IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BOSTON SCIENTIFIC CORP. and BOSTON SCIENTIFIC NEUROMODULATION CORP.,	)	
Plaintiffs and Counter-Defendants,	)	
v.	)	C.A. No. 16-1163 (CFC) (CJB) CONSOLIDATED
NEVRO CORP.,	)	**DEMAND FOR JURY TRIAL**
Defendant and Counterclaimant.	)	

NEVRO CORP.'S ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS TO THIRD AMENDED COMPLAINT

Defendant Nevro Corp. ("Nevro"), by and through its undersigned counsel, hereby submits this Answer, Affirmative Defenses, and Counterclaims to the Third Amended Complaint of Plaintiffs Boston Scientific Corp. ("BSC") and Boston Scientific Neuromodulation Corp. ("BSNC") (collectively, "Boston Scientific") (D.I. 789). Pursuant to Federal Rule of Civil Procedure 8(b)(3), Nevro denies each and every allegation in Boston Scientific's Third Amended Complaint except those expressly admitted below.

OVERVIEW OF THE ACTION

1. This paragraph contains statements to which no response is required. To the extent any response is required, Nevro admits that Boston Scientific purports to bring an action for patent infringement and theft of trade secrets. Nevro denies any remaining allegations in this paragraph.

2. Nevro denies that it has infringed any valid and enforceable claims of U.S. Patent No. 7,496,404 ("the '404 patent"); U.S. Patent No. 8,682,447 ("the '447 patent"); U.S.

Patent No. 6,993,384 ("the '384 patent"); U.S. Patent No. 7,853,330 ("the '330 patent"); U.S. Patent No. 7,822,480 ("the '480 patent"); U.S. Patent No. 6,381,496 ("the '496 patent"); U.S. Patent No. 7,177,690 ("the '690 patent"); and U.S. Patent No. 9,162,071 ("the '071 patent") (collectively, the "Asserted Patents") via the manufacture, use, sale, offer to sell, exportation, and/or importation, in whole or in part, of the Senza® Spinal Cord Stimulation System, the Senza II™ Spinal Cord Stimulation System, or the Senza® Omnia™ Spinal Cord Stimulation System (collectively, the "Senza® Systems").

3. Nevro denies that it has acquired or used confidential Boston Scientific documents.

THE PARTIES

4. Admitted.

5. Nevro admits that BSNC is a Delaware corporation with its principal place of business at 25155 Rye Canyon Loop, Valencia, California 91355. Nevro lacks sufficient knowledge or information to admit or deny the remaining allegations in this paragraph, and on that basis denies those allegations.

6. Admitted.

JURISDICTION AND VENUE

7. This paragraph contains statements to which no response is required. To the extent any response is required, Nevro admits that Boston Scientific purports to bring this action under the patent laws of the United States, pursuant to Title 35 of the United States Code, but denies that Boston Scientific's claims have any merit.

8. Nevro admits that this Court has subject matter jurisdiction over the patent infringement claims asserted in Boston Scientific's Third Amended Complaint under 28 U.S.C. §§ 1331 and 1338(a). Nevro denies any remaining allegations in this paragraph.

9. Denied.

10. Nevro admits that this Court has personal jurisdiction over Nevro for purposes of this litigation. Nevro denies any remaining allegations in this paragraph.

11. Nevro admits that venue is proper in this District for purposes of this litigation.

BOSTON SCIENTIFIC'S BACKGROUND

12. Nevro admits that Boston Scientific is a medical device manufacturer, and that Boston Scientific sells Spinal Cord Stimulation ("SCS") systems for the treatment of chronic pain. Nevro lacks sufficient knowledge or information to admit or deny the remaining allegations in this paragraph, and on that basis denies those allegations.

13. Nevro admits, on information and belief, that Boston Scientific sells SCS systems that include the term "Precision" in the product name. Nevro lacks sufficient knowledge or information to admit or deny the remaining allegations in this paragraph, and on that basis denies those allegations.

