

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ALABAMA ON
BEHALF OF ONE OF ITS DIVISIONS,
THE UNIVERSITY OF ALABAMA AT
BIRMINGHAM; AND THE UAB
RESEARCH FOUNDATION,

Plaintiffs,

vs.

MEDTRONIC, INC.

Defendant.

CIVIL ACTION NO. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMANDED

COMPLAINT

Plaintiffs, the Board of Trustees of the University of Alabama on behalf of one of its divisions, The University of Alabama at Birmingham and the UAB Research Foundation (collectively “UAB”) for their Complaint for Patent Infringement against Defendant Medtronic, Inc. (“Medtronic”) allege as follows:

PARTIES

1. Plaintiff, The Board of Trustees of the University of Alabama on behalf of one of its divisions, The University of Alabama at Birmingham, is a public university and instrumentality of the State of Alabama organized and existing

under the Constitution and laws of the State of Alabama, located in Birmingham, Alabama.

2. Plaintiff UAB Research Foundation is an Alabama non-profit corporation having its principal place of business at 701 20th Street South, Administration Building 770, Birmingham, Alabama 35294.

3. On information and belief, Defendant Medtronic, Inc. is a Minnesota corporation with its principal place of business at 710 Medtronic Parkway, Minneapolis, Minnesota 55432.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), 1605(a)(2), and 2202.

6. On information and belief, Medtronic is subject to personal jurisdiction in the Northern District of Alabama (the “District”), consistent with the principles of due process and the Alabama Long Arm Statute, because Medtronic offers its products for sale in this District, has transacted business in this District, has committed acts of patent infringement in this District, and/or has placed infringing products into the stream of commerce through established distribution channels

with the expectation that such products will be purchased by residents of this District.

7. In a patent case, venue is proper “in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b). “[A] defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced.” 28 U.S.C. § 1391(c)(2). Thus, venue is proper in the District because, as set forth above, Medtronic, a corporate defendant, is subject to personal jurisdiction in the District.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,290,699

8. UAB is the owner of all right, title, and interest in U.S. Patent No. 6,290,699 (the “‘699 patent”), entitled “Ablation Tool for Forming Lesions in Body Tissue,” duly and properly issued by the U.S. Patent and Trademark Office on September 18, 2001. A copy of the ‘699 patent is attached as Exhibit A.

9. Medtronic markets and sells the Cardioblade Gemini, Cardioblade BP2, and Cardioblade LP devices in the United States.

10. On information and belief, Medtronic has been and/or is infringing the ‘699 patent, pursuant to 35 U.S.C. §§ 271(a), (b), (c) and/or (g), either directly, literally or under the doctrine of equivalents, by among other things making, using, offering

to sell, and/or selling in the United States, and/or importing into the United States, without authority, products or processes that are covered by at least claims 1 and 9 of the '699 patent including, by way of example and not limitation, the Cardioblate Gemini, Cardioblate BP2, and Cardioblate LP.

11. UAB has been and continues to be damaged by Medtronic's infringement of the '699 patent in an amount to be determined at trial.

12. On information and belief, Medtronic had knowledge of the '699 patent. Further, on information and belief, Medtronic had knowledge that its manufacture and sale of the Cardioblate Gemini, Cardioblate BP2, and Cardioblate LP, among other products, infringed the '699 patent. As a result, on information and belief, Medtronic's infringement of the '699 patent is willful and deliberate, entitling UAB to enhanced damages and reasonable attorneys fees and costs.

PRAYER FOR RELIEF

WHEREFORE, UAB prays for relief as follows:

- A. For a judgment declaring that Medtronic has infringed the '699 patent;
- B. For a judgment awarding UAB compensatory damages as a result of Medtronic's infringement of the '699 patent, together with interest and costs, and in no event less than a reasonable royalty;
- C. For a judgment declaring that Medtronic's infringement of the '699 patent has been willful and deliberate;

D. For a judgment awarding UAB treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Medtronic's willful and deliberate infringement of the '699 patent;

E. For a judgment declaring that this case is exceptional and awarding UAB its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

F. For such other and further relief as the Court deems just and proper.

DEMAND OF JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, UAB respectfully requests a trial by jury of all issues properly triable by jury.

DATED: September 22, 2014

Respectfully submitted,

/s/ Cole R. Gresham

Walter William Bates (ASB-7202-e49w)

Jay M. Ezelle (ASB-4744-Z72J)

Cole R. Gresham (ASB-8993-L74G)

STARNES DAVIS FLORIE LLP

100 Brookwood Place, 7th Floor

P. O. Box 598512

Birmingham, AL 35259-8512

jme@starneslaw.com

crg@starneslaw.com

Attorneys for UAB