

ESTTA Tracking number: **ESTTA493026**

Filing date: **09/06/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	AngioDynamics, Inc.
Granted to Date of previous extension	09/26/2012
Address	14 Plaza Drive Latham, NY 12110 UNITED STATES

Attorney information	Gary H. Fechter McCarter & English, LLP 245 Park Avenue, 27th Floor New York, NY 10167 UNITED STATES gfechter@mccarter.com, dlynch@mccarter.com Phone:(212) 609-6800
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**Applicant Information**

Application No	85265083	Publication date	05/29/2012
Opposition Filing Date	09/06/2012	Opposition Period Ends	09/26/2012
Applicant	Teleflex Incorporated 155 South Limerick Road Limerick, PA 19468 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 010. All goods and services in the class are opposed, namely: medical and surgical devices, namely, catheters
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3565493	Application Date	08/31/2007
Registration Date	01/20/2009	Foreign Priority Date	NONE
Word Mark	SMART ANGLE		

Design Mark	<b>SMART ANGLE</b>		
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2007/04/11 First Use In Commerce: 2007/04/11 medical devices, namely, identifier device used for computed tomography (CT) injectable vascular access ports for medical use		

U.S. Registration No.	3607814	Application Date	02/06/2007
Registration Date	04/14/2009	Foreign Priority Date	NONE

Word Mark	SMART PORT		
Design Mark	<b>SMART PORT</b>		
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2007/04/00 First Use In Commerce: 2007/04/00 Vascular access ports for medical use		

U.S. Application No.	85655168	Application Date	06/19/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SMART		

Design Mark	<h1>SMART</h1>
Description of Mark	NONE
Goods/Services	Class 010. First use: Medical devices, namely, catheters, implantable ports, and access needles

Attachments	77269405#TMSN.jpeg ( 1 page )( bytes ) 77100736#TMSN.jpeg ( 1 page )( bytes ) 85655168#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition.pdf ( 6 pages )(265382 bytes ) Exhibit A to Notice of Opposition.pdf ( 13 pages )(376315 bytes ) Exhibit B to Notice of Opposition.pdf ( 6 pages )(287997 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/ghf/
Name	Gary H. Fechter
Date	09/06/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----  
In the matter of Application :  
Serial No. 85/265,083 :  
For the mark: **THE SMART CATHETER :**  
**COMPANY** :  
: :  
ANGIODYNAMICS, INC., :  
Opposer, :  
: :  
v. :  
: :  
TELEFLEX INCORPORATED, :  
Applicant. :  
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OPPOSITION NO. \_\_\_\_\_

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

AngioDynamics, Inc. ("Opposer"), through its attorneys, hereby opposes registration of the mark THE SMART CATHETER COMPANY filed by Teleflex Incorporated and which is the subject of Application Serial No. 85/265,083.

As grounds in support of this opposition, Opposer alleges as follows:

1. Opposer is a corporation organized and existing under the laws of Delaware, having a principal place of business at 14 Plaza Drive, Latham New York 12110.
2. Upon information and belief, Applicant, Teleflex Incorporated ("Applicant") is a Delaware corporation, having an address at 155 South Limerick Road, Limerick, Pennsylvania 19468.
3. Opposer believes that it will be damaged by the registration of Application Serial No. 85/265,083 for the mark THE SMART CATHETER COMPANY as it relates to the following goods in International Class 10: "medical and surgical devices, namely catheters" ("Applicant's Mark").
4. Opposer is the owner of a family of trademarks consisting of the term "SMART" (collectively, "the SMART marks") that are used in connection with medical devices, primarily

PICCs, ports and catheters. The U.S. Patent and Trademark Office's TSDR printouts of Opposer's trademark registrations and application are attached as Exhibit A and are as follows:

MARK	REG./APP. NO.	REG./FILING DATE	GOODS	CLASS
SMART ANGLE	3,565,493	January 20, 2009	Medical devices, namely identifier device used for computed tomography (CT) injectable vascular access ports for medical use	10
SMART PORT	3,607,814	April 14, 2009	Vascular access ports for medical use	10
SMART	85/655,168	June 19, 2012	Medical devices, namely, catheters, implantable ports, and access needles	10

Opposer's common law trademarks include SMART PICC and SMART TAPER.

5. Opposer has used the trademark SMART in connection with catheters since at least as early as 2008 and, with respect to PICCs, since at least as early as May 17, 2010. A printout of Applicant's website showing the use of the common law trademark SMART in association with said PICCs, catheters and ports is attached hereto as Exhibit B.

6. Opposer has spent substantial amounts of time and effort in advertising, promoting, and selling its goods under these marks. By reason of the extensive promotion, advertising, and high quality products manufactured and distributed by Opposer in conjunction with its SMART family of marks, the public and the trade have come to recognize the products offered in conjunction with these marks as signifying Opposer and its medical and surgical products.

