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 OBJECTIONS TO EVIDENCE PURSUANT TO 37 C.F.R. § 42.64

Pursuant to 37 C.F.R. § 42.64, Petitioner submits the following objections to evidence served with Patent Owner's Preliminary Response and accompanying exhibits. Petitioner's objections apply to Patent Owner's reliance on these exhibits in the Preliminary Response and in any other paper filed or served in this proceeding. These objections are timely, having been filed and served within ten business days after the Board instituted trial.

Exhibit	Objections
Ex. 2024 — Declaration of Dr. Nathan C. Moskowitz	**FRE 602:** Petitioner objects to Dr. Moskowitz's testimony as he purports to testify about third-party acts, third-party intent, attorney conduct, engineering work performed by others, or undocumented meetings without adequate foundation establishing personal knowledge. **FRE 701/702:** Declaration includes an expert-level conclusion unsupported by qualification, methodology, or factual basis, as required under FRE 702, and exceeds the scope of permissible lay opinion under FRE 701. (*See, e.g.*, Ex. 2024, ¶15). **FRE 801/802:** Numerous paragraphs (*e.g.*, ¶¶ 27, 31, 54, 73, 82) include statements by third parties reported by Dr. Moskowitz rather than directly. These are out-of-court statements offered for their truth and constitute

	inadmissible hearsay under FRE 801 and 802. **FRE 403:** Dr. Moskowitz's uncorroborated testimony regarding conception and diligence is substantially outweighed by the risk of unfair prejudice and misleading the Board.
Ex. 2025 — Email between Andy Moskowitz and Eric Sugalski regarding new prototyping project, April 11, 2011	**FRE 106:** The email refers to attachments that have not been produced. **FRE 801/802:** The email features factual assertions by Andy Moskowitz about design requirements, offered for the truth of what was conceived. Andy Moskowitz has not submitted a declaration; his statements are introduced solely through Dr. Nathan Moskowitz, making them inadmissible hearsay. **FRE 901:** Neither participant in this exchange has submitted a declaration authenticating the exhibit. Dr. Nathan Moskowitz, who was not a participant, cannot authenticate it under FRE 901(b)(1). **FRE 403:** The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2027 — Email between Eric	**FRE 801/802:** Statements by Sugalski

Sugalski, Andy Moskowitz, and David Schoon regarding wedge fusion device, May 3, 2011	and Schoon describing wedge-based designs are out-of-court and offered for their truth, constituting inadmissible hearsay as no declaration from either is present. **FRE 901:** Neither author has provided authentication or attestation as to the completeness or accuracy of attached materials. **FRE 106:** The referenced "E-drawing" and "PDF" may not be fully reproduced; if only selected pages are included, omitted portions may provide essential context, warranting objection under completeness. **FRE 403:** The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2028 — Email between Eric Sugalski, Andy Moskowitz, and David Schoon regarding fusion devices, May 5, 2011	**FRE 801/802:** This email thread contains hearsay within hearsay—statements by Andy Moskowitz and Sugalski offered for their truth. Neither has provided a declaration in this proceeding. **FRE 901:** No participant has authenticated this email; Dr. Nathan Moskowitz was not involved and lacks personal knowledge necessary for authentication.

	FRE 403: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2029 — Email between Eric Sugalski, Andy Moskowitz, and David Schoon regarding fusion device prototyping, May 18, 2011	**FRE 801/802:** Sugalski's statements about the e-drawing and custom parts are hearsay and no exception applies. Sugalski has not submitted a declaration. **FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2030 — Emails involving Eric Sugalski and Andy Moskowitz regarding fusion device prototype revisions, dated May 19, 2011	**FRE 801/802:** Statements from Sugalski about redesigning components are offered for their truth and are hearsay. No declaration is provided. **FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2031 — Email from Eric Sugalski regarding fusion device eDrawings, dated May 23, 2011	**FRE 801/802:** The statements by Sugalski constitute inadmissible hearsay when offered for their truth. **FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2032 — Email between Nathan Moskowitz, Andy Moskowitz, and Eric Sugalski, dated May 25, 2011	**FRE 801/802:** Statements by Andy Moskowitz and Eric Sugalski are hearsay; no declarations have been submitted, and no exception applies.

