

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 15-20071-CIV-ALTONAGA/O’Sullivan

STAT MEDICAL DEVICES, INC.,
a Florida corporation

Plaintiff,

vs.

INTRINSYK LLC,
a/k/a INTRYSIK MEDICAL DEVICES LLC,
d/b/a INTRINSYK
a Massachusetts limited liability company,

PAUL R. FULLER, an individual,

THOMAS R. GANNON, an individual,

and **JAMES K. BOOKER,** an individual,

Defendants.

_____ /

SECOND AMENDED COMPLAINT

COMES NOW Plaintiff, Stat Medical Devices, Inc. ("Plaintiff"), and files its Second Amended Complaint against Defendants, Intrinsyk LLC, a/k/a Intrinsyk Medical Devices LLC, d/b/a Intrinsyk ("Defendant Intrinsyk"), Paul R. Fuller ("Defendant Fuller"), Thomas R. Gannon ("Defendant Gannon"), and James K. Booker ("Defendant Booker")(collectively "Defendants"), as follows.

1. This is an action for: (I - VI) patent infringement pursuant to the Patent Laws of the United States, 35 U.S.C. §1, et seq.; (VIII) breach of contract under the Common Law of the State

of Florida; (IX – XI) Breach of the Duty of Loyalty by Defendants Fuller, Gannon, and Booker; and, (XII) tortious interference with a business relationship under the Common Law of the State of Florida.

The Parties

2. Plaintiff, Stat Medical Devices, Inc., is a corporation of the state of Florida having its principal address at 2056 N.E. 153 Street, North Miami Beach, Florida.

3. Upon information and belief, Defendant Intrinsyk LLC, is a limited liability company organized and existing under the laws of the state of Massachusetts, is registered to do business in New Hampshire, and has a principal address at 15 Emer Road #205 Salem, New Hampshire 03079.

4. Defendant Fuller was previously employed by Plaintiff from about December 8, 2004 through about June 11, 2013.

5. Defendant Gannon was previously employed by Plaintiff until about August of 2013.

6. Defendant Booker was previously employed by Plaintiff until about June of 2013.

7. Defendant Fuller is a Principal, Officer, and/or Controlling Member of Defendant Intrinsyk; has the capacity to control the acts of Defendant Intrinsyk; supervises and has the ability to supervise the acts of infringement alleged against Defendant Intrinsyk; has induced, caused and/or is a motivating force behind the infringing activity set forth herein; and has a financial interest in and/or actually participated in this infringing activity.

8. Defendant Gannon is a Principal, Officer, and/or Controlling Member of Defendant Intrinsyk; has the capacity to control the acts of Defendant Intrinsyk; supervises and has the ability

to supervise the acts of infringement alleged against Defendant Intrinsyk; has induced, caused and/or is a motivating force behind the infringing activity set forth herein; and has a financial interest in and/or actually participated in this infringing activity.

9. Defendant Booker is a Principal, Officer, and/or Controlling Member of Defendant Intrinsyk; has the capacity to control the acts of Defendant Intrinsyk; supervises and has the ability to supervise the acts of infringement alleged against Defendant Intrinsyk; has induced, caused and/or is a motivating force behind the infringing activity set forth herein; and has a financial interest in and/or actually participated in this infringing activity.

Jurisdiction and Venue

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and §1338(a). Jurisdiction over Plaintiff's state law claims is conferred by 28 U.S.C. §§ 1338(b) and 1367.

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 as the matter is between citizens of different States and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

12. Personal jurisdiction is established in this Court pursuant to Florida Statute §48.193 *et. seq.*, since the tortious acts complained of herein were directed to Plaintiff, an entity based in the State of Florida. Namely, the defendants Fuller, Gannon, and Booker, each individually breached the duty of loyalty while employees of Plaintiff STAT Medical Devices, a Florida corporation; and the Defendant Fuller tortiously interfered with the relationships between Plaintiff and the other Defendants.

