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16 **ATTORNEYS FOR PLAINTIFF**
17 **INARI MEDICAL, INC.**

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20 SAN JOSE DIVISION

21 INARI MEDICAL, INC.,
22 Plaintiff,
23 v.
24 IMPERATIVE CARE, INC. ,
25 Defendant.

26 Case No. 4:24-cv-03117-EKL
27 INARI’S NOTICE OF MOTION AND
28 MOTION FOR LEAVE TO FILE THIRD
AMENDED COMPLAINT
Hearing Date: May 29, 2025
Time: 1:30 p.m.
Location: San Jose Federal Courthouse,
Courtroom 7, 4th Floor
Judge: Eumi K. Lee

Imperative Care v. Inari Medical
US Patent 11,844,921
Imperative Care Ex. 1019

NOTICE OF MOTION

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2 PLEASE TAKE NOTICE that on May 29, 2025, at 1:30 p.m., or as soon thereafter as
3 this matter may be heard, in Courtroom 7, 4th Floor, located at 280 South First Street, San Jose,
4 CA 95113, Plaintiff Inari Medical, Inc. (“Inari”) will and hereby does move for leave to file a
5 Third Amended Complaint, in the above-captioned matter. The Third Amended Complaint
6 seeks to include an additional count of patent infringement for U.S. Patent No. 12,239,333, which
7 the Patent Office just issued on March 4, 2025, the day before Inari filed this motion.

8 This motion is made pursuant to Federal Rule of Civil Procedure 15(a)(2) and is based
9 upon this Notice of Motion and Motion, the following Memorandum of Points and Authorities
10 in support of this Motion, the exhibits thereto, including the Third Amended Complaint (Decl.
11 of T. Bervik (“Bervik Decl.”), ¶ 2, Ex. 1)¹ and a redline copy of the text (not exhibits) of the
12 Third Amended Complaint against the text of the Second Amended Complaint (Ex. 2), the
13 complete files and records in this action, and any further information that may be presented to
14 the Court at or before the hearing on this motion. This motion is made following the conference
15 of counsel pursuant to, and in satisfaction of, Local Rule 7-2, which took place on February 27,
16 2025. See Bervik Decl., ¶ 7.

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25 ¹ All cited exhibits are attached to the Bervik Declaration, which authenticates those exhibits.
26 Notably, there are a large volume of the exhibits attached to Inari’s Second Amended
27 Complaint, all of which Inari intends to re-submit in full with its Third Amended Complaint
28 (assuming that it is permitted to file its Third Amended Complaint). For the Court’s
convenience, Inari only includes here the two new exhibits relating to the patent it seeks to
add in Exhibit 1. Specifically, Exhibit W to Exhibit 1 (the proposed Third Amended
Complaint) is the new ’333 Patent, and Exhibit X to Exhibit 1 is the claim chart for the ’333
Patent to be attached to the Third Amended Complaint.

I. INTRODUCTION

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2 Plaintiff Inari Medical, Inc. (“Inari” or “Plaintiff”) seeks leave pursuant to Rule 15(a)(2)
3 of the Federal Rules of Civil Procedure to file a Third Amended Complaint against Defendant
4 Imperative Care, Inc. (“Truvic” or “Defendant”).² The proposed amended complaint is identical
5 to the operative complaint but for the addition of a claim of infringement based on one new
6 asserted patent, which issued on March 4, 2025: United States Patent No. 12,239,333 (the “’333
7 Patent”). (Ex. 1 (including new Exhibits W (the ’333 Patent) and X (claim chart for the ’333
8 Patent)); Ex. 2 (redlines).)³

9 Leave to amend is liberally granted, and there is good cause to grant such leave here.
10 Inari could not have brought this motion or acted more quickly to get the new ’333 Patent added
11 to the case, since it just issued the day before Inari filed this motion. There is also no unfair
12 prejudice to Truvic due to the timing of this motion: discovery is at an early stage, and the case
13 has not yet come anywhere close to the point where a patent owner would typically be required
14 to narrow the number of asserted patents and claims. Given that the new ’333 Patent is related
15 to patents already asserted, it will be efficient to treat it together with this case, rather than forcing
16 Inari to file a separate suit (which would then presumably be related to or consolidated with this
17 case anyway). As such, Inari respectfully asks the Court to grant this motion.

