

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF NEW YORK

 FRANCES PEEL HENNINGTON,
 Plaintiff

v.

CIVIL ACTION NO. _____

BOSTON SCIENTIFIC CORPORATION,
 EMAI PLASTIC RAW MATERIAL CO, LTD.,
 PROXY BIOMEDICAL LIMITED, LUXILON
 INDUSTRIES NV, SHENZHEN YFL
 INTERNATIONAL LOGISTICS LIMITED
 Defendants.

INDEX OF EXHIBITS TO PLAINTIFF’S ORIGINAL CLASS ACTION COMPLAINT

EXHIBIT	DESCRIPTION
1	Marlex HGX-030-01 Property Data Page (1 page)
2	Trademark Information for Phillips Sumika Marlex (2 pages)
3	BSCM04700050810 - BSCM04700050813 - BSC is required to manufacture Advantage mesh from Marlex HGX-030-1. (4 pages)
4	BSCM11500006055 – BSCM11500006064 - Beginning in June, 2011 through fall 2012, and specifically on or about August 16, 2011, May 16, 2012, July 10, 2012 and July 31, 2012, BSC smuggled counterfeit Marlex pellets out of China and into Belgium and the U.S. The counterfeit Marlex pellets were then subjected to a manufacturing process. (10 pages)
5	BSCM12900000247 - The mesh knitting for the counterfeit Advantage mesh was completed at Medventure. (4 pages)
6	BSCM13000000033 - BSC estimates that its sale of Advantage mesh and supporting products result in income of over \$120,000,000 per year. (1 page)
6A	https://www.bostonscientific.com/en-US/about-us.html (2 pages)
6B	Relevant Pages of BSC’s 2014 Annual Report http://www.bostonscientific.com/2014ar/ (10 pages)
6C	Search results of recalled BSC’s products obtained from https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfres/res.cfm . (31 pages)

7	http://www.boston.com/business/technology/biotechnology/articles/2004/09/27/suit_accuses_stent_maker_of_copying_designs?pg=full . (5 pages)
8	http://www.justice.gov/opa/pr/medical-device-manufacturer-guidant-sentenced-failure-report-defibrillator-safety-problems (2 pages)
9	Relevant portions of Advantage Surgical Mesh 510(k) Pre-Market Notification submission packet (17 pages)
9A	Material Property Data Information showing Marlex HGX-030-01 is discontinued. Obtained from http://www.matweb.com/search/datasheettext.aspx?matguid=33893162c575403e83fab2c6e1fe8042 . (2 pages)
10	Marlex Material Safety Data Sheets (2004 and 2008) (18 pages)
11	U. Klinge, B. Klosterhalfen, M. Muller, A. P. Ottinger, V. Schumpelick, <i>Shrinking of Polypropylene Mesh in vivo: An Experimental Study in Dogs</i> , 164 Eur J Surg 965, 965-969 (1998) (discussing how Marlex polypropylene degrades quickly in dogs). (5 pages)
11A	BSCM06100029374 – BSC needs Pinnacle Lite numbers to calculate Marlex run out date (1 page)
11B	BSCM13800009697- BSCM13800009703 – on 7/29/11, BSC only had 700 pounds of Marlex on hand in Luxilon (9 pages)
11C	BSCM13800009673- BSCM13800009676 – BSC uses around 1,200 pounds of Marlex per year. (4 pages)
12	BSCM06700722580 - BSC projected it would run out of Marlex by August/September 2012. (9 pages)
13	BSCM06700722854 - Phillip's adamant refusal created a "fire drill" at BSC that is, an alarm rang out at BSC as the impending Marlex inventory shortage which would cripple BSC's mesh profits. (6 pages)
13A	BSCM06700722558- BSCM06700722560 – the resin issue was the "top threat" for women's health division. (3 pages)
13B	BSCM04400011212- BSCM04400011225 – BSC prior experience with Chinese customs was painful (14 pages)
13C	BSCM06701713768 – McCaslin email (which Pedersen prints) re: no C of C is high risk and Phillips won't sell to BSC at any price. (1 page)
13D	BSCM06700722572- BSCM06700722572 – Vialle getting the "back off" message from Schwartz. No plans to comply. China stuff is NG (5 pages)
13E	BSCM11200014917- BSCM11200014919 – Marlex shortage means a \$120,000,000 impact to business revenue. (3 pages)
13F	BSCM07700280242 - BSCM07700280243 – List of entities from which BSC attempted to obtain Marlex. (2 pages)
14	BSC's Obtryx and Prefyx Systems obtained 510(k) clearance (510(k) No. K040787) citing Advantage Mesh, Advantage Fit, and Lynx Systems as its sole predicate device. (5 pages)

