

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CAREFUSION 303, INC.,

Plaintiff,

v.

HOSPIRA, INC.,

Defendant.

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C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff CareFusion 303, Inc. (“Plaintiff” or “CareFusion 303”), by its undersigned counsel, for its Complaint against Defendant Hospira, Inc. (“Defendant” or “Hospira”) alleges as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent Nos. 7,171,277 and 7,835,927. As alleged herein, Defendant has infringed (literally and/or by equivalents), and continues to infringe, CareFusion 303’s patent rights by making, using, importing, selling, and/or offering to sell within the United States infusion systems covered by one or more patent claims, and/or by contributing to or inducing such infringement.

2. For example, Defendant makes, uses, imports, sells and/or offers to sell within the United States infringing infusion systems, including, but not limited to, the Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®.

PARTIES

3. CareFusion 303 is a Delaware corporation. It is a wholly owned subsidiary of CareFusion Corporation. CareFusion Corporation is a public Delaware corporation with its headquarters at 3750 Torrey View Court, San Diego, CA 92130. CareFusion 303 also has its principal place of business at 3750 Torrey View Court, San Diego, CA 92130. In 2009, CareFusion Corporation was created from Cardinal Health, Inc.'s clinical and medical products business.

4. CareFusion delivers clinically proven products and services that help measurably improve patient care in the medical field. Its family of products and services are used in more than 120 countries.

5. With fiscal 2010 pro forma revenue of \$3.9 billion, CareFusion Corporation is among the largest medical-technology companies focused on helping the global healthcare industry solve its most challenging patient safety issues.

6. Defendant is a Delaware corporation with its principal place of business in Lake Forest, Illinois.

7. At all material times hereto, Defendant has manufactured, distributed, marketed, offered for sale and sold products, including but not limited to the infringing Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

8. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendant in this action because it is a Delaware corporation, and, on information and belief, it regularly and continuously transacts business within the State of Delaware, including, but not limited to, the regular sale of Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, within the State of Delaware.

10. Venue is proper in the District of Delaware under 28 U.S.C. §§ 1391 and 1400(b).

COUNT I
Infringement of U.S. Patent No. 7,171,277

11. U.S. Patent No. 7,171,277 (“the ’277 Patent”), entitled “System and Method for Controlling the Delivery of Medication to a Patient,” was duly and legally issued on January 30, 2007, by the United States Patent and Trademark Office. CareFusion 303 has been assigned the entire right, title and interest in the ’277 Patent. A true and correct copy of the ’277 Patent is attached hereto as Exhibit A.

12. Defendant has infringed (literally and/or by equivalents), and continues to infringe, the ’277 Patent by making, using, importing, selling, and/or offering to sell within the United States (including within this judicial district) devices that embody the inventions disclosed and claimed in the ’277 Patent, without authorization from CareFusion 303. At least Defendant’s Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used

in conjunction with management software, including, but not limited to, Hospira MedNet®, infringe the claims of the '277 Patent, in violation of 35 U.S.C. § 271. For example and not limitation, Defendant's Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, practice each of the limitations of at least Claim 1 of the '277 Patent.

13. In addition to direct infringement, CareFusion 303 is informed and believes, and on that basis alleges, that Defendant has indirectly infringed and continues to indirectly infringe the '277 Patent by contributing to infringement by others of the '277 Patent, and by knowingly inducing others to infringe the '277 Patent. For example and not limitation, Defendant sells and offers to sell within the United States or imports into the United States devices and/or components of patented devices knowing the same to be especially made or especially adapted for use in an infringement of the '277 Patent. Such devices and/or components are not staple articles or commodities of commerce, nor are they suitable for substantial noninfringing use. Defendant also actively induces infringement of the '277 Patent by its customers and/or others, including, for example and not limitation, by providing written instructional documents directing customers to use Defendant's Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, in a manner that directly infringes the '277 Patent.

14. CareFusion 303 believes that after reasonable opportunity for discovery, the evidence will likely show that Defendant has acted with disregard of CareFusion 303's patent rights, without any reasonable basis for doing so, and has willfully infringed and does willfully infringe the '277 Patent.

COUNT II
Infringement of U.S. Patent No. 7,835,927

15. U.S. Patent No. 7,835,927 (“the ’927 Patent”), entitled “Medication Management System,” was duly and legally issued on November 16, 2010, by the United States Patent and Trademark Office. CareFusion 303 has been assigned the entire right, title and interest in the ’927 Patent. A true and correct copy of the ’927 Patent is attached hereto as Exhibit B.

16. Defendant has infringed (literally and/or by equivalents), and continues to infringe, the ’927 Patent by making, using, importing, selling, and/or offering to sell within the United States (including within this judicial district) devices that embody the inventions disclosed and claimed in the ’927 Patent, without authorization from CareFusion 303. At least Defendant’s Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, infringe the claims of the ’927 Patent, in violation of 35 U.S.C. § 271. For example and not limitation, Defendant’s Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, practice each of the limitations of at least Claim 11 of the ’927 Patent.

17. In addition to direct infringement, CareFusion 303 is informed and believes, and on that basis alleges, that Defendant has indirectly infringed and continues to indirectly infringe the ’927 Patent by contributing to infringement by others of the ’927 Patent, and by knowingly inducing others to infringe the ’927 Patent. For example and not limitation, Defendant sells and offers to sell within the United States or imports into the United States devices and/or components of patented devices knowing the same to be especially made or especially adapted for use in an infringement of the ’927 Patent. Such devices and/or

components are not staple articles or commodities of commerce, nor are they suitable for substantial noninfringing use. Defendant also actively induces infringement of the '927 Patent by its customers and/or others, including, for example and not limitation, by providing written instructional documents directing customers to use Defendant's Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, in a manner that directly infringes the '927 Patent.

18. CareFusion 303 believes that after reasonable opportunity for discovery, the evidence will likely show that Defendant has acted with disregard of CareFusion 303's patent rights, without any reasonable basis for doing so, and has willfully infringed and does willfully infringe the '927 Patent.

PRAYER FOR RELIEF

WHEREFORE, CareFusion 303 requests that this Court enter judgment that:

1. Defendant infringes the '277 and '927 Patents by its making, using, offering for sale, selling, and/or offering to sell infringing infusion systems, including but not limited to the Symbiq™, Plum A+™, Plum A+3™, and LifeCare PCA™ Infusion Systems, used in conjunction with management software, including, but not limited to, Hospira MedNet®, covered by one or more of the '277 and '927 Patent claims within the United States, and/or by contributing to or inducing such infringement;
2. Defendant's infringement of the '277 and '927 Patents is willful;
3. Defendant and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for any of them or on

their behalf, or acting in concert with them, be permanently enjoined from further infringement of CareFusion 303's patent rights;

4. Plaintiff be awarded compensatory damages and costs, including lost profits and interest thereon, but in any event no less than a reasonable royalty, in an amount adequate to compensate for Defendant's infringement of the '277 and '927 Patents, and, upon a finding of willfulness, that the damages be trebled pursuant to 35 U.S.C. § 284;

5. This case be declared to be exceptional in favor of Plaintiff under 35 U.S.C. § 285, and that Plaintiff be awarded its costs, attorneys' fees, and other expenses in connection with this action; and

6. Plaintiff be awarded such other relief as the Court deems just and proper.

JURY DEMAND

CareFusion 303 demands a trial by jury on all issues so triable.

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