

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

W.D. Manor Mechanical Contractors, Inc.,

Plaintiff,

v.

MIFAB, Inc.,

Defendant.

No. 1:17-cv-05164

Jury Trial Demanded

SECOND AMENDED COMPLAINT

NOW COMES the Plaintiff, W.D. Manor Mechanical Contractors, Inc. (“Plaintiff”), and hereby alleges the following as its Second Amended Complaint against the Defendant, MIFAB, Inc. (“MIFAB”):

PARTIES

1. Plaintiff is an Arizona corporation with its principal place of business in Maricopa County, State of Arizona.
2. Upon information and belief MIFAB is a Delaware corporation with a regular and established place of business in Chicago, Illinois.

JURISDICTION AND VENUE

3. This civil action includes claims for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1-376.
4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338.
5. This Court has personal jurisdiction over MIFAB because MIFAB’s principal place of business is located in the State of Illinois.
6. Venue is proper in this judicial district under 28 U.S.C. § 1400(b) because MIFAB

has committed acts of infringement within the district, as described below, and MIFAB has a regular and established place of business in the district.

FACTUAL BACKGROUND

7. W.D. Manor is a full-service mechanical contractor, specializing in HVAC, plumbing, process piping and medical gas systems.

8. Plaintiff designed and developed the WD Manor Dialysis Box (WDMDB) for use in hospitals and other health care facilities. The WDNDB avoids the need for excess dedicated cold water distribution piping, by enclosing both a backflow prevention device and a trap primer inside of an access box.

9. On July 11, 2011, Plaintiff filed United States patent application serial number 13/180,438 in the United States Patent and Trademark Office (“PTO”), claiming priority to provisional application serial number 61/363,084 filed July 9, 2010.

10. On September 16, 2014, the PTO issued United States Patent Number 8,834,718 B2 (“the ‘718 Patent”), entitled “DIALYSIS SERVICE BOX” to the following inventors (“the Inventors”): Jeff Randall, Bryan Dewitt, Peter Dewitt, Rick Garcia, and Don Gustafson. A true and correct copy of the ‘718 Patent is attached to this Complaint as **Exhibit A**.

11. On or about October 25, 2011, the Inventors assigned the ‘718 Patent to Plaintiff. A true and correct copy of the USPTO Assignment database abstract page is attached to the Complaint as **Exhibit B**.

12. On May 12, 2017, Plaintiff filed United States patent application serial number 15/594,355 in the PTO as a continuation of application serial number 14/486,523, filed September 15, 2014, now Patent No. 9,724,457, which is a continuation-in-part of the ‘718 Patent and application therefore.

13. On November 28, 2017, the PTO issued United States Patent Number 9,827,363 B2 (“the ‘363 Patent”), entitled “DIALYSIS SERVICE BOX” to the following inventors (“the Inventors”): Jeff Randall, Bryan Dewitt, Peter Dewitt, Rick Garcia, and Don Gustafson. A true and correct copy of the ‘363 Patent is attached to this Complaint as **Exhibit C**.

14. On or about October 25, 2011, the Inventors assigned the patent application which ultimately matured into the ‘363 Patent to Plaintiff. A true and correct copy of the USPTO Assignment database abstract page is attached to the Complaint as **Exhibit B**.

15. On information and belief, MIFAB manufactures, offers for sale, sells, imports into the United States, and/or distributes infringing products under at least the designation MI-DIAL-FRP-MR STAINLESS STEEL SUPPLY & WASTE DIALYSIS BOX WITH FRP VALVE AND TRAP SEAL PRIMER (“MI-DIAL-FRP-MR”).

16. MIFAB’s website and instructional materials confirm that each and every element of at least one claim of the ‘718 Patent and every element of at least one claim of the ‘363 Patent is embodied in at least MIFAB’s MI-DIAL-FRP-MR product.

17. A copy of the specification sheet for MIFAB’s MI-DIAL-FRP-MR (as published by MIFAB on MIFAB’s website) with the infringing elements annotated for the ‘718 Patent is attached hereto as **Exhibit D**.

