

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Imran Niazi

Plaintiff,

v.

Case No. 16-cv-668-jdp

**Merit Medical Systems, Inc. and
Thomas Medical Products, Inc.,**

Defendants,

AMENDED COMPLAINT

Plaintiff Imran Niazi (“Niazi”), for his complaint against defendants Merit Medical Systems, Inc. (“Merit Medical”) and Thomas Medical Products, Inc. (“Thomas Medical”), alleges as follows:

Parties

1. Plaintiff Imran Niazi is an individual with his principal residence in River Hills, Wisconsin. Niazi is a board-certified electrophysiologist who treats patients with heart rhythm disorders. Niazi currently works for Aurora Health Care, practicing out of facilities in Milwaukee, Wisconsin and Lake Geneva, Wisconsin.

2. Defendant Merit Medical Systems, Inc. is a corporation with its principal place of business at 1600 West Merit Parkway, South Jordan, UT 84095.

3. Upon information and belief, Defendant Thomas Medical is a corporation that is wholly owned by Merit Medical.

Nature of Action

4. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*

5. Niazi is the owner of all right, title and interest in U.S. Patent 6,638,268 (“the ‘268 Patent”) entitled *Catheter to cannulate the coronary sinus*, issued on October 28, 2003, a copy of which is attached as Exhibit A.

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Upon information and belief, Merit Medical and Thomas Medical regularly conduct business in this District and have sold and/or offered for sale products that infringe the ‘268 patent in this District. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

COMPARISON OF EXEMPLARY CLAIM TO EXEMPLARY ACCUSED PRODUCT

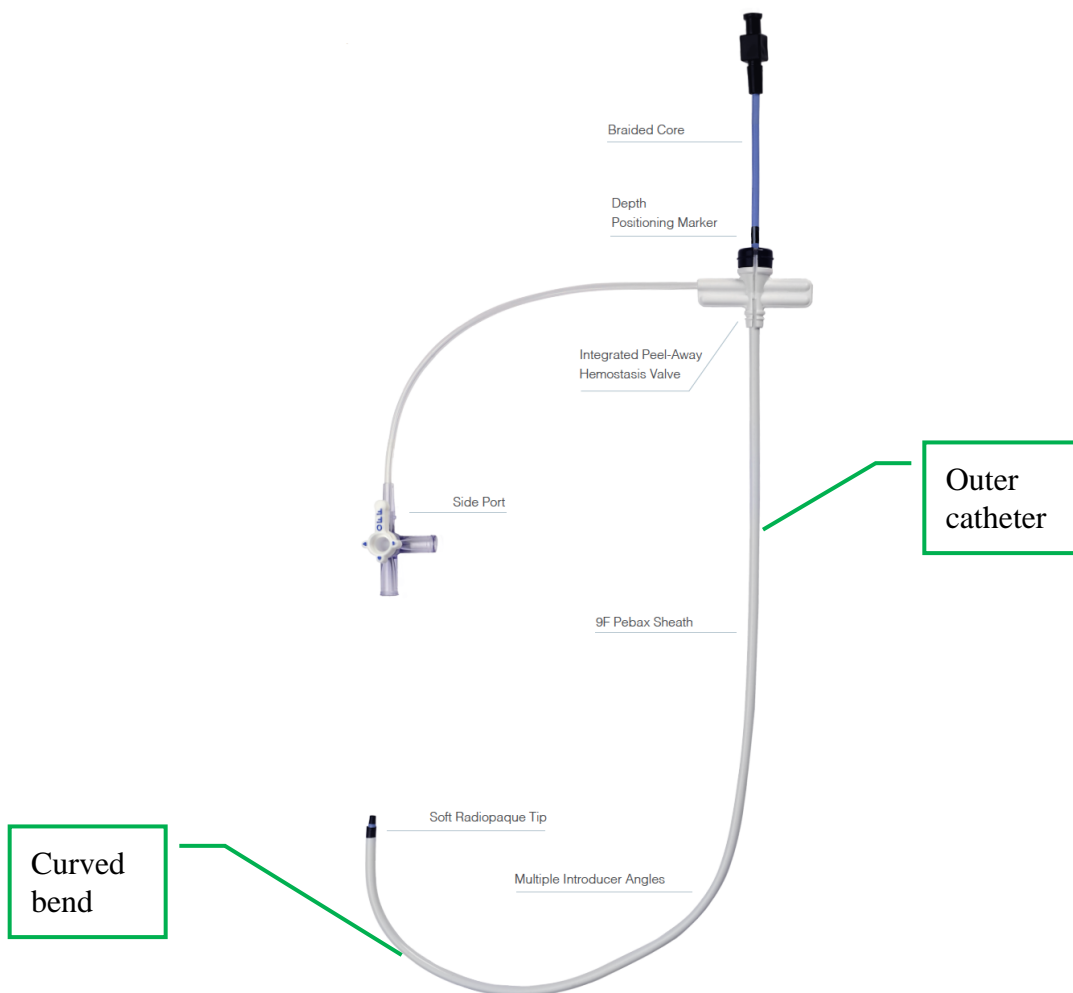
Claim 1

8. Claim 1 of the ‘268 patent is directed to a double catheter for cannulating the coronary sinus of a human heart.

9. Upon information and belief, Defendants manufacture, sell and/or offer to sell, or have done so in the past, a double catheter including the Worley™ Advanced CSG Coronary Sinus Guide (the “CSG”) and the Worley™ Advanced LVI (“the LVI”) that may be used to cannulate the coronary sinus of a human heart.

