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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

OMNI MEDSCI, INC.,

Plaintiff,

v.

DEXCOM, INC.,

Defendant.

Case No. 3:18-cv-01653-CAB(WVG)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Judge: Cathy Ann Bencivengo
Magistrate Judge: William Gallo

Courtroom: 4C

1 Plaintiff, Omni MedSci, Inc., alleges as follows:

2 **THE PARTIES**

3 1. Plaintiff, Omni MedSci, Inc. (“Omni MedSci”), is a Michigan
4 corporation having its principal place of business at 1718 Newport Creek Drive, Ann
5 Arbor, Michigan 48103.

6 2. On information and belief,¹ Defendant, Dexcom, Inc. (“Dexcom”), is a
7 Delaware corporation having its principal place of business at 6340 Sequence Drive,
8 San Diego, CA 92121.

9 **JURISDICTION AND VENUE**

10 3. This is a complaint for patent infringement under 35 U.S.C. §§ 101, et
11 seq. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

12 4. The court has personal jurisdiction over Dexcom because Dexcom’s
13 principal place of business is in this district.

14 5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400
15 because Dexcom’s principal place of business is in this district.

16 **THE PATENTS-IN-SUIT**

17 6. The Patent Office issued U.S. Patent No. 9,770,174 (“the ‘174 Patent”),
18 attached as Exhibit A, on September 26, 2017.

19 7. The named inventor of the ‘174 Patent is Dr. Mohammed N. Islam.

20 8. The ‘174 Patent is assigned to Omni MedSci, Inc.

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¹ Allegations made “on information and belief” will likely have evidentiary
24 support after a reasonable opportunity for further investigation or discovery.

1 9. The Patent Office issued U.S. Patent No. 10,004,402 (“the ‘402 Patent”),
2 attached as Exhibit B, on June 26, 2018.

3 10. The named inventor of the ‘402 Patent is Dr. Mohammed N. Islam.

4 11. The ‘402 Patent is assigned to Omni MedSci, Inc.

5 **INFRINGEMENT OF THE ‘174 PATENT**

6 12. On information and belief, Dexcom infringes at least claims 1 and 3 of
7 the ‘174 patent by making, using, importing, selling, and/or offering to sell G4 Mobile
8 Continuous Glucose Monitoring (CGM) Systems.

9 13. As to each of the G4 Mobile Continuous Glucose Monitoring (CGM)
10 Systems (“G4 Systems”), Dexcom’s infringement is described further below with
11 respect to exemplary claim 1. The analysis below is based on publicly available
12 information.

13 14. The preamble of Claim 1 states, “A measurement apparatus.” On
14 information and belief, the G4 System is a measurement apparatus for measuring
15 blood glucose levels. This is confirmed, for example, by Dexcom’s literature,
16 attached at Exhibits C1-C5. (*See, e.g.*, C3, p. 14 (“When you use the system, you will
17 see continuous sensor glucose readings updated every 5 minutes for up to 7 days.”).)

18 15. Claim 1 further requires, “one or more sensors configured to generate
19 signals associated with one or more physiological parameters.” On information and
20 belief, the G4 System has at least one sensor configured to generate signals associated
21 with physiological parameters (*i.e.*, blood glucose levels). This is confirmed, for
22 example, by Dexcom’s literature, attached at Exhibits C1-C5. (*See, e.g.*, Exhibit C3,
23 pp. 14 (“The sensor is a disposable unit that you insert under the skin of your abdomen
24

1 (belly) to continuously monitor your glucose levels for up to 7 days.”), 9 (Transmitter
2 is “The Dexcom G4 PLATINUM System part that snaps into the sensor pod and
3 wirelessly sends glucose information to your receiver.”).)

4 16. Claim 1 further requires, “wherein at least one of the one or more sensors
5 is adapted to be coupled to a tissue comprising blood.” On information and belief, the
6 at least one sensor of the G4 System is adapted to be coupled by insertion to a tissue
7 comprising blood. This is confirmed, for example, by Dexcom’s literature, attached
8 at Exhibits C1-C5. (*See, e.g.*, Exhibit C3, p.14 (“The sensor is a disposable unit that
9 you insert under the skin of your abdomen (belly) to continuously monitor your
10 glucose levels for up to 7 days.”).)

11 17. Claim 1 further requires, “the measurement apparatus configured to
12 communicate through a base device to a software application configured to operate on
13 a control system adapted to receive and process physiological information.” On
14 information and belief, the G4 System is configured to communicate through a base
15 device (*e.g.*, a G4 transmitter (*see, e.g.*, C3, pp. 9 (Transmitter defined as “The
16 Dexcom G4 PLATINUM System part that snaps into the sensor pod and wirelessly
17 sends glucose information to your receiver.”), 14 (“the transmitter is a reusable device
18 that wirelessly sends your sensors glucose information to your receiver.”)) to a
19 software application (*e.g.*, the Dexcom Share2 App (*see, e.g.*, Exhibit C5, p.38))
20 configured to operate on a control system (*e.g.*, a smart device such as an iPhone or
21 iPod touch (*see, e.g.*, Exhibit 5, p. 18 (“The Dexcom Share2 app can only be installed
22 on an Apple iOS smart device.”); Exhibit C4, p. 13 of 33 (“CGM data is sent from
23 your G4 PLATINUM with Share Receiver to your iPhone or iPod touch”))) adapted
24

1 to receive and process physiological information. This is further confirmed, for
2 example, by Dexcom's literature, attached at Exhibits C1-C5.

