IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Encoditech LLC, Plaintiff, v. **Qardio, Inc.**, Defendant.	Case No. 1:18-cv-00864-MN Patent Case Jury Trial Demanded

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, ("Encoditech"), through its attorney, Isaac Rabicoff, complains of Qardio, Inc. ("Qardio") and alleges the following:

PARTIES

1. Plaintiff Encoditech LLC is a corporation organized and existing under the laws of Texas that maintains its principal place of business at 3415 Custer Road, Suite 120-A, Plano, Texas, 75023.

2. Defendant Qardio, Inc. is a corporation organized and existing under the laws of Delaware that maintains its principal place of business at 115 Sansome Street, San Francisco, CA 94104.

JURISDICTION

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

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Qardio because it has engaged in systematic and continuous business activities in the District of Delaware. Specifically, Qardio is incorporated in the state of Delaware and provides its full range of services to residents in this District. As described below, Qardio has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Qardio has committed acts of patent infringement in this District, and Qardio is incorporated in the state of Delaware. In addition, Encoditech has suffered harm in this District.

PATENT-IN-SUIT

7. Encoditech is the assignee of all right, title and interest in United States Patent No. 6,321,095 (the "'095 Patent") including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Encoditech possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Qardio.

The '095 Patent

8. On November 20, 2001, the United States Patent and Trademark Office issued the '095 Patent. The '095 Patent is titled "Wireless Communications Approach." The application leading to the '095 Patent was filed on March 26, 1999. A true and correct copy of the '095 Patent is attached hereto as Exhibit A.

9. A certificate of correction for the '095 Patent was filed on May 4, 2017. A true and correct copy of the certificate of correction is attached hereto as Exhibit B.

10. The '095 Patent is valid and enforceable.

11. The invention claimed in the ’095 Patent relates to a mobile station that provides direct, wireless communications with another mobile station on a portion of a radio frequency (RF) band. Ex. A at 2:54-57.

12. The inventors wanted to improve wireless communications, without requiring the physical infrastructure of digital cellular telephone systems. *Id.* at 3:58-61.

13. The ’095 Patent claims are not directed to a method of organizing human activity or to a fundamental economic practice long prevalent in commerce. The ’095 Patent describes a system that addresses a technical problem--providing wireless communications methods that allow for more than one user to communicate with another and have private conversations, *id.* at 1:32-46--with a technical solution, providing direct, wireless communications using a frequency division multiple access/time division multiple access communication protocol. *Id.* at 2:30-34.

14. The ’095 Patent does not preempt the field or preclude the use of other methods of providing wireless communications. The claims are directed to mobile stations “configured to select a portion of a radio frequency (RF) band” and “transmit a first signal on a first sub-portion.” *Id.* at claim 1. The ’095 Patent identifies other methods of providing wireless communications which are generally described “in the context of a non-frequency hopping application.” *Id.* at 12:10-12.

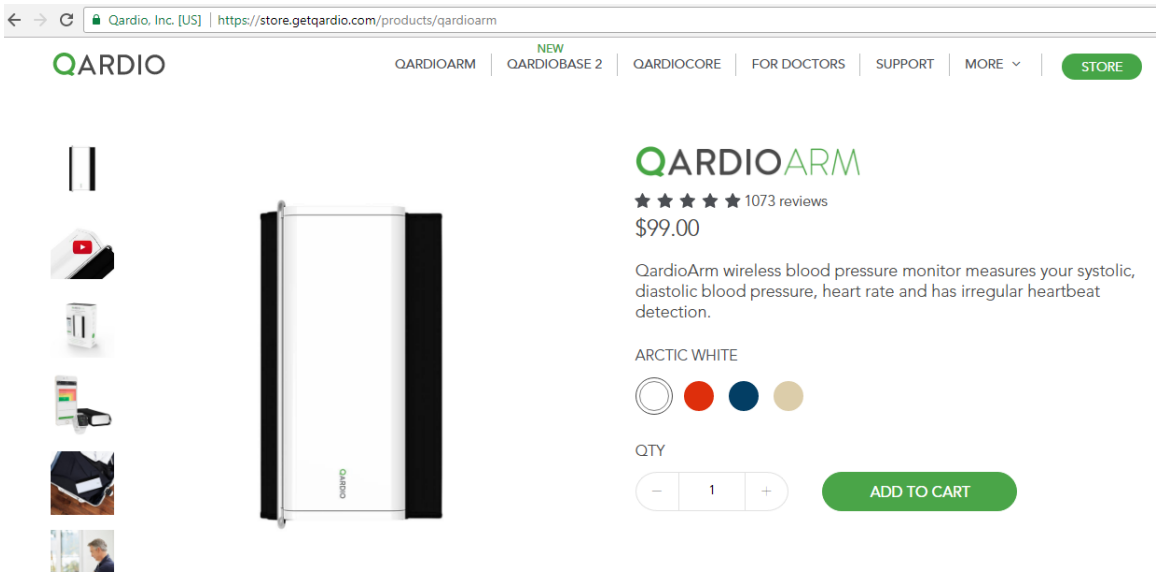
15. The ’095 Patent does not take a well-known or established business method or process and apply it to a general-purpose computer. Instead, the specific system and processes described in the ’095 Patent have no direct corollary to a well-known business process. The ’095 Patent describes a system that addresses a technical problem that arises in the context of providing wireless communications. *See id.* at 1:32-46. The invention has

