. No. 2006/0241621 A1, which was included in the portfolio disclosed by Dr. Moskowitz. The ’755 patent claims the same core spinal implant designs, structures, and expansion technologies disclosed in that application.

271. On further information and belief, the Medtronic Defendants cited and encountered family members of the ’755 patent repeatedly during prosecution of their own applications. For instance, a parent application was used by USPTO Examiners as a basis for multiple claim rejections in the Medtronic Defendants’ patent filings, prompting detailed written responses in which the Medtronic Defendants analyzed and reproduced figures from the Moskowitz application. The figures reproduced by the Medtronic Defendants are the same figures included in the ’755 patent. The Medtronic Defendants have disclosed family members of the ’755 patent at least 27 times during prosecution of their own patent applications, including in October 2024, shortly after the ’755 patent issued.

272. The ’755 patent claims artificial expandable implant systems directly reflected in the Medtronic Defendants’ T2 Stratosphere product line, which includes expandable corpectomy cages for spinal fusion. These systems use core design features claimed by the ’755 patent. These facts support a strong inference of actual knowledge.

273. Alternatively, the Medtronic Defendants were willfully blind to the ’755 patent. Their prior exposure to its parent disclosures, repeated citations, prosecution

discussions, and monitoring of industry publications such as the SpineMarket Patent Power Index make it implausible that they were unaware of the ’755 patent or its relevance. Their failure to investigate or avoid infringement supports an inference of willful blindness.

274. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's “published IP.” By 2015, after years of meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz’s portfolio, including the publication number, filing date, issue date, and title of each. The asserted ’755 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

275. On information and belief, the Medtronic Defendants’ patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC’s patent portfolio and the inventions described and claimed in the ’755 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC’s patent portfolio since becoming aware of it by no later than 2015. For example, a

published parent application of the ’755 patent (U.S. Pat. Pub. No. 2006/0241621 A1) has been repeatedly cited by several Patent Examiners during prosecution of five of the Medtronic Defendants’ patent applications. For three of the Medtronic Defendants’ applications (which issued as U.S. Pat. Nos. 7,981,157, titled Self-Contained Expandable Implant and Method; 7,708,779, titled Expandable Intervertebral Spacers and Methods of Use; and 8,795,368, titled Expandable Implant System and Methods of Use), the published Moskowitz application was used as a basis for rejecting the Medtronic Defendants’ claims as being invalid under 35 U.S.C. §§ 102 and 103. The Medtronic Defendants submitted numerous responses to these rejections, which included analysis of the Moskowitz application and reproduced several figures contained therein. The figures reproduced by the Medtronic Defendants are the same figures that appear in the ’755 patent. Additionally, the Medtronic Defendants have disclosed family members of the ’755 patent to the Patent Office at least 27 times in Information Disclosure Statements submitted during prosecution of their own patent applications—including in October 2024, shortly after the ’755 patent issued.

276. On information and belief, the Medtronic Defendants have known that the making and/or using of their ’755 Accused Instrumentalities constitutes an act of direct infringement of the ’755 patent since at least shortly after the issuance of the ’755 patent in January 2024. The Medtronic Defendants were further aware of their infringement as of at least October 2024, when they first cited family members of the ’755 patent during prosecution of their own patent applications and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts.

To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’755 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’755 patent.

277. The Medtronic Defendants’ infringement of the ’755 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance and cited related family members during prosecution of their own spinal implant patents. Alternatively, they were willfully blind to the existence and relevance of the ’755 patent. The patent is a continuation of applications disclosed to the Medtronic Defendants in 2015, and they repeatedly cited members of the same patent family and responded to USPTO rejections based on those references.

278. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the T2 Stratosphere system, which incorporates the expandable cage and corpectomy innovations claimed in the ’755 patent. On information and belief, they did not seek a license, did not redesign the accused product, and did not assert any good-faith basis for non-infringement or invalidity. They also failed to conduct any clearance or infringement analysis, despite repeatedly encountering the ’755 patent family in the public record and during prosecution.

279. Their continued commercialization of the ’755 Accused Instrumentalities, including the T2 Stratosphere system—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

280. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

281. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’755 patent unless and until they are enjoined by this Court.

282. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the ’755 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’755 patent.

COUNT XI

(Infringement of the ’367 Patent)

283. Moskowitz Family LLC restates and realleges all the foregoing paragraphs as if fully stated herein.

284. On information and belief, the Medtronic Defendants have directly infringed and continue to directly infringe one or more claims of the ’367 patent under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, because they have made, used, sold, offered for sale, and/or imported and are currently making, using,

selling, offering for sale, and/or importing the ’367 Accused Instrumentalities. Medtronic’s ’367 Accused Instrumentalities include, but are not limited to, the Elevate and Catalyft systems and instrumentation, and any other Medtronic product, either alone or in combination, that operates in a reasonably similar manner.

