

Read In Open Court 12-17-10

(VTC)

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

ICU MEDICAL, INC.,
Plaintiff,

v.

RYMED TECHNOLOGIES, INC.,
Defendant.

C.A. No. 07-468-LPS

VERDICT FORM

I. INFRINGEMENT

A. INFRINGEMENT OF U.S. PATENT NO. 5,685,866 (THE '866 PATENT)

1. Has ICU proven by a preponderance of the evidence that RyMed's original InVision-Plus product literally infringes any of the following claims of the '866 patent?

Claim 1	Yes <u>X</u>	No _____
Claim 3	Yes <u>X</u>	No _____
Claim 6	Yes <u>X</u>	No _____

2. Has ICU proven by a preponderance of the evidence that RyMed's modified InVision-Plus product (with a helical boot) literally infringes any of the following claims of the '866 patent?

Claim 1	Yes _____	No <u>X</u>
Claim 3	Yes <u>X</u>	No _____
Claim 6	Yes <u>X</u>	No _____

3. Has ICU proven by a preponderance of the evidence that RyMed's modified InVision-Plus product (with a helical boot) infringes any of the following claims of the '866 patent under the doctrine of equivalents?

Claim 1 Yes No

Claim 3 Yes No

Claim 6 Yes No

B. WILLFUL INFRINGEMENT OF THE '866 PATENT

4. If you found infringement by RyMed in response to question 1 above, has ICU proven by clear and convincing evidence that RyMed's infringement was willful?

Claim 1 Yes No

Claim 3 Yes No

Claim 6 Yes No

C. INFRINGEMENT OF U.S. PATENT NO. 5,873,862 (THE '862 PATENT)

5. Has ICU proven by a preponderance of the evidence that RyMed's original InVision-Plus product is used in a way that literally infringes claim 2 of the '862 patent?

Yes No

6. Has ICU proven by a preponderance of the evidence that RyMed's modified InVision-Plus product (with a helical boot) is used in a way that literally infringes claim 2 of the '862 patent?

Yes No

7. Has ICU proven by a preponderance of the evidence that RyMed's modified InVision-Plus product (with a helical boot) is used in a way that infringes claim 2 of the '862 patent under the doctrine of equivalents?

Yes No

If you have checked "Yes" in response to one or more of questions 5 - 7 above, continue by responding to questions 8 - 10. If you did not check "Yes" in response to any of questions 5, 6, or 7, skip questions 8 - 10 and go on to question 11.

8. Has ICU proven by a preponderance of the evidence that RyMed has engaged in contributory infringement of claim 2 of the '862 patent?

Yes No

9. Has ICU proven by a preponderance of the evidence that RyMed has induced infringement of claim 2 of the '862 patent?

Yes No

D. WILLFUL INFRINGEMENT OF THE '862 PATENT

10. If you found infringement by RyMed in response to question (i) 5 and (ii) either 8 or 9 above, has ICU proven by clear and convincing evidence that RyMed's infringement was willful?

Yes No

E. INFRINGEMENT OF U.S. PATENT NO. 6,572,592 (THE '592 PATENT)

11. Has ICU proven by a preponderance of the evidence that RyMed's original InVision-Plus product is used in a way that literally infringes claim 45 of the '592 patent?

Yes No

12. Has ICU proven by a preponderance of the evidence that RyMed's modified InVision-Plus product (with a helical boot) is used in a way that literally infringes claim 45 of the '592 patent?

Yes No

If you have checked "Yes" in response to one or both of questions 11 and 12 above, continue by responding to questions 13 - 15. If you did not check "Yes" in response to question 11 or 12, skip questions 13 - 15 and continue with question 16.

13. Has ICU proven by a preponderance of the evidence that RyMed has engaged in contributory infringement of claim 45 of the '592 patent?

Yes _____ No _____

14. Has ICU proven by a preponderance of the evidence that RyMed has induced infringement of claim 45 of the '592 patent?

Yes _____ No _____

F. WILLFUL INFRINGEMENT OF THE '592 PATENT

15. If you found infringement by RyMed in response to question (i) 11 and (ii) either 13 or 14 above, has ICU proven by clear and convincing evidence that RyMed's infringement was willful?

Yes _____ No _____

II. INVALIDITY

A. INVALIDITY BECAUSE OF OBVIOUSNESS

16. Do you find that RyMed has proven by clear and convincing evidence that any of the claims of the asserted patents are invalid on the ground of obviousness?

Yes _____ No X

If you answered "Yes," please mark the claims you found to be obvious:

'866 patent claim 1: _____

'866 patent claim 3: _____

'866 patent claim 6: _____

'862 patent claim 2: _____

'592 patent claim 45: _____

B. INVALIDITY BECAUSE OF ANTICIPATION BY PRIOR ART

17. Do you find that RyMed has proven by clear and convincing evidence that claim 45 of the '592 patent is invalid because it was anticipated by the prior art?

Yes _____ No X

C. INVALIDITY BECAUSE OF EARLIER INVENTION

18. Do you find that RyMed has proven by clear and convincing evidence that claim 45 of the '592 patent is invalid due to prior invention by another?

Yes _____ No X

D. INVALIDITY BECAUSE OF IMPROPER DERIVATION

19. Do you find that RyMed has proven by clear and convincing evidence that the '592 patent is invalid because the named inventor of the '592 patent derived the invention of that patent from someone else?

Yes _____ No X

E. INVALIDITY BECAUSE OF IMPROPER INVENTORSHIP

20. Do you find that RyMed has proven by clear and convincing evidence that Dennis Bui was an inventor, or a joint inventor, of any claim, or any significant part of any claim, of the '592 patent?

Yes _____ No X

UNANIMOUS VERDICT

UPON REACHING A UNANIMOUS VERDICT ON EACH VERDICT FORM QUESTION,
EACH JUROR MUST SIGN BELOW

December 17, 2010