

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JAN K. VODA, M.D.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. CIV-03-1512-L
	)	
CORDIS CORPORATION,	)	<b>DEMAND FOR JURY TRIAL</b>
	)	
Defendant.	)	
	)	

**FIRST AMENDED COMPLAINT**

Plaintiff, Jan K. Voda, M.D. (“Dr. Voda”), pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, files this First Amended Complaint (the “FAC”) to recover damages owed to Dr. Voda by Cordis Corporation (“Cordis”) as a result of Cordis’ actions in making, selling and offering for sale products which infringe U.S. Patent Nos. 5,445,625, 6,083,213 and 6,475,195 and Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and German Patent No. 69232095.

**Nature of the Action**

1. This action seeks to recover damages owed to Dr. Voda by Cordis as a result of Cordis’ actions in making, selling and offering for sale products which infringe U.S. Patent Nos. 5,445,625, 6,083,213 and 6,475,195, Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and German Patent No. 69232095.

### **The Parties**

2. Dr. Voda resides in Oklahoma City, Oklahoma. Dr. Voda is a cardiologist and has been designated a Fellow of the American College of Cardiology.

3. Cordis is a corporation organized under the laws of the State of Florida and has a place of business in Miami, Florida. Cordis is in the business of making and selling medical devices, such as guiding catheters for use in coronary angioplasty.

### **Jurisdiction and Venue**

4. This Court has subject matter jurisdiction over the claims and causes of action asserted in this complaint regarding United States patents pursuant to 28 U.S.C. § 1338. This Court has supplemental jurisdiction over the non-federal claims and causes of action pursuant to 28 U.S.C. §1367(a) because this matter involves the infringement of United States patents and foreign patents that derive from a common nucleus of operative fact.

5. Cordis is subject to personal jurisdiction in this Court by virtue of its actions in at least selling and inducing the use of certain medical products, including catheters, stents and related devices within this judicial district and the State of Oklahoma.

6. Venue is appropriate in this district and division pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district and division.

### **Background**

7. United States Patent No. 5,445,625 ("the '625 Patent") issued on August 29, 1995 by the United States Patent and Trademark Office, based on an application filed by Dr. Voda on June 14, 1994, which claimed priority under 35 U.S.C. § 120 to an application filed on January 23, 1991. Dr. Voda owns the '625 Patent.

8. United States Patent No. 6,083,213 (“the ‘213 Patent”) issued on July 4, 2000 by the United States Patent and Trademark Office, based on an application filed by Dr. Voda on May 13, 1997, which claimed priority under 35 U.S.C. § 120 to an application filed on January 23, 1991. Dr. Voda owns the ‘213 Patent.

9. United States Patent No. 6,475,195 (“the ‘195 Patent”) issued on November 5, 2002 by the United States Patent and Trademark Office, based on an application filed by Dr. Voda on May 1, 2000, which claimed priority under 35 U.S.C. § 120 to an application filed on January 23, 1991. Dr. Voda owns the ‘195 Patent.

10. Canadian Patent No. 2100785 issued on September 14, 1999 by the Canadian Patent Office, based on the PCT application PCT/US1992/000468, Publication No. WO 92/12754, filed by Dr. Voda on January 21, 1992, which claims priority to United States Patent Application No. 07/622,873 filed on January 23, 1991. Dr. Voda owns Canadian Patent No. 2100785.

11. European Patent No. 568624 issued on October 4, 2001 by the European Patent Office, based on the PCT application PCT/US1992/000468, Publication No. 92/12754, filed by Dr. Voda on January 21, 1992, which claimed priority to United States Patent Application No. 07/622,873 filed on January 23, 1991. Dr. Voda owns European Patent No. 568624. European Patent No. 568624 was validated in Great Britain, Germany and France:

- a) British Patent No. 568624GB entered into force on January 1, 2002;
- b) French Patent No. 568624 entered into force on March 8, 2002; and
- c) German Patent No. 69232095 entered into force on June 13, 2002.

12. The foregoing ‘625, ‘213 and ‘195 Patents, Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and

German Patent No. 69232095 (hereinafter, “Patents-in-Suit”) generally relate to guiding catheters for performing angioplasty of the left coronary artery.

13. On March 14, 2002, Dr. Voda contacted Cordis to bring the ‘625 and ‘213 Patents to Cordis’ attention and to alert Cordis that he believed that its marketing of the XB series of guiding catheters infringed at least the ‘213 Patent.

14. A series of correspondence between Dr. Voda and Cordis concluded on June 20, 2002 when Cordis refused to obtain a license or sublicense under the Patents-in-Suit.

### **COUNT I**

#### **Willful Patent Infringement** **(United States Patents)**

15. Dr. Voda realleges, adopts and incorporates by reference the allegations included within paragraphs 1 through 14 above as if they were fully set forth herein.

16. Cordis has commenced and continues acts of making, offering for sale and selling at least the XB guiding catheter, which is covered by the ‘625, ‘213 and ‘195 Patents, without Dr. Voda’s authority. Pursuant to 35 U.S.C. § 271, such acts constitute infringement of the ‘625, ‘213 and ‘195 Patents.

17. Cordis commenced such acts of infringement despite knowledge of the Patents-in-Suit and despite having replicated the teachings of the ‘625, ‘213 and ‘195 Patents.

18. Cordis’ infringement of the ‘625, ‘213 and ‘195 Patents is willful.

19. Dr. Voda has been damaged by Cordis’ making, offering for sale and selling of at least the XB guiding catheter and will continued to be damaged.

**COUNT II**

**Willful Patent Infringement**  
**(Foreign Patents)**

20. Dr. Voda realleges, adopts and incorporates by reference the allegations included within paragraphs 1 through 19 above as if they were fully set forth herein.

21. Cordis has commenced and continues acts of making, offering for sale and selling at least the XB guiding catheter, which is covered by the Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and German Patent No. 69232095 without Dr. Voda's authority. Such acts constitute infringement, under corresponding foreign patent law, of the Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and German Patent No. 69232095.

22. Cordis commenced such acts of infringement despite knowledge of the Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and German Patent No. 69232095 without Dr. Voda's authority, and despite having replicated the teachings of the Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and German Patent No. 69232095.

23. Cordis' infringement of the Canadian Patent No. 2,100,785, European Patent No. 568624, British Patent No. 568624GB, French Patent No. 568624 and German Patent No. 69232095 is willful.

24. Dr. Voda has been damaged by Cordis' making, offering for sale and selling of at least the XB guiding catheter and will continued to be damaged.

**Requested Relief**

WHEREFORE, Plaintiff, Dr. Voda, prays that this Court:

- (a) award Dr. Voda compensatory damages for Cordis' infringement of the Patents-in-Suit;
- (b) award enhanced damages resulting from the knowing, deliberate and willful nature of Cordis' illegal conduct, as provided in 35 U.S.C. § 284;
- (c) award reasonable attorneys' fees incurred by Dr. Voda, as provided in 35 U.S.C. § 285; and
- (d) award to Dr. Voda such other and further relief as this Court deems just and proper.

**Demand for Jury Trial**

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues triable of right by a jury.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2004, copy of the foregoing, Plaintiff's First Amended Complaint was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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