

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TYCO HEALTHCARE GROUP LP)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 09-264 (SLR) (MPT)
)	
C.R. BARD, INC. AND DAVOL, INC.)	TRIAL BY JURY DEMANDED
)	
Defendants.)	
)	

Amended Complaint for Patent Infringement

Plaintiff Tyco Healthcare Group LP (“Tyco Healthcare”), for its Complaint against Defendants C.R. Bard, Inc. (“Bard”) and Davol, Inc. (“Davol”), alleges as follows:

THE PARTIES

1. Tyco Healthcare is a Delaware limited partnership with its principal place of business at 15 Hampshire Street, Mansfield, MA 02048.
2. On information and belief, Bard is a New Jersey corporation with its principal place of business at 730 Central Avenue, Murray Hill, NJ 07974. On information and belief, at all relevant times, Bard has been doing business in the State of Delaware.
3. On information and belief, Davol is a Delaware Corporation with its principal place of business at 100 Crossing Blvd., Warwick, RI 02886. On information and belief, Davol is a wholly-owned subsidiary of Bard. On information and belief, at all relevant times Davol has been doing business in the State of Delaware.

JURISDICTION AND VENUE

4. This is an action for patent infringement, arising under 35 U.S.C. §§ 1, *et seq.*
5. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338(a).
6. On information and belief, defendant Davol is incorporated in the State of Delaware.
7. On information and belief, Bard has a number of subsidiaries besides Davol that are also incorporated in Delaware.
8. On information and belief, Defendants Bard and Davol have regularly availed themselves of this Court's jurisdiction.
9. On information and belief, defendants Bard and Davol conduct substantial business in this judicial district, regularly solicit business from, do business with, and derive value from goods and services provided to customers in this judicial district, and have committed, or intend imminently to commit, acts of infringement in this judicial district, including offering to sell their SorbaFix and PermaFix systems, and such acts are and will be continuing. As a result, this Court has personal jurisdiction over defendants Bard and Davol.
10. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b) because, on information and belief, defendants Bard and Davol have committed, or intend imminently to commit, acts of infringement in this judicial district, defendant Davol is incorporated in this judicial district, defendants Bard and Davol provide a substantial volume of goods and do a substantial amount of business within this judicial district, and defendants Bard and Davol are subject to personal jurisdiction in this judicial district.

BACKGROUND

11. Plaintiff Tyco Healthcare is a leading manufacturer and provider of medical devices and products, including, but not limited to, surgical mesh for hernia repair and surgical instruments and systems used to attach or affix such mesh to a patient's body tissue.

12. Defendants Bard and Davol are also manufacturers and providers of medical devices and products, including, but not limited to, surgical mesh for hernia repair and surgical instruments and systems used to attach or affix such mesh to a patient's body tissue.

13. On information and belief, Bard and Davol recently began manufacturing, using and offering to sell in the United States surgical mesh affixing systems, SorbaFix and PermaFix, that embody the patented inventions of one or more claims of U.S. Patent No. 6,562,051 owned by Tyco Healthcare.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,562,051

14. Tyco Healthcare alleges and incorporates herein by reference the allegations stated in paragraphs 1 through 13 above.

15. Tyco Healthcare is the owner of all right, title and interest, including the right to sue, enforce or recover damages for all infringements, in and to U.S. Patent No. 6,562,051, entitled "Surgical Helical Fastener With Applicator" ("the '051 patent"). A copy of the '051 patent is attached hereto as Exhibit A.

16. The '051 patent was duly and legally issued by the United States Patent and Trademark Office on May 13, 2003.

17. On information and belief, Bard and Davol have infringed and still are infringing claims of the '051 patent within the meaning of 35 U.S.C. § 271, and their infringing acts will

continue unless enjoined by the Court.

18. On information and belief, Bard and Davol have been and are aware of the '051 patent, and their infringement is willful, intentional, and deliberate.

19. Tyco Healthcare has been damaged by the infringing acts of Bard and Davol and will continue to be damaged unless Bard and Davol are enjoined by the Court.

PRAYER FOR RELIEF

Accordingly, Plaintiff Tyco Healthcare prays for entry of judgment in its favor as follows:

- a. A decree that Bard and Davol have infringed the patent-in-suit;
- b. A permanent injunction prohibiting Bard and Davol and their agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with them, from making, using, selling, offering to sell and importing into the United States any product, or using, offering to sell, or selling any service, which falls within the scope of any claims of the patent-in-suit, or contributing to or inducing anyone to do the same;
- c. An award of damages;
- d. An award of all costs in this action, including attorneys' fees and interest;
- e. A determination that the infringement is and has been willful, and that this is an exceptional case under 35 U.S.C. § 285; and
- f. Such other relief as this Court deems proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Tyco Healthcare demands a trial by jury on all issues so triable.

April 7, 2010

BAYARD, P.A.

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