

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

NOVOCURE, GmbH, a Swiss
company;

Plaintiff,

v.

FIELDASURE CO. LTD., a Korean
company;

Defendant.

)
) Civil Action No: *[To Be Assigned]*
)

) **DEMAND FOR A JURY TRIAL**

) **DECLARATORY RELIEF**
) **REQUESTED**

) **PERMANENT INJUNCTIVE**
) **RELIEF REQUESTED**
)

**COMPLAINT FOR PATENT INFRINGEMENT AND
DECLARATORY JUDGMENT OF PATENT INFRINGEMENT**

Novocure GmbH (“Novocure” or “Plaintiff”) by and through its undersigned attorneys, alleges as follows for its Complaint for Patent Infringement and Declaratory Judgment of Patent Infringement against Fieldcure, Co., Ltd. (“Fieldcure” or “Defendant”):

1. This is a case about two diametrically opposed visions of product development.

2. ***Novocure*** embodies the ethos of innovation. Its founder, Dr. Yoram Palti, M.D., Ph.D, challenged the medical status quo by developing a pioneering life-saving cancer therapy—which, at inception, “nobody” understood. Not so today. Leading scientific journals have published Novocure’s clinical data, and Dr. Palti’s cutting-edge therapy is treating patients suffering from glioblastoma, one of the most virulent forms

of cancer, mesothelioma and is being clinically tested for additional indications (as provided below).

3. For over twenty years, Dr. Palti and his team have painstakingly labored to (a) develop novel tumor treating fields (“TTFields”) technology into approved products that meaningfully improve cancer patients’ outcomes and quality of life; and (b) build Novocure into a successful oncology company. Dr. Palti earned several U.S. Patents that protect Novocure’s groundbreaking innovation that is commercially sold as the Optune® TTFields device.

4. *Fieldcure*, in contrast, embodies the ethos of expediency. Rather than doing the hard work of innovating, Fieldcure has brazenly copied Novocure’s patented work and seeks to piggy-back on Novocure’s success. Indeed, Fieldcure plans to illegally import into this District and use a copycat device that infringes Novocure’s patents.

5. Novocure therefore brings this action to enforce its intellectual property and seek relief from Fieldcure’s impending illegal acts.

Nature of the Action

6. Novocure asserts claims for patent infringement of U.S. Patent No. 7,136,699 (“the ’699 Patent”), U.S. Patent No. 7,715,921 (“the ’921 Patent”), and U.S. Patent No. 8,715,203 (collectively, the “Novocure Patents”). These claims arise out of Fieldcure’s impending (or current) importation of its infringing iField-P200 tumor treating field device (“Fieldcure Device”) and impending use of the Fieldcure Device at the 27th Annual Meeting & Education Day for the upcoming Society for Neuro-

Oncology conference that will be held in Tampa Bay, Florida from November 16-20, 2022 (“SNO Conference”).

7. Novocure alternatively asserts claims for declaratory judgment of infringement of the Novocure Patents. These claims likewise arise out of Fieldcure’s impending (or current) importation and use of the Fieldcure Device at the SNO Conference.

Parties

8. Novocure is a Swiss company with a principal place of business at Business Village D4, Park 6/Platz 10, Root 6039 Switzerland.

9. Upon information and belief, Fieldcure is a Korean company with its principal place of business at (02852) Bomun-ro 82-3, Seongbuk-gu, Seoul, Republic of Korea.

Jurisdiction and Venue

10. Novocure’s claims for patent infringement arise under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq. Novocure’s alternative claims for declaratory judgment of patent infringement arise under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq. and under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq.

11. This Court has subject-matter jurisdiction over these claims under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

12. An actual case and controversy exists between Novocure and Fieldcure regarding the Novocure Patents and Fieldcure Device that confers jurisdiction to this

Court under 28 U.S.C. § 2201. The case or controversy is evidenced by (1) Fieldcure's statements to Novocure indicating that the infringing Fieldcure Device was designed to the same specifications as Novocure's pioneering, patented tumor-treating field devices; and (2) Fieldcure's statements to Novocure and its public affirmation it will import the infringing Fieldcure device for display at the SNO Conference, as discussed further below.

13. The Court has personal jurisdiction over Fieldcure based upon the acts of infringement alleged herein, which will occur (or are already occurring) in this District.

14. Venue is proper in this district under 28 U.S.C. § 1391(c)(3) because Fieldcure is a foreign corporation not resident in the United States.

Tumor Treating Fields ("TTFields") and the Novocure Patents

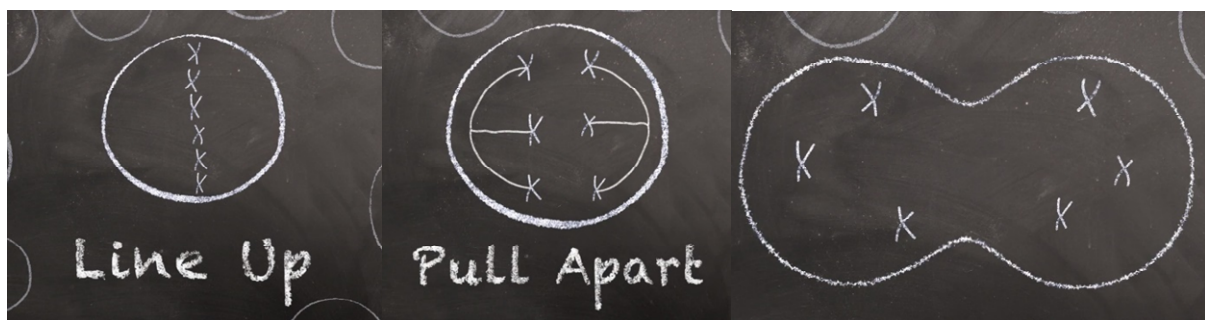
15. Novocure's founder Dr. Palti is a professor emeritus of physiology and biophysics at the Technion, Israel Institute of Technology.

16. Dr. Palti retired in 2000 from Technion, but his retirement provided the opportunity to reflect on his long and successful career and revisit his doctoral thesis written decades earlier on the distribution of electric fields in nerve fibers. Dr. Palti believed he could use those same electric fields to cure cancer.

