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AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	SEP 15 2008 U.S. PATENT & TRADEMARK OFFICE	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of California on the following Patents or Trademarks:

DOCKET NO. CV 08-04234 HRL	DATE FILED 9/8/8	U.S. DISTRICT COURT 280 South First Street, San Jose, CA 95113
PLAINTIFF VNUS MEDICAL TECHNOLOGIES		DEFENDANT TOTAL VEIN SOLUTIONS
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,752,803		SEE ATTACHED COMPLAINT
2 6,769,433		
3 6,258,084		
4 7,396,355		
5 7,406,970		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wiekig	(BY) DEPUTY CLERK Betty Walton	DATE 9/10/8
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

ORIGINAL
FILED

SEP 8 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HRL

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6 VNUS Medical Technologies, Inc.

7 UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 VNUS MEDICAL TECHNOLOGIES, INC.,
11 Plaintiff,
12 v.
13 TOTAL VEIN SOLUTIONS, LLC d/b/a
14 TOTAL VEIN SYSTEMS
15 Defendant.

10 CASE NO. 08-10000
11)
12) **COMPLAINT FOR PATENT**
13) **INFRINGEMENT**
14) **DEMAND FOR JURY TRIAL**
15)

17 Plaintiff VNUS Medical Technologies, Inc. ("VNUS") alleges for its complaint against
18 Defendant Total Vein Solutions, LLC d/b/a Total Vein Systems ("TVS") as follows:

19 **JURISDICTION AND VENUE**

- 20 1. This is an action for patent infringement arising under the Patent Laws of the United
21 States, 35 U.S.C. § 1 *et seq.*
22 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
23 1338(a).
24 3. This Court has personal jurisdiction because, on information and belief, TVS does
25 business and has committed infringing activities in the state of California, including within this
26 district.
27 4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and
28 1400(b).

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1 **INTRADISTRICT ASSIGNMENT**

2 5. This case is exempt from intradistrict assignment pursuant to Civil L. R. 3-2(c)
3 because it is a patent infringement action.

4 **PARTIES**

5 6. VNUS is a Delaware corporation having its principal executive offices at 5799
6 Fontanoso Way, San Jose, CA 95138.

7 7. On information and belief, TVS is a Texas limited liability company with a place of
8 business at 901 Yale Street, Houston, TX 77008.

9 **THE PATENTS**

10 8. VNUS owns all right, title and interest in U.S. Patent Nos. 6,752,803 entitled
11 "METHOD AND APPARATUS FOR APPLYING ENERGY TO BIOLOGICAL TISSUE
12 INCLUDING THE USE OF TUMESCENT TISSUE COMPRESSION" (the "'803 patent");
13 6,769,433 entitled "EXPANDABLE VEIN LIGATOR CATHETER HAVING MULTIPLE
14 ELECTRODE LEADS, AND METHOD" (the "'433 patent"); 6,258,084 entitled "METHOD FOR
15 APPLYING ENERGY TO BIOLOGICAL TISSUE INCLUDING THE USE OF TUMESCENT
16 TISSUE COMPRESSION" (the "'084 patent"); 7,396,355 entitled "METHOD AND
17 APPARATUS FOR APPLYING ENERGY TO BIOLOGICAL TISSUE INCLUDING THE USE
18 OF TUMESCENT TISSUE COMPRESSION" (the "'355 patent"); and 7,406,970 entitled
19 "METHOD OF USING EXPANDABLE VEIN LIGATOR CATHETER HAVING MULTIPLE
20 ELECTRODE LEADS" (the "'970 patent"). Copies of these patents are attached hereto as Exhibits
21 1-5.

22 **THE INFRINGEMENT**

23 9. Since filing a Chapter 11 petition for bankruptcy on January 17, 2008, TVS has
24 directly and/or indirectly infringed (including contributory and/or inducement of infringement) the
25 claims of the '803, '433, '084, '355 and '970 patents by making, using, selling, offering to sell
26 and/or instructing users how to use products for endovenous laser treatment, including laser fibers
27 and related equipment, under the trade names "Total Vein Systems" and "Total Vein Solutions."
28

1 TVS continues to directly and/or indirectly infringe (including contributory and/or inducement of
2 infringement) the '803, '433, '084, '355 and '970 patents.

3 10. VNUS has been damaged by TVS's infringing activities and will be irreparably
4 injured by TVS's continued infringement unless TVS is enjoined by this Court.

5 11. On information and belief, TVS's infringement of the '803, '433, '084, '355 and
6 '970 patents has been and is willful and will continue unless enjoined by this Court.

7 **RELIEF REQUESTED**

8 WHEREFORE, VNUS prays that judgment be entered in its favor, that:

9 (a) TVS has engaged and is engaging in infringement of the '803, '433, '084, '355 and
10 '970 patents which, for purposes of this suit, gives rise to claims for conduct arising solely on and
11 after January 17, 2008, the date TVS filed its bankruptcy case¹;

12 (b) TVS's post-petition infringement of the '803, '433, '084, '355 and '970 patents has
13 been and is willful;

14 (c) TVS be preliminarily and permanently enjoined, along with its officers, directors,
15 agents, employees, attorneys, parents, subsidiaries, and all others acting by or through TVS,
16 controlled by TVS, or acting in concert or participating with TVS, from further infringing the '803,
17 '433, '084, '355 and '970 patents;

18 (d) TVS account to VNUS for damages adequate to compensate for TVS's post-petition
19 infringement of the '803, '433, '084, '355 and '970 patents and that such damages be awarded to
20 VNUS, including prejudgment and postjudgment interest;

21 (e) VNUS's damages be trebled as a result of TVS's willful infringement of the '803,
22 '433, '084, '355 and '970 patents;

23 (f) This case be adjudged an exceptional case and that the Court award VNUS its costs,
24 expenses and attorneys' fees incurred in bringing and prosecuting this action; and

25
26
27 ¹ VNUS has previously moved for relief from any applicable stay regarding TVS arising
28 from its bankruptcy case and has obtained an order from the Bankruptcy Court confirming that
there is no stay in effect for conduct comprising post petition acts in violation of the law. As a
result, this action is allowed pursuant to 28 U.S.C. §959.

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(g) VNUS be awarded such further and additional relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

VNUS hereby demands a trial by jury on its claims for patent infringement.

Dated: September 8, 2008

Respectfully Submitted,

ATTORNEYS FOR PLAINTIFF
VNUS MEDICAL TECHNOLOGIES, INC.

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