

## RyMed Wins Jury Trial Over ICU's Valve Patent

By **Stewart Bishop**

*Law360, New York (May 10, 2012, 2:13 PM ET)* -- A Delaware federal jury on Wednesday handed a win to RyMed Technologies Inc. in its fight with ICU Medical Inc. over whether RyMed's IV connectors infringe one of ICU's medical valve patents.

The jury found that ICU failed to prove that RyMed's InVision-Plus product literally infringed a claim of U.S. Patent No. 5,685,866.

RyMed spokesman Paul Blackburn said the verdict confirms RyMed's longstanding belief that it hasn't infringed ICU's patent.

"Of course we're absolutely thrilled," Blackburn told Law360. "It's been a long time coming, and it is absolutely the right decision by the jury."

Representatives for ICU did not immediately respond to requests for comment Thursday.

The verdict comes after a federal judge granted RyMed and ICU a new trial in September after a previous jury had ruled that RyMed's products infringed two of the patents ICU asserted in its complaint.

After the initial verdict, both parties asked for a new trial regarding certain claims in the '866 patent. ICU challenged the jury's failure to find that RyMed had willfully infringed the patents, and RyMed sought a judgment that its products didn't infringe the patents at all.

U.S. District Judge Leonard P. Stark granted the new trial on the '866 patent, but denied RyMed's motion for a new trial as to the infringement of U.S. Patent Number 5,837,862 and its motion for judgment as a matter of law as to the '866 patent. All of the patents at issue are titled "medical valve and method of use."

The suit, originally launched in July 2007, claimed that RyMed directly infringed four of ICU's patents and contributed to or induced others' infringement through its products, including the InVision-Plus valve, a needleless IV connector.

ICU argued that all of RyMed's infringement had been willful, saying the InVision-Plus valves had no substantial noninfringing use.

RyMed argued that the patents were invalid and unenforceable for a number of reasons, including patent misuse and inequitable conduct. The company sought a declaration that it had not infringed any valid claims of the patents, which Judge Stark denied.

Though the jury found in ICU's favor with respect to infringement of the '866 and '862 patents, it was not persuaded that RyMed's infringement was willful. The jury also said that RyMed hadn't proved that any of the asserted patent claims were invalid for obviousness.

In a letter to the court filed shortly after the first verdict, ICU attorney Richard Horwitz of Potter Anderson & Corroon LLP said that both sides wanted to file post-trial motions on the issue of literal infringement regarding the two patents the jury found had been infringed.

The letter asked the court to put off the bench trial until after the court had ruled on the post-trial motions. The bench trial was canceled and has been rescheduled to take place after the retrial on the '866 patent claim.

The patent-in-suit is U.S. Patent Number 5,685,866.

ICU is represented by David E. Moore and Richard L. Horwitz of Potter Anderson & Corroon LLP, Karen L. Hagberg, Kimberly N. Van Voorhis, James P. Bennett and Daniel Zlatnik of Morrison & Foerster LLP, and Laura L. Kohut, Sarah K. Kohut and Ronald J. Kohut of Kohut & Kohut LLP.

RyMed is represented by Stephen B. Brauerman and Richard D. Kirk of Bayard PA, Mark L. Levine, Chris Lind, Christopher Landgraft and Nossong D. Knobloch of Bartlit Beck Herman Palenchar & Scott LLP, and Stanley L. Amberg.

The case is ICU Medical Inc. v. RyMed Technologies Inc., case number 1:07-cv-00468, in the U.S. District Court for the District of Delaware.

--Additional reporting by Kaitlin Ugolik. Editing by Kat Laskowski.

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