17. Dr. Palti began calculating how electric fields could be used to destroy cancer cells while sparing healthy tissue, thereby avoiding the debilitating side effects associated with existing cancer therapies such as chemotherapy and radiation. Dr. Palti's insights were so innovative at the time that it seemed fanciful. As Dr. Palti

recalled about his initial investigation, “Nobody understood what I was actually doing there.”

18. Cell division typically involves (1) aligning nuclear DNA along the center of the cell; (2) forming microtubule structures that pull apart DNA to opposite ends of the cell; and then (3) “pinching” the center portion to divide the cell into two identical cells:



See, e.g., *How Optune® Works*, Novocure GmbH, <https://www.optune.com/how-optune-works> (providing instructional video). Cancer cell division typically proceeds far more rapidly than normal cell division.

19. TTFields are an innovative cancer treatment modality that use alternating electric fields with very specific frequencies to exploit the natural electrical properties of these rapidly dividing cancer cells by exerting directional forces, while sparing normal cells. TTFields are specially tailored to the respective cancer cells so that they attract and repel charged proteins, thereby disrupting cancer cell division, inhibiting tumor growth, and/or potentially causing cancer cell death.

20. Specifically, TTFields can strongly influence highly polar cellular proteins (*i.e.*, those with a relatively strong dipole moment), such as tubulins and

septins. During cell division, tubulins and septins must position themselves in a very specific way for the cell to divide. TTFields exert directional forces on these proteins that prevent them from forming important structures such as the spindle apparatus and the contractile apparatus, disrupting the division of cancer cells.

21. Whereas conventional cancer treatments, such as chemotherapy and radiation, often cause harsh side effects throughout the body, TTFields do not disturb healthy, dormant cells. In stark contrast to such conventional cancer treatments, the most commonly reported side effect of TTFields technology is mild to moderate skin irritation, which is far more manageable.

22. Dr. Palti's groundbreaking work developing this TTFields technology has resulted in many patentable inventions, including those claimed in the Novocure Patents.

23. On November 14, 2006, the '699 Patent, entitled "Apparatus for Destroying Dividing Cells," issued to Standen, Ltd. (which later became known as Novocure Limited, the Plaintiff's parent company's former name) as assignee with named inventor Dr. Yoram Palti. The '699 Patent is fully maintained, valid, and enforceable. By virtue of subsequent assignments, Novocure owns all substantial rights to the '699 Patent. A copy of the '699 Patent is attached to this Complaint as Exhibit A.

24. On May 11, 2010, the '921 Patent, entitled "Electrodes for Applying an Electric Field In-Vivo Over an Extended Period of Time," issued to Standen, Ltd. as assignee with named inventor Dr. Yoram Palti. The '921 Patent is fully maintained,

valid, and enforceable. By virtue of subsequent assignments, Novocure owns all substantial rights to the '921 Patent. A copy of the '921 Patent is attached to this Complaint as Exhibit B.

25. On May 6, 2014, the '203 Patent, entitled "Composite Electrode," issued to Novocure Limited as assignee with named inventor Dr. Yoram Palti. The '203 Patent is fully maintained, valid, and enforceable. By virtue of subsequent assignments, Novocure owns all substantial rights to the '203 Patent. A copy of the '203 Patent is attached to this Complaint as Exhibit C.

26. Shortly after resuming research that he began as a doctoral student many years ago, the retired Dr. Palti built a laboratory in his basement for further testing. While still operating out of this basement laboratory, Dr. Palti formed the company that would become Novocure.

27. Much to everyone's surprise, in his basement Dr. Palti observed how alternating electric fields kill cancer cells, and he even managed to capture the process on video. This success strengthened Dr. Palti's confidence in what eventually became Novocure's TTFields therapy, and it allowed him to secure an initial investment to open a pre-clinical research center in his hometown of Haifa, Israel. In an interview, Rosa Shnaiderman—Dr. Palti's first employee and manager of Novocure's biological

laboratory for over 20 years—recalled moving from Dr. Palti’s basement lab to a professional research facility:

We had better equipment there, we finally had a real microscope, I could see a lot more with it and see the effects on the cells. **It was then that I realized that we were on the right track.**

28. Through these promising preclinical experiments, the Novocure team sought to bring the technology behind TTFields to patients by designing innovative medical devices unlike anything ever used before in the field. By 2003, Dr. Palti’s team had invented a ceramic disk to insulate the electrodes that emit the TTFields. As Yoram Wasserman, vice president of engineering, recalled, “It was a breakthrough.” This advance allowed Dr. Palti’s team to begin the first TTFields clinical trial in December 2003 to treat various solid tumor types.

29. Dr. Eilon Kirson, M.D., Ph.D., Novocure’s former chief science officer and head of research and development, and Asaf Danziger, who is now Novocure’s CEO, then traveled to Ormalingen, Switzerland to bring the original TTFields therapy system to its first patient. This patient had already reached the maximum radiation dose and undergone surgery to remove her tumor, yet she still had a lesion. Within a few weeks of first receiving TTFields therapy, the lesion began to shrink. As Mr. Danziger recalled, “You could see the lesion on the skin getting smaller and smaller.” “It was very exciting and it was a great achievement. I was very proud.”

30. Not long after, the Novocure team began working with an external neurologist and radiologist at Na Homolce Hospital in Prague, Czech Republic, Dr. Josef Vymazal, to design a TTFields clinical trial to treat patients with a particularly

aggressive brain tumor called glioblastoma (“GBM”). As Dr. Vymazal recalled, he “was quite skeptical because there was no effective treatment for this type of cancer at the time.” He nevertheless agreed to conduct a study with 10 enrolled patients with recurrent GBM to test the feasibility and safety of TTFields. Within a few months, several patients’ tumors began to shrink. Dr. Vymazal explained, “We were surprised. More and more patients survived longer than expected. **We started to believe in this technology.**” Dr. Vymazal would later participate in additional studies and continues to research TTFields today.

31. These initial successes allowed Novocure to begin developing TTFields into a universally accepted cancer therapy. In 2004, the first TTFields preclinical data was published in the journal *Cancer Research*. And in 2007, TTFields clinical research was published in the leading scientific journal *Proceedings of the National Academy of Sciences* after a rigorous peer-reviewed process.