improved wireless communications by providing direct, wireless communications using a frequency division multiple access/time division multiple access communication protocol. *Id.* at 2:30-34.

COUNT I: INFRINGEMENT OF THE '095 PATENT

16. Encoditech incorporates the above paragraphs herein by reference.

17. **Direct Infringement.** Qardio has been and continues to directly infringe at least claim 7 of the '095 Patent in this District and elsewhere in the United States, by providing an app that satisfies the preamble of claim 7" "[a] wireless communications system." For example Qardio's app monitors blood pressure, heartrate and irregular heartbeats by combining the Qardioarm with an electronic device, such as a phone tablet. Upon information and belief, Qardio has performed each step of claim 7 at least by internal testing of Qardio's app. *See* Figure 1.

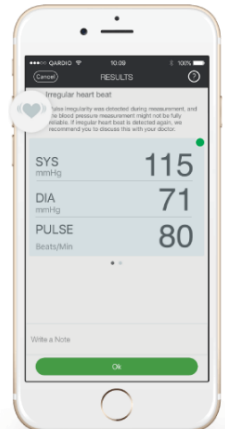


QARDIOARM TECHNICAL SPECIFICATIONS

Weight	0.68 lb (310g) including batteries.
Cuff Size	8.7 in – 14.6 in diameter (22 cm – 37 cm diameter)
Dimensions	5.5 x 2.7 x 1.5 in (140 x 68 x 38 mm) when closed.
Measurement	Oscillometric method with automatic inflation and controlled pressure release valve.
Measurement Range	40~250 mmHg for blood pressure. 40~200 beats/minute for pulse.
Technical Measurement Precision	Accuracy ±3mmHg or ±2% of readout value for blood pressure. ±5% of readout for pulse.
Measurement Resolution	1mmHg for blood pressure. 1 beat/min for pulse.
Power Source	4 x 1.5V Batteries; size AAA, supplied.
Operating Conditions	50~104F (10~40C) temperature, 15~90% relative maximum humidity, atmospheric pressure 86Kpa~106kpa, maximum altitude: 2000m.
Operating Range	At a barrier-free space, the maximum range of detection between your QardioArm and the device is 10 meter.
Storage Conditions	-13~158F (-25~70C) temperature, 10~95% relative maximum humidity, atmospheric pressure 86Kpa~106kpa, maximum altitude: 2000m.
Works with	Requires a smart phone or tablet with Bluetooth 4.0, and iOS 10 (or later) or Android 5 (or later). The detailed list of compatible devices is available on *getqardio.com/devices*. Free Qardio App (available for download on the App Store or on Google Play).

Qardio, Inc [US] | https://www.getqardio.com/qardioapp/#section-qardioarm

Qardio App for QARDIOARM CLOSE



TAKE YOUR MEASUREMENTS THE SMART WAY

IRREGULAR HEART BEAT

Qardio App automatically detects and records irregular heart beats so you can better keep your doctor informed about such important events.

TRIPLE MEASUREMENT

Use triple measurement average for a more accurate reading – Qardio App automatically takes and averages 3 successive measurements for you.

PHOTO SLIDESHOW

Relax and turn blood pressure time into an enjoyable moment with your personal photo slide show – leading to a more accurate reading.