13. Additionally, the Defendants have committed acts of infringement within the State

of Florida, by offering to sell the infringing products within the State of Florida.

14. This Court also has personal jurisdiction over the Defendant Fuller by virtue of the breach of contract claim alleged herein. In this regard, the contract between the Defendant Fuller and the Plaintiff was executed in the Southern District of Florida; the contract inured to the benefit of Plaintiff, a Florida company that resides in the Southern District of Florida; and, the Defendant Fuller was obligated to travel to Florida, and in particular this District, to oversee the day-to-day operations of Plaintiff.

15. Personal jurisdiction is also established in this Court as the Defendants have sufficient contacts in the state of Florida in that the Defendants have knowingly and purposely availed themselves of the privilege of conducting business within this state by making offers to sell products to entities within the State of Florida; by conducting other business activities in the State of Florida, such as attendance at various medical trade shows by officers of Defendant Intrinsyk; and, by virtue of their employment with the Plaintiff, a company that resides in the Southern District of Florida, which included traveling to and conducting business in the Southern District of Florida, in the course and scope of their employment with the Plaintiff.

16. The Defendants reasonably expected to be haled into this Court because, among other things, each individual Defendant was employed by Plaintiff having specific knowledge that Plaintiff is a Florida entity; each individual Defendant was required to travel to Florida on multiple occasions in performance of their duties with Plaintiff; each individual Defendant committed breaches of the duty of loyalty while still employed by Plaintiff; and, the Defendants committed the tort of patent infringement against Plaintiff via communications into the state of Florida, while having the specific knowledge that Plaintiff is a Florida entity and that damages would be felt by

Plaintiff in Florida.

17. Maintenance of the suit in this Court does not offend traditional notions of fair play and substantial justice because the Defendants have purposefully availed themselves of the privilege of conducting business within the state of Florida, the infringement of Plaintiff's patents arises directly from those activities, the individual Defendants reasonably expected to be haled into this Court, and the Court has an interest in vindicating the rights of Plaintiff as a resident of the state of Florida.

18. Venue is properly established in this Court pursuant to 28 U.S.C. §1391(b), §1391(c), and §1400(b) as, upon information and belief, Defendants have sufficient contacts in the Southern District of Florida to be deemed to reside in this Judicial District, and Defendants have engaged in breach of the duty of loyalty, breach of contract, and tortious interference within this Judicial District, said acts being the subject of this Complaint.

Plaintiff's Patented Inventions

19. United States Patent No. 7,947,057 ("the '057 patent") was duly and legally issued on May 24, 2011 for a lancet having adjustable penetration depth, and the '057 patent is valid and fully enforceable. A true and accurate copy of the '057 patent is attached hereto as Exhibit A.

20. United States Patent No. 8,834,503 ("the '503 patent") was duly and legally issued on September 16, 2014 for a lancet having adjustable penetration depth, and the '503 patent is valid and fully enforceable. A true and accurate copy of the '503 patent is attached hereto as Exhibit B.

21. United States Patent No. 6,764,496 ("the '496 patent") was duly and legally issued on July 20, 2004 for a single use lancet assembly, and the '496 patent is valid and fully enforceable.

A true and accurate copy of the '496 patent is attached hereto as Exhibit C.

22. United States Patent No. 8,034,069 ("the '069 patent") was duly and legally issued on October 11, 2011 for a single use lancet assembly, and the '069 patent is valid and fully enforceable. A true and accurate copy of the '069 patent is attached hereto as Exhibit D.

23. United States Patent No. 8,353,924 ("the '924 patent") was duly and legally issued on January 15, 2013 for a single use lancet assembly, and the '924 patent is valid and fully enforceable. A true and accurate copy of the '924 patent is attached hereto as Exhibit E.

24. United States Patent No. 8,814,896 ("the '896 patent") was duly and legally issued on August 26, 2014 for a single use lancet assembly, and the '896 patent is valid and fully enforceable. A true and accurate copy of the '896 patent is attached hereto as Exhibit F.