285. Attached to this Complaint as Exhibits K2 and K3 are representative charts that, on information and belief, describe how, as a non-limiting example, the elements of exemplary claims 8 or 17 of the ’367 patent are met by the ’367 Accused Instrumentalities.

286. The Medtronic Defendants’ infringement of the ’367 patent has also been indirect.

287. On information and belief, the Medtronic Defendants have indirectly infringed and continue to indirectly infringe one or more claims of the ’367 patent under 35 U.S.C. § 271(b) because they have induced and continue to induce, third parties (including hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives) to make, use, sell, offer to sell, and/or import the ’367 Accused Instrumentalities. Such making, using, selling, offering for sale, and/or importing by third parties constitutes direct infringement of one or more claims of the ’367 patent.

288. For example, the Medtronic Defendants have supplied, and continue to supply, such induced third parties with spinal surgery products, instructions, manuals, brochures, documentation, tutorials, videos, mobile applications, website materials, promotional materials, and the like that instructed/instructs them how to make and/or use

the ’367 Accused Instrumentalities, with knowledge that making and/or usage in accordance with their instructions directly infringed/infringes at least claims 8 or 17 of the ’367 patent, or with willful blindness to that fact. On information and belief, the Medtronic Defendants will continue to encourage, aid, or otherwise cause these third parties to, for example, make and/or use their ’367 Accused Instrumentalities in ways that directly infringe the ’367 patent, and the Medtronic Defendants have and will continue to encourage these acts with the specific intent to infringe the ’367 patent. Further, the Medtronic Defendants provide information and technical support to hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives, including manuals, brochures, documentation, tutorials, videos, demonstrations, website materials, and promotional materials, encouraging them to make, purchase, and use Medtronic’s ’367 Accused Instrumentalities with knowledge that such making and/or use constitutes an act of direct infringement of the ’367 patent. Alternatively, the Medtronic Defendants have acted with willful blindness to these facts. On information and belief, the Medtronic Defendants know that there is a high probability that the making and/or use of Medtronic’s ’367 Accused Instrumentalities constitutes direct infringement of the ’367 patent but took deliberate actions to avoid learning of these facts.

289. On information and belief, the Medtronic Defendants had actual knowledge of the inventions described and claimed in the ’367 patent since shortly after its issuance in June 2024. The ’367 patent is a continuation of U.S. Pat. Pub. No. 2006/0241621 A1, which was included in the portfolio disclosed by Dr. Moskowitz’s counsel in 2015. The ’367 patent shares the same figures and technical disclosures as the disclosed publication.

290. Following issuance, the Medtronic Defendants continued citing family members of the ’367 patent—including U.S. Pat. Pub. No. 2006/0241621 A1 and related patents—in their own prosecution documents. On information and belief, the Medtronic Defendants cited this family at least 22 times in Information Disclosure Statements. These facts establish internal awareness of the lineage leading to the ’367 patent and its relevance to the Medtronic Defendants’ spinal products.

291. The ’367 patent claims expandable intervertebral implant technology directly reflected in the Medtronic Defendants’ Elevate and Catalyft systems, which include expandable intervertebral cages for spinal fusion. These systems use core design features claimed by the ’367 patent. These facts support a strong inference of actual knowledge

292. Alternatively, the Medtronic Defendants were willfully blind to the ’367 patent. They received detailed disclosures of the parent family, tracked spinal patents via internal IP monitoring programs, and reviewed public industry publications—including the SpineMarket Patent Power Index—that highlighted newly issued Moskowitz patents. Despite this, the Medtronic Defendants made no apparent effort to investigate potential infringement. These facts plausibly allege willful blindness.

293. The Medtronic Defendants’ awareness of Moskowitz Family LLC’s patent portfolio was further reinforced between 2010 and 2014 through their active engagement with Dr. Moskowitz, during which the Medtronic Defendants sought and received technical presentations, reviewed patent claims, requested additional technical details, and expressed interest in Dr. Moskowitz's “published IP.” By 2015, after years of

meetings, product demonstrations, and detailed disclosures, Dr. Moskowitz formally placed the Medtronic Defendants on notice of his patent rights through written correspondence from legal counsel. The letters sent to the Medtronic Defendants explicitly identified more than thirty issued patents and pending applications within Dr. Moskowitz's portfolio, including the publication number, filing date, issue date, and title of each. The asserted '367 patent is a continuation of the patents and pending applications identified in the letters—and shares the same technical description and figures as those patents and pending applications disclosed to the Medtronic Defendants.