7. Opposer's SMART marks were used or applied for, and the registrations issued and/or application filed, for the goods indicated therein, on the dates indicated. There is no issue as to priority. On March 11, 2011, the Applicant filed the application to register Applicant's Mark on an intent to use basis and has not yet claimed use of Applicant's Mark. Thus, the date that Applicant filed its application to register Applicant's Mark on an intent to use basis is after the dates when Opposer first used its SMART marks and with respect to SMART ANGLE and SMART PORT registered its SMART marks.

8. Opposer's use of its SMART marks has been continuous since their individual dates of first use, and its family of SMART marks has not been abandoned. Opposer's use of a family of SMART marks (marks that include the term "SMART", including the SMART marks set forth in Exhibits A and B) have been continuous since prior to Applicant's filing date of its application to register THE SMART CATHETER COMPANY. Opposer's SMART marks are symbolic of the extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising, promoting, and selling its goods under these marks. Opposer's SMART marks are composed and used in such a way that the purchasing public associates such marks with Opposer. Opposer's SMART marks are distinctive and have become widely recognized by the consuming public as a designation of the source of Opposer's goods.

9. Notwithstanding Opposer's long prior rights in the SMART marks, Applicant has filed an application, Serial No. 85/265,083, to register THE SMART CATHETER COMPANY for "medical and surgical devices, namely catheters." Applicant's Mark was published for opposition in the Official Gazette on May 29, 2012.

10. The trademark proposed for registration by the Applicant, namely, THE SMART CATHETER COMPANY, is virtually identical to a mark owned by Opposer and virtually identical to other of Opposer's marks, and is applied to goods virtually identical to those offered by Opposer. Applicant's Mark so closely resembles Opposer's SMART family of marks as to be likely to be confused therewith and mistaken therefor. Applicant's Mark is deceptively similar to Opposer's SMART marks so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing the Applicant's Mark.

## COUNT ONE

### Likelihood of Confusion

11. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 10.

12. In view of the similarity between Opposer's SMART marks and Applicant's Mark, and the related nature of the goods of the respective parties, Applicant's Mark so resembles Opposer's SMART marks, which were previously used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

13. The granting of a trademark registration for THE SMART CATHETER COMPANY to Applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and would violate or diminish the prior and superior rights of Opposer in its SMART marks.

14. Opposer will be damaged if Application Serial No. 85/265,083 should issue to registration because Applicant will obtain statutory rights in the designation THE SMART CATHETER COMPANY in violation and derogation of the established prior rights of Opposer.

## COUNT TWO

### Dilution

15. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 14.

16. In view of the strength of Opposer's SMART marks, the duration and extent of Opposer's use and advertising of its SMART marks, the nationwide use of Opposer's SMART marks, and the degree of recognition of Opposer's SMART marks, Opposer's SMART marks have become famous. Opposer's SMART marks were famous prior to the filing date of Applicant's application for Applicant's Mark.

17. Applicant's Mark and application are likely to cause, and will cause, dilution of the distinctive value of Opposer's SMART marks under Section 43(c) of the Lanham Act of 1946, as amended, 15 U.S.C. § 1125(c).

18. Opposer will be damaged if Application Serial No. 85/265,083 is granted registration because Applicant will obtain statutory rights in the designation THE SMART CATHETER COMPANY in violation and derogation of the established prior rights of Opposer.

## COUNT THREE

### False Designation of Origin

19. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 18.

20. Applicant's unauthorized proposed distribution of medical and surgical devices namely, catheters bearing Applicant's Mark will constitute a false designation of origin and a false description or representation that Applicant's sale of such products is authorized by Opposer, and is thereby likely to confuse consumers.

21. Upon information and belief, Applicant intends to use the designation THE SMART CATHETER COMPANY with full knowledge that such designation is associated exclusively with Opposer and exclusively designates Opposer's goods. Applicant's proposed acts of unfair competition will be willful and deliberate and with intent to reap the benefit of the goodwill and reputation associated with Opposer's SMART marks.

22. Applicant's proposed sale and distribution of medical and surgical devices, namely, catheters bearing Applicant's Mark, will violate Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

23. Opposer will be damaged if Application Serial No. 85/265,083 should issue to registration because Applicant will obtain statutory rights in the designation THE SMART CATHETER COMPANY in violation and derogation of the established prior right of Opposer.

WHEREFORE, Opposer prays that said Application Serial No. 85/265,083 be rejected, that no registration be issued thereon to Applicant in Class 10, and that this opposition be sustained in favor of Opposer.