14. Nevro denies that Boston Scientific developed and patented core technologies that are essential to SCS systems, and that Boston Scientific's technologies form the foundation of every SCS system on the market, including Nevro's Senza® Systems. Nevro lacks sufficient knowledge or information to admit or deny the remaining allegations in this paragraph, and on that basis denies those allegations.

THE NEVRO SYSTEMS

15. Nevro admits that its Senza® I system is as described in documents submitted by Nevro to the FDA and SEC, but denies this paragraph to the extent it is inconsistent or incomplete with respect to those documents.

16. Nevro denies that it launched the Senza® I system in Europe and Australia in the same year. Otherwise, admitted.

17. Nevro admits that its Senza® II system is as described in documents submitted by Nevro to the FDA and SEC, but denies this paragraph to the extent it is inconsistent or incomplete with respect to those documents.

18. Nevro admits that on November 5, 2019, it issued a press release announcing that its Senza® Omnia™ had received approval from the FDA and that international approvals are expected in Europe during the first half of 2020 and Australia during the latter part of 2020. Nevro further admits that its Senza® Omnia™ is as described in documents submitted by Nevro to the FDA and SEC, but denies the remainder of this paragraph to the extent it is inconsistent or incomplete with respect to those documents.

19. Nevro admits that C.C.C. Del Uruguay S.A. ("CCC") is a manufacturer of Nevro's implantable pulse generators ("IPGs"). Nevro denies that CCC currently manufactures Nevro's external chargers, trial simulators, and programmer wands. Nevro admits that CCC has a manufacturing facility in Montevideo, Uruguay.

20. Nevro admits that Vention Medical Design and Development, Inc. ("Vention") is a manufacturer of Nevro's IPGs. Nevro admits that Vention has a manufacturing facility in the United States.

21. Nevro admits that Stellar Technologies, Inc. is the single-source supplier of Nevro's percutaneous leads. Nevro lacks sufficient knowledge or information to admit or deny the remaining allegations in this paragraph, and on that basis denies those allegations.

22. Nevro admits that EaglePicher Medical Power LLC is currently the single-source supplier of batteries for Nevro's IPGs. Nevro lacks sufficient knowledge or information

to admit or deny the remaining allegations in this paragraph, and on that basis denies those allegations.

23. Nevro admits that Pro-Tech Design and Manufacturing, Inc. ("Pro-Tech") is the single-source supplier for conducting the inspection, labeling, packaging and sterilization of Nevro's Senza® Systems. Nevro admits that Pro-Tech's tender of the Senza® Systems for delivery, FCA (Incoterms 2000) includes Pro-Tech's Santa Fe Springs, California facility. Nevro lacks sufficient knowledge or information to admit or deny the remaining allegations in this paragraph, and on that basis denies those allegations.

THE ASSERTED PATENTS

24. Nevro admits that it received copies of the Asserted Patents at least upon service of the First Amended Complaint. Nevro denies any remaining allegations in this paragraph.

25. Nevro admits that its February 29, 2016 Form 10-K filing contained the statement quoted in this paragraph. Nevro admits that Boston Scientific, Nevro, Medtronic, and St. Jude are competitors in the SCS market. Nevro denies any remaining allegations in this paragraph.

26. Nevro admits that it participated in an FDA-monitored randomized controlled trial in a head-to-head comparison against Boston Scientific's Precision™ SCS system in which Nevro's Senza® System and paresthesia-free HF10™ therapy was determined by the FDA to be clinically superior to Boston Scientific's Precision SCS system. Nevro denies that the statement quoted in paragraph 25 of the Third Amended Complaint from Nevro's February 29, 2016 Form 10-K filing evidences that "it is standard practice in the SCS industry to monitor competitors' patent portfolios." Nevro lacks sufficient knowledge or information regarding other companies' practices with respect to monitoring competitors' patent portfolios,

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