

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

STAT MEDICAL DEVICES, INC.,
a Florida corporation,

Plaintiff,

vs.

BAYER HEALTHCARE LLC,
a Delaware limited
liability company,

Defendant.

COMPLAINT

COMES NOW Plaintiff, Stat Medical Devices, Inc. ("Plaintiff"), and files its Complaint against Defendant, Bayer HealthCare LLC ("Defendant"), as follows.

Allegations Common To All Counts

1. This is an action for patent infringement pursuant to the Patent Laws of the United States, 35 U.S.C. §1, et seq.

The Parties

2. Plaintiff, Stat Medical Devices, Inc. is a corporation of the state of Florida having its principal address at 2065 N.E. 153 Street, North Miami Beach, Florida.

3. Upon information and belief, Defendant, Bayer HealthCare LLC, is a limited liability company organized and existing under the laws of the state of Delaware, is registered as

a foreign limited liability company in the states of Florida, Indiana, and New York, and has business addresses in Mishawaka, Indiana and Tarrytown, New York.

Jurisdiction and Venue

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and §1338(a).

5. Venue is properly established in this Court pursuant to 28 U.S.C. §1391(b), §1391(c), and §1400(b) as, upon information and belief, Defendant is registered as a foreign limited liability company in the state of Florida, has designated a registered agent in the state of Florida, and has sufficient contacts in the Southern District of Florida to be deemed to reside in this Judicial District, and Defendant has engaged in acts of patent infringement within this Judicial District, said acts being the subject of this Complaint.

Plaintiff's Patented Invention

6. United States Patent No. 7,947,057 ("the '057 patent") was duly and legally issued on May 24, 2011 for a lancet having adjustable penetration depth. A true and accurate copy of the '057 patent is attached hereto as Exhibit A.

7. Plaintiff is the sole assignee and, as such, is the owner of all right, title, and interest in and to the '057 patent, and the '057 patent is valid and fully enforceable.

COUNT I – Infringement of the '057 Patent

8. Plaintiff incorporates by reference the allegations of paragraphs 1 through 7, inclusive, as if fully set forth in this paragraph.

9. Upon information and belief, Defendant, having notice and knowledge thereof, is and has been infringing independent claims 4, 9, and 12 of the '057 patent either literally or under the doctrine of equivalents by making, using, offering for sale, and/or selling in the United States, or by importing into the United States, including in this Judicial District, one or more lancing device, including the MICROLET[®] 2 Lancing Device. True and accurate copies of select portions of Defendant's product literature for its MICROLET[®] 2 Lancing Device are attached hereto as Exhibit B.

10. Plaintiff has never authorized or otherwise granted any right to Defendant to manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into the United States, any lancing device under independent claims 4, 9, or 12 of the '057 patent.

11. Upon information and belief, Defendant had notice of its infringement and, as such, Defendant's infringement of independent claims 4, 9, and 12 of the '057 patent has been willful, wanton, and deliberate.

12. Upon information and belief, Defendant will continue to infringe independent claims 4, 9, and 12 of the '057 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

13. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff requests:

A. That the Court find Defendant's aforesaid acts constitute infringement of independent claims 4, 9, and 12 of the '057 patent, either literally or under the doctrine of equivalents.

B. That, pursuant to 35 U.S.C. §283, Defendant, and all of its agents, servants,

employees, successors, assigns and all persons acting in concert or in active participation with Defendant, be preliminarily and permanently enjoined and restrained from making, using, offering to sell, and/or selling in the United States, and/or importing into the United States the MICROLET[®] 2 Lancing Device and any other lancing device that infringes independent claims 4, 9, and 12 of the '057 patent, either literally or under the doctrine of equivalents.

C. That Defendant be ordered to deliver up for destruction all MICROLET[®] 2 Lancing Devices and any other lancing device that infringes independent claims 4, 9, and 12 of the '057 patent, either literally or under the doctrine of equivalents.

D. That Defendant be directed to file with this Court and serve upon Plaintiff within thirty (30) days after service of the injunction issued in this action a written report under oath setting forth in detail the manner in which the Defendant has complied with the injunction.

E. That this Court order an accounting for damages to Plaintiff resulting from Defendant 's infringement of independent claims 4, 9, and 12 of the '057 patent.

F. That Plaintiff recover damages adequate to compensate for Defendant's infringement of independent claims 4, 9, and 12 of the '057 patent, calculated as not less than a reasonable royalty of any financial or any other calculable benefit conferred upon Defendant as a result of Defendant's infringement.

G. That Plaintiff recover treble damages pursuant to 35 U.S.C. §284, based upon Defendant 's deliberate, wanton, and willful infringement of independent claims 4, 9, and 12 of the '057 patent.

H. That the Court enter a declaration making this case exceptional within the meaning of 35 U.S.C. §285, based upon Defendant's deliberate, wanton, and willful infringement of independent claims 4, 9, and 12 of the '057 patent, and that Plaintiff recover its attorneys fees

pursuant to 35 U.S.C. §285.

- I. That Plaintiff recover its taxable costs and disbursements herein.
- J. That Plaintiff recover both pre-judgment and post-judgment interest.
- K. That Plaintiff has such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: August 23, 2013

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