IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

MOSKOWITZ FAMILY LLC, Plaintiff, vs. 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 **DEFENDANTS MEDTRONIC, INC., MEDTRONIC SOFAMOR DANEK, INC., MEDTRONIC SOFAMOR DANEK USA, INC., WARSAW ORTHOPEDIC, INC., AND TITAN SPINE, INC.'S ANSWER TO FIRST AMENDED COMPLAINT AND COUNTERCLAIMS AGAINST PLAINTIFF MOSKOWITZ FAMILY LLC**

Defendants Medtronic, Inc.; Medtronic Sofamor Danek, Inc.; Medtronic Sofamor Danek USA, Inc.; Warsaw Orthopedic, Inc.; and Titan Spine, Inc. (collectively, "Medtronic" or "Defendants"), through their attorneys and upon personal knowledge and/or upon information and belief, respectfully submit this Answer ("Answer") to Plaintiff Moskowitz Family LLC's ("Plaintiff") First Amended Complaint ("FAC") and Counterclaims against Plaintiff. The numbered paragraphs of this Answer correspond to the numbered paragraphs of Plaintiff's Complaint. Medtronic incorporates the headings of the FAC solely for organizational and reference purposes. Medtronic denies any allegations contained in the headings, tables, and unnumbered paragraphs of the FAC, as well as any characterizations of the documents referred to in the FAC. Every allegation that is not specifically admitted is hereby denied.

MEDTRONIC EXHIBIT 1041
Medtronic, Inc. v. Moskowitz Family LLC
IPR2026-00163

THE PARTIES

1. Medtronic denies the allegations of this paragraph. Medtronic denies that it knew of allegations of infringement at issue in this lawsuit. Medtronic denies that it uses any technology that is covered by the asserted patents. Medtronic admits that it is one of the largest medical device companies. Medtronic denies all allegations of infringement and admits that it has not paid money to the Moskowitz Family LLC. Medtronic denies the remaining allegations of this paragraph.

2. Medtronic is without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

3. Medtronic is without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

4. Medtronic is without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

5. Medtronic is without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

6. Medtronic is without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

7. Medtronic is without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

8. Medtronic is without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

9. Medtronic acknowledges that spinal fusion patients may experience potential complications after surgery including those listed in the First Amended Complaint. Medtronic denies that any of the patents-in-suit reflect Moskowitz Family LLC inventions that led to reduction in complications or improvement in patient outcomes. Medtronic denies the remaining allegations of this paragraph.

10. Medtronic denies that any of the patents-in-suit reflect Moskowitz Family LLC inventions that led to reduction in complications or improvement in patient outcomes. Medtronic denies the remaining allegations of this paragraph.

11. Medtronic admits that Medtronic, Inc. is a Minnesota corporation with its principal place of business at 710 Medtronic Parkway, Minneapolis, MN 55432. Medtronic admits that Medtronic is one of the world's largest medical technology, services, and solutions companies with the focus of alleviating pain, restoring health, and extending life for millions of people around the world. Medtronic admits that it has subsidiaries including those listed in Paragraph 11. Medtronic admits that Medtronic—either itself or through its subsidiaries, affiliates, and/or agents—imports, markets, distributes, and/or sells medical devices and instruments for use in connection with spine surgery, including those listed in Paragraph 11. Medtronic denies the remaining allegations of this paragraph.

12. Medtronic admits that Medtronic Sofamor Danek USA, Inc. is a Tennessee corporation. Medtronic admits that it has subsidiaries including Medtronic Sofamor Danek USA, Inc., and that Medtronic—either itself or through its subsidiaries, affiliates, and/or agents—imports, markets, distributes, and/or sells medical devices and

instruments for use in connection with spine surgery. Medtronic denies the remaining allegations of this paragraph.

13. Medtronic admits that Medtronic Sofamor Danek, Inc. is an Indiana corporation. Medtronic admits that it has subsidiaries including Medtronic Sofamor Danek, Inc., and that Medtronic—either itself or through its subsidiaries, affiliates, and/or agents—imports, markets, distributes, and/or sells medical devices and instruments for use in connection with spine surgery. Medtronic denies the remaining allegations of this paragraph.

14. Medtronic admits that Warsaw Orthopedic, Inc. is an Indiana corporation. Medtronic admits that Warsaw Orthopedic, Inc. is the successor by merger to Medtronic Sofamor Danek Holdings, Inc. Medtronic admits that it has subsidiaries including Warsaw Orthopedic, Inc., and that Medtronic—either itself or through its subsidiaries, affiliates, and/or agents—imports, markets, distributes, and/or sells medical devices and instruments for use in connection with spine surgery. Medtronic denies the remaining allegations of this paragraph.

15. Medtronic admits that Titan Spine, Inc. is a Delaware corporation. Medtronic admits that Titan Spine marketed titanium interbodies, including Endoskeleton TAS and Endoskeleton TCS. Medtronic denies the remaining allegations of this paragraph.

16. Medtronic admits that Medtronic completed its acquisition of Titan Spine, Inc. in 2019. Medtronic admits that it sells products formerly marketed by Titan Spine, including Endoskeleton TAS and Endoskeleton TCS. Medtronic states that other

products incorporate nanoLOCK surface technology. Medtronic denies the remaining allegations of this paragraph.

