

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

B. BRAUN MEDICAL INC.,

Plaintiff,

v.

CAREFUSION 303, INC.

Defendant.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff B. Braun Medical Inc. ("Braun"), complains of Defendant Carefusion 303, Inc. ("Carefusion") as follows:

NATURE OF LAWSUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. § 1338(a).

PARTIES

2. Braun is a Pennsylvania corporation with a principal place of business at 824 Twelfth Avenue Bethlehem, Pennsylvania 10818. Braun is the named assignee of, owns all right, title and interest in, and has standing to sue for infringement of United States Patent No. 7,236,936 B2, entitled "Security Infusion Pump With Bar Code Reader" issued June 26, 2007 ("the '936 Patent") (Exhibit A); United States Patent No. 6,519,569 B1, entitled "Security Infusion Pump With Bar Code Reader" issued February 11, 2003 ("the '569 Patent") (Exhibit B); United States Patent No. 6,790,198 B1, entitled "Patient Medication IV Delivery Pump with Wireless Communication To A

Hospital Information Management System" ("the '198 Patent") (Exhibit C); United States Patent No. 7,645,258 B2, entitled "Patient Medication IV Delivery Pump with Wireless Communication To A Hospital Information Management System" ("the '258 Patent") (Exhibit D) and United States Patent No. 7,933,780, entitled "Method and Apparatus for Controlling An Infusion Pump and the Like" issued April 26, 2011 ("the '780 Patent") (Exhibit E) (collectively, the "Braun Patents").

3. Braun has complied with the provisions of 35 U.S.C. §287(a).

4. Defendant Carefusion is a Delaware corporation headquartered in San Diego, California with a registered agent named Illinois Corporation Service, located at 801 Adlai Stevenson Drive, Springfield, Illinois 62703. Carefusion manufactures sells and offers to sell medical devices, including smart medication systems, in the United States and the State of Illinois. Carefusion's payment center for its smart medication systems is located at 25565 Network Place, Chicago, Illinois 60673-1255 and there are additional Carefusion Corporation companies located throughout the Chicagoland area, such as Carefusion Interventional Specialties located at 1500 Waukegan Road, Waukegan, Illinois 60085.

JURISDICTION AND VENUE

5. Carefusion is doing business in this judicial district, has purposefully availed itself of the privilege of conducting business in this judicial district, thereby invoking its benefits and protections, has established sufficient minimum contacts with the State of Illinois such that it should reasonably and fairly anticipate being brought into court in Illinois. The patent infringement claims alleged herein arise out of or result from one or more of the foregoing activities.

6. This Court has personal jurisdiction over Carefusion by virtue of its acts of patent infringement, including its inducement of infringement by others, in this judicial district and by virtue its transaction of business in Illinois.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

**CAREFUSION'S ACTS OF PATENT INFRINGEMENT
COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,236,936 B2**

8. Carefusion makes, sells and offers to sell its Alaris® System Model 8000.

9. Carefusion's Alaris® System Model 8000 is a modular system that includes, among other modules, the Alaris® PC Unit Model 8000, Alaris ® Pump Module Model 8100 and Alaris® Auto-ID Module Model 8600.

10. The Alaris® PC Unit Model 8000 is the core of the Alaris® System Model 8000 and provides a common user interface for programming instructions and monitoring.

11. The Alaris ® Pump Module Model 8100 includes an infusion pump.

12. The Alaris® Auto-ID Module Model 8600 contains an internal bar code image scanner.

13. The Alaris® Auto-ID Module Model 8600 supports an optional handheld scanner supplied by CareFusion.

14. The Alaris® Auto-ID Module Model 8600 can scan bar code information including Clinician ID and Patient ID.

15. The Alaris® Auto-ID Module Model 8600 can scan IV medication containers.

16. Carefusion has infringed and continues to infringe at least claim 1 of the '936 Patent by, among other activities, making, using, selling and/or offering to sell smart medication systems such as the Alaris® System Model 8000, including its Alaris® PC Unit Model 8000, Alaris ® Pump Module Model 8100 and Alaris® Auto-ID Module Model 8600, in a manner which is covered by at least claim 1 of the '936 Patent in the United States pursuant to 35 U.S.C. § 271(a).

17. Carefusion's infringement has injured Braun and Braun is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

**CAREFUSION'S ACTS OF PATENT INFRINGEMENT
COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,519,569 B1**

18. Braun repeats and realleges paragraphs 8-16 of this Complaint, inclusive, as though fully set forth herein and incorporates them by reference.

19. Carefusion has infringed and continues to infringe at least claim 1 of the '569 Patent by, among other activities, making, using, selling and/or offering to sell smart medication systems such as the Alaris® System Model 8000, including its Alaris® PC Unit Model 8000, Alaris ® Pump Module Model 8100 and Alaris® Auto-ID Module Model 8600, in a manner which is covered by at least claim 1 of the '569 Patent in the United States pursuant to 35 U.S.C. § 271(a).

