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EDWARDS LIFESCIENCES CORPORATION and
12 EDWARDS LIFESCIENCES LLC

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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EDWARDS LIFESCIENCES
CORPORATION, a Delaware
corporation, and EDWARDS
LIFESCIENCES LLC, a Delaware
corporation

Plaintiff,

v.

ABBOTT CARDIOVASCULAR
SYSTEMS, INC., a California
corporation,

Defendant.

Case No. 8:19-cv-345

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs Edwards Lifesciences Corporation and Edwards Lifesciences
2 LLC, for their complaint against Defendant Abbott Cardiovascular Systems,
3 Inc., allege as follows:

4 **I. THE PARTIES**

5 1. Plaintiff Edwards Lifesciences Corporation is a corporation
6 organized and existing under the laws of the State of Delaware, with its
7 principal place of business at One Edwards Way, Irvine, California 92614.

8 2. Plaintiff Edwards Lifesciences LLC is a corporation organized and
9 existing under the laws of the State of Delaware, with its principal place of
10 business at One Edwards Way, Irvine, California 92614.

11 3. Defendant Abbott Cardiovascular Systems, Inc. is a corporation
12 organized and existing under the laws of the State of California, with its
13 principal place of business at 3200 Lakeside Drive, Santa Clara, California
14 95054.

15 4. Edwards Lifesciences Corporation and Edwards Lifesciences LLC
16 shall be collectively referred to herein as “Plaintiffs” or “Edwards Lifesciences.”
17 Abbott Cardiovascular Systems, Inc. shall be referred to herein as “Defendant”
18 or “ACS.”

19 **II. JURISDICTION AND VENUE**

20 5. This is an action for patent infringement arising under the patent
21 laws of the United States of America, Title 35, United States Code. This Court
22 has original jurisdiction over the subject matter of this action pursuant to 28
23 U.S.C. §§ 1331 and 1338(a).

24 6. Defendant is engaged in the business of manufacturing, selling,
25 offering for sale, and/or importing mitral valve repair devices sold under the
26 names MitraClip, MitraClip NT, MitraClip NTR, and MitraClip XTR
27 (collectively, the “Accused Products”) in the United States, including within this
28 District.

1 7. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b),
2 because the Defendant has committed acts of infringement in this District and
3 because the Defendant has several established places of business in this district,
4 including in Temecula, California.

5 8. This Court has personal jurisdiction over Defendant. The
6 Defendant has committed acts of infringement in this District, including
7 manufacturing, selling, offering for sale, and/or importing the Accused Products
8 in this District.

9 **III. THE PATENTS-IN-SUIT**

10 9. On April 13, 2004, the United States Patent and Trademark Office
11 issued United States Patent No. 6,719,767 (“the ’767 Patent”) entitled “Device
12 and a Method for Treatment of Atrioventricular Regurgitation,” a true and
13 correct copy of which is attached as Exhibit 1.

14 10. Edwards Lifesciences Corporation is the assignee of all rights to
15 the ’767 Patent, including the right to sue for and recover all past and present
16 damages for infringement of the ’767 Patent. Edwards Lifesciences LLC is the
17 exclusive licensee of the ’767 Patent.

18 11. On March 14, 2006, the United States Patent and Trademark Office
19 issued United States Patent No. 7,011,669 (“the ’669 Patent”) entitled “Device
20 and a Method for Treatment of Atrioventricular Regurgitation,” a true and
21 correct copy of which is attached as Exhibit 2.

22 12. Edwards Lifesciences Corporation is the assignee of all rights to
23 the ’669 Patent, including the right to sue for and recover all past and present
24 damages for infringement of the ’669 Patent. Edwards Lifesciences LLC is the
25 exclusive licensee of the ’669 Patent.

26 13. On November 22, 2011, the United States Patent and Trademark
27 Office issued United States Patent No. 8,062,313 (“the ’313 Patent”) entitled
28 “Device and a Method for Treatment of Atrioventricular Regurgitation,” a true

1 and correct copy of which is attached as Exhibit 3.

2 14. Edwards Lifesciences Corporation is the assignee of all rights to
3 the '313 Patent, including the right to sue for and recover all past and present
4 damages for infringement of the '313 Patent. Edwards Lifesciences LLC is the
5 exclusive licensee of the '313 Patent.

6 15. The '767 Patent, the '669 Patent, and the '313 Patent are
7 collectively referred to herein as the Asserted Patents.

8 **IV. COUNT 1 – INFRINGEMENT OF THE '767 PATENT**

9 16. Edwards Lifesciences incorporates paragraphs 1 through 15 as
10 though fully set forth herein.

11 17. Defendant has made, used, sold, and/or offered for sale the
12 Accused Products in the United States, imported the Accused Products into the
13 United States, and/or exported from the United States all or a substantial portion
14 of the components of the Accused Products for which no substantial
15 noninfringing use exists, including within this District.

16 18. Defendant has directly infringed at least Claim 14 of the '767
17 Patent either literally or under the doctrine of equivalents by manufacturing,
18 selling, offering for sale, and/or importing the Accused Products, in violation of
19 35 U.S.C. § 271(a).