25. Plaintiff is the sole assignee and, as such, is the owner of all right, title, and interest in and to U.S. Patent Numbers 7,947,057; 8,834,503; 6,764,496; 8,034,069; 8,353,924; and, 8,814,896 (hereinafter, collectively, "the Stat Patents").

COUNT I – Infringement of the '057 Patent

26. Plaintiff incorporates by reference the allegations of paragraphs 1 through 25 as if fully set forth in this paragraph.

27. Upon information and belief, Defendants, having notice and knowledge thereof, are and have been infringing independent claims 4, 5, and 9 of the '057 patent either literally or under the doctrine of equivalents by making, using, offering for sale, and/or selling in the United States, or by importing into the United States, including in this Judicial District, one or more lancing devices, including the INTRINSYK POISE Lancing Device. Exhibit G includes a true and accurate copy of Defendants' webpage for its INTRINSYK POISE Lancing Device.

28. Plaintiff has never authorized or otherwise granted any right to Defendants to manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into the United States, any lancing device under any claim of the '057 patent, including independent claims 4, 5, and 9.

29. Upon information and belief, Defendants had notice of their infringement and, as such, Defendants' infringement of independent claims 4, 5, and 9 of the '057 patent has been willful, wanton, and deliberate.

30. Upon information and belief, Defendants will continue to infringe independent claims 4, 5, and 9 of the '057 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

31. Plaintiff has no adequate remedy at law

COUNT II – Infringement of the '503 Patent

32. Plaintiff incorporates by reference the allegations of paragraphs 1 through 25 as if fully set forth in this paragraph.

33. Upon information and belief, Defendants, having notice and knowledge thereof, are and have been infringing independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent either literally or under the doctrine of equivalents by making, using, offering for sale, and/or selling in the United States, or by importing into the United States, including in this Judicial District, one or more lancing devices, including the INTRINSYK POISE Lancing Device. Exhibit G includes a true and accurate copy of Defendants' webpage for its INTRINSYK POISE Lancing Device.

34. Plaintiff has never authorized or otherwise granted any right to Defendants to

manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into the United States, any lancing device under any claim of the '503 patent, including independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39.

35. Upon information and belief, Defendants had notice of their infringement and, as such, Defendants' infringement of independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent has been willful, wanton, and deliberate.

36. Upon information and belief, Defendants will continue to infringe independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

37. Plaintiff has no adequate remedy at law.

COUNT III – Infringement of the '496 Patent

38. Plaintiff incorporates by reference the allegations of paragraphs 1 through 25 as if fully set forth in this paragraph.

39. Upon information and belief, Defendants, having notice and knowledge thereof, are and have been infringing claims 1 through 9, 11, and 12 of the '496 patent either literally or under the doctrine of equivalents by making, using, offering for sale, and/or selling in the United States, or by importing into the United States, including in this Judicial District, one or more single use lancet devices, including the INTRINSYK SOLACE single use lancet device. True and accurate copies of Defendant's website for its INTRINSYK SOLACE single use lancet device are attached hereto as Exhibit H.

40. Plaintiff has never authorized or otherwise granted any right to Defendants to manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into

the United States, any single use lancet device under claims 1 through 9, 11, and 12 of the '496 patent.

41. Upon information and belief, Defendants had notice of their infringement and, as such, Defendants' infringement of claims 1 through 9, 11, and 12 of the '496 patent has been willful, wanton, and deliberate.

42. Upon information and belief, Defendant will continue to infringe claims 1 through 9, 11, and 12 of the '496 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

43. Plaintiff has no adequate remedy at law.

COUNT IV – Infringement of the '069 Patent

44. Plaintiff incorporates by reference the allegations of paragraphs 1 through 25 as if fully set forth in this paragraph.

45. Upon information and belief, Defendants, having notice and knowledge thereof, are and have been infringing claims 1 through 6 of the '069 patent either literally or under the doctrine of equivalents by making, using, offering for sale, and/or selling in the United States, or by importing into the United States, including in this Judicial District, one or more single use lancet devices, including the INTRINSYK SOLACE single use lancet device. True and accurate copies of Defendant's website for its INTRINSYK SOLACE single use lancet device are attached hereto as Exhibit H.

