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3   **UNITED STATES DISTRICT COURT**

4   **NORTHERN DISTRICT OF CALIFORNIA**

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8   **ANGIOSCORE, INC.,**   **Case No.: 12-CV-03393 YGR**

9   **Plaintiff,**   **ORDER (1) DENYING MOTION TO STRIKE, OR
                                                    DISMISS CERTAIN AFFIRMATIVE DEFENSES**
10   **vs.**   **AND COUNTERCLAIMS; AND (2) DENYING
                                                    MOTION FOR SANCTIONS PURSUANT TO FED.**
11 **TRIREME MEDICAL, INC.** *et al.*,   **R. CIV. P. 11**

12   **Defendant(s).**

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14   Plaintiff AngioScore, Inc. ("AngioScore") brings this patent infringement lawsuit against

15 Defendants TriReme Medical, Inc. ("TriReme"), Eitan Konstantino ("Konstantino ") and Quattro

16 Vascular PTE Ltd. TriReme and Konstantino Answered and Counterclaimed for Declarations of

17 noninfringement and invalidity, and sued for unfair business practices and other business torts.

18   AngioScore has filed a Motion to Strike Certain Affirmative Defenses and to Dismiss

19 Certain Counterclaims on the grounds that they fail to provide fair notice of the asserted claims or

20 defenses. TriReme and Konstantino have filed a Motion for Rule 11 Sanctions on the grounds that

21 AngioScore failed to conduct a reasonable inquiry into the facts prior to filing this lawsuit.

22   Having carefully considered the papers submitted and the pleadings in this action, for the

23 reasons set forth at the hearing on the motions and for the reasons set forth below, the Court hereby

24 **DENIES** both Motions.

25   With respect to the Motion for Sanctions, it is premature at this stage in the litigation to

26 consider whether the factual contentions in the Amended Complaint have evidentiary support. The

27 parties have not conducted meaningful discovery, the Court has not construed the claims in the

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patent-in-suit, and the merits of the case have not been decided. Therefore, the Court **DENIES** the Motion for Sanctions.

As to the Motion to Strike, or Dismiss Certain Affirmative Defenses and Counterclaims, AngioScore requests more specificity and particularity than is required by Rule 8. Therefore, the Court **DENIES** the Motion to Strike or Dismiss.

This Order Terminates Docket Numbers 23 & 26.

IT IS SO ORDERED.

Date: December 5, 2012

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YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
Northern District of California