18. Claim 1 of the ‘718 Patent recites “A dialysis service box comprising” the following elements, which are mapped to Exhibit D as noted:

- a. a casing having a top side portion, a bottom side portion, a rear side portion, a left side portion and a right side portion that collectively define an enclosure, (mapped to Exhibit D, element 1.1)
- b. a supply inlet attached to the casing, the supply inlet being in communication

with a source of fluid; (mapped to Exhibit D, element 1.2)

- c. a waste outlet attached to the casing, the waste outlet being in fluid flow communication with a waste disposal; and (mapped to Exhibit D, element 1.3)
- d. a dialysis supply and waste management system disposed within the enclosure of the casing, the dialysis supply and waste management system comprising (mapped to Exhibit D, element 1.4):
 - i. a plumbing arrangement in fluid flow communication with the supply inlet at a first end of the plumbing arrangement and (mapped to Exhibit D, element 1.5)
 - ii. a connection port formed at a second end of the plumbing arrangement configured to provide fluid to a dialysis machine; (mapped to Exhibit D, element 1.6)
 - iii. a backflow preventer in fluid flow communication with the plumbing arrangement for preventing retrograde flow of a fluid through the plumbing arrangement; and (mapped to Exhibit D, element 1.7)
 - iv. a trap primer in fluid flow communication with the plumbing arrangement (mapped to Exhibit D, element 1.8).

19. MIFAB's MI-DIAL-FRP-MR product is a dialysis service box.

20. MIFAB's MI-DIAL-FRP-MR product embodies a casing having a top side portion, a bottom side portion, a rear side portion, a left side portion and a right side portion that collectively define an enclosure, as illustrated in Exhibit D at element 1.1. In other words, MIFAB's MI-DIAL-FRP-MR product includes a bounded enclosure.

21. As illustrated in Exhibit D at element 1.2, MIFAB's MI-DIAL-FRP-MR product

embodies a supply inlet attached to the casing, the supply inlet being in communication with a source of fluid.

22. MIFAB's MI-DIAL-FRP-MR product embodies a waste outlet attached to the casing, the waste outlet being in fluid flow communication with a waste disposal, as illustrated on Exhibit D at element 1.3. Upon information and belief, this element is specifically embodied in the pipe disposed proximate the lower portion of the enclosure and is configured for fluid flow communication with a waste disposal (note the "2" NPT Drainage Connection identified on Exhibit D).

23. MIFAB's MI-DIAL-FRP-MR product embodies a dialysis supply and waste management system disposed within the enclosure of the casing and comprises at least four elements. The overall dialysis supply and waste management system is identified on Exhibit D at element 1.4, with the constituent components identified as elements 1.5 through 1.8. Specifically, the dialysis supply and waste management system comprises a plumbing arrangement in fluid flow communication with the supply inlet (element 1.2) at the first end of the plumbing arrangement (see the conduit reflected at element 1.5) and a connection port formed at a second end of the plumbing arrangement configured to provide fluid to a dialysis machine (see the connection port reflected at element 1.6, which is at the second end of the plumbing arrangement). The apparatus identified at element 1.7 of Exhibit D functions as a backflow preventer, and is in fluid flow communication with the plumbing arrangement for preventing retrograde flow of a fluid through the plumbing arrangement. Finally, the apparatus identified as element 1.8 on exhibit D is a trap primer. This trap primary, as shown in Exhibit D is in fluid flow communication with the plumbing arrangement which flows from the supply inlet at element 1.2 to the connection port at element 1.6.

24. Claim 16 of the '718 Patent recites "A method of manufacturing a dialysis service box comprising" the following elements, which are mapped to Exhibit D as noted:

- a. forming a casing having a top side portion, a bottom side portion, a left side portion, an opposing right side portion, and a rear side portion for defining an enclosure; (mapped to Exhibit D, element 16.1)
- b. installing a plumbing arrangement within the enclosure of the casing in which the plumbing arrangement includes a first end having a supply inlet (mapped to Exhibit D, element 16.2)
- c. and a second end having a connection port configured to be in fluid flow communication with a dialysis machine; (mapped to Exhibit D, element 16.3)
- d. installing a trap primer within the enclosure of the casing and in communication with the plumbing arrangement; and (mapped to Exhibit D, element 16.4)
- e. installing a backflow preventer within the enclosure of the casing and in fluid flow communication with the plumbing arrangement. (mapped to Exhibit D, element 16.5)

25. Upon information and belief, MIFAB manufactures or induces the manufacture of MIFAB's MI-DIAL-FRP-MR product. Upon information and belief, all steps in the manufacturing process described in the following paragraphs are performed by MIFAB or at MIFAB's direction, or are induced by MIFAB.

26. MIFAB manufactures a dialysis service box sold and installed as the MI-DIAL-FRP-MR product.

27. MIFAB's MI-DIAL-FRP-MR product is manufactured by forming a casing having

a top side portion, a bottom side portion, a rear side portion, a left side portion and a right side portion that collectively define an enclosure, as illustrated in Exhibit D at element 16.1. In other words, MIFAB's method of manufacturing the MI-DIAL-FRP-MR product forms a casing that defines a bounded enclosure.

