

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
 RICHMOND Division**

TISSUE ANCHOR INNOVATIONS LLC,

Plaintiff,

v.

NEOMEDIC INTERNATIONAL, S.L.,

Defendant.

Civil Action No. 3:17-CV-546-HEH

COMPLAINT

Plaintiff Tissue Anchor Innovations LLC (“TAI”) brings this action against defendant Neomedic International, S.L. (“NEOMEDIC”) and hereby alleges as follows:

THE PARTIES

1. TAI is a limited liability company organized and existing under the laws of Virginia, having a place of business at 4445 Corporation Lane, Suite 264, Virginia Beach, Virginia 23462. TAI is the exclusive licensee of a family of patents relating to tissue anchoring systems, including U.S. Patent No. 6,506,190 (the “190 Patent”).

2. Upon information and belief, NEOMEDIC is a corporation organized and existing under the laws of Spain and having a principal place of business at C/Maestrat, 41-43 Terrassa, Barcelona, Spain 08225. NEOMEDIC makes, uses, sells, and/or offers to sell medical devices that address women’s health concerns, including pelvic organ prolapse. Upon information and belief, NEOMEDIC sells and offers to sell its medical devices to and/or through distributors in the United States and to medical professionals, practices and hospital systems, directly and/or through such distributors.

JURISDICTION AND VENUE

3. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, *et. seq.* accordingly, this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2202.

4. This Court has jurisdiction over NEOMEDIC because NEOMEDIC does business in the Commonwealth of Virginia and this District, contracts to supply goods or services within the Commonwealth of Virginia and this District, has continuous and systematic business contacts within the Commonwealth of Virginia and this District, derives substantial revenue from interstate commerce from goods used or services rendered in the Commonwealth of Virginia and this District and commits and has committed acts of patent infringement either within the Commonwealth of Virginia and this District, or outside the Commonwealth of Virginia and this District with a reasonable expectation that such acts would have consequences within the Commonwealth of Virginia and this District.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and 1400(b).

FACTS COMMON TO ALL COUNTS

The Patents-In-Suit

6. On January 17, 2000, the '190 Patent, entitled "Tissue anchor system," was duly and legally issued by the United States Patent and Trademark Office to Dr. Christopher J. Walshe ("Dr. Walshe") as the sole inventor. The '190 Patent discloses a tissue-anchoring system including a tissue-anchoring device and tissue anchors designed to be used in the treatment of urinary incontinence and other conditions.

7. Dr. Walshe, is a medical doctor specializing in female pelvic medicine and reconstructive surgery, having a principal place of business at 5838 Harbour View Boulevard, Suite 290, Suffolk, Virginia 23435. Dr. Walshe is the owner of the '190 Patent.

8. TAI is the exclusive licensee of the '190 Patent, which includes the exclusive right to grant sublicenses to the '190 Patent and to sue for and collect past, present and future damages or to seek and obtain injunctive or any other relief for infringement of the '190 Patent against any third party infringers.

NEOMEDIC's Infringing Product

9. NEOMEDIC designs and sells medical devices that address women's health concerns, which include the Anchorsure delivery system (the "Accused System") (depicted in Figs. 1-2 below), which is marketing for treating pelvic organ prolapse.

Fig. 1

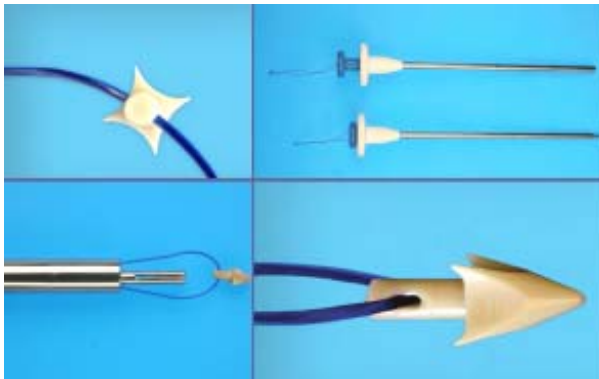


Fig. 2



10. Upon information and belief, NEOMEDIC provides the Accused System for use by medical professionals, practices and hospital systems throughout the United States, including in the Commonwealth of Virginia and this District. Upon information and belief, NEOMEDIC provides the Accused System to such users through a worldwide network of distributors, which includes distributors located within the Commonwealth of Virginia and in this District, or

distributers located outside of this District that provide the Accused System to such users in this District.

11. On or around May 13, 2016, TAI, through its counsel, formally notified NEOMEDIC that the Accused System made, used, sold, or offered for sale by NEOMEDIC infringed the '190 Patent. Upon information and believe, despite having received such letter, NEOMEDIC continued to make, use, sell, and offer to sell the Accused System to customers in the United States, thereby willfully infringing the '190 Patent.