294. On information and belief, the Medtronic Defendants' patent prosecution activities further confirm that they have been aware of Moskowitz Family LLC's patent portfolio and the inventions described and claimed in the '367 patent. On information and belief, the Medtronic Defendants have continued to monitor Moskowitz Family LLC's patent portfolio since becoming aware of it by no later than 2015. For example, the Medtronic Defendants have disclosed family members of the '367 patent to the Patent Office at least 22 times in Information Disclosure Statements submitted during prosecution of their own patent applications—including in October 2024, shortly after the '367 patent issued.

295. On information and belief, the Medtronic Defendants have known that the making and/or using of their '367 Accused Instrumentalities constitute an act of direct infringement of the '367 patent since at least shortly after the issuance of the '367 patent in June 2024. The Medtronic Defendants were further aware of their infringement as of at least October 2024, when they first cited family members of the '367 patent during

prosecution of their own patents and received additional notice through the filing and service of the original Complaint, as demonstrated by the attached claim charts. To the extent the Medtronic Defendants lacked actual knowledge of their infringement, such lack of knowledge resulted from their deliberate decision to avoid learning these facts. The Medtronic Defendants, therefore, knew or were willfully blind to the fact that the making and/or using of the ’367 Accused Instrumentalities by hospitals, surgeons, medical professionals, distributors, manufacturers, and independent sales representatives directly infringes the ’367 patent.

296. The Medtronic Defendants’ infringement of the ’367 patent has been and continues to be willful and merits enhanced damages under 35 U.S.C. § 284. They had actual knowledge of the patent shortly after its issuance and were familiar with its claims and technological lineage through repeated citations during prosecution. Alternatively, they were willfully blind to the existence and relevance of the ’367 patent. The patent is a continuation of applications disclosed to the Medtronic Defendants in 2015, and they repeatedly cited members of the same family during their own patent filings.

297. Despite this knowledge, the Medtronic Defendants continued to manufacture, market, and sell the Elevate and Catalyft systems. On information and belief, they did not seek a license, did not redesign the product, and did not assert any good-faith basis for non-infringement or invalidity. They failed to evaluate or investigate their infringement risk, despite extensive prior exposure to the patent family and the overlapping technologies.

298. Their continued commercialization of the ’367 Accused Instrumentalities, including the Elevate and Catalyft systems—despite actual knowledge or deliberate indifference—demonstrates egregious disregard for Moskowitz Family LLC’s patent rights and supports an award of enhanced damages.

299. Moskowitz Family LLC has been damaged as the result of the Medtronic Defendants’ willful infringement.

300. On information and belief, the Medtronic Defendants will continue to infringe one or more claims of the ’367 patent unless and until they are enjoined by this Court.

301. On information and belief, the Medtronic Defendants have caused and will continue to cause Moskowitz Family LLC irreparable injury and damage by infringing the ’367 patent. Moskowitz Family LLC will suffer further irreparable injury and damage, for which it has no adequate remedy at law, unless and until the Medtronic Defendants are enjoined from infringing the claims of the ’367 patent.

MEDTRONIC’S CONTINUED INFRINGEMENT AND POST-SUIT CONDUCT

302. The Medtronic Defendants’ infringement of the Asserted Patents has continued after the filing and service of this action. On information and belief, they have not ceased sales of the accused products, have not modified the relevant product designs, and have not taken any meaningful steps to avoid continued infringement. Their post-suit conduct reflects a conscious and continued disregard of Moskowitz Family LLC’s patent rights and further supports a finding of willful infringement and entitlement to enhanced damages and ongoing relief.

JURY DEMAND

303. Moskowitz Family LLC requests a jury trial as to all issues that are triable by a jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Moskowitz Family LLC respectfully requests that this Court:

A. Enter judgment that the Medtronic Defendants have each infringed one or more of the claims of each of the Asserted Patents;

B. Enter an order permanently enjoining the Medtronic Defendants and their officers, agents, employees, attorneys, and all persons in active concert or participation with any of them, from infringing the Asserted Patents;

C. Award Moskowitz Family LLC all appropriate damages for the infringement of the Asserted Patents, including pre-judgment and post-judgment interest, costs, and all other relief permitted under 35 U.S.C. § 284;

D. Award Moskowitz Family LLC an accounting for acts of infringement not presented at trial, including an award of additional damages for such acts of infringement;

E. Enter judgment that the Medtronic Defendants' infringement of each of the Asserted Patents has been deliberate and willful;

F. Treble the damages awarded to Moskowitz Family LLC under 35 U.S.C. § 284 by reason of the Medtronic Defendants' willful infringement of one or more claims of each of the Asserted Patents;

G. Declare this case to be "exceptional" under 35 U.S.C. § 285 and award Moskowitz Family LLC its attorneys' fees, expenses, and costs incurred in this action; and

H. Award Moskowitz Family LLC such other and further relief at law or in equity as the Court deems just and proper.

DATED: May 23, 2025

AVANTECH LAW LLP

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