3 18. Claim 1 further requires, "wherein the base device is capable of receiving
4 at least a portion of the signals associated with one or more physiological parameters."
5 On information and belief, the base device (G4 transmitter) is capable of receiving at
6 least a portion of the signals associated with one or more physiological parameters.
7 This is confirmed, for example, by Dexcom's literature, attached as Exhibits C1-C5.
8 (*See, e.g.*, C3, p. 13 (The G4 transmitter must receive at least a portion of the signals
9 associated with the blood glucose physiological parameters because "[t]he [G4]
10 transmitter is a reusable device that wirelessly sends your sensor's glucose
11 information to your receiver.").)

12 19. Claim 1 further requires, "the control system comprising a touch-screen,
13 a proximity sensor, circuitry for obtaining movement information from a positioning
14 sensor, a mechanical system comprising one or more actuators, and a wireless
15 transmitter to transmit data over a wireless link to a host." On information and belief,
16 the control system (*e.g.*, a smart device such as an iPhone or iPod touch) on which the
17 software application (*e.g.*, the Dexcom Share2 App) operates (*see, e.g.*, Exhibit C5, p.
18 18 ("The Dexcom Share2 app can only be installed on an Apple iOS smart device.");
19 Exhibit C4, p. 13 of 33 ("CGM data is sent from your G4 PLATINUM with Share
20 Receiver to your iPhone or iPod touch")) comprises a touch-screen, a proximity
21 sensor, circuitry for obtaining movement information from a positioning sensor, a
22 mechanical system comprising one or more actuators, and a wireless transmitter to
23 transmit data over a wireless link to a host (*e.g.*, the cloud (*see, e.g.*, Ex. C5, pp. 9, 18
24

1 (“When the Sharer’s receiver has Share ‘On,’ the receiver transfers glucose
2 information using *Bluetooth* wireless technology to the Sharer’s smart device. The
3 information then is sent to the Dexcom Share Cloud using either Wi- Fi or a cellular
4 data plan.”), 19); *see also, e.g.*, F1, Dexcom CGM App Compatibility; F2, iPhone 6s
5 Technical Specifications, pp. 2, 4-7/14; F3, iPhone 6 Teardown, 2, 9-11, 13/18). This
6 is further confirmed, for example, by Dexcom’s literature, attached at Exhibits C1-
7 C5.

8 20. Claim 1 further requires, “the software application operable to generate
9 the physiological information based at least in part on the signals from the one or more
10 sensors, at least some of the physiological information comprising at least a part of
11 the data.” On information and belief, the software application (*e.g.*, the Dexcom
12 Share2 App) is operable to generate the physiological information based at least in
13 part on the signals from the one or more sensors, at least some of the physiological
14 information (*e.g.*, blood glucose level information) comprising at least a part of the
15 data.” This is confirmed, for example, by Dexcom’s literature, attached at Exhibits
16 C1-C5. (*See, e.g.*, Exhibit C5, pp. 38 (“What the Dexcom Share2 app does [is d]isplay
17 Dexcom G4 PLATINUM Sensor information.”), 19, 44, 78-79, 82, 87, 89.)

18 21. Claim 1 further requires, “wherein the control system is further
19 configured to receive voice input signals and manually entered input signals.” On
20 information and belief, the control system (*e.g.*, a smart device such as an iPhone or
21 iPod touch) is further configured to receive voice input signals and manually entered
22 input signals.

22. Claim 1 further requires, “wherein the host is configured to generate status information from the data and comprises: a memory storage device for recording the status information; and a communication device for communicating at least a portion of the status information over a communication link to one or more display output devices, wherein the one or more display output devices are located remotely from the host.” On information and belief, the host (*e.g.*, the cloud) is configured to generate status information (*e.g.* blood glucose level status information) from the data and comprises: a memory storage device for recording the status information; and a communication device for communicating at least a portion of the status information over a communication link (*e.g.*, wi-fi or cellular) to one or more display output devices (*e.g.*, a follower’s smart device), wherein the one or more display output devices are located remotely from the host. This is confirmed, for example, by Dexcom’s literature, attached at Exhibits C1-C5. (*See, e.g.*, Exhibit C4, p. 13 of 33 (“Dexcom CGM data is sent securely to the cloud” and “[t]he Cloud sends Dexcom CGM data up to 5 Followers’ iPhone or iPod touch.”); Exhibit C5, pp. 9 (The “Dexcom Share Cloud” is “[a] secure online storage server where Dexcom Share System information is stored and then shared with Followers.”), 18 (“When the Sharer’s receiver has Share “On,” the receiver transfers glucose information using *Bluetooth* wireless technology to the Sharer’s smart device. The information then is sent to the Dexcom Share Cloud using either Wi- Fi or a cellular data plan. Lastly, the glucose information is sent from the Dexcom Share Cloud to the Follower’s smart device using Wi-Fi or the Follower’s cellular data plan.”).)

1 23. On information and belief, Dexcom infringes at least claims 1 and 3 of
2 the ‘174 patent by making, using, importing, selling, and/or offering to sell G5 Mobile
3 Continuous Glucose Monitoring (CGM) Systems.

4 24. As to each of the G5 Mobile Continuous Glucose Monitoring (CGM)
5 Systems (“G5 Systems”), Dexcom’s infringement is described further below with
6 respect to exemplary claim 1. The analysis below is based on publicly available
7 information.

