

# Medical-Device Maker Files Suit Against Boston Scientific Corp.

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Boston Scientific Corp. was accused by one of its main suppliers of setting up a shell company and making false regulatory filings in a plot to "steal" the technology of the supplier, an Israeli medical-device maker that Boston Scientific has been negotiating to acquire.

Medinol Ltd., a Tel Aviv-based maker of medical devices called stents, filed the lawsuit yesterday in U.S. District Court in Manhattan against Boston Scientific and several of its top executives.

Natick, Mass.-based Boston Scientific, which said the suit's claims have "no merit," already owns 20% of Medinol and has been engaged for months in sometimes contentious negotiations to acquire the rest of the company for as much as \$2 billion.

"That has all collapsed," a Medinol spokesman said of those discussions. Boston Scientific said that while it remains open to continued talks, it is also prepared for litigation "because it is Boston Scientific, not Medinol that is the injured party."

Under a 1995 contract, Medinol has been the exclusive supplier of a certain type of stent sold by Boston Scientific, also a medical-device maker. Stents are small metal scaffolds used to prop open arteries after a medical procedure known as angioplasty. Medinol's stent products accounted for about \$400 million, or 15%, of Boston Scientific's 2000 sales.

In its lawsuit, Medinol contends that Boston Scientific began weaving an "extraordinary web of deceit" in 1997 when it established a secret company in Dublin, known as BBD, which it alleges stood for "Bringing a Better Deal."

Boston Scientific then hired a British engineering concern to illegally copy the manufacturing systems used to make Medinol's stents, for use by BBD, the suit alleges. Medinol further claims that Boston Scientific concealed its ownership interest in BBD from Medinol and Irish authorities, as well as the U.S. Food and Drug Administration.

Under the contract between the two

companies, Boston Scientific was permitted to produce about 500 of its own stents a month if Medinol failed to maintain its supplies. In its lawsuit, Medinol contends that Boston Scientific purchased enough stainless steel to produce more than one million stents.

Medinol said it was told of the scheme last year by James R. Tobin, who became Boston Scientific's chief executive officer in 1999. According to the suit, Mr. Tobin "stated that he had not known that he was involved with 'such crooks' and that he was 'ashamed to represent such a dishonest company.'" The suit says that, in a bid to repair relations, Mr. Tobin subsequently provided Medinol executives with a raft of documents related to BBD.

Mr. Tobin and other Boston Scientific executives couldn't be reached for comment. Calls to them were referred to a company spokesman, who declined to comment on whether Mr. Tobin had supplied Medinol with such materials.

In its lawsuit, Medinol seeks to prevent Boston Scientific from selling its stents, and asks for the right to sell its own stents directly. The suit also seeks unspecified monetary damages.

In a statement, Boston Scientific said it intends to "pursue its own claims against Medinol and its principals," adding that it has "lost revenue, market share and market capitalization as a result of Medinol's refusal to develop and supply new stent products."

In recent years, Boston Scientific, whose share of the stent market has fallen, has frequently warned investors about tumultuous relations with Medinol. A person familiar with the Boston company's operations said that, fearful that Medinol might cut off its supply of stents, Boston Scientific did establish a small Irish facility for manufacturing stents, but devices from the plant were never sold commercially.

At 4 p.m. yesterday, Boston Scientific shares were down \$1.64, or 8.6%, at \$17.35, in 4 p.m. New York Stock Exchange composite trading.