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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EXCELSIOR MEDICAL CORPORATION,

Plaintiff,

v.

IVERA MEDICAL CORPORATION,

Defendant.

Document Filed Electronically

Civil Action No. _____

**Complaint, Demand For Jury Trial, and
Rule 11. 2 Certification**

Plaintiff Excelsior Medical Corporation (“Plaintiff” or “Excelsior”), with offices at 1933 Heck Avenue, Neptune, New Jersey 07753, by and through its undersigned attorneys, hereby alleges by way of complaint against Ivera Medical Corporation (“Defendant” or “Ivera”), with offices at 3525 Del Mar Heights Road, Suite 430, San Diego, California as follows:

THE PARTIES

1. Excelsior is a Delaware corporation with its principal place of business at 1933 Heck Avenue, Neptune, New Jersey 07753.
2. Excelsior is a leading manufacturer and supplier of products used in the

medical field, including a variety of catheter care and disinfection products.

3. Upon information and belief, Ivera is a California corporation with offices at 3525 Del Mar Heights Road, Suite 430, San Diego, California, 92130.

4. Upon information and belief, Ivera manufactures, markets, and sells products, including the Curos Strip and Curos Tips, which contain a plurality of devices on a strip that Ivera alleges disinfect and protect certain types of valves and connections used with intravenous lines (the “Ivera Products”).

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant because, upon information and belief, Defendant conducts business in this District and is committing acts of patent infringement, directly and/or indirectly, in this District. Upon information and belief, Defendant directly and/or indirectly sells, offers for sale, and/or uses the infringing Ivera Products within this judicial District and/or has purposefully and voluntarily placed the infringing Ivera Products into the stream of commerce with the knowledge and expectation that they will be purchased by consumers in this District.

7. Venue is proper in the District of New Jersey pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendant conducts business in this District, and/or the activity about which Excelsior complains has taken place and is continuing to take place in this District.

FACTUAL ALLEGATIONS

8. U.S. Patent No. 8,647,326 (the “326 Patent”), entitled “Sterilization Caps and Systems and Associated Methods,” relating to a system of medical luer connector caps, was duly and legally issued by the United States Patent and Trademark Office

(“PTO”) on February 11, 2014, to Donald D. Solomon, F. Mark Ferguson, Robert Hitchcock, Steven Bandis, James Mercer, and Michael Howlett.

9. Excelsior is the exclusive licensee of the ‘326 Patent, with the sole right to enforce the ‘326 Patent.

10. Upon information and belief, Ivera is infringing Excelsior’s rights under the ‘326 Patent by making, using, offering to sell, and/or selling within the United States the Ivera Products.

FIRST COUNT
(Patent Infringement)

11. Excelsior re-alleges and incorporates by reference the allegations of the foregoing paragraphs.

12. Ivera is directly and/or indirectly infringing, literally and/or under the doctrine of equivalents, one or more claims of the ‘326 Patent by making, using, offering to sell, and/or selling within the United States the Ivera Products in violation of 35 U.S.C. § 271.

13. Excelsior is damaged and irreparably harmed by infringement of the ‘326 Patent by Ivera and will continue to suffer irreparable injury unless Ivera’s activities are enjoined.

REQUEST FOR RELIEF

WHEREFORE, Excelsior demands judgment in its favor and against Ivera as follows:

- a. Judgment that Ivera has infringed the ‘326 patent;
- b. An order permanently enjoining Ivera, its subsidiaries, officers, agents, servants, employees, licensees, distributors, and all other persons acting or attempting to act in active concert or participation with Ivera or acting on its behalf, from further directly or indirectly infringing the ‘326 patent.

- c. An order awarding to Excelsior, to the extent allowable by law, an accounting and award of damages caused by Ivera's infringement;
- d. An order directing Ivera to pay Excelsior's lawful costs and expenses pursuant to 35 U.S.C. § 284, as well as Fed. R. Civ. P. 54 (d);
- e. An order awarding to Excelsior pre-judgment and post-judgment interest on the damages caused to Excelsior by Ivera's patent infringement; and
- f. Any other relief appropriate as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury of all issues triable as of right by a jury in this action.

Dated: February 11, 2014

McCARTER & ENGLISH, LLP

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LOCAL CIV. R. 11.2 CERTIFICATION

I certify that the matter in controversy between the parties, namely the patent infringement action involving U.S. Patent No. 8,647,326 (the “’326 Patent”) is not the subject of any other action pending in any court or of any pending arbitration or administrative proceeding.

Dated: February 11, 2014

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