8 25. The preamble of Claim 1 states, “A measurement apparatus.” On
9 information and belief, the G5 System is a measurement apparatus for measuring
10 blood glucose levels. This is confirmed, for example, by Dexcom’s literature,
11 attached at Exhibits D1-D6. (*See, e.g.*, Exhibit D5, p. 1/24 (“The Dexcom G5®
12 Continuous Glucose Monitoring (CGM) System provides real-time glucose readings
13 for patients with type 1 or type 2 diabetes every five minutes.”).)

14 26. Claim 1 further requires, “one or more sensors configured to generate
15 signals associated with one or more physiological parameters.” On information and
16 belief, the G5 System has at least one sensor configured to generate signals associated
17 with physiological parameters (*i.e.*, blood glucose levels). This is confirmed, for
18 example, by Dexcom’s literature, attached at Exhibits D1-D6. (*See, e.g.*, Exhibit D5,
19 p. 1/24 (“A discrete sensor located just underneath the skin, measures your glucose
20 levels.”).)

21 27. Claim 1 further requires, “wherein at least one of the one or more sensors
22 is adapted to be coupled to a tissue comprising blood.” On information and belief, the
23 at least one sensor of the G4 System is adapted to be coupled by insertion to a tissue
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1 comprising blood. This is confirmed, for example, by Dexcom’s literature, attached
2 at Exhibits D1-D6. (*See, e.g.*, Exhibit D1, p. 23 (“Insert the sensor through the clean
3 skin. . . .”)).)

4 28. Claim 1 further requires, “the measurement apparatus configured to
5 communicate through a base device to a software application configured to operate on
6 a control system adapted to receive and process physiological information.” On
7 information and belief, the G5 System is configured to communicate through a base
8 device (*e.g.*, a G5 transmitter) to a software application (*e.g.*, the Dexcom G5 Mobile
9 App) configured to operate on a control system (*e.g.*, a smart device such as an iPhone
10 or iPod touch) adapted to receive and process physiological information. This is
11 confirmed, for example, by Dexcom’s literature, attached at Exhibits D1-D6. (*See,*
12 *e.g.*, Ex. D5, p. 9/24 (By way of the “Transmitter,” “Glucose data is sent wirelessly to
13 either your compatible smart device or your receiver via Bluetooth® wireless
14 technology.”); Exhibit D4, p. 3/7 (“With the Dexcom G5 Mobile app, you’ll have the
15 world’s first continuous glucose monitoring system on your compatible smart device.
16 You can view your real-time glucose data and trends right on your phone and share
17 your data with loved ones and caregivers. The Dexcom Share feature is now built into
18 G5 Mobile app. . . .”)).)

19 29. Claim 1 further requires, “wherein the base device is capable of receiving
20 at least a portion of the signals associated with one or more physiological parameters.”
21 On information and belief, the base device (*e.g.*, a G5 transmitter) is capable of
22 receiving at least a portion of the signals associated with one or more physiological
23 parameters. This is confirmed, for example, by Dexcom’s literature, attached at
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1 Exhibits D1-D6. (*See, e.g.*, D1, p. 16 (The G5 transmitter of must receive at least a
2 portion of the signals associated with the blood glucose physiological parameters
3 because the “transmitter sends glucose information directly to your smart device using
4 Bluetooth® wireless technology.”).)

5 30. Claim 1 further requires, “the control system comprising a touch-screen,
6 a proximity sensor, circuitry for obtaining movement information from a positioning
7 sensor, a mechanical system comprising one or more actuators, and a wireless
8 transmitter to transmit data over a wireless link to a host.” On information and belief,
9 the control system (*e.g.*, a smart device such as an iPhone or iPod touch) on which the
10 software application (*e.g.*, the Dexcom G5 Mobile App) operates comprises a touch-
11 screen, a proximity sensor, circuitry for obtaining movement information from a
12 positioning sensor, a mechanical system comprising one or more actuators, and a
13 wireless transmitter to transmit data over a wireless link to a host (*e.g.*, the cloud).
14 This is confirmed, for example, by Dexcom’s literature, attached at Exhibits D1-D6.
15 (*See, e.g.*, Ex. D5, p. 9/24 (By way of the “Transmitter,” “Glucose data is sent
16 wirelessly to either your compatible smart device or your receiver via Bluetooth®
17 wireless technology.”); Exhibit D2, pp. 371 (“Once the Sharer activates the Share
18 feature in his/her G5 Mobile app, the smart device transfers sensor glucose readings
19 to the Dexcom Share Cloud using either Wi-Fi or a cellular data plan.”), 369 (The
20 “Dexcom Share Cloud” is “[a] secure online storage server where Dexcom Share
21 feature information is stored and then shared with Followers.”); Exhibit D6, p. 11/18;
22 *see also, e.g.*, F1, Dexcom CGM App Compatibility; F2, iPhone 6s Technical
23 Specifications, pp. 2, 4-7/14; F3, iPhone 6 Teardown, 2, 9-11, 13/18.)

1 31. Claim 1 further requires, “the software application operable to generate
2 the physiological information based at least in part on the signals from the one or more
3 sensors, at least some of the physiological information comprising at least a part of
4 the data.” On information and belief, the software application (*e.g.*, the Dexcom G5
5 Mobile App) is operable to generate the physiological information based at least in
6 part on the signals from the one or more sensors, at least some of the physiological
7 information (*e.g.*, blood glucose level information) comprising at least a part of the
8 data.” (*See e.g.*, Exhibit D2, pp. 5 (“The G5 Mobile app was developed as a display
9 for continuous glucose monitoring.”), 151-165, 208-213, 371 (“Once the Sharer
10 activates the Share feature in his/her G5 Mobile app, the smart device transfers sensor
11 glucose readings to the Dexcom Share Cloud using either Wi-Fi or a cellular data
12 plan.”).) This is confirmed, for example, by Dexcom’s literature, attached at Exhibits
13 D1-D6.

