

Plaintiff C. R. Bard, Inc. (“Bard” or “Plaintiff”) hereby demands a jury trial and alleges the following against Defendant Medical Components, Inc.:

THE PARTIES

1. C. R. Bard, Inc. is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business located at 730 Central Avenue, Murray Hill, New Jersey, 07974.

2. On information and belief, Medical Components, Inc. (“Defendant”) is a corporation organized under the laws of the State of Pennsylvania and has its principal place of business at 1499 Delp Dr., Harleysville, Pennsylvania, 19438. Defendant makes, sells, offers for sale, and/or uses medical products, including implantable port products throughout the United States, including within this District.

3. On information and belief, Defendant operates a warehousing, inventory control, and shipping facility located at 5570 W. 1730 South, Building 1, Suite 400, Salt Lake City, Utah 84104.

JURISDICTION AND VENUE

4. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271, which gives rise to the remedies specified under 35 U.S.C. §§ 281 and 283-285.

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

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400.

THE PATENTS-IN-SUIT

7. On May 24, 2011, the United States Patent and Trademark Office (the “PTO”) duly and legally issued U.S. Patent No. 7,947,022 (“the ’022 patent”), entitled “Access Port

Identification Systems and Methods.” A true and accurate copy of the ’022 patent is attached hereto as Exhibit 1.

8. On August 31, 2010, the PTO duly and legally issued U.S. Patent No. 7,785,302 (“the ’302 patent”) entitled “Access Port Identification Systems and Methods.” A true and accurate copy of the ’302 patent is attached hereto as Exhibit 2.

9. On June 14, 2011, the PTO duly and legally issued U.S. Patent No. 7,959,615 (“the ’615 patent”) entitled “Access Port Identification Systems and Methods.” A true and accurate copy of the ’615 patent is attached hereto as Exhibit 3.

10. C. R. Bard, Inc. is the owner by assignment of the ’022 patent, the ’302 patent, and the ’615 patent (collectively, “the Asserted Patents”).

FIRST CAUSE OF ACTION

(Patent Infringement of the ’022 Patent)

11. Plaintiff realleges and incorporates paragraphs 1-10 as though fully set forth herein.

12. Defendant has infringed, and continues to infringe, literally or under the doctrine of equivalents, the ’022 patent by making, using, selling, offering for sale within the United States, and/or importing into the United States, products that are covered by one or more claims of the ’022 patent. Such products include implantable port products including, for example, Pro-Fuse CT and Dignity port products.

13. In addition to directly infringing the ’022 patent, Defendant has indirectly infringed and continues to indirectly infringe the ’022 patent, including by actively inducing others to directly infringe the ’022 patent in violation of 35 U.S.C. § 271(b).

14. Defendant has had knowledge of the ’022 patent since no later than January 11, 2012, by virtue of Plaintiff’s filing of the Original Complaint in this action.

15. Despite Defendant's knowledge of the '022 patent, and Defendant's infringement thereof, Defendant has continued making, using, selling, and offering for sale in the United States and/or importing into the United States products that are covered by one or more claims of the '022 patent. Such products include implantable port products, including, for example, Pro-Fuse CT and Dignity port products. Defendant's infringement of the '022 patent has been and continues to be willful and deliberate. Defendant's willful and deliberate infringement entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

16. Despite Defendant's knowledge of the '022 patent, as well as Plaintiff's allegations of infringement in its Original Complaint, Defendant has actively induced and continues to actively induce others to make, use, sell, and/or offer to sell in the United States, and/or import into the United States, products that are covered by one or more claims of the '022 patent. Such products include implantable port products, including, for example, Pro-Fuse CT and Dignity port products.

17. For example, in addition to Defendant's own direct infringement of the '022 patent, Defendant's customers, including radiologists, physicians, nurses, surgeons, medical technicians, and other medical professionals, on information and belief, are directly infringing the '022 patent through their use of products that are covered by one or more claims of the '022 patent, including, for example, the Pro-Fuse CT and Dignity port products.

18. On information and belief, Defendant has knowingly induced such infringement of the '022 patent and has done so with specific intent to induce such infringement, including through activities relating to marketing, advertising, promotion, support, and distribution of the Pro-Fuse CT and Dignity port products.

