

In the Matter of Trademark Serial No's. 76/535,842, 76/535,841, 76/535,840, and 76/536,437
For the Marks: PACERMAKERPLUS, PACERPLUS, PACER+ and PACEMAKER+

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Medtronic, Inc.,

Opposer,

Opposition No. 91161441 - 76535842
Opposition No. 91161444 - 76535840
Opposition No. 91161204 - 76536437

v.

Cardiac Pacemakers, Inc.,

Applicant

Pacesetter, Inc. dba St. Jude Medical
Cardiac Rhythm Management Division,
Opposer,

Opposition No. 91161301 - 76535842
Opposition No. 91162106 - 76535840
Opposition No. 91161126 - 76536437

v.

Cardiac Pacemakers, Inc.,

Applicant.

Medtronic, Inc., and Pacesetter, Inc.
d/b/a St. Jude Medical
Cardiac Rhythm Management Division,
Opposer,

Opposition No. 91163746 - 76535841

v.

Cardiac Pacemakers, Inc.,

Applicant.

JOINT SUBMISSION AND STIPULATION

This joint submission and stipulation is submitted in response to the paper mailed on February 7, 2005. Upon receipt of this paper, the undersigned discovered that there was a typographical error in the "Stipulated Motion to Consolidate Proceedings". The undersigned each apologize for the error and submits this joint submission to correct the error.

First, the parties request consolidation of the two oppositions that have been filed against application Serial No. 76/535,842 for the mark PACEMAKERPLUS. The numbers of these oppositions are 911614441 (filed by Medtronic) and 91161301 (filed by Pacesetter, Inc. doing business as St. Jude Medical Cardiac Rhythm Management Division).

Second, the applicant no longer has a *bona fide* intent to use the marks:

1. PACERPLUS (Application Serial No. 76/535,841) which is the subject of Opposition No. 91163746 filed jointly by Medtronic, Inc. and Pacesetter, Inc.
2. PACER+ (application Serial No. 76/535,840) which is the subject of Opposition No. 91161444 filed by Medtronic, Inc. and Opposition No. 91162106 filed by Pacesetter, Inc.
3. PACEMAKER+ (Application Serial No. 76/536,437) which is the subject of Opposition No. 91161126 filed by Pacesetter, Inc. and 91161204 filed by Medtronic.

In view of the foregoing, applicant expressly abandons the PACERPLUS (Application Serial No. 76/535,841); PACER+ (Application Serial No. 76/76/535,840) and PACEMAKER+ (Application Serial No. 76/536,437) applications.

Third, the parties wish to note that answers have been filed in connection with the two oppositions that remain (i.e., Opposition Nos. 91161441 and 91161301) related to the PACEMAKERPLUS application.

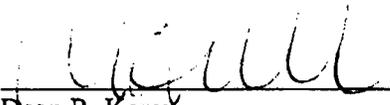
Fourth, the parties agree that Opposition Nos. 91161441 and 91161301 involve common questions of law and fact. Medtronic and St. Jude have both opposed Applicant's application to register PACEMAKERPLUS on the same grounds, i.e. alleging that the mark is a generic term and/or merely descriptive. The parties also agree that consolidation of these proceedings will

save time, effort, and expense. Accordingly, the parties request that the Board consolidate the actions.

The parties further stipulate and agree that the Board should adopt the following discovery, testimony and briefing dates in the consolidated case:

Discovery period to close:	August 1, 2005
30-day testimony period for party in position of plaintiff to close:	November 1, 2005
30-day testimony period for party In position of defendant to close:	December 1, 2005
15-day rebuttal testimony period for plaintiff to close:	December 15, 2005

Dated: Feb 16, 2005


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Attorneys for Opposers Medtronic, Inc.
and Pacesetter, Inc.

Dated: March 1, 2005

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Attorneys for Applicant

SO ORDERED:

Dated: March, 2005

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TTAB

LAW OFFICES

March 4, 2005

Box TTAB
Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

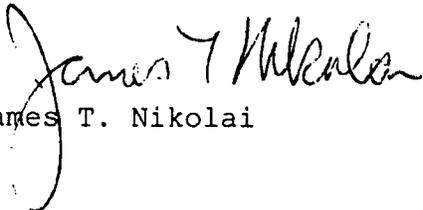
Re: Opposition Nos. 91161441; 91161444; 91161204; 91161301;
911662106; 91161126; 91163746
Medtronic and Pacesetter, Inc. v. Cardiac Pacemakers, Inc.
Our File No. 20050111.LAW

Dear Sir/Madam:

Enclosed for filing in the above-noted opposition proceedings is a Joint Submission and Stipulation.

Sincerely,

NIKOLAI & MERSEREAU, P.A.


James T. Nikolai

JTN:br
Enclosure
cc: Lora Esch Mitchell, Esq.



03-04-2005