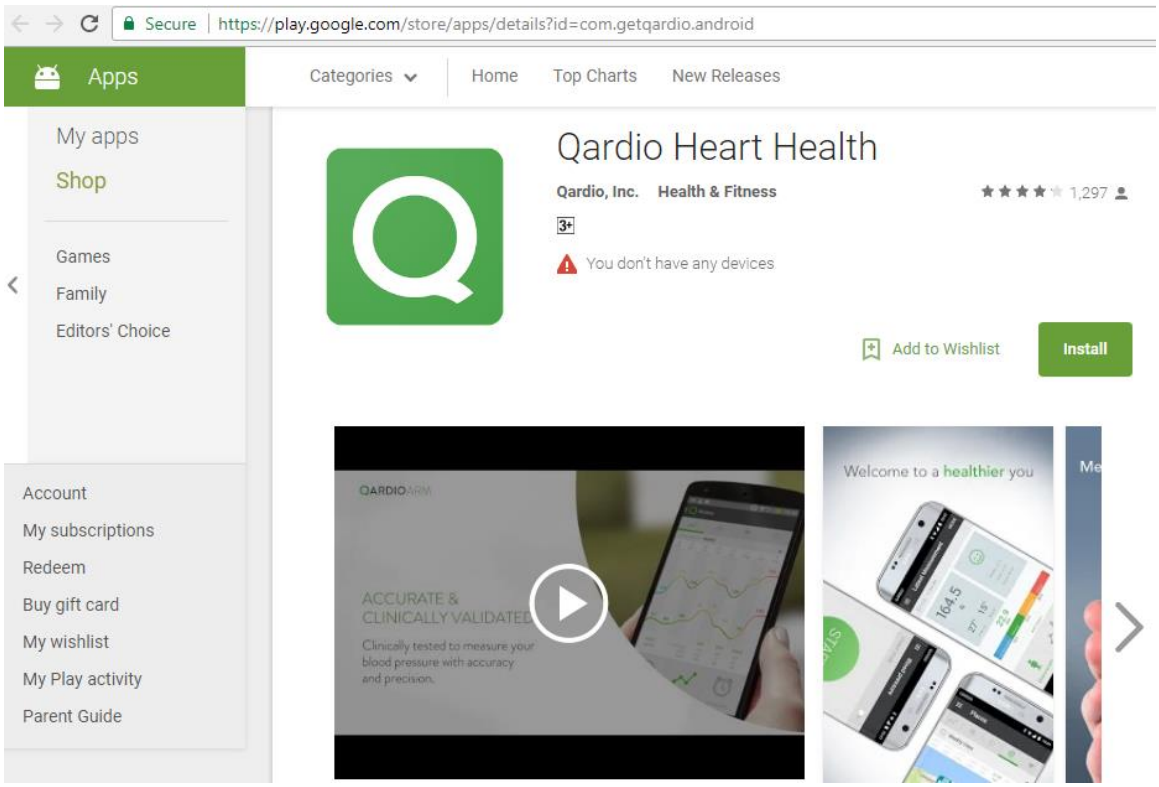


Figure 1. Qardio has an app that monitors blood pressure, heartrate and irregular heartbeats

18. Qardio sells, offers for sale in the United States, and imports into the United States, the program.

19. Qardio's app satisfies claim element 7(a): "a first mobile station." For example, Qardio's app works on a mobile device. *See* Figure 2.