Dated: September 6, 2012

Respectfully submitted,

McCarter & English, LLP

By: 

Gary H. Fechter  
Lori Shyavitz

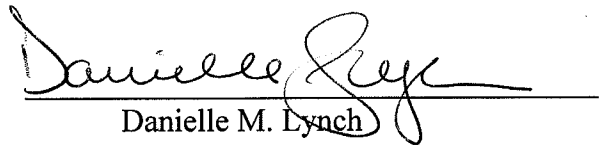
Attorneys for Opposer  
AngioDynamics, Inc.  
245 Park Ave  
27<sup>th</sup> Floor  
New York, NY 10167  
Tel: (212) 609-6800  
Fax: (212) 609-6921



CERTIFICATION OF SERVICE

The undersigned hereby certifies that the original of the foregoing NOTICE OF OPPOSITION has been served on September 6, 2012, by overnight mail, to Applicant's attorney of record at the following address:

John H. Weber  
Baker & Hostetler LLP  
1050 Connecticut Ave NW, Suite 1100  
Washington, DC 20036-5304

  
Danielle M. Lynch

# Exhibit A

**Generated on:** This page was generated by TSDR on 2012-09-05 15:21:32 EST

**Mark:** SMART ANGLE

**US Serial Number:** 77269405

**Application Filing Date:** Aug. 31, 2007

**US Registration Number:** 3565493

**Registration Date:** Jan. 20, 2009

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Jan. 20, 2009

**Publication Date:** May 06, 2008

**Notice of Allowance Date:** Jul. 29, 2008

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### Mark Information

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**Mark Literal Elements:** SMART ANGLE

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

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### Goods and Services

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**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** medical devices, namely, identifier device used for computed tomography (CT) injectable vascular access ports for medical use

**International Class:** 010 - Primary Class

**U.S Class:** 026, 039, 044

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Apr. 11, 2007

**Use in Commerce:** Apr. 11, 2007

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### Basis Information (Case Level)

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<b>Filed Use:</b>	No	<b>Currently Use:</b>	Yes	<b>Amended Use:</b>	No
<b>Filed ITU:</b>	Yes	<b>Currently ITU:</b>	No	<b>Amended ITU:</b>	No
<b>Filed 44D:</b>	No	<b>Currently 44D:</b>	No	<b>Amended 44D:</b>	No
<b>Filed 44E:</b>	No	<b>Currently 44E:</b>	No	<b>Amended 44E:</b>	No
<b>Filed 66A:</b>	No	<b>Currently 66A:</b>	No		
<b>Filed No Basis:</b>	No	<b>Currently No Basis:</b>	No		

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### Current Owner(s) Information

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**Owner Name:** AngioDynamics, Inc.

**Owner Address:** 603 Queensbury Avenue  
Queensbury, NEW YORK 12804  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** NEW YORK

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### Attorney/Correspondence Information

---

#### Attorney of Record

**Attorney Name:** Tara L. Custer

**Docket Number:** T-043

#### Correspondent

**Correspondent Name/Address:** Tara L. Custer  
AngioDynamics, Inc.  
603 Queensbury Avenue  
Queensbury, NEW YORK 12804  
UNITED STATES

**Phone:** 518-798-1215 x1406

**Fax:** 518-798-36254

**Correspondent e-mail:** [tcuster@angiodynamics.com](mailto:tcuster@angiodynamics.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

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## Prosecution History

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Date	Description	Proceeding Number
May 12, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
May 12, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 20, 2009	REGISTERED-PRINCIPAL REGISTER	
Dec. 17, 2008	LAW OFFICE REGISTRATION REVIEW COMPLETED	78288
Dec. 17, 2008	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Dec. 15, 2008	STATEMENT OF USE PROCESSING COMPLETE	70565
Dec. 04, 2008	USE AMENDMENT FILED	70565
Dec. 15, 2008	CASE ASSIGNED TO INTENT TO USE PARALEGAL	70565
Dec. 04, 2008	TEAS STATEMENT OF USE RECEIVED	
Jul. 29, 2008	NOA MAILED - SOU REQUIRED FROM APPLICANT	
May 06, 2008	PUBLISHED FOR OPPOSITION	
Apr. 16, 2008	NOTICE OF PUBLICATION	
Mar. 28, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	78288
Mar. 28, 2008	ASSIGNED TO LIE	78288
Mar. 14, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 12, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 12, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 12, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 22, 2007	NOTIFICATION OF PRIORITY ACTION E-MAILED	6326
Oct. 22, 2007	PRIORITY ACTION E-MAILED	6326
Oct. 22, 2007	PRIORITY ACTION WRITTEN	83285
Oct. 19, 2007	ASSIGNED TO EXAMINER	83285
Sep. 05, 2007	NEW APPLICATION ENTERED IN TRAM	

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## TM Staff and Location Information

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TM Staff Information - None

File Location

**Current Location:** PUBLICATION AND ISSUE  
SECTION

**Date in Location:** Dec. 17, 2008

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### Assignment Abstract of Title Information

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#### Summary

**Total  
Assignments:** 1

**Registrant:** AngioDynamics, Inc.

**Assignment 1 of 1**

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**Conveyance:** SECURITY INTEREST

