

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

**Darrell K. Thompson;
William T. Holt (deceased);
Leatha J. Holt (next of kin); and
NewAir Manufacturing, LLC,**

Plaintiffs;

v.

**Stryker Corporation;
Physio-Control International,
Inc.;
Physio-Control, Inc.;
Psysio-Control Manufacturing,
Inc.;
Jolife AB;
and Bain Capital, Inc.,**

Defendants.

Case No. 2:19-cv-2038

Jury Trial Demanded

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT,
TRADE SECRET MISAPPROPRIATION, FRAUD, AND
DEMAND FOR JURY TRIAL**

Plaintiffs, Darrell K. Thompson, William T. Holt (Deceased), Leatha J. Holt (next of kin), and NewAir Manufacturing, LLC, (collectively, the “Plaintiffs”) by and through counsel, for their Complaint for Patent Infringement, and Trade

Secret Misappropriation against Medtronic Public Limited Company, Medtronic, Inc., Stryker Corporation, Physio-Control International, Inc., Physio-Control Manufacturing, Inc., Physio-Control, Inc., Jolife AB, and Bain Capital, Inc. (collectively, the “Defendants”) state as follows:

THE PARTIES

1. Plaintiff Darrell K. Thompson (“Thompson”) is a resident of the State of Tennessee.
2. Plaintiff William T. Holt (“W. Holt”) is deceased, and his next of kin, Leatha J. Holt (“Holt”), is a resident of the state of Tennessee.
3. Plaintiff NewAir Manufacturing LLC (“NewAir”) is a domestic limited liability company duly organized and incorporated under the laws of the State of Tennessee, with its principal place of business in Bartlett, TN.
4. Defendant Stryker Corporation (“Stryker”) is a domestic corporation duly organized and incorporated under the laws of the State of Michigan, with its principal place of business in Kalamazoo, MI. (Stryker and all wholly owned subsidiaries of Stryker hereafter collectively referred to as “Stryker Defendants.”)
5. Defendant Physio-Control International, Inc. (“Physio-Control Int’l”) is a corporation duly organized and incorporated under the laws of the State of Washington with its principal place of business in Redmond, WA. Upon information and belief, Physio-Control Int’l is a wholly owned subsidiary of Stryker.

6. Defendant Physio-Control Manufacturing, Inc. (“Physio-Control Mfg.”) is a corporation duly organized and incorporated under the laws of the State of Washington with its principal place of business in Redmond, WA. Upon information and belief, Physio-Control Mfg. is a wholly owned subsidiary of Stryker.
7. Defendant Physio-Control, Inc. (“Physio-Control”) is a corporation duly organized and incorporated under the laws of the State of Washington with its principal place of business in Redmond, WA. Upon information and belief, Physio-Control is a wholly owned subsidiary of Stryker. Physio-Control has a duly filed foreign certificate of existence with the Tennessee Secretary of State.
8. Defendant Jolife AB is a foreign corporation duly organized and incorporated in Sweden with its principal place of business in Lund, Sweden. Upon information and belief, Jolife AB is a wholly owned subsidiary of Physio-Control.
9. Defendant Bain Capital, Inc. (“Bain Capital”) is a corporation duly organized and incorporated under the laws of the state of Delaware with a principal place of business in Boston, MA.
10. Medtronic announced its acquisition of Physio-Control on June 30, 1998. Bain Capital announced its acquisition of Physio-Control from Medtronic on November 17, 2011. Stryker announced its acquisition of Physio-Control from Bain Capital on February 16, 2016.
11. Physio-Control announced its acquisition of Jolife AB on April 25, 2011.

JURISDICTION AND VENUE

12. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq.* This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331 and 1338(a).
13. This Court has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. § 1367 because Plaintiff's state law claim is so related to the federal claims for which this Court has original jurisdiction that the state claim forms a part of the same case or controversy.

[I]n any civil action of which the district court have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.”) Because the federal district court has original jurisdiction over the patent claims and because the other claims are so related to the patent claims that they form part of the same case and controversy, this Court has supplemental jurisdiction for the remainder of the claims.

Tenn. Code. Ann. § 20-4-101 and 104.

14. This Court has personal jurisdiction over Defendants. Defendants regularly and continuously do business in this District and have infringed or induced infringement, and continue to do so, in this District. Upon information and belief, Defendants maintain offices within this District. Furthermore, Stryker Defendants' website advertises active job listings in the District. In addition, the Court has personal jurisdiction over Defendants because minimum contacts have been established with the forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.
15. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1400(b) because Defendants have committed acts of infringement in this State and in this

District, are subject to personal jurisdiction in this District, a substantial part of the events or omissions giving rise to this claim has occurred in this district, and the Defendants have a regular and established place of business in this district.

ASSERTED PATENTS

16. On January 24, 2006, the United States Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 6,988,499 (“the ‘499 patent”), entitled “Mechanical Resuscitator,” to William T. Holt. The patent application for the ‘499 patent was filed on March 22, 2002, and receives the benefit of such priority date. The inventors have been since amended to be William T. Holt; by Leatha J. Holt; and Darrel K. Thompson. A true and correct of the ‘499 patent is attached as Exhibit A. NewAir Manufacturing, LLC is the owner by assignment of the ‘499 patent and holds all rights and interest in that patent.
17. The ‘499 patent is valid and enforceable.

ACCUSED PRODUCTS

18. On November 30, 2010, the USPTO issued U.S. Patent No. 7,841,996 (“the ‘996 patent”), entitled “Positioning Device for Use in Apparatus for Treating Sudden Cardiac Arrest” to Peter Sebelius and Martina Rosell. The PCT for the ‘996 patent was filed on November 4, 2004, but receives the priority date of November 17, 2003, for its foreign application. A true and correct copy of the ‘996 patent is attached as Exhibit B. Jolife AB is the owner by assignment of the ‘996 patent and holds all rights and interest in that patent.

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