46. Plaintiff has never authorized or otherwise granted any right to Defendants to manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into the United States, any single use lancet device under claims 1 through 6 of the '069 patent.

47. Upon information and belief, Defendants had notice of their infringement and, as

such, Defendants' infringement of claims 1 through 6 of the '069 patent has been willful, wanton, and deliberate.

48. Upon information and belief, Defendants will continue to infringe claims 1 through 6 of the '069 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

49. Plaintiff has no adequate remedy at law.

COUNT V – Infringement of the '924 Patent

50. Plaintiff incorporates by reference the allegations of paragraphs 1 through 25 as if fully set forth in this paragraph.

51. Upon information and belief, Defendants, having notice and knowledge thereof, are and have been infringing claims 1 through 4 of the '924 patent either literally or under the doctrine of equivalents by making, using, offering for sale, and/or selling in the United States, or by importing into the United States, including in this Judicial District, one or more single use lancet devices, including the INTRINSYK SOLACE single use lancet device. True and accurate copies of Defendant's website for its INTRINSYK SOLACE single use lancet device are attached hereto as Exhibit H.

52. Plaintiff has never authorized or otherwise granted any right to Defendants to manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into the United States, any single use lancet device under claims 1 through 4 of the '924 patent.

53. Upon information and belief, Defendants had notice of their infringement and, as such, Defendants' infringement of claims 1 through 4 of the '924 patent has been willful, wanton, and deliberate.

54. Upon information and belief, Defendants will continue to infringe claims 1 through

4 of the '924 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

55. Plaintiff has no adequate remedy at law.

COUNT VI – Infringement of the '896 Patent

56. Plaintiff incorporates by reference the allegations of paragraphs 1 through 25 as if fully set forth in this paragraph.

57. Upon information and belief, Defendants, having notice and knowledge thereof, are and have been infringing claims 1 through 4 of the '896 patent either literally or under the doctrine of equivalents by making, using, offering for sale, and/or selling in the United States, or by importing into the United States, including in this Judicial District, one or more single use lancet devices, including the INTRINSYK SOLACE single use lancet device. True and accurate copies of Defendant's website for its INTRINSYK SOLACE single use lancet device are attached hereto as Exhibit H.

58. Plaintiff has never authorized or otherwise granted any right to Defendants to manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into the United States, any single use lancet device under claims 1 through 4 of the '896 patent.

59. Upon information and belief, Defendants had notice of their infringement and, as such, Defendant 's infringement of claims 1 through 4 of the '896 patent has been willful, wanton, and deliberate.

60. Upon information and belief, Defendant will continue to infringe claims 1 through 4 of the '896 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

61. Plaintiff has no adequate remedy at law.

COUNT VIII – Breach of Contract by Defendant Fuller

62. Plaintiff incorporates by reference the allegations of paragraphs 1 through 18, inclusive, as if fully set forth in this paragraph.

63. Defendant Fuller executed an Employment Agreement (“Employment Agreement”) with Plaintiff on or about December 8, 2004. A true and accurate copy of the Employment Agreement is attached hereto as Exhibit I.

64. Paragraph 1 of the Employment Agreement states, in whole, “I do hereby agree that during the term of my employment and/or association with Stat, or at any time thereafter, I shall not communicate, divulge or use for the benefit of any other person, persons, partnership, proprietorship, association, corporation, or entity any knowledge, trade secrets, Confidential Information, or know-how concerning the systems of operation, programs, services, products, clients, employees, or practices of Stat pertaining to which may be communicated to me, nor shall I divert any business to competitors of Stat.”

65. Paragraph 4 of the Employment Agreement states, in whole, “I further agree that upon the expiration or termination of any term of employment, service, or associate with Stat with which I am an employee, I shall refrain from any and all contacts with other employees, staff members, job-seekers or clients of Stat for any business or otherwise restricted purpose for a period of one (1) year immediately following such expiration or termination.”

