

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

TYCO HEALTHCARE GROUP LP )  
d/b/a UNITED STATES SURGICAL, )  
a division of TYCO HEALTHCARE )  
GROUP LP )

Plaintiff, )

v. )

ETHICON ENDO-SURGERY, INC. )

Defendant. )

Civil Action No. \_\_\_\_\_

**COMPLAINT**

Plaintiff Tyco Healthcare Group LP for its Complaint against defendant Ethicon Endo-Surgery, Inc., alleges as follows:

**THE PARTIES**

1. Plaintiff Tyco Healthcare Group LP through its division United States Surgical (hereinafter "U.S. Surgical") is a limited partnership organized and existing under the laws of the state of Delaware having its principal place of business at 15 Hampshire Street, Mansfield, MA 02048. The United States Surgical division is headquartered at 150 Glover Ave., Norwalk, CT 06856.

2. Upon information and belief, defendant Ethicon Endo-Surgery, Inc. (hereinafter "Ethicon") is a corporation or other entity organized under the laws of the State of Ohio, having its principal place of business at 4545 Creek Rd., Cincinnati, OH 45242.

**JURISDICTION AND VENUE**

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

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a).

5. Venue is proper under 28 U.S.C. §§ 1391(b) & (c) and 28 U.S.C. § 1400(b).

**BACKGROUND**

6. On May 16, 2000, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,063,050 (hereinafter “the ’050 patent”) entitled “Ultrasonic Dissection and Coagulation System.” A true copy of the ’050 patent is attached as Exhibit A.

7. On August 28, 2001, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,280,407 (hereinafter “the ’407 patent”) entitled “Ultrasonic Dissection and Coagulation System.” A true copy of the ’407 patent is attached as Exhibit B.

8. On October 22, 2002, the United States Patent and Trademark Office duly and legally issued United State Patent No. 6,468,286 (hereinafter “the ’286 patent”) entitled “Ultrasonic Curved Blade.” A true copy of the ’286 patent is attached as Exhibit C.

9. On January 27, 2004, the United States Patent and Trademark Office duly and legally issued United State Patent No. 6,682,544 (hereinafter “the ’544

patent”) entitled “Ultrasonic Curved Blade.” A true copy of the ’544 patent is attached as Exhibit D.

10. United States Surgical Corporation is an assignee of each the ’050, ’407, ’286, and ’544 patents.

11. United States Surgical Corporation was acquired in October 1998 and is now a division of Tyco Healthcare Group LP. Tyco Healthcare Group LP, through its United States Surgical division, holds all the former United States Surgical Corporation’s right, title, and interest to the ’050, ’407, ’286, and ’544 patents.

### **CLAIM OF INFRINGEMENT**

12. On information and belief, Ethicon makes, uses, offers for sale, and/or sells in the State of Connecticut and/or elsewhere in the United States, and/or imports into the State of Connecticut and/or elsewhere in the United States, the UltraCision Harmonic Scalpel Curved Blade surgical instrument.

13. Ethicon’s UltraCision Harmonic Scalpel Curved Blade surgical instrument falls within the scope of the claims of the ’050, ’407, ’286, and ’544 patents.

14. Ethicon’s acts in making, using, offering to sell, and/or selling, within the State of Connecticut and/or elsewhere in the United States, and/or importing into the State of Connecticut and/or elsewhere in the United States, the UltraCision Harmonic Scalpel Curved Blade surgical instrument infringe, induce infringement, and/or contribute to the infringement of the claims of the ’050 patent under 35 U.S.C. § 271 without authority to do so.

15. Ethicon's acts in making, using, offering to sell, and/or selling, within the State of Connecticut and/or elsewhere in the United States, and/or importing into the State of Connecticut and/or elsewhere in the United States, the UltraCision Harmonic Scalpel Curved Blade surgical instrument infringe, induce infringement, and/or contribute to the infringement of the claims of the '407 patent under 35 U.S.C. § 271 without authority to do so.

16. Ethicon's acts in making, using, offering to sell, and/or selling, within the State of Connecticut and/or elsewhere in the United States, and/or importing into the State of Connecticut and/or elsewhere in the United States, the UltraCision Harmonic Scalpel Curved Blade surgical instrument infringe, induce infringement, and/or contribute to the infringement of the claims of the '286 patent under 35 U.S.C. § 271 without authority to do so.

17. Ethicon's acts in making, using, offering to sell, and/or selling, within the State of Connecticut and/or elsewhere in the United States, and/or importing into the State of Connecticut and/or elsewhere in the United States, the UltraCision Harmonic Scalpel Curved Blade surgical instrument infringe, induce infringement, and/or contribute to the infringement of the claims of the '544 patent under 35 U.S.C. § 271 without authority to do so.

18. U.S. Surgical has given Ethicon notice of its infringement of the '050, '407, '286, and '544 patents, and despite that notice, Ethicon has persisted in infringing, inducing infringement of, and/or contributing to the infringement of these patents. On information and belief, Ethicon's acts of infringement, inducing

infringement, and/or contributing to the infringement of the '050, '407, '286, and '544 patents alleged above are and have been willful, knowing, and deliberate.

19. U.S. Surgical will suffer irreparable injury unless Ethicon is enjoined from infringing, inducing infringement of, and/or contributing to the infringement of the '050, '407, '286, and '544 patents.

20. U.S. Surgical has no adequate remedy at law.

21. U.S. Surgical has suffered damages as a result of Ethicon's infringement, inducing infringement, and/or contributory infringement.

**PRAYER FOR RELIEF**

WHEREFORE, U.S. Surgical respectfully prays that this Court grant the following relief:


a. issue a judgment that Ethicon's making, using, offering to sell, and/or selling, within the State of Connecticut and/or elsewhere in the United States, and/or importing into the State of Connecticut and/or elsewhere in the United States, the UltraCision Harmonic Scalpel Curved Blade surgical instrument infringes, induces infringement of, and/or contributes to the infringement of the '050, '407, '286, and '544 patents;

b. issue a judgment permanently enjoining Ethicon's infringement, inducement of infringement, and/or contributory infringement of the '050, '407, '286, and '544 patents;

c. issue a judgment awarding U.S. Surgical all damages to which it is entitled;

- d. declare that Ethicon's infringement is willful and treble the judgment;
- e. declare that this case is an "exceptional case" and award U.S. Surgical reasonable attorney fees pursuant to 35 U.S.C. § 285;
- f. award U.S. Surgical its costs and expenses in this action; and
- g. grant such further and other relief as this Court deems just and proper.

  
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