

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

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WISCONSIN ALUMNI RESEARCH	:	
FOUNDATION,	:	
a Wisconsin corporation,	:	
	:	Civ. Action No. 11-CV-785
Plaintiff,	:	
	:	COMPLAINT FOR
v.	:	PATENT INFRINGEMENT
	:	
SIEMENS AG	:	JURY TRIAL REQUESTED
a German corporation,	:	
- and -	:	
SIEMENS MEDICAL SOLUTIONS USA, Inc.,	:	
a Delaware corporation,	:	
	:	
Defendants.	:	
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Plaintiff Wisconsin Alumni Research Foundation (“WARF”), for its Complaint against Defendants Siemens AG and Siemens Medical Solutions USA, Inc. (collectively “Siemens” or “Defendants”), states and alleges as follows:

PARTIES

1. Plaintiff WARF is a not-for-profit Wisconsin corporation having its principal place of business at 614 Walnut Street, Madison, Wisconsin 53726. WARF is the designated patent management organization for the University of Wisconsin-Madison (“UW-Madison”).

2. Defendant Siemens AG is a German corporation with its principal executive offices at Wittelsbacherplatz 2, D-80333 Munich, Germany.

3. Defendant Siemens Medical Solutions USA, Inc. is a Delaware corporation with its principal place of business at 51 Valley Stream Parkway, Malvern, Pennsylvania 19355.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Acts of Congress relating to patents (35 U.S.C. § 1, *et seq.*). This Court has subject matter jurisdiction under the provisions of Title 28 United States Code §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over the Defendants because Siemens does business in this District and does business in the State of Wisconsin, offers its products for sale in this District, has committed and contributed to and continues to commit and contribute to, and has induced and continues to induce acts of patent infringement in this District as alleged in this Complaint. Siemens has also had regular contact with WARF and its designees.

6. Venue in this District is proper. Defendants are properly within this District under the provisions of Title 28 United States Code § 1391 and § 1400(b). In addition, WARF resides in this District, Defendants have committed acts within this District giving rise to this action, and Defendants have and continue to conduct business in this District, including one or more acts of selling, using, importing, and/or offering for sale infringing products or providing services and support to Defendants' customers in this District.

BACKGROUND

7. Plaintiff WARF is the lawful owner of U.S. Patent No. 5,713,358 (the “’358 patent”), which was duly and legally issued by the United States Patent and Trademark Office on February 3, 1998. The ’358 patent was duly and legally issued to WARF, as assignee of the inventors Charles A. Mistretta, Frank R. Korosec, Thomas M. Grist, Richard Frayne, and Jason A. Polzin.

8. The '358 patent is titled "Method for producing a time-resolved series of 3D magnetic resonance angiograms during the first passage of contrast agent." A copy of the '358 patent is attached hereto as Exhibit A.

9. As the lawful owner of the '358 patent, WARF owns all rights, title, and interests in the '358 patent, including the exclusive right under the patent laws of the United States to exclude others from making, using, offering for sale, selling, or importing its patented invention, including the right to bring this action for injunctive relief, an accounting, and damages.

10. Siemens has knowledge of the '358 patent.

11. Siemens and WARF have met and discussed licensing the '358 patent on multiple occasions, including meetings at WARF's offices in Madison, Wisconsin.

12. On each occasion that the parties discussed licensing, Siemens did not take a license to the '358 patent.

COUNT I – PATENT INFRINGEMENT OF U.S. PATENT NO. 5,713,358

13. WARF repeats and realleges the allegations set forth in paragraphs 1-12.

14. Siemens has infringed and continues to infringe at least claims 1-16, 18-19, and 22-23 of the '358 patent by making, using, selling and offering to sell and/or importing certain magnetic resonance products including, but not limited to, the *syngo* TWIST product within this District and elsewhere in the United States.

15. By making, using, selling and offering to sell and/or importing into the United States infringing products and by utilizing methods within the scope of at least claims 1-16, 18-19, and 22-23 of the '358 patent, Siemens infringes the '358 patent directly, contributorily, and/or through inducement under 35 U.S.C. § 271(a), (b) and (c), literally or under the doctrine of equivalents.

16. Siemens has actual knowledge of the '358 patent and actual knowledge that its activities constitute both direct or indirect infringement of at least claims 1-16, 18-19, and 22-23 of the '358 patent and has not ceased its infringing activities.

17. Siemens actively and intentionally induces the infringement under Title 35 United States Code § 271(b) of at least claims 1-16, 18-19, and 22-23 of the '358 patent. Upon information and belief, and not by way of limitation, the *syngo* TWIST product has been used by purchasers and end-users to directly infringe at least claims 1-16, 18-19, and 22-23 of the '358 patent. Siemens has intentionally and actively induced purchasers and users of the *syngo* TWIST product to directly infringe the '358 patent by providing manuals, written instructions, and other printed materials in the United States, as well as providing training and instruction in the United States in the use of the *syngo* TWIST product in a manner that infringes at least claims 1-16, 18-19, and 22-23 of the '358 patent.

18. Siemens was aware of the '358 patent when it developed and marketed the *syngo* TWIST product, which is covered by at least claims 1-16, 18-19, and 22-23 of the '358 patent. Siemens disregarded an objectively high likelihood that the making, using, selling, and offering to sell the *syngo* TWIST product infringed the '358 patent. Siemens' infringement is deliberate, intentional, willful and wanton, and will continue.

19. Siemens engaged in the foregoing conduct with respect to the '358 patent during the term of the patent and without authority from WARF.

20. Siemens will not stop making, using, selling or offering to sell the inventions of the '358 patent to avoid infringing the patent.

21. WARF has suffered economic harm as a result of Siemens' infringement in an amount to be proven at trial.

22. If Siemens' conduct is not enjoined, WARF will suffer irreparable harm that cannot be compensated by monetary damages.

RELIEF REQUESTED

WHEREFORE, Plaintiff WARF requests that the Court enter a judgment in WARF's favor and against Siemens, and provide WARF the following relief:

A. Order, adjudge and decree that Siemens has infringed the '358 patent in violation of Title 35 United States Code § 271, *et seq.*;

B. Issue permanent injunctive relief, as appropriate, prohibiting Siemens and its parents, subsidiaries, principals, officers, directors, agents, attorneys, employees, and all others in privity with it from infringing, inducing others to infringe, or contributing to the infringement of the '358 patent, pursuant to Title 35 United States Code § 283;

C. Award WARF its damages for patent infringement and prejudgment interest and costs against Siemens pursuant to Title 35 United States Code § 284;

D. Award WARF post-judgment equitable accounting of damages for the period of infringement of the '358 patent following the period of damages established by WARF at trial;

E. Order, adjudge, and decree that infringement by Siemens of the '358 patent has been deliberate, willful, and wanton;

F. Order, adjudge, and decree that infringement by Siemens of the '358 patent has been exceptional under Title 35 United States Code § 285;

G. Trebling of said damage award under Title 35 United States Code § 284;

H. Award WARF its reasonable attorneys' fees under Title 35 United States Code § 285;

I. Award WARF its costs and expenses in this action; and

J. Award such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff WARF requests a trial by jury.

Dated: November 21, 2011

Respectfully submitted,

s/Michael J. Modl

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