17. Medtronic denies that it has "control over the U.S. or global spinal surgery markets." Medtronic admits that it has a Cranial & Spinal Technologies division that develops, manufactures, and markets an integrated portfolio of devices and therapies for surgical technologies designed to improve the precision and workflow of neurological procedures, and a comprehensive line of medical devices and implants used in the treatment of the spine and musculoskeletal system.

18. Medtronic admits that, individually speaking, they are each in the business of selling medical devices. Medtronic admits that its mission is to contribute to human welfare by the application of biomedical engineering in the research, design, manufacture, and sale of products to alleviate pain, restore health, and extend life. This mission includes making a fair profit on current operations to meet Medtronic's obligations, sustain Medtronic's growth, and reach Medtronic's goals. Medtronic denies any remaining allegations in this paragraph, in particular any allegations regarding a joint enterprise or any express and/or implied agreements regarding how any profits associated with the Accused Instrumentalities are divided among the group.

19. This paragraph includes legal conclusions to which no response is required. To the extent a response is required, Medtronic denies the allegations. Medtronic denies the remaining allegations of this paragraph.

20. This paragraph includes legal conclusions to which no response is required. To the extent a response is required, Medtronic denies the allegations. Medtronic denies the remaining allegations of this paragraph.

21. This paragraph includes legal conclusions to which no response is required. To the extent a response is required, Medtronic denies the allegations. Medtronic denies the remaining allegations of this paragraph.

THE ASSERTED PATENTS

22. Medtronic admits that this case is a civil action for patent infringement and that the listed patents are asserted in this case. Medtronic denies the remaining allegations of this paragraph.

23. Medtronic admits that the '293 patent appears to have the title "Bi-directional fixating transvertebral body screws and posterior cervical and lumbar interarticulating joint calibrated stapling devices for spinal fusion," and appears on its face to have been issued on April 14, 2015, from Application No. 13/108,982, filed on May 16, 2011. Medtronic admits that what purports to be a copy of the '293 patent is attached to the FAC as Exhibit A1. Medtronic denies that the '293 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

24. Medtronic admits that the '674 patent appears to have the title "Bi-directional fixating transvertebral body screws and posterior cervical and lumbar interarticulating joint calibrated stapling devices for spinal fusion," and appears on its

face to have been issued on March 6, 2018, from Application No. 13/210,168, filed on August 15, 2011. Medtronic admits that what purports to be a copy of the ’674 patent is attached to the FAC as Exhibit B1. Medtronic denies that the ’674 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

25. Medtronic admits that the ’284 patent appears to have the title “Zero-profile expandable intervertebral spacer devices for distraction and spinal fusion and a universal tool for their placement and expansion,” and appears on its face to have been issued on July 10, 2018, from Application No. 15/820,232, filed on November 21, 2017. Medtronic admits that what purports to be a copy of the ’284 patent is attached to the FAC as Exhibit C1. Medtronic denies that the ’284 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

26. Medtronic admits that the ’738 patent appears to have the title “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 appears on its face to have been issued on September 4, 2018, from Application No. 15/490,107, filed on November 21, 2017. Medtronic admits that what purports to be a copy of the ’738 patent is attached to the FAC as Exhibit D1. Medtronic denies that the ’738 patent was duly or legally issued. Medtronic lacks knowledge of whether

Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

27. Medtronic admits that the ’505 patent appears to have the title “Bi-directional fixating/locking transvertebral body screw/intervertebral cage stand-alone constructs,” and appears on its face to have been issued on March 26, 2019, from Application No. 15/678,401, filed on August 16, 2017. Medtronic admits that what purports to be a copy of the ’505 patent is attached to the FAC as Exhibit E1. Medtronic denies that the ’505 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

28. Medtronic admits that the ’633 patent appears to have the title “Zero-profile expandable intervertebral spacer devices for distraction and spinal fusion and a universal tool for their placement and expansion,” and appears on its face to have been issued on October 1, 2019, from Application No. 16/025,667, filed on July 2, 2018. Medtronic admits that what purports to be a copy of the ’633 patent is attached to the FAC as Exhibit F1. Medtronic denies that the ’633 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

29. Medtronic admits that the ’183 patent appears to have the title “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 appears on its face to have been issued on March 31, 2020, from Application No.

16/100,410, filed on August 10, 2018. Medtronic admits that what purports to be a copy of the '183 patent is attached to the FAC as Exhibit G1. Medtronic denies that the '183 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

30. Medtronic admits that the '797 patent appears to have the title "Zero-profile expandable intervertebral spacer devices for distraction and spinal fusion and a universal tool for their placement and expansion," and appears on its face to have been issued on March 31, 2020, from Application No. 16/100,410, filed on August 10, 2018. Medtronic admits that what purports to be a copy of the '797 patent is attached to the FAC as Exhibit H1. Medtronic denies that the '797 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

31. Medtronic admits that the '136 patent appears to have the title "Expandable spinal implant and tool system," and appears on its face to have been issued on July 5, 2022, from Application No. 16/744,755, filed on January 16, 2020. Medtronic admits that what purports to be a copy of the '136 patent is attached to the FAC as Exhibit I1. Medtronic denies that the '136 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

32. Medtronic admits that the '755 patent appears to have the title "Artificial expandable implant systems," and appears on its face to have been issued on January 9,

2024, from Application No. 17/208,640, filed on March 22, 2021. Medtronic admits that what purports to be a copy of the ’755 patent is attached to the FAC as Exhibit J1. Medtronic denies that the ’755 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies the remaining allegations of this paragraph.