14 32. Claim 1 further requires, “wherein the control system is further
15 configured to receive voice input signals and manually entered input signals.” On
16 information and belief, the control system (*e.g.*, a smart device such as an iPhone or
17 iPod touch) is further configured to receive voice input signals and manually entered
18 input signals.

19 33. Claim 1 further requires, “wherein the host is configured to generate
20 status information from the data and comprises: a memory storage device for
21 recording the status information; and a communication device for communicating at
22 least a portion of the status information over a communication link to one or more
23 display output devices, wherein the one or more display output devices are located
24

1 remotely from the host.” On information and belief, the host (*e.g.*, the cloud) is
2 configured to generate status information (*e.g.* blood glucose level status information)
3 from the data and comprises: a memory storage device for recording the status
4 information; and a communication device for communicating at least a portion of the
5 status information over a communication link (*e.g.*, wi-fi or cellular) to one or more
6 display output devices (*e.g.*, a follower’s smart device), wherein the one or more
7 display output devices are located remotely from the host. This is confirmed, for
8 example, by Dexcom’s literature, attached at Exhibits D1-D6. (*See e.g.*, Exhibit D2,
9 pp. 371 (“Once the Sharer activates the Share feature in his/her G5 Mobile app, the
10 smart device transfers sensor glucose readings to the Dexcom Share Cloud using
11 either Wi-Fi or a cellular data plan.”), 369 (The “Dexcom Share Cloud” is “[a] secure
12 online storage server where Dexcom Share feature information is stored and then
13 shared with Followers.”); Exhibit D6, p. 11/18.)

14 34. On information and belief, Dexcom infringes at least claims 1 and 3 of
15 the ‘174 patent by making, using, importing, selling, and/or offering to sell G6 Mobile
16 Continuous Glucose Monitoring (CGM) Systems.

17 35. As to each of the G6 Mobile Continuous Glucose Monitoring (CGM)
18 Systems (“G6 Systems”), Dexcom’s infringement is described further below with
19 respect to exemplary claim 1. The analysis below is based on publicly available
20 information.

21 36. The preamble of Claim 1 states, “A measurement apparatus.” On
22 information and belief, the G6 System is a measurement apparatus for measuring
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1 blood glucose levels. This is confirmed, for example, by Dexcom’s literature,
2 attached at Exhibits E1-E3.

3 37. Claim 1 further requires, “one or more sensors configured to generate
4 signals associated with one or more physiological parameters.” On information and
5 belief, the G6 System has at least one sensor configured to generate signals associated
6 with physiological parameters (*i.e.*, blood glucose levels). This is confirmed, for
7 example, by Dexcom’s literature, attached at Exhibits E1-E3. (*See, e.g.*, Exhibit E2,
8 p. 3/21 (“Sensor gets glucose information” and Transmitter “Sends glucose
9 information from sensor to display device”).)

10 38. Claim 1 further requires, “wherein at least one of the one or more sensors
11 is adapted to be coupled to a tissue comprising blood.” On information and belief, the
12 at least one sensor of the G6 System is adapted to be coupled by insertion to a tissue
13 comprising blood. This is confirmed, for example, by Dexcom’s literature, attached
14 at Exhibits E1-E3. (*See, e.g.*, Exhibit E3, p. 47 (“Applicator helps you insert the sensor
15 wire under your skin.”))

16 39. Claim 1 further requires, “the measurement apparatus configured to
17 communicate through a base device to a software application configured to operate on
18 a control system adapted to receive and process physiological information.” On
19 information and belief, the G6 System is configured to communicate through a base
20 device (*e.g.*, a G6 transmitter) to a software application (*e.g.*, the Dexcom G6 App)
21 configured to operate on a control system (*e.g.*, a smart device such as an iPhone or
22 iPod touch) adapted to receive and process physiological information. This is
23 confirmed, for example, by Dexcom’s literature, attached at Exhibits E1-E3. (*See,*
24

1 *e.g.*, Exhibit E1, p. 53 (“Your transmitter talk to your app with *Bluetooth*.”); Exhibit
2 E3, p. 13 (The G6 App is “software installed on a smart or mobile device” and “is a
3 display for continuous glucose monitoring.”).)

4 40. Claim 1 further requires, “wherein the base device is capable of receiving
5 at least a portion of the signals associated with one or more physiological parameters.”
6 On information and belief, the base device (*e.g.*, a G6 transmitter) is capable of
7 receiving at least a portion of the signals associated with one or more physiological
8 parameters. This is confirmed, for example, by Dexcom’s literature, attached at
9 Exhibits E1-E3. (*See, e.g.*, Exhibit E3, p. 47 (The G6 transmitter of must receive at
10 least a portion of the signals associated with the blood glucose physiological
11 parameters because the “[t]ransmitter sends your glucose information from the sensor
12 to display device”).)

