

The Honorable Thomas S. Zilly

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

KONINKLIJKE PHILIPS ELECTRONICS	)	
N.V. and PHILIPS ELECTRONICS NORTH	)	
AMERICA CORPORATION,	)	No. CV03-1318Z
	)	
Plaintiffs,	)	FIRST AMENDED COMPLAINT FOR
	)	PATENT INFRINGEMENT
v.	)	
	)	<b>JURY DEMAND</b>
ACCESS CARDIOSYSTEMS, INC.,	)	
	)	
Defendant.	)	

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Plaintiffs, Koninklijke Philips Electronics, N.V. (“Royal Philips”), and Philips Electronics North America Corporation (“Philips Electronics”) (together “Plaintiffs” or “Philips”), for their First Amended Complaint against Defendant, Access CardioSystems, Inc. (hereinafter “Access Cardio”), state and allege as follows:

1. Philips incorporates by reference the original Complaint in this case, dated June 19, 2003 (“the original Complaint”), with the exception of paragraphs 7, 12, 30 and 35.

2. Paragraph 26 of the Original Complaint is hereby amended, supplemented and restated as follows: Royal Philips is the owner of the ‘374 Patent, the ‘460 Patent, the ‘879 Patent, the ‘212 Patent, the ‘961 Patent, the ‘993 Patent, the ‘905 Patent, the ‘454 Patent, the ‘927 Patent, the ‘904 Patent, the ‘978 Patent, the ‘612 Patent, the ‘815 Patent and the ‘598 Patent

1 by virtue of an assignment from Heartstream, Inc., to Hewlett Packard Corp., followed by an  
2 assignment from Hewlett Packard Corp. to Agilent Technologies, Inc., followed by an  
3 assignment from Agilent Technologies, Inc., to Royal Philips. Royal Philips is the owner of  
4 United States Patent No. 6,230,054 (“the ‘054 Patent”) and the ‘751 Patent by virtue of an  
5 assignment from Agilent Technologies, Inc., to Royal Philips. The ‘582 Patent was issued  
6 directly to Royal Philips. The aforementioned patents will hereinafter be referred to collectively  
7 as the “Patents-In-Suit.” As the owner of the Patents-In-Suit, Royal Philips is authorized and has  
8 standing to bring legal action to enforce all rights arising under the Patents-In-Suit.

9  
10 3. Paragraph 29 of the Original Complaint is hereby amended, supplemented and  
11 restated as follows: On July 30, 2002, Plaintiffs gave actual notice to Defendant Access Cardio  
12 that its ACCESS AED and ACCESS ALS defibrillator products infringe the ‘454, ‘879, ‘905,  
13 ‘927, ‘212, ‘598, ‘460, and ‘374 patents under 35 U.S.C. § 287.

14 4. On June 19, 2003, Plaintiffs gave actual notice to Defendant Access Cardio that  
15 its ACCESS AED and ACCESS ALS defibrillator products infringe the ‘582, ‘612, ‘751, ‘815,  
16 ‘904, ‘961, ‘978, and ‘993 patents under 35 U.S.C. § 287.

17 5. On May 8, 2001, United States Patent No. 6,230,054 (“the ‘054 Patent”) titled  
18 “Apparatus for Controlling Delivery of Defibrillation Energy” was duly and legally issued to  
19 Agilent Technologies, Inc., as the assignee of inventor Daniel J. Powers. A true and correct copy  
20 of the ‘054 Patent is attached and made a part hereof as Exhibit 1.

21 6. The ‘054 Patent relates generally to a method and apparatus for controlling  
22 delivery of defibrillation energy. Defendant’s defibrillator products, including at least ACCESS  
23 AED and ACCESS ALS defibrillator products, infringe at least one claim of the ‘054 Patent.

24 7. On February 19, 2004, Plaintiffs gave actual notice to Defendant Access Cardio  
25 that its ACCESS AED and ACCESS ALS defibrillator products infringe the ‘054 Patent under  
26 35 U.S.C. § 287.

8. Upon information and belief, Defendant Access Cardio has infringed and is

1 continuing to infringe one or more of the claims of each of the Patents-In-Suit, in violation of 35  
2 U.S.C. § 271, to the damage and injury of Plaintiffs, and will continue to do so unless enjoined.

3 9. Upon information and belief, the acts of infringement by Defendant Access  
4 Cardio are willful, intentional, and in conscious disregard of Plaintiffs' rights under the Patents-  
5 In-Suit.

6 10. As a result of Defendant Access Cardio's infringement of the claims of the  
7 Patents-In-Suit, Defendant has made and will continue to make unlawful gains and profits.  
8 Further, Plaintiffs have been and will continue to be irreparably damaged and deprived of their  
9 rights secured by the Patents-In-Suit due to the unlawful infringement by Defendant.

10 11. Plaintiffs have been and will continue to be deprived of revenue, profit, and gain  
11 that they would otherwise have generated but for such infringement, and Defendant Access  
12 Cardio has caused and will continue to cause losses and damages in amounts that cannot be  
13 determined with specificity except by an accounting, as well as irreparable losses and damages.

14 12. Plaintiffs are entitled to permanent injunctive relief, enjoining Defendant Access  
15 Cardio from further and continuing infringement of the claims of the Patents-In-Suit.

16 **RELIEF REQUESTED**

17 Wherefore, Plaintiffs seek a judgment against Defendant as follows:

- 18 (a) Declaring that Defendant has infringed the Patents-In-Suit;
- 19 (b) Declaring that Defendant has induced infringement and engaged in contributory  
20 infringement of the Patents-In-Suit;
- 21 (c) Awarding the Plaintiffs damages for Defendant's infringement of the Patents-In-  
22 Suit, together with interest;
- 23 (d) Declaring the Defendant's infringement of the Patents-In-Suit is and has been  
24 willful;
- 25 (e) Awarding Plaintiffs treble damages pursuant to 35 U.S.C. § 284 for Defendant's  
26 willful infringement of the Patents-In-Suit;

1 (f) Enjoining Defendant from infringing the Patents-In-Suit in the future, where  
2 appropriate.

3 (g) Declaring that the case is exceptional pursuant to 35 U.S.C. § 285, and awarding  
4 the Plaintiffs attorneys' fees and costs in this action; and

5 (h) Awarding Plaintiffs such other and further relief as the Court may deem just and  
6 proper.

7 **JURY DEMAND**

8 13. Pursuant to Fed. R. Civ. P. 38(b), Philips requests a trial by jury.

9 DATED this 6th day of April, 2004.

10 BYRNES & KELLER LLP

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 6th day of April, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and served a true copy of the foregoing pleading upon the following individuals:

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