28. As illustrated in Exhibit D at element 16.2, MIFAB's MI-DIAL-FRP-MR product is manufactured by installing a plumbing arrangement within the enclosure of the casing, which arrangement includes a first end having a supply inlet (element 16.2 of Exhibit D) and a second end having a connection port configured to be in fluid flow communication with a dialysis machine (see the connection port reflected at element 16.3, which is at a second end of the plumbing arrangement). MIFAB further installs, or induces/facilitates installation of, both a trap primer (element 16.4 on Exhibit D) and a back flow preventer (element 16.5 on Exhibit D) within the enclosure of the casing and in fluid flow communication with the plumbing arrangement.

29. Further discovery may reveal that all of the elements of additional claims of the '718 Patent are embodied in MIFAB's MI-DIAL-FRP-MR product, and/or different ways in which the product embodies one or more of the foregoing elements. Plaintiff reserves the right to supplement or amend this complaint to conform to such evidence.

30. Copies of specification sheets for MIFAB's MI-DIAL-FRP-MR with the infringing elements annotated for the '363 Patent are attached hereto as **Exhibit E**.

31. Claim 1 of the '363 Patent recites "A dialysis service box comprising" the following elements, which are mapped to Exhibit F as noted:

- a. a casing having a top side portion, a bottom side portion, a rear side portion, a left side portion and a right side portion that collectively define an enclosure (mapped to Exhibit E, element 1.1)

- b. a supply inlet configured to communicate with a source of fluid (mapped to Exhibit E, element 1.2)
- c. a waste outlet configured to communicate with a waste disposal (mapped to Exhibit E, element 1.3)
- d. and a dialysis supply and waste management system disposed within the enclosure of the casing, the dialysis supply and waste management system comprising (mapped to Exhibit E, element 1.4)
 - i. a plumbing system in fluid flow communication with the supply inlet (mapped to Exhibit E, element 1.5)
 - ii. a connection port configured to provide fluid to a dialysis machine (mapped to Exhibit E, element 1.6)
 - iii. a backflow preventer in fluid flow communication with the plumbing system and configured to prevent retrograde fluid flow through the plumbing arrangement; and (mapped to Exhibit E, element 1.7)
 - iv. a trap primer in fluid flow communication with the plumbing arrangement and configured for delivering priming fluid to the waste outlet by gravity flow (mapped to Exhibit E, element 1.8)
 - v. the dialysis service box further comprising a first adapter associated with the connection port, the first adapter configured to supply fluid to the dialysis machine (mapped to Exhibit E, element 1.9).

32. MIFAB's MI-DIAL-FRP-MR product is a dialysis service box.

33. MIFAB's MI-DIAL-FRP-MR product embodies a casing having a top side portion, a bottom side portion, a rear side portion, a left side portion and a right side portion that collectively

define an enclosure, as illustrated in Exhibit E at element 1.1. In other words, MIFAB's MI-DIAL-FRP-MR product includes a bounded enclosure.

34. As illustrated in Exhibit E at element 1.2, MIFAB's MI-DIAL-FRP-MR product embodies a supply inlet configured to communicate with a source of fluid.

35. MIFAB's MI-DIAL-FRP-MR product embodies a waste outlet configured to communicate with a waste disposal, as illustrated on Exhibit E at element 1.3. Upon information and belief, this element is specifically embodied in the pipe disposed proximate the lower portion of the enclosure and is configured to communicate with a waste disposal (note the "2" NPT Drainage Connection identified on Exhibit E).

36. MIFAB's MI-DIAL-FRP-MR product embodies a dialysis supply and waste management system disposed within the enclosure of the casing and comprises at least four elements. The overall dialysis supply and waste management system is identified on Exhibit E at element 1.4, with the constituent components identified as elements 1.5 through 1.9. Specifically, the dialysis supply and waste management system comprises a plumbing arrangement in fluid flow communication with the supply inlet (see the conduit reflected at element 1.5) and a connection port configured to provide fluid to a dialysis machine (see the connection port reflected at element 1.6).

37. The apparatus identified at element 1.7 of Exhibit E functions as a backflow preventer, and is in fluid flow communication with the plumbing arrangement for preventing retrograde flow of a fluid through the plumbing arrangement. Indeed, Exhibit E, which in unannotated form was obtained from MIFAB's website, describes the product as containing a backflow preventer.

