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1 2	James J. Elacqua (CSB No.: 187897) james.elacqua@dechert.com Noemi C. Espinosa (CSB No.: 116753)				
3	nicky.espinosa@dechert.com Ellen J. Wang (CSB No.: 215478) ellen.wang@dechert.com DECHERT LLP 1117 California Avenue Palo Alto, California 94304				
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6	Telephone: (650) 813-4800 Facsimile: (650) 813-4848				
7	Attorneys for Plaintiffs MEDTRONIC, INC., MEDTRONIC USA, INC., AND MEDTRONIC VASCULAR, INC.				
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10	UNITED STATES DISTRICT COURT				
11	NORTHERN DISTRICT OF CALIFORNIA				
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13	MEDTRONIC, INC., a Minnesota corporation, MEDTRONIC USA, INC., a	Case No.			
14	Minnesota corporation, and MEDTRONIC VASCULAR, INC., a Delaware corporation,	COMPLAINT FOR PATENT INFRINGEMENT			
15	Plaintiffs,	DEMAND FOR JURY TRIAL			
16	v.				
17 18	AGA Medical Corporation, a Minnesota corporation	CERTIFICATION OF INTERESTED PARTIES			
19	Defendant.				
20		J			
21					
22	Plaintiffs, Medtronic, Inc., Medtronic USA, Inc., and Medtronic Vascular, Inc.				
23	(collectively "Plaintiffs"), by and for their Complaint against defendant, AGA Medical				
24	Corporation ("AGA") allege as follows:				
25	Ι.				
26	NATURE (OF THE CASE			
27	1. This is a case to enforce patents against infringement. Plaintiffs hold the rights to				
28	U.S. Patent Nos. 5,067,957, 5,190,546, and 6,306,141 (collectively, the "patents-in-suit.") The				
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United States patent laws grant the holder of a patent the right to exclude infringers from making		
using or selling the invention claimed in a patent, and to recover damages for the infringer's		
violations of these rights, and to recover treble damages where the infringer has willfully		
infringed the patent. Plaintiffs are suing AGA for infringing their patents, and doing so willfully		
Plaintiffs seek to	recover damages for AGA's infringement, including treble damages for willful	
infringement, as well as injunctive relief to end AGA's further infringement.		
	II.	
	THE PARTIES	
2. N	Medtronic, Inc. ("INC") is a Minnesota Corporation, having its principal place of	
business in Mini	neapolis, Minnesota.	
3. N	Medtronic USA, Inc. ("USA") is a Minnesota corporation with its principal place	
of business in M	inneapolis, Minnesota.	
4. N	Medtronic Vascular, Inc. ("VASCULAR") is a Delaware corporation with a	
principal place of	of business in Santa Rosa, California, within this judicial district.	
5. P	laintiffs develop, manufacture and sell medical devices, including endoprosthesis	
devices and rela	ted products. Vascular and USA have contractual rights to sue for damages and	
to exclude other	s from practicing the inventions claimed in the patents-in-suit.	
6. U	Jpon information and belief, AGA is a Minnesota corporation. AGA develops,	
manufactures an	d sells certain medical devices, including at least the AMPLATZER® Septal	
Occluder, the Al	MPLATZER® Duct Occluder and the AMPLATZER® Vascular Plug devices.	
AGA is doing business within this judicial district by offering for sale and selling such occlusion		
devices.		
	III.	
	JURISDICTION AND VENUE	
7. T	his is an action for patent infringement arising under the patent laws of the	
United States of America, Title 35 § 271 of the United States Code.		
8. T	his Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331	
and 1338(a).		

