

Case No. 25-270

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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED
STATES

[Red Signature]

NAZIR KHAN,

Petitioner,

v.

**MERIT MEDICAL SYSTEMS, INC. and ARTIVION,
INC.,**

Respondents.

On Petition for Rehearing of Denial of Writ of Certiorari
to the United States Court of Appeals

PETITION FOR REHEARING

Submitted by:

NAZIR KHAN, Pro Se

150 Glen Mora Drive

Burr Ridge, Illinois 60527

Tel: (312) 590-0589

Email: nazirkhanmd2003@yahoo.com

INTRODUCTION

Pursuant to Rule 44 of the Rules of the Supreme Court of the United States, Petitioner Nazir Khan respectfully petitions for rehearing of the Court's denial of certiorari in Case No. 25-270 on October 14, 2025.

This Petition presents intervening circumstances of substantial or controlling effect and other substantial grounds not previously presented that warrant reconsideration. Petitioner, a pro se inventor, seeks redress for constitutional violations and procedural irregularities that undermine the integrity of the judicial process and the protections afforded to inventors under federal law.

Rehearing is necessary to prevent manifest injustice and preserve the constitutional rights of inventors whose innovations serve the public interest.

I. ERRONEOUS APPLICATION OF DOCTRINE OF EQUIVALENTS AND ESTOPPEL

Respondent Merit Medical Systems, Inc. filed a counterclaim for declaratory judgment of non-infringement based on estoppel. The Magistrate Judge recommended granting the motion, and the District Judge adopted it, entering summary judgment declaratory judgement of non-infringement and declaring that the HeRO Graft does not infringe any claim of U.S. Patent No. 8,747,344 (“the ’344 Patent”). The Federal Circuit affirmed in Appeal No. 2023-2329. District Court of Utah and Federal circuit erred in Judgement estoppel did not exist, absent estoppel outcome would have changed, District court of Utah would have allowed five infringement claims entered in amended complaint

II. COLLATERAL ESTOPPEL MISAPPLIED IN GEORGIA PROCEEDINGS

In a separate action, the Georgia District Court dismissed Petitioner’s amended complaint and five claims based on collateral estoppel, which the Federal Circuit affirmed in Appeal No. 2023-2347. The lower courts misapplied

estoppel doctrines where no valid judgment estoppel existed.

III. PTAB FINAL WRITTEN DECISION BARS RELITIGATION

The PTAB upheld the '344 Patent in its Final Written Decision (July 27, 2027), reversing the prior art rejection based on Squitiere (U.S. Patent No. 10,288,884 before the Board the limitations of patent application of, connector cuff Disposed about and venous out flow catheter reaching right atrium versus examiners rejection of Squitieri prior art of metallic connector disposed in connecting Graft and venous out Flow catheter that reaches to vein only were discussed see pet.App106 .Board reversed examiner ,allowed 1-20 claims of patent 591 (parent patent) and patent344 in suit. Pet.App82a-99a Merit relitigated case in Utah Federal Court on Disposed about limitation of patent344 and Squitieri Disposed in connector disposition created frivolous estoppel against Disposed about limitation of claim13 of patent344 justifying non infringement of declaratory judgement on Counterclaim

District Judge granted Counterclaim, on declaratory Judgement of noninfringement pet.App52a. Under B&B Hardware, Inc. v. Hargis Industries, Inc., 575 U.S. 138 (2015), issues litigated before the PTAB cannot be relitigated in federal court. Accordingly, Respondents' attempt to relitigate the "Disposed About" limitation violates both statutory estoppel under 35 U.S.C. § 315(e)(2) and controlling Supreme Court precedent. PTAB decision itself carries precedential weight .it is a form of collateral estoppel also called issue preclusion that issues litigated before Board should not be re litigated in district court. Merit disregarded Boards precedential Opinion, relitigated case created estoppel .and deceived district judge of Utah court who acted on estoppel, granted summary declaratory judgement of non-infringement on merits counter claim, an error in law

IV. DECLARATORY JUDGMENT AND INFRINGEMENT

Rehearing is warranted based on newly discovered controlling precedent and misapplication of substantive

patent law.