66. Additionally, Attorney Jonathan A. Heller, counsel for Plaintiff, sent a letter to Defendant Fuller on or about August 15, 2013 (“Heller Letter”), shortly after Defendant Fuller’s employment with Plaintiff was terminated. A true and accurate copy of the Heller Letter is attached as Exhibit J.

67. The Heller Letter provided clear notice to Defendant Fuller of his obligation under

the aforementioned paragraph 4 of the Employment Agreement.

68. After termination of Defendant Fuller's employment with Plaintiff, Defendant Fuller did knowingly contact Defendant Booker for restricted purposes, namely the carrying on of a business in direct competition with Plaintiff.

69. After termination of Defendant Fuller's employment with Plaintiff, Defendant Fuller did knowingly contact Defendant Gannon for restricted purposes, namely the carrying on of a business in direct competition with Plaintiff.

70. Defendant Fuller has and is currently communicating, divulging or using for the benefit of Defendant Intrinsyk, knowledge, trade secrets, confidential information, or know-how concerning the systems of operation, programs, services, products, clients, employees, or practices which Defendant Fuller learned while employed by Plaintiff.

71. Defendant Fuller has and is currently diverting business to competitors of Plaintiff, including at least, Defendant Intrinsyk.

72. Defendant Fuller prior to the one-year anniversary of his employment termination, and through Defendant Intrinsyk and agents thereof, contacted Plaintiff's clients with the express purpose of diverting business from Plaintiff to Defendant Intrinsyk.

73. Therefore, Defendant Fuller has materially breached the Employment Agreement.

74. As a result of the foregoing breaches, Plaintiff has been damaged.

75. At all times material hereto, Plaintiff has performed its obligations under the Employment Agreement.

76. Plaintiff has no adequate remedy at law.

COUNT IX – Breach of the Duty of Loyalty by Defendant Fuller

77. Plaintiff incorporates by reference the allegations of paragraphs 1 through 18, inclusive, as if fully set forth in this paragraph.

78. While employed by Plaintiff, Defendant Fuller served as Director of Product Development and was promoted to the position of Vice-President. Additionally, Defendant Fuller was privileged and entrusted with Confidential Information regarding the Plaintiff's business. As an officer of STAT Medical Devices, Inc. Defendant Fuller therefore owed it fiduciary duties, including a duty of loyalty.

79. Defendants Fuller, Gannon, and Booker, while still employed by Plaintiff collaborated and engaged in disloyal acts in anticipation of their future competition prior to the end of their employment with Plaintiff STAT.

80. Defendants Fuller, Gannon, and Booker held themselves out as officers of a competing medical device company while still employed by Plaintiff STAT Medical Devices.

81. While still employed by Plaintiff, Defendants Fuller, Gannon, and Booker discussed manufacturing of Intrinsyk's Products with at least one vendor, a corporate opportunity usurped from Plaintiff to the benefit of Defendants.

82. Defendants Fuller, Gannon, and Booker entered into at least one agreement on behalf of and for the benefit of Defendant Intrinsyk while still employed by Plaintiff.

83. Defendant Fuller incorporated Intrinsyk Medical Devices, LLC while still employed with Plaintiff.

84. Upon information and belief, Defendants Fuller, Gannon, and Booker conceived of certain features and/or improvements to a heel-blade blood sampling device while still employed by Plaintiff STAT Medical Devices, for which the Defendants subsequently sought patent

protection.

85. Defendant Fuller, as an officer of Plaintiff STAT Medical Devices, had a fiduciary duty to refrain from usurping corporate opportunities, and therefore, had an obligation to assign ownership rights in and to any patent application claiming the certain features and/or improvements to the heel-blade blood sampling device.

