

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GLOBUS MEDICAL, INC.,)	
)	
Plaintiff,)	
)	C.A. No. _____
v.)	
)	JURY TRIAL DEMANDED
DEPUY SYNTHES PRODUCTS, LLC,)	
DEPUY SYNTHES SALES, INC.,)	
)	
Defendants.)	

COMPLAINT

Plaintiff Globus Medical, Inc. (“Globus”), by its undersigned attorneys, for its Complaint herein against Defendants DePuy Synthes Products, LLC (“DePuy Synthes Products”) and DePuy Synthes Sales, Inc. (“DePuy Synthes Sales”) alleges upon knowledge with respect to its own acts, and upon information and belief as to others, as follows:

THE PARTIES

1. Globus is a Delaware corporation with a principal place of business at Valley Forge Business Center, 2560 General Armistead Avenue, Audubon, Pennsylvania 19403.
2. Globus designs, develops, manufactures, markets and sells intervertebral fusion implants.
3. Globus is the assignee of United States Patent No. 8,328,872 (“the ‘872 patent”).
4. Upon information and belief, DePuy Synthes Products is a Delaware limited liability company having its principal place of business at 325 Paramount Drive, Raynham, Massachusetts 02767.
5. Upon information and belief, DePuy Synthes Sales is a Massachusetts corporation having its principal place of business at 325 Paramount Drive, Raynham, Massachusetts 02767.

6. Upon information and belief, DePuy Synthes Products and DePuy Synthes Sales (together, “Synthes”) collectively design, develop, manufacture, market, and sell intervertebral fusion implants including the Zero-P VA intervertebral fusion implant.

NATURE OF THE ACTION

7. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

JURISDICTION AND VENUE

8. This Court has jurisdiction over the claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over the Synthes entities because they are registered to do business in this District, thereby availing themselves of the laws of the State of Delaware and deriving the protections and benefits thereof, and, upon information and belief, that they regularly transact business within this District, including offering to sell and/or selling an infringing product in Delaware, and have committed acts of patent infringement within this District.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

COUNT ONE
INFRINGEMENT OF UNITED STATES PATENT NO. 8,328,872

11. Globus incorporates each of the preceding paragraphs of this Complaint as if fully set forth herein.

12. The ‘872 patent, entitled “Intervertebral Fusion Implant,” was duly and lawfully issued by the United States Patent and Trademark Office on December 11, 2012. A copy of the ‘872 patent, which is valid and enforceable, is attached hereto as Exhibit A.

13. The inventors of the '872 patent are William E. Duffield, Colm McLaughlin, Jason Gray, Jamie Calverley, Mark Adams, and William S. Rhoda.

14. In violation of 35 U.S.C. §271(a), Synthes has directly infringed the '872 patent by making, using, offering for sale, and/or selling within the United States or importing into the United States products that infringe one or more claims of the '872 patent, including but not limited to its Zero-P VA intervertebral fusion implants.

15. Upon information and belief, Synthes has been aware of the '872 patent since at least February 8, 2013 when it cited the '872 patent to the United States Patent and Trademark Office in connection with the prosecution of its U.S. Patent Application Serial No. 12/761,101.

16. Synthes' continued manufacture, use, offers to sell, and/or selling of its Zero-P VA intervertebral fusion implants, despite its knowledge of the '872 patent, constitutes at least reckless disregard of the '872 patent. As a result, Synthes' infringement after becoming aware of the '872 patent has been willful.

17. Globus has suffered and will continue to suffer damages and irreparable injuries unless Synthes' infringement of the '872 patent is enjoined.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF Globus respectfully requests that this Court enter judgment in its favor and against Synthes and grant the following relief:

- A. A judgment that Synthes has directly infringed the '872 patent in violation of 35 U.S.C. § 271;
- B. A judgment that Synthes' infringement of the '872 patent has been willful;
- C. An order, pursuant to 35 U.S.C. § 283, enjoining Synthes from any further infringement of the '872 patent;

D. An order, pursuant to 35 U.S.C. § 284, awarding Globus damages adequate to compensate for Synthes' infringement of the '872 patent;

E. An order, pursuant to 35 U.S.C. § 284, trebling all damages awarded to Globus based on Synthes' willful infringement of the '872 patent;

F. An order, pursuant to 28 U.S.C. § 1961 and 35 U.S.C. § 284, awarding to Globus interest on the damages and its costs incurred from this action;

G. A declaration that this case is exceptional and an award of Globus' attorneys' fees and costs in bringing its claims, pursuant to 35 U.S.C. § 285;

H. An order directing Synthes to recall from distribution and destroy its entire stock of infringing products within the United States; and

I. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

In accordance with Fed. R. Civ. P. 38 and 39, Globus asserts its rights under the Seventh Amendment to the United States Constitution and demands a trial by jury on all issues that may be so tried.

Respectfully submitted,

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