

1 Victor M. Felix (Bar No. 179622)
2 Brian J. Kennedy (Bar No. 280921)
3 PROCOPIO, CORY, HARGREAVES
& SAVITCH LLP
4 525 B Street, Suite 2200
San Diego, CA 92101
5 Telephone: (619) 238-1900
Email: victor.felix@procopio.com
Email: brian.kennedy@procopio.com

6
7 Jonathan T. Suder (*Pro Hac Vice To Be Filed*)
8 Brett M. Pinkus (*Pro Hac Vice To Be Filed*)
9 Glenn S. Orman (*Pro Hac Vice To Be Filed*)
10 FRIEDMAN, SUDER & COOKE
Tindall Square Warehouse No. 1
11 604 East 4th Street, Suite 200
Fort Worth, Texas 76102
12 Telephone: (817) 334-0400
Facsimile: (817) 334-0401
Email: jts@fsclaw.com
Email: pinkus@fsclaw.com
Email: orman@fsclaw.com

13 Attorneys for Plaintiff
14 SURGICAL IRRIGATION TECHNOLOGIES INC.

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **SOUTHERN DIVISION**

18 SURGICAL IRRIGATION
19 TECHNOLOGIES INC.

20 Plaintiff,

21 vs.

22 KARL STORZ ENDOSCOPY-
23 AMERICA, INC.,

24 Defendant.

CASE NO.

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff SURGICAL IRRIGATION TECHNOLOGIES INC. files its
2 Complaint against Defendant KARL STORZ ENDOSCOPY-AMERICA, INC.,
3 alleging as follows:

4 **THE PARTIES**

5 1. Plaintiff SURGICAL IRRIGATION TECHNOLOGIES INC.
6 (“Plaintiff”) is a corporation organized and existing under the laws of the State of
7 Delaware with its principal place of business located in Costa Mesa, CA.

8 2. Upon information and belief, KARL STORZ ENDOSCOPY-
9 AMERICA, INC. (“Defendant”) is a corporation organized and existing under the
10 laws of the State of California, with its principal place of business in El Segundo,
11 CA. Defendant may be served with process through its registered agent Paracorp
12 Incorporated located at 2804 Gateway Oaks Drive, Suite 200, Sacramento, CA
13 95833.

14 **JURISDICTION AND VENUE**

15 1. This is an action for patent infringement arising under the patent laws
16 of the United States, Title 35 United States Code. This Court has exclusive subject
17 matter jurisdiction of such action under 28 U.S.C. § 1338(a).

18 2. Upon information and belief, Defendant is subject to personal
19 jurisdiction by this Court. Defendant has committed such purposeful acts and/or
20 transactions in the State of California that it reasonably knew and/or expected that
21 it could be hailed into a California court as a future consequence of such activity.
22 Defendant makes, uses, and/or sells infringing products within the Central District
23 of California and has a continuing presence and the requisite minimum contacts
24 with the Central District of California such that this venue is a fair and reasonable
25 one. Upon information and belief, Defendant has transacted and, at the time of the
26 filing of this Complaint, is continuing to transact business within the Central
27 District of California. For all of these reasons, personal jurisdiction exists and
28 venue is proper in this Court under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

1 **THE '194 PATENT**

2 3. On December 19, 2000, United States Patent No. 6,162,194 (“the ‘194
3 Patent”) was duly and legally issued for “Surgical Irrigation Apparatus and Method
4 for Use.” A true and correct copy of the ‘194 Patent is attached hereto as Exhibit
5 A and made a part hereof.

6 4. By way of assignment, Plaintiff is the owner of all right, title, and
7 interest in and to the ‘194 Patent, including all rights to enforce and prosecute
8 actions for infringement and collect damages for all relevant times.

9 5. As it pertains to this lawsuit, the ‘194 Patent, very generally speaking,
10 relates to a surgical irrigation apparatus used for delivering irrigation fluid to a
11 surgical site.