33. Medtronic admits that the ’367 patent appears to have the title “Expandable intervertebral device,” and appears on its face to have been issued on June 18, 2024, from Application No. 17/408,068, filed on August 20, 2021. Medtronic admits that what purports to be a copy of the ’367 patent is attached to the FAC as Exhibit K1. Medtronic denies that the ’367 patent was duly or legally issued. Medtronic lacks knowledge of whether Moskowitz Family LLC owns all rights in the patent and on that basis denies it. Medtronic denies any remaining allegations of this paragraph.

34. This paragraph includes legal conclusions to which no response is required. To the extent a response is required, Medtronic denies the allegations. Medtronic is otherwise without knowledge or information sufficient to form a belief as to the allegations of this paragraph and therefore denies them.

35. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, Medtronic denies the allegations of this paragraph.

JURISDICTION AND VENUE

36. For the purposes of this action, Medtronic admits that this Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a), to

the extent Plaintiff is able to demonstrate a proper claim for patent infringement. Medtronic denies the remaining allegations of this paragraph.

37. This paragraph contains characterizations and legal conclusions to which no response is necessary. However, to the extent the allegations in this paragraph are deemed factual, Medtronic does not contest personal jurisdiction in this case. Medtronic otherwise denies the allegations of this paragraph.

38. This paragraph contains characterizations and legal conclusions to which no response is necessary. However, to the extent the allegations in this paragraph are deemed factual, Medtronic does not contest personal jurisdiction in this case. Medtronic otherwise denies the allegations of this paragraph.

39. This paragraph contains characterizations and legal conclusions to which no response is necessary. However, to the extent the allegations in this paragraph are deemed factual, Medtronic does not contest venue in this case. Medtronic otherwise denies the allegations of this paragraph.

PRE-SUIT DISCUSSIONS

40. Medtronic admits that Dr. Moskowitz contacted employees of Medtronic at various times, including in 2005 and 2016. Medtronic admits Dr. Moskowitz and employees of Medtronic exchanged emails and correspondence. Medtronic admits that it did not choose to license or acquire rights to Dr. Moskowitz's technology. Medtronic otherwise denies the allegations of this paragraph.

41. Medtronic admits that Dr. Moskowitz reached out to Frank Bono around 2005. Medtronic otherwise denies the allegations of this paragraph.

42. Medtronic admits that there are many patents related to spinal fusion and spinal implants. Medtronic is the assignee of many such patents, due to its innovative work in this field. Medtronic has also licensed other such patents. Medtronic otherwise denies the allegations of this paragraph.

43. Medtronic admits that Dr. Moskowitz contacted and exchanged emails with Newton Metcalf in the 2010–2011 time frame. Medtronic otherwise denies the allegations of this paragraph.

44. Medtronic admits that Dr. Moskowitz was in contact with Newton Metcalf in 2013. Medtronic otherwise denies the allegations of this paragraph.

45. Medtronic admits that Dr. Moskowitz's attorneys sent a letter addressed to Newton Metcalf in 2015, listing certain patents and indicating they "may be of interest to Medtronic." Medtronic otherwise denies the allegations of this paragraph.

46. Medtronic admits that Jason Piche acknowledged receipt of Dr. Moskowitz's 2015 letter. Medtronic otherwise denies the allegations of this paragraph.

47. Medtronic admits that there was correspondence with Dr. Moskowitz in 2015. Medtronic otherwise denies the allegations of this paragraph.

48. Medtronic admits that Mr. Piche sent an email in January 2016, noting that "Medtronic does not wish to pursue acquisition or license of the noted portfolio at this time." Medtronic otherwise denies the allegations of this paragraph.

49. Medtronic denies the allegations of this paragraph.

50. Medtronic admits that it employs intellectual property counsel. Medtronic otherwise denies the allegations of this paragraph.

51. Responding to Paragraph 51, Medtronic admits that it receives a variety of industry publications. Medtronic further admits that it has, at times, received SpineMarket's publications. This paragraph also includes legal conclusions to which no response is required. To the extent a response to those allegations is required, Medtronic denies them. Medtronic otherwise denies the allegations of this paragraph.

52. This paragraph includes legal conclusions to which no response is required. To the extent a response to those allegations is required, Medtronic denies them. Medtronic denies the remaining allegations of this paragraph.

53. Medtronic admits that Mr. Piche sent an email in January 2016, noting that "Medtronic does not wish to pursue acquisition or license of the noted portfolio at this time." Medtronic otherwise denies the allegations of this paragraph.

54. Medtronic admits that Medtronic has applied for and been granted tens of thousands of patents and that among the references cited in Information Disclosure Statements and/or Notices of References Cited during prosecution are certain publications related to the Asserted Patents. This paragraph also includes legal conclusions to which no response is required. To the extent a response to those allegations is required, Medtronic denies them. Medtronic otherwise denies the allegations of this paragraph.

