

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MEDTRONIC, INC.,
Petitioner

v.

MOSKOWITZ FAMILY LLC,
Patent Owner.

Case IPR2026-00217
Patent No. 10,426,633

PETITIONER'S MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner hereby moves to seal certain portions of Exhibit 1075 and the portions of Petitioner's Discretionary Denial Opposition that discuss or rely on Exhibit 1075. Good cause exists for granting this motion because the information includes highly confidential and sensitive commercial information. Petitioner provided the proposed Modified Protective Order to Patent Owner to confer regarding its terms. Patent Owner responded that it had "no comments." Petitioner therefore submits the proposed Modified Protective Order as Attachment A. Because the proposed order deviates from the Board's default protective order, Petitioner also submits Attachment B, which provides a marked-up comparison to the default protective order, in accordance with Appendix A-1 to the Trial Practice Guide. Good cause exists to deviate from the default protective order because Exhibit 1075 and the corresponding portions of Petitioner's Discretionary Denial Opposition contain commercially sensitive business information. The proposed use of an Outside Counsel Eyes Only designation is narrowly tailored to protect that highly sensitive information from disclosure beyond outside counsel and experts, while still permitting the Board and authorized persons to evaluate the material in this proceeding. Petitioner respectfully requests entry of the Modified Protective Order to govern the confidential materials in this proceeding.

I. GOOD CAUSE EXISTS FOR SEALING CERTAIN INFORMATION DESIGNATED AS CONFIDENTIAL

The current PTAB Trial Practice Guide explains that “the rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” Trial Practice Guide, § I.E. It further explains that the rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information. *Id.*; 37 C.F.R. § 42.54.

In accordance with the rules, Petitioner moves to seal certain portions of Exhibit 1075, which is a declaration from Medtronic’s Senior Director of Operating Unit Operations, Jamie Hartman. Exhibit 1075 contains highly sensitive and confidential business information. As such, Petitioner has designated Exhibit 1075 as PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY. Petitioner also moves to seal certain portions of Petitioner’s Discretionary Denial Opposition that cite to Exhibit 1075 and include the highly confidential information from Exhibit 1075. Petitioner also has designated the Discretionary Denial Opposition as PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY.

Because Exhibit 1075 and Petitioner's Discretionary Denial Opposition contain highly confidential business information, the public disclosure of which could cause irreparable harm to Petitioner, good cause exists to seal portions of these documents. Petitioner provides herewith redacted versions of both Exhibit 1075 and Petitioner's Discretionary Denial Opposition. The redactions are narrowly tailored to the minimum information necessary to protect the confidential material while leaving the substance of Petitioner's arguments publicly understandable.

II. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that certain portions of Exhibit 1075 and Petitioner's Discretionary Denial Opposition be placed under seal and that the Board enter the Modified Protective Order attached as Attachment A.

Respectfully submitted,

Dated: April 22, 2026

By: /Naveen Modi/
Naveen Modi (Registration No. 46,224)
Counsel for Petitioner

Attachment A

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MODIFIED PROTECTIVE ORDER

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL – CONFIDENTIAL” or “PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY” (collectively, “Designated Information”). The designation PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY shall be reserved for confidential information of a commercially sensitive nature that a designating party determines, in good faith, is likely to cause significant competitive harm to its existing or prospective commercial relationships if disclosed to third parties or select employees or agents of the receiving party, including but not limited to, non-public financial, marketing, strategic, organizational, operational or competitive information, or highly confidential design and development information such as trade secrets.¹

¹ The fact that a party designates information as “PROTECTIVE ORDER MATERIAL – CONFIDENTIAL” or “PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY” does not mean that the receiving party agrees with such designation or the underlying basis for such a designation. The receiving party may challenge a designation at any time.

2. Access to confidential information designated “PROTECTIVE ORDER MATERIAL – CONFIDENTIAL” is limited to the following individuals identified below who have executed the acknowledgment appended to this order:

(A) Outside Counsel. Outside Counsel of record for a party in the proceeding.

(B) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(C) In-house Counsel. In-house counsel of a party.

(D) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Modified Protective Order by the person they are supporting who receives Designated Information.

(E) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the

Designated Information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Access to confidential information designated “PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY” is limited to the individuals identified in paragraphs 2(A) and 2(B) who have executed the acknowledgement appended to this order, 2(D) (limited to support personnel for individuals identified in paragraphs 2(A) and 2(E)), and 2(E).

4. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than in-house counsel and in-house counsel’s support staff, who sign the Acknowledgement shall be extended access to information designated PROTECTIVE ORDER MATERIAL – CONFIDENTIAL only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose such Designated Information to that person. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to information designated PROTECTIVE ORDER MATERIAL – CONFIDENTIAL.

5. Persons receiving Designated Information shall use reasonable efforts to maintain the confidentiality of the information, including:

- (A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;
- (B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;
- (C) Ensuring that support personnel of the recipient who have access to the Designated Information understand and abide by the obligation to maintain the confidentiality of received Designated Information; and
- (D) Limiting the copying of Designated Information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

6. Persons receiving Designated Information shall use the following procedures to maintain the confidentiality of the information:

(A) Documents and Information Filed With the Board.

(i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the Designated Information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The submission shall be treated as confidential and remain under seal, unless the Board determines that the documents or information do not to qualify for confidential treatment. The information shall remain under seal unless the Board determines that some or all of the information does not qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the

confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties.