**Reel/Frame:** 4786/0014

**Pages:** 9

**Date Recorded:** May 23, 2012

**Supporting  
Documents:** assignment-tm-4786-0014.pdf

#### Assignor

**Name:** ANGIODYNAMICS, INC. **Execution Date:** May 22, 2012

**Legal Entity Type:** CORPORATION

**State or Country  
Where  
Organized:** DELAWARE

#### Assignee

**Name:** JPMORGAN CHASE BANK, N.A., AS ADMINISTRATIVE AGENT

**Legal Entity Type:** NATIONAL BANKING  
ASSOCIATION

**State or Country  
Where  
Organized:** UNITED STATES

**Address:** 10 SOUTH DEARBORN  
CHICAGO, ILLINOIS 60603

#### Correspondent

**Correspondent  
Name:** DUSAN CLARK, ESQ.

**Correspondent  
Address:** SIDLEY AUSTIN LLP  
717 N. HARWOOD ST., SUITE 3400  
DALLAS, TX 75201

**Domestic Representative - Not Found**

**Generated on:** This page was generated by TSDR on 2012-09-05 15:20:29 EST

**Mark:** SMART PORT

**US Serial Number:** 77100736

**Application Filing Date:** Feb. 06, 2007

**US Registration Number:** 3607814

**Registration Date:** Apr. 14, 2009

**Register:** Supplemental

**Mark Type:** Trademark

**Date Amended to Current Register:** Jun. 16, 2008

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Apr. 14, 2009

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### Mark Information

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**Mark Literal Elements:** SMART PORT

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Disclaimer:** "PORT"

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### Goods and Services

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**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Vascular access ports for medical use

**International Class:** 010 - Primary Class

**U.S Class:** 026, 039, 044

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Apr. 2007

**Use in Commerce:** Apr. 2007

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**Basis Information (Case Level)**

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<b>Filed Use:</b>	No	<b>Currently Use:</b>	Yes	<b>Amended Use:</b>	No
<b>Filed ITU:</b>	Yes	<b>Currently ITU:</b>	No	<b>Amended ITU:</b>	No
<b>Filed 44D:</b>	No	<b>Currently 44D:</b>	No	<b>Amended 44D:</b>	No
<b>Filed 44E:</b>	No	<b>Currently 44E:</b>	No	<b>Amended 44E:</b>	No
<b>Filed 66A:</b>	No	<b>Currently 66A:</b>	No		
<b>Filed No Basis:</b>	No	<b>Currently No Basis:</b>	No		

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**Current Owner(s) Information**

---

**Owner Name:** AngioDynamics, Inc.

**Owner Address:** 603 Queensbury Avenue  
Queensbury, NEW YORK 12804  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** NEW YORK

---

**Attorney/Correspondence Information**

---

**Attorney of Record**

**Attorney Name:** Tara L. Custer

**Docket Number:** T-038

**Correspondent**

**Correspondent Name/Address:** Tara L. Custer  
AngioDynamics, Inc.  
603 Queensbury Avenue  
Queensbury, NEW YORK 12804  
UNITED STATES

**Phone:** 518-798-1215 Ext. 1406

**Fax:** 518-932-0655

**Correspondent e-mail:** [tcuster@angiodynamics.com](mailto:tcuster@angiodynamics.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**



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## Prosecution History

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<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
May 19, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
May 19, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Apr. 14, 2009	REGISTERED-SUPPLEMENTAL REGISTER	
Mar. 13, 2009	NOTICE OF REINSTATEMENT MAILED	
Mar. 12, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	71441
Mar. 06, 2009	APPROVED FOR REGISTRATION SUPPLEMENTAL REGISTER	
Aug. 05, 2008	REINSTATEMENT GRANTED - RESPONSE RECEIVED	77764
Mar. 04, 2009	ABANDONMENT NOTICE MAILED - FAILURE TO RESPOND	
Mar. 04, 2009	EXPARTE APPEAL TERMINATED	100736
Mar. 03, 2009	ABANDONMENT - FAILURE TO RESPOND OR LATE RESPONSE	
Aug. 01, 2008	NON-FINAL ACTION MAILED	
Jul. 31, 2008	NON-FINAL ACTION WRITTEN	77764
Jul. 31, 2008	USE AMENDMENT ACCEPTED	77764
Jul. 31, 2008	AMENDMENT TO USE PROCESSING COMPLETE	71441
Feb. 06, 2007	USE AMENDMENT FILED	71441
Jul. 30, 2008	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	71441
Jul. 28, 2008	ASSIGNED TO LIE	71441
Jul. 23, 2008	ASSIGNED TO EXAMINER	77764
Jun. 30, 2008	JURISDICTION RESTORED TO EXAMINING ATTORNEY	100736
Apr. 23, 2008	ATTORNEY REVOKED AND/OR APPOINTED	
Apr. 23, 2008	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Apr. 22, 2008	EX PARTE APPEAL-INSTITUTED	100736
Apr. 22, 2008	EXPARTE APPEAL RECEIVED AT TTAB	
Oct. 25, 2007	FINAL REFUSAL MAILED	
Oct. 25, 2007	FINAL REFUSAL WRITTEN	76927

