

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

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MY HEALTH, INC. and	)	Civil Action No. 2:13-cv-139
UNIVERSITY OF ROCHESTER,	)	
	)	
Plaintiffs,	)	<b>COMPLAINT FOR PATENT</b>
	)	<b>INFRINGEMENT</b>
v.	)	
	)	<b>(JURY TRIAL DEMANDED)</b>
HONEYWELL HOMMED, LLC,	)	
	)	
Defendant.	)	
	)	
	)	

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Plaintiffs My Health, Inc. (“My Health”) and University of Rochester (collectively “Plaintiffs”) bring this action against defendant Honeywell HomMed, LLC (“Honeywell”), and allege as follows:

**THE PARTIES**

1. The University of Rochester is an educational institution chartered by the State of New York, with a principal office at 601 Elmwood Avenue, Rochester, New York.
2. My Health, Inc. is a Delaware corporation having its registered agent and principal place of business in this district.
3. Michael E. Eiffert M.D. (“Dr. Eiffert”) is the CEO of MyHealth and an inventor of United States Patent No. 6,612,985 entitled “Method and system for monitoring and treating a patient” (the “985 Patent”).
4. On information and belief, Honeywell is a corporation organized and existing under the laws of Delaware having its principal place of business at 3400 Intertech Drive, Suite 200, Brookfield, Wisconsin 53045 and an agent registered for service of process known as Corporation

Service Company, located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, and is doing business in this judicial district.

#### **SUMMARY OF THE CASE**

5. The University of Rochester, Dr. Eiffert and Lisa C. Schwartz invented a unique technology that assists healthcare providers in monitoring and treating patients. Consequently, on September 2, 2003, the University of Rochester was awarded the '985 Patent.

6. My Health is an early stage company, fostering medical technologies through the proof of concept stage for larger more established entities.

7. My Health focuses on serving as a pipeline for new technologies, assisting scientists and engineers in bringing their ideas to fruition and, ultimately, to companies with the expertise to market on a global scale.

8. On August 1, 2008, the University of Rochester granted an exclusive license under the '985 Patent to My Health.

9. Honeywell has not been granted a license or any other rights to the '985 Patent.

10. It is believed that Honeywell has generated significant sales of products incorporating the University's technology, exposing Honeywell to significant liability for its infringement of the '985 Patent.

#### **JURISDICTION AND VENUE**

11. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code. Subject-matter jurisdiction over Plaintiffs' claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

12. Upon information and belief, Honeywell transacted business, contracted to supply goods or services, and caused injury to Plaintiffs within Texas and this judicial district, and has otherwise purposefully availed itself of the privileges and benefits of the laws of Texas, and is, therefore, subject to jurisdiction of this Court.

13. Upon information and belief, Honeywell placed its infringing products into the stream of commerce throughout the United States with the expectation that they will be used by consumers in this judicial district, which products and services have been offered for sale, sold, and used in this judicial district.

14. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

**INFRINGEMENT OF U.S. PATENT NO. 6,612,985**

15. The '985 Patent, a copy of which is attached hereto as Exhibit A, was duly and legally issued by the United States Patent and Trademark Office. The University of Rochester is the owner by assignment of all right, title, and interest in and to the '985 Patent. My Health is the exclusive licensee of the '985 Patent, including the right to sue for and recover all past, present and future damages for infringement of the '985 Patent.

16. Upon information and belief, Honeywell, either alone or in conjunction with others, has in the past and continues to infringe, contribute to infringement, and/or induce infringement of the '985 Patent by making, using, selling and/or offering to sell, and/or causing others to use, methods and systems, including, but not limited to Lifestream Remote Patient Care System ("Accused Product"), which infringes one or more claims of the '985 Patent, including, but not limited to claims

1, 4, and 7 of the '985 Patent. Honeywell is liable for infringement of one or more claims of the '985 Patent, including, but not limited to claims 1, 4 and 7, of the '985 Patent pursuant to 35 U.S.C. § 271.

17. Honeywell is liable for indirect infringement of the '985 Patent by either inducing and/or contributing to direct infringements of the '985 Patent committed by end users of the Accused Product.

18. At least from the time Honeywell received this Complaint, Honeywell acted with intent to encourage direct infringements by its end users, and knew or should have known that its actions would induce such direct infringement.

19. At least from the time Honeywell received this Complaint, Honeywell contributed to direct infringements by its end users as described above by knowing that its Accused Product and method would be implemented by its end users; that its methods, components, system and Accused Product were designed for a combination covered by one or more claims of the '985 Patent; that there are no substantial non-infringing uses; and the Accused Product is a material part of the infringement.

20. Honeywell's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Honeywell the damages sustained as a result of Honeywell's wrongful acts in an amount subject to proof at trial.

21. As a consequence of the infringement complained of herein, Plaintiffs have been irreparably damaged in an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Honeywell is enjoined from committing further acts of infringement.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray for entry of judgment that:

- A. Honeywell has infringed the '985 Patent;
- B. Honeywell account for and pay to Plaintiffs all damages caused by its infringement of the '985 patent in accordance with 35 U.S.C. § 284;
- C. Plaintiffs be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Honeywell, its officers, agents, servants, employees, and those persons in active concert or participation with them from further acts of patent infringement;
- D. Plaintiffs be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Honeywell's patent infringement complained of herein;
- E. Plaintiffs be granted their reasonable attorneys' fees;
- F. Costs be awarded to Plaintiffs; and,
- G. Plaintiffs be granted such other and further relief as the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: February 15, 2013

By: /s/ Elizabeth L. Derieux  
S. Calvin Capshaw  
State Bar No. 03783900  
[ccapshaw@capshawlaw.com](mailto:ccapshaw@capshawlaw.com)  
Elizabeth L. DeRieux  
State Bar No. 05770585  
[ederieux@capshawlaw.com](mailto:ederieux@capshawlaw.com)  
CAPSHAW DERIEUX, L.L.P.  
114 East Commerce Avenue  
Gladewater, Texas 75647  
Telephone: (903) 236-9800

Facsimile: (903) 236-8787

Joseph Pia\*

[Joe.Pia@padrm.com](mailto:Joe.Pia@padrm.com)

PIA ANDERSON DORIUS REYNARD & MOSS, LLC

222 South Main Street, Suite 1830

Salt Lake City, UT 84111

Telephone: (801) 350-9000

Fax: (801) 350-9010

Michael R. Wolford\*

[mwolford@wolfordfirm.com](mailto:mwolford@wolfordfirm.com)

THE WOLFORD LAW FIRM LLP

600 Reynolds Arcade Building

16 East Main Street

Rochester, New York 14614

Telephone: (585) 325-8008

Facsimile: (585) 325-8009

*\*Pro Hac Vice*

C. Dale Quisenberry

State Bar No. 24005040

[dquisenberry@pqelaw.com](mailto:dquisenberry@pqelaw.com)

John T. Polasek

State Bar. No. 16088590

[tpolasek@pqelaw.com](mailto:tpolasek@pqelaw.com)

Jeffrey S. David

State Bar No. 24053171

[jddavid@pqelaw.com](mailto:jddavid@pqelaw.com)

POLASEK, QUISENBERRY & ERRINGTON, L.L.P.

6750 West Loop South, Suite 920

Bellaire, Texas 77401

Telephone: (832) 778-6000

Facsimile: (832) 778-6010

ATTORNEYS FOR PLAINTIFFS