

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: BODY SCIENCE LLC)	
PATENT LITIGATION)	
)	Docket No.: 1:12-md-2375-FDS
This Document Relates to:)	
<i>Body Science LLC v. St. Jude Medical, Inc.</i>)	
<i>C.A. No. 13-cv-10025-FDS</i>)	

FIRST AMENDED COMPLAINT

Plaintiff BODY SCIENCE LLC (“Body Science” or “Plaintiff”) files this First Amended Complaint against Defendants ST. JUDE MEDICAL S.C., INC. (“St. Jude”) and PACESETTER, INC. (“Pacesetter”) (collectively “Defendants”)¹, alleging as follows:

I. THE PARTIES

1. Plaintiff is a Texas corporation with its principal place of business at 2400 Dallas Parkway, Suite 200, Plano, Texas 75093.

2. St. Jude is a Minnesota corporation with a principal place of business at 6300 Bee Cave Road, Building Two, Suite 100, Austin, Texas 78746 and is a wholly owned subsidiary of St. Jude Medical, Inc. St. Jude may be served with process through counsel of record for St. Jude Medical, Inc. who previously made an appearance in this case.

3. Pacesetter is a Delaware corporation with a principal place of business at 15900 Valley View Court, Sylmar, California 91342 and is a wholly owned subsidiary of St. Jude

¹ Plaintiff filed its Original Complaint in this lawsuit against St. Jude Medical, Inc. which Plaintiff has been informed by counsel for St. Jude Medical, Inc. is a holding company that does not manufacture, use, or sell the allegedly infringing products. Accordingly, Plaintiff files this First Amended Complaint to name the proper legal entities as represented by counsel for St. Jude Medical, Inc.: St. Jude Medical S.C., Inc. which allegedly sells the allegedly infringing products, and Pacesetter, Inc. which allegedly manufactures the allegedly infringing products.

Medical, Inc. Pacesetter may be served with process through counsel of record for St. Jude Medical, Inc. who previously made an appearance in this case.

II. JURISDICTION AND VENUE

4. This is an action for infringement of a United States patent. Federal question jurisdiction is conferred to this Court over such action under 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendants are subject to personal jurisdiction by this Court. Defendants have committed such purposeful acts and/or transactions in the State of Minnesota that they reasonably knew and/or expected that they could be haled into a Minnesota court as a future consequence of such activity. Defendants make, use, or sell infringing products within the District of Minnesota, or have a continuing presence and the requisite minimum contacts with the District of Minnesota such that this venue is a fair and reasonable one. Upon information and belief Defendants have transacted and, at the time of the filing of this First Amended Complaint, are continuing to transact business within the District of Minnesota. For all of these reasons, personal jurisdiction exists as to Defendants and venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

III. PATENT INFRINGEMENT

6. On May 8, 2007, United States Patent No. 7,215,991 (“the ‘991 patent”) was duly and legally issued for “Wireless Medical Diagnosis and Monitoring Equipment.” A true and correct copy of the ‘991 patent is attached hereto as Exhibit “A” and made a part hereof.

7. By way of assignment, Plaintiff is the owner of all right, title and interest in and to the ‘991 patent, with all rights to enforce the ‘991 patent against infringers and to collect damages for all relevant times, including the right to prosecute this action.

8. The '991 patent relates generally to a medical diagnosis and monitoring system including a sensor that is capable of communicating wirelessly with an evaluator station. The sensor is operable to detect an electrical, physical, chemical, or biological property associated with a patient and convert it into an electric signal. The sensor converts the electric signal into a digital data and then transmits the data wirelessly to an evaluator station. The evaluator station may also transmit data wirelessly back to the sensor.

9. Upon information and belief, and without authority, consent, right, or license, and in direct infringement of the '991 patent, Defendants manufacture, make, have made, use, markets sell and/or import products and systems that infringe one or more claims in the '991 patent. Such conduct constitutes, at a minimum, patent infringement under 35 U.S.C. § 271(a).

10. Defendants have directly infringed at least claims 1, 17, 18 and 37 of the '991 patent and continue to infringe the '991 patent by their manufacture, use, sale, importation, and/or offer for sale of their implantable pacemakers, ICDs, CRT devices, and Merlin@home Transmitters. The infringing pacemakers, ICDs and CRT devices include, at a minimum, the ACCENT SR, Accent DR, Anthem CRT-P, Atlas II ICD, Atlas II HF CRT-D, Current RF ICD, Current Accel ICD, Current Plus ICD, Epic II ICD, Epic II HF CRT-D, Fortify ICD, Promote Accel CRT-D, Promote Plus CRT-D, and Promote RF CRT-D. The pacemakers, ICDs and CRT devices include sensors which measure heart activity and are capable of transmitting digital data wirelessly to a Merlin@home Transmitter. Conversely, the Merlin@home Transmitters are capable of transmitting data to the pacemakers, ICDs and CRT devices to change the format of data transmission by such implantable devices.

11. Plaintiff reserves the right to assert additional claims of the '991 patent.

12. Plaintiff has been damaged as a result of Defendants' infringing conduct. Defendants are, thus, liable to Plaintiff in an amount that adequately compensates for their infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

13. Plaintiff and its predecessor have complied with 35 U.S.C. § 287 to an extent sufficient to entitle Plaintiff to past damages as may be applicable.

IV. JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent No. 7,215,991 have been infringed, either literally and/or under the doctrine of equivalents, by Defendants;
- b. Judgment that Defendants account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendants' infringing activities and other conduct complained of herein;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- d. That the Court declare this an exceptional case and award Plaintiff its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285;
- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: September 4, 2013

/s/ Kevin Gannon

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