10. Claim 1 includes an outer, resilient catheter having shape memory and a hook shaped distal end configured for cannulation of the coronary sinus with at least one curved bend.

11. The CSG includes an outer, resilient catheter having shape memory and a hook shaped distal end configured for cannulation of the coronary sinus with at least one curved bend, as shown below:



12. Claim 1 includes an inner, pliable catheter slidably disposed in the outer catheter and of greater length than the outer catheter so that a distal end portion of the inner catheter can be extended or retracted from a distal end opening of the outer catheter to vary the overall length of the double catheter.

13. The LVI is an inner, pliable catheter slidably disposed in the outer catheter and of greater length than the outer catheter so that a distal end portion of the inner catheter can be

extended or retracted from a distal end opening of the outer catheter to vary the overall length of the double catheter, as shown below:



Step 1 With the LVI placed just inside the CSG, the Worley Vein Selector is advanced into the coronary sinus and the target vein is identified with puffs of contrast.

14. Claim 1 further requires that the inner catheter have an internal lumen configured for the introduction of contrast media and a pacing lead into the coronary sinus.
15. The LVI includes a lumen configured for the introduction of contrast media and a pacing lead into the coronary sinus.
16. Claim 1 further requires a mechanism operable from the proximal end of the outer catheter for changing the curvature of the distal end of the outer catheter.
17. The CSG includes a mechanism operable from the proximal end of the outer catheter for changing the curvature of the distal end of the outer catheter.

COUNT I

Claim for Infringement of the ‘268 Patent

18. Niazi realleges and incorporates by reference the allegations in paragraphs 1-17 as if fully set forth herein.

19. Defendants have manufactured, used, sold and offered to sell at least the following products that infringe the ‘268 patent either literally or under the doctrine of equivalents: the Worley™ Advanced Coronary Sinus Guide and the Worley™ Advanced LVI, the Vein Selector, and the Braided Core (collectively the “Infringing Products”).

20. Defendants have directly infringed and continue to infringe the ‘268 patent through the use, manufacture, sale, and offer for sale of the Infringing Products.

21. Upon information and belief, Defendants have induced and contributorily caused their customers to infringe the ‘268 patent.

22. Upon information and belief, Defendants were aware of the ‘268 patent prior to being put on notice by Niazi.

23. Upon information and belief, direct end users of the Infringing Products have infringed the ‘268 patent by using the Infringing Products.

24. Upon information and belief, Defendants have encouraged the end users to use the Infringing Products.

25. Upon information and belief, Defendants knew that the use the Infringing Products would infringe Niazi’s ‘268 patent.

26. Upon information and belief, Defendants knew that the Infringing Products were made or adapted for a use that would infringe Niazi’s ‘268 patent.

27. Upon information and belief, the Infringing Products are not commonly available items with substantial non-infringing uses.

28. Upon information and belief, Defendants have been and are willfully infringing the '268 patent.

29. It is believed that Defendants will continue to manufacture, sell, and/or offer for sale the Infringing Products unless enjoined from doing so, causing Niazi irreparable harm.

30. Defendants' conduct shows a lack of the required duty to avoid infringement of the '268 patent such that this is an exceptional case; therefore, Niazi should be awarded his reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

31. Pursuant to 35 U.S.C. § 284, Niazi is entitled to enhanced damages for infringement of the '268 patent by Defendants, up to treble damages.

32. Pursuant to 35 U.S.C. § 283, Niazi is entitled to a preliminary and permanent injunction against further infringement of the '268 patent by Defendants.

Request for Relief

WHEREFORE, Plaintiff Imran Niazi demands that judgment be entered in his favor and against Defendant Merit Medical Systems, Inc. and Thomas Medical Products, Inc., as follows:

- A. Adjudging that Defendants have willfully infringed U.S. Patent 6,638,268;
- B. Preliminarily and permanently enjoining the Defendants from infringing U.S. Patent 6,638,268;
- C. Awarding Plaintiff his damages, together with prejudgment interest, caused by the Defendants' infringement;
- D. Granting such other and further relief as the Court may deem appropriate.

Jury Demand

Plaintiff Imran Niazi hereby demands a jury trial of all issues of fact not admitted by the Defendants.

Dated: February 24, 2017

s/Michael T. Griggs
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