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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

NEW WORLD MEDICAL, INC. and THE
REGENTS OF THE UNIVERSITY OF
COLORADO,

Plaintiffs,

v.

MICROSURGICAL TECHNOLOGY, INC.,

Defendant.

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMAND

Plaintiffs New World Medical, Inc. (“NWM”) and The Regents of the University of Colorado, a body corporate (“University”) (collectively “Plaintiffs”), by and through their attorneys, allege as follows against Defendant Microsurgical Technology, Inc. (“Defendant” or “MST”). The allegations herein are made based on personal knowledge as to Plaintiffs with respect to their own actions and upon information and belief as to all others. NWM is pursuing this action and has the right to join University as a party.

NATURE OF THE ACTION

1. This is a civil action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 1 et seq. and for such other relief as the Court deems just and proper. Plaintiffs’ claims are based on Defendant’s infringement of United States Patent No. 10,786,391 (“the ‘391 patent” or “Asserted Patent”).

1 **THE PARTIES**

2 2. NWM is a corporation organized and existing under the laws of the State of
3 Delaware, with its principal place of business at 10763 Edison Court, Rancho Cucamonga, CA
4 91730.

5 3. University is a body corporate organized under the Colorado Constitution and the
6 laws of the State of Colorado. The office of the Secretary of the Board of Regents of the University
7 of Colorado is located at 1800 Grant Street, 8th Floor, Denver, CO 80203.

8 4. On information and belief, MST is a company organized and existing under the
9 laws of the State of Washington, with its principal place of business at 8415 154th Avenue NE,
10 Redmond, WA 98052.

11 **JURISDICTION AND VENUE**

12 5. This civil action arises under the Patent Laws of the United States, Title 35, United
13 States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

14 6. This Court has personal jurisdiction over Defendant at least because Defendant is
15 incorporated under the laws of the State of Washington and has its principal place of business in
16 the State of Washington.

17 7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1400(b) because
18 Defendant is incorporated under the laws of the State of Washington and has committed acts of
19 infringement and has a regular and established place of business in the State of Washington and in
20 this District.

21 **FACTUAL BACKGROUND**

22 **A. THE ASSERTED PATENT**

23 8. NWM is a leading specialty medical device company that focuses on developing
24 innovative products for alleviating ophthalmic ailments and preserving and enhancing patients'
25 vision. NWM supplies products that are used by physicians worldwide, including market-leading
26 devices used for treating glaucoma.

1 9. Glaucoma refers to a group of diseases characterized by optic neuropathy that can
2 lead to irreversible blindness. The disease is one of the leading causes of blindness in the United
3 States. Glaucoma can occur in all segments of society, regardless of age, and causes significant
4 health and economic consequences in those afflicted with this condition.

5 10. On September 29, 2020, the United States Patent and Trademark Office (“USPTO”)
6 duly and legally issued the ‘391 patent, entitled “Intraocular Device for Dual Incisions,” filed
7 November 8, 2019. A true and correct copy of the ‘391 patent is attached hereto as Exhibit A.

8 11. The listed assignee of the ‘391 patent is University. The listed inventor of the ‘391
9 patent assigned the rights, title, and interest in the ‘391 patent to University. The inventor’s
10 assignment to University has been recorded with the USPTO at Reel/Frame 051880/0422. NWM
11 holds an exclusive license from University to the ‘391 patent.

12 12. The ‘391 patent is generally related to methods for treating glaucoma by excising
13 the trabecular meshwork tissue to form an opening.

14 **B. DEFENDANT’S INFRINGING DEVICES AND CONDUCT**

15 13. This patent infringement action arises due to Defendant’s manufacture, use, sale,
16 and offer for sale in the United States, and/or importation into the United States, of the TrabEx™
17 and TrabEx+™ devices (“Accused Product(s)” or “TrabEx devices”), and/or its acts that induce
18 and/or contribute to use of the Accused Products. Images of the Accused Products from
19 Defendant’s website are provided below as Figure 1 (TrabEx™) and Figure 2 (TrabEx+™).

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Figure 1



Figure 2

14. According to Defendant’s website, Defendant sells the TrabEx™ device. See Exhibit B, available at <https://microsurgical.com/products/irrigatinggoniectomydevices/trabex/> (last visited October 21, 2020). The SKU number of the TrabEx™ device listed on the website is 600042. *Id.*

15. Defendant’s website indicates that the TrabEx™ device “offers a highly effective solution for excision of the Trabecular Meshwork. It features precision engineered serrated blade and a trapezoidal configuration to enable edge to edge removal of the Trabecular Meshwork allowing for lasting exposure of collector channels.” *Id.*

16. Defendant’s website further indicates that the TrabEx™ device has a “Serrated Trapezoidal Dual Blade” and a “Footplate.” *Id.* An image of the TrabEx™ device from Defendant’s website is provided below as Figure 3.

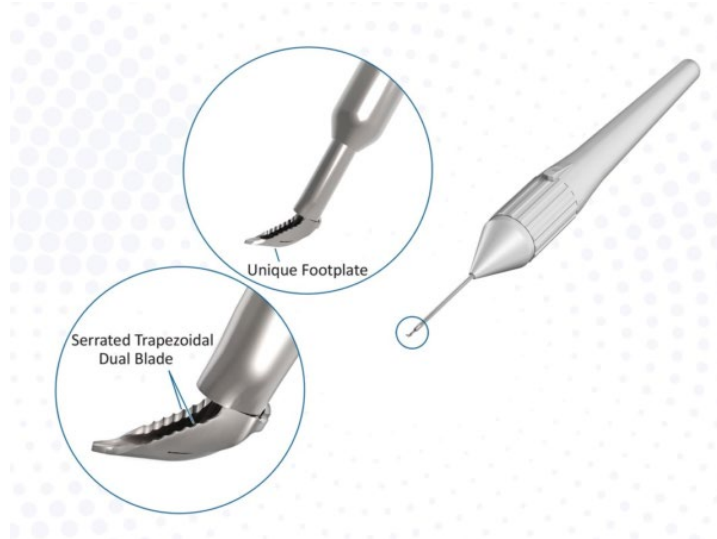


Figure 3

17. According to Defendant’s website, Defendant also sells the TrabEx+™ device. *See* Exhibit C, *available at* <https://microsurgical.com/products/irrigatinggoniectomydevices/trabex-2/> (last visited October 21, 2020). The SKU number of the TrabEx+™ device listed on the website is 600021. *Id.*

18. On information and belief, the TrabEx+™ device is the TrabEx™ device with irrigation and aspiration features. Defendant’s website states that “TrabEx+™ in addition to the dual-blade technology also incorporates irrigation and aspiration for efficient tissue extraction during irrigating goniotomy.” *Id.* Further, according to Defendant’s website, the TrabEx+™ device “offers the same superior performance of the TrabEx, enhanced control of the anterior chamber, and the ideal angle visualization during surgery.” *Id.*

19. Defendant’s website also lists “Features” of the TrabEx+™ device, including “[t]he Serrated Dual Blade excises a strip of the Trabecular Meshwork” and a “Unique footplate guides tip along the contour of Schlemm’s Canal.” *Id.* Defendant’s website indicates that the TrabEx+™ device has a “Serrated Trapezoidal Dual Blade” and a “Footplate.” *Id.* An image of the TrabEx™ device from Defendant’s website is provided below as Figure 4.

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