Sep. 06, 2007	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Sep. 06, 2007	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Sep. 06, 2007	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 29, 2007	NON-FINAL ACTION MAILED	
May 28, 2007	NON-FINAL ACTION WRITTEN	76927
May 24, 2007	ASSIGNED TO EXAMINER	76927
Feb. 09, 2007	NEW APPLICATION ENTERED IN TRAM	

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### TM Staff and Location Information

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#### TM Staff Information - None

#### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION      **Date in Location:** Apr. 14, 2009

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### Assignment Abstract of Title Information

---

#### Summary

**Total Assignments:** 1      **Registrant:** AngioDynamics, Inc.

#### Assignment 1 of 1

---

**Conveyance:** SECURITY INTEREST  
**Reel/Frame:** 4786/0014      **Pages:** 9  
**Date Recorded:** May 23, 2012  
**Supporting Documents:** assignment-tm-4786-0014.pdf

#### Assignor

**Name:** ANGIODYNAMICS, INC.      **Execution Date:** May 22, 2012  
**Legal Entity Type:** CORPORATION      **State or Country Where Organized:** DELAWARE

#### Assignee

**Name:** JPMORGAN CHASE BANK, N.A., AS ADMINISTRATIVE AGENT  
**Legal Entity Type:** NATIONAL BANKING      **State or Country Where:** UNITED STATES

ASSOCIATION

**Organized:**

**Address:** 10 SOUTH DEARBORN  
CHICAGO, ILLINOIS 60603

**Correspondent**

**Correspondent  
Name:** DUSAN CLARK, ESQ.

**Correspondent  
Address:** SIDLEY AUSTIN LLP  
717 N. HARWOOD ST., SUITE 3400  
DALLAS, TX 75201

**Domestic Representative - Not Found**

**Generated on:** This page was generated by TSDR on 2012-09-05 15:22:03 EST

**Mark:** SMART

**US Serial Number:** 85655168

**Application Filing Date:** Jun. 19, 2012

**Register:** Principal

**Mark Type:** Trademark

**Status:** New application will be assigned to an examining attorney approximately 3 months after filing date.

**Status Date:** Jun. 27, 2012

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### Mark Information

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**Mark Literal Elements:** SMART

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

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### Related Properties Information

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**Claimed Ownership of US Registrations:** 3607814

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### Goods and Services

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**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Medical devices, namely, catheters, implantable ports, and access needles

**International Class:** 010 - Primary Class

**U.S Class:** 026, 039, 044

**Class Status:** ACTIVE

**Basis:** 1(b)

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**Basis Information (Case Level)**

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<b>Filed Use:</b>	No	<b>Currently Use:</b>	No	<b>Amended Use:</b>	No
<b>Filed ITU:</b>	Yes	<b>Currently ITU:</b>	Yes	<b>Amended ITU:</b>	No
<b>Filed 44D:</b>	No	<b>Currently 44D:</b>	No	<b>Amended 44D:</b>	No
<b>Filed 44E:</b>	No	<b>Currently 44E:</b>	No	<b>Amended 44E:</b>	No
<b>Filed 66A:</b>	No	<b>Currently 66A:</b>	No		
<b>Filed No Basis:</b>	No	<b>Currently No Basis:</b>	No		

---

**Current Owner(s) Information**

---

**Owner Name:** AngioDynamics, Inc.  
14 Plaza Drive  
**Owner Address:** Latham, NEW YORK 12110  
UNITED STATES

**Legal Entity Type:** CORPORATION      **State or Country Where Organized:** DELAWARE

---

**Attorney/Correspondence Information**

---

**Attorney of Record**

**Attorney Name:** Gary H. Fechter      **Docket Number:** 121693/00080

**Correspondent**

**Correspondent Name/Address:** GARY H. FECHTER  
MCCARTER & ENGLISH, LLP  
245 PARK AVE FL 27H  
NEW YORK, NEW YORK 10167-0002  
UNITED STATES

**Phone:** (212) 609-6800      **Fax:** (212) 609-6921

**Correspondent e-mail:** [gfechter@mccarter.com](mailto:gfechter@mccarter.com); [dlynch@mccarter.com](mailto:dlynch@mccarter.com)      **Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

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### Prosecution History

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<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Jul. 13, 2012	TEAS AMENDMENT ENTERED BEFORE ATTORNEY ASSIGNED	88889
Jul. 13, 2012	TEAS VOLUNTARY AMENDMENT RECEIVED	
Jun. 27, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 22, 2012	NEW APPLICATION ENTERED IN TRAM	

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### TM Staff and Location Information

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**TM Staff Information - None**

**File Location**

**Current Location:** NEW APPLICATION  
PROCESSING

**Date in Location:** Jun. 27, 2012

# Exhibit B



UNITED STATES INTERNATIONAL SITE MAP

SEARCH

GO

HOME

ABOUT ANGIODYNAMICS

PRODUCTS

PATIENTS

INVESTORS

CONTACT US

VASCULAR ACCESS

IMPLANTABLE PORTS

- Smart Port® CT-Injectable Port
- Vortex® Ports (LP, MP, TR & VX)
- Conventional Ports

