Wiley Rein LLP

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

David E. Hilliard
202.719.7058
dhilliard@wileyrein.com

John W. Kuzin
202.719.3506
jkuzin@wileyrein.com

October 7, 2008

VIA ECFS

Julius Knapp
Chief of the Office of Engineering and Technology
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: ET Docket Nos. 06-135 & 05-213
***Ex Parte* Filing**

Dear Mr. Knapp:

Medtronic Inc. respectfully requests that the FCC reject DexCom Inc.'s request to extend by four additional years the timeframe by which DexCom must come into compliance with existing Medical Implant Communications Service ("MICS") rules at 402-405 MHz and any new rules authorizing operations in the 401-402 and 405-406 MHz "wing bands."

The FCC already granted DexCom one full year from the effective date of any new rules to come into compliance with those rules.[1] Indeed, DexCom's device could be supported in the wing bands as proposed.[2] The device, which has its transmitting antenna outside the body for communications with an external device on (or very near to) the body, could communicate quite well in the wing bands with power levels less than 250 nW, as Medtronic has explained.[3] Such a modification is needed to make the device a more friendly user of the MedRadio wing-bands. It does not require an entirely new product design as DexCom contends. One additional year beyond the effective date of any new rules is unquestionably sufficient.

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[1] *See Investigation of the Spectrum Requirements for Advanced Medical Technologies; Amendment of Parts 2 and 95 of the Commission's Rules to Establish the Medical Device Radio Communications Service at 401-402 and 405-406 MHz*, ET Docket No. 06-135, NPRM, NOI, & Order, FCC 06-103 ¶ 36 (July 18, 2006) ("*MedRadio NPRM*").

[2] *See id*. ¶¶ 23-25.

[3] *See, e.g.*, Medtronic Ex Parte Presentation at 5-6 (Mar. 14, 2008) (noting also that 100 kHz channel bandwidth proposed for the wing bands would support DexCom's devices that have a channel bandwidth between 54 kHz and 90 kHz).

DexCom's request that the Commission extend by four additional years the timeframe for which it may continue noncompliant operations should be rejected because it is unnecessary and will impact compliant device operations in the core MICS band on an increasing basis, for the number of MICS implantable medical devices in operation will continue to rapidly increase well into the future.[4]

As the FCC stated in *MedRadio NPRM*: "[T]he MICS device industry … is still in its nascent stages and, absent compelling reasons, we would be reluctant to upset the existing MICS rules for operation in the 402-405 MHz band in light of research and development that has taken place in reliance on our rules, and the products that are and will soon be available to the public as a result."[5].

Allowing DexCom's noncompliant device, which transmits at will and at high power, to continue to operate in the core MICS band for five additional years beyond the effective date of any new rules would upset existing regulations and unnecessarily harm compliant device operations.

Sincerely,

David E. Hilliard

David E. Hilliard
John W. Kuzin

cc:	Ira Keltz	Geraldine Matise
	Ron Repasi	Bruce Romano
	Mark Settle	Alan Stillwell
	Gary Thayer	

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[4] *See* Medtronic *Ex Parte* Presentation at 4 n.3 (Mar. 14, 2008) (noting that St. Jude Medical, Medtronic, Biotronik, and Angel Medical have FCC authorizations for MICS LBT implants and further noting that over 100,000 Medtronic units alone had been implanted worldwide); *see also* Medtronic *Ex Parte* Filing (Aug. 6, 2008) ("[A]s of July 24, 2008, there are more than 132,000 Medtronic MICS implantable cardiac devices in operation worldwide, … [which is] more than three times the amount … reported just one year ago.").

[5] *See MedRadio NPRM* ¶ 24.