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11 Attorneys for Plaintiff
APPLIED MEDICAL RESOURCES CORPORATION
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13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16 SOUTHERN DIVISION

17
18 APPLIED MEDICAL RESOURCES
CORPORATION,

19 Plaintiff,

20 v.

21 COVIDIEN LP and COVIDIEN
22 SALES LLC,

23 Defendants.
24

Civil Action No.: 8:14-CV-00087

**COMPLAINT FOR
INFRINGEMENT OF
U.S. PATENT NO. 8,496,581**

DEMAND FOR JURY TRIAL

1 Plaintiff Applied Medical Resources Corporation for its Complaint states
2 and alleges as follows:

3 **PARTIES**

4 1. Plaintiff Applied Medical Resources Corporation (“Applied”) is a
5 corporation incorporated under the laws of California and has its principal place
6 of business at 22872 Avenida Empresa, Rancho Santa Margarita, California
7 92677, in Orange County, California.

8 2. Upon information and belief, Defendant Covidien LP is a Delaware
9 limited partnership having a principal place of business at 15 Hampshire Street,
10 Mansfield, Massachusetts 02048.

11 3. Upon information and belief, Defendant Covidien Sales LLC is a
12 Delaware limited liability company having a principal place of business at
13 15 Hampshire Street, Mansfield, Massachusetts 02048.

14 **JURISDICTION AND VENUE**

15 4. This is an action for patent infringement arising under the Patent
16 Laws of the United States (Title 35 of the United States Code).

17 5. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

18 6. Venue lies in this district under 28 U.S.C. §§ 1391(b) and (c) and
19 1400(b) in that Defendants have committed acts of infringement in this district.
20 Venue is proper in the Southern Division of this district under the provisions of
21 General Order 349-A (1)(A) in light of the facts that: 1) Plaintiff Applied is
22 resident in the Southern Division, 2) Defendants reside in a place outside the
23 Central District of California, and 3) either the claim for patent infringement
24 arose in the Southern Division where Applied has been injured by Defendants’
25 infringement or the majority of claims for patent infringement arose outside the
26 Central District of California where Defendants have committed the majority of
27 their acts of infringement.

1 **THE PATENT-IN-SUIT**

2 7. Applied is the owner by assignment of U.S. Patent No. 8,496,581
3 entitled “SURGICAL ACCESS APPARATUS AND METHOD” (“the ’581
4 patent”) which issued July 30, 2013 and which names Richard C. Ewers, John
5 R. Brustad, Edward D. Pingleton, Nabil Hilal, Gary R. Dulak, Payam
6 Adlparvar, and Robert R. Bowes as the inventors. A true and correct copy of
7 the ’581 patent is attached hereto as Exhibit A. As the owner, Applied has the
8 right to sue for infringement of the ’581 patent.

9 **DEFENDANTS’ INFRINGEMENT OF U.S. PATENT NO. 8,496,581**

10 8. Applied repeats and re-alleges the allegations of paragraphs 1-7 of
11 this Complaint as if set forth fully herein.

12 9. Defendants infringe, both directly and indirectly, one or more
13 claims of the ’581 patent, in violation of 35 U.S.C. § 271, by making, using,
14 offering for sale, selling, and/or importing products marketed by Defendants
15 under the name SILS Port and also by marketing and promoting those products
16 and related products for use in what Defendants promote as “SILS Procedures.”

17 10. Defendants’ acts of infringement are undertaken without
18 permission or license from Applied.

19 11. Defendants have actual knowledge of the ’581 patent.

20 12. On information and belief, Defendants have knowingly and
21 actively induced infringement of the ’581 patent by, *inter alia*, marketing and
22 selling SILS Port products, knowing and intending that such products be used
23 by Defendants’ customers to infringe the ’581 patent. As a result, Defendants’
24 products have been used by their customers and users to infringe the ’581
25 patent. Defendants continue to engage in acts of induced infringement of the
26 ’581 patent.

27 13. On information and belief, Defendants have contributed to
28 infringement of the ’581 patent by, *inter alia*, marketing and selling SILS Port

1 products. Defendants have offered to sell and sold within the United States
2 SILS Port products, which are not staple articles or commodities of commerce
3 suitable for substantial non-infringing use, and are known by Defendants to be
4 especially made or especially adapted to infringe the '581 patent. As a result,
5 Defendants' SILS Port products have been used by their customers and users to
6 infringe the '581 patent. Defendants continue to engage in acts of contributory
7 infringement of the '581 patent.

8 14. Applied is informed and believes, and thereon alleges, that
9 Defendants have derived and received, and will continue to derive and receive,
10 gains, profits and advantages from the aforesaid acts of infringement in an
11 amount that is not presently known to Applied. By reason of the aforesaid
12 infringing acts, Applied has been damaged and will continue to suffer harm and
13 injury, including monetary damages.

14 15. On information and belief, Defendants have willfully infringed,
15 both directly and indirectly, one or more claims of the '581 patent by making,
16 using, offering for sale, selling, and/or importing SILS Port products, and also
17 by marketing and promoting the SILS Port products for use in SILS Procedures,
18 and Defendants continue to engage in acts of willful infringement of the '581
19 patent, entitling Applied to enhanced damages under 35 U.S.C. § 284 and
20 attorneys' fees and costs under 35 U.S.C. § 285.

21 16. On information and belief, unless enjoined, Defendants and others
22 acting in concert with or on behalf of Defendants will continue their infringing
23 acts, thereby causing additional irreparable injury to Applied for which there is
24 no adequate remedy at law.

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JURY DEMAND

Plaintiff Applied Medical Resources Corporation hereby demands trial by jury on all issues triable to a jury.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 17, 2014

By: /s/ Matthew S. Bellinger
Joseph R. Re
Joseph F. Jennings
Matthew S. Bellinger
Attorneys for Plaintiff,
APPLIED MEDICAL RESOURCES
CORPORATION