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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

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

THE PARTIES

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

2. On information and belief,[1] Defendant, Dexcom, Inc. ("Dexcom"), is a Delaware corporation having its principal place of business at 6340 Sequence Drive, San Diego, CA 92121.

JURISDICTION AND VENUE

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

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

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

THE PATENTS-IN-SUIT

6. The Patent Office issued U.S. Patent No. 9,770,174 ("the '174 Patent"), attached as Exhibit A, on September 26, 2017.

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

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

[1] Allegations made "on information and belief" will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

9. The Patent Office issued U.S. Patent No. 10,004,402 ("the '402 Patent"), attached as Exhibit B, on June 26, 2018.

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

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

INFRINGEMENT OF THE '174 PATENT

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

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

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

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

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

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

17. Claim 1 further requires, "the measurement apparatus configured to communicate through a base device to a software application configured to operate on a control system adapted to receive and process physiological information." On information and belief, the G4 System is configured to communicate through a base device (*e.g.*, a G4 transmitter (*see, e.g.*, C3, pp. 9 (Transmitter defined as "The Dexcom G4 PLATINUM System part that snaps into the sensor pod and wirelessly sends glucose information to your receiver."), 14 ("the transmitter is a reusable device that wirelessly sends your sensors glucose information to your receiver.")) to a software application (*e.g.*, the Dexcom Share2 App (*see, e.g.*, Exhibit C5, p.38)) configured to operate on a control system (*e.g.*, a smart device such as an iPhone or iPod touch (*see, e.g.*, Exhibit 5, p. 18 ("The Dexcom Share2 app can only be installed on an Apple iOS smart device."); Exhibit C4, p. 13 0f 33 ("CGM data is sent from your G4 PLATINUM with Share Receiver to your iPhone or iPod touch"))) adapted

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

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

19. Claim 1 further requires, "the control system comprising a touch-screen, a proximity sensor, circuitry for obtaining movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data 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) on which the software application (*e.g.*, the Dexcom Share2 App) operates (*see, e.g.*, Exhibit C5, p. 18 ("The Dexcom Share2 app can only be installed on an Apple iOS smart device."); Exhibit C4, p. 13 of 33 ("CGM data is sent from your G4 PLATINUM with Share Receiver to your iPhone or iPod touch")) comprises a touch-screen, a proximity sensor, circuitry for obtaining movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data over a wireless link to a host (*e.g.*, the cloud (*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). This is further confirmed, for example, by Dexcom's literature, attached at Exhibits C1-C5.

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

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

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

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

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

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

27. Claim 1 further requires, "wherein at least one of the one or more sensors is adapted to be coupled to a tissue comprising blood." On information and belief, the at least one sensor of the G4 System is adapted to be coupled by insertion to a tissue

comprising blood. This is confirmed, for example, by Dexcom's literature, attached at Exhibits D1-D6. (*See, e.g.*, Exhibit D1, p. 23 ("Insert the sensor through the clean skin. . . .").)

28. Claim 1 further requires, "the measurement apparatus configured to communicate through a base device to a software application configured to operate on a control system adapted to receive and process physiological information." On information and belief, the G5 System is configured to communicate through a base device (*e.g.*, a G5 transmitter) to a software application (*e.g.*, the Dexcom G5 Mobile App) configured to operate on a control system (*e.g.*, a smart device such as an iPhone or iPod touch) adapted to receive and process physiological 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. . . .").)

29. Claim 1 further requires, "wherein the base device is capable of receiving at least a portion of the signals associated with one or more physiological parameters." On information and belief, the base device (*e.g.*, a G5 transmitter) is capable of receiving at least a portion of the signals associated with one or more physiological parameters. This is confirmed, for example, by Dexcom's literature, attached at

Exhibits D1-D6. (*See, e.g.*, D1, p. 16 (The G5 transmitter of must receive at least a portion of the signals associated with the blood glucose physiological parameters because the "transmitter sends glucose information directly to your smart device using Bluetooth® wireless technology.").)

30. Claim 1 further requires, "the control system comprising a touch-screen, a proximity sensor, circuitry for obtaining movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data 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) on which the software application (*e.g.*, the Dexcom G5 Mobile App) operates comprises a touch-screen, a proximity sensor, circuitry for obtaining movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data over a wireless link to a host (*e.g.*, the cloud). This is confirmed, for example, by Dexcom's literature, attached at Exhibits D1-D6. (S*ee, 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 D2, pp. 371 ("Once the Sharer activates the Share feature in his/her G5 Mobile app, the smart device transfers sensor glucose readings to the Dexcom Share Cloud using either Wi-Fi or a cellular data plan."), 369 (The "Dexcom Share Cloud" is "[a] secure online storage server where Dexcom Share feature information is stored and then shared with Followers."); Exhibit D6, p. 11/18; *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.)

