

# Exhibit B

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

Crystal Photonics, Inc., a Florida corporation,

Plaintiff/Counterclaim Defendant,

CASE NO: 6:11-cv-1118-ORL-31 DAB

v.

Siemens Medical Solutions USA, Inc.,  
a Delaware corporation,

Defendant/Counterclaim Plaintiff.

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**ANSWER, DEFENSES, AND COUNTERCLAIMS OF**  
**DEFENDANT/COUNTERCLAIM PLAINTIFF**  
**SIEMENS MEDICAL SOLUTIONS USA, INC.**

For its Answer to the Complaint of Plaintiff Crystal Photonics, Inc. (“CPI” or “Plaintiff”), Defendant Siemens Medical Solutions USA, Inc. (“Siemens Medical” or “Defendant”), by its undersigned attorneys, states:

**I. AS TO THE ALLEGATIONS CAPTIONED “THE PARTIES”**

1. Siemens Medical is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1, and therefore denies them.

2. Siemens Medical admits it is a Delaware corporation with a principal place of business at 51 Valley Stream Parkway, Malvern, Pennsylvania 19355. Siemens Medical admits it is registered with the Florida Department of State as a Delaware corporation and is doing business in this district, in Florida, and in other places in the United States. Siemens Medical denies all other allegations contained in paragraph 2.

**II. AS TO THE ALLEGATIONS CAPTIONED “JURISDICTION AND VENUE”**

3. Siemens Medical admits that this action, as alleged, arises under 35 U.S.C. § 101 *et seq.* Siemens Medical admits that, as this action has been alleged, this Court has original and exclusive subject matter jurisdiction for patent infringement under 28 U.S.C. §§ 1331 and 1338(a). Siemens Medical denies that the allegations made in CPI’s Complaint have any merit.

4. Siemens Medical admits that this Court has personal jurisdiction over it for this action.

5. Siemens Medical admits that, as alleged, venue is proper in this district.

**III. AS TO THE ALLEGATIONS CAPTIONED “FACTUAL BACKGROUND”**

6. Siemens Medical is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6, and therefore denies them.

7. Siemens Medical denies the allegations in paragraph 7.

8. Siemens Medical is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8, and therefore denies them.

9. Siemens Medical admits that it sells medical imaging products in the United States, including PET/CT scanners.

10. This paragraph contains no allegation and therefore no response is required.

11. This paragraph contains no allegation and therefore no response is required.

12. This paragraph contains no allegation and therefore no response is required.

13. This paragraph contains no allegation and therefore no response is required.

14. This paragraph contains no allegation and therefore no response is required.

15. Siemens Medical admits that it has sold and sells today PET/CT scanners that use lutetium oxyorthosilicate crystals.

16. Siemens Medical is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16, and therefore denies them. Siemens Medical denies that it infringes U.S. Patent No. 7,151,261 (“the ’261 Patent”).

**IV. AS TO THE ALLEGATIONS CAPTIONED “INFRINGEMENT OF U.S. PATENT NO. 7,151,261”**

17. Siemens Medical incorporates by reference its responses to Paragraphs 1 through 16.

18. Siemens Medical admits that the ’261 Patent appears on its face to have been issued on December 19, 2006, and appears on its face to be titled “Method of Enhancing Performance of Cerium Doped Lutetium Orthosilicate Crystals And Crystals Produced Thereby.” Siemens Medical is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 18, and therefore denies them.

19. Siemens Medical admits that the ’261 Patent appears on its face to be assigned to Crystal Photonics, Inc. Siemens Medical is without knowledge or information sufficient to form a belief as to the truth of the other allegations in paragraph 19, and therefore denies them.

20. Siemens Medical denies that it infringes the ’261 Patent, and for that reason denies that any entity has authority to bring an action against Siemens Medical for infringement of the ’261 Patent or has any right of recovery related to the same. Siemens Medical is without knowledge or information sufficient to form a belief as to the truth of the other allegations in paragraph 20, and therefore denies them.

21. Siemens Medical admits that the '261 Patent appears on its face to be titled "Method Of Enhancing Performance Of Cerium Doped Lutetium Orthosilicate Crystals And Crystals Produced Thereby." Siemens Medical denies the remaining allegations in paragraph 21.

22. Siemens Medical denies the allegations in paragraph 22.

23. Siemens Medical denies that it has infringed the '261 Patent, and therefore denies that CPI could have been damaged by any actions Siemens Medical has taken. Siemens Medical denies the remaining allegations in paragraph 23.

24. Siemens Medical denies that it has any need for a license to the '261 patent, and on that basis denies the allegations in paragraph 24.

25. Siemens Medical denies the allegations in paragraph 25.

26. Siemens Medical denies the allegations in paragraph 26.

27. Siemens Medical denies the allegations in paragraph 27.

#### **V. AS TO THE ALLEGATIONS CAPTIONED "PRAYER FOR RELIEF"**

28. The remainder of CPI's Complaint comprises a prayer for relief to which no response is required. To the extent any response is required, Siemens Medical denies that CPI is entitled to any remedy or relief on its claims against Siemens Medical whatsoever, either as requested or otherwise.