In *Medtronic, Inc. v. Mirowski Family Ventures, LLC*, 571 U.S. 191 (2014), this Court held that in a declaratory judgment action for non-infringement, the burden of proving infringement remains with the patentee. Lower courts failed to apply this controlling authority, leading to manifest error.

Petitioner's patented device, the hybrid arteriovenous (A-V) shunt, contains three components: (1) a graft, (2) a cuff connector disposed about the graft, and (3) a venous outflow catheter reaching the right atrium. Pet.App.104a venous out flow catheter determines function of patent344 it directs blood flow in to right atrium prevents 80 % device failure of Av Shunts . Respondents used venous out flow of claim13 of patent344 in making unpatented HeRO graft device Pet.App.105a

Respondents' HeRO Graft infringes Claim 13 of the '344 Patent, as it incorporates the functional element of patent344 the venous out flow catheter that reaches right

atrium. Under Provisur Technologies, Inc. v. Weber, Inc., No. 23-1438 (Fed. Cir. 2024), court held if function of accused device is related to functional element of asserted patent accused device infringes ,therefore plaintiff has proved that Respondents unpatented HeRo Graft infringes upon claim 13 of patent344, under supreme court precedent in Medtronic v Markowski ventures LLC that patentee bears burden of proving infringement this precedent is a controlling authority rehearing should be granted another newly discovered precedential authority of supreme court is in the decision of case Impression products Inc v Lexmark international, NC No15-1189(decided on May30 2017) holding if an item of the patent is used in making accused device without authorization accused device infringes. Court stated" A united states patent entitles the patent holder to exclude others from making, using, offering for sale selling its invention throughout oh the united states or importing invention into united states 35U.S.C§154(a) Whoever

engages in one of these acts without authority from patentee may face Liability for patent infringement

§271a Respondents used a key item of patent344 ,the venous out flow catheter that reaches right atrium of heart ,in making unpatented accused HeRO graft ,a hemodialysis device without permission from patent holder Nazir Khan during patent term,(2004-2028) infringes patent344. HeRO Graft therefore infringes upon (claim 13 of patent 344 under §271 (a) Respondents also violated patent act which grants inventors exclusive right to prevent others from commercially exploiting their invention, for a set period of time, patent act provides patentee to sue infringer for damages and injunction. Here Respondents used a component of claim 13 of patent 344 the, Venous out flow catheter without authorization plaintiff filed infringement law suit against respondents to seek remedy under statue 35U.S.C §281 in both Utah and Georgia Court, petitioners patent infringement claims were dismissed in Utah Court on the Ground of estoppel and in Georgia court on the

ground of collateral estoppel. Both courts patent owner faced sanctions under § 285, all infringement claims were dismissed in violation patent act Full bench Court should grant rehearing to protect patent 344. And patent rights

V. CONSTITUTIONAL STANDING AND FINANCIAL INJURY

Petitioner satisfies the standing requirements under Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992):

- Injury-in-Fact: Financial loss due to unauthorized sales of infringing devices during the patent term Respondents sold venous. Out flow catheter of claim13 of aptent344 for \$1000 each from dec ,2008 till now and continuing without patent holders(344) permission causing petitioner financial injury
- Causation: Injury directly caused by Respondents' manufacture and sale of HeRo Graft a hemodialysis device that incorporated venous outflow catheter of claim13 of patent344 that constituted mis conduct on the part of respondents.
- Redressability: A favorable decision would restore

Petitioner's rights and remedies. Grant of rehearing would restore patent holder Nazir khan patent rights on patent 344 and remedies

Lower courts disregarded these principles, failing to provide redress and instead inviting Respondents to seek sanctions—contrary to constitutional standing doctrine.

Respondents have not shown any injury to their protected interest HeRO graft, they have no constitutional standing to pursue the case, their case should have been dismissed by lower courts under Fifth circuit ruling. In Jones V Reeves (2024), holding a party without demonstrating constitution III injury their case should be dismissed.