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

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

33. 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 D1-D6. (*See e.g.*, Exhibit D2, pp. 371 ("Once the Sharer activates the Share feature in his/her G5 Mobile app, the smart device transfers sensor glucose readings to the Dexcom Share Cloud using either Wi-Fi or a cellular data plan."), 369 (The "Dexcom Share Cloud" is "[a] secure online storage server where Dexcom Share feature information is stored and then shared with Followers."); Exhibit D6, p. 11/18.)

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

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

36. The preamble of Claim 1 states, "A measurement apparatus." On information and belief, the G6 System is a measurement apparatus for measuring

blood glucose levels. This is confirmed, for example, by Dexcom's literature, attached at Exhibits E1-E3.

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

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

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

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

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

41. Claim 1 further requires, "the control system comprising a touch-screen, a proximity sensor, circuitry for obtaining movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data 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) on which the software application (*e.g.*, the Dexcom G6 App) operates (*see, e.g.,* Exhibit E2 ("Download the app onto your smart device and open it."); Exhibit E3, pp. 47, 186) comprises a touch-screen, a proximity sensor, circuitry for obtaining movement information from a positioning sensor, a mechanical system comprising one or more actuators, and a wireless transmitter to transmit data over a wireless link to a host (*e.g.*, the cloud) (*see, e.g.*, Exhibit E3, p. 186). (*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.) This is further confirmed, for example, by Dexcom's literature, attached at Exhibits E1-E3.

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

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

44. 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 E1-E3. (*See, e.g.*, Exhibit E3, pp. 185, 186, 197.)

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

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

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

INFRINGEMENT OF THE '402 PATENT

48. 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 G4 Continuous Glucose Monitoring (CGM) Systems.

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

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

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

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

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

53. Claim 1 further requires, "a software application configured to operate on a control system that is capable of receiving at least some of the physiological information. On information and belief, the G4 System software application (*e.g.*, the Dexcom Share2 App (*see, e.g.*, Exhibit C5, p.38)) is configured to operate on a control system (*e.g.*, a smart device such as an iPhone or iPod touch (*see, e.g.*, Exhibit 5, p. 18 ("The Dexcom Share2 app can only be installed on an Apple iOS smart device.")) that is capable of receiving at least some of the physiological information (*e.g.*, blood glucose information) (*See, e.g.*, Exhibit C4, p. 13 0f 33 ("CGM data is sent from your G4 PLATINUM with Share Receiver to your iPhone or iPod touch")). This is further 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

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

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

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

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

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

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

information, over a wireless link to a host (*e.g.*, the cloud). This is confirmed, for example, by Dexcom's literature, attached at Exhibits D1-D6. (*See e.g.*, Exhibit D2, pp. 371 ("Once the Sharer activates the Share feature in his/her G5 Mobile app, the smart device transfers sensor glucose readings to the Dexcom Share Cloud using either Wi-Fi or a cellular data plan."), 369 (The "Dexcom Share Cloud" is "[a] secure online storage server where Dexcom Share feature information is stored and then shared with Followers."); Exhibit D6, p. 11/18; *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.)

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

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

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

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

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

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

67. Claim 1 further requires, "a software application configured to operate on a control system that is capable of receiving at least some of the physiological information." On information and belief, the software application (*e.g.*, the Dexcom G6 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 E1-E3. (*See, e.g.*, Exhibit E2 ("Download the app onto your smart device and open it."); Exhibit E1, p. 53 ("Your transmitter talk to your app with *Bluetooth*."); Exhibit E3, p. 13 (The G6 App is "software installed on a smart or mobile device" and "is a display for continuous glucose monitoring.")

68. 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 G6 System 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) (*see, e.g.*, Exhibit E3, p.

186). (*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.) This is further confirmed, for example, by Dexcom's literature, attached at Exhibits D1-D6.

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

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

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

PRAYER FOR RELIEF

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

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

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

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

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

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

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

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

BROOKS KUSHMAN P.C.

Dated: September 24, 2018

/s/ John M. Halan

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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
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