

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAMEDTRONIC VASCULAR INC.,
et al.,

Plaintiffs,

No. C 06-1066 PJH

v.

**ORDER GRANTING SECOND
MOTION FOR LEAVE TO SEEK
RECONSIDERATION**ADVANCED CARDIOVASCULAR
SYSTEMS, INC., et al.,

Defendants.

Before the court is the second request for leave to file a motion for reconsideration regarding the court's February 6, 2009 order granting summary judgment in part and denying summary judgment in part. This time, it is plaintiffs who have sought relief, arguing: (1) that the court should reconsider the aspect of its decision holding that claim 22 of the '037 patent is anticipated by Wijay, since this holding is inconsistent with the court's decision that Wijay does not anticipate the "non-sinusoidal" limitation claim 1; and (2) that the court should revisit its holding that Wijay discloses a flexure member "interposed between a pair of straight strut portions" – as required by claim 22 of the '037 patent and claim 11 of the '255 patent – since the court's holding was based on misinterpretation of plaintiffs' arguments.

Similar to the court's prior order granting defendants' request for leave to seek reconsideration, the court finds plaintiffs' request persuasive, but only as to one of the grounds presented. The court therefore GRANTS plaintiffs' request to the extent based on the first ground noted above, and DENIES the request to the extent based upon the second.

1 Construing the instant request for leave as defendants' actual motion for
2 reconsideration, and pursuant to Civil Local Rule 7-9(d), the court hereby instructs
3 defendants to file an opposition to plaintiffs' request no later than **March 27, 2009**. Any
4 reply brief shall be filed by plaintiffs no later than **April 3, 2009**. The opposition brief shall
5 not exceed 10 pages, and the reply brief may not exceed 5 pages in length. The parties'
6 arguments are limited to the issue upon which plaintiffs' request is granted.

7 The court will thereafter take the matter under submission, and issue a ruling on the
8 papers in conjunction with defendants' pending motion for reconsideration. The parties are
9 further notified that the court will not grant any requests for extension in connection with the
10 above briefing schedule.

11
12 **IT IS SO ORDERED.**

13 Dated: March 18, 2009



PHYLLIS J. HAMILTON
United States District Judge