38. The apparatus identified as element 1.8 on exhibit E is a trap primer. This trap

primary, as shown in Exhibit E is in fluid flow communication with the plumbing arrangement. This trap primer is configured for delivering priming fluid to the waste outlet by gravity flow, as evidence at least in part by the location of the trap primer above and flowing into the waste outlet.

39. Finally, as reflected on the second page of Exhibit E (which was included in correspondence from MIFAB's counsel), MIFAB's MI-DIAL-FRP-MR dialysis service box embodies a first adapter associated with the connection port, the first adapter configured to supply fluid to the dialysis machine.

40. Claim 19 of the '363 Patent recites "A method of manufacturing a dialysis service box comprising" the following elements, which are mapped to Exhibit E as noted:

- a. forming a casing having a top side portion, a bottom side portion, a left side portion, an opposing right side portion, and a rear side portion defining an enclosure (mapped to Exhibit E, element 19.1)
- b. and including a waste outlet (mapped to Exhibit E, element 19.2)
- c. installing a plumbing arrangement within the enclosure, the plumbing arrangement including a supply inlet (mapped to Exhibit E, element 19.3)
- d. and a connection port configured to be in fluid flow communication with a dialysis machine (mapped to Exhibit E, element 19.4)
- e. installing a trap primer within the enclosure and in communication with the plumbing arrangement and the waste outlet for delivering priming fluid to the waste outlet by gravity flow (mapped to Exhibit E, element 19.5)
- f. installing a backflow preventer within the enclosure and in fluid flow communication with the plumbing arrangement (mapped to Exhibit E, element 19.6)

g. and attaching a first adapter to the connection port and configuring the first adapter to supply fluid to the dialysis machine (mapped to Exhibit E, element 19.7).

41. Upon information and belief, all steps in the manufacturing process described in the following paragraphs are performed by MIFAB or at MIFAB's direction, or are induced by MIFAB.

42. MIFAB's MI-DIAL-FRP-MR product is manufactured by forming a casing having a top side portion, a bottom side portion, a rear side portion, a left side portion and a right side portion that collectively define an enclosure, as illustrated in Exhibit E at element 19.1. In other words, MIFAB's method of manufacturing the MI-DIAL-FRP-MR product forms a casing that defines a bounded enclosure.

43. MIFAB's MI-DIAL-FRP-MR product is manufactured to include a waste outlet (as illustrated in Exhibit E at element 19.2).

44. As illustrated in Exhibit E at element 19.3, MIFAB's MI-DIAL-FRP-MR product is manufactured by installing a plumbing arrangement within the enclosure of the casing, which arrangement includes a supply inlet (element 19.3 of Exhibit E) and a connection port configured to be in fluid flow communication with a dialysis machine (see the connection port reflected at element 19.4).

45. MIFAB further installs, or induces/facilitates installation of, both a trap primer within the enclosure and in communication with the plumbing arrangement and the waste outlet for delivering priming fluid to the waste outlet by gravity flow (Exhibit E, element 19.5)

46. Further, MIFAB installs, or induces/facilitates installation of, a back flow preventer (element 19.6 on Exhibit E) within the enclosure and in fluid flow communication with the

plumbing arrangement.

47. Finally, MIFAB attaches, or induces/facilitates the attachment of, a first adapter to the connection port and configures, or induces/facilitates the configuration of, the first adapter to supply fluid to the dialysis machine (Exhibit E, element 19.7).

48. Further discovery may reveal that all of the elements of additional claims of the '363 Patent are embodied in MIFAB's MI-DIAL-FRP-MR product, and/or different ways in which the product embodies one or more of the foregoing elements. Plaintiff reserves the right to supplement or amend this complaint to conform to such evidence.

49. MIFAB continues to sell and offer for sale products embodying the dialysis service box system and methods of manufacturing the box as set forth in the '718 Patent and the '363 Patent, such that MIFAB's products infringes, at a minimum, the claims of the '718 Patent and the '363 Patent recited above and, subject to further discovery, may infringe additional claims of both patents.

COUNT I
(Infringement of the '718 Patent)

1.-49 Plaintiff re-alleges and incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

50. MIFAB has infringed and continues to infringe, literally and/or under the doctrine of equivalents, the '718 Patent by practicing one or more claims of the '718 Patent in the manufacture, use, offering for sale, sale, and/or importation or exportation of MIFAB's MI-DIAL-FRP-MR product in violation of 35 U.S.C. § 271.

