NOTE: This order is nonprecedential.

# United States Court of Appeals for the Federal Circuit

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**BARD PERIPHERAL VASCULAR, INC.**
**AND DAVID GOLDFARB, M.D.,**
*Plaintiffs/Counterclaim Defendants-Appellees,*

**AND**

**C.R. BARD, INC.,**
*Counterclaim Defendant-Appellee,*

**v.**

**W.L. GORE & ASSOCIATES, INC.,**
*Defendant/Counterclaimant-Appellant.*

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2010-1510

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Appeal from the United States District Court for the District of Arizona in case no. 03-CV-0597, Judge Mary H. Murguia.

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ON PETITION FOR PANEL REHEARING AND REHEARING EN BANC

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Before RADER, *Chief Judge*, NEWMAN,* LOURIE, BRYSON, GAJARSA,** LINN, DYK, PROST, O' MALLEY, REYNA, and WALLACH, *Circuit Judges*.***

PER CURIAM.

**O R D E R**

This case was decided by a panel of three judges. A combined petition for panel rehearing and rehearing *en banc* was filed by W.L. Gore & Associates, Inc. A response was invited by the court and filed by Bard Peripheral Vascular, Inc., David Goldfarb, M.D., and C.R. Bard, Inc.

The petition for rehearing was considered by the panel that heard the appeal, and thereafter the petition for rehearing *en banc*, response, and *amici curiae* brief were referred to the circuit judges who are authorized to request a poll of whether to rehear the appeal *en banc*. A poll having been requested and taken,

IT IS ORDERED THAT:

(1) The court denies *en banc* review but grants rehearing *en banc* for the limited purpose of authorizing the panel to revise the portion of its opinion addressing willfulness.

(2) The judgment of the court entered on February 10, 2012, and reported at 670 F.3d 1171, is hereby vacated in part, and the opinion of the court accompanying the

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* Judge Newman does not join in the denial of *en banc* consideration with respect to the issue of joint inventorship.

** Judge Gajarsa participated in only the decision for panel rehearing.

*** Judge Moore did not participate in any of the proceedings.

judgment is modified, in accordance with the panel opinion accompanying this order.

(3) The *en banc* court returns this appeal to the merits panel, which issues the revised opinion that accompanies this order.

FOR THE COURT

June 14, 2012
Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

cc: Frank P. Porcelli, Esq.
John C. O'Quinn, Esq.
Paul D. Clement, Esq.
Michelle K. Lee, Esq.