19. For example, Defendant provides materials that instruct its customers on how to use the Pro-Fuse CT and Dignity port products, including, for example Defendant's "Instructions for Use." The "Instructions for Use" state that Defendant's "Power Injectable Implantable Infusion Port is an implantable access device designed to provide repeated access to the vascular system" and "[w]hen used with a power injectable needle, the Power Injectable Implantable Infusion Part device is indicated for power injection of contrast media."

20. Defendant further provides instructions to its customers for implantation of its power ports and "Instructions for Power Injection System Access," which inform its customers on how to use Defendant's Pro-Fuse CT and Dignity port products for power injection.

21. Moreover, Defendant markets its "Power Injectable Implantable Infusion Ports" to its customers as able to "be identified by the letters 'CT' under radiographic imaging."

22. Defendant actively publicizes such promotional and instructional materials for products including the Pro-Fuse CT and Dignity port products through numerous means, including through its website <http://www.medcompnet.com/>. Specific examples of these materials can be found in Defendant's website at: <http://www.medcompnet.com/products/ports/>, http://www.medcompnet.com/products/ports/pro-fuse_ct_ports.html, http://www.medcompnet.com/products/ports/pro-fuse_ct_ports.html#brochures, http://www.medcompnet.com/products/ports/dignity_ct_ports.html, http://www.medcompnet.com/products/ports/dignity_ct_ports.html#brochures, http://www.medcompnet.com/products/ports/dignity_mini.html, http://www.medcompnet.com/products/ports/dignity_mini.html#brochures.

23. Defendant's direct and indirect infringement of the '022 patent has been and continues to be willful and deliberate. Despite Defendant's knowledge of the '022 patent, and

Defendant's infringement thereof, Defendant has continued making, using, selling, and offering for sale in the United States and/or importing into the United States products that are covered by one or more claims of the '022 patent. Such products include implantable port products, including, for example, Pro-Fuse CT and Dignity port products. Defendant's willful and deliberate infringement entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

24. Unless and until enjoined by this Court, Defendant will continue to willfully infringe the '022 patent, both directly and indirectly. Defendant's infringement is causing and will continue to cause Plaintiff irreparable harm, for which there is no adequate remedy at law. Under 35 U.S.C. § 283, Plaintiff is entitled to a permanent injunction against further infringement.

SECOND CAUSE OF ACTION

(Patent Infringement of the '302 Patent)

25. Plaintiff realleges and incorporates paragraphs 1-24 as though fully set forth herein.

26. Defendant has infringed, and continues to infringe, literally or under the doctrine of equivalents, the '302 patent by making, using, selling, offering for sale within the United States, and/or importing into the United States, products that are covered by one or more claims of the '302 patent. Such products include implantable port products including, for example, Pro-Fuse CT and Dignity port products.

27. In addition to directly infringing the '302 patent, Defendant has indirectly infringed and continues to indirectly infringe the '302 patent, including by actively inducing others to directly infringe the '302 patent in violation of 35 U.S.C. § 271(b).

28. On information and belief, Defendant has, and has had, knowledge of the '302 patent and of its infringement thereof. On February 18, 2011, the '302 patent was identified and

discussed in an amendment filed in connection with the prosecution of U.S. Application No. 11/725,287 (“the ’287 Application”) which identifies Defendant as its assignee. In the February 18, 2011 amendment, Applicant copied claims from the issued ’302 patent, and prosecuted those claims in the ’287 Application.

29. Despite Defendant’s knowledge of the ’302 patent, as well as Plaintiff’s allegations of infringement in its Original Complaint, Defendant has actively induced and continues to actively induce others to make, use, sell, and/or offer to sell in the United States, and/or import into the United States, products that are covered by one or more claims of the ’302 patent. Such products include implantable port products, including, for example, Pro-Fuse CT and Dignity port products.

30. For example, in addition to Defendant’s own direct infringement of the ’302 patent, Defendant’s customers, including radiologists, physicians, nurses, surgeons, medical technicians, and other medical professionals, on information and belief, are directly infringing the ’302 patent through their use of products that are covered by one or more claims of the ’302 patent, including, for example, the Pro-Fuse CT and Dignity port products.

31. On information and belief, Defendant has knowingly induced such infringement of the ’302 patent and has done so with specific intent to induce such infringement, including through activities relating to marketing, advertising, promotion, support, and distribution of the Pro-Fuse CT and Dignity port products.