32. On April 8, 2011, Novocure’s work on TTFields therapy, now called Optune®, earned FDA Premarket Approval (the most stringent and rigorous regulatory pathway for medical devices, akin to the new drug approval pathway) for use in patients with recurrent GBM, based on extensive preclinical and clinical evidence, including a large, randomized, controlled clinical study. This was a pivotal achievement owing to Dr. Palti and his team’s innovative and life-saving work.

33. A later study evaluated the safety and efficacy of TTFields therapy along with standard chemotherapy for patients with newly diagnosed GBM compared to chemotherapy alone. On the recommendation of an Independent Data Monitoring

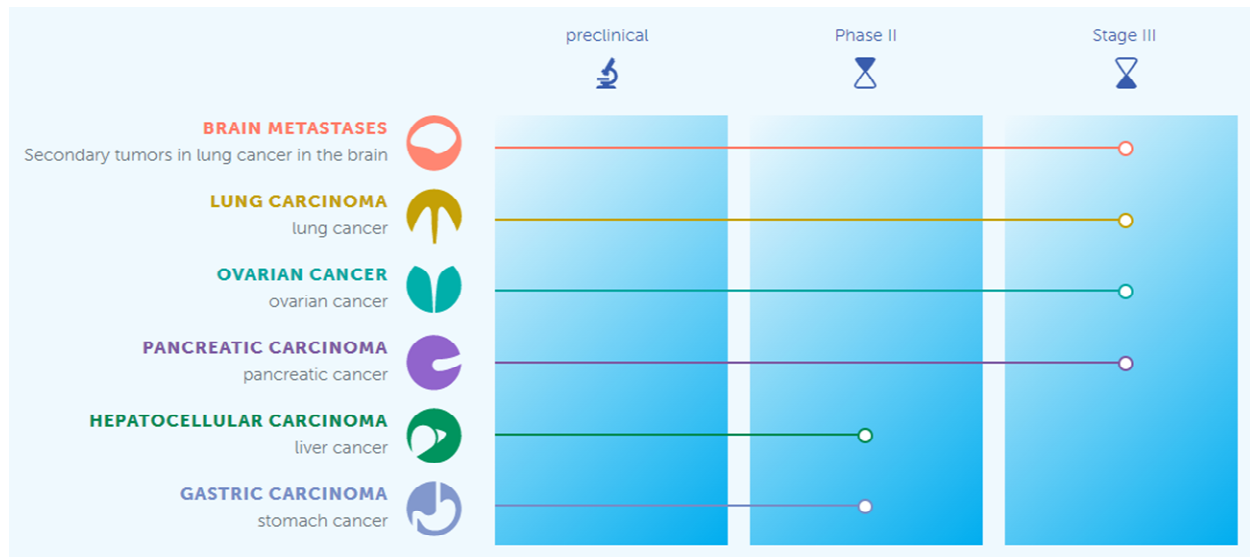
Committee, this study terminated early for success after interim analysis of the first 315 patients **showed statistically significant and clinically meaningful results in improved overall survival and progression-free survival.** Not long after, Swiss oncologist Professor Roger Stupp presented the results in an abstract at the annual SNO meeting—a speech that one attendee described as “unusually emotional” given that “for many international patient organizations these study data on TTFields as a glioblastoma therapy were a groundbreaking success.”

34. As Novocure executive chairman Bill Doyle, recalled, “We now had superiority data in one of the most difficult cancer indications to treat.” **“This was the basis for building Novocure as we know it today.”** Indeed, in 2015, Optune® received Premarket Approval in the United States for newly diagnosed GBM patients receiving chemotherapy. Optune® is similarly indicated in Europe for the treatment of adult patients with newly diagnosed GBM and recurrent GBM.

35. Novocure has also continued to expand its clinical programs, striving to deliver better therapeutic outcomes and improve the standard of care for patients facing even the most aggressive cancers. Based on this work, Novocure’s TTFields technology has received a Humanitarian Device Exemption in the United States and CE Mark approval in Europe related to treating malignant pleural mesothelioma (“MPM”), an aggressive cancer of the pleura.

36. Novocure is also conducting promising Phase III/Pivotal clinical trials regarding (1) brain metastases, (2) lung carcinoma, (3) ovarian cancer, and (4)

pancreatic carcinoma, as well as Phase II/Pilot clinical trials regarding (1) hepatocellular carcinoma and (2) gastric carcinoma:



Fieldcure and the Infringing Fieldcure Device

37. Upon information and belief, Fieldcure was founded in 2017 in Korea to, *inter alia*, take advantage of Novocure’s foundational TTFields research. Indeed, Fieldcure’s website—which is readily accessible from the United States—touts **Dr. Palti’s** inventive work on TTFields under the heading “Core Technology”:

Core Technology

Clinical efficacy of TTF

Mechanism of TTF

History

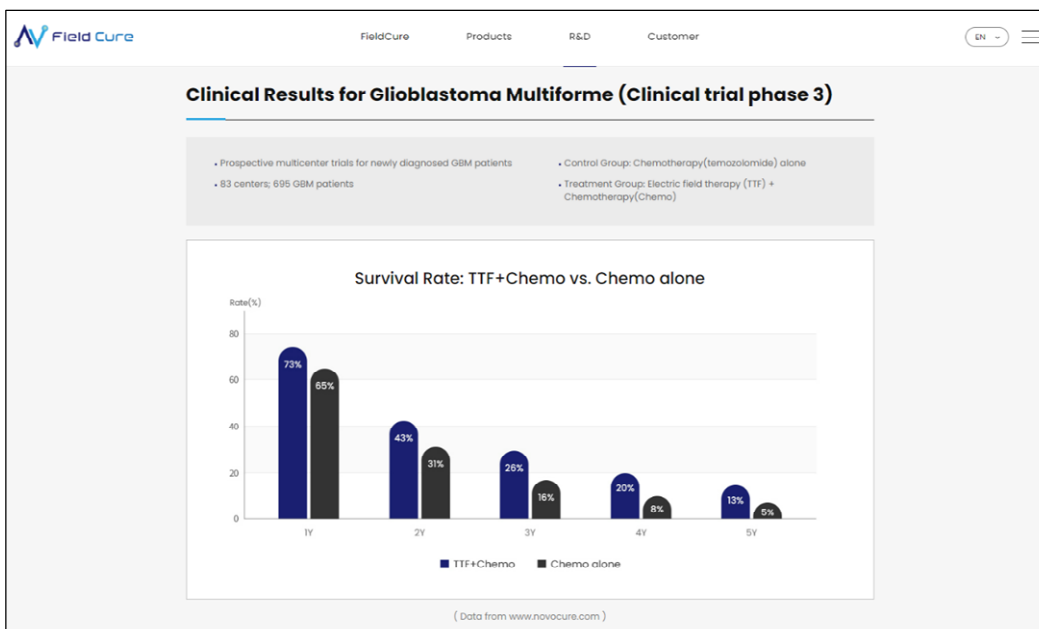
- ✓ In the early 2000s, Israeli biophysics professor Yoram Palti first discovered that applying a specific frequency of electric field (TTF) to dividing cancer cells can delay cell division or kill cell, and in 2004 published the world’s first study of the effects of electric field cancer treatment in the journal *Cancer Research*. Although cancer treatment using electric fields is still in its infancy, it is drawing keen attention from cancer treatment academia as it shows much better results in terms of treatment efficacy than conventional treatments.

See, e.g., *Research: Core Technology*, <https://fieldcure.com/eng/research/coreTechnology01.php> (last visited November 1, 2022).

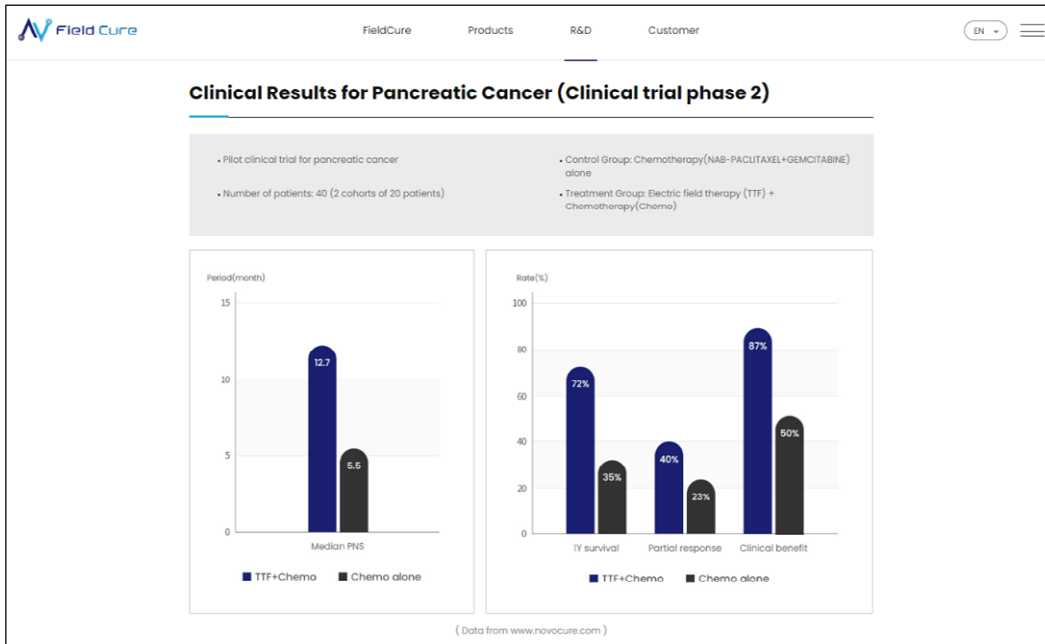
38. The “R&D” section of Defendant’s website likewise touts Novocure’s successful clinical trials involving TTFields technology:

✓ For example, if a patient with malignant glioblastoma received chemotherapy alone, the progression-free survival period, total survival period, and 2 years or more survival probability were 4 months, 16 months, and 31%, respectively. In contrast, if a patient with malignant glioblastoma received electric field therapy plus chemotherapy, those indices have improved to 6.7 months, 20.9 months, and 43% which shows better results than conventional treatments. (Reference: Stupp, Roger, et al. *Jama* 318:23 (2017): 2306-2316)

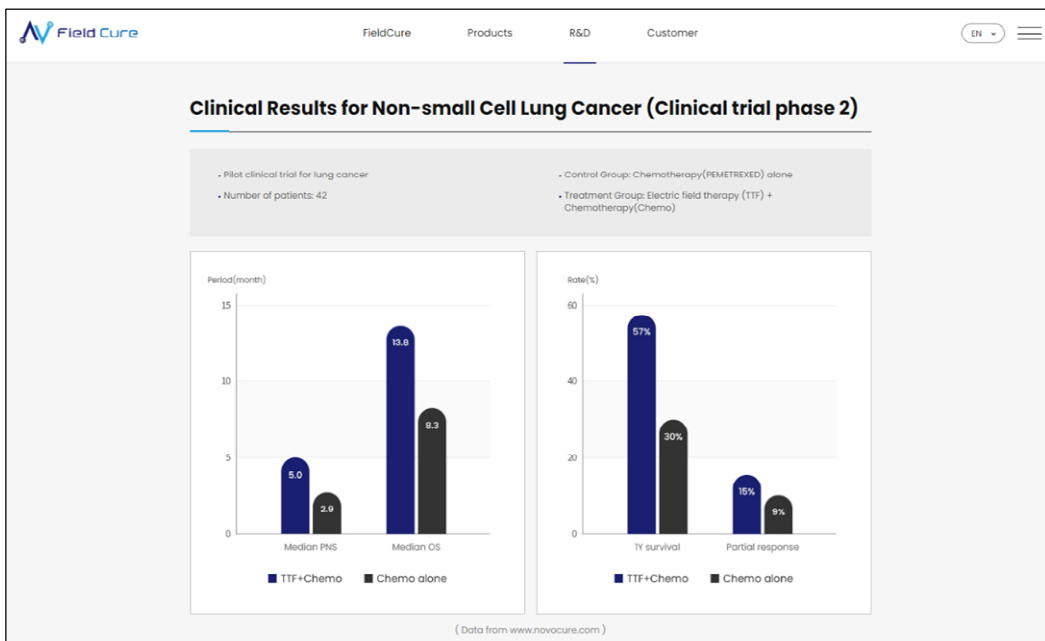
See, e.g., *Research: Core Technology*, <https://fieldcure.com/eng/research/coreTechnology01.php> (last visited November 1, 2022) (citing publication from Prof. Stupp).