55. Medtronic denies the allegations of this paragraph.

56. Medtronic admits that it has not signed a license agreement with Dr. Moskowitz or Moskowitz Family LLC. This paragraph also includes legal conclusions to

which no response is required. To the extent a response to those allegations is required, Medtronic denies them. Medtronic otherwise denies the allegations of this paragraph.

57. This paragraph includes legal conclusions to which no response is required. To the extent a response to those allegations is required, Medtronic denies them. Medtronic otherwise denies the allegations of this paragraph.

MEDTRONIC'S KNOWLEDGE AND WILLFULNESS

58. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein. This paragraph also includes legal conclusions to which no response is required. To the extent a response to those allegations is required, Medtronic denies them. Medtronic otherwise denies the allegations of this paragraph, including the accusations of actual knowledge, willful blindness, deliberate indifference, inaction, and willful infringement.

59. Medtronic admits that Medtronic has applied for and been granted tens of thousands of patents and that among the references cited in Information Disclosure Statements and/or Notices of References Cited during prosecution are certain publications related to the Asserted Patents. This paragraph also includes legal conclusions to which no response is required. To the extent a response to those allegations is required, Medtronic denies them. Medtronic otherwise denies the allegations of this paragraph.

60. This paragraph includes legal conclusions to which no response is required. To the extent a response to the allegations in this paragraph is required, Medtronic denies them.

COUNT I

61. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

62. Medtronic denies the allegations of this paragraph.

63. Medtronic denies the allegations of this paragraph.

64. Medtronic denies the allegations of this paragraph.

65. Medtronic denies the allegations of this paragraph.

66. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

67. Medtronic denies the allegations of this paragraph.

68. Medtronic denies the allegations of this paragraph.

69. Medtronic denies the allegations of this paragraph.

70. Medtronic admits that Dr. Moskowitz sent Mr. Metcalf PowerPoint presentations and email correspondence. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic otherwise denies the allegations of this paragraph.

71. Medtronic admits that the publication of the '293 patent application (U.S. Pat. Pub. No. 2011/0295371) was cited by the Examiner in September 2015 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,918,848 and relates to spinal implant systems. Medtronic otherwise denies the allegations of this paragraph.

72. Medtronic denies the allegations of this paragraph.

73. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Defendants at various times. Medtronic otherwise denies the allegations of this paragraph.

74. Medtronic admits that the publication of the '293 patent application (U.S. Pat. Pub. No. 2011/0295371) was cited by the Examiner in September 2015 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,918,848 and is titled Spinal Implant System and Method. Medtronic otherwise denies the allegations of this paragraph.

75. Medtronic denies the allegations of this paragraph.

76. Medtronic denies the allegations of this paragraph.

77. Medtronic denies the allegations of this paragraph.

78. Medtronic denies the allegations of this paragraph.

79. Medtronic denies the allegations of this paragraph.

80. Medtronic denies the allegations of this paragraph.

81. Medtronic denies the allegations of this paragraph.

COUNT II

82. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

83. Medtronic denies the allegations of this paragraph.

84. Medtronic denies the allegations of this paragraph.

85. Medtronic denies the allegations of this paragraph.

86. Medtronic denies the allegations of this paragraph.

87. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

88. Medtronic denies the allegations of this paragraph.

89. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic otherwise denies the allegations of this paragraph.

90. Medtronic admits that U.S. Pat. Pub. No. 2011/0295371 was cited by the Examiner in September 2015 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,918,848. Medtronic otherwise denies the allegations of this paragraph.

91. Medtronic denies the allegations of this paragraph.

92. Medtronic denies the allegations of this paragraph.

93. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic otherwise denies the allegations of this paragraph.

94. Medtronic admits that U.S. Pat. Pub. No. 2011/0295371 was cited by the Examiner in September 2015 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,918,848. Medtronic admits that the Patent Examiner identified U.S. Pat. Pub. No. 2008/0033440 as one of six references in a Notice of References Cited attached to the Examiner's Notice of Allowance during prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,283,089. Medtronic otherwise denies the allegations of this paragraph.

95. Medtronic denies the allegations of this paragraph.

96. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

97. Medtronic admits that U.S. Pat. Pub. No. 2011/0295371 was cited by the Examiner in September 2015 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,918,848. Medtronic also admits that the Patent Examiner identified U.S. Pat. Pub. No. 2008/0033440 as one of six references in a Notice of References Cited attached to the Examiner's Notice of Allowance during prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,283,089. Medtronic otherwise denies the allegations of this paragraph.