II. BACKGROUND

18
19 Inari, the undisputed market leader and innovator for the types of thrombectomy devices
20 at issue in this case, tried to avoid this suit by asking Truvic to cease selling its copycat devices
21 until the parties could resolve the infringement issues. Truvic refused, necessitating this
22 litigation. In a complaint filed on May 22, 2024, Inari asserted eight patents from two families.
23 (ECF No. 1.)

24 The Patent Office has deemed Inari’s many inventions and innovations worthy of more
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26 ² The company that originally designed the accused products was named “Truvic” and the
27 accused products still bear that name. To avoid confusion between two “I” companies, Inari
has referred to the defendant here as “Truvic” throughout the case.

28 ³ To the extent necessary, Inari also seeks leave under Patent Local Rule 3-6 to supplement its
Infringement Contentions to add a new claim chart addressing the ’333 Patent.

1 than fifty patents and continues to issue new patents to Inari, including patents over prior art on
2 which Truvic relies in this case. As new patents issue that cover Truvic's products, Inari filed a
3 first amended complaint that added a ninth patent from a third family (ECF No. 20), and then a
4 second amended complaint that added two more new patents and removed one of the originally
5 asserted patents (ECF No. 68).⁴

6 The Patent Office just issued this new '333 Patent on March 4, 2025, the day before Inari
7 filed this motion. Inari could not have included the '333 Patent in its Second Amended
8 Complaint, because the '333 Patent had not yet issued when that Second Amended Complaint
9 was due under the Scheduling Order. (ECF No. 54.)

10 On February 12, 2025, just days after the deadline for amendment of the complaint
11 without leave, the Patent Office sent Inari an Issue Notification for the new '333 Patent,
12 indicating that patent, which has a particular focus on aspects of the clot collection reservoirs
13 used in thrombectomy systems, would issue on March 4, 2025. *See* Ex. 3.

14 Inari immediately notified Truvic that it intended to add the '333 Patent to this case, also
15 offering to work with Truvic to provide infringement contentions for the new '333 Patent in
16 advance of that new patent's issuance date. *See* Ex. 4 (email dated Feb. 14, 2025). Truvic
17 responded that it opposes the addition of the '333 Patent to the case, arguing that it will be
18 unfairly prejudiced by the addition of another patent to the case. *Id.* (email dated Feb. 21, 2025).
19 Inari is thus forced to file this motion. Truvic did not respond to Inari's offer to provide its
20 supplemental infringement contentions and a claim chart for the '333 Patent.

21 The Scheduling Order in this case permitted amendments to the complaint without leave
22 through February 7, 2025. That Order also sets a schedule through a claim construction hearing
23 on July 24, 2025. (ECF No. 54.) But the Court has so far not set a date for the completion of
24 fact discovery or any subsequent case activities. (*Id.*)

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26 ⁴ Related patents typically share a specification and have other common features (*e.g.*, a
27 common priority date), but each patent in a family of related patents will have claims of varying
28 scope that cover different aspects of any invention(s) described in the specification. *See, e.g.*,
Annotated Patent Digest (Matthews) § 5:79 (2025). Thus, each patent must be evaluated on
its own merits, rather than treating related patents all as one. That said, there are often
overlapping issues of claim construction across related patents in a single family.

1 Truvic has not yet raised, and the Court has not addressed, any process for the narrowing
2 of patents and claims, but such processes typically take place (if at all) further in the case, after
3 the parties have had the opportunity for full discovery.

4 **III. MOTION FOR LEAVE TO AMEND SHOULD BE GRANTED HERE**

5 **A. Leave To Amend Is Freely Granted**

6 Under the Federal Rules of Civil Procedure, leave to amend pleadings is to be “freely
7 give[n].” Fed. R. Civ. Proc. 15(a)(2); *Eminence Cap., LLC v. Aspeon Inc.*, 316 F.3d 1048, 1051-
8 52 (9th Cir. 2003) (internal quotation marks omitted) (“Rule 15 advises the court that leave shall
9 be freely given when justice so requires. This policy is to be applied with extreme liberality.”).
10 Therefore, unless an opposing party can show that a proposed amendment causes undue
11 prejudice, or that a motion to amend was brought in bad faith or with dilatory motive, such
12 motions are generally granted. *See Foman v. Davis*, 371 U.S. 178, 182 (1962).