Id. (citing “[d]ata from www.novocure.com”).



Id. (again citing “[d]ata from www.novocure.com”).



Id. (yet again citing “[d]ata from www.novocure.com”).

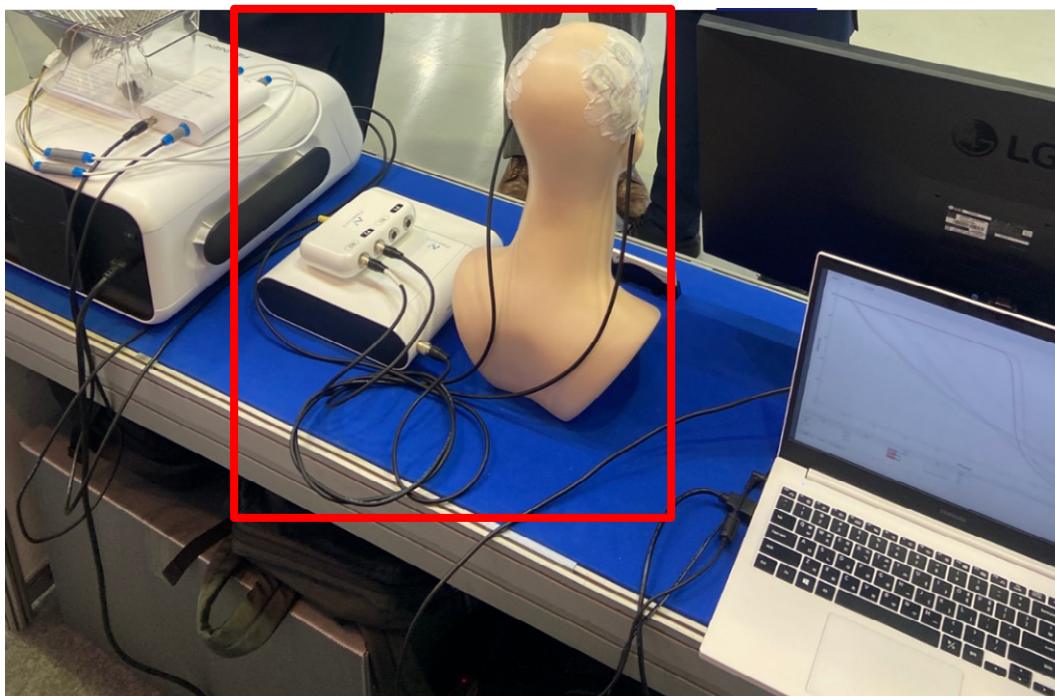
39. Upon information and belief, Fieldcure has built the Fieldcure Device that is intended for use providing TTFields therapy. Upon information and belief, the Fieldcure Device is shown on Fieldcure’s website as the “Treatment Device”:



See, e.g., Products: Treatment Device,
<https://fieldcure.com/eng/development/hardware01.php/> (last visited November 1, 2022).

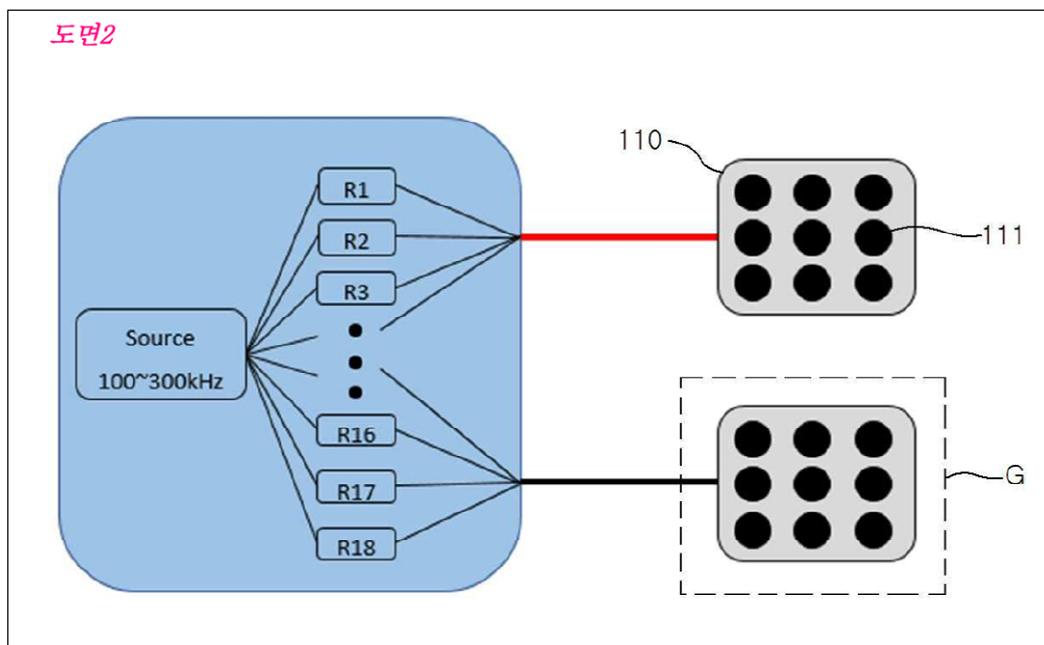
40. Upon information and belief, the Fieldcure Device is an operable TTFields device that has already been displayed at least at the World Federation of Neuro-Oncology Societies’ conference held in Seoul, Korea in March 2022. *See FieldCure at WFNOS 2022, (Apr. 13, 2022),*
https://fieldcure.com/eng/customer/notice.php?m=v&idx=13&pNo=1&code=notice_en (“FieldCure attended this conference and displayed some prototypes for electric field therapy devices at our booth.”). Fieldcure’s website includes the following

images from that conference, which show use of an operative Fieldcure Device (red) with its components in electrical communication with each other:



41. Upon information and belief, Fieldcure has obtained a Korean patent, KR 10-2104961 B1 (the “Fieldcure patent,” attached hereto as Exhibit G) relating to

an algorithm for use with the Fieldcure Device. Upon information and belief, Figure 2 of this patent depicts the Fieldcure Device:



KR 10-2104961 B1 at Fig. 2.

