

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE**

XODUS MEDICAL, INC. ALESSIO	)	Civil Action
PIGAZZI and GLENN KEILAR,	)	
Plaintiffs,	)	No. 3:18-cv-00413-TWP-HBG
v.	)	
PRIME MEDICAL LLC and	)	
SYMMETRY SURGICAL INC.,	)	Judge Thomas W. Phillips
Defendants.	)	Mag. Judge H. Bruce Guyton

**FIRST AMENDED COMPLAINT**

Plaintiffs Xodus Medical Inc., Alessio Pigazzi, and Glenn Keilar, through their counsel, hereby allege the following for their Complaint against Prime Medical LLC and Symmetry Surgical Inc.:

1. Plaintiff Xodus Medical Inc. (“Xodus”) is a Pennsylvania corporation having its principal place of business at 702 Prominence Drive, New Kensington, Pennsylvania 15068.

2. Plaintiff Alessio Pigazzi is an individual with a place of residence in Santa Monica, California 90402.

3. Plaintiff Glenn Keilar is an individual with a place of residence in Mission Viejo, California 92691.

4. On information and belief, Defendant Prime Medical LLC is a limited liability company having its principal place of business at 5802 Kingston Pike, Knoxville, Tennessee 37919.

5. On information and belief, Defendant Symmetry Surgical Inc. (“Symmetry”) is a limited liability company having its principal place of business at 3034 Owen Drive, Antioch, Tennessee 37013.

6. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

7. This Court has personal jurisdiction over defendants because defendants have committed, and continue to commit, acts of infringement in this district.

8. Venue is proper under 28 U.S.C. §§ 1391 and 1400 because defendants reside in this district, and have committed acts of infringement in this district while having a regular and established place of business in this district.

9. On August 20, 2013, the United States Patent and Trademark Office duly and lawfully issued United States Patent No. 8,511,314 (“the ‘314 patent”). Alessio Pigazzi and Glenn Keilar are the owners of all right, title, and interest to the ‘314 patent. Xodus is the exclusive licensee of the ‘314 patent. A true and correct copy of the ‘314 patent is attached hereto as Exhibit A.

10. On June 18, 2013, the United States Patent and Trademark Office duly and lawfully issued United States Patent No. 8,464,720 (“the ‘720 patent”). Alessio Pigazzi and Glenn Keilar are the owners of all right, title, and interest to the ‘720 patent. Xodus is the exclusive licensee of the ‘720 patent. A true and correct copy of the ‘720 patent is attached hereto as Exhibit B.

**COUNT I**

**(INFRINGEMENT OF THE '314 PATENT)**

11. Plaintiffs incorporate by reference herein the averments set forth in paragraphs 1 – 10 hereof as if set forth herein in their entirety.

12. Defendants have and continue to infringe claims 1-4, 9-10, 12-14, 17-20, 23-24, and 26 of the '314 patent by manufacturing, selling and/or offering to sell products that infringe claims 1-4, 9-10, 12-14, 17-20, 23-24, and 26 of the '314 patent under 35 U.S.C. § 271. Defendants are directly infringing, contributorily infringing and/or inducing the infringement of claims 1-4, 9-10, 12-14, 17-20, 23-24, and 26 of the '314 patent. Defendants will continue to infringe the '314 patent unless enjoined by this Court.

13. Defendants' activities in infringing the '314 patent are willful and wanton, constituting willful infringement of such United States Patent under 35 U.S.C. § 285.

14. Plaintiffs have been irreparably damaged and will continue to be irreparably damaged by reason of defendants' infringement of the '314 patent unless this Court restrains the infringing acts of defendants. Plaintiffs are without an adequate remedy at law.

**COUNT II**

**(INFRINGEMENT OF THE '720 PATENT)**

15. Plaintiffs incorporate by reference herein the averments set forth in paragraphs 1 – 14 hereof as if set forth herein in their entirety.

16. Defendants have and continue to infringe claims 1, 2, 4, 6-8, and 10-12 of the '720 patent by manufacturing, selling and/or offering to sell products that infringe claims 1, 2, 4, 6-8, and 10-12 of the '720 patent under 35 U.S.C. § 271. Defendants are contributorily infringing and/or inducing the infringement of claims 1, 2, 4, 6-8, and 10-12 of the '720 patent. Defendants will continue to infringe the '720 patent unless enjoined by this Court.

17. Defendants' activities in infringing the '720 patent are willful and wanton, constituting willful infringement of such United States Patent under 35 U.S.C. § 285.

18. Plaintiffs have been irreparably damaged and will continue to be irreparably damaged by reason of defendants' infringement of the '720 patent unless this Court restrains the infringing acts of defendants. Plaintiffs are without an adequate remedy at law.

WHEREFORE, Plaintiffs pray:

A. that Defendants Prime and Symmetry, their officers, employees, agents, and those persons in active participation with them be permanently enjoined from infringing United States Patent Nos. 8,511,314 and 8,464,720;

B. that a decree be entered adjudging that Defendants Prime and Symmetry have infringed United States Patent Nos. 8,511,314 and 8,464,720 and that such infringement was willful;

C. that Defendants Prime and Symmetry be ordered to pay damages to plaintiffs pursuant to 35 U.S.C. § 284, including interest from the dates of

infringement, resulting from Defendants Prime and Symmetry's infringement of United States Patent Nos. 8,511,314 and 8,464,720;

D. that Defendants Prime and Symmetry be ordered to pay to plaintiffs treble damages pursuant to 35 U.S.C. § 284, resulting from Defendants Prime and Symmetry willful infringement of United States Patent Nos. 8,511,314 and 8,464,720;

E. that plaintiffs be awarded their costs of this action and reasonable attorneys' fees pursuant to 35 U.S.C. § 284 and 285; and

F. that plaintiffs be awarded such further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiffs hereby demand a trial by jury for all issues triable by a jury.

Respectfully submitted,

**THE WEBB LAW FIRM**

Dated: February 8, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of February, I electronically filed the foregoing **FIRST AMENDED COMPLAINT** with the Clerk of Court using the CM/ECF system which sent notification to all counsel of record.

**COUNSEL FOR PLAINTIFFS**

s/ Kent E. Baldauf, Jr.

Kent E. Baldauf, Jr.