

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA**

THE BOARD OF TRUSTEES OF THE  
UNIVERSITY OF ALABAMA ON  
BEHALF OF ONE OF ITS DIVISIONS,  
THE UNIVERSITY OF ALABAMA AT  
BIRMINGHAM; AND THE UAB  
RESEARCH FOUNDATION,

Plaintiffs,

vs.

BOSTON SCIENTIFIC,  
CORPORATION; AND CARDIAC  
PACEMAKERS, INC.

Defendant.

CIVIL ACTION NO. \_\_\_\_\_

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY DEMANDED**

**COMPLAINT**

Plaintiffs, the Board of Trustees of the University of Alabama on behalf of one of its divisions, The University of Alabama at Birmingham and the UAB Research Foundation (collectively “UAB”) for their Complaint for Patent Infringement against Defendants Boston Scientific Corporation and Cardiac Pacemakers, Inc. (collectively “Defendants”) allege as follows:

**PARTIES**

1. Plaintiff, The Board of Trustees of the University of Alabama on behalf of one of its divisions, The University of Alabama at Birmingham, is a public

university and instrumentality of the State of Alabama organized and existing under the Constitution and laws of the State of Alabama, located in Birmingham, Alabama.

2. Plaintiff UAB Research Foundation is an Alabama non-profit corporation having its principal place of business at 701 20<sup>th</sup> Street South, Administration Building 770, Birmingham, Alabama 35294.

3. On information and belief, Defendant Boston Scientific is a Delaware corporation with its principal place of business at One Boston Scientific Place, Natick, Massachusetts 01760.

4. On information and belief, Defendant Cardiac Pacemakers, Inc., a wholly owned subsidiary of Boston Scientific, Inc., is a Minnesota corporation with its principal place of business at 4100 North Hamline Avenue, St. Paul, Minnesota 55112.

### **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.

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), 1605(a)(2), and 2202.

7. On information and belief, Defendants are subject to personal jurisdiction in the Northern District of Alabama (the “District”), consistent with the principles of

due process and the Alabama Long Arm Statute, because Defendants offer their products for sale in this District, have transacted business in this District, have committed acts of patent infringement in this District, and/or have placed infringing products into the stream of commerce through established distribution channels with the expectation that such products will be purchased by residents of this District.

8. In a patent case, venue is proper “in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b). “[A] defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced.” 28 U.S.C. § 1391(c)(2). Thus, venue is proper in the District because, as set forth above, the corporate Defendants are subject to personal jurisdiction in the District.

### **COUNT I**

#### **INFRINGEMENT OF U.S. PATENT NO. 6,266,563**

9. UAB is the owner of all right, title, and interest in U.S. Patent No. 6,266,563 (the “‘563 patent”), entitled “Method and Apparatus for Treating Cardiac Arrhythmia,” duly and properly issued by the U.S. Patent and Trademark Office on July 24, 2001. A copy of the ‘563 patent is attached as Exhibit A.

10. Defendants market and sell cardiac resynchronization therapy defibrillators (“CRT-Ds”) including but not limited to the Incepta, Energen, Cognis, and Livian CRT-Ds in the United States.

11. On information and belief, Defendants have been and/or are infringing the ‘563 patent, pursuant to 35 U.S.C. §§ 271(a), (b), (c) and/or (g), either directly, literally or under the doctrine of equivalents, by among other things making, using, offering to sell, and/or selling in the United States, and/or importing into the United States, without authority, products or processes that are covered by at least claims 1, 7, and 14 of the ‘563 patent including, by way of example and not limitation, the Incepta, Energen, Cognis, and Livian CRT-Ds.

12. UAB has been and continues to be damaged by Defendants’ infringement of the ‘563 patent in an amount to be determined at trial.

13. Defendants had knowledge of the ‘563 patent, even citing it as prior art in U.S. Patent No. 7,089,055 that is owned by Cardiac Pacemakers, Inc. Further, on information and belief, Defendants had knowledge that the manufacture and sale of their CRT-Ds, infringed the ‘563 patent. As a result, on information and belief, Defendants’ infringement of the ‘563 patent is willful and deliberate, entitling UAB to enhanced damages and reasonable attorneys fees and costs.

**PRAYER FOR RELIEF**

WHEREFORE, UAB prays for relief as follows:

- A. For a judgment declaring that Defendants have infringed the ‘563 patent;
- B. For a judgment awarding UAB compensatory damages as a result of Defendants’ infringement of the ‘563 patent, together with interest and costs, and in no event less than a reasonable royalty;
- C. For a judgment declaring that Defendants’ infringement of the ‘563 patent has been willful and deliberate;
- D. For a judgment awarding UAB treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendants’ willful and deliberate infringement of the ‘563 patent;
- E. For a judgment declaring that this case is exceptional and awarding UAB its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
- F. For such other and further relief as the Court deems just and proper.

**DEMAND OF JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, UAB respectfully requests a trial by jury of all issues properly triable by jury.

DATED: September 22, 2014

Respectfully submitted,

/s/ Cole R. Gresham

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