32. For example, Defendant provides materials that instruct its customers on how to use the Pro-Fuse CT and Dignity port products, including, for example Defendant’s “Instructions for Use.” The “Instructions for Use” state that Defendant’s “Power Injectable Implantable Infusion Port is an implantable access device designed to provide repeated access to the vascular

system” and “[w]hen used with a power injectable needle, the Power Injectable Implantable Infusion Part device is indicated for power injection of contrast media.”

33. Defendant further provides instructions to its customers for implantation of its power ports and “Instructions for Power Injection System Access,” which inform its customers on how to use Defendant’s Pro-Fuse CT and Dignity port products for power injection.

34. Moreover, Defendant markets its “Power Injectable Implantable Infusion Ports” to its customers as able to “be identified by the letters ‘CT’ under radiographic imaging.”

35. Defendant actively publicizes such promotional and instructional materials for products including the Pro-Fuse CT and Dignity port products through numerous means, including through its website <http://www.medcompnet.com/>. Specific examples of these materials can be found in Defendant’s website at: <http://www.medcompnet.com/products/ports/>, http://www.medcompnet.com/products/ports/pro-fuse_ct_ports.html, http://www.medcompnet.com/products/ports/pro-fuse_ct_ports.html#brochures, http://www.medcompnet.com/products/ports/dignity_ct_ports.html, http://www.medcompnet.com/products/ports/dignity_ct_ports.html#brochures, http://www.medcompnet.com/products/ports/dignity_mini.html, http://www.medcompnet.com/products/ports/dignity_mini.html#brochures.

36. Defendant’s direct and indirect infringement of the ’302 patent has been and continues to be willful and deliberate. Despite Defendant’s knowledge of the ’302 patent, and Defendant’s infringement thereof, Defendant has continued making, using, selling, and offering for sale in the United States and/or importing into the United States products that are covered by one or more claims of the ’302 patent. Such products include implantable port products,

including, for example, Pro-Fuse CT and Dignity port products. Defendant's willful and deliberate infringement entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

37. Unless and until enjoined by this Court, Defendant will continue to willfully infringe the '302 patent, both directly and indirectly. Defendant's infringement is causing and will continue to cause Plaintiff irreparable harm, for which there is no adequate remedy at law. Under 35 U.S.C. § 283, Plaintiff is entitled to a permanent injunction against further infringement.

THIRD CAUSE OF ACTION

(Patent Infringement of the '615 Patent)

38. Plaintiff realleges and incorporates paragraphs 1-37 as though fully set forth herein.

39. Defendant has infringed, and continues to infringe, literally or under the doctrine of equivalents, the '615 patent by making, using, selling, offering for sale within the United States, and/or importing into the United States, products that are covered by one or more claims of the '615 patent. Such products include implantable port products including, for example, Dignity port products.

40. In addition to directly infringing the '615 patent, Defendant has indirectly infringed and continues to indirectly infringe the '615 patent, including by actively inducing others to directly infringe the '615 patent in violation of 35 U.S.C. § 271(b).

41. Defendant has had knowledge of the '615 patent since no later than January 11, 2012, by virtue of Plaintiff's filing of the Complaint in this action.

42. Despite Defendant's knowledge of the '615 patent, and Defendant's infringement thereof, Defendant has continued making, using, selling, and offering for sale in the United States and/or importing into the United States products that are covered by one or more claims of

the '615 patent. Such products include implantable port products, including, for example, Dignity port products. Defendant's infringement of the '615 patent has been and continues to be willful and deliberate. Defendant's willful and deliberate infringement entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

43. Despite Defendant's knowledge of the '615 patent, as well as Plaintiff's allegations of infringement, Defendant has actively induced and continues to actively induce others to make, use, sell, and/or offer to sell in the United States, and/or import into the United States, products that are covered by one or more claims of the '615 patent. Such products include implantable port products, including, for example, Dignity port products.

44. For example, in addition to Defendant's own direct infringement of the '615 patent, Defendant's customers, including radiologists, physicians, nurses, surgeons, medical technicians, and other medical professionals, on information and belief, are directly infringing the '615 patent through their use of products that are covered by one or more claims of the '615 patent, including, for example, the Dignity port products.