98. Medtronic denies the allegations of this paragraph.

99. Medtronic denies the allegations of this paragraph.

100. Medtronic denies the allegations of this paragraph.

101. Medtronic denies the allegations of this paragraph.

102. Medtronic denies the allegations of this paragraph.

103. Medtronic denies the allegations of this paragraph.

104. Medtronic denies the allegations of this paragraph.

105. Medtronic denies the allegations of this paragraph.

106. Medtronic denies the allegations of this paragraph.

107. Medtronic denies the allegations of this paragraph.

108. Medtronic denies the allegations of this paragraph.

COUNT III

109. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

110. Medtronic denies the allegations of this paragraph.

111. Medtronic denies the allegations of this paragraph.

112. Medtronic denies the allegations of this paragraph.

113. Medtronic denies the allegations of this paragraph.

114. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

115. Medtronic denies the allegations of this paragraph.

116. Medtronic denies the allegations of this paragraph.

117. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

118. Medtronic denies the allegations of this paragraph.

119. Medtronic denies the allegations of this paragraph.

120. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

121. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during

the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

122. Medtronic denies the allegations of this paragraph.

123. Medtronic denies the allegations of this paragraph.

124. Medtronic denies the allegations of this paragraph.

125. Medtronic denies the allegations of this paragraph.

126. Medtronic denies the allegations of this paragraph.

127. Medtronic denies the allegations of this paragraph.

128. Medtronic denies the allegations of this paragraph.

COUNT IV

129. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

130. Medtronic denies the allegations of this paragraph.

131. Medtronic denies the allegations of this paragraph.

132. Medtronic denies the allegations of this paragraph.

133. Medtronic denies the allegations of this paragraph.

134. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

135. Medtronic denies the allegations of this paragraph.

136. Medtronic denies the allegations of this paragraph.

137. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during

the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

138. Medtronic denies the allegations of this paragraph.

139. Medtronic denies the allegations of this paragraph.

140. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

141. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

142. Medtronic denies the allegations of this paragraph.

143. Medtronic denies the allegations of this paragraph.

144. Medtronic denies the allegations of this paragraph.

145. Medtronic denies the allegations of this paragraph.

146. Medtronic denies the allegations of this paragraph.

147. Medtronic denies the allegations of this paragraph.

148. Medtronic denies the allegations of this paragraph.

149. Medtronic denies the allegations of this paragraph.

150. Medtronic denies the allegations of this paragraph.

151. Medtronic denies the allegations of this paragraph.

COUNT V

152. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

153. Medtronic denies the allegations of this paragraph.

154. Medtronic denies the allegations of this paragraph.

155. Medtronic denies the allegations of this paragraph.

156. Medtronic denies the allegations of this paragraph.

157. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

158. Medtronic denies the allegations of this paragraph.

159. Medtronic denies the allegations of this paragraph.

160. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

161. Medtronic denies the allegations of this paragraph.

162. Medtronic denies the allegations of this paragraph.

163. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

164. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during

the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

165. Medtronic denies the allegations of this paragraph.

166. Medtronic denies the allegations of this paragraph.

167. Medtronic denies the allegations of this paragraph.

168. Medtronic denies the allegations of this paragraph.

169. Medtronic denies the allegations of this paragraph.

170. Medtronic denies the allegations of this paragraph.

171. Medtronic denies the allegations of this paragraph.

172. Medtronic denies the allegations of this paragraph.

173. Medtronic denies the allegations of this paragraph.

174. Medtronic denies the allegations of this paragraph.

COUNT VI

175. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

176. Medtronic denies the allegations of this paragraph.

177. Medtronic denies the allegations of this paragraph.

178. Medtronic denies the allegations of this paragraph.

179. Medtronic denies the allegations of this paragraph.

180. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

181. Medtronic denies the allegations of this paragraph.

182. Medtronic denies the allegations of this paragraph.

183. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

184. Medtronic denies the allegations of this paragraph.

185. Medtronic denies the allegations of this paragraph.

186. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

187. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

188. Medtronic denies the allegations of this paragraph.

189. Medtronic denies the allegations of this paragraph.

190. Medtronic denies the allegations of this paragraph.

191. Medtronic denies the allegations of this paragraph.

192. Medtronic denies the allegations of this paragraph.

193. Medtronic denies the allegations of this paragraph.

194. Medtronic denies the allegations of this paragraph.

COUNT VII

195. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

196. Medtronic denies the allegations of this paragraph.

197. Medtronic denies the allegations of this paragraph.

198. Medtronic denies the allegations of this paragraph.

199. Medtronic denies the allegations of this paragraph.

200. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

201. Medtronic denies the allegations of this paragraph.

202. Medtronic denies the allegations of this paragraph.

203. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

204. Medtronic denies the allegations of this paragraph.

205. Medtronic denies the allegations of this paragraph.

206. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

207. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during

the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

208. Medtronic denies the allegations of this paragraph.

209. Medtronic denies the allegations of this paragraph.

210. Medtronic denies the allegations of this paragraph.

211. Medtronic denies the allegations of this paragraph.

212. Medtronic denies the allegations of this paragraph.

213. Medtronic denies the allegations of this paragraph.

214. Medtronic denies the allegations of this paragraph.

215. Medtronic denies the allegations of this paragraph.

216. Medtronic denies the allegations of this paragraph.

217. Medtronic denies the allegations of this paragraph.

COUNT VIII

218. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

219. Medtronic denies the allegations of this paragraph.

220. Medtronic denies the allegations of this paragraph.

221. Medtronic denies the allegations of this paragraph.

222. Medtronic denies the allegations of this paragraph.

223. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

224. Medtronic denies the allegations of this paragraph.

225. Medtronic denies the allegations of this paragraph.

226. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

227. Medtronic denies the allegations of this paragraph.

228. Medtronic denies the allegations of this paragraph.

229. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

230. Medtronic admits that the Examiner cited U.S Patent Pub. Nos. 2014/0249629, 2013/0018470, 2008/0117307, 2012/0330419, and 2013/002992 during the prosecution of a Warsaw Orthopedic, Inc. patent that issued as U.S. Patent No. 9,364,341. Medtronic otherwise denies the allegations of this paragraph.