20 19. By way of example, and not limitation, Defendant's direct
21 infringement of Claim 14 of the '767 Patent is shown in the claim chart in
22 Exhibit 4, attached hereto and incorporated herein by reference, which compares
23 exemplary Claim 14 to the Accused Products.

24 20. Each version of the MitraClip implant requires a clip delivery
25 system, including a catheter, for implantation. The clip delivery system is
26 especially made for use with the MitraClip. The MitraClip Instructions for Use
27 instruct clinicians to use the clip delivery system to implant the MitraClip.

28 21. Defendant has also infringed at least Claim 14 of the '767 Patent

1 by supplying or causing to be supplied from the United States all or a substantial
2 portion of the components of the Accused Products, including the MitraClip
3 implant and/or the clip delivery system, in such a manner as to actively induce
4 the combination of the components outside the United States in a manner that
5 would infringe if the combination occurred within the United States, in violation
6 of 35 U.S.C. § 271(f)(1).

7 22. Defendant has also infringed at least Claim 14 of the '767 Patent
8 by supplying components of the Accused Products, including the MitraClip
9 and/or the clip delivery system, that are especially made or adapted for use in
10 the Accused Products and are not a staple article or commodity of commerce
11 suitable for substantial noninfringing use, with knowledge that the components
12 are so made or adapted and intending that the components will be combined
13 outside the United States in a manner that would infringe the patent if such
14 combination occurred within the United States, in violation of 35 U.S.C. §
15 271(f)(2).

16 23. Defendant had actual knowledge of the '767 Patent prior to the
17 filing of this Complaint. For example, on September 22, 2004 during the
18 prosecution of U.S. Patent No. 7,335,213, Defendant cited the '767 Patent in an
19 information disclosure statement to the United States Patent and Trademark
20 Office.

21 24. Edwards Lifesciences has been damaged by Defendant's infringing
22 activities in an amount to be determined at trial, but in no event less than a
23 reasonable royalty.

24 **V. COUNT 2 – INFRINGEMENT OF THE '669 PATENT**

25 25. Edwards Lifesciences incorporates paragraphs 1 through 24 as
26 though fully set forth herein.

27 26. Defendant has induced infringement of the '669 Patent under 35
28 U.S.C. § 271(b), by, for example, instructing clinicians to use the Accused

1 Products in a manner that constitutes direct infringement of the '669 Patent.

2 27. Defendant has also contributed to the infringement of the '669
3 Patent under 35 U.S.C. § 271(c) by, for example, offering for sale, selling,
4 and/or importing the Accused Products for use in practicing the patented process
5 of the '669 Patent, where the Accused Products constitute a material part of the
6 invention, and are not a staple article or commodity of commerce suitable for
7 substantial non-infringing use, and are known by Defendant to be especially
8 adapted for use in an infringement of the '669 Patent. As a result, the Accused
9 Products have been used by customers and clinicians in a manner that directly
10 infringes at least claim 1 of the '669 Patent.

11 28. For example, in the MitraClip Instructions For Use (attached hereto
12 as Exhibit 5), Defendant instructs clinicians to use the Accused Products in a
13 manner that infringes, either literally or under the doctrine of equivalents, one or
14 more claims of the '669 Patent, including at least Claim 1.

15 29. When clinicians perform the method of using the Accused
16 Products, as described at least in Exhibit 5, they are directly infringing at least
17 Claim 1 of the '669 Patent as described in the claim chart in Exhibit 6, attached
18 hereto and incorporated herein by reference.

19 30. Defendant knew that clinicians would infringe the '669 Patent by
20 using the Accused Products during the term of the '669 Patent. For example,
21 Defendant provides Instructions for Use (Exhibit 5) to clinicians with the
22 Accused Products. The Instructions for Use instruct the clinician to perform a
23 method of using the Accused Products that would constitute direct infringement
24 of at least Claim 1 of the '669 Patent. Defendant also knew that the Accused
25 Products were not a staple article or commodity of commerce for substantial
26 non-infringing use.

27 31. Defendant had the specific intent to induce and did induce
28 clinicians to infringe the '669 Patent under 35 U.S.C. § 271(b), by, for example,

1 causing clinicians to use the Accused Products in a manner that constitutes
2 direct infringement of at least Claim 1 of the '669 Patent during the term of the
3 '669 Patent, including by providing marketing materials and instructions for
4 use, such as for example the Instructions for Use (Exhibit 5), to clinicians that
5 instruct the clinicians to perform a method of using the Accused Products that
6 infringes at least Claim 1 of the '669 Patent.

7 32. Defendant had actual knowledge of the '669 Patent prior to the
8 filing of this Complaint. For example, on July 25, 2018 during the prosecution
9 of U.S. Patent No. 10,188,392, Defendant cited the '669 Patent in an
10 information disclosure statement to the United States Patent and Trademark
11 Office.

12 33. Edwards Lifesciences has been damaged by Defendant's infringing
13 activities in an amount to be determined at trial, but in no event less than a
14 reasonable royalty.

15 **VI. COUNT 3 – INFRINGEMENT OF THE '313 PATENT**

16 34. Edwards Lifesciences incorporates paragraphs 1 through 33 as
17 though fully set forth herein.

