

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

<b>WILLIAM S. PARKER,</b>	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 05-74295
	)	
v.	)	
	)	Hon. Chief Judge Lawrence P. Zatkoff
	)	Mag. Judge Steven D. Pepe
	)	
	)	
<b>ZOLL MEDICAL CORPORATION,</b>	)	
<b>MEDTRONIC, INC. and</b>	)	
<b>WELCH ALLYN, INC.,</b>	)	
	)	
Defendants	)	
	)	JURY TRIAL DEMANDED
	)	

**FIRST AMENDED COMPLAINT**

Plaintiff William S. Parker ("Mr. Parker") complains of defendants Zoll Medical Corporation ("Zoll"), Medtronic, Inc. ("Medtronic") and Welch Allyn, Inc. ("Welch Allyn") as follows:

1. This is a claim for patent infringement and arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original jurisdiction over the subject matter of this claim under 28 U.S.C. § 1338(a). Venue is proper under 28 U.S.C. § 1391(b) and (c) and 1400(b), as Zoll is subject to personal jurisdiction, does business and has committed acts of infringement in this district.

2. Mr. Parker is a citizen of the State of Michigan. He resides in Ann Arbor, Michigan, which is within this district. Mr. Parker is a named inventor on numerous patents relating to

medical devices, including the '383 patent in suit. Mr. Parker has had years of experience in the development, marketing and sales of medical devices, having served as a board member and as a senior executive at a number of medical device companies. Mr. Parker also served as a medic in the United States Army Reserves.

3. Zoll is a Massachusetts corporation having a place of business at 269 Mill Road, Chelmsford, Massachusetts 01824.

4. Medtronic is a Minnesota corporation having a place of business at 710 Medtronic Parkway, Minneapolis, Minnesota 55432.

5. Welch Allyn is a New York corporation having a place of business at 4341 State Street Road, Skaneateles, New York 13153.

6. Mr. Parker owns and has standing to sue for infringement of United States Patent No. 4,588,383 ("the '383 patent") (Exhibit A), entitled, "Interactive Synthetic Speech CPR Trainer/Prompter and Method of Use." The '383 patent was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on May 13, 1986. In addition, the '383 patent was recently reexamined by the USPTO, which resulted in the confirmation of the patentability of all claims of the patent.

7. Mr. Parker also has asserted the '383 patent against Cardiac Science, Inc. in Civil Action No. 04-71028, which is currently pending in this Court. Mr. Parker's suit against Cardiac Science was temporarily stayed pending resolution of the reexamination proceeding.

8. Zoll has made, used, sold, offered for sale and/or imported automatic external defibrillators ("AEDs"), including, but not limited to, the "AED Plus" product, throughout the United States, including in this district. These acts by Zoll constitute direct infringement of the '383 patent.

9. Zoll also has actively induced others to infringe, and contributed to the infringement of, the '383 patent through its marketing, sale and supplying of AEDs, including, but not limited to, the AED Plus product, to third parties.

10. Medtronic has made, used, sold, offered for sale and/or imported AEDs, including, but not limited to, the "LifePak 12," "LifePak 20," "LifePak 500" and "LifePak CR Plus" products, throughout the United States, including in this district. These acts by Medtronic constitute direct infringement of the '383 patent.

11. Medtronic also has actively induced others to infringe, and contributed to the infringement of, the '383 patent through its marketing, sale and supplying of AEDs, including, but not limited to, the LifePak 12, LifePak 20, LifePak 500 and LifePak CR Plus products, to third parties.

12. Welch Allyn has made, used, sold, offered for sale and/or imported "AEDs," including, but not limited to, the "AED 10" and "LifeQuest JumpStart" products, throughout the United States, including in this district. These acts by Welch Allyn constitute direct infringement of the '383 patent.

13. Welch Allyn also has actively induced others to infringe, and contributed to the infringement of, the '383 patent through its marketing, sale and supplying of AEDs, including, but not limited to, the "AED 10" and "LifeQuest JumpStart" products, to third parties.

14. The defendants' acts of infringement have been willful, intentional and deliberate.

15. Mr. Parker has been damaged by the defendants' acts of infringement.

16. Mr. Parker has complied with the marking and notice requirements of 35 U.S.C. § 287(a).

WHEREFORE, Mr. Parker demands judgment against each of Zoll, Medtronic and Welch Allyn including their affiliates, officers, agents, servants, employees, and all persons in active concert or participation with them, as follows:

A. An award to Mr. Parker of such damages as he shall prove at trial against Zoll, Medtronic and Welch Allyn after a full accounting of all damages that Mr. Parker has suffered as a result of the defendants' unlawful conduct, said damages to be no less than a reasonable royalty;

B. An award to Mr. Parker of all damages so determined for willful infringement, in accordance with 35 U.S.C. § 284, together with prejudgment interest;

C. A determination that this case is exceptional within the meaning of 35 U.S.C. § 285, and an award to Mr. Parker of the costs of this action and his reasonable attorneys' fees; and

D. Such other relief as this Court and/or a jury may determine to be proper and just.

**Jury Demand**

Mr. Parker hereby demands a trial by jury on all issues triable to a jury in this case.

Respectfully submitted,

Date: December 22, 2005

/s/ Patrice S. Arend

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I hereby certify that on December 22, 2005, I electronically filed the foregoing paper with the clerk of the Court using the ECF system, which will send notification of such filing to the following:

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