14A	BSCM05700089220- BSCM05700089221 – BSC needs to optimize the conversion of the 700 pounds. (2 pages)
14B	BSCM13800009460- BSCM13800009465 – BSC knows that sourcing from China is risky. Can lay out a plan to claim equivalency pretty quickly. (6 pages)
15	BSCM06700008804 - BSC began to research alternative resin products but concluded that the FDA “backdoor” way to get mesh off the market, would likely not approve an alternative to Marlex. (3 pages)
15A	Medical device maker Bard was forced to recall thousands of its mesh products because it used a counterfeit Marlex http://www.fda.gov/MedicalDevices/Safety/AlertsandNotices/ucm203886.htm (4 pages)
16	BSCM138000008924 - BSC looked at five potential Chinese sellers of Marlex. BSC ultimately settled on EMAI (4 pages)
17	BSCM11500006904 - BSCM11500006906 - In July, 2012 the “Women’s Health Division” for BSC is notified by the head of another division of BSC that EMAI attempted to sell a counterfeit plastic product to another BSC division at about the same time as BS was buying the EMAI Marlex. (3 pages)
17A	BSCM06700008720- BSCM06700008724 – U.S. Company offers to sell BSC its remaining Marlex for \$67 per pound. (5 pages)
17B	BSCM11500004768- BSCM11500004775 – Shipment docs for first 4,400 pounds that leaves China by air on 8/21/11 (8 pages)
17C	BSCM13500000766- BSCM13500000770 – Email re: invoice for final payment for 33,000 pounds of Marlex (5 pages)
18	BSCM135000000010 – BSCM135000000011 - EMAI claimed its Marlex was Phillips Marlex HGX-030-01 although it lacked the necessary paperwork to prove the authenticity of the resin and the lot number was invalid. (7 pages)
19	BSCM138000009800- BSCM138000009806 - If the EMAI Marlex were authentic and legally imported to China, upon arrival in China, the Marlex would have been tagged by Chinese importers with a “Certificate of Compliance” (C of C) or Certificate of Authority. (7 pages)
19A	BSCM11800027286 – sample Certificate of Analysis
20	BSCM12900000074 - BSCM12900000090 - BSC executives stated without evidence that the documents were lost. (17 pages)
20A	BSCM13800008343– If there is no C of C, is all of this dead? (8 pages)
20B	BSCM11500006979 - BSCM11500006981 – Zhao suggested splitting the material into 2-3 shipments. (3 pages)
21	BSCM07700182055- BSCM07700182060 – Discussion regarding the lot number not matching, and getting information from EMAI to trace the original shipment. (6 pages)