	FRE 403: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2033 — Email between Eric Sugalski, Nathan Moskowitz, Andy Moskowitz, and David Schoon, dated May 31, 2011	**FRE 801/802:** Sugalski's statements about structural and fabrication issues are hearsay and no declaration is submitted. **FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2034 — Email from Nathan Moskowitz to Eric Sugalski, dated June 1, 2011	**FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2035 — Email correspondence between inventors Nathan Moskowitz and Eric Sugalski, dated June 1, 2011	**FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2036 — Email correspondence between inventors Eric Sugalski and Nathan Moskowitz, dated June 3, 2011	**FRE 801/802:** This email contains out-of-court statements by Sugalski about design file transmission, offered for their truth. Sugalski has not submitted a declaration and no hearsay exception applies. **FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2037 — Email correspondence between inventors Eric Sugalski, Nathan Moskowitz, and David Schoon dated June 22, 2011	**FRE 801/802:** Sugalski's statement that the prototype "works great" is offered for its truth; this is hearsay with no exception and Sugalski has not provided testimony. **FRE 403**: The probative value is

	substantially outweighed by the risk of misleading the Board.
Ex. 2038 — Email correspondence between inventors Eric Sugalski, Nathan Moskowitz, and Andy Moskowitz dated July 24, 2011	**FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2039 — Email correspondence between inventors Eric Sugalski, Nathan Moskowitz, and Andy Moskowitz dated July 25, 2011	**FRE 801/802:** Sugalski's statements are out-of-court statements offered for their truth, with no hearsay exception established. **FRE 403**: The probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2040 — Email correspondence from inventor Nathan Moskowitz to Eric Sugalski and Andy Moskowitz dated August 8, 2011	**FRE 901:** Patent Owner has not provided adequate foundation establishing that the email is a complete and accurate copy of the original communication, including any missing thread context, metadata, attachments, or related communications. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2041 — Email correspondence from Andy Moskowitz to Nathan Moskowitz dated October 11, 2011	**FRE 801/802:** Andy Moskowitz's statements that "claims for the expandable device" were enclosed and that Dr. Moskowitz should check on drawings are out-of-court statements offered for their truth. No hearsay exception has been established.

	FRE 106 / FRE 1002: The email refers to an attachment titled "claimsnew2.docx." To the extent Patent Owner relies on the exhibit to prove the contents of draft claims or the substance of alleged patent-preparation activity, the exhibit is incomplete unless the attachment and any related chain/context are produced. The cover email alone is insufficient to prove the contents of the draft claims. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2042 — Email correspondence between inventors Nathan Moskowitz and Andy Moskowitz dated November 7, 2011	**FRE 801/802:** Andy Moskowitz's statements are out-of-court statements offered for their truth. No hearsay exception has been established. **FRE 106 / FRE 1002:** The email refers to an attachment titled "claimsnew2.docx." To the extent Patent Owner relies on the exhibit to prove the contents of draft claims or the substance of alleged patent-preparation activity, the exhibit is incomplete unless the attachment and any related chain/context are produced. The cover email alone is insufficient to prove the contents of the draft claims.

	FRE 403: Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2043 — Email correspondence from inventor Andy Moskowitz, dated November 11, 2011	**FRE 801/802:** The statements are offered for their truth about development activities and are inadmissible hearsay. **FRE 901:** No participant has authenticated this email; Dr. Nathan Moskowitz was not involved and lacks personal knowledge necessary for authentication. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2044 — Email correspondence from inventor Andy Moskowitz, dated November 13, 2011	**FRE 801/802:** Offered to establish the truth of out of court statements, this email constitutes inadmissible hearsay. **FRE 901:** No participant has authenticated this email; Dr. Nathan Moskowitz was not involved and lacks personal knowledge necessary for authentication. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2045 — Email correspondence to inventor Andy Moskowitz, dated January 2, 2012	**FRE 801/802:** Offered to establish the truth of out of court statements, this email chain constitutes inadmissible hearsay.

