



3. Defendant BOSTON SCIENTIFIC SCIMED, INC. (“Scimed”) is a Minnesota corporation with its principal place of business at 1 Scimed Place, Maple Grove, Massachusetts 55311. Scimed can be served with process through its registered agent, Corporation Service Company, 380 Jackson Street, Suite 700, St. Paul, Minnesota 55101. Scimed is a wholly-owned subsidiary of Defendant BSC.

4. Defendant CORDIS CORPORATION (“Cordis”) is a Florida corporation with principal places of business at 14201 Northwest 60th Avenue, Miami Lakes, Florida 33014 and 33 Technology Drive, Warren, New Jersey 07059. Cordis can be served with process through its registered agent, CT Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324. Cordis is a wholly owned subsidiary of Defendant Johnson & Johnson.

5. Defendant ETHICON, INC. (“Ethicon”) is a New Jersey corporation with its principle place of business at Route 22, West Somerville, NJ 08876-0151 and whose mailing address is PO Box 151, Somerville, NJ 08876-0151. Ethicon can be served with process through its registered agent, CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201. Ethicon is a wholly owned subsidiary of Defendant Johnson & Johnson.

6. Defendant JOHNSON & JOHNSON (“Johnson & Johnson”) is a New Jersey corporation with its principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933. Johnson & Johnson can be served with process through its Chief Executive Officer, William C. Weldon, One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

7. Defendant MEDTRONIC, INC. (“Medtronic”) is a Minnesota corporation with its principal place of business at 710 Medtronic Parkway LC 355, Minneapolis, Minnesota 55432. Medtronic can be served with process through its registered agent, CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201.

8. Defendant MEDTRONIC USA, INC. (“Medtronic USA”) is a Minnesota corporation with its principal place of business at 710 Medtronic Parkway LC 355, Minneapolis, Minnesota 55432. Medtronic USA can be served with process through its registered agent, CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201. Medtronic USA is a subsidiary of Defendant Medtronic.

9. Defendant MEDTRONIC VASCULAR, INC. (“Medtronic Vascular”) is a Delaware corporation with its principal place of business at 3576 Unocal Place, Santa Rosa, California 95403. Medtronic Vascular can be served with process through its registered agent, CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017. Medtronic Vascular is a subsidiary of Defendant Medtronic.

10. Defendant KYPHON INC. (“Kyphon”) is a Delaware corporation with its principal place of business at 1221 Crossman Avenue, Sunnyvale, California 94089. Kyphon can be served with process through its registered agent, CT Corporation, 100 South 5th Street, Suite 1075, Minneapolis, Minnesota 55402 or through its President and Chief Executive Officer, Richard Mott, 1221 Crossman Avenue, Sunnyvale, California 94089. Kyphon is a subsidiary of Defendant Medtronic.

11. Defendant EDWARDS LIFESCIENCES CORPORATION (“Edwards Corp.”) is a Delaware corporation with its principal place of business at One Edwards Way, Irvine, California 92614. Edwards Corp. can be served with process through its registered agent, CT Corporation System, 818 West Seventh St., Los Angeles, California 90017.

12. Defendant EDWARDS LIFESCIENCES LLC (“Edwards LLC”) is a Delaware corporation with its principal place of business at One Edwards Way, Irvine, California 92614. Edwards LLC can be served with process through its registered agent, CT Corporation System,

350 North St. Paul St., Dallas, Texas 75201. Edwards LLC is a subsidiary of Defendant Edwards Corp.

## **II. JURISDICTION AND VENUE**

13. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under Title 28 U.S.C. §1331 and §1338(a).

14. The Court has personal jurisdiction over each Defendant, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). Each Defendant has substantial contacts with the forum as a result of pervasive business activities conducted within the State of Texas and within this District, including but not limited to the sale and distribution of various medical devices and the provision of services relating to those medical devices. Further, each Defendant has committed and continues to commit acts of patent infringement, directly and/or through agents and intermediaries, by shipping, distributing, importing, offering for sale, and/or selling certain infringing products in Texas and, particularly, the Eastern District of Texas. Each Defendant has purposefully and voluntarily placed one or more of its infringing products into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District. These products have been, and continue to be, purchased by consumers in this District. Additionally, the Medtronic Defendants have availed themselves of this forum by bringing and litigating various patent infringement lawsuits here.

## **III. PATENT INFRINGEMENT**

15. On October 19, 1993, United States Patent No. 5,254,097 (the “’097 patent”) was duly and legally issued for “Combined Percutaneous Cardiopulmonary Bypass (PBY) and Intra-Aortic Balloon (IAB) Access Cannula.” By virtue of assignment, Cardio Access owns all rights,

title, and interest in and to the '097 patent and possesses all rights of recovery under it, including the right to prosecute this action and to collect damages for all relevant times.

16. As it pertains to this lawsuit, the '097 patent relates to medical devices known as cannulae — the claimed cannulae having multiple access port legs, having at least one hemostatic valve, and which are adapted for the percutaneous insertion of various catheters into the bodies of patients. A true and correct copy of the '097 patent is attached hereto as Exhibit "A."

17. Upon information and belief, Defendants, directly or through intermediaries, make, have made, use, import, provide, supply, distribute, sell, and/or offer for sale products and/or systems that infringe one or more claims of the '097 patent; and/or Defendants induce and/or contribute to the infringement of one or more of the claims in the '097 patent by others. The infringed claims include at least claims 1, 42, and 43, as well as claims depending therefrom.

18. Cardio Access has been damaged as a result of Defendants' infringing conduct. Defendants are, thus, liable to Cardio Access in an amount that adequately compensates it for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

19. Each Defendant, or its affiliate, has referenced and cited the '097 patent as relevant prior art in connection with the prosecution of certain, subsequent patent applications. Thus, upon information and belief, Defendants are aware of the '097 patent, have knowledge of the infringing nature of their activities, have nevertheless continued their infringing activities, and their infringing activities have been and continue to be willful.

#### **IV. JURY DEMAND**

Cardio Access hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**V. PRAYER FOR RELIEF**

Cardio Access requests that the Court find in its favor and against Defendants, and that the Court grant Cardio Access the following relief:

- a. Judgment that one or more claims of United States Patent No. 5,254,097 have been infringed, either literally and/or under the doctrine of equivalents, by one or more Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;
- b. Judgment that Defendants account for and pay to Cardio Access all damages to and costs incurred by Cardio Access because of Defendants' infringing activities and other conduct complained of herein;
- c. That Defendants' infringements be found to be willful from the time that Defendants became aware of the infringing nature of their respective products, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- d. That Cardio Access be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- e. That this Court declare this an exceptional case and award Cardio Access its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and
- f. That Cardio Access be granted such other and further relief as the Court may deem just and proper under the circumstances.

**Dated: June 30, 2008.**

Respectfully submitted,



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