

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MEDTRONIC SOFAMOR DANEK, INC.,)
)
Plaintiff/)
Counterclaim Defendant.)

vs.)

No. 01-2373-M1V

GARY KARLIN MICHELSON, M.D.)
and KARLIN TECHNOLOGY, INC.,)
)
Defendants/)
Counterclaimants,)

and)

GARY K. MICHELSON, M.D.,)
)
Third Party Plaintiff,.)

vs.)

SOFAMOR DANEK HOLDINGS, INC.)
)
Third Party Defendant.)

ORDER ON PRODUCTION OF DOCUMENTS AFTER *IN CAMERA* REVIEW

Before the court are documents produced to the court by Medtronic Sofamor Danek, Inc. ("Medtronic") for *in camera* inspection pursuant to this court's orders dated April 10, 2003, and June 6, 2003. After reviewing the documents *in camera*, the court grants Michelson's motion to compel production of the unredacted versions of these documents.

By order dated April 10, 2003, the court ordered Medtronic to

produce certain documents designated as Items 5 and 6 on Medtronic's initial privilege log. These items consisted of documents compiled by Sofamor Danek's attorneys, listing the intellectual property holdings of Sofamor Danek. These documents were provided to Medtronic in 1998 during the merger of Sofamor Danek and Medtronic and attached to the merger agreement as schedules (hereinafter referred to as "merger lists"). Medtronic had opposed production of the merger lists on the basis of attorney-client privilege and work product doctrine. The April 10, 2003 order which required Medtronic to produce the merger lists authorized Medtronic to "redact any attorney advice and opinion, instructions from Danek to its attorneys and vice versa, legal theories, and mental impressions." Order Granting in Part Defendant Michelson's Motion to Compel the Production of Merger Lists, *Michelson v. Medtronic Sofamor Danek, Inc.*, Civil Case No. 01-2373 (W.D. Tenn. Apr. 10, 2003), at 13.

On April 24, 2003, Medtronic produced copies of the merger lists to Michelson but the produced versions were heavily redacted. The primary redaction on the schedules was the column entitled "current status." On all one hundred pages, the current status of each item of intellectual property was redacted. In addition, in some instances, Medtronic redacted headings in the schedule. Finally, on Schedule 3.13B, Medtronic redacted part or all of the

titles. Medtronic offered no additional explanation for the redactions other than its previously claimed privileges.

After review *in camera* of the redactions, the court finds that none of the redacted information is protected by the attorney client privilege or work product doctrine. Therefore, Medtronic is directed to produce to Michelson for inspection, within ten days of the date of this order, unredacted versions of these documents.

IT IS SO ORDERED this 3rd day July, 2003.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE