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12 Attorneys for Plaintiffs
 13 Abbott Laboratories, Inc. and Abbott Cardiovascular Systems Inc.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

17 _____)
 18 ABBOTT LABORATORIES, INC. and)
 19 ABBOTT CARDIOVASCULAR)
 20 SYSTEMS INC.,)

20 Plaintiffs,)

21 v.)

22 MEDTRONIC, INC. and MEDTRONIC)
 23 VASCULAR, INC.)

24 Defendants.)
 25 _____)

C. A. No. 08-04962 DLJ

FIRST AMENDED COMPLAINT
DEMAND FOR JURY TRIAL

FIRST AMENDED COMPLAINT

1
2 Plaintiffs Abbott Laboratories, Inc. and Abbott Cardiovascular Systems Inc. (“Abbott”), for their
3 First Amended Complaint against Defendants Medtronic, Inc. and Medtronic Vascular, Inc.
4 (collectively, “Medtronic”) allege as follows:

5 **RELATED CASE**

6 1. Plaintiff Abbott Cardiovascular Systems Inc. (formerly Advanced Cardiovascular
7 Systems, Inc.) previously sued Defendant Medtronic, Inc. for infringement of the patent that is the
8 subject of this action in Advanced Cardiovascular Systems, Inc. v. Medtronic, Inc., Case No. 95-
9 03577 DLJ, filed on October 10, 1995.

10 2. Medtronic, Inc. was found to have willfully infringed the patent that is the subject of
11 this action, and was permanently enjoined from infringing the patent that is the subject of this action
12 until October 29, 2008. The term of the patent that is the subject of this action extends, however,
13 beyond October 29, 2008.

14 3. Pursuant to Civil L.R. 3-12, an administrative motion was filed in the 95-03577 action
15 (Dkt. #706), asking the Court to consider whether the action that is the subject of this Complaint
16 should be treated as a related case to the 95-03577 action.

17 **THE PARTIES**

18 4. Plaintiff Abbott Laboratories, Inc. is a Delaware Corporation with its principal place
19 of business at 100 Abbott Park Road, Abbott Park, Illinois 60064.

20 5. Plaintiff Abbott Cardiovascular Systems Inc. is a California corporation with its
21 principal place of business at 3200 Lakeside Drive, Santa Clara, California.

22 6. On information and belief, defendant Medtronic, Inc. is a Minnesota corporation with
23 its principal place of business in Minneapolis, Minnesota.

24 7. On information and belief, defendant Medtronic Vascular, Inc. is a Delaware
25 corporation with its principal place of business in Santa Rosa, California.

26 8. On information and belief, Medtronic, Inc. and Medtronic Vascular, Inc. (collectively
27 “Medtronic”) are engaged in the marketing, distribution, and/or selling of interventional medical
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1 devices, including balloon dilatation catheters, coronary stent systems, and drug-eluting stent systems
2 in the United States.

3 **BACKGROUND**

4 9. On September 19, 1995, United States Patent No. 5,451,233, titled “Angioplasty
5 Apparatus Facilitating Rapid Exchanges” (“the 233 patent”) was duly and legally issued to Dr. Paul
6 G. Yock. A copy of the 233 patent is attached to this Complaint as Exhibit A.

7 10. Abbott Cardiovascular Systems Inc. has an exclusive license under the rights, interest
8 and legal title to the 233 patent, including the right to bring this suit for past and future infringement.

9 **JURISDICTION AND VENUE**

10 11. This is an action for patent infringement arising under the United States Patent Laws,
11 35 U.S.C. § 101 et seq.

12 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

13 13. Personal jurisdiction exists over defendant Medtronic Vascular, Inc., which is a
14 corporation with its principal place of business within this judicial district.

15 14. Personal jurisdiction exists over defendants because they have continuous systematic,
16 and substantial contacts with the State of California, including with respect to the marketing,
17 distribution, and selling interventional medical devices, including balloon dilatation catheters,
18 coronary stent systems, and drug-eluting stent systems in the State of California, and within this
19 judicial district. In addition, this lawsuit arises from the defendants’ patent infringement activities
20 believed to be directed towards the State of California, and within this judicial district.

