

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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APR - 7 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Biotronik, Inc.)
)
Experimental Radio Station License)
(Call Sign WD2XAA))
)

File No. 0223-EX-PL-2002

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APR 08 2003

MEDIA BUREAU

MOTION FOR LEAVE TO RESPOND

Biotronik, Inc., ("Biotronik"), by its attorneys, hereby moves for leave to respond to the Opposition of Medtronic, Inc. ("Medtronic") regarding Biotronik's above-captioned experimental authorization.¹ In its Reply, Medtronic makes new factual allegations² and presents new arguments³ to which Biotronik has had no opportunity to respond.

Good cause exists for granting the instant motion. Consideration of the attached response will enable the Commission to render its decision based on a more complete

¹ See Medtronic's Opposition to Motion for Leave to File a Response to Reply, File No. 0223-EX-PL-2002 (Feb. 21, 2003) ("Medtronic Opposition").

² For example, Medtronic asserts that Biotronik's Belos devices are "fully integrated (and sealed)," provides photographs of the Philos DR-T to support this argument, and implies that Biotronik must be able to demonstrate that it can remove the T chips from the Belos devices. Medtronic Opposition at 4 and Exhibit A. Biotronik's position is not that the T chips can be physically removed from the devices but that the chips can be permanently deactivated without affecting the normal operation of the Belos devices as defibrillators.

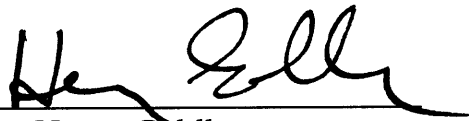
³ For example, Medtronic now claims that Biotronik is conducting a "limited market study" of the Belos devices because the clinical trials of the devices will help Biotronik in determining the market value for its T chip technology. Medtronic Opposition at 8. The fact that Biotronik will be able to gauge the appeal of the devices to physicians and patients as a result of clinical testing does not convert such testing into a limited market study.

record and, by clarifying elements of the record which Medtronic has confused,⁴ may facilitate a prompter resolution of this proceeding.

For the foregoing reasons, Biotronik moves for leave to respond to the Reply of Medtronic.

Respectfully submitted,

BIOTRONIK, INC.

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April 7, 2003

⁴ For example, in its Opposition, Medtronic continues its attempt to expand the scope of this proceeding to include all of Biotronik's medical implant devices when procedurally Medtronic may challenge only the experimental authorization for the Belos DR-T. In the same manner, Medtronic uses photographs of the Philos DR-T to make its arguments, but the RF circuitry of that device is not comparable to that of the Belos DR-T. Finally, in a deceptive fashion, Medtronic quotes only selected portions of Biotronik's press release for the Belos DR-T. A review of the full text of the press release clearly shows that it was intended to announce FDA approval of the Belos DR-T.

CERTIFICATE OF SERVICE

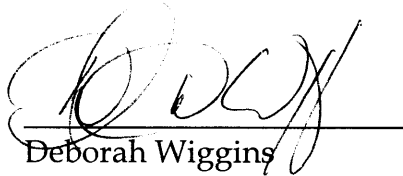
I hereby certify that a true and correct copy of the foregoing Motion for Leave to Respond was hand delivered, this 7th day of April, 2003, to each of the following:

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Deborah Wiggins

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