PICC LINES

- Morpheus® Smart PICC

CENTRAL VENOUS CATHETERS

- NeoStar™ Triple Lumen Catheter

ACCESSORIES & SUPPLIES

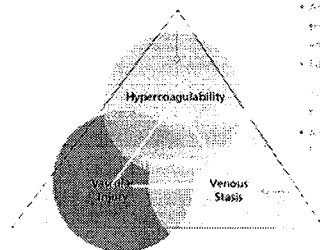
- Accessories And Supplies

Home > Vascular Access > PICC Lines > Morpheus® Smart PICC

## Morpheus® Smart PICC

### Designed to Reduce the Risk of Thrombosis

**Virchow's Triad describes the three key factors that contribute to thrombosis:** Hypercoagulability, Vascular Injury and Venous Stasis. The triad is a useful concept for clinicians and pathologists and was central in the development and design of the Morpheus Smart PICC; Premium Safety Kits and Components; Clinical Training and Education Program.



**Benefits**

- New premium safety kits designed to reduce risk for clinicians
- Premium safety components and complete kit available for all programs
- AngioDynamics kits are available with metal wire, stainless steel wire and stylet options

**Key Features**

- AngioDynamics offers a comprehensive line of French sizes to reduce or prevent vessel trauma with shorter tapers
- The all-carbothane catheter provides superior flow rate and CT injection performance
- All needles and support is provided at no charge to the user

- Superior flow rate and CT injection performance
- True French size catheter means less trauma to the patient and allows for an accurate PICC insertion
- Flexible Placement Options - Reverse or Standard Tip

Morpheus Smart PICC IFU

Morpheus Smart PICC Promotional Literature

Morpheus Smart PICC Master Ordering Sheet

Morpheus Smart PICC Nursing Kit Promotional Literature

Morpheus Smart PICC Clinical Education Promotional Literature

Morpheus Smart PICC Triple Lumen Promotional Literature

Venous Access Procedure 2010 Coding & Payment

Medicare C Code Handout

Ordering Information

This product has a CE mark

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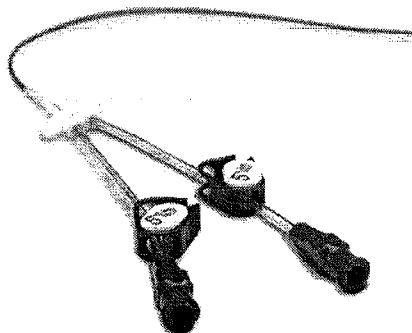
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## The Morpheus Smart PICC

### Engineered for Life™

The Morpheus® SMART PICC provides clinicians with a comprehensive line of CT compatible PICC kits that offer True French size catheters with the shortest taper in the industry; this results in less trauma to the vessel, increased blood flow to the vessel and ultimately decreases the patient's risk of thrombosis, infection and device occlusion.



**Best in Class Flow Rate**  
CT Rated and labeled for CT injection.

**All-Carbothane® catheter**  
The chemically resistant all-Carbothane catheter offers proven drug compatibility.

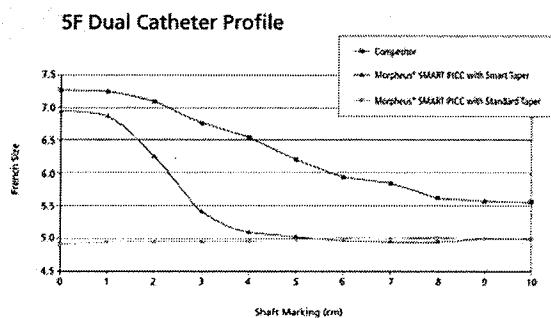
**Smart Taper™ Technology**  
The Smart Taper™ reverse taper technology is designed to reduce the risk of thrombosis and vessel trauma.

**Highly Visible Material**  
Superior product visibility, complete with radiopaque markings with centimeter spacing provide increased visibility, easier catheter placement and tip confirmation.



**True French Sizing**

True French size catheter means less catheter in the patient and allows for an atraumatic PICC insertion.



## Morpheus® Smart PICC Premium Bedside Insertion Kit

The new premium insertion kit is designed by clinicians for clinicians. The upgraded kit includes premium safety components and upgraded Maximal Barrier compliance. AngioDynamics kits are available with nitinol wire, stainless steel wire and stylet options.

**Upgraded kit components include:**

- 40 ml of Saline and New Safety Cover for Easy Vial Break
- Safety Sharps Container
- New Layout for Increased Nursing Efficiency
- 2 Chlorapreps – Tinted and Clear for Site Preparation
- Premium Safety Scalpel and Needle
- Extra Large Drape Made From Ultra Absorbent Material

## Clinical Training & Education Program

**Designed by Clinicians for Clinicians**

AngioDynamics offers a comprehensive clinical training and education program designed and delivered by skilled, professional clinicians with experience in the field.