13 41. Claim 1 further requires, “the control system comprising a touch-screen,
14 a proximity sensor, circuitry for obtaining movement information from a positioning
15 sensor, a mechanical system comprising one or more actuators, and a wireless
16 transmitter to transmit data over a wireless link to a host.” On information and belief,
17 the control system (*e.g.*, a smart device such as an iPhone or iPod touch) on which the
18 software application (*e.g.*, the Dexcom G6 App) operates (*see, e.g.*, Exhibit E2
19 (“Download the app onto your smart device and open it.”); Exhibit E3, pp. 47, 186)
20 comprises a touch-screen, a proximity sensor, circuitry for obtaining movement
21 information from a positioning sensor, a mechanical system comprising one or more
22 actuators, and a wireless transmitter to transmit data over a wireless link to a host (*e.g.*,
23 the cloud) (*see, e.g.*, Exhibit E3, p. 186). (*See also, e.g.*, F1, Dexcom CGM App
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1 Compatibility; F2, iPhone 6s Technical Specifications, pp. 2, 4-7/14; F3, iPhone 6
2 Teardown, 2, 9-11, 13/18.) This is further confirmed, for example, by Dexcom’s
3 literature, attached at Exhibits E1-E3.

4 42. Claim 1 further requires, “the software application operable to generate
5 the physiological information based at least in part on the signals from the one or more
6 sensors, at least some of the physiological information comprising at least a part of
7 the data.” On information and belief, the software application (*e.g.*, the Dexcom G6
8 App) is operable to generate the physiological information based at least in part on the
9 signals from the one or more sensors, at least some of the physiological information
10 (*e.g.*, blood glucose level information) comprising at least a part of the data.” This is
11 confirmed, for example, by Dexcom’s literature, attached at Exhibits E1-E3. (*See*,
12 *e.g.*, Exhibit E3, pp. 13 (The G6 App is “software installed on a smart or mobile
13 device” and “is a display for continuous glucose monitoring.”), 31 (“Dexcom Share
14 (Share) lets you send your sensor information from your app to your Followers’ smart
15 devices!”), 111-121.)

16 43. Claim 1 further requires, “wherein the control system is further
17 configured to receive voice input signals and manually entered input signals.” On
18 information and belief, the control system (*e.g.*, a smart device such as an iPhone or
19 iPod touch) is further configured to receive voice input signals and manually entered
20 input signals.

21 44. Claim 1 further requires, “wherein the host is configured to generate
22 status information from the data and comprises: a memory storage device for
23 recording the status information; and a communication device for communicating at
24

1 least a portion of the status information over a communication link to one or more
 2 display output devices, wherein the one or more display output devices are located
 3 remotely from the host.” On information and belief, the host (*e.g.*, the cloud) is
 4 configured to generate status information (*e.g.* blood glucose level status information)
 5 from the data and comprises: a memory storage device for recording the status
 6 information; and a communication device for communicating at least a portion of the
 7 status information over a communication link (*e.g.*, wi-fi or cellular) to one or more
 8 display output devices (*e.g.*, a follower’s smart device), wherein the one or more
 9 display output devices are located remotely from the host. This is confirmed, for
 10 example, by Dexcom’s literature, attached at Exhibits E1-E3. (*See, e.g.*, Exhibit E3,
 11 pp. 185, 186, 197.)

12 45. On information and belief, Dexcom directly infringes the ‘174 Patent by
 13 making, using, importing, selling, and/or offering to sell at least the G4, G5, and G6
 14 Systems.

15 46. Dexcom’s infringement has damaged Omni MedSci and that damage will
 16 continue unless Dexcom is enjoined from infringing.

17 47. Omni MedSci has not yet sold any products covered by the ‘174 Patent
 18 and is therefore not required to mark any products.

19 **INFRINGEMENT OF THE ‘402 PATENT**

20 48. On information and belief, Dexcom infringes at least claims 1, 3, 5, 6, 7,
 21 11, 12 and 21 of the ‘402 patent by making, using, importing, selling, and/or offering
 22 to sell G4 Continuous Glucose Monitoring (CGM) Systems.
 23
 24

1 49. As to each of the G4 Mobile CGM Systems (“G4 Systems”), Dexcom’s
2 infringement is described further below with respect to exemplary claim 1. The
3 analysis below is based on publicly available information.

4 50. The preamble of Claim 1 states, “A measurement apparatus.” On
5 information and belief, the G4 System is measurement apparatus for measuring blood
6 glucose levels. This is confirmed, for example, by Dexcom’s literature, attached at
7 Exhibits C1-C5. (*See, e.g.*, C3, p. 14 (“When you use the system, you will see
8 continuous sensor glucose readings updated every 5 minutes for up to 7 days.”).)

9 51. Claim 1 further requires, “one or more sensors configured to generate
10 signals associated with one or more physiological parameters.” On information and
11 belief, the G4 System has at least one sensor configured to generate signals associated
12 with physiological parameters (*i.e.*, blood glucose levels). This is confirmed, for
13 example, by Dexcom’s literature, attached at Exhibits C1-C5. (*See, e.g.*, Exhibit C3,
14 p. 14 (“The sensor is a disposable unit that you insert under the skin of your abdomen
15 (belly) to continuously monitor your glucose levels for up to 7 days.”).)