1	9.	Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b)
2	because, upon	information and belief, AGA has, among other things, committed infringing acts in
3	this district and generally does business in this district.	
4	INTRADISTRICT ASSIGNMENT	
5	10.	This patent action is in an excepted category for Local Rule 3-2(c), Assignment of
6	a Division, and	d will be assigned on a district wide basis.
7	IV.	
8	CLAIMS FOR RELIEF	
9	COUNT I	
10	(Patent Infringement of U.S. Patent 5,067,957)	
11	11.	Plaintiffs hereby incorporate by reference paragraphs 1-10 of this Complaint.
12	12.	U.S. Patent No. 5,067,957 (the "'957 Patent"), entitled "Method Of Inserting
13	Medical Devices Incorporating SIM Alloy Elements" duly and legally issued on November 26,	
14	1991 to James E. Jervis (attached as Exhibit A), with Raychem Corporation as the originally	
15	named assignee.	
16	13.	INC is the current assignee of the rights under the '957 Patent.
17	14.	On information and belief, AGA has been, and is currently infringing, directly
18	and/or through	acts of contributory infringement or inducement, one or more claims of the '957
19	Patent by, among other things, making, using, selling and/or offering for sale, certain medical	
20	devices, including at least the AMPLATZER® Septal Occluder, the AMPLATZER® Duct	
21	Occluder and the AMPLATZER® Vascular Plug devices, within the territorial boundaries of the	
22	United States, including this district, that embody and/or practice the inventions claimed in the	
23	'957 Patent.	
24	15.	On information and belief, AGA's infringement of the '957 Patent has been and is
25	willful, and w	ill continue unless enjoined by this Court. Plaintiffs have suffered, and will
26	continue to su	ffer, irreparable harm as a result of this willful infringement. Remedies available at
27	law are inadec	quate to compensate Plaintiffs for the irreparable harm they have suffered and will
28	continue to suffer. In considering the balance of hardships between Plaintiffs and AGA, a remedy	
P		- 3 - COMPLAINT FOR PATENT INFRINGEMENT

1	in equity is warranted. Plaintiffs have complied with the notice provisions of 35 U.S.C. § 287	
2	with respect to the '957 patent.	
3	COUNT II	
4	(Patent Infringement of U.S. Patent 5,190,546)	
5	16. Plaintiffs hereby incorporate by reference paragraphs 1-15 of this Complaint.	
6	17. U.S. Patent No. 5,190,546 (the "'546 Patent"), entitled "Medical Device	
7	Incorporating SIM Alloy Elements" duly and legally issued on November 26, 1991 to James E.	
8	Jervis (attached as Exhibit B), with Raychem Corporation as the originally named assignee.	
9	18. INC is the current assignee of the rights under the '546 Patent.	
10	19. On information and belief, AGA has been, and is currently infringing, directly	
11	and/or through acts of contributory infringement or inducement, one or more claims of the '957	
12	Patent by, among other things, making, using, selling and/or offering for sale, certain medical	
13	devices, including at least the AMPLATZER® Septal Occluder, the AMPLATZER® Duct	
14	Occluder and the AMPLATZER® Vascular Plug devices, within the territorial boundaries of the	
15	United States, including this district, that embody and/or practice the inventions claimed in the	
16	'546 Patent.	
17	20. On information and belief, AGA's infringement of the '546 Patent has been and is	
18	willful, and will continue unless enjoined by this Court. Plaintiffs have suffered, and will	
19	continue to suffer, irreparable harm as a result of this willful infringement. Remedies available a	
20	law are inadequate to compensate Plaintiffs for the irreparable harm they have suffered and will	
21	continue to suffer. In considering the balance of hardships between Plaintiffs and AGA, a remed	
22	in equity is warranted.	
23	<u>COUNT III</u>	
24	(Patent Infringement of U.S. Patent 6,306,141)	
25	21. Plaintiffs hereby incorporate by reference paragraphs 1-20 of this Complaint.	
26	22. U.S. Patent No. 6,306,141 (the "'141 Patent"), entitled "Medical Devices	
27	Incorporating SIM Alloy Elements," duly and legally issued on October 23, 2001, to James E.	
28	Jervis (attached as Exhibit C), with INC as the named assignee.	