13 **B. Supplementation Is In The Interests Of Justice And Should Be Permitted Here**

14 Inari seeks to update the Second Amended Complaint to account for events that occurred
15 since Inari filed it on February 7, 2025—namely, the Patent Office’s issuance of the ’333 Patent
16 on March 4, 2025.

17 **1. Inari Is Acting Diligently And In Good Faith To Conserve Judicial Resources**

18 There is no credible argument that Inari has delayed bringing this motion—it could not
19 have acted more quickly after issuance of the new ’333 Patent to add it to this case. Likewise,
20 Inari’s addition of the ’333 Patent is not made for any improper purpose, such as delay, or in bad
21 faith, but is instead designed to protect Inari’s intellectual property rights and conserve judicial
22 resources by litigating similar patents covering related technologies in a single judicial action.

23 It is indisputably most efficient to litigate the ’333 Patent with the existing patents-in-
24 suit. All of the previously asserted patents in this case involve thrombectomy systems. In
25 addition, already-asserted United States Patent Nos. 12,016,580 and 12,156,669 are part of the
26 same patent family as the ’333 Patent. All three of these patents relate to thrombectomy systems
27 employing aspiration catheters, including filtering and collection of clots in the system. These
28 three patents share the same priority application (United States Provisional Patent Application

1 No. 62/622,691), the same priority date (January 26, 2018), and use many of the same claim
2 terms. As such, the new '333 Patent—although containing a different claim scope than other
3 patents already in the case—will involve many or all of the same witnesses, documents, and
4 accused products as are implicated by the existing claims. In these circumstances, courts
5 consistently grant motions to amend. *See, e.g., Aten Int'l Co. v. Emine Tech. Co.*, No. 8:09-cv-
6 843, 2010 WL 1462110, at *2-*5 (C.D. Cal. Apr. 12, 2010) (granting leave to amend to add
7 three related patents because the patents and accused products were related, discovery had not
8 closed and claim construction hearing had not taken place yet, and Rule 15 encourages adding
9 claims to pleadings for judicial economy). Based on these common issues, judicial economy is
10 best served by litigating the '333 Patent in this action. *See Ziptronix, Inc. v. Omnivision Techs.,*
11 *Inc.*, No. 4:10-cv-5525-SBA, 2012 WL 3155554, at *5 (N.D. Cal. Aug. 2, 2012) (granting
12 motion to amend to add related patents maximizes judicial efficiency “by disposing of related
13 claims in one matter,” “ensures that the patents are interpreted in a consistent manner,” and
14 “avoids the possibility of inconsistent judgments”); *see also SanDisk Corp. v.*
15 *STMicroelectronics, Inc.*, No. 5:04-cv-4379-JF-RS, 2009 WL 1404689, at *3 (N.D. Cal. May
16 19, 2009) (granting motion where new patents had the same specification, inventors, and priority
17 date, shared many of the same claim terms, and would be asserted against essentially the same
18 products). Requiring the '333 Patent to be litigated separately would force the Court and parties
19 to needlessly duplicate the work done in this case. Indeed, Inari assumes that, if it filed a separate
20 (related) suit, that suit would be consolidated into this one for efficiency.

21 **2. The Proposed Amendments Will Not Unfairly Or Unduly Prejudice Trivic**

22 Trivic complains that it will suffer undue prejudice if Inari is allowed to amend. To be
23 clear, Trivic does not argue that Inari's infringement claim is baseless or frivolous. It just does
24 not want to have to defend another infringement claim. But it is hardly “unfair” or “undue”
25 prejudice to require it to defend a meritorious infringement claim, even if it is accused of also
26 infringing other patents.

