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Attorneys for Plaintiffs
Wyeth and Cordis Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

_____)	
WYETH)	
)	
and)	
)	Civil Action No. 3:07-cv-05636-JAP-TJB
CORDIS CORPORATION,)	
)	FIRST AMENDED COMPLAINT AND
Plaintiffs,)	DEMAND FOR JURY TRIAL
)	
vs.)	<i>Document Filed Electronically</i>
)	
)	
ABBOTT LABORATORIES and ABBOTT)	
CARDIOVASCULAR SYSTEMS, INC.,)	
)	
Defendants.)	
_____)	

Plaintiffs Wyeth and Cordis Corporation (collectively "Plaintiffs"), by their attorneys, allege as follows:

THE PARTIES

1. Plaintiff Wyeth, Five Giralda Farms, Madison, New Jersey is a Delaware Corporation with a place of business in Madison, New Jersey. Wyeth is a global leader in

developing pharmaceutical drugs and treatments, and has developed and continues to develop innovative treatments across a wide range of therapeutic areas.

2. Plaintiff Cordis Corporation ("Cordis"), 33 Technology Drive, Warren, New Jersey, is a Florida corporation with a principal place of business in Warren, New Jersey. Cordis also has facilities in Clark, New Jersey. Cordis is a pioneer in developing invasive treatments for vascular disease, including the CYPHER[®] drug-eluting stent, a drug/device combination for the treatment of coronary artery disease.

3. Upon information and belief, Defendant Abbott Laboratories, 100 Abbott Park Road, North Chicago, IL 60064, is an Illinois corporation with a principal place of business in Illinois. Upon information and belief, Defendant Abbott Cardiovascular Systems, Inc. is a corporation organized under the laws of the State of California and has a principal place of business at 3200 Lakeside Drive, Santa Clara, California. Upon information and belief, Abbott Cardiovascular Systems is a subsidiary of Abbott Laboratories. Abbott Laboratories and Abbott Cardiovascular Systems, Inc. will be collectively referred to herein as "Abbott."

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over Plaintiffs' patent infringement claims under 28 U.S.C. § 1331 and 1338(a).

5. This Court has personal jurisdiction over Abbott. On information and belief, Abbott has systematic and continuous contacts in this judicial district, regularly transacts business within this judicial District, and regularly avails itself of the benefits of this judicial District. For example, Abbott is registered to do business in New Jersey, and has facilities located in this District, including in East Windsor, Cranbury, South Brunswick, Edison, Whippany, and Parsippany, New Jersey. On information and belief, Abbott also has numerous employees in this District, derives substantial revenues from its business operations and sales in this district, and pays taxes in New Jersey based on revenue generated in this District. On information and belief, Abbott also sells and distributes medical devices in this District, including vascular devices.

6. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

FACTUAL ALLEGATIONS

7. Abbott is the manufacturer of a drug-eluting stent named XIENCE V Everolimus Eluting Coronary Stent System ("XIENCE V stent"). Abbott has manufactured thousands of XIENCE V stents in the United States for sale in Europe and Asia. Abbott launched the XIENCE V stent in Europe and Asia in 2006.

8. On November 27, 2007, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 7,300,662, entitled "Drug/Drug Delivery Systems for the Prevention and Treatment of Vascular Disease" (the "'662 patent"). The '662 patent issued to Falotico et al., and is co-owned by Cordis and Wyeth. Cordis and Wyeth hold all right, title and interest in and to the '662 patent.

9. Abbott has been and is performing acts covered by the claims of the '662 patent, including making and/or using the XIENCE V stent in the United States for sale in Europe and Asia.

10. At present, only two companies market drug-eluting stents in the United States – Cordis and Boston Scientific Corporation. Abbott has publicly announced that it plans to seek approval from the United States Food and Drug Administration in the second quarter of 2007 to sell the XIENCE V stent in the United States. Abbott has also publicly announced that, assuming it receives regulatory approval, it plans to launch the XIENCE V stent in the United States in the first half of 2008. Upon its launch in the United States, the XIENCE V stent will compete directly with Cordis's CYPHER stent, reducing Cordis's market share, impairing customer good will, and causing irreparable harm to Cordis.

11. This action is related to Case Nos. 3:07-cv-02265-JAP-TJB, 3:07-cv-02477-JAP-TJB, and 3:07-cv-02728-JAP-TJB, which were filed on May 15, 2007, May 29, 2007, and June 12, 2007 respectively, in this judicial district by Cordis against Abbott. In those actions, Cordis alleged that Abbott was liable for infringement of other Cordis patents

(specifically U.S. Patent No. 7,217,286, U.S. Patent No. 7,223,286, and U.S. Patent No. 7,229,473) by making and/or using the XIENCE V stent in the United States. This action is also related to Case No. 3:08-cv-00230-JAP-JJH, which was filed on January 11, 2008 in this judicial district by Plaintiffs against Abbott. In that action, Plaintiffs alleged that Abbott was liable for infringement of U.S. Patent No. 5,516,781, U.S. Patent No. 5,563,146, and U.S. Patent No. 5,665,728 by making and/or using the XIENCE V stent in the United States.

COUNT I: INFRINGEMENT OF THE '662 PATENT

12. Plaintiffs reallege paragraphs 1-11 above as if fully set forth herein.

13. Abbott is infringing the '662 patent in violation of 35 U.S.C. § 271, including by making and/or using the XIENCE V stent in the United States.

14. Abbott had and has actual notice of the '662 patent, and is infringing the '662 patent with knowledge of Plaintiffs' patent rights. Abbott's actions are willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against Abbott:

1. For judgment in favor of Plaintiffs that Abbott is infringing Plaintiffs' patent;

2. For a permanent injunction pursuant to 35 U.S.C. § 283 prohibiting Abbott from making, using, selling, or offering for sale the infringing products in the United States;

3. For an award of damages for Abbott's infringement of Plaintiffs' patent, together with interest (both pre-and post-judgment), costs, and disbursements as fixed by this Court under 35 U.S.C. § 284;

4. For a determination that Abbott's infringement is willful, and an award of treble the amount of damages and losses sustained by Plaintiffs as a result of Abbott's infringement, under 35 U.S.C. § 284;

5. For a determination that this is an exceptional case within the meaning of 35 U.S.C. § 285, and an award to Plaintiffs of its reasonable attorneys' fees; and

6. For such other and further relief in law or in equity to which Plaintiffs may be justly entitled.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury of any and all issues triable of right before a jury.

Dated: February 8, 2008.

By:

s/Donald A. Robinson
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