

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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| BRUCE N. SAFFRAN, M.D., Ph.D., | § | |
| <i>Plaintiff,</i> | § | |
| v. | § | CIVIL ACTION NO. 2:07-cv-451-TJW |
| | § | |
| JOHNSON AND JOHNSON, | § | JURY DEMANDED |
| and CORDIS CORPORATION, | § | |
| | § | |
| <i>Defendants.</i> | § | |

ORIGINAL COMPLAINT

Bruce N. Saffran, M.D., Ph.D., plaintiff in the above-entitled and numbered civil action, makes this complaint against defendants, Johnson and Johnson and Cordis Corporation, as follows:

NATURE OF ACTION

1. This is a patent infringement action in which plaintiff seeks compensatory and exemplary damages, a reasonable royalty, and declaratory and injunctive relief.

JURISDICTION AND VENUE

2. This action arises under the United States patent laws, 35 U.S.C. §§ 271 and 281-285.

3. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a) and 2201-2202.

4. This Court has personal jurisdiction over the defendants because they do business and sell infringing products in this judicial district.

5. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

PARTIES

6. Plaintiff Bruce N. Saffran, M.D., Ph.D. (“Dr. Saffran”) is a medical doctor and a Ph.D. currently residing at 136 Bertrand Drive, Princeton, New Jersey 08540.

7. On information and belief, defendant Johnson and Johnson (“J&J”), is a corporation organized and existing under the laws of the State of New Jersey, conducts business throughout the United States, including this judicial district, and has its corporate headquarters at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933, and is engaged in the business of manufacturing, assembling, and selling drug eluting stents (“J&J Product”), either itself or by and through defendant Cordis Corporation (“Cordis”), including, but not limited to, the Cypher® Sirolimus-eluting Coronary Stent on RAPTOR™ Over-the-Wire Delivery System and Cypher® Sirolimus-eluting Coronary Stent on RAPTORRAIL® Rapid Exchange Delivery System, each a Sirolimus-Eluting Coronary Stent System. J&J can be served through its registered agent Steven M. Rosenberg, One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

8. On information and belief, defendant Cordis, is a corporation organized and existing under the laws of the State of Florida, conducts business throughout the United States, including this judicial district, and has its corporate headquarters at 40 Technology Drive, Warren, New Jersey 07059 and 14201 N.W. 60th Avenue, Miami Lakes, Florida 33014. Upon further information and belief, Cordis is engaged in the business of manufacturing, assembling, and selling drug eluting stents (“Cordis Product”), either itself or by and through defendant J&J, including, but not limited to, the Cypher® Sirolimus-eluting Coronary Stent on RAPTOR™ Over-the-Wire Delivery System and Cypher® Sirolimus-eluting Coronary Stent on RAPTORRAIL® Rapid Exchange Delivery System, each a Sirolimus-Eluting Coronary Stent System. Cordis can be served through its registered agent CT Corporation System, 1200 South

Pine Island Road, Plantation, Florida 33324.

CLAIMS FOR RELIEF

9. On August 5, 1997, United States Patent Number 5,653,760 (“the ‘760 patent”), entitled “Method and Apparatus for Managing Macromolecular Distribution” was duly and legally issued. A copy of the ‘760 patent is attached hereto as Exhibit A.

10. Dr. Saffran is the lawful owner of all right, title, and interest in and to the ‘760 patent.

11. Upon information and belief, the J&J Product and/or the Cordis Product uses, incorporates, and embodies the inventions claimed in the ‘760 patent, and is covered by one or more claims of the patent. Consequently, the manufacture, use, offer for sale, sale and/or importation of the J&J Product and/or the Cordis Product constitutes direct infringement of the ‘760 patent.

12. On information and belief, J&J and/or Cordis has made, used, offered for sale and/or sold the J&J Product and/or the Cordis Product in the United States and in this district. It has therefore directly infringed the ‘760 patent in violation of 35 U.S.C. § 271(a).

13. On information and belief, J&J and/or Cordis is further liable as an active inducer of infringement or a contributory infringer of the ‘760 patent under 35 U.S.C. § 271(b) and/or (c) because it has offered for sale, sold, and knowingly encouraged, aided and abetted the manufacture, use, offer for sale and/or sale of the infringing J&J Product and/or the Cordis Product and encouraged others to use the infringing J&J Product and/or the Cordis Product.

14. Dr. Saffran notified J&J and/or Cordis regarding infringement of the ‘760 patent by the J&J Product and/or the Cordis Product. Despite being aware of the ‘760 patent, J&J and/or Cordis continued infringement of the ‘760 patent.

15. On information and belief, J&J and/or Cordis has willfully undertaken and

carried out the aforesaid infringing activity with knowledge of the '760 patent and in total disregard of Dr. Saffran's lawful rights under the '760 patent, rendering this case "exceptional" under 35 U.S.C. § 285.

16. The aforesaid infringing activity has damaged Dr. Saffran and, unless enjoined, will continue to cause him irreparable harm for which he has no adequate remedy at law.

JURY DEMAND

Dr. Saffran hereby requests a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Dr. Saffran prays for judgment as follows:

A. Adjudging that J&J has infringed, contributorily infringed, and/or actively induced infringement of the '760 patent, and that such infringement, contributory infringement, and/or inducement of infringement has been willful;

B. Declaring and adjudging that the past and present manufacture, use, sale, importations, and/or offer for sale of the J&J Product constitutes infringement, contributory infringement, and/or inducement of infringement of the '760 patent;

C. Adjudging that Cordis has infringed, contributorily infringed, and/or actively induced infringement of the '760 patent, and that such infringement, contributory infringement, and/or inducement of infringement has been willful;

D. Declaring and adjudging that the past and present manufacture, use, sale, importations, and/or offer for sale of the Cordis Product constitutes infringement, contributory infringement, and/or inducement of infringement of the '760 patent;

E. Awarding Dr. Saffran damages adequate to compensate him for infringement of the '760 patent, increased threefold for willfulness, together with interest and costs, pursuant

to 35 U.S.C. § 284;

F. A judgment that this case is exceptional under 35 U.S.C. § 285, and that Dr. Saffran is entitled to an award of attorneys' fees in the prosecution of this action;

G. Permanently enjoining J&J and the respective officers, agents, employees, customers, and those acting in privity with them, from further infringement, contributory infringement, and/or induced infringement of the '760 patent;

H. Permanently enjoining Cordis and the respective officers, agents, employees, customers, and those acting in privity with them, from further infringement, contributory infringement, and/or induced infringement of the '760 patent; and

I. For such other costs and further relief as the Court may deem proper and just.

Respectfully Submitted,



Eric M. Albritton
Texas State Bar No. 00790215
Lead Attorney
Jason A. Saunders
Texas State Bar No. 24042406
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
(903) 757-8449 (phone)
(903) 758-7397 (fax)
ema@emafirm.com

OF COUNSEL

Paul R. Taskier
DC Bar No. 367713
Gary M. Hoffman
DC Bar No. 141481
James W. Brady, Jr.
DC Bar No. 434467
Jeremy A. Cubert

DC Bar Number 457792
Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, DC 20006
(202) 420-2200 (telephone)
(202) 420-2201 (facsimile)
hoffmang@dicksteinshapiro.com
taskierp@dicksteinshapiro.com
bradyj@dicksteinshapiro.com
cubertj@dicksteinshapiro.com

ATTORNEYS FOR PLAINTIFF