**Onsite Training**

This extensive three-day program incorporates both didactic and hands-on training by AngioDynamics Clinical Specialists.

**Day One: PICC Basics**

- When/Why of PICC placement
- Early assessment
- Anatomy and physiology review
- Sterile procedure/ principles and practice
- Insertion procedure
- Care and maintenance of PICCs
- Complication management
- Legal issues

**Day Two, Part 1: Ultrasound for PICC Placement**

- Understanding ultrasound
- Probe management
- Scanning the vascular anatomy
- Identifying optimal insertion sites
- Ultrasound guided needle insertion on an anatomical model
- Wire threading with ultrasound

**Day Two, Part 2: PICC Precepting**

- Day Three: PICC Precepting & Review
- PICC precepting (cont.)
- Content & technique review
- Post-test

**Custom Training**

As part of AngioDynamics' commitment to ensure clinician success, this program may be

customized at no cost to address the specific needs/requests of individual hospitals and clinicians.

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Online PICC and Ultrasound classes available

Self-study class

The above classes can be combined with on-site, hands-on training and/or precepting

#### **Bedside Support**

To ensure a strong start to new PICC inserters, Clinical Specialists provide intensive bedside precepting as part of the class.

#### **Online Continuing Education**

Online and other multi-media continuing education opportunities are also continuously available. CEs are available with all on-line education.

#### **Extended Support**

After initial training, Clinical Specialists are available for assistance by phone. They will also follow up on a regular basis to:

Assess skill level and offer further training

Educate on new techniques and the latest innovations

Answer/discuss any questions or issues

In addition, the AngioDynamics Clinical Team is available to offer recommendations regarding the following:

Best Practice

Quality Assurance Programs

Infection Control Management

Administrative assistance to establish Vascular Access Specialists (e.g., Full Time Equivalents) as needed.

Patient Identification

Early Assessment

Database Development

#### **Clinical Hotline**

Clinical Specialists are available to answer specific questions for clinicians.

## **Important Risk Information:**

**INDICATIONS FOR USE:** The AngioDynamics Morpheus® SMART PICC CT is indicated for short or long term peripheral access to the central venous system for intravenous therapy, power injections of contrast media, and allows for central venous pressure monitoring. For blood sampling, infusion, or therapy use a 4 French or larger catheter. For central venous pressure monitoring, it is recommended that a catheter lumen of 20 gauge or larger be used.

**CONTRAINDICATIONS:** This device is contraindicated whenever the patient has or is suspected of having: infection, bacteremia, or septicemia; allergic reactions to the device's materials; insufficient body size to accommodate the size of the implanted device; past irradiation; previous episodes of venous thrombosis or vascular surgical procedures at the prospective placement site; local tissue factors will prevent proper device stabilization and/or access. **WARNINGS AND PRECAUTIONS:** Please see package insert for complete list of warnings and precautions. **POTENTIAL COMPLICATIONS:** Please see package insert for complete list of potential complications. Indications, contraindications, warnings and instructions for use can be found in the instructions for use supplied with each device. Observe all instructions prior to use. Failure to do so may result in patient complications.

**CAUTION:** Federal (USA) law restricts these devices to sale by or on the order of a physician.

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#### ONCOLOGY/SURGERY

##### RADIOFREQUENCY ABLATION

StarBurst®  
Radiofrequency Ablation System  
StarBurst® XL & Semi-Flex RFA Devices  
StarBurst® Xli-e/Xli-e Semi-Flex RFA Devices  
StarBurst® MRI RFA Device  
StarBurst® SDE RFA Device  
StarBurst® Talon/Talon Semi-Flex RFA Devices  
UniBlate™ RFA Electrode  
Generator and Hardware  
Accessories and Supplies

##### SURGICAL RESECTION

Habib® 4X Bipolar Resection Device  
Habib® 4X Laparoscopic Bipolar Resection Device  
Model 1500X RF Generator

##### NANOKNIFE® ABLATION

NanoKnife® System

##### IMPLANTABLE PORTS

Smart Port® CT-Injectable Port  
Vortex® Ports (LP, MP, TR & VX)  
Conventional Ports

Home > Oncology/Surgery > Implantable Ports > Smart Port® CT-Injectable Port

## Engineered for Life™



Introducing the expansion of the Smart Port® CT family of power-injectable ports – to include low-profile and mini models for repeated treatments like chemotherapy and for use with computed tomography (CT). The tangential outlet and clear-flow technology set up efficient flushing action to hyper cleanse the entire reservoir. Each model features a light-weight design and a CT-engraved port body for better identification. These ports are clinically indicated for power-injections up to 5mL/sec and a 300 psi pressure limit setting. They are MRI-conditional—3 Tesla.



## The Power of Vortex® Port Technology

Designed for extended life, Vortex port technology provides better patient outcomes, fewer complications, less nursing time and lower expenses compared to conventional ports, including a nearly 75% reduction in the occlusion rate as compared to conventional ports. The new mini and low profile

models allow us to bring this technology to a larger number of patients, including those with a smaller anatomy.

