

Todd M. Siegel, OSB No. 00104  
E-mail: todd.siegel@klarquist.com  
KLARQUIST SPARKMAN LLP  
One World Trade Center  
121 S.W. Salmon Street  
Suite 1600  
Portland, Oregon 97204  
Telephone: 503.595.5300  
Facsimile: 503.595-5301

Counsel for Defendant Ormco Corporation

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION**

---

**WORLD CLASS TECHNOLOGY  
CORPORATION**, an Oregon corporation,

**Case No. 3:13-cv-00401-AC**

Plaintiff,

**ORMCO CORPORATION'S  
ANSWER TO COMPLAINT  
FOR DECLARATORY  
JUDGMENT AND  
COUNTERCLAIM FOR  
PATENT INFRINGEMENT**

v.

**ORMCO CORPORATION**, a Delaware  
Corporation,

Defendant.

---

Defendant, Ormco Corporation (“Ormco”), states as follows for its Answer and Counterclaim to the Complaint for Declaratory Judgment of Plaintiff, World Class Technology Corporation (“WCT”):

**NATURE OF ACTION**

1. Ormco admits that WCT purports this to be an action for declaratory judgment of non-infringement of five U.S. patents, including U.S. Patent Nos. 7,416,408 (“the ’408 patent”); 7,267,545 (“the ’545 patent”); 7,704,072 (“the ’072 patent”); 7,909,603 (“the ’603

patent”); and 8,033,824 (“the ’824 patent”), and that WCT purports that this declaratory judgment action arises under the patent laws of the United States (Title 35 United States Code). Except as expressly admitted, Ormco is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 1 of WCT’s Complaint, and therefore, denies the same.

**PARTIES**

2. Ormco is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 2 of WCT’s Complaint, and therefore, denies the same.

3. Ormco admits that it is a Delaware corporation and that it is registered to do business in Oregon. Ormco also admits that its principal place of business is in Orange, California. Ormco further admits that it designs, manufactures and sells orthodontic brackets to purchasers in Oregon, nationally, and internationally.

**JURISDICTION**

4. Ormco admits that WCT’s purported claims for declaratory judgment arise under the patent laws of the United States (Title 35 United States Code) and that this Court, generally speaking, has subject matter jurisdiction over claims arising under the patent laws of the United States pursuant to 28 U.S.C. §§ 1331 and 1338(a). Except as expressly admitted, Ormco is without knowledge or information sufficient to form a belief as to the truth of remaining averments in paragraph 4 of WCT’s Complaint, and therefore, denies the same.

5. Ormco admits that this Court has personal jurisdiction over it because the subject matter of this lawsuit arises out of Ormco’s contacts with the forum. Except as expressly admitted, Ormco is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 5 of WCT’s Complaint, and therefore,

denies the same.

6. Ormco is without knowledge or information sufficient to form a belief as to whether the averments in paragraph 6 of WCT's Complaint constitute sufficient grounds for the basis of WCT's claims for declaratory judgment of non-infringement of the above-listed patents, and therefore, Ormco denies the same.

7. Ormco admits that venue is proper under 28 U.S.C. §§ 1391 and 1400.

### **FACTUAL BACKGROUND**

8. Ormco is without knowledge or information sufficient to form a belief as to the truth of the averments in the first sentence of paragraph 8 of WCT's Complaint, and therefore, denies the same. Ormco admits that it competes with WCT for sales of orthodontic brackets.

9. Ormco admits that on February 12, 2013, John W. Spiegel sent a letter to WCT on behalf of Ormco ("February 2013 letter") and that a true and correct copy of that letter is attached to WCT's Complaint as Exhibit 2. Ormco is without knowledge or information sufficient to form a belief as to when WCT received that letter, and therefore, denies the averments of paragraph 9 relating to WCT's receipt of the February 2013 letter.

10. With respect to the averments in paragraph 10 of WCT's Complaint, Ormco states that the document cited in paragraph 10 speaks for itself. Ormco refers WCT to the February 2013 letter for its content. Ormco denies all remaining averments in paragraph 10 of WCT's Complaint.

11. With respect to the averments in paragraph 11 of WCT's Complaint, Ormco states that the document cited in paragraph 11 speaks for itself. Ormco refers WCT to the February 2013 letter for its content. Ormco denies all remaining averments in paragraph 11 of WCT's Complaint.

12. With respect to the averments in paragraph 12 of WCT's Complaint, Ormco states that the document cited in paragraph 12 speaks for itself. Ormco refers WCT to the February 2013 letter for its content. Ormco denies all remaining averments in paragraph 12 of WCT's Complaint.

13. Ormco denies that the concluding statement of the February 2013 letter included the phrase "demands listed above." In fact, the concluding statement of the February 2013 letter stated, in relevant part: "Your signature on the line indicated below signifies your acceptance of the terms outlined in this letter." Apart from this detail, Ormco states that the document cited in paragraph 13 speaks for itself. Ormco refers WCT to the February 2013 letter for its content. Ormco denies all remaining averments in paragraph 13 of WCT's Complaint.