	FRE 901: Patent Owner offers no authentication or evidence that the attached drawings correspond to those in the eDrawings files referenced in Keith Yeager's email of January 2, 2012. No metadata or native file has been produced. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2046 — Email correspondence between inventors Andy Moskowitz and Nathan Moskowitz regarding received eDrawings, dated January 2, 2012	**FRE 801/802:** The email is offered for the truth of out-of-court statements. It is inadmissible hearsay. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2047 — Email correspondence from Victoria Wojcik of Antron Engineering to Andy Moskowitz, dated April 11, 2012	**FRE 801/802:** The email is offered for the truth of out-of-court statements. It is inadmissible hearsay. **FRE 901:** No participant has authenticated this email; Dr. Nathan Moskowitz was not involved and lacks personal knowledge necessary for authentication. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2048 — Calendar entry/page for August 17, 2012	**FRE 801/802:** The calendar entry is an out-of-court statement offered to prove

	that a prototype meeting occurred. No hearsay exception has been established. **FRE 901:** Patent Owner has not adequately authenticated the calendar page or established who created the entry, when it was created, whether it was modified, whether the page is complete, or whether any redactions or omissions affect context. **FRE 602:** The calendar entry does not itself establish the identity of attendees, the substance of any alleged meeting, what was discussed, what work was performed, or whether the meeting concerned the challenged claims. Any testimony by Dr. Moskowitz about those matters requires independent foundation and personal knowledge. **FRE 106:** To the extent the calendar page is an excerpt, related calendar pages and surrounding entries are necessary to evaluate context, completeness, and whether the entry actually supports Patent Owner's diligence narrative. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.

Ex. 2049 — Email correspondence from inventor Nathan Moskowitz, dated February 21, 2012	**FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2050 — Email correspondence from patent attorney John Dresch, dated March 11, 2012	**FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2051 — Email correspondence between patent attorney John Dresch and inventor Nathan Moskowitz regarding Notice of Allowance for tool application, dated September 13, 2012	**FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2052 — Email correspondence between inventors Andy Moskowitz and Eric Sugalski regarding keeping fusion device confidential until patenting, dated September 25, 2012	**FRE 801/802:** Andy Moskowitz's statements about current patenting activities are out-of-court statements offered for the truth of the matter asserted and are thus hearsay. **FRE 901:** No participant has authenticated this email; Dr. Nathan Moskowitz was not involved and lacks personal knowledge necessary for authentication. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2054 — Calendar of Dr. Nathan Moskowitz between March 1, 2012 and October 19, 2012	**FRE 801/802:** Calendar entries are out-of-court statements offered for the truth of the matter asserted and are thus hearsay, and no exception such as business records has been established. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.

Ex. 2055 — Neurosurgery On-Call Schedule	**FRE 801/802:** Calendar entries are out-of-court statements offered for the truth of the matter asserted and are thus hearsay, and no exception such as business records has been established. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2056 — Email correspondence between inventors Andy Moskowitz and Eric Sugalski regarding CAD drawings, dated April 15, 2011	**FRE 801/802:** The out-of-court statements in the email offered for the truth of the matters asserted are hearsay. **FRE 901:** No participant has authenticated the email, and Patent Owner offers no authentication or evidence that the attached drawings correspond to those referenced in the email. Patent Owner has not produced metadata, native files, or testimony from a custodian or creator sufficient to establish authenticity, completeness, or provenance. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2057 — Email correspondence between inventors Nathan Moskowitz, Andy Moskowitz, and Eric Sugalski, dated April 17, 2011	**FRE 801/802:** The out-of-court statements offered for the truth of the matters asserted in the email from Sugalski are hearsay.

	FRE 403: Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2058 — Email correspondence between inventors Andy Moskowitz and Eric Sugalski, dated April 17, 2011	**FRE 801/802:** Andy Moskowitz's email about adding side notches is an out-of-court statement offered for the truth of the matters asserted constituting hearsay. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2059 — Email correspondence between inventors Nathan Moskowitz and Eric Sugalski, dated May 28, 2011	**FRE 801/802:** The out-of-court statements offered for the truth of the matters asserted in the email from Sugalski are hearsay. **FRE 106:** The email refers to an e-drawing that has not been produced. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.
Ex. 2060 — Email correspondence between inventors Eric Sugalski and Nathan Moskowitz, dated July 6, 2011	**FRE 801/802:** The email is an out-of-court statement by Sugalski offered for the truth of the matters asserted regarding shipping logistics, offered for its truth. No hearsay exception applies. **FRE 403:** Any probative value is substantially outweighed by the risk of misleading the Board.

Respectfully submitted,

Dated: July 17, 2026 By: /Naveen Modi/

Naveen Modi (Reg. No. 46,224)
Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that I caused to be served on the counsel identified below a true and correct copy of the foregoing Petitioner's Objections to Evidence by electronic means on July 17, 2026:

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