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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

RONALD D. RUSSO,
an individual resident of
the State of Florida,

Plaintiff,

vs.

Case No.

SMITHS MEDICAL ASD, INC.
a Delaware corporation,

2:____-c____-____-FtM-29.

Defendant.

_____ /

**COMPLAINT FOR PATENT INFRINGEMENT
AND REQUEST FOR INJUNCTIVE RELIEF**

COMES NOW Plaintiff, Ronald D. Russo ("Plaintiff"),
and files his Complaint against Defendant, Smiths Medical
ASD, Inc. ("Defendant"), as follows.

Allegations Common To All Counts

1. This is an action for patent infringement
pursuant to the Patent Laws of the United States, 35 U.S.C.
§1, et seq.

The Parties

2. Plaintiff, Ronald D. Russo, is an individual resident of the State of Florida having a primary residence at 3113 Sundance Circle, Naples, Florida.

3. Upon information and belief, Defendant, Smiths Medical ASD, Inc., is a corporation organized and existing under the laws of the state of Delaware, is registered as a foreign corporation in at least the states of Florida, Connecticut, Illinois, Indiana, Massachusetts, Minnesota, Mississippi, New Hampshire, and Ohio, and has principal locations in the United States in at least the states of Connecticut, Illinois, Indiana, Massachusetts, Minnesota, Mississippi, New Hampshire, and Ohio.

Jurisdiction and Venue

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and §1338(a).

5. Defendant is subject to jurisdiction in the state of Florida and within this Judicial District because, upon information and belief, Defendant is registered as a foreign profit corporation in the state of Florida, has designated a registered agent in the state of Florida, and

has engaged in acts of patent infringement within the state of Florida, including in this Judicial District, directly and/or through its distributors, by offering for sale and selling goods which infringe claims 11, 20, 30, 41, 43, and 50 of Plaintiff's U.S. Patent No. 7,779,842, said acts being the subject of this Complaint.

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

Plaintiff's Patented Invention

7. United States Patent No. 7,779,842 ("the '842 patent") was duly and legally issued to Plaintiff, Ronald D. Russo, on August 24, 2010 for a suction system with high efficiency suction control valve. A true and accurate copy of the '842 patent is attached hereto as Exhibit A.

8. Plaintiff is the sole inventor and the sole owner of all right, title, and interest in and to the '842 patent, and the '842 patent is valid and fully enforceable.

COUNT I - Infringement of the '842 Patent

9. Plaintiff incorporates by reference the allegations of paragraphs 1 through 8, inclusive, as if

fully set forth in this paragraph.

10. Upon information and belief, Defendant, is and has been infringing, directly or indirectly, claims 11, 20, 30, 41, 43, and 50 of the '842 patent, either literally or under the doctrine of equivalents, by making, using, offering for sale, selling, or otherwise distributing in the United States, or importing into the United States, including in this Judicial District, one or more suction systems with a high efficiency suction control valve, including at least the Portex[®] SuctionPro72[™] Closed Ventilation Suction System. A true and accurate photograph of Defendant's Portex[®] SuctionPro72[™] Single Lumen Closed Ventilation Suction Catheter with T Connector for Tracheal (Endotracheal) Tube is attached hereto as Exhibit B. A true and accurate copy of select portions of Defendant's packaging for its Portex[®] SuctionPro72[™] Single Lumen Closed Ventilation Suction Catheter with T Connector for Tracheal (Endotracheal) Tube product is attached hereto as Exhibit C. Attached hereto as Exhibit D is a true and correct copy of a printout of Product Features and Product Specifications for the Portex[®] SuctionPro72[™] Closed Ventilation Suction System obtained from www.smiths-

medical.com which includes a listing of sixty (60) different product reorder codes for the Portex[®] SuctionPro72[™] Closed Ventilation Suction Systems. A true and correct copy of a printout of a February 2007 news release regarding the Portex[®] SuctionPro72[™] Closed Ventilation Suction System obtained from www.smiths-medical.com is attached hereto as Exhibit E.

11. Plaintiff has never authorized or otherwise granted any right to Defendant to manufacture, use, offer for sale, sell, or otherwise distribute in the United States, or import into the United States, any suction system with a high efficiency suction control valve, such as the Portex[®] SuctionPro72[™] Closed Ventilation Suction System, under claims 11, 20, 30, 41, 43, or 50 of the '842 patent.

12. Upon information and belief, Defendant will continue to infringe claims 11, 20, 30, 41, 43, and 50 of the '842 patent to the irreparable damage of Plaintiff, unless enjoined by the Court.

13. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff requests:

A. That the Court find Defendant's aforesaid acts constitute infringement, directly or indirectly, of claims 11, 20, 30, 41, 43, and 50 of the '842 patent, either literally or under the doctrine of equivalents.

B. That, pursuant to 35 U.S.C. §283, Defendant, and all of its agents, distributors, servants, employees, successors, assigns and all persons acting in concert or in active participation with Defendant, be preliminarily and permanently enjoined and restrained from making, using, offering to sell, and/or selling in the United States, and/or importing into the United States the Portex SuctionPro72TM Closed Ventilation Suction System and any other suction system(s) with a high efficiency suction control valve that infringe, directly or indirectly, claims 11, 20, 30, 41, 43, and 50 of the '842 patent, either literally or under the doctrine of equivalents.

C. That Defendant be ordered to deliver up for destruction all Portex[®] SuctionPro72TM Closed Ventilation Suction Systems and any other suction system(s) with a high efficiency suction control valve that infringe, directly or indirectly, claims 11, 20, 30, 41, 43, or 50 of the '842 patent, either literally or under the doctrine of

equivalents.

D. That Defendant be directed to file with this Court and serve upon Plaintiff within thirty (30) days after service of the injunction issued in this action a written report under oath setting forth in detail the manner in which the Defendant has complied with the injunction.

E. That this Court order an accounting for damages to Plaintiff resulting from Defendant's infringement of claims 11, 20, 30, 41, 43, and 50 of the '842 patent.

F. That Plaintiff recover damages adequate to compensate for Defendant's infringement of claims 11, 20, 30, 41, 43, and 50 of the '842 patent, calculated as not less than a reasonable royalty of any financial or any other calculable benefit conferred upon Defendant as a result of Defendant's infringement.

G. That Plaintiff recover its taxable costs and disbursements herein.

H. That Plaintiff recover both pre-judgment and post-judgment interest.

I. That Plaintiff has such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: April 8, 2011

By: 

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