42. The Fieldcure patent describes Figure 2 as follows¹:

[T]he electric field cancer treatment apparatus . . . comprises an electrode pad 110, the image classification unit 120 and the electric field optimization unit 130.

The pair of electrode pads 110 includes a plurality of electrodes 111, and the electrodes 111 may be variously arranged according to the shape of the electrode pads 110. The electrode 111 has been described as being arranged in a 3×3 square matrix as illustrated in FIG. 2, but the number and spacing may be variously modified through the electric field optimization unit 130 to be described later. The form is not limited to FIG. 2. In addition, although **the electrode pad 110 is illustrated as having two pairs,** the electrode pad 110 may be added or reduced according to a patient's treatment condition.

¹ Novocure has obtained all English translations of the Fieldcure patent in this Complaint and the attached exhibits via machine translation tools. Novocure reserves the right to secure and assert an alternative translation should the need arise.

In this way, by varying the size of the applied frequency and voltage by variously forming the arrangement shape of the electrode 111, the size of the electric field transmitted to the tumor and normal tissue can be changed, so that the patient's tumor and normal tissue. Effective treatment can be provided in consideration of boundary conditions and the like. In this case, one pair of electrode pads 110 may be formed as a ground (G).

Id. at [0027]-[0029] (emphasis added).

43. The Fieldcure patent further provides a description of the device's operability:

This will be described with reference to FIG. 3. First, an electric field cancer treatment method using an optimization algorithm according to an embodiment of the present invention is to treat a tumor by transmitting an electric field to a patient's tumor and normal tissue using a pair of electrode pads having a plurality of electrodes.

First, based on the patient's video image, the video image is called to classify the called video image for each organ (S100). By specifying a different resolution range for each organ, it is possible to classify organs more effectively according to importance.

Next, the number and location of electrodes are arranged on the electrode pad of a predetermined size based on the boundary state between the patient's tumor and the tumor and normal tissue through the electric field optimization unit, and the magnitude of the voltage applied to the plurality of electrodes is calculated. At least one treatment plan is established (S200). At this time, preferably, three or more treatment plans can be established, and the established treatment plan is set such that the size and number of different electrodes are variably changed.

The method of arranging the electrodes may be arranged in the form of a square matrix as shown in FIG. 2, but differently, the asymmetry or the spacing may be differently set. However, it is preferable that a pair of electrodes facing each other are formed at the same position with each other. In addition, the applied voltage and frequency are set differently between the tumor and normal tissue, the voltage is within 0V to 150V, and the frequency can be formed with a value between 100 and 300kHz.

The established treatment plan is analyzed and evaluated (S300). By analyzing and evaluating multiple treatment plans individually, it is possible to extract conditions that lead to optimal results.

Lastly, treatment is performed by applying the calculated voltage to a plurality of electrodes under the optimal condition among the analyzed treatment plans (S400).

Id. at [0059]-[0064] (emphasis added).

44. The Fieldcure patent also demonstrates Fieldcure's awareness of Novocure's intellectual property regarding TTFields devices. On its face, KR 10-2104961 B1 lists at least three Novocure patents and patent applications as prior art: U.S. Patent No. 7,146,210 B2, U.S. Patent Application Publication No. 2010/0179621 A1, and International Publication No. WO2017/072706 A1. Notably, Novocure's '203 Patent asserted here is related to the listed '210 Patent (as well as the asserted '699 Patent). And Novocure's '921 Patent asserted here is related to the listed '621 Publication.

45. On September 7, 2022, personnel from Novocure and Fieldcure spoke via videoconference regarding the Fieldcure Device. During that meeting, Novocure's personnel requested information regarding the Fieldcure Device. Fieldcure's personnel represented that (1) the Fieldcure Device's electrodes may be placed on any part of the body; and (2) the specifications of the Fieldcure Device's hardware are virtually identical to the Novocure Optune® device.

46. During this meeting, Fieldcure also stated that it needed additional money, and it requested that Novocure make an investment in Fieldcure. Fieldcure stated that it would be attending the SNO Conference, where Novocure could examine

the “real product,” including the “details of the system.” Fieldcure stated that it would be arriving for the SNO Conference by November 15, 2022, and leaving on November 20, 2022.

47. Fieldcure has also publicly confirmed that it “will attend this [SNO] conference and **display some prototypes for electric field therapy devices** at our booth” via an announcement on its website, requesting that the public “please pay a lot of attention.” *Announcements: FieldCure Will Attend SNO 2022* (Apr. 13, 2022), https://fieldcure.com/eng/customer/notice.php?m=v&idx=14&pNo=1&code=notice_en (emphasis added).

48. Thus, upon information and belief, Fieldcure has begun importing (or will begin importing no later than November 15, 2022) the Fieldcure Device into the United States. Upon information and belief, Fieldcure will use the operable Fieldcure device at the SNO Conference in Tampa Bay, Florida to solicit investment for Fieldcure’s further device development and commercialization. As such, upon information and belief, Fieldcure’s current and/or impending importation and use of the infringing Fieldcure Device are not solely for uses reasonably related to the development and submission of information to the United States Food & Drug Administration.