Documents (including deposition transcripts) and other Designated Information that are disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as “PROTECTIVE ORDER MATERIAL” and shall be produced in a manner that maintains its confidentiality.

7. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving Designated Information must return, or certify the destruction of, all copies of the Designated Information (including duplicates, abstracts, indexes, summaries, descriptions, and excerpts or extracts thereof, but excluding excerpts or extracts incorporated into any privileged memoranda of the parties) to the producing party.

**STANDARD ACKNOWLEDGMENT FOR ACCESS TO PROTECTIVE
ORDER MATERIAL**

I _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the Designated Information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

[Signature]

Attachment B

UNITED STATES PATENT AND TRADEMARK OFFICE

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~~DEFAULT~~MODIFIED PROTECTIVE ORDER

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.”~~”~~ – CONFIDENTIAL” or “PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY” (collectively, “Designated Information”). The designation PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY shall be reserved for confidential information of a commercially sensitive nature that a designating party determines, in good faith, is likely to cause significant competitive harm to its existing or prospective commercial relationships if disclosed to third parties or select employees or agents of the receiving party, including but not limited to, non-public financial, marketing, strategic, organizational, operational or competitive information, or highly confidential design and development information such as trade secrets.²

² The fact that a party designates information as “PROTECTIVE ORDER MATERIAL – CONFIDENTIAL” or “PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY” does not mean that the receiving party agrees with such designation or the underlying basis for such a designation. The receiving party may challenge a designation at any time.

2. Access to confidential information designated “PROTECTIVE ORDER MATERIAL – CONFIDENTIAL” is limited to the following individuals identified below who have executed the acknowledgment appended to this order:

~~(A) Parties. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.~~

~~(F) (B) Party Representatives. Representatives~~Outside Counsel.
Outside Counsel of record for a party in the proceeding.

~~(G) (C) Experts.~~ Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

~~(H) (D) In-house counsel~~Counsel. In-house counsel of a party.

~~(I) (E) Support Personnel.~~ Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Modified Protective Order by the person they are supporting who receives ~~confidential information~~Designated Information.

(J) ~~(F)~~ The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the ~~confidential information~~ Designated Information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Access to confidential information designated “PROTECTIVE ORDER MATERIAL – OUTSIDE COUNSEL EYES’ ONLY” is limited to the individuals identified in paragraphs 2(A) and 2(B) who have executed the acknowledgement appended to this order, 2(D) (limited to support personnel for individuals identified in paragraphs 2(A) and 2(E)), and 2(E).

4. ~~3.~~ Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than ~~those persons identified above in (d)(2)(A)–(E),~~ in-house counsel and in-house counsel’s support staff, who sign the Acknowledgement shall be extended access to ~~confidential~~ information designated PROTECTIVE ORDER MATERIAL – CONFIDENTIAL only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose ~~confidential information~~ such Designated Information to that person ~~and~~

~~after signing the Acknowledgment.~~ The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to ~~confidential~~-information designated PROTECTIVE ORDER MATERIAL – CONFIDENTIAL.

5. ~~4.~~ Persons receiving ~~confidential information~~ Designated Information shall use reasonable efforts to maintain the confidentiality of the information, including:

(E) ~~(A)~~ Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;

(F) ~~(B)~~ Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;

(G) ~~(C)~~ Ensuring that support personnel of the recipient who have access to the ~~confidential information~~ Designated Information understand and abide by the obligation to maintain the confidentiality of ~~information received that is designated as confidential~~ Designated Information; and

(H) ~~(D)~~ Limiting the copying of ~~confidential information~~ Designated Information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

6. ~~5.~~ Persons receiving ~~confidential information~~ Designated Information shall use the following procedures to maintain the confidentiality of the information:

(C) ~~(A)~~ Documents and Information Filed With the Board.

(iii) ~~(i)~~ A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the ~~confidential information~~ Designated Information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The submission shall be treated as confidential and remain under seal, unless the Board determines that the documents or information do not to qualify for confidential treatment. The information shall remain under seal unless the

Board determines that some or all of ~~it~~the information does not qualify for confidential treatment.

(iv) ~~(ii)~~ Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(D) ~~(B)~~ Documents and Information Exchanged Among the Parties.

Documents (including deposition transcripts) and other ~~information designated as confidential~~Designated Information that are disclosed to another party during discovery or other proceedings before the Board

shall be clearly ~~72~~marked as “PROTECTIVE ORDER MATERIAL”
and shall be produced in a manner that maintains its confidentiality.

7. ~~6.~~ Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving ~~confidential information~~Designated Information must return, or certify the destruction of, all copies of the ~~confidential information~~Designated Information (including duplicates, abstracts, indexes, summaries, descriptions, and excerpts or extracts thereof, but excluding excerpts or extracts incorporated into any privileged memoranda of the parties) to the producing party.

STANDARD ACKNOWLEDGMENT FOR ACCESS TO PROTECTIVE ORDER MATERIAL

I _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the ~~confidential information~~Designated Information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

[Signature]

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2026, a copy of the foregoing Petitioner's Motion to Seal was served by electronic means upon the following:

Eric A. Zelepugas (zelepugas@avantechlaw.com)
Robert A. Conley (conley@avantechlaw.com)

moskowitz_post-grant@avantechlaw.com

Respectfully submitted,

Dated: April 22, 2026

By: /Naveen Modi/
Naveen Modi (Registration No. 46,224)
Counsel for Petitioner