
Hughes Hubbard & Reed

Hughes Hubbard Wins Permanent Ban on Sale of L&R Rival's Medical Device

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October 24, 2017 — Hughes Hubbard scored a decisive victory for medical device maker Lohmann & Rauscher GmbH & Co. KG (L&R) when a Delaware district court issued a final judgment and permanent injunction restraining Crawford Healthcare Inc. from importing, selling or using any wound-cleaning products that embody the inventions defined in U.S. Patent No. 9,713,553.

The '553 patent, titled "Wound Cleaning Assembly," protects a wound-debridement product that L&R markets and sells in the United States under the name DEBRISOFT®. The DEBRISOFT® product employs millions of angled polyester fibers that quickly loosen non-viable material and spares viable granulation and epithelia tissue with virtually no trauma or pain. Following the initial launch of DEBRISOFT® in Europe, an L&R competitor, Crawford, brought out a lower-priced imitation product, which Crawford marketed and sold in the United States under the names DEBRIMITT™ and KERRAPREP™.

The '553 patent issued to an L&R affiliate on July 25, 2017. HHR was engaged to take enforcement action against Crawford. Over the next 30 days, HHR and its specially retained technical expert obtained samples of the accused Crawford products, performed scanning electron microscopy (SEM) of fiber samples to establish infringement, and evaluated alternative offensive strategies, including forum selection in light of the Supreme Court's TC Heartland decision.

On Aug. 31, 2017, L&R filed a verified complaint for patent infringement in the U.S. District Court for the District of Delaware and that same day, L&R filed a motion for preliminary injunction with supporting papers, including a memorandum of law and a technical expert's declaration. The complaint and motion papers were served on Crawford's statutory agent in Delaware that same day. The case was assigned to U.S. District Judge Richard G. Andrews.

L&R subsequently rejected settlement overtures from Crawford and demanded unconditional and immediate

withdrawal of the accused DEBRIMITT™ and KERRAPREP™ products from the U.S. market. On Sept. 21, 2017, Crawford consented to entry of a final judgment that concluded the case and required Crawford to stop importing and selling the accused DEBRIMITT™ and KERRAPREP™ products immediately, with no phase-out period.

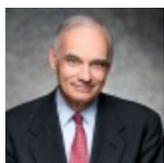
The following day, Sept. 22, the district court entered a final judgment in favor of L&R USA Inc. and against Crawford Healthcare Inc. on the verified complaint in the action and issued a broad permanent injunction restraining Crawford from "using, making, causing to be made, selling, offering to sell, causing to be sold, importing or exporting any wound cleaning products that embody the inventions defined in the claims of the '553 patent, including the DEBRIMITT™ and KERRAPREP™ products depicted in Exhibit 1 hereto."

Gary Keytel, president of L&R USA, said in a written release: "We are pleased by the court's decision. L&R has invested millions in the development, research and education to the market about Debrisoft's high-quality, evidence-based method to cleanse wounds."

Charles Thaxton, vice president of sales for L&R USA added: "With the removal of DebrMitt/KerraPrep from the U.S. marketplace, we hope the confusion is resolved. Our plans now are to reach more clinicians about Debrisoft's unique mode of action to cleanse the wound."

Jim Dabney, Stephen Rabinowitz, Jim Klaiber, Stefanie Lopatkin and Michael Polka represented L&R in this matter.

Related People



James W. Dabney



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