COUNT I
(Infringement of U.S. Patent No. 7,136,699)

49. Novocure incorporates the preceding paragraphs of this Complaint as if expressly set forth herein.

50. Claim 1 of the '699 Patent claims:

1. An apparatus for selectively destroying dividing cells in living tissue, the dividing cells having polarizable or polar intracellular members, the apparatus comprising:

a first insulated electrode having a first conductor and a first insulating layer, wherein the first insulated electrode is configured for placement against the living tissue with the first insulating layer disposed between the first conductor and the living tissue so as to insulate the first conductor from the living tissue;

a second insulated electrode having a second conductor and a second insulating layer, wherein the second insulated electrode is configured for placement against the living tissue with the second insulating layer disposed between the second conductor and the living tissue so as to insulate the second conductor from the living tissue; and

an electric field source for applying an alternating electric potential across the first and second conductors,

wherein the amplitude and frequency of the electric field source and the capacitance of the insulating layers are such that, when the electrodes are placed against the living tissue and the alternating electric potential is applied across the first and second conductors, an electric field is induced in the living tissue,

the induced electric field having characteristics such that passage of the electric field through the dividing cells in late anaphase or telophase transforms the electric field into a non-homogenous electric field that produces an increased density electric field in a region of a cleavage furrow of the dividing cells, the non-homogeneous electric field produced within the dividing cells being of sufficient intensity to move the polarizable intracellular members toward the cleavage.

51. The Fieldcure devices meets each and every limitation of at least claim 1 of the '699 Patent literally and/or under the doctrine of equivalents, as illustrated the chart attached as Exhibit D.

52. As discussed above, Fieldcure will infringe (or has infringed) the '699 Patent by importing the Fieldcure Device into the United States and using it at the SNO Conference, in violation of 35 U.S.C. § 271(a).

53. Upon information and belief, Fieldcure's infringement of the '699 Patent is (or will be) willful. As discussed above, Fieldcure has knowledge of Novocure's intellectual property in this field, including related patents and patent applications to those asserted here. Therefore, upon information and belief, Fieldcure also had knowledge of the '699 Patent. And Fieldcure certainly has knowledge of the '699 Patent as of the date of service of this Complaint. Despite this knowledge, Fieldcure is infringing (or will infringe) the '699 Patent knowingly, willfully, deliberately, maliciously, and in bad faith, and, in doing so, knew or should have known that its conduct amounted to infringement.

54. Novocure has suffered (or will suffer) harm from Fieldcure's current (or impending) infringement.

COUNT II
(Declaratory Judgment of Infringement of U.S. Patent No. 7,136,699)

55. Novocure incorporates the preceding paragraphs of this Complaint as if expressly set forth herein.

56. As set forth in Count I, Fieldcure is infringing (or will infringe) the '699 Patent—literally and/or under the doctrine of equivalents, and willfully—via the importation and use of the Fieldcure Device.

57. Even if Fieldcure has not yet imported the Fieldcure Device into the United States, there is an actual case and controversy between Novocure and Fieldcure regarding the impending importation and use of the infringing Fieldcure device. This case and controversy is evidenced by Fieldcure's statements to Novocure and the public stating that it will bring the Fieldcure Device for display at the SNO Conference to be held in this District from November 16-20, and Fieldcure's meaningful preparation for doing so. Displaying the Fieldcure Device at the SNO Conference—as Fieldcure has stated it will do—requires paying thousands of dollars to secure an exhibit. *See, e.g.,* SNO Conference Prospectus, at 3 (available at <https://www.eventscribe.net/2022/SNO/aaStatic.asp?SFP=UFJOTVpOS1BAMTA5NDZARXhoaWJpdCBJbmZvcmlhdGlvbg>) (specifying minimum exhibit specifications and cost per square foot). Upon information and belief, Fieldcure's meaningful preparations have included at least securing a SNO Conference exhibit and travel arrangements to effectuate Fieldcure's importation and use of the Fieldcure Device.

58. This actual case and controversy is also evidenced by Fieldcure's prior statements to Novocure that the Fieldcure Device has virtually identical specifications to the Novocure Optune® device. The Fieldcure Device that Fieldcure has imported (or will import) thus has a substantially fixed, determinate design.

59. Novocure has suffered (or will suffer) harm from Fieldcure's current (or impending) infringement.

COUNT III
(Infringement of U.S. Patent No. 7,715,921)

60. Novocure incorporates the preceding paragraphs of this Complaint as if expressly set forth herein.

61. Claim 1 of the '921 Patent claims:

1. An electrode configured for placement in contact with a surface of a patient's body, the electrode comprising:

a conductive substrate having a first side that faces the patient when the electrode is placed in contact with the patient's body,

the conductive substrate having a plurality of open spaces passing therethrough that pass through the first side of the conductive substrate, wherein the open spaces are distributed and sized to permit moisture on the surface of the patient's body to escape via the open spaces when the electrode is placed in contact with the patient's body; and

a thin dielectric material disposed on the first side of the conductive substrate so as to insulate the conductive substrate from the patient's body when the electrode is placed in contact with the patient's body,

wherein the dielectric coating has a dielectric constant of at least 1000.

62. The Fieldcure devices meets each and every limitation of at least claim 1 of the '921 Patent literally and/or under the doctrine of equivalents, as illustrated the chart attached as Exhibit E.

63. As discussed above, Fieldcure will infringe (or has infringed) the '921 Patent by importing the Fieldcure Device into the United States and using it at the SNO Conference, in violation of 35 U.S.C. § 271(a).

64. Upon information and belief, Fieldcure's infringement of the '921 Patent is (or will be) willful. As discussed above, Fieldcure has knowledge of Novocure's intellectual property in this field, including related patents and patent applications to

those asserted here. Therefore, upon information and belief, Fieldcure also had knowledge of the '921 Patent. And Fieldcure certainly has knowledge of the '921 Patent as of the date of service of this Complaint. Despite this knowledge, Fieldcure is infringing (or will infringe) the '921 Patent knowingly, willfully, deliberately, maliciously, and in bad faith, and, in doing so, knew or should have known that its conduct amounted to infringement.

65. Novocure has suffered (or will suffer) harm from Fieldcure's current (or impending) infringement.

COUNT IV
(Declaratory Judgment of Infringement of U.S. Patent No. 7,715,921)

66. Novocure incorporates the preceding paragraphs of this Complaint as if expressly set forth herein.

67. As set forth in Count III, Fieldcure is infringing (or will infringe) the '921 Patent—literally and/or under the doctrine of equivalents, and willfully—via the importation and use of the Fieldcure Device.

