

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

LIFEPOR SCIENCES LLC,  
*Plaintiff,*

v.

C.R. BARD INC. and  
BARD PERIPHERAL VASCULAR INC.,  
*Defendants.*

Civ. No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff LifePort Sciences LLC (“LifePort”) alleges as follows:

**PARTIES**

1. Plaintiff LifePort is a Texas Limited Liability Company with its principal place of business at 6136 Frisco Square Blvd., Suite 385, Frisco, TX 75034.
2. Defendant C.R. Bard Inc. is a corporation organized under the laws of the State of New Jersey, with its principal place of business at 730 Central Avenue, Murray Hill, NJ 07974.
3. Defendant Bard Peripheral Vascular Inc. is a corporation organized under the laws of the State of Arizona, with its principal place of business at 1625 West 3rd Street, Tempe, Arizona 85281.
4. Defendants are in the business of developing, manufacturing, and selling medical devices including without limitation endovascular stent grafts.

**NATURE OF THE ACTION**

5. This is a civil action for the infringement of United States Patent No. 6,673,103 (the “103 Patent”) (attached as Exhibit A) entitled “Mesh and Stent for Increased Flexibility” (the “Patent-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

6. Plaintiffs LifeScreen and LifePort are the lawful assignees of all right, title and interest in and to the Patent-in-Suit.

**JURISDICTION AND VENUE**

7. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. § 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 281.

8. 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 New Jersey that they reasonably knew and/or expected that they could be hauled into a New Jersey court as a future consequence of such activity. In addition, the Defendants have committed acts of infringement of one or more of the claims of the Patent-in-Suit in this judicial district. Moreover, Defendant C.R. Bard Inc. is incorporated in and has its primary place of business in this judicial district.

9. Venue in this district is proper under 28 U.S.C. §§ 1400(b) and 1391(b) and (c), because the Defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district. Defendants make, use, and/or sell infringing products within the District of New Jersey, have a continuing presence within the District of New Jersey, and have the requisite minimum contacts with the District of New Jersey such that this venue is a fair and reasonable one. Defendants have transacted and, at the time of the filing of this Complaint, are continuing to transact business within the District of New Jersey.

**COUNT I**

**(Infringement of U.S. Patent No. 6,673,103)**

10. Paragraphs 1 through 9 are incorporated by reference as if fully restated herein.

11. Plaintiff LifePort is the assignee and lawful owner of all right, title and interest in and to the '103 Patent.

12. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '103 Patent. Such devices are medical devices, including but not limited to endovascular stent grafts and their delivery systems, such as, but not limited to Defendants' Flair endovascular stent graft and other similar devices.

13. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '103 Patent by making, using, offering for sale, importing, and selling infringing medical devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing medical devices, all with knowledge of the '103 Patent and its claims; with knowledge that their customers and end users will use, market, sell, offer to sell, and import infringing medical devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing medical devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

14. Defendants have also contributed to the infringement by others, including the end users of infringing medical devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing medical devices into the United States, knowing that those products constitute a material part of the inventions of the '103 Patent,

knowing those products to be especially made or adapted to infringe the '103 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

15. Defendants have had knowledge of and notice of the '103 Patent and their infringement since at least July 25, 2014. Moreover, by way of prosecution of patent applications assigned to one or more of the Defendants, Defendants had notice of the '103 Patent prior to this date. Despite this knowledge and notice, the Defendants continue to commit tortious conduct by way of patent infringement. Accordingly, the Defendants willfully infringed the '103 Patent.

16. Defendants have been and continue to be infringing one or more of the claims of the '103 Patent through the aforesaid acts.

17. Plaintiff LifePort is entitled to recover damages adequate to compensate for the infringement, including enhanced damages for the Defendants' willful infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, respectfully request the following relief:

- (a) A judgment that U.S. Patent No. 6,673,103 is valid and enforceable;
- (b) A judgment that Defendants have infringed the '103 Patent;
- (c) A judgment that Plaintiffs be awarded all appropriate damages (including enhanced damages for willful infringement) under 35 U.S.C. § 284 for the Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including pre and post judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Plaintiffs for Defendants' infringement, an accounting:


- i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiffs be awarded its reasonable attorneys' fees against Defendants that it incurs in prosecuting this action;
- ii. that Plaintiffs be awarded costs, and expenses that it incurs in prosecuting this action; and
- iii. that Plaintiffs be awarded such further relief at law or in equity as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand trial by jury on all claims and issues so triable.

DATED: September 3, 2014

Respectfully submitted,

  
Argia J. DiMarco (N.J. I.D. #3001-2011)

DECHERT LLP  
Cira Centre  
2929 Arch Street  
Philadelphia, PA 19104-2808  
Tel. (215) 994-4000  
Fax (215) 994-2222  
argia.dimarco@dechert.com

OF COUNSEL:  
Martin J. Black  
Kevin M. Flannery  
Derek J. Brader  
DECHERT LLP  
Cira Centre  
2929 Arch Street  
Philadelphia, PA 19104-2808  
Tel. (215) 994-4000  
martin.black@dechert.com  
kevin.flannery@dechert.com  
derek.brader@dechert.com



Philip C. Ducker  
DECHERT LLP  
2440 W. El Camino Real Suite 700  
Mountain View, CA 94040-1499  
Tel. (650) 813-4800  
Fax (650) 813-4848

*Counsel for Plaintiff LifePort Sciences LLC*