20. Carefusion's infringement has injured Braun and Braun is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

**CAREFUSION'S ACTS OF PATENT INFRINGEMENT
COUNT III – INFRINGEMENT OF U.S. PATENT NO. 6,790,198 B1**

21. Braun repeats and realleges paragraphs 8-19 of this Complaint, inclusive, as though fully set forth herein and incorporates them by reference.

22. The Alaris® Server is a receiver in the Alaris® System Model 8000.

23. The Alaris® Mobile Systems Manager is a receiver in the Alaris® System Model 8000.

24. The Alaris® Mobile Systems Manager can maintain data elements including medical record number, patient ID, account number and device identification number.

25. The Alaris® PC Unit Model 8000 with Communications Interface Board (CIB Accessory) can transmit data elements wirelessly.

26. Carefusion has infringed and continues to infringe at least claim 1 of the '198 Patent by, among other activities, making, using, selling and/or offering to sell smart medication systems such as the Alaris® System Model 8000, including its Alaris® PC Unit Model 8000 with Communications Interface Board (CIB Accessory), Alaris ® Pump Module Model 8100, Alaris® Server and Alaris® Mobile Systems Manager, in a manner which is covered by at least claim 1 of the '198 Patent in the United States pursuant to 35 U.S.C. § 271(a).

27. Carefusion's infringement has injured Braun and Braun is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

**CAREFUSION'S ACTS OF PATENT INFRINGEMENT
COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 7,645,258 B2**

28. Braun repeats and realleges paragraphs 8-27 of this Complaint, inclusive, as though fully set forth herein and incorporates them by reference.

29. Carefusion has infringed and continues to infringe at least claim 1 of the '258 Patent by, among other activities, making, using, selling and/or offering to sell smart medication systems such as the Alaris® System Model 8000, including its Alaris® PC Unit Model 8000 with Communications Interface Board (CIB Accessory), Alaris ® Pump Module Model 8100, Alaris® Server and Alaris® Mobile Systems Manager, in a manner which is covered by at least claim 1 of the '258 Patent in the United States pursuant to 35 U.S.C. § 271(a).

30. Carefusion's infringement has injured Braun and Braun is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

**CAREFUSION'S ACTS OF PATENT INFRINGEMENT
COUNT V – INFRINGEMENT OF U.S. PATENT NO. 7,933,780 B2**

31. Braun repeats and realleges paragraphs 8-29 of this Complaint, inclusive, as though fully set forth herein and incorporates them by reference.

32. Carefusion has indirectly infringed and continues to indirectly infringe at least claim 1 of the '780 Patent under 35 U.S.C. § 271(b) by knowingly and actively inducing infringement of those claims. On April 7, 2011 Carefusion was given notice of the '780 patent and the infringement of the '780 Patent by Carefusion's smart medication systems. Carefusion has knowingly and actively induced infringement of at least claim 1, for example, by selling and/or offering to sell smart medication systems with a remote data collector and controller to its customers to be used in a manner

which is covered by at least claim 1 of the '780 Patent. The direct infringers of the '780 patent that are being induced by Carefusion include, without limitation, customers and hospitals that use the intelligent infusion pumps manufactured and sold by Carefusion. Carefusion has also knowingly and intentionally induced others to infringe (including, specifically, its customers in this judicial district and throughout the United States) by willfully and intentionally aiding, abetting, assisting and encouraging their infringement.

33. Carefusion has knowingly aided and abetted its hospital customers in their direct infringement of at least claim 1 of the '780 Patent by supplying smart medication systems for use in a system which associates the medical device with the patient information, care provider information, medical information with unique identifiers, all with knowledge of the '780 Patent and with intent that its pumps be used as part of an infringing system to carry out an infringing method. Carefusion has the specific intent to encourage this direct infringement; it monitors the infringing acts and encourages them through training materials, implementation guides and operation manuals. Specifically, the Carefusion learning portal on its website www.carefusion.com houses interactive educational and training information regarding how to use the intelligent infusion pumps and handheld data collector in an infringing manner.

34. Carefusion's infringement has occurred with knowledge of the Braun Patents and has been willful in violation of 35 U.S.C. § 284 ¶ 2.

35. Carefusion's infringement has injured Braun and Braun is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Braun, asks this Court to enter judgment against Carefusion and against its parents, subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- a. An award of damages adequate to compensate Braun for the infringement that has occurred, together with prejudgment interest from the date infringement of the Braun Patents began;
- b. An award to Braun of all remedies available under 35 U.S.C. § 284;
- c. An award to Braun of all remedies available under 35 U.S.C. § 285;
- d. A permanent injunction prohibiting Carefusion, and all those in active concert or participation with it, from further acts of infringement of any Braun patent; and
- e. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

B. Braun Medical Inc. demands a trial by jury on all issues presented in this Complaint.

Respectfully submitted,

/s/Raymond P. Niro

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