68. Even if Fieldcure has not yet imported the Fieldcure Device into the United States, there is an actual case and controversy between Novocure and Fieldcure regarding the impending importation and use of the infringing Fieldcure device. This case and controversy is evidenced by Fieldcure's statements to Novocure and the public stating that it will bring the Fieldcure Device for display at the SNO Conference to be held in this District from November 16-20, and Fieldcure's meaningful preparation for doing so. Displaying the Fieldcure Device at the SNO Conference—

as Fieldcure has stated it will do—requires paying thousands of dollars to secure an exhibit. *See, e.g.,* SNO Conference Prospectus, at 3 (available at <https://www.eventscribe.net/2022/SNO/aaStatic.asp?SFP=UFJOTVpOS1BAMTA5NDZARXhoaWJpdCBJbmZvcmlhdGlvbg>) (specifying minimum exhibit specifications and cost per square foot). Upon information and belief, Fieldcure’s meaningful preparations have included at least securing a SNO Conference exhibit and travel arrangements to effectuate Fieldcure’s importation and use of the Fieldcure Device.

69. This actual case and controversy is also evidenced by Fieldcure’s prior statements to Novocure that the Fieldcure Device has virtually identical specifications to the Novocure Optune® device. The Fieldcure Device that Fieldcure has imported (or will import) thus has a substantially fixed, determinate design.

70. Novocure has suffered (or will suffer) harm from Fieldcure’s current (or impending) infringement.

COUNT V
(Infringement of U.S. Patent No. 8,715,203)

71. Novocure incorporates the preceding paragraphs of this Complaint as if expressly set forth herein.

72. Claim 1 of the ’203 Patent claims:

1. A composite electrode comprising:

a plurality of ceramic elements, each of the ceramic elements having (a) a lower surface configured to rest on a patient’s body and (b) an upper surface;

a first lead;

at least one electrical conductor configured to make a direct electrical connection between the upper surface of each of the ceramic elements and the first lead; and

a support structure configured to mechanically connect the plurality of ceramic elements during use,

with the lower surface of each of the plurality of ceramic elements resting on the patient's body.

73. The Fieldcure devices meets each and every limitation of at least claim 1 of the '203 Patent literally and/or under the doctrine of equivalents, as illustrated the chart attached as Exhibit F.

74. As discussed above, Fieldcure will infringe (or has infringed) the '203 Patent by importing the Fieldcure Device into the United States and using it at the SNO Conference, in violation of 35 U.S.C. § 271(a).

75. Upon information and belief, Fieldcure's infringement of the '203 Patent is (or will be) willful. As discussed above, Fieldcure has knowledge of Novocure's intellectual property in this field, including related patents and patent applications to those asserted here. Therefore, upon information and belief, Fieldcure also had knowledge of the '203 Patent. And Fieldcure certainly has knowledge of the '203 Patent as of the date of service of this Complaint. Despite this knowledge, Fieldcure is infringing (or will infringe) the '203 Patent knowingly, willfully, deliberately, maliciously, and in bad faith, and, in doing so, knew or should have known that its conduct amounted to infringement.

76. Novocure has suffered (or will suffer) harm from Fieldcure's current (or impending) infringement.

COUNT VI
(Declaratory Judgment of Infringement of U.S. Patent No. 8,715,203)

77. Novocure incorporates the preceding paragraphs of this Complaint as if expressly set forth herein.

78. As set forth in Count V, Fieldcure is infringing (or will infringe) the '203 Patent—literally and/or under the doctrine of equivalents, and willfully—via the importation and use of the Fieldcure Device.

79. Even if Fieldcure has not yet imported the Fieldcure Device into the United States, there is an actual case and controversy between Novocure and Fieldcure regarding the impending importation and use of the infringing Fieldcure device. This case and controversy is evidenced by Fieldcure's statements to Novocure and the public stating that it will bring the Fieldcure Device for display at the SNO Conference to be held in this District from November 16-20, and Fieldcure's meaningful preparation for doing so. Displaying the Fieldcure Device at the SNO Conference—as Fieldcure has stated it will do—requires paying thousands of dollars to secure an exhibit. *See, e.g.,* SNO Conference Prospectus, at 3 (available at <https://www.eventscribe.net/2022/SNO/aaStatic.asp?SFP=UFJOTVpOS1BAMTA5NDZARXhoaWJpdCBJbmZvcmlhdGlvbg>) (specifying minimum exhibit specifications and cost per square foot). Upon information and belief, Fieldcure's meaningful preparations have included at least securing a SNO Conference exhibit

and travel arrangements to effectuate Fieldcure's importation and use of the Fieldcure Device.

80. This actual case and controversy is also evidenced by Fieldcure's prior statements to Novocure that the Fieldcure Device has virtually identical specifications to the Novocure Optune® device. The Fieldcure Device that Fieldcure has imported (or will import) thus has a substantially fixed, determinate design.

81. Novocure has suffered (or will suffer) harm from Fieldcure's current (or impending) infringement.

Prayer for Relief

WHEREFORE, Novocure prays for judgment against Defendant Fieldcure and respectfully requests the following relief:

- a. Judgment for Novocure and against Fieldcure that the Fieldcure Device infringes at least one claim of the '699 Patent, the '921 Patent, and/or the '203 Patent;
- b. Judgement for Novocure and against Fieldcure that Fieldcure has willfully infringed and/or would willfully infringe at least one claim of the '699 Patent, the '921 Patent, and/or the '203 Patent;
- c. Permanent injunctions against Fieldcure, its officers, agents, servants, and employees, and those persons acting in active concert or participation with all or any of them, (1) enjoining them from importing the Fieldcure Device; (2) if the Fieldcure Device has already been imported, ordering them to immediately export it; and (3) enjoining them from any use of the Fieldcure Device in the United States, including at the SNO Conference;
- d. To the extent that Fieldcure has or will commercially manufacture, use, offer to sell, or sell the Fieldcure Device (or copies thereof) within the United States, or import such devices into the United States, prior to the expiration of the last Novocure

Patent, including any extensions, a judgment awarding Novocure monetary relief together with interest;

- e. A judgment that this is an exceptional case and that Novocure be awarded its attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285;
- f. Costs and expenses in this action; and
- g. Such other and further relief as the Court deems just and appropriate.

DEMAND FOR A JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(c), Novocure demands a jury trial on all issues so triable.

Dated: November 7, 2022

Respectfully submitted,

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