#### **DEFENSES**

Siemens Medical alleges and asserts the following defenses in response to the allegations in the Complaint, undertaking the burden of proof only as to those defenses

deemed affirmative defenses by law, regardless of how such defenses are denominated herein:

**First Defense**

The Complaint fails to state a claim upon which relief can be granted.

**Second Defense**

Siemens Medical does not infringe and has not infringed the '261 Patent, directly, indirectly, willfully, or otherwise under any theory, including literal infringement or infringement under the doctrine of equivalents.

**Third Defense**

The claims of the '261 Patent are invalid for failing to comply with one or more of the conditions for patentability as set forth in Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112.

**Fourth Defense**

By reason of statements and claim amendments made by or on behalf of the applicant during prosecution of the application that led to the issuance of the '261 Patent, CPI is estopped from asserting a scope for the claims of the '261 Patent that would cover Siemens Medical's allegedly infringing activity.

**Fifth Defense**

CPI's suit is barred or its claim for recovery is limited under the doctrines of waiver, acquiescence, implied license, and/or unclean hands.

**Sixth Defense**

CPI's claim is barred in whole or in part by the doctrine of laches.

**Seventh Defense**

CPI's claim is barred in whole or in part by the doctrine of estoppel.

**Eighth Defense**

CPI is not entitled to injunctive relief because any alleged injury is not immediate or irreparable, and CPI has an adequate remedy at law.

**Ninth Defense**

Siemens Medical reserves the right to assert any additional defenses as they become known during the course of this action or to the extent they are not otherwise deemed affirmative defenses by law.

**COUNTERCLAIMS**

Siemens Medical, for its counterclaims against Plaintiff and Counterclaim Defendant CPI, alleges as follows:

1. This is a civil action for a declaration of non-infringement, invalidity, and unenforceability of United States Patent No. 7,151,261 and for a declaration of invalidity and unenforceability of United States Patent No. 6,624,420 arising under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*

2. To the extent CPI is found to have standing to bring this suit, this Court has subject matter jurisdiction over Counterclaims I, II, and III pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02 and 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has subject matter jurisdiction over Counterclaims IV and V pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02 and 28 U.S.C. §§ 1331 and 1338(a).

4. CPI has submitted to personal jurisdiction in this Court. This Court also has personal jurisdiction over CPI by virtue of the business activities CPI conducts within Florida and within this District. This Court also has personal jurisdiction over CPI because, upon information and belief, CPI is incorporated in Florida.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c), and 28 U.S.C. § 1400(b), and because CPI filed its Complaint in this District.

6. Defendant and Counterclaim Plaintiff Siemens Medical is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business in Malvern, Pennsylvania.

7. Upon information and belief, Plaintiff and Counterclaim Defendant CPI is a Florida corporation with its principal place of business at 5525 Benchmark Lane, Sanford, Florida 32773.

**COUNTERCLAIM I**  
**DECLARATORY JUDGMENT OF NON-INFRINGEMENT**  
**OF U.S. PATENT NO. 7,151,261**

8. Siemens Medical incorporates by reference and realleges the allegations in paragraphs 1 through 7 above, as though fully set forth herein.

9. CPI filed its Complaint in this Court alleging that Siemens Medical infringes the '261 Patent and that CPI has standing to bring a suit alleging infringement of the '261 Patent.



10. Because CPI has sued Siemens Medical in the present action alleging infringement of the '261 Patent, an immediate, real and justiciable controversy exists between Siemens Medical and CPI with respect to the alleged infringement of the '261 Patent.

11. Siemens Medical does not infringe and has not infringed the '261 Patent, directly, indirectly, willfully or otherwise, either literally or under the doctrine of equivalents.

12. In addition, Siemens Medical has defenses that preclude a finding of infringement, in whole or in part, including those listed above.

**COUNTERCLAIM II**  
**DECLARATORY JUDGMENT OF INVALIDITY**  
**OF U.S. PATENT NO. 7,151,261**

13. Siemens Medical incorporates by reference and realleges the allegations in paragraphs 1 through 12 above, as though fully set forth herein.

14. An immediate, real and justiciable controversy exists between Siemens Medical and CPI with respect to the invalidity of the '261 Patent.

15. Upon information and belief, discovery is likely to show that the claims of the '261 Patent should be declared invalid for failing to comply with one or more of the conditions for patentability as set forth in Title 35 of the United States Code, including without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112.

**COUNTERCLAIM III**  
**DECLARATORY JUDGMENT OF UNENFORCEABILITY**  
**OF U.S. PATENT NO. 7,151,261**

16. Siemens Medical incorporates by reference and realleges the allegations in paragraphs 1 through 15 above, as though fully set forth herein.

