

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

PRESSURE PRODUCTS MEDICAL  
SUPPLIES, INC.

Plaintiff,

v.

GREATBATCH LTD. D/B/A ENPATH  
MEDICAL, INC.

Defendant.

**Case No.: 9:06-cv-121**

**SECOND AMENDED  
COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

**Judge Ron Clark**

**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Pressure Products Medical Supplies, Inc. (“Pressure Products”), by and through its attorneys, complains against Defendant Greatbatch Ltd. d/b/a Enpath Medical, Inc. (“Greatbatch”) as follows:

**JURISDICTION AND VENUE**

1. This is an action for patent infringement arising under the United States Patent Laws, 35 U.S.C. § 101, et seq. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. The Court has personal jurisdiction over Greatbatch because Greatbatch has committed acts within Texas and this judicial district which give rise to this action and Greatbatch has established minimum contacts with the forum such that the exercise of jurisdiction over Greatbatch would not offend traditional notions of fair play and substantial justice.

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because Greatbatch has committed acts within this judicial district giving rise to this action.

**THE PARTIES**

4. Plaintiff Pressure Products is a corporation organized and existing under the laws of the state of Wyoming with its principal place of business at 3445 Arrowleaf Lane, Wilson, Wyoming 83014.

5. Pressure Products is informed and believes, and based thereon alleges, that Greatbatch is now, and at all times herein mentioned was, a corporation organized and existing under the laws of the state of New York with its principal place of business at 10000 Wehrle Drive, Clarence, New York.

**FACTS**

6. On June 30, 1992, the United States Patent and Trademark Office duly and lawfully issued United States Patent No. 5,125,904, entitled “Splittable Hemostatic Valve and Sheath and the Method for Using the Same” (“the ‘904 patent”). A copy of the ‘904 patent is attached hereto as Exhibit 1(a). On January 30, 1996, the United States Patent and Trademark Office duly and lawfully issued a Certificate of Correction for the ‘904 patent. A copy of the Certificate of Correction for the ‘904 patent is attached hereto as Exhibit 1(b). On November 19, 1996, the United States Patent and Trademark Office duly and lawfully issued a Reexamination Certificate for the ‘904 patent. A copy of the Reexamination Certificate for the ‘904 patent is attached hereto as Exhibit 1(c). The ‘904 patent, the Certificate of Correction for the ‘904 patent and the Reexamination Certificate for the ‘904 patent are hereinafter referred to collectively as “the ‘904 patent.”

7. On May 17, 1994, the United States Patent and Trademark Office duly and lawfully issued United States Patent No. 5,312,355 (“the ‘355 patent”), entitled “Splittable Hemostatic Valve and Sheath and the Method for Using the Same.” A copy of the ‘355 patent is attached hereto as Exhibit 2.

8. Pressure Products is the exclusive licensee of all rights, title and interest in the ‘904 patent and the ‘355 patent (collectively, the “Pressure Products Patents”).

9. Greatbatch designs, manufactures, uses, sells, offers to sell and/or markets certain valved introducer products, including the FlowGuard Valved Peelable Introducer, ViaSeal

Valved Peelable Introducer and OptiSeal Valved Peelable Introducer, to one or more different companies, to be resold under one or more different product names.

10. Pressure Products is informed and believes, and thereon alleges, that with knowledge of Pressure Products' rights in the Pressure Products Patents, Greatbatch is and has been infringing, contributing to the infringement of, and inducing others to infringe one or more claims of the Pressure Products Patents through the unauthorized manufacture, use, sale and offering for sale of valved introducer products, including the FlowGuard Valved Peelable Introducer, ViaSeal Valved Peelable Introducer and OptiSeal Valved Peelable Introducer, throughout the United States, including in this judicial district. Additionally, Pressure Products is informed and believes, and thereon alleges, that Greatbatch has in the past and still is infringing, contributing to the infringement of and inducing others to infringe the Pressure Products Patents by the unauthorized sale and offer for sale of valved introducer products through intermediaries to customers in the United States, including in this judicial district.

11. Pressure Products is informed and believes, and thereon alleges, that the OptiSeal Valved Peelable Introducer was developed and made publicly available by Greatbatch prior to obtaining any opinion of counsel with respect to whether the OptiSeal Valved Peelable Introducer infringed the Pressure Product Patents.

12. Pressure Products is informed and believes, and thereon alleges, that Greatbatch did not obtain any opinion of counsel with respect to whether the OptiSeal Valved Peelable Introducer infringed the Pressure Product Patents subsequent to the Federal Circuit's affirmation of the validity of the Pressure Product Patents in *Pressure Products Medical Supplies, Inc. v. Greatbatch Ltd.*, 599 F.3d 1308 (Fed. Cir. 2010).

