

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MICROSURGICAL  
TECHNOLOGY, INC. and  
THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA,

*Plaintiffs,*

v.

NEW WORLD MEDICAL, INC.,

*Defendant.*

C.A. No. \_\_\_\_\_

**DEMAND FOR JURY TRIAL**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs MicroSurgical Technology, Inc. (“MST”) and The Regents of the University of California (“Regents”) (collectively, “Plaintiffs”), by and through their attorneys, for their Complaint against defendant New World Medical, Inc. (“Defendant” or “NWM”), allege as follows:

**NATURE OF ACTION**

1. This is an action for infringement of Plaintiffs’ United States Patents No. 9,107,729, No. 9,358,155, No. 9,820,885, No. 9,999,544, and No. 10,123,905 under the Patent Act, 35 U.S.C. § 271, based on Defendant’s unauthorized manufacture, use, offer for sale, and/or sale in the United States, and/or importation into the United States, of the Kahook Dual Blade® (“Accused Product(s)” or “KDB”), and/or its acts that induce and/or contribute to use of the Accused Products.

**PARTIES**

2. MST is a corporation organized and existing under the laws of the State of Washington, with its principal place of business at 8415 154th Avenue NE, Redmond, WA 98052-3863 USA.

3. Regents is a California public corporation, authorized and empowered to administer a public trust known as the University of California, pursuant to Article IX, Section 9, subdivisions (a) and (f) of the California Constitution. Its principal place of business is in Oakland, Alameda County, CA USA.

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

### **JURISDICTION**

5. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Personal jurisdiction over Defendant is proper in this District because, on information and belief, Defendant is incorporated under the laws of the State of Delaware.

### **VENUE**

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1400(b) because, on information and belief, NWM is incorporated under the laws of the State of Delaware.

### **FACTS**

#### **The Patents-in-Suit**

8. United States Patent No. 9,107,729 (“the ’729 Patent”), entitled “Methods for Forming an Opening in the Trabecular Meshwork of the Eye of a Patient,” was duly and legally issued by the United States Trademark and Patent Office (“USPTO”) on August 18, 2015. A true and correct copy of the ’729 Patent is attached as Exhibit (“Ex.”) A and is incorporated by reference herein.

9. The '729 Patent is generally directed towards an *ab interno* method for forming an opening in trabecular meshwork of a patient's eye that may be accomplished using a dual blade device to form an opening into an anterior chamber of the eye.

10. All rights, title, and interest in the '729 Patent are assigned to MST, which is the sole owner of the '729 Patent. The listed inventors of the '729 Patent originally assigned their rights, title, and interest in the '729 Patent to NeoMedix Corp. ("NeoMedix"), which MST acquired in 2019. A true and correct copy of the inventors' assignments to NeoMedix is attached as Ex. B. A true and correct copy of NeoMedix's assignment to MST is attached as Ex. C.

11. United States Patent No. 9,358,155 ("the '155 Patent"), entitled "Dual Blade Ophthalmologic Surgery Device," was duly and legally issued by the USPTO on June 7, 2016. A true and correct copy of the '155 Patent is attached as Ex. D and is incorporated by reference herein.

12. The '155 Patent is generally directed towards a dual blade device useable for performing an *ab interno* procedure within a human eye to remove a strip of trabecular meshwork tissue.

13. All rights, title, and interest in the '155 Patent are assigned to MST, which is the sole owner of the '155 Patent. The listed inventors of the '155 Patent originally assigned their rights, title, and interest in the '155 Patent to NeoMedix, which MST acquired in 2019. A true and correct copy of the inventors' assignments to NeoMedix is attached as Ex. B. A true and correct copy of NeoMedix's assignment to MST is attached as Ex. C.

14. United States Patent No. 9,820,885 ("the '885 Patent"), entitled "Dual Blade Ophthalmologic Surgery Device," was duly and legally issued by the USPTO on November 21,

2017. A true and correct copy of the '885 Patent is attached as Ex. E and is incorporated by reference herein.

15. The '885 Patent is generally directed towards a method for cutting a strip of trabecular meshwork tissue within an eye of a subject that may be accomplished using a dual blade device to form an opening into an anterior chamber of the eye.

16. All rights, title, and interest in the '885 Patent are assigned to MST, which is the sole owner of the '885 Patent. The listed inventors of the '885 Patent originally assigned their rights, title, and interest in the '885 Patent to NeoMedix, which MST acquired in 2019. A true and correct copy of the inventors' assignments to NeoMedix is attached as Ex. B. A true and correct copy of NeoMedix's assignment to MST is attached as Ex. C.

17. United States Patent No. 9,999,544 ("the '544 Patent"), entitled "Minimally Invasive Glaucoma Surgical Instrument and Method," was duly and legally issued by the USPTO on June 19, 2018. A true and correct copy of the '544 Patent is attached as Ex. F and is incorporated by reference herein.

18. The '544 Patent is generally directed towards a device useable to create an opening in the trabecular meshwork of the eye.

19. The listed assignee of the '544 Patent is Regents. The listed inventors of the '544 Patent assigned their rights, title, and interest in the '544 Patent to Regents. MST holds an exclusive license from Regents to the '544 Patent, *inter alia*, including the exclusive right to make, have made, use, sell, and/or offer to sell and import products, as well as to practice methods, covered by the claims of the '544 Patent. A true and correct copy of the inventors' assignments to Regents is attached as Ex. G.

20. United States Patent No. 10,123,905 (“the ’905 Patent”), entitled “Devices Useable for Treatment of Glaucoma and Other Surgical Procedures,” was duly and legally issued by the USPTO on November 13, 2018. A true and correct copy of the ’905 Patent is attached as Ex. H and is incorporated by reference herein.

21. The ’905 Patent is generally directed towards a device that is insertable into the anterior chamber of an eye and useable to form an opening in the trabecular meshwork of that eye.

22. All rights, title, and interest in the ’905 Patent are assigned to MST, which is the sole owner of the ’905 Patent. The listed inventors of the ’905 Patent originally assigned their rights, title, and interest in the ’905 Patent to NeoMedix, which MST acquired in 2019. A true and correct copy of the inventors’ assignments to NeoMedix is attached as Ex. I. A true and correct copy of NeoMedix’s assignment to MST is attached as Ex. C.

23. Collectively, the ’729, ’155, ’885, ’544, and ’905 Patents are referred to herein as the “Asserted Patents” or the “Patents-in-Suit.”

#### **Defendant’s Infringing Acts Related To The Accused Products**

24. On information and belief, Defendant has known of, should have known of, or has been willfully blind to, the Asserted Patents. To the extent Plaintiffs or MST’s predecessor-in-interest, NeoMedix, made or continue to make products that embody the Asserted Patents, they have complied, as applicable, with the patent marking and notice provisions of 35 U.S.C. § 287 by providing constructive and actual notice to Defendant of its infringement.

25. Defendant has had actual notice of its infringement of the ’155 and ’729 Patents since at least June 20, 2016. On or around June 20, 2016, NeoMedix’s outside counsel, Robert D. Buyan (“Buyan”) sent a letter to Mateen Ahmed, President and CEO of Defendant, informing Defendant of the ’155 and ’729 Patents and that the unauthorized manufacture, sale, and use of the

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.