18 35. Defendant has made, used, sold, and/or offered for sale the
19 Accused Products in the United States, imported the Accused Products into the
20 United States, and/or exported from the United States all or a substantial portion
21 of the components of the Accused Products for which no substantial
22 noninfringing use exists, including within this District.

23 36. Defendant has directly infringed at least Claim 1 of the '313 Patent
24 either literally or under the doctrine of equivalents by manufacturing, selling,
25 offering for sale, and/or importing the Accused Products, in violation of
26 U.S.C. § 271(a).

27 37. By way of example, and not limitation, Defendant's direct
28 infringement of Claim 1 of the '313 Patent is shown in the claim chart in

1 Exhibit 7, attached hereto and incorporated herein by reference, which compares
2 exemplary Claim 1 to the Accused Products.

3 38. Each version of the MitraClip implant requires a clip delivery
4 system, including a catheter, for implantation. The clip delivery system is
5 especially made for use with the MitraClip. The MitraClip Instructions for Use
6 instruct clinicians to use the clip delivery system to implant the MitraClip.

7 39. Defendant has also infringed at least Claim 1 of the '313 Patent by
8 supplying or causing to be supplied from the United States all or a substantial
9 portion of the components of the Accused Products, including the MitraClip
10 implant and/or the clip delivery system, in such a manner as to actively induce
11 the combination of the components outside the United States in a manner that
12 would infringe if the combination occurred within the United States, in violation
13 of 35 U.S.C. § 271(f)(1).

14 40. Defendant has also infringed at least Claim 1 of the '313 Patent by
15 supplying components of the Accused Products, including the MitraClip and/or
16 the clip delivery system, that are especially made or adapted for use in the
17 Accused Products and are not a staple article or commodity of commerce
18 suitable for substantial noninfringing use, with knowledge that the components
19 are so made or adapted and intending that the components will be combined
20 outside the United States in a manner that would infringe the patent if such
21 combination occurred within the United States, in violation of 35 U.S.C. §
22 271(f)(2).

23 41. Defendant had actual knowledge of the patent application that
24 issued as the '313 Patent prior to the filing of this Complaint. For example, on
25 July 25, 2018, during the prosecution of U.S. Patent No. 10,188,392, Defendant
26 cited the patent application that issued as the '313 Patent in an information
27 disclosure statement to the United States Patent and Trademark Office.
28 Defendant had actual knowledge of the '313 Patent prior to the filing of this

1 Complaint. Defendant is a sophisticated company that monitors the patents of
2 its competitors and as a result of this monitoring learned that the '313 Patent
3 issued from the patent application.

4 42. Edwards Lifesciences has been damaged by Defendant's infringing
5 activities in an amount to be determined at trial, but in no event less than a
6 reasonable royalty.

7 **VII. PRAYER FOR RELIEF**

8 WHEREFORE, Edwards Lifesciences requests the following relief:

9 43. A judgment in favor of Edwards Lifesciences that Defendant has
10 infringed one or more claims of the '767 Patent;

11 44. A judgment in favor of Edwards Lifesciences that Defendant has
12 induced others to infringe one or more claims of the '669 Patent;

13 45. A judgment in favor of Edwards Lifesciences that Defendant has
14 contributed to the infringement by others of one or more claims of the '669
15 Patent;

16 46. A judgment in favor of Edwards Lifesciences that Defendant has
17 infringed one or more claims of the '313 Patent;

18 47. A judgment in favor of Edwards Lifesciences that this case is
19 exceptional under 35 U.S.C. § 285 and awarding Edwards Lifesciences its
20 attorneys' fees;

21 48. A judgment and order requiring Defendant to pay Edwards
22 Lifesciences damages adequate to compensate for infringement under 35 U.S.C.
23 § 284, which damages in no event shall be less than a reasonable royalty for the
24 use made of the inventions of the Asserted Patents, including supplemental
25 damages for any continuing post-verdict infringement up until the entry of
26 judgment, with an accounting, as needed, pre- and post-judgment interest and
27 costs, including expenses and disbursements;

28 49. A judgment in favor of Edwards Lifesciences, and against

1 Defendant, that interest, costs, and expenses be awarded in favor of Edwards
2 Lifesciences; and

3 50. Any and all such further necessary relief as the Court may deem
4 just and proper.

5 Respectfully submitted,
6 KNOBBE, MARTENS, OLSON & BEAR, LLP

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9 Dated: February 22, 2019 By: /s/ Joshua Stowell
10 John B. Sganga, Jr.
11 Craig S. Summers
12 Christy G. Lea
13 Joshua J. Stowell
14 Hans L. Mayer

15 Attorneys for Plaintiffs,
16 EDWARDS LIFESCIENCES CORPORATION
17 and EDWARDS LIFESCIENCES LLC
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VIII. DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs Edwards Lifesciences Corporation and Edwards Lifesciences LLC hereby demand a trial by jury on all issues so triable.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 22, 2019

By: /s/ Joshua Stowell
John B. Sganga, Jr.
Craig S. Summers
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