12 **FIRST CLAIM FOR RELIEF**

13 **(Patent Infringement)**

14 6. Plaintiff repeats and realleges every allegation set forth above.

15 7. Upon information and belief, and without authority, consent, right, or
16 license, and in direct infringement of the ‘194 Patent, Defendant manufactures,
17 makes, has made, uses, practices, imports, provides, supplies, distributes, sells,
18 and/or offers for sale products or systems that infringe one or more claims in the
19 ‘194 Patent. Such conduct constitutes, at a minimum, patent infringement under
20 35 U.S.C. § 271(a).

21 8. More specifically, Defendants, at a minimum, have directly infringed
22 and continue to directly infringe at least Claim 18 of the ‘194 Patent because it
23 manufactures, makes, has made, uses, practices, imports, provides, supplies,
24 distributes, sells, and/or offers for sale surgical irrigation system, including at least
25 the Hamou Endomat pump, inflow and outflow tubing sets, and handle.

26 9. Defendant has had actual notice of the ‘194 Patent at least as early as
27 the receipt of service of this Complaint.
28

1 10. Plaintiff has been damaged as a result of Defendant's infringing
2 conduct. Defendant is, thus, liable to Plaintiff in an amount that adequately
3 compensates Plaintiff for their infringement, which, by law, cannot be less than a
4 reasonable royalty, together with interest and costs as fixed by this Court under 35
5 U.S.C. § 284.

6 11. Upon information and belief, Defendant will continue its infringement
7 of the '194 Patent unless enjoined by the Court. Defendant's infringing conduct
8 has caused Plaintiff irreparable harm and will continue to cause such harm without
9 the issuance of an injunction.

10 12. Plaintiff reserves the right to assert additional claims of the '194
11 Patent.

12 **JURY DEMAND**

13 13. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the
14 Federal Rules of Civil Procedure.

15 **PRAYER FOR RELIEF**

16 Plaintiff requests that the Court find in its favor and against Defendant, and
17 that the Court grant Plaintiff the following relief:

- 18 a. Judgment that one or more claims of the '194 Patent have been
19 infringed, either literally and/or under the doctrine of equivalents, by
20 Defendant;
- 21 b. Judgment that Defendant account for and pay to Plaintiff all damages
22 to and costs incurred by Plaintiff because of its infringing activities
23 and other conduct complained of herein;
- 24 c. That Defendant, its officers, agents, servants and employees, and
25 those persons in active concert and participation with any of them, be
26 permanently enjoined from infringement of the '194 Patent. In the
27 alternative, if the Court finds that an injunction is not warranted,
28 Plaintiff requests an award of post judgment royalty to compensate for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- future infringement;
- d. That Defendant’s infringement be found to be willful from the time Defendants became aware of the infringing nature of its services, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284.
 - e. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendant’s infringing activities and other conduct complained of herein;
 - f. That this Court declare this an exceptional case and award Plaintiff its reasonable attorney’s fees and costs in accordance with 35 U.S.C. § 285; and
 - g. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: October 8, 2015.

/s/ Victor M. Felix

Victor M. Felix
Brian J. Kennedy
PROCOPIO, CORY,
HARGREAVES & SAVITCH LLP
525 B Street, Suite 2200
San Diego, CA 92101
Telephone: (619) 238-1900
Email: victor.felix@procopio.com

Jonathan T. Suder
Brett M. Pinkus
Glenn S. Orman
FRIEDMAN, SUDER & COOKE
Tindall Square Warehouse No. 1
604 East 4th Street, Suite 200
Fort Worth, Texas 76102
Telephone: (817) 334-0400
Facsimile: (817) 334-0401
Email: jts@fsclaw.com
Email: pinkus@fsclaw.com
Email: orman@fsclaw.com

Attorneys for Plaintiff
SURGICAL IRRIGATION
TECHNOLOGIES INC.