16 52. Claim 1 further requires “wherein at least one of the one or more sensors
17 is adapted to be coupled to a tissue comprising blood and to communicate to feedback
18 control circuitry at least a portion of the signals associated with one or more
19 physiological parameters, the feedback control circuitry capable of generating
20 physiological information from the at least a portion of the signals associated with one
21 or more physiological parameters.” On information and belief, the at least one sensor
22 of the G4 System is adapted to be coupled by insertion to a tissue comprising blood
23 and to communicate to feedback control circuitry (*see, e.g.*, Exhibit G1, U.S. Patent
24

1 No. 9,750,460, 32:50-33:3 and Fig. 10A; Exhibit G2, U.S. Patent No. 9,750,441,
 2 55:56-56:9 and Fig. 36; Exhibit G3, U.S. Patent No. 9,724,045, 32:44-64 and Fig.
 3 10A) at least a portion of the signals associated with one or more physiological
 4 parameters (*i.e.*, blood glucose levels), and the feedback control circuitry is capable
 5 of generating physiological information (*i.e.*, blood glucose information) from the at
 6 least a portion of the signals associated with the one or more physiological parameters.
 7 This is confirmed, for example, by Dexcom's literature, attached at Exhibits C1-C5.
 8 (*See, e.g.*, Exhibit C3, pp. 14 ("The sensor is a disposable unit that you insert under
 9 the skin of your abdomen (belly) to continuously monitor your glucose levels for up
 10 to 7 days."), 9 (Transmitter defined as "The Dexcom G4 PLATINUM System part
 11 that snaps into the sensor pod and wirelessly sends glucose information to your
 12 receiver."), 14 ("the transmitter is a reusable device that wirelessly sends your sensors
 13 glucose information to your receiver."))

14 53. Claim 1 further requires, "a software application configured to operate
 15 on a control system that is capable of receiving at least some of the physiological
 16 information. On information and belief, the G4 System software application (*e.g.*, the
 17 Dexcom Share2 App (*see, e.g.*, Exhibit C5, p.38)) is configured to operate on a control
 18 system (*e.g.*, a smart device such as an iPhone or iPod touch (*see, e.g.*, Exhibit 5, p.
 19 18 ("The Dexcom Share2 app can only be installed on an Apple iOS smart device."))
 20 that is capable of receiving at least some of the physiological information (*e.g.*, blood
 21 glucose information) (*See, e.g.*, Exhibit C4, p. 13 of 33 ("CGM data is sent from your
 22 G4 PLATINUM with Share Receiver to your iPhone or iPod touch")). This is further
 23 confirmed, for example, by Dexcom's literature, attached at Exhibits C1-C5.

54. Claim 1 further requires, “the control system configured to receive voice input signals and manually entered input signals and comprising a touch-screen, a proximity sensor, circuitry configured to determine movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data, including at least some of the physiological information, over a wireless link to a host.” On information and belief, the control system (*e.g.*, a smart device such as an iPhone or iPod touch) is configured to receive voice input signals and manually entered input signals and comprising a touch-screen, a proximity sensor, circuitry configured to determine movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data, including at least some of the physiological information, over a wireless link to a host (*e.g.*, the cloud). This is further confirmed, for example, by Dexcom’s literature, attached at Exhibits C1-C5. (*See, e.g.*, Ex. C5, pp. 9, 18 (“When the Sharer’s receiver has Share ‘On,’ the receiver transfers glucose information using *Bluetooth* wireless technology to the Sharer’s smart device. The information then is sent to the Dexcom Share Cloud using either Wi- Fi or a cellular data plan.”), 19; *see also, e.g.*, F1, Dexcom CGM App Compatibility; F2, iPhone 6s Technical Specifications, pp. 2, 4-7/14; F3, iPhone 6 Teardown, 2, 9-11, 13/18.)

55. On information and belief, Dexcom infringes at least claims 1, 3, 5, 6, 7, 11, 12 and 21 of the ‘402 patent by making, using, importing, selling, and/or offering to sell G5 Mobile Continuous Glucose Monitoring (CGM) Systems.

56. As to each of the G5 Mobile Continuous Glucose Monitoring (CGM) Systems (“G5 Systems”), Dexcom’s infringement is described further below with

1 respect to exemplary claim 1. The analysis below is based on publicly available
2 information.

3 57. The preamble of Claim 1 states, “A measurement apparatus.” On
4 information and belief, the G5 System is a measurement apparatus for measuring
5 blood glucose levels. This is confirmed, for example, by Dexcom’s literature, attached
6 at Exhibits D1-D6. (*See, e.g.*, Exhibit D5, p. 1/24 (“The Dexcom G5® Continuous
7 Glucose Monitoring (CGM) System provides real-time glucose readings for patients
8 with type 1 or type 2 diabetes every five minutes.”))

9 58. Claim 1 further requires, “one or more sensors is adapted to be coupled
10 to a tissue comprising blood and to communicate to feedback control circuitry at least
11 a portion of the signals associated with one or more physiological parameters.” On
12 information and belief, the G5 System has at least one sensor adapted to be coupled
13 to a tissue comprising blood and to communicate to feedback control circuitry (*see,*
14 *e.g.*, Exhibit G1, U.S. Patent No. 9,750,460, 32:50-33:3 and Fig. 10A; Exhibit G2,
15 U.S. Patent No. 9,750,441, 55:56-56:9 and Fig. 36; Exhibit G3, U.S. Patent No.
16 9,724,045, 32:44-64 and Fig. 10A) at least a portion of the signals associated with one
17 or more physiological parameters (*i.e.*, blood glucose levels). This is confirmed, for
18 example, by Dexcom’s literature, attached at Exhibits D1-D6. (*See, e.g.*, Exhibit D3,
19 p. 21 (“Your sensor glucose readings are measured by a single use sensor inserted
20 under your belly’s (if between the ages of 2 and 17, belly or upper buttocks) skin. A
21 reusable transmitter sends your data to your display device once every five
22 minutes.”).)