231. Medtronic denies the allegations of this paragraph.

232. Medtronic denies the allegations of this paragraph.

233. Medtronic denies the allegations of this paragraph.

234. Medtronic denies the allegations of this paragraph.

235. Medtronic denies the allegations of this paragraph.

236. Medtronic denies the allegations of this paragraph.

237. Medtronic denies the allegations of this paragraph.

238. Medtronic denies the allegations of this paragraph.

239. Medtronic denies the allegations of this paragraph.

240. Medtronic denies the allegations of this paragraph.

COUNT IX

241. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

242. Medtronic denies the allegations of this paragraph.

243. Medtronic denies the allegations of this paragraph.

244. Medtronic denies the allegations of this paragraph.

245. Medtronic denies the allegations of this paragraph.

246. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

247. Medtronic denies the allegations of this paragraph.

248. Medtronic denies the allegations of this paragraph.

249. Medtronic denies the allegations of this paragraph.

250. Medtronic denies the allegations of this paragraph.

251. Medtronic denies the allegations of this paragraph.

252. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

253. Medtronic admits that the Patent Examiner identified U.S. Pat. Pub. No. 2008/0033440 as one of six references in a Notice of References Cited attached to the Examiner's Notice of Allowance during prosecution of a Warsaw Orthopedic, Inc. patent

that issued as U.S. Patent No. 9,283,089. Medtronic otherwise denies the allegations of this paragraph.

254. Medtronic denies the allegations of this paragraph.

255. Medtronic denies the allegations of this paragraph.

256. Medtronic denies the allegations of this paragraph.

257. Medtronic denies the allegations of this paragraph.

258. Medtronic denies the allegations of this paragraph.

259. Medtronic denies the allegations of this paragraph.

260. Medtronic denies the allegations of this paragraph.

261. Medtronic denies the allegations of this paragraph.

262. Medtronic denies the allegations of this paragraph.

COUNT X

263. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

264. Medtronic denies the allegations of this paragraph.

265. Medtronic denies the allegations of this paragraph.

266. Medtronic denies the allegations of this paragraph.

267. Medtronic denies the allegations of this paragraph.

268. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

269. Medtronic denies the allegations of this paragraph.

270. Medtronic denies the allegations of this paragraph.

271. Medtronic admits that U.S. Pat. Pub. No. 2006/0241621 was cited by Patent Examiners in the prosecution of Warsaw Orthopedic Inc.'s patents that issued as U.S. Patent Nos. 7,981,157, 8,795,368, and 7,708,779, and that, during those prosecutions, responses were filed that included citations to U.S. Pat. Pub. No. 2006/0241621 and its figures. Medtronic otherwise denies the allegations of this paragraph.

272. Medtronic denies the allegations of this paragraph.

273. Medtronic denies the allegations of this paragraph.

274. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

275. Medtronic admits that U.S. Pat. Pub. No. 2006/0241621 was cited by Patent Examiners in the prosecution of Warsaw Orthopedic Inc.'s patents that issued as U.S. Patent Nos. 7,981,157, 8,795,368, and 7,708,779, and that, during those prosecutions, responses were filed that included citations to U.S. Pat. Pub. No. 2006/0241621 and its figures. Medtronic otherwise denies the allegations of this paragraph.

276. Medtronic denies the allegations of this paragraph.

277. Medtronic denies the allegations of this paragraph.

278. Medtronic denies the allegations of this paragraph.

279. Medtronic denies the allegations of this paragraph.

280. Medtronic denies the allegations of this paragraph.

281. Medtronic denies the allegations of this paragraph.

282. Medtronic denies the allegations of this paragraph.

COUNT XI

283. Medtronic repeats and incorporates by reference its answers to the foregoing paragraphs as if fully stated herein.

284. Medtronic denies the allegations of this paragraph.

285. Medtronic denies the allegations of this paragraph.

286. Medtronic denies the allegations of this paragraph.

287. Medtronic denies the allegations of this paragraph.

288. Medtronic admits that it provides information and technical support to third parties. Medtronic otherwise denies the allegations of this paragraph.

289. Medtronic denies the allegations of this paragraph.

290. Medtronic admits that U.S. Pat. Pub. No. 2006/0241621 was cited by Patent Examiners in the prosecution of Warsaw Orthopedic Inc.'s patents that issued as U.S. Patent Nos. 7,981,157, 8,795,368, and 7,708,779. Medtronic otherwise denies the allegations of this paragraph.

291. Medtronic denies the allegations of this paragraph.

292. Medtronic denies the allegations of this paragraph.

293. Medtronic admits that Dr. Moskowitz's legal counsel sent a letter to Mr. Metcalf in 2015. Medtronic admits that Dr. Moskowitz was in contact with employees of Medtronic at various times. Medtronic otherwise denies the allegations of this paragraph.