21A	BSCM06701685127 - BSCM06701685129 – Smith says the Chinese material was procured in a rail car, repacked and they don't have C of C. (3 pages)
22	BSCM13500000937- BSCM13500000940 – Mullally asks how resin that was made in Texas ended up in China. (4 pages)
22A	Affidavit of Frank Zakrzewski (3 pages)
23	BSCM06701715868- BSCM06701715877 – Zhao sent a picture of the counterfeit Marlex bags containing EMAI resin, showing a lot number. Defendant McCaslin told Zhao, “Very nice work!” Defendant McCaslin told Zhao to push a bit on getting a C of A. (10 pages)
23A	BSCM07300046897- BSCM07300046900 – BSC is considering using Marlex in its Pinnacle Biologic project. (4 pages)
24	BSCM06100027515- BSCM06100027517 – Pinnacle LITE cleared the FDA approval process in September 2011. (3 pages)
25	BSCM13900000228 - BSC intends that it last for 25 years, meaning, absent action from this Court BSC could continue to insert counterfeit Advantage and/or Obtryx into unsuspecting women through the year 2132. (2 pages)
26	BSCM15100003790- BSCM15100003795 – BSC sales people say the Obtryx product is bullshit. (6 pages)
27	BSCM13500000971 - EMAI distributor has 680 bags of counterfeit Marlex, no proof the bags or contents were legally imported to China and no paperwork to satisfy Chinese Customs to export the product to the US (2 pages)
28	BSCM13800008329 - BCS's plan was to buy two bags of EMAI Marlex (about 110 pounds), send it by plane to the U.S., and test it to confirm the EMAI Marlex was authentic Phillips Marlex. (2 pages)
29	BSCM06701716032 - BSC would ship another 30,000 pounds of counterfeit Marlex via ocean transport. (14 pages)
29A	BSCM07700277053- BSCM07700277054 – first 4,400 pounds arrived in U.S. on 8/26/11, 2 bags were ripped and scrapped. (2 pages)
29B	BSCM11500003655- BSCM11500003656 – Charles Smith emails the Mesh Testing Budget Summary. (2 pages)
29C	BSCM04200117213- BSCM04200117219 - By early October, the Chinese resin was already being sent to Luxilon for production runs. (7 pages)
30	BSCM07300046915 - crucial BSC documents reveal that BSC had decided to use the 4,000 pounds regardless of the test results. (3 pages)
30A	Article regarding counterfeiting in Guangdong Province http://www.chinadaily.com.cn/china/2014-07/30/content_18217996.htm (1 page)

30B	Article: Alibabe Warned by U.S. to Combat Sales of Counterfeit Production if it wants to stay off of the U.S. Government’s annual “Notorious Markets List.” (4 pages)
30C	Article: Chinadaily.com: Guaggdong detain hundred in counterfeiting crackdown. (1 page)
31	Video: Genuine Pride for Knockoff Goods in Guangzhou. (2 pages)
31A	BSCM11200014913 – Don’t hesitate to call John Pedersen (Senior Vice President and President of BSC’s Urology and Women’s Health Division) to remove roadblocks. (4 pages)
31B	BSCM11500006697- BSCM11500006702 - BSC “took a chance” —the amount of product was small, the transport was by air, and the EMAI resin in the counterfeit Phillips bag was over-bagged, so the 4,400 pounds were not “inspected.” (6 pages)
32	BSCM13500000465 - BSCM13500000467 - Email from Rob Mullally about exporting the counterfeit Marlex out of China instructs the shipper from China to “use the following information to clear this entry” and then reports that the product was made by [a Chinese manufacturer] to clear Chinese customs. (3 pages)
33	BSCM13500000446 - BSCM13500000449 - The Chinese manufacturer is identified as EMAI Plastics from Guangdong, China. (4 pages)
33A	BSCM11500007219- BSCM11500007232 – BSC had 3,000 pounds in Marlborough and 165 pounds at Luxilon. (14 pages)
34	BSCM11500006030 - BSCM11500006046 - To get the 30,000 pounds of EMAI Marlex out of China without the legal paperwork, BSC would have to “lie” and claim the EMAI Marlex was made in China (not Phillips Marlex) (17 pages)
34A	BSCM06701716235- BSCM06701716253 - To get the 33,000 pounds of EMAI resin out of China without the legal paperwork, BSC would have to say the EMAI resin was made in China.
35	BSCM11500006807 - BSC resolved its problem although the details are a bit murky. George Vialle suggests the issue be discussed on a conference call and no further mention is made of the problem. (19 pages)
35A	BSCM11500007399; BSCM11500058 with photographs of Chinese resin when it arrived in Belgium. (35 pages)
36	BSCM11500005992 - BSCM11500005994 - EMAI Marlex cleared U.S. Customs, by claiming to have been made in the U.S. (3 pages)
36A	BSCM11500004626- BSCM11500004627 – BSC claimed on U.S. customs documents that the Chinese resin was made in the U.S. (2 pages)
36B	BSCM07700186088- BSCM07700186102 - 11,000 pounds (5 metric tons) of EMAI resin was shipped by sea from China to Defendant Luxilon in Belgium (15 pages)