COUNT I

Infringement of United States Patent No. 6,506,190

12. TAI re-alleges and incorporates by reference the foregoing allegations as though fully set forth here.

13. Pursuant to 35 U.S.C. § 271(a), NEOMEDIC is liable for direct infringement of the '190 Patent by having made, used, offered to sell, sold, or distributed and continuing to make, use, sell, offer for sale and/or distribute the Accused System in the United States (shown in Fig. 1 and 2 herein). The Accused System embodies at least claim 1 of the '190 Patent, which recites:

A tissue anchor system comprising a delivery device and a tissue anchor, said delivery device having a housing, a plunger slidably positioned in said housing, said anchor having a barb end and a barb with a tip shaped to penetrate soft tissue positioned thereon, and an attachment member, said anchor being advanced away from said housing upon operation of said plunger, said barb adapted to resist removal from a tissue once inserted.

14. As shown in Figs. 1-2, the Anchorsure tissue anchor system includes an applicator for placing an anchor at a site of interest (the delivery device) and an anchor (the tissue anchor) that is affixed by the end user to the sacrosphinous ligament. The delivery device includes a tubular housing with a shaft (plunger) that is slidably positioned within the housing for anchor placement. The anchor has a leading portion (the barb end) and a barb. The barb end has a tip shaped to

penetrate the sacrospinous ligament (soft tissue) and the anchor has an engageable structure at the distal end for attaching other items thereto.

15. As further shown in Figs. 1-2, the delivery device has an internal handle (blue) and an external handle (white). To place the anchor into soft tissue, the anchor is located at the distal end of the applicator and the internal handle is pushed forward relative to the external handle, which causes the plunger to move forward and correspondingly the anchor to advance away from the housing and into the soft tissue. Once inserted into the soft tissue, the barb resists removal from the soft tissue.

16. Pursuant to 35 U.S.C. § 271(b), NEOMEDIC is liable for inducement of infringement by having, and continuing to, knowingly cause (or intend to cause) the direct infringement of the '190 Patent by users of the Accused System, including medical professionals, practices, and hospital systems which purchase and use the Accused System to treat pelvic organ prolapse.

17. Pursuant to 35 U.S.C. § 271(c), NEOMEDIC is liable for contributory infringement of the '190 Patent by having sold, offered to sell, and/or distributed, and continuing to sell, offer to sell, and/or distribute the Accused System, and the components thereof, that comprise a material component of the inventions embodied in the '190 Patent, that are especially made or adapted for use in infringing the '190 Patent, and that are not suitable for any substantial non-infringing use, in order to provide the Accused System to users, including medical professionals, practices, and hospital systems which purchase and use the Accused System to treat pelvic organ prolapse and having knowledge that the '190 Patent was and is being directly infringed by users.

18. Upon information and belief, NEOMEDIC's infringement of the '190 Patent is willful, deliberate, and intentional by continuing its acts of infringement with knowledge of the '190 Patent and thus acting in reckless disregard of TAI's and Dr. Walshe's patent rights.

19. As a result of NEOMEDIC's acts of infringement of the '190 Patent, TAI and Dr. Walshe have suffered injury to business and property in an amount to be determined as damages, and will continue to suffer damages in the future.

20. Unless an injunction is issued enjoining NEOMEDIC and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them from infringing the '190 Patent, TAI and Dr. Walshe will suffer irreparable injury for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Tissue Anchor Innovations LLC prays for judgment and relief as follows:

A. A declaration that NEOMEDIC has infringed, is infringing, has induced and is inducing, has contributed and is contributing to the infringement of the '190 Patent;

B. A permanent injunction enjoining NEOMEDIC, its officers, agents, servants, employees, affiliates and attorneys, and all those in active concert or participation with them, from further infringing, inducing infringement, and contributing to the infringement of the '190 Patent;

C. An award of damages adequate to compensate TAI for the infringement of the '190 Patent by NEOMEDIC;

D. A declaration that NEOMEDIC's continuing infringement of the '190 Patent and was and is willful, justifying a trebling of the award of damages under 35 U.S.C. § 284, or such other enhancement of the award of damages that the Court deems appropriate;

E. An award of pre-judgment and post-judgment interest on the damages caused by reason of NEOMEDIC's infringement of the '190 Patent;

F. A declaration that this an exceptional case and that TAI be granted its reasonable attorneys' fees and expenses in accordance with 35 U.S.C. § 285;

G. An award of costs and expenses to TAI; and

H. A grant to TAI of such other and further relief as the Court may deem just and proper.

Dated: August 3, 2017

Respectfully submitted,

/s/ Stephen E. Noona

Stephen E. Noona

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DEMAND FOR JURY TRIAL

TAI demands trial by jury on all claims and issues so triable.

Dated: August 3, 2017

Respectfully submitted,

/s/ Stephen E. Noona

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