### Round Chamber

Design allows fluid to reach all surfaces in the chamber, helping eliminate dead spaces, resist sludge build-up, and reduce occlusions and infections.

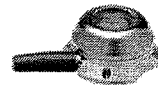
### Off-Set Outlet

Set at a tangent rather than perpendicularly, it helps to create a flushing action within the port to hyper cleanse the entire chamber leading to decreased sludge build-up and a reduced rate of occlusions.<sup>1</sup> Use of Vortex port technology results in an average savings per patient of \$1,224 over conventional ports.<sup>2</sup>

## Power-Injectable Port Profiles

### Smart Port® CT Power-Injectable Port

Blue boot strain-relief mechanism offers a secure feel and snug fit  
Silicone-filled suture holes available for ease of explants  
Fluoromax® 100% silicone radiopaque catheter with an atraumatic radiopaque tip - also available in polyurethane  
Footprint (in): X: 1.045, Y: 1.053\*; Height (in): 0.520;  
Septum Diameter (in): 0.470



### Smart Port® CT Low-Profile Power-Injectable Port

Low-Profile 6.6F catheter reduces the risk of thrombosis  
Large septum diameter offers greater target area  
One-step locking mechanism means fast, simple and secure procedures  
Silicone-filled suture holes prevent tissue ingrowth  
Carbothane® catheter offers balance between softness and strength coupled with good chemical resistance  
Footprint (in): X: 0.890, Y: 0.879\*; Height (in): 0.450; Septum Diameter (in): 0.402



### Smart Port® CT Mini Power-Injectable Port

Smart Port Power-Injectable Port IFU

Smart Port Power-Injectable Port Promotional Literature

Smart Port Power-Injectable Port Poster

Smart Port Tech Note

Venous Access Procedure 2010 Coding & Payment

Vortex Clinical Study

Vortex Warranty

Medicare C Code Handout

Smart Port Power-Injectable Port Fluid Dynamics Clip

Ordering Information

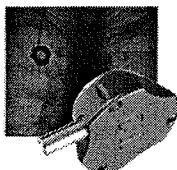
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Smallest profile power-injectable port currently on the market  
 Low-profile design ideal for chest or peripheral placement  
 Largest septum diameter of any power-injectable peripheral port currently on the market  
 One-step locking mechanism means fast, simple and secure procedures  
 Carbothane® catheter offers balance between softness and strength coupled with good chemical resistance  
 Footprint (in): X: 0.680, Y: 0.940\*, Height (in): 0.424; Septum Diameter (in): 0.402



## Identifying a Smart Port Power-Injectable Port

Smart Port® power-injectable ports can be identified by the Smart Angle® identifier technology on the CT and CT Low-Profile power-injectable port models. The CT engraving on all models can be seen through chest X-ray or scout scan.

## Features and Benefits

Vortex Reservoir Technology - Helps prevent sludge build-up and reduces occlusions and infections

Indicated for Power-Injections - The ability to perform power-injections of contrast media for the purpose of CT imaging

Superior CT Identification - All Smart Port CT models include identification on the bottom of the port for visualization under X-ray or scout scan

More choices for patients, physicians and clinicians - Varying catheter materials and sizes, placement options and port body styles.

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## Important Risk Information

The following is a brief summary of important risk information for the Smart Port® power-injectable port line. For detailed information on the categories referenced, please consult the instructions for use packaged with each device. Observe all instructions prior to use. Failure to do so may result in patient complications.

**INDICATION FOR USE:** The Smart Port CT power injectable port line is indicated for any patient requiring repeated access of the vasculature system, for delivery of medications, nutritional supplementation, fluids, blood, blood products, sampling of blood and power injection of contrast media for imaging. **MINI AND LP**

**MODELS:** When used with non Y site LifeGuard Safety Infusion sets in 20Ga or 19Ga size, the SmartPort CT Access System is indicated for power injection of contrast media. For power injection of contrast media, the maximum recommended infusion rate is 5 ml/sec. **CONTRAINDICATIONS:** Smart Port CT should not be implanted in the presence of known or suspected infections, bacteremia, septicemia and peritonitis, or in patients who have exhibited prior intolerance to the materials of construction, or patients whose body size or tissue is insufficient to accommodate the size of the port or catheter. **WARNINGS AND PRECAUTIONS:** Please see package insert for complete list of warnings and precautions. **POTENTIAL COMPLICATIONS:** Consult package insert for a complete list of potential complications. **CAUTION:** Federal (USA) law restricts these devices to sale by or on the order of a physician.

<sup>1</sup> Stevens B, Barton SE, Brechbill M, et. al. A Randomized, Prospective Trial of Conventional Vascular Ports vs. The Vortex "Clear-Flow" Reservoir Port in Adult Oncology Patients. JVAD 2000; (Summer).

<sup>2</sup> Third party verification by Pinnacle Healthcare Management.

\* X is horizontal and Y is vertical with the stem always vertical.