1 59. Claim 1 further requires “wherein at least one of the one or more sensors
2 is adapted to be coupled to a tissue comprising blood and to communicate to feedback
3 control circuitry at least a portion of the signals associated with one or more
4 physiological parameters, the feedback control circuitry capable of generating
5 physiological information from the at least a portion of the signals associated with one
6 or more physiological parameters.” On information and belief, the at least one sensor
7 of the G5 System is adapted to be coupled by insertion to a tissue comprising blood
8 and to communicate to feedback control circuitry (*see, e.g.*, Exhibit G1, U.S. Patent
9 No. 9,750,460, 32:50-33:3 and Fig. 10A; Exhibit G2, U.S. Patent No. 9,750,441,
10 55:56-56:9 and Fig. 36; Exhibit G3, U.S. Patent No. 9,724,045, 32:44-64 and Fig.
11 10A) at least a portion of the signals associated with one or more physiological
12 parameters (*i.e.*, blood glucose levels), and the feedback control circuitry is capable
13 of generating physiological information (*i.e.*, blood glucose information) from the at
14 least a portion of the signals associated with the one or more physiological parameters.
15 This is confirmed, for example, by Dexcom’s literature, attached at Exhibits D1-D6.
16 (*See, e.g.*, Exhibit D3, p. 21 (“Your sensor glucose readings are measured by a single
17 use sensor inserted under your belly’s (if between the ages of 2 and 17, belly or upper
18 buttocks) skin. A reusable transmitter sends your data to your display device once
19 every five minutes.”); Ex. D5, p. 9/24 (By way of the “Transmitter,” “Glucose data is
20 sent wirelessly to either your compatible smart device or your receiver via Bluetooth®
21 wireless technology.”).)

22 60. Claim 1 further requires, “a software application configured to operate
23 on a control system that is capable of receiving at least some of the physiological
24

information.” On information and belief, the G5 System software application (*e.g.*, the Dexcom G5 Mobile App) is configured to operate on a control system (*e.g.*, a smart device such as an iPhone or iPod touch) that is capable of receiving at least some of the physiological information (*e.g.*, blood glucose information). This is confirmed, for example, by Dexcom’s literature, attached at Exhibits D1-D6. (*See, e.g.*, Ex. D5, p. 9/24 (By way of the “Transmitter,” “Glucose data is sent wirelessly to either your compatible smart device or your receiver via Bluetooth® wireless technology.”); Exhibit D4, p. 3/7 (“With the Dexcom G5 Mobile app, you’ll have the world’s first continuous glucose monitoring system on your compatible smart device. You can view your real-time glucose data and trends right on your phone and share your data with loved ones and caregivers. The Dexcom Share feature is now built into G5 Mobile app. . . .”).)

61. Claim 1 further requires, “the control system configured to receive voice input signals and manually entered input signals and comprising a touch-screen, a proximity sensor, circuitry configured to determine movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data, including at least some of the physiological information, over a wireless link to a host.” On information and belief, the control system (*e.g.*, a smart device such as an iPhone or iPod touch) is configured to receive voice input signals and manually entered input signals and comprising a touch-screen, a proximity sensor, circuitry configured to determine movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data, including at least some of the physiological

1 information, over a wireless link to a host (*e.g.*, the cloud). This is confirmed, for
2 example, by Dexcom’s literature, attached at Exhibits D1-D6. (*See e.g.*, Exhibit D2,
3 pp. 371 (“Once the Sharer activates the Share feature in his/her G5 Mobile app, the
4 smart device transfers sensor glucose readings to the Dexcom Share Cloud using
5 either Wi-Fi or a cellular data plan.”), 369 (The “Dexcom Share Cloud” is “[a] secure
6 online storage server where Dexcom Share feature information is stored and then
7 shared with Followers.”); Exhibit D6, p. 11/18; *see also, e.g.*, F1, Dexcom CGM App
8 Compatibility; F2, iPhone 6s Technical Specifications, pp. 2, 4-7/14; F3, iPhone 6
9 Teardown, 2, 9-11, 13/18.)

10 62. On information and belief, Dexcom infringes at least claims 1, 3, 5, 6, 7,
11 12 and 21 of the ‘402 patent by making, using, importing, selling, and/or offering to
12 sell G6 Mobile Continuous Glucose Monitoring (CGM) Systems.

13 63. As to each of the G6 Mobile Continuous Glucose Monitoring (CGM)
14 Systems (“G6 Systems”), Dexcom’s infringement is described further below with
15 respect to exemplary claim 1. The analysis below is based on publicly available
16 information.

17 64. The preamble of Claim 1 states, “A measurement apparatus.” On
18 information and belief, the G6 System is a measurement apparatus for measuring
19 blood glucose levels. This is confirmed, for example, by Dexcom’s literature,
20 attached at Exhibits E1-E3.

21 65. Claim 1 further requires, “one or more sensors configured to generate
22 signals associated with one or more physiological parameters.” On information and
23 belief, the G6 System has at least one sensor configured to generate signals associated
24

1 with physiological parameters (*i.e.*, blood glucose levels). This is confirmed, for
2 example, by Dexcom’s literature, attached at Exhibits E1-E3. (*See, e.g.*, Exhibit E2,
3 p. 3/21 (“Sensor gets glucose information” and the Transmitter “Sends glucose
4 information from sensor to display device”).)

