

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

B. BRAUN MELSUNGEN AG &)	
B. BRAUN MEDICAL INC.,)	
)	
Plaintiffs,)	
)	Civil Action No.
v.)	
)	Jury Trial Demanded
TERUMO MEDICAL CORPORATION &)	
TERUMO CORPORATION,)	
)	
Defendants.)	

COMPLAINT

Plaintiffs B. Braun Melsungen AG (“B. Braun”) and B. Braun Medical Inc. (“B. Braun Medical”) for their complaint against Defendants Terumo Medical Corporation (“Terumo Medical”) and Terumo Corporation (“Terumo”) hereby demand a jury trial and allege as follows:

THE PARTIES

1. Plaintiff B. Braun is a German company with its principal place of business at Carl-Braun Strasse 1, 34212 Melsungen, Germany.

2. Plaintiff B. Braun Medical is a corporation organized under the laws of Pennsylvania with its principal place of business at 824 Twelfth Avenue, Bethlehem, Pennsylvania, 18018.

3. Upon information and belief, Defendant Terumo Medical is a corporation organized under the laws of Delaware with its principal place of business at 2101 Cottontail Lane, Somerset, New Jersey 08873.

4. Upon information and belief, Defendant Terumo is a Japanese company with its principal place of business at 44-1, 2-chome, Hatagaya, Shibuya-ku, Tokyo, 151-0072, Japan.

JURISDICTION

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* The Court has personal jurisdiction over Defendant Terumo Medical at least because, on information and belief, Terumo Medical is a Delaware corporation. The Court has personal jurisdiction over Defendants Terumo and Terumo Medical at least because, on information and belief, they have conducted business and sell their products in this District. On information and belief, Terumo and Terumo Medical have committed acts of infringement in this District by advertising, marketing, offering for sale, and selling infringing products in this District.

VENUE

6. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400 because Defendants Terumo Medical and Terumo are subject to personal jurisdiction in this district as alleged in the previous paragraph.

INFRINGEMENT OF U.S. PATENT NO. 7,264,613

7. U.S. Patent No. 7,264,613 (“’613 patent”, Ex. A) was issued on September 4, 2007. The ’613 patent is entitled “Spring Clip Safety IV Catheter” and is assigned to B. Braun. B. Braun has continuously held title in, and B. Braun Medical has had exclusive rights to sell the patented invention in the United States, from issuance of the ’613 patent to the present.

8. Defendants Terumo Medical and Terumo are infringing the ’613 patent through the manufacture, use, sale, offer for sale, and/or importation into the United States of safety IV catheters under the trade name “Surshield® Safety I.V. Catheter.”

9. Defendants Terumo Medical and Terumo will continue to infringe the '613 patent unless enjoined by the Court.

10. Plaintiffs B. Braun and B. Braun Medical have been damaged by Defendants' infringement of the '613 patent, and are suffering and will continue to suffer damage and irreparable harm as a result, unless the Court enjoins Defendants from continuing their activities.

11. Terumo and Terumo Medical were aware of B. Braun Medical's successful implementation of the '613 patent prior to filing suit, and, on information and belief, were aware of the '613 patent itself. Despite this knowledge, Terumo and Terumo Medical launched their infringing "Surshield[®] Safety I.V. Catheter" and attempted to sell it to B. Braun Medical's customers. On information and belief, Terumo's and Terumo Medical's infringement of the '613 patent has been and continues to be willful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. That the '613 patent is valid and has been infringed by Terumo Medical and Terumo;

B. That Terumo Medical and Terumo, each of their officers, agents, and employees, and those persons in active concert or participation with any of them, and their successors and assigns, be preliminarily and permanently enjoined from infringement of the '613 patent, including but not limited to selling or offering for sale the safety IV catheter currently marketed as the Surshield[®] Safety I.V. Catheter, pursuant to 35 U.S.C. § 283;

C. That B. Braun and B. Braun Medical be awarded all damages adequate to compensate them for Terumo Medical's and Terumo's infringement pursuant, such damages to

be determined by a jury and, if necessary to adequately compensate B. Braun and B. Braun Medical for the infringement, an accounting, and that such damages be awarded to B. Braun and B. Braun Medical, together with interest, including prejudgment and postjudgment interest, and costs, pursuant to 35 U.S.C. § 284;

D. That Terumo's and Terumo Medical's infringement of the '613 patent has been and continues to be willful, and awarding B. Braun and B. Braun Medical treble damages in light of Terumo's and Terumo Medical's willful infringement, pursuant to 35 U.S.C. § 284;

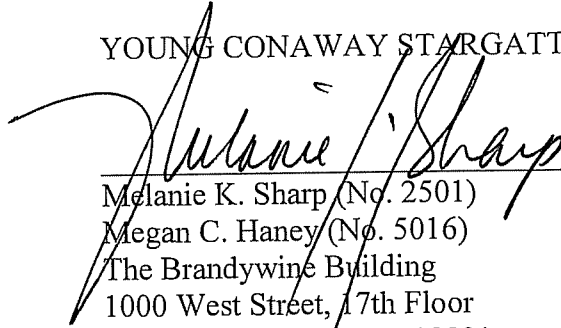
E. That this case is exceptional under 35 U.S.C. § 285 and awarding B. Braun and B. Braun Medical its reasonable attorneys fees, costs, and expenses that it incurs in prosecuting this action; and

F. That B. Braun and B. Braun Medical be awarded such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable of right by a jury.

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