Respondents HeRO Graft is unpatented lacks constitutional standing their case should have been dismissed. Petitioner has exclusive constitutional standing has valid patent344 infringement claims of patent344 should have been allowed by lower courts, Grant of rehearing will restore patent owner constitutional patent rights

VI. FIFTH AMENDMENT AND TAKINGS CLAUSE VIOLATION

A U.S. patent is constitutional property under Article I, Section 8, Clause 8. By permitting Respondents' unlicensed use of the patented invention, the lower courts facilitated a constructive taking of Petitioner's property without due process or just compensation, in violation of the Fifth Amendment.

VII. NATIONAL IMPORTANCE OF THE '344 PATENT

The patented hybrid A-V shunt is of national importance for patients with end-stage renal disease. The HeRO Graft, based on patent 344 invention, provides life-saving access for hemodialysis and has been widely adopted in the United States and abroad. Unauthorized use of this innovation not only harms the inventor but undermines the constitutional incentive structure for technological advancement. When others currently used devices fail from vein damage, patients with kidney failure have no access sites for hemodialysis. Thousands of patients will die for having no vascular access site. Khan's patent 344 will come to the

rescue of kidney failure patients it will provide them with hemodialysis it is a central shunt where vein is not used blood is directly deposited into right atrium. Rehearing should be granted to protect patent holders patent 344 in the interest of kidney failure patient population

VIII. RESPONDENTS violated Patent 344 under constitution Art1, clause8, section 8 of constitution

Patent holders patent US8,747,344(344) was granted by USPTO as a useful and invention, with exclusive right during limited monopoly period (2004-2028) to exclude others in making, selling, using or importing the patented invention into USA. Pet.App.100a letter from Director of patent and Trademark office. Under Article 1, sec8, clause 8 patent is “intellectual property clause” which gives congress the power to grant patents to authors and inventors for a limited to promote progress of science and useful arts. This clause is i the constitutional basis for intellectual property rights in the united states.it explicitly grants congress the authority to create laws that secure

exclusive rights for creators ensuring public access to new knowledge and creations while providing authors with a temporary monopoly on their work Respondents violated patent holders intellectual property rights on patent344 by stealing patent344 venous outflow catheter that reaches Right atrium in making accused unpatented HeRO Graft a hemodialysis device ,thus respondents violated Art 1 ,clause 8.section8 of constitution , respondents actions are unconstitutional ,for using patent344 in making unpatented HeRO Graft , Petitioner patent holder need to be paid monetary damage Royalty and Injunction.

IX. Congress and constitution wants America to be a leader in medical technology, the conduct of respondents and district and Federal circuit judges is contrary, making America inferior in medical technology, congress under constitutional authority should remove such judges who violate constitution while sitting in Federal Courts as constitution 111 Judges.

X. Patent holders patent 344 has constitutional protection under constitution, Art 1, clause8, of constitution, 5th amendment taking Clause, and patent act during monopoly period, (2004-2028) patent 344 was destroyed by lower courts and unpatented device of respondents HeRO Graft prevailed Lower courts of Utah and Georgia ordered respondents to file for sanctions under §285, against patent holder without basis. Grant of rehearing is necessary to protect patent holder of patent 344, under constitutional property clause and restore petitioners patent rights.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court full bench grant this Petition for Rehearing and reconsider the denial of certiorari, to correct constitutional and statutory errors and to protect the rights of inventor of patent344 under federal law. Supreme Courts controlling precedents support grant of Rehearing petition in favor of petitioner

Respectfully submitted,

Nazir Khan

150 Glen Mora Drive

Burr Ridge, IL 60527

Tel: (312) 590-0589

Email: nazirkhanmd2003@yahoo.com

CERTIFICATE OF COUNSEL

I certify that this Petition for Rehearing is presented in
good faith and not for purposes of delay.

Signed,

Nazir Khan

Nazir Khan
11-3-2025

An unrepresented party

:

Certificate of Compliance

Supreme Court of the United States

Case No. 25-270

Nazir Khan petitioner v. Merit Medical Inc. and Artivion Inc. Respondents

Pursuant to Rule 33.1(g) of the Rules of the Supreme Court and in connection with the petition for rehearing filed in the above-captioned matter, I certify that the document contains 1,956 words, excluding the parts exempted by Rule 33.1(d).

This certification is made under an unsworn declaration in compliance with 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2025.

Respectfully submitted,

Nazir Khan
Nazir Khan 11/3/2025

Nazir Khan, Petitioner