21 15. Abbott is informed and believes, and on that basis alleges, that Medtronic routinely
22 sells interventional medical devices, including balloon dilatation catheters, coronary stent systems,
23 and drug-eluting stent systems in California and within this judicial district and that, over the last
24 several years Medtronic has generated significant revenues from the sales of its products in
25 California.

26 16. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400.

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COUNT I

INFRINGEMENT OF U.S. PATENT NO. 5,451,233

17. Abbott incorporates by reference the allegations set forth in paragraphs 1-16 above as though fully set forth herein.

18. Abbott is informed and believes, and on that basis alleges, that Medtronic is manufacturing, using, selling, offering for sale, and/or importing rapid exchange interventional medical devices, including but not limited to the Endeavor® Zotarolimus-Eluting Coronary Stent on the Rapid Exchange Stent Delivery System (“Endeavor RX”) and/or Endeavor Sprint Drug-Eluting Stent (DES) on a Rapid Exchange (RX) Delivery System, and/or Driver™ Rapid Exchange Coronary Stent System (“Driver RX”), which infringe one or more of claims 1-3 of the 233 patent, either directly, contributorily, by inducement, or otherwise in violation of 35 U.S.C. § 271.

19. Medtronic has been and continues to be aware of the 233 patent; nevertheless, Medtronic continues its infringing activities in willful disregard of Abbott’s rights in the 233 patent and will continue to do so unless enjoined by this Court.

20. As a result of the aforementioned actions of Medtronic, Abbott has suffered and continues to suffer damages and has been and continues to be irreparably injured.

21. Abbott is informed and believes, and on that basis alleges, that Medtronic is engaging in willful, deliberate and reckless infringement of the 233 patent which justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and, further qualifies this as an exceptional case supporting the award of reasonable attorneys’ fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Abbott respectfully requests the Court to enter judgment in favor of Abbott and against Medtronic to include:

A. A declaration that Medtronic, Inc.’s and Medtronic Vascular, Inc.’s manufacture, use, importation, offer for sale, and/or sale of certain rapid exchange interventional medical devices, including but not limited to the Endeavor RX and/or Driver RX, infringes claim 1, 2, and/or 3 of the 233 patent.

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1 B. A declaration that such infringement has been willful and with full knowledge of the
2 233 patent.

3 C. A permanent injunction preventing Medtronic, Inc. and Medtronic Vascular, Inc., and
4 any affiliated entities, and their officers, agents, attorneys, and employees, and those acting in privity
5 or concert with them, from:

6 1. manufacturing, using, offering to sell, or selling within the United States, or
7 importing into the United States certain rapid exchange interventional medical devices, including but
8 not limited to the Endeavor RX and/or Driver RX, and any colorable variation thereof that infringes
9 claim 1, 2, and/or 3 of the 233 patent, until the expiration of the 233 patent; and

10 2. any other activity with respect to those certain rapid exchange interventional
11 medical devices, including but not limited to the Endeavor RX and/or Driver RX, and any colorable
12 variation thereof, that would constitute infringement of claim 1, 2, and/or 3 of the 233 patent, until the
13 expiration of the 233 patent.

14 D. Damages for infringement, with interest and trebled, pursuant to 35 U.S.C. § 284.

15 E. Costs and expenses in this action.

16 F. A declaration that this is an exceptional case, and an award to Abbott of its attorneys'
17 fees, disbursements, and costs pursuant to 35 U.S.C. § 285 or other applicable law, in connection
18 with this action.

19 G. Any such further relief as this Court may deem just and proper.

20
21 Respectfully submitted,

22 McANDREWS, HELD & MALLOY, LTD.

23
24 Dated: November 13, 2008

25 /s/ Edward A. Mas II

26 Edward A. Mas II (*Pro Hac Vice*)

27 Attorneys for Plaintiffs

28 Abbott Laboratories, Inc.

Abbott Cardiovascular Systems Inc.

DEMAND FOR JURY TRIAL

Plaintiffs respectfully demand a jury trial on all issues so triable.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Dated: November 13, 2008

/s/ Edward A. Mas II

Edward A. Mas II (*Pro Hac Vice*)

Attorneys for Plaintiffs

Abbott Laboratories, Inc.

Abbott Cardiovascular Systems Inc.