45. On information and belief, Defendant has knowingly induced such infringement of the '615 patent and has done so with specific intent to induce such infringement, including through activities relating to marketing, advertising, promotion, support, and distribution of the Dignity port products.

46. For example, Defendant provides materials that instruct its customers on how to use the Dignity port products, including, for example Defendant's "Instructions for Use." The "Instructions for Use" state that Defendant's "Power Injectable Implantable Infusion Port is an implantable access device designed to provide repeated access to the vascular system" and

“[w]hen used with a power injectable needle, the Power Injectable Implantable Infusion Part device is indicated for power injection of contrast media.”

47. Defendant further provides instructions to its customers for implantation of its power ports and “Instructions for Power Injection System Access,” which inform its customers on how to use Dignity port products for power injection.

48. Moreover, these products that Defendant markets to its customers include concave sides that provide a way to identify Defendant’s Dignity port products.

49. Defendant actively publicizes such promotional and instructional materials for products including Dignity port products through numerous means, including through its website <http://www.medcompnet.com/>. Specific examples of these materials can be found in Defendant’s website at: <http://www.medcompnet.com/products/ports/>, http://www.medcompnet.com/products/ports/dignity_ct_ports.html, http://www.medcompnet.com/products/ports/dignity_ct_ports.html#brochures, http://www.medcompnet.com/products/ports/dignity_mini.html, http://www.medcompnet.com/products/ports/dignity_mini.html#brochures.

50. Defendant’s direct and indirect infringement of the ’615 patent has been and continues to be willful and deliberate. Despite Defendant’s knowledge of the ’615 patent, and Defendant’s infringement thereof, Defendant has continued making, using, selling, and offering for sale in the United States and/or importing into the United States products that are covered by one or more claims of the ’615 patent. Such products include implantable port products, including, for example, Dignity port products. Defendant’s willful and deliberate infringement entitles Plaintiff to enhanced damages under 35 U.S.C. § 284.

51. Unless and until enjoined by this Court, Defendant will continue to willfully infringe the '615 patent, both directly and indirectly. Defendant's infringement is causing and will continue to cause Plaintiff irreparable harm, for which there is no adequate remedy at law. Under 35 U.S.C. § 283, Plaintiff is entitled to a permanent injunction against further infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in favor of Plaintiff and prays that the Court grant the following relief to Plaintiff:

A. A judgment that the '022, '302, and '615 patents are infringed by Defendant's manufacture, offers to sell, sales, or uses within the United States, or importation into the United States, of products, including without limitation implantable port products, that practice or are used in the practice of one or more of the inventions claimed in the '022, '302, and '615 patents;

B. An order permanently enjoining Defendant, its affiliates and subsidiaries, and each of its officers, agents, servants and employees and those acting in privity or concert with them, from directly or indirectly infringing any of the claims of the '022, '302, and '615 patents, and from causing or encouraging others to directly or indirectly infringe any claim of the '022, '302, and '615 patents, including without limitation implantable port products, until after the expiration date of the '022, '302, and '615 patents, including any extensions and/or additional periods of exclusivity to which Plaintiff is or becomes entitled;

C. An order awarding damages under 35 U.S.C. § 284 in an amount sufficient to compensate Plaintiff for its damages arising from infringement by Defendant, including,

but not limited to, lost profits and/or a reasonable royalty, together with prejudgment and postjudgment interest, and costs;

D. An order awarding treble damages for willful infringement by Defendant, pursuant to 35 U.S.C. § 284;

E. An accounting and/or supplemental damages for all damages occurring after any discovery cutoff and through the Court's decision regarding the imposition of a permanent injunction;

F. A judgment declaring that this case is exceptional and awarding Plaintiff its reasonable costs and attorneys fees pursuant to 35 U.S.C. § 285; and

G. Such further and other relief as this Court deems proper and just.

JURY DEMAND

In accordance with Rule 38 of the Federal Rules of Civil Procedure, Plaintiff respectfully demands a jury trial of all issues triable to a jury in this action.

Dated: July 2, 2012

Respectfully Submitted:

By: /s/ Bryon J. Benevento

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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2012, I caused a true and correct copy of the foregoing to be mailed, postage prepaid, and electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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