5 66. Claim 1 further requires “wherein at least one of the one or more sensors
6 is adapted to be coupled to a tissue comprising blood and to communicate to feedback
7 control circuitry at least a portion of the signals associated with one or more
8 physiological parameters, the feedback control circuitry capable of generating
9 physiological information from the at least a portion of the signals associated with one
10 or more physiological parameters.” On information and belief, the at least one sensor
11 of the G6 System is adapted to be coupled by insertion to a tissue comprising blood
12 and to communicate to feedback control circuitry (*see, e.g.*, Exhibit G1, U.S. Patent
13 No. 9,750,460, 32:50-33:3 and Fig. 10A; Exhibit G2, U.S. Patent No. 9,750,441,
14 55:56-56:9 and Fig. 36; Exhibit G3, U.S. Patent No. 9,724,045, 32:44-64 and Fig.
15 10A) at least a portion of the signals associated with one or more physiological
16 parameters (*i.e.*, blood glucose levels), and the feedback control circuitry is capable
17 of generating physiological information (*i.e.*, blood glucose information) from the at
18 least a portion of the signals associated with the one or more physiological parameters.
19 This is confirmed, for example, by Dexcom’s literature, attached at Exhibits E1-E3.
20 (*See, e.g.*, Exhibit E3, p. 47 (“Applicator helps you insert the sensor wire under your
21 skin.”); Exhibit E2, p. 3/21 (“Sensor gets glucose information” and Transmitter
22 “Sends glucose information from sensor to display device”).)

1 67. Claim 1 further requires, “a software application configured to operate
2 on a control system that is capable of receiving at least some of the physiological
3 information.” On information and belief, the software application (*e.g.*, the Dexcom
4 G6 App) is configured to operate on a control system (*e.g.*, a smart device such as an
5 iPhone or iPod touch) that is capable of receiving at least some of the physiological
6 information (*e.g.*, blood glucose information). This is confirmed, for example, by
7 Dexcom’s literature, attached at Exhibits E1-E3. (*See, e.g.*, Exhibit E2 (“Download
8 the app onto your smart device and open it.”); Exhibit E1, p. 53 (“Your transmitter
9 talk to your app with *Bluetooth*.”); Exhibit E3, p. 13 (The G6 App is “software
10 installed on a smart or mobile device” and “is a display for continuous glucose
11 monitoring.”))

12 68. Claim 1 further requires, “the control system configured to receive voice
13 input signals and manually entered input signals and comprising a touch-screen, a
14 proximity sensor, circuitry configured to determine movement information from a
15 positioning sensor, a mechanical system comprising one or more actuators, and a
16 wireless transmitter to transmit data, including at least some of the physiological
17 information, over a wireless link to a host.” On information and belief, the G6 System
18 control system (*e.g.*, a smart device such as an iPhone or iPod touch) is configured to
19 receive voice input signals and manually entered input signals and comprising a touch-
20 screen, a proximity sensor, circuitry configured to determine movement information
21 from a positioning sensor, a mechanical system comprising one or more actuators, and
22 a wireless transmitter to transmit data, including at least some of the physiological
23 information, over a wireless link to a host (*e.g.*, the cloud) (*see, e.g.*, Exhibit E3, p.

1 186). (*See also, e.g.*, F1, Dexcom CGM App Compatibility; F2, iPhone 6s Technical
2 Specifications, pp. 2, 4-7/14; F3, iPhone 6 Teardown, 2, 9-11, 13/18.) This is further
3 confirmed, for example, by Dexcom's literature, attached at Exhibits D1-D6.

4 69. On information and belief, Dexcom directly infringes the '402 Patent by
5 making, using, importing, selling, and/or offering to sell at least the G4, G5, and G6
6 Systems.

7 70. Dexcom's infringement has damaged Omni MedSci and that damage will
8 continue unless Dexcom is enjoined from infringing.

9 71. Omni MedSci has not yet sold any products covered by the '402 Patent
10 and is therefore not required to mark any products.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Omni MedSci requests entry of judgment against Dexcom as
13 follows:

14 A. Finding Dexcom liable for infringement of the '174 and '402 Patents;

15 B. Awarding Omni MedSci damages under 35 U.S.C. § 271 adequate to
16 compensate for Dexcom's infringement;

17 D. Preliminary and/or permanent injunctive relief restraining Dexcom,
18 together with any officers, agents, servants, employees, and attorneys, and such other
19 persons in active concert of participation with them, who receive actual notice of the
20 Order, from further infringement of the '174 and '402 Patents;

21 E. A declaration that this case is exceptional within the meaning of 35
22 U.S.C. § 285 and awarding Omni MedSci its reasonable attorney fees, costs, and
23 disbursements;

1 F. Awarding Omni MedSci interest in all damages awarded; and

2 G. Granting Omni MedSci all other relief to which it is entitled.

3 **DEMAND FOR JURY TRIAL**

4 Omni MedSci demands a trial by jury for all issues so triable.

5
6 Respectfully submitted,

7 **BROOKS KUSHMAN P.C.**

8 Dated: September 24, 2018

9 /s/ John M. Halan

10 John M. Halan (admitted *pro hac vice*)

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Attorneys for Plaintiff

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on September 24, 2018, I electronically filed the foregoing **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL** with the Clerk of the Court for the Southern District of California using the ECF System which will send ECF notification to all CM/ECF registrants.

Respectfully submitted,

BROOKS KUSHMAN P.C.

/s/ John M. Halan

John M. Halan

Attorneys for Plaintiff