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## Final decision of Swiss Federal Supreme Court recognizes claims in patent infringement case regarding flow sensors for Hamilton Medical AG against imtmedical AG

On May 31, 2016, Hamilton Medical AG (“Hamilton”) filed a lawsuit against imtmedical AG, Buchs, Switzerland (“IMT”) at the Federal Patent Court in St. Gallen, Switzerland. Hamilton alleged that IMT had infringed Hamilton’s Patent No. CH701755B1 regarding flow sensors, in particular, proximal flow sensors.

The Swiss Federal Patent Court ruling of December 18, 2018 recognized Hamilton’s injunctive, destruction and disclosure claims against IMT. The latter filed an appeal against this decision with the Swiss Federal Supreme Court which approved the appeal for procedural reasons and remanded the case to the Swiss Federal Patent Court by judgement of August 6, 2019. On December 17, 2019, the Swiss Federal Patent Court confirmed its decision of December 18, 2018 and, above all, prohibited IMT from commercializing flow sensors, in particular proximal flow sensors, comprising the following features:

- a cylindrical housing having a passage with a first passage opening at one end and a second passage opening at the other end;
- the cylindrical housing is composed of a first housing part and a second housing part, between which a thin membrane is clamped, which extends through the passage of the housing;
- a first connection port for a connection line, which first connection port is connected to the interior of the first housing part via a channel running between the first and second housing part and a first connection channel extending in the first housing part;
- a second connection port for a connection line, which second connection port is connected to the interior of the second housing part via a channel running between the first and second housing part and a second connection channel extending in the second housing part;
- the first and second connection ports are arranged at a distance from each other on the first housing part;
- the first housing part comprises a first flange with a flange extension, the second housing part comprises a second flange with a flange extension, and the first housing part and the second housing part are connected with each other by the first flange with flange extension and the second flange with flange extension respectively their abutting flange pressure surfaces; and

- the connection from the second connection port to the interior of the second housing part runs partially through a channel extending between the first and second flange with flange extension over the flange pressure surfaces.

Once again, IMT filed an appeal against this decision with the Swiss Federal Supreme Court. On June 17, 2020, the Swiss Federal Supreme Court rejected that appeal brought by IMT and confirmed the aforesaid decision handed down by the Swiss Federal Patent Court on December 17, 2019. This latest decision of the Swiss Federal Supreme Court is final. Hamilton's claim for compensation against IMT forms part of the second stage of the ongoing legal dispute.

Hamilton reserves the right to take action against alleged third party infringers where appropriate and necessary.

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