

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

EMED Technologies Corporation,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 2:15-cv-01167
	§	
Repro-Med Systems, Inc.	§	
(d/b/a RMS Medical Products),	§	
	§	
Defendant.	§	

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff EMED Technologies Corporation (“Plaintiff” or “EMED”) alleges as follows:

1. This is a civil action brought against Defendant Repro-Med Systems, Inc. (d/b/a RMS Medical Products) (“Defendant” or “RMS”) for its infringement of United States Patent No. 8,961,476 (the “’476 Patent”). A true and complete copy of the ’476 Patent is attached hereto as Exhibit A.

JURISDICTION AND VENUE

2. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a), because Plaintiff’s claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. §§ 271 and 281.

3. This Court also has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. § 1332(a)(1), because Plaintiff is a citizen of Nevada and California; Defendant is a citizen of New York; and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b), because this is a civil action for patent infringement, and Defendant is a corporation that resides in this District by virtue of 28 U.S.C. § 1391(c), as it has committed acts of infringement in this District.

PARTIES

5. Plaintiff EMED Technologies Corporation is a Nevada corporation having its principal place of business in El Dorado Hills, California.

6. Defendant Repro-Med Systems, Inc. (d/b/a RMS Medical Products) is a New York corporation having its principal place of business in Chester, New York.

7. By virtue of 28 U.S.C. § 1391(c), RMS is deemed to reside in this District because it is subject to the Court's personal jurisdiction with respect to this civil action.

8. RMS is subject to the Court's personal jurisdiction with respect to this civil action because it has committed acts by which it has purposefully availed itself of the privilege of conducting activities within Texas, and this action relates to those acts:

(a) as alleged in Paragraph 21 below, RMS has directly infringed the '476 Patent by selling or offering for sale infringing products to distributors located in this District; and

(b) as alleged in Paragraph 22 below, RMS has indirectly infringed the '476 Patent by inducing its distributors to sell infringing products to consumers located in Texas and by inducing such consumers to use infringing products.

GENERAL ALLEGATIONS

9. The products at issue in this action are medical devices that aid in the treatment of a potentially fatal condition known as Primary Immunodeficiency Disease ("PIDD"). Individuals who suffer from PIDD need immunoglobulin (human plasma and antibodies) in order to lead normal, productive lives. To enhance patient safety and comfort, immunoglobulin has increasingly come to be administered to patients in their homes by means of subcutaneous (under-the-skin)

infusions. In this Subcutaneous Immunoglobulin (“SCIg”) therapy, mechanical infusion pumps deliver the necessary immunoglobulin via plastic tubing and subcutaneous needles. The SCIg needles that penetrate patients’ skin are generally less than one inch long and come in different gauges (diameters).

10. EMED has been a pioneer in the development of SCIg and other infusion therapy devices. In particular, EMED pioneered the development of needle sets specifically optimized for infusion of immunoglobulin to patients with PIDD in 2005. Both for obvious reasons and in light of the Needlestick Safety and Prevention Act, Pub. L. No. 106-430 (2001), safety features are especially important when it comes to SCIg needles. In this regard, EMED has invented various ways to protect patients and medical practitioners from inadvertent needle sticks.

11. One of these inventions is disclosed in United States Patent No. 8,961,476, titled “Sharps protector device for protecting a user from a sharp tip of a medical needle,” which was issued by the U.S. Patent and Trademark Office on February 24, 2015. A true and complete copy of the ’476 Patent is attached hereto as Exhibit A.

12. EMED’s CEO Paul Lambert is the inventor of the patented device, and EMED is the owner of the ’476 Patent.

13. The invention disclosed and claimed in the ’476 Patent allows for the safe removal of subcutaneous needles from patients and the safe disposal of needles and needle sets. In particular, the invention solves the needle safety problem by sheathing the needle within a protective pair of folding wings during and after removal from a patient’s skin.

14. Since before 2014, EMED has been selling “SCIg Safety Needle Sets,” and EMED continues to sell those products.

15. Since before 2014, and in direct competition with EMED, RMS has been selling “HIgH-Flo Subcutaneous Safety Needle Sets™” (“HIgH-Flo Needle Sets”), and RMS continues to sell those products.

16. Although EMED has never licensed the ’476 Patent to RMS, the HIgH-Flo Needle Sets sold by RMS incorporate the safety design disclosed and claimed in that patent.

17. RMS’s sales of HIgH-Flo Needle Sets in direct competition with EMED’s SCIg Safety Needle Sets have harmed, and are continuing to harm, EMED’s market share, revenues, and brand recognition in the market for safety needle sets for SCIg therapy.

CLAIM FOR RELIEF

(Infringement of United States Patent No. 8,961,476, 35 U.S.C. §§ 271 and 281)

18. EMED hereby incorporates Paragraphs 1 through 17 as if set forth in full herein.

19. EMED is the sole owner of all rights, title, and interest in and to the ’476 Patent.

20. EMED has not licensed or otherwise authorized RMS to perform any activities or to make, use, offer for sale, or sell any products that employ the invention of the ’476 Patent.

21. RMS has been directly infringing and continues to directly infringe, either literally or under the doctrine of equivalents, the ’476 Patent by making, using, offering to sell, or selling HIgH-Flo Needle Sets within the United States, which products practice one or more claims of the ’476 Patent.

22. RMS has been indirectly infringing and continues to indirectly infringe, either literally or under the doctrine of equivalents, the ’476 Patent by inducing its distributors to sell or to offer to sell HIgH-Flo Needle Sets in the United States and by inducing its consumers to use HIgH-Flo Needle Sets in the United States, which products practice one or more claims of the ’476 Patent.

23. In so inducing its distributors and consumers, RMS acted with knowledge that its High-Flo Needle Sets infringed the '476 Patent.

24. RMS's infringement of the '476 Patent has been and continues to be willful, in that RMS actually knew, or it was so obvious that RMS should have known, that its actions constituted infringement of a valid and enforceable patent.

25. RMS's infringement of the '476 Patent has irreparably injured and will continue to irreparably injure EMED unless and until such infringement is enjoined by this Court.

26. For RMS's infringement of the '476 Patent, EMED is entitled pursuant to 35 U.S.C. § 283 to a permanent injunction in accordance with the principles of equity to prevent the violation of its rights secured by the patent.

27. For RMS's infringement of the '476 Patent, EMED is further entitled pursuant to 35 U.S.C. § 284 to damages (including treble damages), together with interest and costs as fixed by the Court.

28. For RMS's infringement of the '476 Patent, EMED is further entitled pursuant to 35 U.S.C. § 285 to reasonable attorney fees.

PRAYER FOR RELIEF

29. WHEREFORE, EMED prays for relief as follows:
- (a) a permanent injunction pursuant to 35 U.S.C. § 283;
 - (b) damages (including treble damages), together with interest and costs as fixed by the Court, pursuant to 35 U.S.C. § 284;
 - (c) reasonable attorney fees pursuant to 35 U.S.C. § 285;
 - (d) costs of suit herein; and
 - (e) such other relief as the Court deems just and proper.

Dated: June 25, 2015.

Respectfully submitted,

/s/ John B. Thomas

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