27 Trivic ties its prejudice arguments to the number of patents and claims already in dispute.
28 But there is no rule, whether under the Federal Rules or otherwise, that limits the number of

1 patents that Inari can assert. The number of patents and claims at issue here is a direct result of
2 the scope of Inari’s inventions and Truvic’s infringement. While some courts require patent
3 owners to eventually narrow the number of claims that will be tried to a jury (usually requiring
4 the defendants to also limit the number of prior art references on which they will rely), this case
5 is nowhere near the stage where that limiting typically happens. *E.g., Apple Inc. v. Samsung*
6 *Elecs. Co.*, No. 5:12-cv-630-LHK Dkt. 471, p. 2 (N.D. Cal. Apr. 24, 2013) (requiring parties to
7 initially limit number of patents ten days before close of fact discovery and further limit number
8 of patents after expert discovery); *Huawei Techs. Co. v. Samsung Elecs. Co.*, No. 3:16-cv-2787-
9 WHO Dkt. 143, p. 2 (N.D. Cal June 2, 2017) (ordering initial reduction of patents one week after
10 fact discovery cutoff and additional reduction one week after close of expert discovery). Courts
11 are clear that patent owners are entitled to full discovery before having to narrow their cases.
12 *Jawbone Innovations, LLC v. Meta Platforms, Inc.*, No. 6:23-cv-158, 2023 WL 8856049, at *2
13 (W.D. Tex. Dec. 20, 2023) (“Numerous courts ... have noted that limiting claims is not
14 appropriate before the patentee receives discovery and invalidity contentions.”) (collecting
15 cases); *Carl Zeiss AG v. Nikon Corp.*, No. 2:17-cv-3221, 2018 WL 1858183, at *1-*2 (C.D. Cal.
16 Mar. 1, 2018) (denying motion to limit claims before discovery was complete).

17 Truvic complains that it will be expensive to litigate another patent, but efficiency,
18 including judicial economy, is the very reason that the ’333 Patent should be added to this case.
19 It makes no sense that Inari should be required to file a new lawsuit on this new patent,
20 particularly when the new ’333 Patent is related to other patents in the case. Moreover, the
21 expense is a result of Truvic’s infringement of the patent, not a justification for preventing
22 Inari—the party being harmed—from seeking judicial relief to address the infringement.

23 Finally, Truvic suggests that adding another patent to the case is unfair because of the
24 stage of the case. That is simply wrong. Discovery in this case is in at an early stage, with
25 Truvic having just begun producing documents in late February, days before this motion was
26 filed. The Court has not even set a date for the close of fact discovery. *See* Dkt. 54. Accordingly,
27 there is ample time for Truvic to investigate and conduct discovery on Inari’s additional claims.
28 *See Ziptronix*, 2012 WL 3155554, at *4 (“Plaintiff has persuasively argued that Defendants will

1 not suffer undue prejudice if the proposed amendment is allowed because discovery in this case
2 has just begun.”).

3 Initial claim construction deadlines are approaching, with the parties set to exchange
4 terms for construction, but Truvic has had notice regarding Inari’s proposed addition of the ’333
5 Patent since February 14, 2025, which gave it ample time to prepare for that deadline,
6 particularly when coupled with Inari’s offer to provide its contentions for the ’333 Patent before
7 filing this motion. *See* Ex. 4. Truvic never responded to that offer. *Id.* Inari nonetheless is
8 serving supplemental infringement contentions on Truvic that include the new ’333 Patent (and
9 a full claim chart for it) simultaneously with service of this motion.

10 To the extent that the Truvic needs a few extra weeks to prepare to exchange terms for
11 construction, moreover, there would have been room in the schedule to accommodate reasonable
12 extensions had Truvic not decided to prolong the handling of the new ’333 Patent by opposing
13 this motion. Truvic notably did not ask for an extension, however: it simply objects to Inari
14 asserting infringement at all. That is not a justification for denying Inari’s motion.

15 **3. Amendment Is Not Futile**

16 Inari’s claims of infringement are not futile. As set forth in Inari’s proposed Third
17 Amended Complaint (*see* Ex. 1), and the associated claim chart (*see* Ex. X to Ex. 1), Truvic’s
18 accused Symphony system meets every element of the asserted claims of the ’333 Patent.

19 **IV. CONCLUSION**

20 For the foregoing reasons, Inari respectfully requests that the Court grant its leave to
21 amend to add a claim of infringement for the brand-new ’333 Patent.

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1 Dated: March 5, 2025

By: */s/ Trevor J. Bervik*

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