

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FUISZ PHARMA LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
THERANOS, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Fuisz Pharma LLC ("Fuisz Pharma") for its Complaint against Theranos, Inc. (f/k/a RealTime Cures, Inc.) ("Theranos") hereby alleges as follows:

INTRODUCTION

1. This is an action brought by Fuisz Pharma against Theranos for Theranos' infringement of Fuisz Pharma's patent. In particular, Fuisz Pharma seeks a remedy for Theranos' infringement of U.S. Patent No. 7,824,612 (the "Asserted Patent"). The Asserted Patent is attached as Exhibit A.

PARTIES

2. Plaintiff Fuisz Pharma is a Delaware limited liability company with a principal place of business at 10350 W. Bay Harbor Drive, Suite 8C, Bay Harbor Islands, Florida 33154.
3. On information and belief, Defendant Theranos is a Delaware corporation with a principal place of business at 3200 Hillview Avenue, Palo Alto, California 94304.

JURISDICTION AND VENUE

4. This is an action arising under the patent laws of the United States pursuant to 35 U.S.C. § 1, *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Theranos because Theranos is a Delaware corporation.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

GENERAL ALLEGATIONS

7. The Asserted Patent is titled “BODILY FLUID ANALYZER, AND SYSTEM INCLUDING SAME AND METHOD FOR PROGRAMMING SAME.” The Asserted Patent was filed with the U.S Patent and Trademark Office on April 24, 2007 as US. Patent Application No. 11/790,131 and claims priority to U.S. Provisional Patent Application No. 60/794,117 filed on April 24, 2006. The Asserted Patent issued on November 2, 2010 naming Richard C. Fuisz, MD and Joseph M. Fuisz as inventors.

8 Fuisz Pharma owns by assignment the entire right, title, and interest in and to the Asserted Patent as has been duly recorded at the U.S. Patent and Trademark Office at Reel 027139 and Frame 0079.

COUNT 1 INFRINGEMENT OF U.S. PATENT NO. 7,824,612

9. Fuisz Pharma incorporates by reference the allegations set forth above.

10. Theranos has infringed and is infringing the Asserted Patent under 35 U.S.C. § 271 by making, using, offering for sale, selling, importing, and/or exporting without authority,

personalized biomonitoring and informatics systems to monitor the effects of prescription medicines (the “Theranos accused devices”).

11. On information and belief, the Theranos accused devices enable healthcare professionals and pharmaceutical companies to track patients’ individual responses to prescribed medicines, painlessly and in real time, throughout the course of treatment. The Theranos handheld monitors simultaneously detect changes in the levels of biochemical markers directly induced by the drug, then wirelessly communicate results to medical personnel through a bioinformatics server. The Theranos platform consists of a Reader and disposable cartridges that analyze a specific prescription medicine. The Reader automatically transmits analysis data to the HIPAA-compliant Theranos database, which protects patient identity information while making available to healthcare professionals detailed, high-level and real-time information.

12. Theranos’ acts have caused, and unless restrained and enjoined, will continue to cause, irreparable injury and damage to Fuisz Pharma for which there is no adequate remedy at law. Unless enjoined, Theranos will continue to infringe the Asserted Patent.

13. Theranos’ infringement of the Asserted Patent is exceptional and entitles Fuisz Pharma to attorneys’ fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Fuisz Pharma demands a trial by jury in this action on all issues so triable.

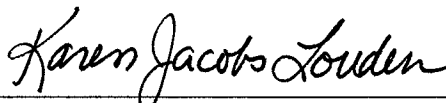
PRAYER FOR RELIEF

WHEREFORE, Fuisz Pharma prays for the following relief against Theranos:

- (a) Judgment that the Asserted Patent has been and continues to be infringed by Theranos;

- (b) For all damages sustained as a result of Theranos' infringement of the Asserted Patent;
- (c) For pre-judgment interest and post-judgment interest at the maximum rate allowed by law;
- (d) For a permanent injunction enjoining Theranos, its officers, agents, servants, employees and all other persons acting in concert or participation with it from further infringement of the Asserted Patent;
- (e) For an award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;
- (f) For all costs of suit; and
- (g) For such other and further relief as the Court may deem just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP



OF COUNSEL:

John R. Fuisz
Sudip Kundu
THE FUISZ-KUNDU GROUP LLP
1455 Pennsylvania Avenue, NW
Suite 400
Washington, DC 20004
(202) 621-1889

Karen Jacobs Loudon (#2881)
Michael J. Flynn (#5333)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
klouden@mnat.com
mflynn@mnat.com
Attorneys for plaintiff Fuisz Pharma LLC

November 1, 2011

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