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

Proceeding	92054196
Party	Defendant Snow/Wood LLC
Correspondence Address	CHRISTINA L DEMORY PO BOX 16216 WILMINGTON, NC 28408 UNITED STATES cdemory@ec.rr.com
Submission	Answer
Filer's Name	Christina L. Demory
Filer's e-mail	cdemory@ec.rr.com
Signature	/Christina L. Demory/
Date	08/12/2011
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re U.S. Reg. No. 3,346,658  
For the mark: PATIENT AMBASSADOR

<b>Medtronic, Inc.,</b>	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Cancellation No. 92054196</b>
	)	
<b>Snow/Wood LLC,</b>	)	
<b>Registrant.</b>	)	

**REGISTRANT'S ANSWER AND DEFENSES**

Registrant, Snow/Wood LLC, responds to the Petition to Cancel of Petitioner Medtronic, Inc., as follows:

**FIRST DEFENSE**

Responding to the allegations in the following corresponding numbered paragraphs set forth in the Petition to Cancel, Registrant states and alleges:

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in Paragraph 1 of the Petition to Cancel and, therefore, denies the same.

2. Registrant is without knowledge or information sufficient to form a belief as to the truth of the matter

asserted in Paragraph 2 of the Petition to Cancel and, therefore, denies the same.

3. Registrant admits that it is a limited liability company formed under the laws of the Commonwealth of Virginia, and that it has a principal place of business located at 219 Bulifants Blvd., Williamsburg, Virginia 23188.

4. Registrant admits that it is the owner of the mark PATIENT AMBASSADOR, which is registered on the Principal Register as U.S. Reg. No. 3,346,658, the terms and filing history of which speak for themselves. Except as expressly admitted, Registrant denies the allegations contained in Paragraph 4 of the Petition to Cancel.

5. Registrant denies the allegations contained in Paragraph 5 of the Petition to Cancel.

6. Registrant admits that Petitioner has used the term "patient ambassador." Except as expressly admitted, Registrant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in Paragraph 6 of the Petition to Cancel and, therefore, denies the same.

7. Registrant admits, upon information and belief, that the mark REAL DIABETES CONTROL is registered with the U.S. Patent & Trademark Office under U.S. Reg. No. 3,554,655. The terms of the registration speak for themselves. Except as

expressly admitted, Registrant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in Paragraph 7 of the Petition to Cancel and, therefore, denies the same.

8. Registrant admits the allegations contained in Paragraph 8 of the Petition to Cancel.

9. Registrant denies the allegations contained in Paragraph 9 of the Petition to Cancel.

10. Registrant denies the allegations contained in Paragraph 10 of the Petition to Cancel.

11. Registrant denies the allegations contained in Paragraph 11 of the Petition to Cancel.

12. Registrant denies the allegations contained in Paragraph 12 of the Petition to Cancel.

#### **SECOND DEFENSE**

Petitioner has not been and will not be damaged by the continued registration of Registrant's mark and, therefore, lacks standing to cancel the registration.

#### **THIRD DEFENSE**

Registrant's mark, PATIENT AMBASSADOR, is distinctive, has acquired secondary meaning within the relevant market, and is exclusively associated with Registrant and Registrant's licensee and their proprietary products and services through extensive, exclusive and continuous use of the mark by

Registrant and Registrant's licensee in connection with their proprietary products and services since 2001, resulting from extensive advertising and promotion of the mark by Registrant during this time, and as further evidenced by Registrant's registration of the mark on the Principal Register of the U.S. Patent & Trademark Office as U.S. Reg. No. 3,346,658.

#### **FOURTH DEFENSE**

The mark PATIENT AMBASSADOR is recognized in the relevant industry as Registrant's distinctive mark.

#### **FIFTH DEFENSE**

Registrant's mark PATIENT AMBASSADOR is not a generic term as used by Registrant because a review and weighing of the factors considered when evaluating a mark for genericness weighs clearly and unequivocally in Registrant's favor. Included among these factors are: (1) Registrant uses the mark properly as a trademark; (2) the mark is not a defined dictionary term based on a general review of various dictionaries; (3) persons in the relevant trade and industry recognize the term as a trademark associated exclusively with Registrant and Registrant's licensee; and (4) media usage in the relevant trade and industry clearly recognizes the term as a trademark associated exclusively with Registrant and Registrant's licensee.

**RELIEF REQUESTED**

WHEREFORE, Registrant respectfully requests that the Petition to Cancel be denied and dismissed with prejudice and that the Board grant Registrant such other and further relief as may be deemed just and proper.

Respectfully submitted,

          /Christina L. Demory/  
Christina L. Demory  
P. O. Box 16216  
Wilmington, NC 28408  
Tel: (910) 367-1813  
[cdemory@ec.rr.com](mailto:cdemory@ec.rr.com)

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Attorney for Registrant Snow/Wood LLC