36C	BSCM11500006532- BSCM11500006532 - 11,000 pounds (5 metric tons) of EMAI resin was shipped by sea from China to Seattle, Washington. (3 pages)
36D	BSCM07300073798 – final 11,000 pounds (5 metric tons) of EMAI resin was shipped by sea from China to Seattle, Washington. (5 pages)
36E	BSCM13500000085- BSCM13500000087 – Email from Indiana warehouse regarding condition of the Chinese resin shipment. (3 pages)
36F	BSCM13500000717- BSCM13500000735 – Emails regarding and photograph of Chinese resin shipped to Belgium. (19 pages)
37	BSCM11500006879- BSCM11500006884 – EMAI moved the 15 tons into another storage facility for long term storage. (6 pages)
37A	BSCM07700276838- BSCM07700276838 – 8/24/11 BSC Equivalency Testing Draft Report. (17 pages)
37B	BSCM07700277046- BSCM07700277052 – 8/30/11 BSC Equivalency Testing Draft Report. (7 pages)
37C	BSCM07700280435- BSCM07700280441 – 9/1/11 BSC Equivalency Testing Draft Report. (7 pages)
37D	BSCM07700280385 - BSCM07700280392 – 9/2/11 BSC Equivalency Testing Draft Report. (8 pages)
37E	BSCM07700283775 - BSCM07700283786 – 11/16/11 BSC Equivalency Testing Draft Report. (12 pages)
37F	BSCM07700283763 - BSCM07700283774 – 11/16/11 BSC Equivalency Testing Draft Report. (12 pages)
37G	ASTM D 3895 – 98 Historical Data (1 page)
37H	ASTM D 3895 – 98 (6 pages)
38	BSCM11500006926 – BSCM11500006930 - BSC decided to conduct testing to determine whether the counterfeit Marlex was identical to authentic Marlex. To conduct this test BSC allowed the counterfeit to select a bag to be tested. (5 pages)
38A	BSCM11500006588- BSCM11500006590 - Defendant Burrill simply changed the acceptance standard to 75%, nearly quadruple the original standard, representing it was the “ASTM” standard – Cuddy thought this was a “clever solution,” but it still did not pass. (3 pages)
38B	BSCM0510004155- BSCM0510004159 – Marlex had a 10 year shelf life. (5 pages)
39	Cambridge Polymer Group’s Report 11440-1 (BSCM07300068256) (26 pages)
39A	BSCM07700280496- BSCM07700280498 – During a run at Luxilon, the filament using Chinese Marlex broke at the spinneret and melt temperature had to be adjusted. (3 pages)
39B	BSCM06100185310 - BSCM06100185311 – after 3 runs of Pinnacle LITE the acceptance criteria was not met. (2 pages)
40	BSCM11500005941- BSCM11500005951 - Presumably Final BSC Equivalency Testing Report. (11 pages)

41	BSCM07700287137- BSCM07700287139 – As of 11/9/12, BSC only had 34,294 pounds of Chinese resin left. (3 pages)
42	BSCM07700287921 – 10/18/11 email setting meeting to review Cambridge Polymer Group’s report. (1 page)
43	BSCM19600088780 – Cambridge Polymer Group’s Report 11440-2 (27 pages)
44	Polymer Solutions Report (38 pages)