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7 Attorneys for Plaintiffs  
MEDTRONIC, INC., MEDTRONIC USA, INC.,  
8 AND MEDTRONIC VASCULAR, INC.

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 MEDTRONIC, INC., a Minnesota  
corporation, MEDTRONIC USA, INC., a  
14 Minnesota corporation, and MEDTRONIC  
VASCULAR, INC., a Delaware corporation,

15 Plaintiffs,

16 v.

17 AGA Medical Corporation, a Minnesota  
18 corporation

19 Defendant.

Case No.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

**CERTIFICATION OF INTERESTED  
PARTIES**

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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 **I.**

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

1 United States patent laws grant the holder of a patent the right to exclude infringers from making,  
2 using or selling the invention claimed in a patent, and to recover damages for the infringer's  
3 violations of these rights, and to recover treble damages where the infringer has willfully  
4 infringed the patent. Plaintiffs are suing AGA for infringing their patents, and doing so willfully.  
5 Plaintiffs seek to recover damages for AGA's infringement, including treble damages for willful  
6 infringement, as well as injunctive relief to end AGA's further infringement.

7 **II.**

8 **THE PARTIES**

9 2. Medtronic, Inc. ("INC") is a Minnesota Corporation, having its principal place of  
10 business in Minneapolis, Minnesota.

11 3. Medtronic USA, Inc. ("USA") is a Minnesota corporation with its principal place  
12 of business in Minneapolis, Minnesota.

13 4. Medtronic Vascular, Inc. ("VASCULAR") is a Delaware corporation with a  
14 principal place of business in Santa Rosa, California, within this judicial district.

15 5. Plaintiffs develop, manufacture and sell medical devices, including endoprosthesis  
16 devices and related products. Vascular and USA have contractual rights to sue for damages and  
17 to exclude others from practicing the inventions claimed in the patents-in-suit.

18 6. Upon information and belief, AGA is a Minnesota corporation. AGA develops,  
19 manufactures and sells certain medical devices, including at least the AMPLATZER<sup>®</sup> Septal  
20 Occluder, the AMPLATZER<sup>®</sup> Duct Occluder and the AMPLATZER<sup>®</sup> Vascular Plug devices.  
21 AGA is doing business within this judicial district by offering for sale and selling such occlusion  
22 devices.

23 **III.**

24 **JURISDICTION AND VENUE**

25 7. This is an action for patent infringement arising under the patent laws of the  
26 United States of America, Title 35 § 271 of the United States Code.

27 8. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331  
28 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 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. Jarvis (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 will continue unless enjoined by this Court. Plaintiffs have suffered, and will  
26 continue to suffer, irreparable harm as a result of this willful infringement. Remedies available at  
27 law are inadequate 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

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 at  
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 remedy  
22 in equity is warranted.

23 **COUNT III**

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.







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**CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

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:

- Medtronic, Inc.
- Medtronic USA, Inc.
- Medtronic Vascular, Inc.

Dated: January 29, 2007

DECHERT LLP

By: \_\_\_\_\_/s/ James J. Elacqua  
James J. Elacqua  
Noemi C. Espinosa  
Ellen J. Wang

Attorneys for Plaintiffs  
MEDTRONIC, INC.  
MEDTRONIC USA, INC.  
MEDTRONIC VASCULAR, INC.