

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION**

KIMBERLY-CLARK CORPORATION,	)	
	)	
KIMBERLY-CLARK WORLDWIDE, INC.,	)	
	)	
and	)	
	)	
KIMBERLY-CLARK GLOBAL SALES, INC.,	)	
all Delaware Corporations,	)	
	)	Case No.
Plaintiffs,	)	
	)	
v.	)	
	)	
CARDINAL HEALTH, INC.,	)	
an Ohio Corporation,	)	
	)	
and	)	
	)	
CARDINAL HEALTH 200, INC.	)	
(f/k/a ALLEGIANCE HEALTHCARE	)	Jury Trial Demanded
CORPORATION, f/k/a AMERICAN	)	
THRESHOLD INDUSTRIES, INC.),	)	
a Delaware Corporation,	)	
	)	
Defendants.	)	

**COMPLAINT**

Plaintiffs, Kimberly-Clark Corporation, Kimberly-Clark Worldwide, Inc. and Kimberly-Clark Global Sales, Inc., by their attorneys, for their complaint against Defendants, Cardinal Health, Inc. and Cardinal Health 200, Inc. (f/k/a Allegiance Healthcare Corporation, f/k/a American Threshold Industries, Inc.) (collectively “Defendants”), hereby allege and demand a jury trial as follows:

## **THE PARTIES**

1. Kimberly-Clark Corporation, Kimberly-Clark Worldwide, Inc. and Kimberly-Clark Global Sales, Inc. are all corporations organized and existing under the laws of the State of Delaware, and having principal places of business in Neenah, Wisconsin. Kimberly-Clark Worldwide, Inc. and Kimberly-Clark Global Sales, Inc. are wholly owned subsidiaries of Kimberly-Clark Corporation. Kimberly-Clark Corporation and Kimberly-Clark Global Sales, Inc., have manufacturing, research, sales and/or marketing offices and facilities in Neenah, Wisconsin.

2. Upon information and belief, Defendant Cardinal Health, Inc. is a corporation of the State of Ohio having a principal place of business at 7000 Cardinal Place, Dublin, Ohio 43017.

3. Upon information and belief, Defendant Cardinal Health 200, Inc., formerly known as Allegiance Healthcare Corporation, formerly known as American Threshold Industries, Inc., is a corporation of the State of Delaware having a principal place of business at 1430 Waukegan Road, McGaw Park, Illinois 60085. Cardinal Health 200, Inc. is a wholly owned subsidiary of Cardinal Health, Inc.

## **JURISDICTION AND VENUE**

4. This action is for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

5. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants. Defendants are doing business in this district. Upon information and belief, through their individual and combined efforts, Defendants offer for sale, distribute and purposefully ship products according to the claims of the patent in suit in the Eastern District of Wisconsin and throughout the United States through an established distribution channel.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b). Upon information and belief, Defendants are doing business in the Eastern District of Wisconsin and wrongful acts committed by Defendants have occurred in and are causing injury to Plaintiffs in this judicial district.

#### **COUNT FOR PATENT INFRINGEMENT**

8. On June 18, 2002, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,406,674 B1 (“the ‘674 patent”) to Sonja Nicholson Bourne, Nelson McRay, Lavada Campbell Boggs, William Ralph Neff, Charles John Morell, and Marsha Lottie Vaughn (collectively, “Inventors”). The Inventors assigned the ‘674 patent to Kimberly-Clark Worldwide, Inc. Kimberly-Clark Corporation was, and Kimberly-Clark Global Sales, Inc., is an exclusive licensee of the ‘674 patent. Plaintiffs have the right to bring actions for infringement of the ‘674 patent. A copy of the ‘674 patent is attached hereto as Exhibit A.

9. Upon information and belief, Defendants have willfully and deliberately infringed the ‘674 patent by manufacturing, selling, offering to sell, and/or importing products that are covered by one or more claims of the ‘674 patent, including, but not limited to, a sterilization wrap marketed under the name “Simul-Wrap.” Defendants’ infringing products are being manufactured, sold, offered for sale, and/or imported without permission or license from Plaintiffs, and Defendants will continue such infringement unless enjoined by this Court.

10. Plaintiffs have been damaged by the Defendants' infringement.

11. Defendants' acts of infringement have been without express or implied licensed by Plaintiffs, and are in violation of Plaintiffs' rights.

12. Defendants have been put on notice of their infringement of the '674 patent, but Defendants have continued their infringement, in willful disregard of the '674 patent and the rights created thereunder. This is an exceptional case because of Defendants' willful infringement.

13. Upon information and belief, Defendants will continue to infringe the '674 patent unless enjoined by this Court.

#### **JURY DEMAND**

14. Trial by Jury is hereby demanded.

#### **RELIEF SOUGHT**

**WHEREFORE**, Plaintiffs pray:

A. For injunctive relief against further infringement of the '674 patent by Defendants, their officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with any one or more of them;

B. For damages to compensate Plaintiffs for the infringement of the '674 patent, together with prejudgment and postjudgment interest;

C. For an assessment of costs against Defendants;

D. For treble damage pursuant to 35 U.S.C. § 284 because Defendants' infringement has been willful;

E. For judgment that this is an exceptional case under 35 U.S.C. § 285, and that Defendants shall pay to Plaintiffs all their attorney fees; and

F. For all such other and further relief as this Court deems just and proper.

Respectfully submitted this 7th day of January, 2004.

/s/ Daniel T. Flaherty  
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