86. The above actions constitute breaches of the fiduciary duty of loyalty, the result of which has damaged Plaintiff.

87. Plaintiff has no adequate remedy at law.

COUNT X – Breach of the Duty of Loyalty by Defendant Gannon

88. Plaintiff incorporates by reference the allegations of paragraphs 1 through 18, inclusive, as if fully set forth in this paragraph.

89. While employed by Plaintiff, Defendant Gannon was employed as Director of Sales. Additionally, Defendant Gannon was privileged and entrusted with Confidential Information regarding the Plaintiff's business. Defendant Gannon accepted the position of trust by performing his duties as Director of Sales. Therefore, Defendant Gannon owed Plaintiff fiduciary duties, including a duty of loyalty.

90. Defendants Fuller, Gannon, and Booker, while still employed by Plaintiff collaborated and engaged in disloyal acts in anticipation of their future competition prior to the end of their employment with Plaintiff STAT.

91. Defendants Fuller, Gannon, and Booker held themselves out as officers of a competing medical device company while still employed by Plaintiff STAT Medical Devices.

92. While still employed by Plaintiff, Defendants Fuller, Gannon, and Booker

discussed manufacturing of Intrisnyk's Products with at least one vendor, a corporate opportunity usurped from Plaintiff to the benefit of Defendants.

93. Defendants Fuller, Gannon, and Booker entered into at least one agreement on behalf of and for the benefit of Defendant Intrisnyk while still employed by Plaintiff.

94. Upon information and belief, Defendants Fuller, Gannon, and Booker conceived of certain features and/or improvements to a heel-blade blood sampling device while still employed by Plaintiff STAT Medical Devices, for which the Defendants subsequently sought patent protection.

95. Defendant Gannon, owing a fiduciary duty to refrain from usurping corporate opportunities had an obligation to assign ownership rights in and to any patent application claiming the certain features and/or improvements to the heel-blade blood sampling device.

96. The above actions constitute breaches of the fiduciary duty of loyalty, the result of which has damaged Plaintiff.

97. Plaintiff has no adequate remedy at law.

COUNT XI – Breach of the Duty of Loyalty by Defendant Booker

98. Plaintiff incorporates by reference the allegations of paragraphs 1 through 18, inclusive, as if fully set forth in this paragraph.

99. While employed by Plaintiff, Defendant Booker was employed as a Design Engineer, and was privileged and entrusted with Confidential Information regarding the Plaintiff's business. Defendant Booker accepted the position of trust by performing his duties as a design engineer. Therefore, Defendant Booker owed Plaintiff fiduciary duties, including a duty of loyalty.

100. Defendants Fuller, Gannon, and Booker, while still employed by Plaintiff

collaborated and engaged in disloyal acts in anticipation of their future competition prior to the end of their employment with Plaintiff STAT.

101. Defendants Fuller, Gannon, and Booker held themselves out as officers of a competing medical device company while still employed by Plaintiff STAT Medical Devices.

102. While still employed by Plaintiff, Defendants Fuller, Gannon, and Booker discussed manufacturing of Intrisnyk's Products with at least one vendor, a corporate opportunity usurped from Plaintiff to the benefit of Defendants.

103. Defendants Fuller, Gannon, and Booker entered into at least one agreement on behalf of and for the benefit of Defendant Intrisnyk while still employed by Plaintiff.

104. Upon information and belief, Defendants Fuller, Gannon, and Booker conceived of certain features and/or improvements to a heel-blade blood sampling device while still employed by Plaintiff STAT Medical Devices, for which the Defendants subsequently sought patent protection.

105. Defendant Booker had a fiduciary duty to refrain from usurping corporate opportunities. Defendant Booker therefore, had an obligation to assign ownership rights in and to any patent application claiming the certain features and/or improvements to the heel-blade blood sampling device.

106. Additionally, Defendant Booker had an obligation to assign ownership rights in and to any patent application claiming the certain features and/or improvements to the heel-blade blood sampling device due to the scope of Defendant Booker's employment with Plaintiff as a Design Engineer.

