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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

I. C. Medical, Inc.,

Plaintiff

v.

ConMed Corporation,

Defendant

Case No. _____

COMPLAINT FOR PATENT INFRINGEMENT

(JURY TRIAL DEMANDED)

Plaintiff, I.C. Medical, Inc. for its Complaint against the Defendant hereby alleges as follows:

THE PARTIES

1. Plaintiff, I.C. Medical, Inc., is a corporation organized under the laws of the state of Arizona and has its principal place of business in Phoenix, Arizona.

2. Defendant, ConMed Corporation, is a New York corporation headquartered at 525 French Road in Utica, New York.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this patent infringement claim by virtue of 28 U.S.C. § 1338(a) and § 1331.

4. This Court has personal jurisdiction over the Defendant and venue is proper in this Court under 28 U.S.C. § 1391(b) and (c) because Defendant has committed acts of infringement in Arizona, and has regularly conducted and conducts business in Arizona. Defendant is deemed to reside in this judicial district within the meaning of 28 U.S.C. § 1391(c).

FACTUAL ALLEGATIONS

5. On May 3, 2011 United States Patent No. 7,935,109(the '109 Patent) was duly and legally issued to Ioan Cosmescu. The patent has been assigned to Plaintiff I. C. Medical, Inc. The '109 Patent relates to an electrosurgical pencil.

6. Defendant ConMed has manufactured, used offered to sell and/or sold certain electrosurgical pencils in the United States, this district and elsewhere, that infringe one of more claims of the '109 Patent. Defendant's electrosurgical pencils are referred to as the GoldVac® electrosurgical pencils.

7. By letter of September 5, 2013, Plaintiff notified Defendant of Defendant's infringement of the '109 Patent.

8. Despite having notice of the '109 Patent, Defendant has continued to infringe

the ‘109 Patent.

9. On April 9, 2013 United States Patent No. 8,414,576(the ‘576 Patent) was duly and legally issued to Ioan Cosmescu. The patent has been assigned to I.C. Medical, Inc.

10. Defendant ConMed has manufactured, used, offered to sell , and sold in the United States and/or imported into the United States certain electrosurgical pencils that infringe one or more claims of the ‘576 Patent and/or which are made according to a method that infringes one or more claims of the ‘576 Patent. Defendant’s electrosurgical pencils are referred to as the GoldVac® electrosurgical pencils.

11. By letter of October 5, 2013 Plaintiff notified Defendant of its infringement of the ‘576 Patent.

12. Despite receiving notice of its infringement, Defendant continues to infringe the ‘576 Patent

COUNT I – INFRINGEMENT OF THE ‘109 PATENT

13. Plaintiff repeats and incorporates herein the allegations of paragraphs 1-12 above.

14. This Count states a cause of action for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et.seq.* This Court has subject matter and personal jurisdiction as set forth in paragraphs 3 and 4 above.

15. Defendant has infringed, and is infringing, one or more claims of the ‘109

Patent in violation of 35 U.S.C. § 271.

16. Defendant's infringement of the '109 Patent has been willful and in bad faith.

17. Plaintiff has been damaged by Defendant's infringement and will continue to be damaged in the future unless Defendant is enjoined from infringing the '109 Patent. Plaintiff is entitled to recover monetary damages under 35 U.S.C. § 284.

18. Because this is an exceptional case under 35 U.S.C. § 285, Plaintiff is entitled to recover its reasonable attorneys' fees.

COUNT II- INFRINGEMENT OF THE '576 PATENT

19. Plaintiff repeats and incorporates herein paragraphs 1-17 above.

20. This Count states a cause of action for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et. seq.* This Court has subject matter and personal jurisdiction as set forth above in paragraphs 3 and 4.

21. Defendant has infringed, and is infringing, one or more claims of the '576 Patent in violation of 35 U.S.C. § 271.

22. Defendant's infringement of the '576 Patent has been willful and in bad faith.

23. Plaintiff has been damaged by Defendant's infringement and will continue to be damaged in the future unless Defendant is enjoined from infringing the '576 Patent. Plaintiff is entitled to recover monetary damages under 35 U.S.C. § 284.

24. Because this is an exceptional case under 35 U.S.C. § 285, Plaintiff is

entitled to recover its reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter an Order including, but not limited to,

A) A judgment and order that Defendant has infringed the '109 and '576 Patents and that Defendant has not proven the patents invalid ;

B) A judgment and order that Defendant pay to Plaintiff monetary damages under 35 U.S.C. § 284 with interests and costs;

C) An order permanently enjoining Defendant, it officers, directors, agents servants, and all others acting under or through them from infringing the '109 and '576 Patents;

D) An award of increased damages to Plaintiff for Defendant's willful infringement;

E) An award to Plaintiff of its attorneys' fees under 35 U.S.C. § 285.

F) Such other and further relief that this Court deems just and proper.

I.C. Medical, Inc.

by */s/* Albert L. Underhill

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