- 23. INC is the current assignee of the rights under the '141 Patent.
- 24. On information and belief, AGA has been, and is currently infringing, directly and/or through acts of contributory infringement or inducement, one or more claims of the '141 Patent by, among other things, making, using, selling and/or offering for sale, certain medical devices, including at least the AMPLATZER® Septal Occluder, the AMPLATZER® Duct Occluder and the AMPLATZER® Vascular Plug devices, within the territorial boundaries of the United States, including this district, that embody and/or practice the inventions claimed in the '141 Patent.
- 25. On information and belief, AGA's infringement of the '141 Patent has been and is willful, and will continue unless enjoined by this Court. Plaintiffs have suffered, and will continue to suffer, irreparable harm as a result of this willful infringement. Remedies available at law are inadequate to compensate Plaintiffs for the irreparable harm they have suffered and will continue to suffer. In considering the balance of hardships between Plaintiffs and AGA, a remedy in equity is warranted. Plaintiffs have complied with the notice provisions of 35 U.S.C. § 287 with respect to the '141 patent.

V.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

- 1. That AGA be adjudged to have infringed, directly and/or through acts of contributory infringement, and or to have induced infringement under 35 U.S.C. § 271 of the 5,067,957, 5,190,546, and 6,306,141 patents by, among other things, making, using, selling and/or offering for sale, certain medical devices, including at least the AMPLATZER® Septal Occluder, the AMPLATZER® Duct Occluder and the AMPLATZER® Vascular Plug devices, within the territorial boundaries of the United States;
- 2. That AGA, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with any of them, be preliminarily and permanently enjoined and restrained under 35 U.S.C. § 283 from infringing in any manner the patents-in-suit;

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1	3.	That AGA be ordered to pay Pl	aintiffs an award of damages pursuant to 35 U.S.C.
2	§ 284 to adequately compensate Plaintiffs for AGA's direct, contributory and/or inducement of		
3	infringement of the patents-in-suit;		
4	4.	That the award of damages to P	Plaintiffs be trebled pursuant to 35 U.S.C. § 284 for
5	AGA's willful infringement of the patents-in-suit;		
6	5.	That this case is an exceptional	case and award Plaintiffs their reasonable
7	attorneys' fees pursuant to 35 U.S.C. § 285;		
8	6.	For an assessment of pre-judgm	nent and post-judgment interest and costs against
9	AGA, togetl	her with an award of such interest a	and costs, in accordance with 35 U.S.C. § 284; and
10	7.	That Plaintiffs be awarded such	other and further relief as this Court may deem
11	just and proj	per.	
12			Respectfully submitted,
13	Dated: J	January 29, 2007	DECHERT LLP
14			
15			By: /s/ James. J. Elacqua James J. Elacqua
16			Noemi C. Espinosa Ellen J. Wang
17			Attorneys for Plaintiffs
18			MEDTRONIC, INC. MEDTRONIC USA, INC.
19			MEDTRONIC VASCULAR, INC.
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DECHERT LLP ATTORNEYS AT LAW PALO ALTO

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1		DEM	IAND FOR TRIAL BY JURY
2	Plaintiffs hereby demand a trial by jury for all issues so triable in this action.		rial by jury for all issues so triable in this action.
3	Dated:	January 29, 2007	DECHERT LLP
4			
5			By: /s/ James J. Elacqua
6			By:/s/ James J. Elacqua James J. Elacqua Noemi C. Espinosa Ellen J. Wang
7			
8			Attorneys for Plaintiffs MEDTRONIC, INC. MEDTRONIC USA, INC. MEDTRONIC VASCULAR, INC.
9			MEDTRONIC USA, INC. MEDTRONIC VASCULAR, INC.
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1 CERTIFICATION OF INTERESTED ENTITIES OR PERSONS 2 Pursuant to this district's Local Rule 3-16, the undersigned certifies that the following

listed persons, associations of persons, firms, partnerships, corporations (including parent corporations) or other entities (i) have a financial interest in the subject matter in controversy or in a party to the proceeding, or (ii) have a nonfinancial interest in that subject matter or in a party that could be substantially affected by the outcome of this proceeding:

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8 Medtronic, Inc.

9 Medtronic USA, Inc.

10 Medtronic Vascular, Inc.

11 12

13 Dated: January 29, 2007 **DECHERT LLP**

14

15 /s/ James J. Elacqua James J. Elacqua Noemi C. Espinosa

Ellen J. Wang

Attorneys for Plaintiffs

MEDTRONIC VASCULAR, INC.

MEDTRONIC, INC. MEDTRONIC USA, INC.

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COMPLAINT FOR PATENT INFRINGEMENT