107. The above actions constitute breaches of the fiduciary duty of loyalty, the result of

which has damaged Plaintiff.

108. Plaintiff has no adequate remedy at law.

COUNT XII – Tortious Interference with Plaintiff’s Business Relationships by Defendant

Fuller

109. Plaintiff incorporates by reference the allegations of paragraphs 1 through 18, and 62 through 76 as if fully set forth in this paragraph.

110. Defendant Gannon was previously employed by Plaintiff until about August 2013.

111. Defendant Booker was previously employed by Plaintiff until about June 2013.

112. Defendant Gannon’s employment relationship with Plaintiff was the subject of a valid contract as well as a continuing business expectancy.

113. Defendant Booker’s employment relationship with Plaintiff was the subject of a valid contract as well as a continuing business expectancy.

114. Defendant Fuller, being at one time employed by Plaintiff, had knowledge of the employment relationship between Defendants Booker, Gannon, and Plaintiff.

115. Defendant Fuller did induce Defendants Booker and Gannon to terminate their employment relationship with Plaintiff.

116. Defendant Fuller improperly, intentionally, and unjustifiably interfered with Plaintiff’s business relationship by having an improper reason, as well as, utilizing improper methods.

117. To wit, upon information and belief, Defendant Fuller contacted and induced Defendants Booker and Gannon to terminate their employment with Plaintiff, at least in part to leverage their intimate knowledge of Plaintiff’s commercially sensitive information in order to

facilitate infringement of the STAT Patents and carry on a business that directly competes with Plaintiff.

118. Additionally, Defendant Fuller breached his own Employment Agreement with Plaintiff by contacting Defendants Booker and Gannon after termination of Defendant Fuller's employment for restricted purposes, thus utilizing improper means.

119. Defendant Fuller does not have the privilege of fair competition, at least because Defendant Fuller committed breaches by contacting Defendants Booker and Gannon.

120. The termination of employment relationships by Defendants Booker and Gannon have damaged Plaintiff.

121. Upon information and belief, Defendant Fuller persisted in his course of action, despite the knowledge that his conduct would result in damage to Plaintiff, or at least was highly likely to result in damage to Plaintiff.

122. Plaintiff has no adequate remedy at law.

REMEDIES

WHEREFORE, Plaintiff requests:

A. That the Court find Defendant's aforesaid acts constitute infringement of independent claims 4, 5, and 9 of the '057 patent, either literally or under the doctrine of equivalents.

B. That the Court find Defendants' aforesaid acts constitute infringement of independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent, either literally or under the doctrine of equivalents.

C. That the Court find Defendants' aforesaid acts constitute infringement of claims 1

through 9, 11, and 12 of the '496 patent, either literally or under the doctrine of equivalents.

D. That the Court find Defendants' aforesaid acts constitute infringement of claims 1 through 6 of the '069 patent, either literally or under the doctrine of equivalents.

E. That the Court find Defendants' aforesaid acts constitute infringement of claims 1 through 4 of the '924 patent, either literally or under the doctrine of equivalents.

F. That the Court find Defendants' aforesaid acts constitute infringement of claims 1 through 4 of the '896 patent, either literally or under the doctrine of equivalents.

G. That, pursuant to 35 U.S.C. §283, Defendants, and all of their agents, servants, employees, successors, assigns and all persons acting in concert or in active participation with Defendants, be preliminarily and permanently enjoined and restrained from making, using, offering to sell, and/or selling in the United States, and/or importing into the United States the INTRINSYK POISE Lancing Device and any other lancing device that infringes independent claims 4, 5, and 9 of the '057 patent or independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent, either literally or under the doctrine of equivalents.

H. That, pursuant to 35 U.S.C. §283, Defendants, and all of their agents, servants, employees, successors, assigns and all persons acting in concert or in active participation with Defendants, be preliminarily and permanently enjoined and restrained from making, using, offering to sell, and/or selling in the United States, and/or importing into the United States the INTRINSYK SOLACE Lancing Device and any other lancing device that infringes claims 1 through 9, 11, and 12 of the '496 patent, claims 1 through 6 of the '069 patent, claims 1 through 4 of the '924 patent, and claims 1 through 4 of the '896 patent, either literally or under the doctrine of equivalents.

