

EXHIBIT C

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19 **ICU MEDICAL, INC.**

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**
22 **WESTERN DIVISION**

23 **ICU MEDICAL, INC.,**
24 a Delaware corporation,

25 Plaintiff,

26 v.

27 **ALARIS MEDICAL SYSTEMS, INC.,**
28 a Delaware corporation,

29 Defendant.

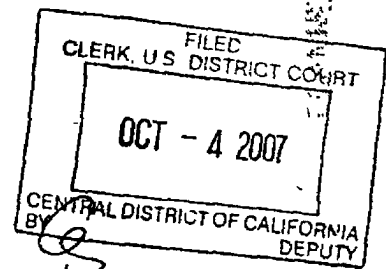
30 **ALARIS MEDICAL SYSTEMS, INC.,**
31 a Delaware corporation,

32 Counterclaim plaintiff,

33 v.

34 **ICU MEDICAL, INC.,**
35 a Delaware corporation,

36 Counterclaim defendant.



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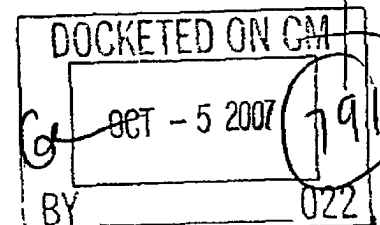
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SEP 18 AM 11:00
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

CASE NO. SA CV 04-0689 MRP (VBKx)

STIPULATION AND ~~(PROPOSED)~~
ORDER SUPPLEMENTING THE
COURT'S JUNE 28, 2007 ORDER AND
DISMISSING DEFENDANT'S
COUNTERCLAIMS WITHOUT
PREJUDICE

Hon. Mariana R. Pfaelzer



1 Pursuant to Central District Local Civil Rule 7-1, Plaintiff, ICU Medical, Inc.
2 ("ICU"), and Defendant, Alaris Medical Systems, Inc. ("Alaris"), jointly submit this
3 stipulation to supplement the Court's June 28, 2007 Order awarding costs and fees, and
4 for dismissal without prejudice of Defendant's remaining counterclaims:

5 WHEREAS, on April 16, 2007, the Court declared this case "exceptional"
6 pursuant to 35 U.S.C. § 285, granted in part Alaris' Motion for Fees, Costs and
7 Expenses, and granted Alaris' Motion for Sanctions Pursuant to FED. R. CIV. P. 11;

8 WHEREAS, on June 28, 2007, the Court awarded \$4,587,622.74 in attorney's
9 fees and \$164,721.19 in non-taxable costs to Alaris for the fees and non-taxable costs
10 that Alaris incurred on and before March 27, 2007;

11 WHEREAS, the parties wish to avoid burdening the Court with further briefing
12 and argument regarding additional "fees on fees" that Alaris incurred on and after
13 March 28, 2007;

14 WHEREAS, the Court has dismissed with prejudice the claims in ICU's
15 Amended Complaint;

16 WHEREAS, counterclaims in Alaris' Second Amended Answer to ICU's
17 Amended Complaint and Counterclaims are still pending;

18 WHEREAS, ICU has indicated that it intends to file an appeal with the United
19 States Court of Appeals for the Federal Circuit;

20 WHEREAS, ICU and Alaris disagree about the merits of Alaris' counterclaims
21 against ICU, but wish not to litigate them at this time;

22 WHEREAS, Alaris agrees to dismiss its counterclaims without prejudice so as
23 to permit the Court to issue a final judgment; and

24 WHEREAS, the parties have submitted a [Proposed] Final Judgment herewith.

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1 **IT IS HEREBY STIPULATED**, by and between the parties, and through their
2 respective attorneys of record, that:

3 (1) the Court's June 28, 2007, award should be supplemented with an award
4 for Alaris' fees and non-taxable costs in the amount of \$226,000; and

5 (2) Alaris' counterclaims against ICU in the above-captioned case should be
6 **DISMISSED WITHOUT PREJUDICE.**

7
8 Dated: September 17, 2007

Dated: September 17, 2007

9 Respectfully Submitted,

Respectfully Submitted,

10 

10 

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Attorneys for Plaintiff
ICU MEDICAL, INC.

Attorneys for Defendant
ALARIS MEDICAL SYSTEMS, INC.

1 **[PROPOSED] ORDER**

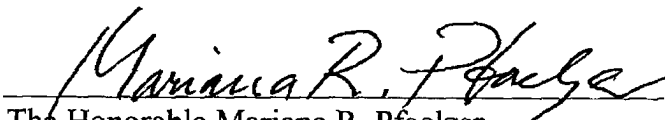
2 Pursuant to stipulation and FED. R. CIV. P. 41(a)(1),

3 (1) the Court supplements the June 28, 2007, award of Alaris' fees and non-
4 taxable costs and awards an additional \$226,000 in fees and non-taxable costs to
5 Defendant Alaris Medical Systems, Inc.; and

6 (2) the remaining counterclaims of Defendant Alaris Medical Systems, Inc.,
7 against Plaintiff ICU Medical, Inc., in the above-captioned case are hereby
8 DISMISSED WITHOUT PREJUDICE.

9
10 **IT IS SO ORDERED,**

11
12 Dated: October 4, 2007

13 
14 The Honorable Mariana R. Pfaelzer

PROOF OF SERVICE

I declare that I am over the age of eighteen (18) years and not a party to this action My business address is 2049 Century Park East, 34th Floor, Los Angeles, California 90067 and I am employed in the office of a member of the bar of this Court at whose direction this service was made.

On **SEPTEMBER 18, 2007**, I served the following document(s) described as:
STIPULATION AND [PROPOSED] ORDER SUPPLEMENTING THE COURT'S JUNE 28, 2007 ORDER AND DISMISSING DEFENDANT'S COUNTERCLAIMS WITHOUT PREJUDICE

FRANK E. SCHERKENBACH KAREN I. BOYD FISH & RICHARDSON P.C. 500 ARGUELLO STREET 500 REDWOOD CITY, CA 94063 TELEPHONE: (650) 839-5070 FACSIMILE: (650) 839-5071	JENNIFER BUSH FISH & RICHARDSON P.C. 12390 EL CAMINO REAL SAN DIEGO, CA 92130 TELEPHONE: 858-678-5070 FACSIMILE: 858-678-5099
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BY MAIL as follows: I am readily familiar with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service Under that practice the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business Under that practice the envelope(s) was (were) sealed, and with postage thereon fully prepaid, placed for collection and mailing on this date in the United States Mail at Los Angeles, California addressed as set forth below

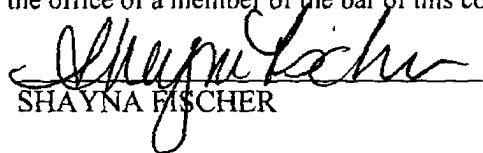
BY PERSONAL SERVICE as follows: I caused such envelope(s) to be delivered by hand to the addressee(s) at the address set forth below by First Legal Support Messenger Service

BY FEDERAL EXPRESS as follows: I placed the document(s) listed above with fees thereon fully prepaid for deposit with Federal Express (next business day delivery), this same day following ordinary business practices to the address(es) set forth below.

BY FACSIMILE TRANSMISSION as follows: I caused the above-referenced document(s) to be transmitted by facsimile to its intended recipient(s) at the following facsimile number(s) before 5:00 p.m.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on **SEPTEMBER 18, 2007**, at Los Angeles, California.

FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.


SHAYNA FISCHER