17. An immediate, real and justiciable controversy exists between Siemens Medical and CPI with respect to the unenforceability of the '261 Patent.

18. Upon information and belief, discovery is likely to show that the '261 Patent is unenforceable against Siemens Medical in whole or in part under the doctrines of waiver, acquiescence, estoppel, unclean hands, and/or laches.

19. Siemens Medical requests declaratory judgment that the claims of the '261 Patent are unenforceable against Siemens Medical and that CPI is entitled to no recovery or relief in this case.

**COUNTERCLAIM IV**  
**DECLARATORY JUDGMENT OF INVALIDITY**  
**OF U.S. PATENT NO. 6,624,420**

20. Siemens Medical incorporates by reference and realleges the allegations in paragraphs 1 through 7 above, as though fully set forth herein.

21. On information and belief, CPI was assigned United States Patent No. 6,624,420 ("the '420 Patent"), entitled "Lutetium Yttrium Orthosilicate Single Crystal Scintillator Detector." On information and belief, the '420 Patent issued on September 23, 2003.

22. On information and belief, as of November 10, 2011, no claim of the '420 Patent has been found invalid.

23. After filing this suit against Siemens Medical, CPI demanded an acknowledgement from Siemens Medical as to the validity of the '420 Patent.

24. After filing this suit against Siemens Medical, CPI demanded an agreement from Siemens Medical not to challenge the validity of the '420 Patent.

25. After filing this suit against Siemens Medical, CPI demanded that Siemens Medical take a license to the '420 Patent.

26. After filing this suit against Siemens Medical, CPI demanded that Siemens Medical pay a royalty to CPI for the '420 Patent.

27. Since making the above demands regarding the '420 Patent, CPI has questioned Siemens Medical regarding products Siemens Medical has sold that, upon information and belief, CPI believes infringe the '420 Patent.

28. Siemens Medical has refused to license the '420 Patent from CPI.

29. Siemens Medical has a reasonable apprehension of suit regarding the '420 Patent.

30. An immediate, definite, real and justiciable controversy exists between Siemens Medical and CPI, parties with adverse legal interests, with respect to the invalidity of the '420 Patent.

31. Upon information and belief, discovery is likely to show that the claims of the '420 Patent should be declared invalid for failing to comply with one or more of the conditions for patentability as set forth in Title 35 of the United States Code, including without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112.

**COUNTERCLAIM V**  
**DECLARATORY JUDGMENT OF UNENFORCEABILITY**  
**OF U.S. PATENT NO. 6,624,420**

32. Siemens Medical incorporates by reference and realleges the allegations in paragraphs 1 through 7 and 20 through 31 above, as though fully set forth herein.

33. An immediate, definite, real and justiciable controversy exists between Siemens Medical and CPI, parties with adverse legal interests, with respect to the unenforceability of the '420 Patent.

34. Upon information and belief, discovery is likely to show that the '420 Patent is unenforceable against Siemens Medical in whole or in part under the doctrines of waiver, acquiescence, estoppel, unclean hands, and/or laches.

35. Siemens Medical requests declaratory judgment that the claims of the '420 Patent are unenforceable against Siemens Medical.

**PRAYER FOR RELIEF**

WHEREFORE, Siemens Medical prays for judgment in its favor and against CPI and that Siemens Medical be granted the following relief:

- A. Dismissal with prejudice of CPI's Complaint in its entirety;
- B. Denial of all remedies and relief sought by CPI in its Complaint;
- C. Declaring that Siemens Medical does not infringe and has not infringed, willfully or otherwise, any claim of the '261 Patent, either literally or under the doctrine of equivalents;
- D. Declaring that the claims of the '261 Patent are invalid for failing to comply with one or more of the conditions for patentability as set forth in Title 35 of the United States Code, including without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112;
- E. Declaring that the '261 Patent is unenforceable against Siemens Medical in whole or in part under the doctrines of waiver, acquiescence, estoppel, unclean hands, and/or laches;

F. Declaring that the claims of the '420 Patent are invalid for failing to comply with one or more of the conditions for patentability as set forth in Title 35 of the United States Code, including without limitation, 35 U.S.C. §§ 101, 102, 103, and/or 112;

G. Declaring that the '420 Patent is unenforceable against Siemens Medical in whole or in part under the doctrines of waiver, acquiescence, estoppel, unclean hands, and/or laches;

H. Declaring that Siemens Medical is a prevailing party under Federal Rule of Civil Procedure 54(d)(1) and awarding costs;

I. Declaring that this is an exceptional case pursuant to 35 U.S.C. § 285 and awarding Siemens Medical its costs, expenses, and disbursements in this action, including reasonable attorneys fees; and

J. Awarding Siemens Medical such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Siemens Medical hereby demands a jury trial on all the issues so triable.

Dated: November 10, 2011

Respectfully submitted,

s/ Dennis P. Waggoner

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 10, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record in this action.

s/ Dennis P. Waggoner