13. Pressure Products is informed and believes, and thereon alleges, that the OptiSeal Valved Peelable Introducer is nothing more than a colorable imitation of the FlowGuard Valved Peelable Introducer and ViaSeal Valved Peelable Introducer.

14. Pressure Products is informed and believes, and thereon alleges, that the OptiSeal Valved Peelable Introducer is interchangeable with Pressure Products' SafeSheath Valved Peelable Introducer for use as a medical introducer.

15. Pressure Products is informed and believes, and thereon alleges, that Greatbatch developed the OptiSeal Valved Peelable Introducer and made the OptiSeal Valved Peelable Introducer publicly available despite an objectively high likelihood that its actions constituted infringement of the valid Pressure Product Patents, and this objectively defined risk was either known or so obvious that it should have been known to Greatbatch.

**FIRST CAUSE OF ACTION**

INFRINGEMENT OF THE '904 PATENT

(35 U.S.C. § 271)

16. Pressure Products repeats, realleges, and incorporates by reference, as though fully set forth herein, the allegations set forth in paragraphs 1 through 15.

17. Greatbatch has directly and contributorily infringed, and has induced others to infringe, at least claims 1-11 and 20-26 of the '904 patent by the unauthorized manufacture, use, offering to sell and/or sale of the FlowGuard Valved Peelable Introducer, ViaSeal Valved Peelable Introducer and OptiSeal Valved Peelable Introducer (as illustrated in Exhibits 3, 3(a), 3(b) and 3(c)) within the United States, including this judicial district.

18. On information and belief, Greatbatch is and has been willfully infringing one or more claims of the '904 patent by its unauthorized manufacture, use, offering to sell and/or sale of the OptiSeal Valved Peelable Introducer.

19. As a result of Greatbatch's infringement of the '904 patent, Pressure Products has suffered irreparable harm for which Pressure Products has no adequate remedy at law. Unless enjoined by this Court, Greatbatch's infringement of the '904 patent will continue and will result in further irreparable harm to Pressure Products.

20. Pressure Products is entitled to recover damages from Greatbatch adequate to compensate for the infringement.

**SECOND CAUSE OF ACTION**

INFRINGEMENT OF THE '355 PATENT

(35 U.S.C. § 271)

21. Pressure Products repeats, realleges, and incorporates by reference, as though fully set forth herein, the allegations set forth in paragraphs 1 through 15.

22. Greatbatch has directly and contributorily infringed, and has induced others to infringe, at least claims 1, 2, 4, 5, 7, 11, 19-21, 23-25 and 29 of the '355 patent by the unauthorized manufacture, use, offering to sell and/or sale of the FlowGuard Valved Peelable Introducer, ViaSeal Valved Peelable Introducer and OptiSeal Valved Peelable Introducer (as illustrated in Exhibits 4, 4(a), 4(b) and 4(c)) within the United States, including this judicial district.

23. On information and belief, Greatbatch is and has been willfully infringing one or more claims of the '355 patent by its unauthorized manufacture, use, offering to sell and/or sale of the OptiSeal Valved Peelable Introducer.

24. As a result of Greatbatch's infringement of the '355 patent, Pressure Products has suffered irreparable harm for which Pressure Products has no adequate remedy at law. Unless enjoined by this Court, Greatbatch's infringement of the '355 patent will continue and will result in further irreparable harm to Pressure Products.

25. Pressure Products is entitled to recover damages from Greatbatch adequate to compensate for the infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Pressure Products respectfully requests the following relief:

(a) That this Court adjudge and decree that Greatbatch has been and is currently infringing, inducing others to infringe, and committing acts of contributory infringement with respect to the '904 patent and the '355 patent;

(b) That this Court enter an order that Greatbatch and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with Greatbatch, be preliminarily and permanently enjoined from infringing, inducing others to

infringe, and committing acts of contributory infringement with respect to the '904 patent and the '355 patent;

(c) That this Court award damages to Pressure Products to compensate it for each of the unlawful actions set forth in Pressure Products' Complaint;

(d) That this Court award interest on such damages to Pressure Products;

(e) That this Court treble the damages awarded to Pressure Products pursuant to 35 U.S.C. § 284 and 15 U.S.C. § 15(a) as a consequence of Greatbatch's willful infringement of the '904 patent and the '355 patent;

(f) That this Court determine that this patent infringement case is exceptional and award Pressure Products its costs and attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285; and



**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Pressure Products respectfully requests a trial by jury on all issues triable thereby.

DATED: June 25, 2010

Respectfully Submitted,

By:           /s/ Richard H. Zaitlen          

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Attorneys for Plaintiff  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, Local Rule CV-5(a)(3)(A), on this the 25<sup>th</sup> day of June, 2010.

/s/ Richard H. Zaitlen