

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS**

**New Amsterdam LLC,**

**Plaintiff,**

**v.**

**Medtronic, Inc.,**

**Defendant.**

**Case No. 1:23-cv-460**

**JURY TRIAL DEMANDED**

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

New Amsterdam LLC (“Plaintiff”) hereby files this Original Complaint for Patent Infringement against Medtronic, Inc. (“Medtronic” or “Defendant”), and alleges, upon information and belief, as follows:

**THE PARTIES**

1. New Amsterdam LLC is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business at 163 Bogerts Mill Road, Harrington Park, New Jersey 07640.
2. Upon information and belief, Defendant Medtronic, Inc. is a corporation organized and existing under the laws of the state of Minnesota, having a place of business in this District at 18302 Talavera Ridge, San Antonio, Texas 78257, and may be served through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Inc., at 211 East 7th Street, Suite 620, Austin, Texas 78701.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1338(a).
4. This Court has personal jurisdiction over Defendant. Defendant has continuous and systematic business contacts with the State of Texas. Defendant transacts business within this District and elsewhere in the State of Texas. Further, this Court has personal jurisdiction over Defendant based on its commission of one or more acts of infringement of patent-in-suit in this District and elsewhere in the State of Texas.
5. Defendant directly conducts business extensively throughout the State of Texas, by distributing, making, using, offering for sale, selling, and advertising its products and services in the State of Texas and in this District. Defendant has purposefully and voluntarily made its business services, including the infringing systems and services, available to residents of this District and into the stream of commerce with the intention and expectation that they will be purchased and/or used by consumers in this District.
6. Defendant maintains physical brick-and-mortar business locations in the State of Texas and within this District, retains employees specifically in this District for the purpose of servicing customers in this District, and generates substantial revenues from its business activities in this District.
7. Venue is proper in the District of Texas as to Defendant pursuant to at least 28 U.S.C. §§ 1391(c)(2) and 1400(b). As noted above, Defendant maintains a regular and established business presence in this District.

### **BACKGROUND AND PATENTS-IN-SUIT**

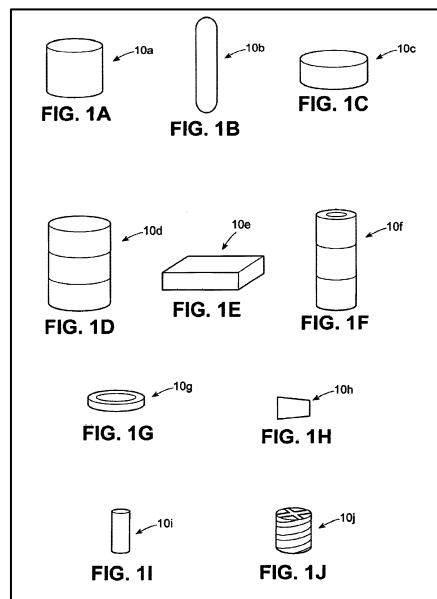
8. Plaintiff is the sole and exclusive owner, by assignment, of U.S. Patent Nos. 6,916,483 (“the ‘483 Patent”) titled “Bioabsorbable Plugs Containing Drugs” relating to controllably

delivering therapeutic agents to an orthopaedic surgical site that requires the implantation of a prosthesis within the site.

9. By operation of law, the '483 Patent was originally issued and exclusively vested to the named inventors, James Ralph and Steven Tater, as of the issue date of the '483 Patent. *See* 35 U.S.C. § 261; *Schwendimann v. Arkwright Advanced Coating, Inc.*, 959 F.3d 1065, 1072 (Fed. Cir. 2020); *Suppes v. Katti*, 710 Fed. Appx. 883, 887 (Fed. Cir. 2017); *Taylor v. Taylor Made Plastics, Inc.*, 565 Fed. Appx. 888, 889 (Fed. Cir. 2014). The inventors, in a written instrument dated June 30, 2003, and filed with the United States Patent and Trademark Office on June 9, 2005, assigned all rights, title, and interest in the '483 Patent to OsetoTools, LLC.
10. OsteoTools, LLC, in a written instrument dated April 1, 2005, and filed with the United States Patent and Trademark Office on April 2, 2005, assigned all rights, title, and interest in the '483 Patent to BioDynamics, LLC.
11. Formed in May 2004, BioDynamics, LLC is a medical design company dedicated to the development of new surgical implants, instruments and techniques that are reliable and less intrusive, that allow a surgeon to be more efficient, and which speed a patient's recovery. Their team of engineers has several decades of combined medical design experience and over 150 patents in the medical arena, ranging from orthopedic implants to biologics.
12. Thereafter, in a written instrument dated June 15, 2021, and filed with the United States Patent and Trademark Office on July 8, 2021, BioDynamics LLC assigned all rights, title, and interest in the '483 Patent to First Commerce Bank related to settling litigation claims.
13. Thereafter, in a written instrument dated September 28, 2021, and filed with the United States Patent and Trademark Office on November 17, 2021, First Commerce Bank assigned all rights, title, and interest in the '483 Patent to the Plaintiff New Amsterdam LLC. As such, Plaintiff

New Amsterdam LLC has sole and exclusive standing to assert the '483 Patent and to bring these causes of action.

14. The '483 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.
15. The inventions described and claimed in the '483 Patent were invented individually and independently by James Ralph and Steven Tater.
16. The '483 Patent includes numerous claims defining distinct inventions. As represented in Figs. 1A-J of the '483 Patent below, the inventions generally relate to implantable devices and methods thereof for dispensing one or more therapeutic agents at a surgical site. More particularly, the invention relates to devices and methods for controllably delivering therapeutic agents to an orthopaedic surgical site that requires the implantation of a prosthesis within the site.



17. The priority date of each of the '483 Patent is at least as early as July 22, 2002. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.

18. Biodegradable materials are used in medicine for a variety of purposes including drug delivery devices and as aids in tissue repair. The physical and chemical properties of such materials can vary as in the case of different polymeric materials, e.g., melting point, degradation rate, stiffness, etc. The variability in physical and chemical properties of biodegradable polymeric materials allows biodegradable implants made from such materials to be tailored to suit specific applications.
19. At the time of the inventions, the porous bioabsorbable were generally isotropic materials. That is to say, the structure and composition of the materials were uniform in all directions. Any pharmacological therapeutic agents were generally distributed uniformly in the biodegradable carrier materials. This, in turn, means that the active agents were released uniformly into the wound site at a rate determined only by the rate at which the implant material biodegrades and the surface area of the implant. In practice, it would have been preferable to have controlled or phased release of active agents. Alternatively, it would sometimes have been desirable to have an initial rapid release of antiseptic followed by slower release of wound healing factors such as cytokines, EGF, etc.
20. The inventors of the '483 Patent conceived new a modular drug delivery device and method for controllably delivering a therapeutic agent to a surgical site, particularly an orthopaedic surgical site into which a prosthesis has been implanted. The bioabsorbable drug delivery devices in accordance with the various embodiments of the '483 Patent include encapsulating the therapeutic agent in a bioabsorbable polymer, or a modular plug containing more than one bioabsorbable polymer, which will yield a controllable release of the therapeutic agent over a predefined dosing period, with residual therapeutic agent being thereafter delivered only until the bioabsorbable polymer is completely biodegraded.

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