294. Medtronic denies the allegations of this paragraph.

295. Medtronic denies the allegations of this paragraph.

296. Medtronic denies the allegations of this paragraph.

297. Medtronic denies the allegations of this paragraph.

298. Medtronic denies the allegations of this paragraph.

299. Medtronic denies the allegations of this paragraph.

300. Medtronic denies the allegations of this paragraph.

301. Medtronic denies the allegations of this paragraph.

MEDTRONIC'S CONTINUED INFRINGEMENT AND POST-SUIT CONDUCT

302. Medtronic denies the allegations of this paragraph.

JURY DEMAND

303. This paragraph sets forth Plaintiff's Request for a jury trial to which no response is required.

PRAYER FOR RELIEF

These paragraphs set forth the statement of relief requested by Plaintiff, to which no response is required. Defendants deny that Plaintiff is entitled to any relief and specifically deny all of the allegations and prayers for relief in paragraphs A through H of Plaintiff's prayer for relief.

DENIAL OF ANY REMAINING ALLEGATIONS

Except as specifically admitted herein, Medtronic denies all remaining allegations in the FAC, including any assertions made in Exhibits attached to the FAC.

AFFIRMATIVE DEFENSES

In addition to the affirmative defenses described below, subject to its responses above, Medtronic specifically reserves all rights to allege additional affirmative defenses that become known through the course of discovery. Medtronic undertakes the burden of

proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. Medtronic further incorporates by reference the statements, admissions, and denials contained in its Answer.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

Plaintiff's First Amended Complaint and the allegations therein fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(No Infringement)

Medtronic did not infringe any valid and enforceable claim of the Asserted Patents, literally or under the doctrine of equivalents.

THIRD AFFIRMATIVE DEFENSE

(Invalidity)

One or more claims of the Asserted Patents are invalid for failure to comply with one or more of the conditions of patentability set forth in Title 35 of the United States Code including, but not limited to, Sections 101, 102, 103, and/or 112.

FOURTH AFFIRMATIVE DEFENSE

(28 U.S.C. § 1498)

On information and belief, Plaintiff's claims are barred, in whole or in part, by 28 U.S.C. § 1498.

FIFTH AFFIRMATIVE DEFENSE

(Prosecution History Estoppel)

One or more claims of the Asserted Patents are and were limited by amendment, by the prior art, and/or by the statements made during their prosecution before the United States Patent and Trademark Office such that Plaintiff is now estopped and/or otherwise precluded from maintaining that such claims of the Asserted Patents are of sufficient scope to cover the products accused of infringement in this case either literally or under the doctrine of equivalents.

SIXTH AFFIRMATIVE DEFENSE

(Prosecution Laches)

Plaintiff's claims are barred in whole or in part because Plaintiff unreasonably delayed the prosecution process in one or more of the Asserted Patents, that delay was unreasonable and inexcusable, and it caused prejudice to Medtronic.

SEVENTH AFFIRMATIVE DEFENSE

(Notice, Damages, and Costs)

Plaintiff's claims for damages are statutorily limited under 35 U.S.C. §§ 286. Plaintiff is barred from recovering costs in connection with this action under 35 U.S.C. § 288.

EIGHTH AFFIRMATIVE DEFENSE

(Equitable Estoppel, Waiver, Inequitable Conduct and Unclean Hands)

Plaintiff's claims for relief are barred in whole or in part by the equitable doctrines of estoppel, waiver, inequitable conduct, and/or unclean hands.

RESERVATION OF AFFIRMATIVE DEFENSES

Medtronic hereby reserves the right to supplement its affirmative defenses as discovery proceeds in this case.

COUNTERCLAIMS

Pursuant to Rule 13 of the Federal Rule of Civil Procedure, Defendants Medtronic, Inc.; Medtronic Sofamor Danek, Inc.; Medtronic Sofamor Danek USA, Inc.; Warsaw Orthopedic, Inc.; and Titan Spine, Inc. (collectively, "Medtronic" or "Defendants"), allege as follows:

PARTIES

1. Medtronic Inc. is a Minnesota corporation with its principal place of business in Fridley, Minnesota.

2. Medtronic Sofamor Danek, Inc. is an Indiana corporation with a regular established place of business in Minneapolis, Minnesota.

3. Medtronic Sofamor Danek USA, Inc. is a Tennessee corporation with a regular established place of business in Minneapolis, Minnesota.

4. Warsaw Orthopedic, Inc. is an Indiana corporation with a regular established place of business in Minneapolis, Minnesota.

5. Titan Spine, Inc. is a Delaware corporation with a regular established place of business in Minneapolis, Minnesota.

6. Upon information and belief, Plaintiff and Counterclaim-Defendant Moskowitz Family LLC ("Moskowitz") is a Maryland entity with its principal place of business in Rockville, Maryland.

JURISDICTION AND VENUE

7. This is an action for declaratory judgment of invalidity 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") arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202.

8. This Court has subject matter jurisdiction over Medtronic's Counterclaims under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

9. Moskowitz has consented to personal jurisdiction and venue in this district by filing suit against Medtronic in this Court.

