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*Attorneys for Plaintiffs Howmedica  
Osteonics Corp. and Stryker Trauma S.A.*

**Document Filed Electronically**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

HOWMEDICA OSTEONICS CORP.,	:	
a New Jersey Corporation and STRYKER	:	Civil Action No.
TRAUMA S.A., a Swiss Corporation,	:	
	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
SMITH & NEPHEW, INC.,	:	
a Delaware Corporation,	:	
	:	
Defendant.	:	
	:	
	:	X

**COMPLAINT AND DEMAND FOR TRIAL BY JURY**

Plaintiffs Howmedica Osteonics Corp. ("Howmedica Osteonics") and Stryker Trauma S.A. ("Stryker Trauma"), by way of complaint against defendant Smith & Nephew, Inc. ("Smith & Nephew"), hereby allege and aver as follows:

**JURISDICTION AND VENUE**

1. This is an action for pecuniary and injunctive relief from acts of the defendant Smith & Nephew arising under the patent laws of the United States. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

**PARTIES**

3. Plaintiff Howmedica Osteonics is a corporation organized and existing under the laws of the State of New Jersey, having a principal place of business at 325 Corporate Drive, Mahwah, New Jersey 07430.

4. Plaintiff Stryker Trauma is a corporation organized and existing under the laws of the country of Switzerland, having a principal place of business at Bohnackerweg 1, Selzach, Switzerland CH-2545.

5. On information and belief, defendant Smith & Nephew is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 1450 Brooks Road, Memphis, Tennessee 38116.

6. On information and belief, Smith & Nephew has done and is doing substantial business in this judicial district, both generally and with respect to the allegations in this complaint, and Smith & Nephew has committed one or more acts of patent infringement in this judicial district.

**CLAIM FOR RELIEF**

7. United States Patent No. 6,080,153 ("the '153 Patent"), entitled "External Fixation Device," was duly and legally issued by the United States Patent and Trademark Office on June 27, 2000.

8. Plaintiff Stryker Trauma is the owner of all right, title, and interest in, to, and under the '153 Patent.

9. The '153 Patent is directed to orthopaedic articulation elements for external fixator devices and systems, and to external fixator devices employing such articulation elements. Orthopaedic articulation elements are used for positioning and fixation of components

such as fastening bars, rods, and bone pins in external fixator devices and systems for various types of orthopaedic treatment, repair, reconstruction, and/or adjustment applications, such as repair of bone fractures.

10. Plaintiff Stryker Trauma manufactures various orthopaedic products and components for use in external fixator systems, including articulation elements and external fixator devices coming within the scope of the claims of the '153 Patent.

11. Plaintiff Stryker Trauma, through a predecessor in interest, has granted plaintiff Howmedica Osteonics an exclusive license in the United States under the '153 Patent to import, use, sell, and offer for sale in the United States articulation elements and external fixator devices coming within the scope of the claims of the '153 Patent.

12. Pursuant to the exclusive license granted by plaintiff Stryker Trauma to plaintiff Howmedica Osteonics, Howmedica Osteonics exclusively markets and sells in the United States articulation elements and external fixator devices manufactured by plaintiff Stryker Trauma, which are covered by the claims of the '153 Patent.

13. Defendant Smith & Nephew, without authorization from plaintiffs, has infringed the '153 Patent, at least by offering for sale and selling orthopaedic clamping devices, and in particular, clamping devices known and marketed by Smith & Nephew as "JET-X Bar Clamps," for use in external fixator systems, which clamping devices, including at least such JET-X Bar Clamps, are covered by one or more of the claims of the '153 Patent. In addition to directly infringing one or more claims of the '153 Patent by offering for sale and selling its JET-X Bar Clamps, Smith & Nephew has actively induced infringement of one or more of the claims of the '153 Patent by, among other things, distributing literature illustrating surgical techniques employing such JET-X Bar Clamps in external fixation systems covered by the '153 Patent

and/or promoting such JET-X Bar Clamps for use in the construction of external fixation systems covered by the '153 Patent. Still further, Smith & Nephew has contributorily infringed one or more claims of the '153 Patent by offering for sale and selling its JET-X Bar Clamps knowing the same to be a material part of, and to be especially made or especially adopted for use in, external fixation systems that are covered by the '153 Patent, and not staple articles of commerce suitable for substantial noninfringing use.

14. On information and belief, the conduct of defendant Smith & Nephew, as set forth hereinabove, has been with full knowledge of the existence of the '153 Patent and with full knowledge of the orthopaedic clamping devices covered thereby and/or whose use in external fixator systems is covered thereby.

15. The continued offer for sale and sale by defendant Smith & Nephew of orthopaedic clamping devices covered by the '153 Patent constitutes willful, deliberate, and intentional infringement of the '153 Patent by defendant Smith & Nephew, in total disregard of plaintiffs' rights under the patent laws of the United States, thus rendering the present case "exceptional" as that term is employed in 35 U.S.C. § 285.

16. The conduct of defendant Smith & Nephew as set forth hereinabove has caused and will continue to cause plaintiffs irreparable harm for which they have no adequate remedy at law, unless such conduct is enjoined by this Court.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs Howmedica Osteonics and Stryker Trauma pray for the following relief:

A. An order preliminarily and permanently enjoining defendant Smith & Nephew, including its subsidiaries, parents, divisions, agents, servants, and employees, from making, using, selling, offering for sale, importing, or distributing any orthopaedic clamping devices

infringing or contributing to the infringement the '153 Patent, and from actively inducing infringement of the '153 Patent;

- B. An award of compensatory damages, increased as provided in 35 U.S.C. § 284;
- C. An award of costs and reasonable attorney fees incurred by plaintiffs Howmedica Osteonics and Stryker Trauma herein; and
- D. Such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Plaintiffs hereby demand a trial by a jury as to all issues triable of right by a jury.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
*Attorneys for Plaintiffs Howmedica Osteonics Corp.  
and Stryker Trauma S.A.*

Dated: September 1, 2011

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**CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2**

The undersigned hereby certifies, pursuant to Local Civil Rule 11.2, that with respect to the matter in controversy herein, neither plaintiffs Howmedica Osteonics Corp. and Stryker Trauma S.A. nor Howmedica Osteonics Corp.'s and Stryker Trauma S.A.'s attorneys are aware of any other action pending in any court, or of any pending arbitration or administrative proceeding, to which this matter is subject.

Dated: September 1, 2011

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