I. That Defendants be ordered to deliver up for destruction all INTRINSYK POISE Lancing Devices and any other lancing device that infringes independent claims 4, 5, and 9 of the '057 patent or independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent, either literally or under the doctrine of equivalents.

J. That Defendants be ordered to deliver up for destruction all INTRINSYK SOLACE Lancing Devices and any other lancing device that infringes claims 1 through 9, 11, and 12 of the '496 patent, claims 1 through 6 of the '069 patent, claims 1 through 4 of the '924 patent, and claims 1 through 4 of the '896 patent, either literally or under the doctrine of equivalents.

K. That Defendants be enjoined from employing Defendants Booker and Gannon in connection with production, distribution, or sales of lancing devices.

L. That Defendants be enjoined and required to assign each of their interest in and to any and all patents and pending patent applications which claim elements or features of a heel-blade type lancet device conceived of while Defendants were employed by the Plaintiff.

M. That Defendants be directed to file with this Court and serve upon Plaintiff within thirty (30) days after service of the injunction issued in this action a written report under oath setting forth in detail the manner in which the Defendants have complied with the injunction.

N. That this Court order an accounting for damages to Plaintiff resulting from Defendant 's infringement of independent claims 4, 5, and 9 of the '057 patent, independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent, claims 1 through 9, 11, and 12 of the '496 patent, claims 1 through 6 of the '069 patent, claims 1 through 4 of the '924 patent, and claims 1 through 4 of the '896 patent.

O. That Plaintiff recover damages adequate to compensate for Defendant's

infringement of independent claims 4, 5, and 9 of the '057 patent, independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent, claims 1 through 9, 11, and 12 of the '496 patent, claims 1 through 6 of the '069 patent, claims 1 through 4 of the '924 patent, and claims 1 through 4 of the '896 patent calculated as not less than a reasonable royalty of any financial or any other calculable benefit conferred upon Defendant as a result of Defendant's infringement.

P. That the Court enter a declaration making this case exceptional within the meaning of 35 U.S.C. §285, based upon Defendants' deliberate, wanton, and willful infringement of independent claims 4, 5, and 9 of the '057 patent independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent, claims 1 through 9, 11, and 12 of the '496 patent, claims 1 through 6 of the '069 patent, claims 1 through 4 of the '924 patent, and claims 1 through 4 of the '896 patent, and that Plaintiff recover its attorneys' fees and costs pursuant to 35 U.S.C. §285.

Q. That Plaintiff recover treble damages pursuant to 35 U.S.C. §284, based upon Defendant's deliberate, wanton, and willful infringement of independent claims 4, 5, and 9 of the '057 patent, independent claims 1, 18, 25, 26, 32, 34, 36, 37, and 39 of the '503 patent, claims 1 through 9, 11, and 12 of the '496 patent, claims 1 through 6 of the '069 patent, claims 1 through 4 of the '924 patent, and claims 1 through 4 of the '896 patent.

R. That Plaintiff recover damages sufficient to compensate it for Defendant Fuller's Breach of Contract.

S. That the Plaintiff recover damages sufficient to compensate it for Defendants' breaches of the duty of loyalty in an amount not less than the total amount of salary paid by Plaintiff to Defendants during the period of disloyalty.

T. That Plaintiff recover damages sufficient to compensate it for Defendant Fuller's

Tortious Interference with Plaintiff's Business Relationships.

U. That Plaintiff recover punitive damages based upon Defendant Fuller's Tortious Interference with Plaintiff's Business Relationships.

V. That Plaintiff recover its taxable costs and disbursements herein.

W. That Plaintiff recover both pre-judgment and post-judgment interest.

X. That Plaintiff has such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: September 16, 2015

s/ W. John Eagan
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