

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LIFESCREEN SCIENCES LLC

Plaintiff,

v.

C.R. BARD, INC. and
BARD PERIPHERAL VASCULAR, INC.,

Defendants.

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Civ. A. No. _____

Jury Trial Demanded

COMPLAINT

1. Plaintiff LifeScreen Sciences LLC (“LifeScreen” or “Plaintiff”), for its Complaint against Defendants C.R. Bard, Inc. (“Bard”) and Bard Peripheral Vascular, Inc., (“Bard Peripheral Vascular”) (collectively, “Defendants”) hereby alleges as follows:

PARTIES

2. Plaintiff LifeScreen is a Texas Limited Liability Company with its principal place of business at 6136 Frisco Square Blvd., Suite 385, Frisco, TX 75034.

3. Upon information and belief, Defendant Bard, is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 730 Central Avenue, Murray Hill, NJ 07974.

4. Defendant Bard Peripheral Vascular is a corporation organized and existing under the laws of the State of Arizona, with its principal place of business located at 1625 West 3rd Street, Tempe, Arizona 85281.

5. Defendants are in the business of developing, manufacturing, and selling medical devices. Such devices include, but are not limited to, vena cava filter and delivery

systems.

NATURE OF THE ACTION

6. This is a civil action for the infringement of United States Patent No. 6,468,290 (the “’290 Patent”) (attached as Exhibit A) entitled “Two-planar Vena Cava Filter with Self-centering Capabilities,” United States Patent No. 6,126,673 (the “’673 Patent”) (attached as Exhibit B) entitled “Vena Cava Filter,” and United States Patent No. 5,836,969 (the “’969 Patent”) (attached as Exhibit C) entitled “Vena Cava Filter” (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

7. Plaintiff LifeScreen is the lawful assignee of all right, title and interest in and to the Patents-in-Suit.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. § 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271, *et seq.*

9. Upon information and belief, Defendants are subject to personal jurisdiction by this Court. Defendants have committed such purposeful acts and/or transactions in the State of Delaware that they reasonably knew and/or expected that they could be haled into a Delaware court as a future consequence of such activity. In addition, the Defendants have committed acts of infringement of one or more of the claims of the Patents-in-Suit in this judicial district. Moreover, Defendant Bard is incorporated in this judicial district.

10. Venue in this district is proper under 28 U.S.C. §§ 1400(b) and 1391(b) and (c), because the Defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district. Defendants make, use, and/or sell infringing products within the District of Delaware, have a continuing presence within the District of Delaware, and have the requisite minimum contacts with the District of Delaware such that

this venue is a fair and reasonable one. Upon information and belief, Defendants have transacted and, at the time of the filing of this Complaint, are continuing to transact business within the District of Delaware.

COUNT I

(Defendants' Infringement of the '290 Patent)

11. Paragraphs 1 through 10 are incorporated by reference as if fully restated herein.

12. Plaintiff LifeScreen is the assignee and lawful owner of all right, title and interest in and to the '290 Patent.

13. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '290 Patent. Such devices are medical devices, including but not limited to vena cava filter and delivery systems, such as, but not limited to Defendants' Meridian vena cava filter and other similar devices.

14. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '290 Patent by making, using, offering for sale, importing, and selling infringing medical devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing medical devices, all with knowledge of the '290 Patent and its claims; with knowledge that their customers and end users will use, market, sell, offer to sell, and import infringing medical devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing medical devices through the creation and

dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

15. Defendants have also contributed to the infringement by others, including the end users of infringing medical devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing medical devices into the United States, knowing that those products constitute a material part of the inventions of the '290 Patent, knowing those products to be especially made or adapted to infringe the '290 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

16. Defendants have had knowledge of and notice of the '290 Patent and their infringement since at least, and through, the filing and service of the Complaint. Moreover, by way of prosecution of patent applications assigned to one or more of the Defendants, Defendants had notice of the '290 Patent prior to the filing of the Complaint. Despite this knowledge and notice, the Defendants continue to commit tortious conduct by way of patent infringement. Accordingly, the Defendants willfully infringed the '290 Patent.

17. Defendants have been and continue to be infringing one or more of the claims of the '290 Patent through the aforesaid acts.

18. Plaintiff LifeScreen is entitled to recover damages adequate to compensate for the infringement, including enhanced damages for the Defendants' willful infringement.

COUNT II

(Defendants' Infringement of the '673 Patent)

19. Paragraphs 1 through 18 are incorporated by reference as if fully restated herein.

20. Plaintiff LifeScreen is the assignee and lawful owner of all right, title and interest in and to the '673 Patent.

21. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '673 Patent. Such devices are medical devices, including but not limited to vena cava filter and delivery systems, such as, but not limited to Defendants' Meridian vena cava filter and other similar devices.

22. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '673 Patent by making, using, offering for sale, importing, and selling infringing medical devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing medical devices, all with knowledge of the '673 Patent and its claims; with knowledge that their customers and end users will use, market, sell, offer to sell, and import infringing medical devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing medical devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

23. Defendants have also contributed to the infringement by others, including the end users of infringing medical devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing medical devices into the United States, knowing that those products constitute a material part of the inventions of the '673 Patent, knowing those products to be especially made or adapted to infringe the '673 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

24. Defendants have had knowledge of and notice of the '673 Patent and their infringement since at least, and through, the filing and service of the Complaint. Moreover, by way of prosecution of patent applications assigned to one or more of the Defendants, Defendants had notice of the '673 Patent prior to the filing of the Complaint. Despite this knowledge and notice, the Defendants continue to commit tortious conduct by way of patent infringement. Accordingly, the Defendants willfully infringed the '673 Patent.

25. Defendants have been and continue to be infringing one or more of the claims of the '673 Patent through the aforesaid acts.

26. Plaintiff LifeScreen is entitled to recover damages adequate to compensate for the infringement, including enhanced damages for the Defendants' willful infringement.

COUNT III

(Defendants' Infringement of the '969 Patent)

27. Paragraphs 1 through 26 are incorporated by reference as if fully restated herein.

28. Plaintiff LifeScreen is the assignee and lawful owner of all right, title and interest in and to the '969 Patent.

29. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or which employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more of the claims of the '969 Patent. Such devices are medical devices, including but not limited to vena cava filter and delivery systems, such as, but not limited to Defendants' Meridian vena cava filter and other similar devices.

30. Defendants actively, knowingly, and intentionally induced, and continue to

actively, knowingly, and intentionally induce, infringement of the '969 Patent by making, using, offering for sale, importing, and selling infringing medical devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing medical devices, all with knowledge of the '969 Patent and its claims; with knowledge that their customers and end users will use, market, sell, offer to sell, and import infringing medical devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing medical devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

31. Defendants have also contributed to the infringement by others, including the end users of infringing medical devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing medical devices into the United States, knowing that those products constitute a material part of the inventions of the '969 Patent, knowing those products to be especially made or adapted to infringe the '969 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

32. Defendants have had knowledge of and notice of the '969 Patent and their infringement since at least, and through, the filing and service of the Complaint. Moreover, by way of prosecution of patent applications assigned to one or more of the Defendants, Defendants had notice of the '969 Patent prior to the filing of the Complaint. Despite this knowledge and notice, the Defendants continue to commit tortious conduct by way of patent infringement. Accordingly, the Defendants willfully infringed the '969 Patent.

33. Defendants have been and continue to be infringing one or more of the claims of the '969 Patent through the aforesaid acts.

34. Plaintiff LifeScreen is entitled to recover damages adequate to compensate for

the infringement, including enhanced damages for the Defendants' willful infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, respectfully requests the following relief:

- a) A judgment that U.S. Patent Nos. United States Patent Nos. 6,468,290; 6,126,673; and 5,836,969 are valid and enforceable.
- b) A judgment that Defendants have infringed the '290 Patent;
- c) A judgment that Defendants have infringed the '673 Patent;
- d) A judgment that Defendants have infringed the '969 Patent;
- e) A judgment that Plaintiff be awarded all appropriate damages (including enhanced damages for willful infringement) under 35 U.S.C. § 284 for the Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including pre and post judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Plaintiff for Defendants' infringement, an accounting:
 - i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys' fees against Defendants that it incurs in prosecuting this action
 - ii. that Plaintiff be awarded costs, and expenses that it incurs in prosecuting this action; and
 - iii. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

- 1. Plaintiff hereby demands trial by jury on all claims and issues so triable.

DATED: January 23, 2013

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan
Joseph J. Farnan, III (Bar No. 3945)
Brian E. Farnan (Bar No. 4089)
919 North Market Street, 12th Floor
Wilmington, Delaware 19801
(302) 777-0300
(302) 777-0301 (Fax)
bfarnan@farnanlaw.com

OF COUNSEL:
Martin J. Black -- LEAD ATTORNEY
Kevin M. Flannery
Joseph R. Heffern
DECHERT LLP
Cira Centre 2929 Arch Street
Philadelphia, PA 19104
(215) 994-4000
martin.black@dechert.com
kevin.flannery@dechert.com
joseph.heffern@dechert.com

Counsel for Plaintiff
LifeScreen Sciences LLC