

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

RETRACTABLE TECHNOLOGIES, INC.,
and THOMAS J. SHAW

Plaintiffs,

v.

BECTON DICKINSON AND COMPANY,

Defendant.

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CIVIL ACTION NO. 2:08-cv-141

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Retractable Technologies, Inc. (“Retractable”) and Thomas J. Shaw (“Shaw”) file this action complaining of defendant Becton Dickinson and Company (“BD”), and for causes of action would show as follows:

PARTIES

1. Plaintiff Retractable is a Texas corporation with its principal place of business in Little Elm, Texas, within the Eastern District of Texas. Retractable is a publicly-traded company that employs approximately 150 persons within this District.
2. Plaintiff Shaw is an individual residing in Frisco, Collin County, Texas, which is also within the Eastern District of Texas.
3. Defendant BD is a New Jersey corporation with its principal place of business in Franklin Lakes, New Jersey. BD sells medical devices, including retractable syringes, throughout the United States, including this district.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under the patent laws set forth in Title 35 of the United States Code and in Title 28 of the United States Code, particularly 28 U.S.C. §§ 1331 and 1338(a).
5. This Court has personal jurisdiction over BD because of BD's numerous and extensive contacts with the Eastern District of Texas. BD holds a certificate of authority to transact business in Texas and regularly transacts business within Texas and the Eastern District of Texas. BD has marketed and continues to market its "Integra" 1 cc and 3 cc retracting syringes within Texas and the Eastern District of Texas.
6. BD's commercial activities carried on in Texas and elsewhere throughout the United States have had a substantial, direct and reasonably foreseeable effect on business and commerce in the Eastern District of Texas and on interstate commerce.
7. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c), 28 U.S.C. § 1400(b).

CLAIM I Infringement of U.S. 7,351,224

8. Plaintiff Retractable is the exclusive licensee for, and has the right to sue in its own name on, United States Patent No. 7,351,224 ("the '224 patent"), issued April 1, 2008, a copy of which is attached as Exhibit A. Plaintiff Shaw is the inventor of and owns all right, title, and interest in the '224 patent, subject to the exclusive rights of Retractable. Any maintenance, issue and other fees for the '224 patent have been timely paid and the '224 patent has not been invalidated or found to be unenforceable in any prior litigation.
9. At all times relevant to this action, Retractable and Shaw have complied with the notice provisions of 35 U.S.C. § 287 as it concerns the '224 Patent.

10. BD has directly, indirectly, and/or contributorily infringed the '224 Patent by manufacturing, using, selling, offering for sale and/or importing into the United States retractable syringes covered by the '224 Patent, including the Integra 1 and 3 cc syringes, and has induced and/or contributed to the infringement of the '224 Patent by others in the United States and within this District, and will continue to do so unless enjoined by this Court.

11. No right or license to practice the invention claimed in the '224 patent has been granted to BD.

12. Retractable and Shaw have been damaged by BD's infringement and will be irreparably injured unless the infringement is enjoined by this Court as provided by 35 U.S.C. § 283.

13. Retractable and Shaw are entitled to a permanent injunction preventing BD from continuing to infringe the '224 Patent.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff Retractable Technologies, Inc. and Plaintiff Thomas J. Shaw pray that Defendant Becton Dickinson and Company will be cited to appear and answer herein and for Judgment of this Honorable Court as follows:

- (i) BD be adjudged and decreed to have directly, indirectly, and/or contributorily infringed the '224 Patent;
- (ii) BD be adjudged and decreed to have willfully and deliberately infringed the '224 Patent;
- (iii) BD be ordered to pay actual damages to Retractable and Shaw, but not less than a reasonable royalty, by reason of BD's infringement of the '224 Patent together with prejudgment interest, costs and increased damages pursuant to 35 U.S.C. § 284;

- (iv) A permanent injunction be entered against BD, and its officers, agents, servants and employees, and all entities and individuals acting in concert with them, to permanently restrain any further infringement of the '224 Patent;
- (v) This case be declared an "exceptional case" within the meaning of 35 U.S.C. §285 and reasonable attorneys' fees, costs and treble damages be awarded to Plaintiffs;
- (vi) Granting all such other relief, at law and in equity, to which Plaintiffs are entitled.

JURY DEMAND

Plaintiffs demand a trial by jury as is their right under the Seventh Amendment to the Constitution of the United States or as given by statute. FED. R. CIV. P. 38.

Date: April 1, 2008

Respectfully submitted,

/s/ Roy W. Hardin (by permission Otis Carroll)

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