51. MIFAB has infringed and continues to infringe the '718 Patent by contributing to and/or actively inducing the infringement by others of the '718 Patent by the manufacture, use, offering for sale, sale, and/or importation or exportation of MIFAB's MI-DIAL-FRP-MR product

in violation of 35 U.S.C. § 271.

52. MIFAB's acts of infringement of the '718 Patent will continue as alleged in this Complaint unless enjoined by the Court.

53. As a direct and proximate result of Defendants' infringement of the '718 Patent, Plaintiff has suffered and will continue to suffer monetary damages.

54. Plaintiff is entitled to recover from MIFAB the damages sustained by Plaintiff as a result of MIFAB'S wrongful acts in an amount to be determined at trial.

55. Plaintiff has suffered irreparable harm as a result of MIFAB'S infringement of the '718 Patent.

56. Unless MIFAB is enjoined by this Court from continuing its infringement of the '718 Patent, Plaintiff will continue to suffer irreparable harm and impairment of the value of its patent rights. Thus, Plaintiff is entitled to a preliminary and permanent injunction against further infringement.

COUNT II
(Infringement of the '363 Patent)

57. Plaintiff re-alleges and incorporates by reference the preceding paragraphs of this Complaint as though fully set forth herein.

58. MIFAB has infringed and continues to infringe, literally and/or under the doctrine of equivalents, the '363 Patent by practicing one or more claims of the '363 Patent in the manufacture, use, offering for sale, sale, and/or importation or exportation of MIFAB's MI-DIAL-FRP-MR product in violation of 35 U.S.C. § 271.

59. MIFAB has infringed and continues to infringe the '363 Patent by contributing to and/or actively inducing the infringement by others of the '363 Patent by the manufacture, use, offering for sale, sale, and/or importation or exportation of MIFAB's MI-DIAL-FRP-MR product

in violation of 35 U.S.C. § 271.

60. MIFAB's acts of infringement of the '363 Patent will continue as alleged in this Complaint unless enjoined by the Court.

61. As a direct and proximate result of Defendants' infringement of the '363 Patent, Plaintiff has suffered and will continue to suffer monetary damages.

62. Plaintiff is entitled to recover from MIFAB the damages sustained by Plaintiff as a result of MIFAB'S wrongful acts in an amount to be determined at trial.

63. Plaintiff has suffered irreparable harm as a result of MIFAB'S infringement of the '718 Patent.

64. Unless MIFAB is enjoined by this Court from continuing its infringement of the '718 Patent, Plaintiff will continue to suffer irreparable harm and impairment of the value of its patent rights. Thus, Plaintiff is entitled to a preliminary and permanent injunction against further infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against MIFAB as follows:

1. For judgment in favor of Plaintiff and against MIFAB on the claim set forth above;
2. For judgment that the '718 Patent is valid, enforceable, and infringed by Defendant;
3. For profits and damages resulting from MIFAB's past and present infringement of the '718 Patent;
4. For judgment that the '363 Patent is valid, enforceable, and infringed by Defendant;
5. For profits and damages resulting from MIFAB's past and present infringement of the '363 Patent;
6. For increased damages, interest, and costs under 35 U.S.C § 284;
7. For judgment that this is an exceptional case under 35 U.S.C. § 285;

8. For an award of reasonable attorneys' fees, including under 35 U.S.C. § 285;
9. For injunctive relief, preliminarily and permanently enjoining against the continuing infringement of the '718 Patent by MIFAB, its officers, agents, servants, employees, and those persons acting in active concert or in participation with it, under 35 U.S.C. § 283;
10. For injunctive relief, preliminarily and permanently enjoining against the continuing infringement of the '363 Patent by MIFAB, its officers, agents, servants, employees, and those persons acting in active concert or in participation with it, under 35 U.S.C. § 283;
11. For an order that all of MIFAB's existing inventory of MI-DIAL-FRP-MR be impounded and destroyed, or otherwise reasonably disposed of;
12. For costs and disbursements incurred by Plaintiff;
13. For an assessment of prejudgment interest; and
14. For any other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial under Rule 38 of the Federal Rules of Civil Procedure as to all issues in this lawsuit of which trial by jury is permitted.

Dated: January 12, 2018

Respectfully submitted,

W.D. Manor Mechanical Contractors, Inc.

By: /s/ Stuart M. Brody
One of its Attorneys

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CERTIFICATE OF SERVICE

I, Stuart M. Brody, an attorney, hereby certify that a true and correct copy of the foregoing **Second Amended Complaint**, with its attachments, was served via the Court's ECF system on all counsel of record on this 12th day of January, 2018.

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