

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

W.L. GORE & ASSOCIATES, INC., and
GORE ENTERPRISE HOLDINGS, INC.,

Plaintiffs,

v.

C.R. BARD, INC.,

Defendant.

C.A. No. _____

JURY TRIAL REQUESTED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs W.L. Gore & Associates, Inc. and Gore Enterprise Holdings, Inc. (“Gore” or “Plaintiffs”), by its attorneys, Fish & Richardson P.C., for its complaint against C.R. Bard, Inc. (“Bard” or “Defendants”) alleges as follows:

Nature of the Action

1. This is an action for infringement of United States Patent No. 5,735,892 (the “’892 patent”) under 35 U.S.C. § 271(a), (b), and (c).

The Parties

2. Plaintiff W.L. Gore & Associates, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 555 Paper Mill Road, Newark, Delaware 19711.

3. Plaintiff Gore Enterprise Holdings, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 551 Paper Mill Road, Newark, Delaware 19711.

4. On information and belief, Defendant C.R. Bard, Inc. is a corporation organized and existing under the laws of the State of New Jersey, with a principal place of business at 730 Central Avenue, Murray Hill, New Jersey.

Jurisdiction and Venue

5. This action arises under the patent laws of the United States of America, United States Code, Title 35, Section 1, et seq. This Court has subject matter jurisdiction over the action under 28 U.S.C. §§ 1331 and 1338.

6. This Court has personal jurisdiction over Defendant Bard because, on information and belief, Bard transacts business, including the sale and offering for sale of its products, including but not limited to the FLUENCY® Plus Tracheobronchial Stent Graft and the FLAIR® Endovascular Stent Graft, in the District of Delaware and has sufficient contacts with this District to subject Bard to personal jurisdiction. Moreover, Bard has previously filed at least four separate patent litigations in this district, availing itself of the District of Delaware as a forum to adjudicate its disputes.

7. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Bard conducts substantial business in this District and has committed and continues to commit acts of infringement in this District.

Background

8. The '892 patent, entitled "Intraluminal Stent Graft," issued on April 7, 1998 to David J. Myers, James D. Lewis, Wayne D. House, and Karl E. Schwarz. A copy of the '892 patent is attached to this complaint as Exhibit A.

9. Gore Enterprise Holdings, Inc. is the owner of all right, title and interest in the '892 patent, including the right to sue, enforce, and recover all damages, past and future, for all infringements.

10. W.L. Gore & Associates, Inc. is the licensee of the '892 patent with rights to practice the '892 patent in the United States.

11. Upon information and belief, Defendant Bard makes, uses, sells, and/or offers for sale the FLUENCY® Plus Tracheobronchial Stent Graft.

12. Upon information and belief, Defendant Bard makes, uses, sells, and/or offers for sale the FLAIR® Endovascular Stent Graft.

Count I

13. The allegations of paragraphs 1-12 are incorporated as if fully set forth herein.

14. Upon information and belief, Defendant Bard is infringing, inducing infringement, and contributing to the infringement of the '892 patent by making, using, offering to sell, selling, and importing at least the FLUENCY® Plus Tracheobronchial Stent Graft and/or inducing or contributing to the use by others of such devices covered by the '892 patent, all to the injury of Gore.

15. Bard's acts of infringement have injured and damaged Gore.

16. Upon information and belief, Defendant Bard's infringement has been willful and will continue to be willful, making this case exceptional and entitling Gore to increased damages and reasonable attorney's fees pursuant to 35 U.S.C. §§ 284 and 285 of the patent statute.

Count II

17. The allegations of paragraphs 1-16 are incorporated as if fully set forth herein.

18. Upon information and belief, Defendant Bard is infringing, inducing infringement, and contributing to the infringement of the '892 patent by making, using, offering to sell, selling, and importing at least the FLAIR® Endovascular Stent Graft and/or inducing or contributing to the use by others of such devices covered by the '892 patent, all to the injury of Gore.

19. Bard's acts of infringement have injured and damaged Gore.

20. Upon information and belief, Defendant Bard's infringement has been willful and will continue to be willful, making this case exceptional and entitling Gore to

increased damages and reasonable attorney's fees pursuant to 35 U.S.C. §§ 284 and 285 of the patent statute.

Prayer for Relief

Wherefore, Plaintiff Gore requests the following relief:

- (a) judgment against Bard as to infringement of the '892 patent;
- (b) a permanent injunction preventing Defendant Bard and its officers, directors, agents, servants, employees, attorneys, licensees, successors, assigns, and customers, and those in active concert or participation with any of them, from making, using, importing, selling, or offering to sell any devices or systems that infringe the '892 patent;
- (c) judgment against Defendant Bard for money damages sustained as a result of Defendant Bard's infringement of the '892 patent and an accounting;
- (d) judgment against Defendant Bard for increased money damages pursuant to 35 U.S.C. § 284 sustained as a result of Defendant Bard's willful infringement of the '892 patent;
- (e) costs and reasonable attorneys' fees incurred in connection with this action pursuant to 35 U.S.C. §285; and
- (f) such other relief as this court finds just and proper.

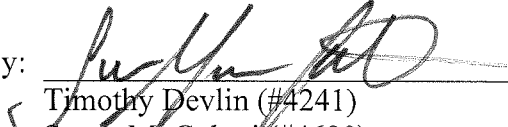
Jury Demand

Plaintiff Gore requests trial by jury.

Dated: June 10, 2011

FISH & RICHARDSON P.C.

By:



Timothy Devlin (#4241)

Susan M. Coletti (#4690)

222 Delaware Avenue, 17th Floor

P.O. Box 1114

Wilmington, DE 19899-1114

Telephone: (302) 652-5070

Facsimile: (302) 652-0607

Email: tdevlin@fr.com; coletti@fr.com

Juanita Brooks

12390 El Camino Real

San Diego, CA 92130

Telephone: (858) 678-5070

Facsimile: (858) 678-5099

Email: brooks@fr.com

Attorneys for Plaintiffs

W.L. GORE & ASSOCIATES, INC., and

GORE ENTERPRISE HOLDINGS, INC.,