

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

PM HOLDINGS, LLC,  
an Arizona Limited Liability Company,

Plaintiff,

v.

HEART OF TEXAS SURGERY CENTER, PLLC,  
a Texas Professional Limited Liability Company;  
and  
HEART OF TEXAS CATH LAB, PLLC  
a Texas Professional Limited Liability Company,

Defendants.

Civil Action No. 6-21-cv-00644

**Jury Trial Demanded**

**COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND**

Plaintiff PM Holdings, LLC, by its undersigned attorneys, for its Complaint against Defendants Heart of Texas Surgery Center, PLLC and Heart of Texas Cath Lab, PLLC, states and alleges as follows:

**I. THE PARTIES**

1. Plaintiff PM Holdings, LLC ("PMH" or "Plaintiff") is an Arizona limited liability company having a principal place of business in Paradise Valley, Arizona 85253.

2. Defendant Heart of Texas Surgery Center, PLLC ("Heart of Texas Surgery Center") is a Texas professional limited liability company having a principal place of business at 7003 Woodway Drive, Suite 307, Woodway, Texas 76712. Defendant Heart of Texas Cath Lab, PLLC ("Heart of Texas Cath Lab") is a Texas professional limited liability company, also having a principal place of business at 7003 Woodway Drive, Suite 307, Woodway, Texas 76712. Heart of

Texas Surgery Center and Heart of Texas Cath Lab are collectively referred to herein as "Heart of Texas" or "Defendants."

## II. JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. §§ 101, *et seq.* The infringing acts of Defendants, as complained of herein, were committed in this District and have caused and continue to cause PMH injury in this district. The Court has original jurisdiction over the parties and the claims asserted in this action pursuant to 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over Defendants because they have committed, and continue to commit, acts of infringement in this District, have conducted business in this District, and/or have engaged in continuous and systematic activities in this District.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1400 because Defendants are headquartered here, and/or have a regular and established place of business in this District and have committed acts of infringement in this District.

## III. GENERAL ALLEGATIONS

### A. Plaintiff PM Holdings, LLC

6. The founder and managing partner of Plaintiff PM Holdings, LLC is Dr. L. Philipp Wall, MD, who since 1997 has been a board-certified vascular surgeon in Arizona. For the past 24 years, Dr. Wall has been a practicing physician and specifically within the past 16 years, Dr. Wall has been performing vascular-related surgeries in Arizona.

7. Traditionally, cardio-vascular related procedures have been performed in in-patient facilities, i.e. hospitals, which offer combined surgical and fixed imaging services in a single, hybrid operating room. This hybrid model was only available in hospitals, which are generally designed with a variety of special features to meet the strict safety requirements for radiology.

Indeed, and conventionally, large hospitals were thought to be the only types of facilities that could accommodate the needed infrastructure for the large radiological equipment, high electrical requirements, and radiation shielding.

8. Around this time, smaller, standalone, outpatient surgical facilities, known as ambulatory surgical centers ("ASCs"), were becoming more popular and widespread. ASCs can be constructed in office buildings that have much less strict code requirements, and therefore, can be built with significant cost savings compared to the cost to build a hospital. For example, an IBC Class B structure, which may house an ASC, will have significantly less strict construction requirements than an IBC Class I-2 hospital structure. Similarly, the air exchange and other requirements may be much less strict for ASCs than for hospitals. However, due to the ASC's less stringent building requirements, the common belief was that the hybrid operating room was still relegated to larger hospitals that utilized stricter building requirements.

9. Dr. Wall, recognizing the utility of integrating the hybrid operating room into the ASC model, set out to invent and design a system that would enable them to be incorporated into ASCs. Dr. Wall's inventive design enables stand-alone ASCs to operate upon and to image a patient in the same room, thus negating the need to move a patient for one purpose or the other. Patents covering Dr. Wall's inventive concepts were applied for and granted and applications covering additional concepts are currently pending.

**B. The Patents-In-Suit**

10. U.S. Patent 9,322,188 ("the '188 Patent") titled "Hybrid Operating Room for Combined Surgical and Fixed Imaging Services in an Ambulatory Surgical Center" was filed on December 4, 2014, and is a Continuation of Application No. 14/219,880, filed on March 19, 2014. The United States Patent and Trademark Office ("USPTO") duly and legally issued the '188 Patent

on April 26, 2016. A copy of the '188 Patent is attached hereto as Exhibit A and incorporated herein by reference.

11. Independent Claim 16 of the '188 Patent is representative of the subject matter of the '188 Patent and is set forth in its entirety below.

A stationary ambulatory surgical center, comprising:

a hybrid operating room;

an imaging device disposed in the hybrid operating room and configured to use radiation, wherein the hybrid operating room is configured to shield the radiation from use of the imaging device;

an operating table disposed in the hybrid operating room;

a power room near the operating room, wherein the power room comprises a power supply for the imaging device;

an air change system, wherein the air change system is configured to provide at least six air changes per hour to the hybrid operating room;

a conduit from the power room to the imaging device configured to deliver power to the imaging device; and

a door connecting the hybrid operating room to at least one hallway,

wherein a building for the ambulatory surgical center is initially constructed to conform to International Building Code (IBC) Class B standards.

12. U.S. Patent 9,334,664 ("the '664 Patent") titled "Hybrid Operating Room for Combined Surgical and Fixed Imaging Services in an Ambulatory Surgical Center" was filed on December 4, 2014, and is a Continuation-In-Part to Application No. 14/219,880, filed on March 19, 2014. The USPTO duly and legally issued the '664 Patent on May 10, 2016. A copy of the '664 Patent is attached hereto as Exhibit B and incorporated herein by reference.

13. Independent Claim 22 of the '664 Patent is representative of the subject matter of the '664 Patent and is set forth in its entirety below.

A building, comprising:

a hybrid operating room, wherein the hybrid operating room comprises radiation shielding;

an imaging device disposed in the hybrid operating room;

an operating table disposed in the hybrid operating room;

a power room near the operating room, wherein the power room comprises a power supply for the imaging device;

an air change system, wherein the air change system is configured to provide at least six room air changes per hour to the hybrid operating room;

a door connecting the hybrid operating room to at least one hallway;

a conduit from the power room to the imaging device configured to deliver power to the imaging device,

wherein the building includes 20,000 square feet or less of floor space,

wherein the building is initially constructed to conform to International Building Code (IBC) Class B standards.

14. The '188 Patent and the '664 Patent are together referred to as "the Asserted Patents."

15. Dr. Wall assigned the Asserted Patents to PMH, which owns all rights, title, and interest in and to the Asserted Patents, including the right to collect all due and owing past damages for infringement thereof.

**C. The Heart Of Texas Defendants**

16. Upon information and belief, Defendants operate an ambulatory surgical center, located at 7003 Woodway Drive, Suite 307, Woodway, Texas 76712. According to Defendants' website, they offer cardiovascular procedures at the site, including: cardioversion; carotid angiography; coronary angiography, atherectomy, angioplasty, stenting; device implantation/replacement (pacemaker, defibrillator); and peripheral angiography, atherectomy,

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