10. Based on Moskowitz's filing of its First Amended Complaint, an actual, substantial, and continuing justiciable controversy exists between Medtronic and Moskowitz regarding the validity of the Asserted Patents.

COUNTERCLAIM I

DECLARATORY JUDGMENT OF INVALIDITY OF THE '293 PATENT

11. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

12. Moskowitz has asserted the '293 patent against Medtronic.

13. One or more claims of the ’293 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

14. Medtronic is entitled to a declaratory judgment of invalidity of the ’293 patent.

COUNTERCLAIM II

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’674 PATENT

15. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

16. Moskowitz has asserted the ’674 patent against Medtronic.

17. One or more claims of the ’674 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

18. Medtronic is entitled to a declaratory judgment of invalidity of the ’674 patent.

COUNTERCLAIM III

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’284 PATENT

19. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

20. Moskowitz has asserted the ’284 patent against Medtronic.

21. One or more claims of the ’284 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

22. Medtronic is entitled to a declaratory judgment of invalidity of the ’284 patent.

COUNTERCLAIM IV

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’738 PATENT

23. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

24. Moskowitz has asserted the ’738 patent against Medtronic.

25. One or more claims of the ’738 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

26. Medtronic is entitled to a declaratory judgment of invalidity of the ’738 patent.

COUNTERCLAIM V

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’505 PATENT

27. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

28. Moskowitz has asserted the ’505 patent against Medtronic.

29. One or more claims of the ’505 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

30. Medtronic is entitled to a declaratory judgment of invalidity of the ’505 patent.

COUNTERCLAIM VI

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’633 PATENT

31. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

32. Moskowitz has asserted the ’633 patent against Medtronic.

33. One or more claims of the ’633 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

34. Medtronic is entitled to a declaratory judgment of invalidity of the ’633 patent.

COUNTERCLAIM VII

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’183 PATENT

35. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

36. Moskowitz has asserted the ’183 patent against Medtronic.

37. One or more claims of the ’183 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

38. Medtronic is entitled to a declaratory judgment of invalidity of the ’183 patent.

COUNTERCLAIM VIII

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’797 PATENT

39. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

40. Moskowitz has asserted the ’797 patent against Medtronic.

41. One or more claims of the ’797 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

42. Medtronic is entitled to a declaratory judgment of invalidity of the ’797 patent.

COUNTERCLAIM IX

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’136 PATENT

43. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

44. Moskowitz has asserted the ’136 patent against Medtronic.

45. One or more claims of the ’136 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

46. Medtronic is entitled to a declaratory judgment of invalidity of the ’136 patent.

COUNTERCLAIM X

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’755 PATENT

47. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

48. Moskowitz has asserted the ’755 patent against Medtronic.

49. One or more claims of the ’755 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

50. Medtronic is entitled to a declaratory judgment of invalidity of the ’755 patent.

COUNTERCLAIM XI

DECLARATORY JUDGMENT OF INVALIDITY OF THE ’367 PATENT

51. The allegations of Paragraphs 1-10 are re-alleged as if fully set forth herein.

52. Moskowitz has asserted the ’367 patent against Medtronic.

53. One or more claims of the ’367 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including but not limited to being anticipated by one or more items of prior art, being obvious in view of the prior art, and failing to comply with written description, enablement, or definiteness requirements.

54. Medtronic is entitled to a declaratory judgment of invalidity of the ’367 patent.

DEMAND FOR JURY TRIAL

In accordance with Rule 38(b) of the Federal Rules of Civil Procedure, Medtronic demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Medtronic respectfully requests the following relief:

a. Judgment in favor of Medtronic denying all relief requested by Moskowitz in this action and dismissing Moskowitz’s First Amended Complaint for patent infringement with prejudice;

b. Judgment declaring that each of the Asserted Patents is invalid;

c. Judgment declaring this to be an exceptional case under 35 U.S.C. § 285 and awarding Medtronic its costs, expenses, and reasonable attorneys’ fees; and

d. Such other and further relief as the Court deems just and proper.

Dated: June 27, 2025

Respectfully submitted,

/s/ X. Kevin Zhao

GREENE ESPEL PLLP

Sybil L. Dunlop, Reg. No. 0390186
X. Kevin Zhao, Reg. No. 0391302
Kshithij Shrinath, Reg. No. 0505164
222 S. Ninth Street, Suite 2200
Minneapolis, MN 55402
sdunlop@greeneespel.com
kzhao@greeneespel.com
kshrinath@greeneespel.com
(612) 373-0830

HUESTON HENNIGAN LLP

Moez M. Kaba (*pro hac vice*)
Christina Von der Ahe Rayburn (*pro hac vice*)
Christine Woodin (*pro hac vice*)
523 West 6th Street, Suite 400
Los Angeles, CA 90014
mkaba@hueston.com
crayburn@hueston.com
cwoodin@hueston.com
(213) 788-4340

Attorneys for Defendants Medtronic, Inc.; Medtronic Sofamor Danek, Inc.; Medtronic Sofamor Danek USA, Inc.; Warsaw Orthopedic, Inc.; and Titan Spine, Inc.