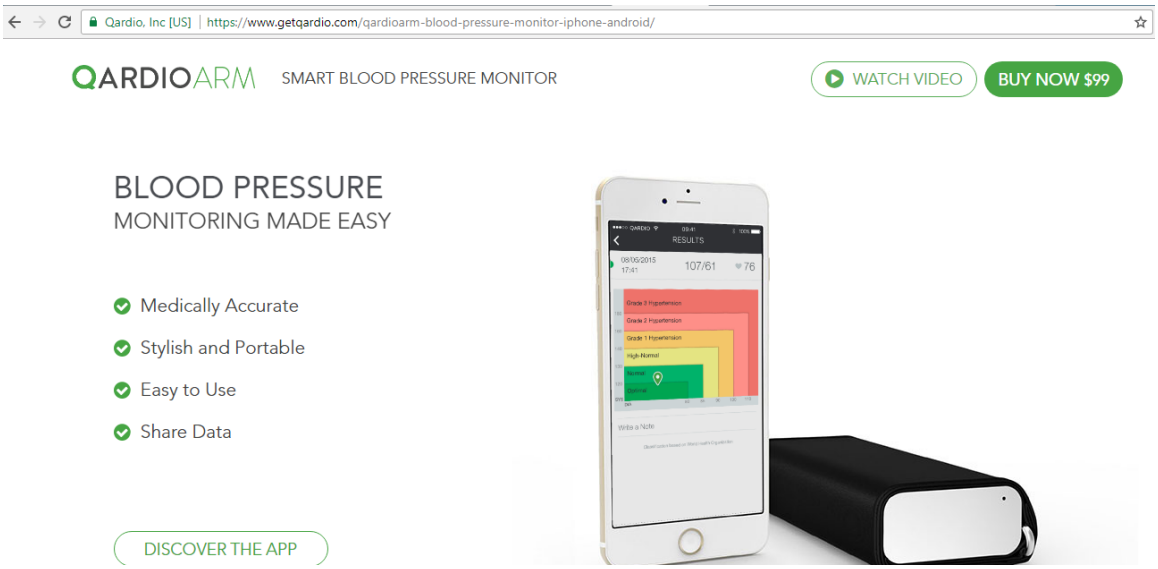


Figure 2. Qardio's app works on a mobile device.

20. Qardio's app satisfies claim element 7(b): "a second mobile station transmits a first request signal on a first sub-portion of the first portion of the RF band directly to the mobile station to request communications between the first mobile station and the second mobile station, establish, in response to receiving a first acknowledge signal from the second mobile station, a direct communication link between the first mobile station and the second mobile station on the first portion of the RF band, receive from the second mobile station a public encryption key generated using a private encryption key associated with the second mobile station, generate a message containing a common encryption key (Ckey)." For example, Qardio's app work on mobile devices that communicate with each other via Bluetooth V4.0 low energy. *See* Figure 2.

21. Qardio's app satisfies claim element 7(c): "encrypt the message using the public encryption key to generate an encrypted message, may decrypt the encrypted message using the private encryption key and extract the Ckey, wherein, messages exchanged between the first and second mobile stations are encrypted using the Ckey."

For example, Qardio's app allows for data to be shared between devices. *See* Figure 2.

22. Qardio's app satisfies claim element 7(d): "wherein the second mobile station is configured to transmit, in response to receiving the first request signal from the first mobile station configured to select a first portion of a radio frequency band (RF) to carry communications between the first mobile station and the second mobile station." For example, Qardio's app selects a 2.4 GHz-2.4385 GHz range of the ISM band to carry communications between the mobile devices via Bluetooth V4.0 low energy. *See* Figure 1.

23. Qardio's app satisfies claim element 7(e): "transmit a first request signal on a first sub-portion of the first portion of the RF band directly to the second mobile station to request communications between the first mobile station and the second mobile station, the first acknowledge signal on a second sub-portion of the first portion of the RF band directly to the first mobile station to acknowledge the first request signal." For example, Qardio's app transmits a request signal on a double-sided spectrum with center frequency 2.402 GHz of the range of the ISM band directly to the mobile devices and establishes a direct communication link between the two mobile devices upon receiving a first acknowledgment signal from the second mobile station. *See* Figure 1.

24. **Induced Infringement**. Qardio has also actively induced, and continues to induce, the infringement of at least claim 7 of the '095 Patent by actively inducing its customers, including merchants and end-users to use Qardio's program in an infringing manner as described above. Upon information and belief, Qardio has specifically intended that its customers use its program in a manner that infringes at least claim 7 of the '095 Patent by, at a minimum, providing access to, support for, training and instructions for, its

program to its customers to enable them to infringe at least claim 7 of the ’095 Patent, as described above. Even where performance of the steps required to infringe at least claim 7 of the ’095 Patent is accomplished by Qardio and Qardio’s customer jointly, Qardio’s actions have solely caused all of the steps to be performed.

25. Qardio has had actual knowledge of this infringement of the ’095 Patent no later than being served this complaint on June 11, 2018. *See* ECF No. 5.

26. Encoditech is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

27. Encoditech will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

JURY DEMAND

28. Under Rule 38(b) of the Federal Rules of Civil Procedure, Encoditech respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Encoditech asks this Court to enter judgment against Qardio USA, Inc., granting the following relief:

A. A declaration that Qardio has infringed the Patent-in-Suit;

B. A judgment that Qardio accounts to Encoditech for all infringing activities and other conduct complained of herein;

C. An award of damages to compensate Encoditech for Qardio’s direct infringement of the Patent-in-Suit;

D. An order that Qardio and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation with

them, be permanently enjoined from infringing the Patent-in-Suit under 35 U.S.C. § 283;

E. A declaration that this case is exceptional, and an award to Encoditech of reasonable attorneys' fees, expenses and costs under 35 U.S.C. § 285;

F. An award of prejudgment and post-judgment interest; and

G. Such other and relief as this Court or jury may deem proper and just.

Dated: September 25, 2018

Respectfully submitted,
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