14. Ormco admits that WCT filed an action in the Multnomah County Circuit Court for the State of Oregon ("trade secret suit") and that a true and correct copy of that Complaint and Amended Complaint is attached to WCT's Complaint as Exhibit 3. With respect to the contents of the Complaint and Amended Complaint in the trade secret suit, Ormco states that the documents speak for themselves. Except as expressly admitted, Ormco denies the remaining averments in paragraph 14 of WCT's Complaint.

15. Ormco admits that on March 6, 2013, its Chief Intellectual Property Counsel sent a letter to WCT's litigation counsel ("March 2013 letter"). Ormco is without knowledge or information sufficient to form a belief as to when WCT's litigation counsel received the March 2013 letter, and therefore, denies the averments in paragraph 15 regarding WCT's litigation counsel's receipt of the March 2013 letter. With respect to the contents of the March 2013 letter, Ormco states that the document speaks for itself. Ormco refers WCT to the

March 2013 letter for its content. Except as expressly admitted, Ormco denies the remaining averments in paragraph 15 of WCT's Complaint.

16. Ormco admits that it operates an internet website that provides patent information relating to its products, including the Damon Q<sup>®</sup> passive self-ligating bracket. Except as expressly admitted, Ormco is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in paragraph 16 of WCT's Complaint, and therefore, denies the same.

17. Ormco admits that the '408 patent is entitled "Aesthetic Self-Ligating Orthodontic Bracket." Ormco denies that the '408 patent issued on August 28, 2008. The '408 patent issued on August 26, 2008.

18. Ormco admits the averments in paragraph 18 of WCT's Complaint.

19. Ormco admits the averments in paragraph 19 of WCT's Complaint.

20. Ormco admits that the '603 patent is entitled "Self-Ligating Orthodontic Bracket." Ormco also admits that the '603 patent issued on March 22, 2011. Ormco further admits that the '603 patent issued from a continuation of application No. 11/032,977, which itself issued as the '545 patent. Ormco denies all other averments in paragraph 20.

21. Ormco admits the averments in paragraph 21 of WCT's Complaint.

22. With respect to the averments in paragraph 22 of WCT's Complaint, Ormco states that the averments represent legal arguments and legal conclusions to which no response is required. To the extent a response is required, Ormco states that it is without knowledge or information sufficient to form a belief regarding the truth of the averments in paragraph 22 of WCT's Complaint, and on that basis denies the same.

23. Ormco is without knowledge or information sufficient to form a belief

regarding the truth of the averments in paragraph 23, and on that basis denies the same.

24. With respect to the averments in paragraph 24 of WCT's Complaint, Ormco states that the averments represent legal arguments and legal conclusions to which no response is required. To the extent a response is required, Ormco states that it is without knowledge or information sufficient to form a belief regarding the truth of the averments in paragraph 24 of WCT's Complaint, and on that basis denies the same.

**CLAIM FOR RELIEF**  
**(Declaratory Judgment of Non-Infringement)**

25. Ormco incorporates its answers to paragraphs 1 through 24, inclusive, as though fully set forth herein.

26. With respect to the averments in paragraph 26 of WCT's Complaint, Ormco states that the averments represent legal arguments and legal conclusions to which no response is required. To the extent a response is required, Ormco states that it is without knowledge or information sufficient to form a belief regarding the truth of the averments in paragraph 26 of WCT's Complaint, as they relate to the five Ormco patents identified in the Complaint, and on that basis, denies the same.

27. With respect to the averments in paragraph 27 of WCT's Complaint, Ormco states that the averments represent legal arguments and legal conclusions to which no response is required. To the extent a response is required, Ormco states that it is without knowledge or information sufficient to form a belief regarding the truth of the averments in paragraph 27 of WCT's Complaint, and on that basis denies the same.

28. With respect to the averments in paragraph 28 of WCT's Complaint, Ormco states that the averments represent legal arguments and legal conclusions to which no response is required. To the extent a response is required, Ormco states that it is without

knowledge or information sufficient to form a belief regarding the truth of the averments in paragraph 28 of WCT's Complaint, and on that basis denies the same.

**DENIAL OF PLAINTIFF'S PRAYER FOR RELIEF**

In response to the "WHEREFORE" clause following paragraph 28 of WCT's Complaint, Ormco denies the averments contained in WCT's Prayer for Relief and further denies that WCT is entitled to any relief whatsoever against Ormco.

**AFFIRMATIVE DEFENSES**

In further response to WCT's Complaint, Ormco asserts the following affirmative defenses:

1. The Court lacks subject matter jurisdiction over WCT's claim for relief (Declaratory Judgment of Non-Infringement) under 28 U.S.C. §§ 2201, 2202.
2. Plaintiff fails to state a claim against Ormco upon which relief can be granted.
3. Plaintiff lacks standing to bring the claims for relief alleged in its Complaint.
4. This controversy is not ripe for review.
5. Ormco reserves the right to assert additional affirmative defenses during the pendency of this litigation.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Ormco demands a jury trial on all issues triable by jury.

## **ORMCO CORPORATION'S COUNTERCLAIM FOR PATENT INFRINGEMENT**

Defendant/Counterclaim-Plaintiff, Ormco Corporation (“Ormco”), hereby alleges the following counterclaims against Plaintiff/Counterclaim-Defendant World Class Technologies Corporation (“WCT”):

### **NATURE OF THE ACTION**

1. This counterclaim is a claim for patent infringement and arises under the patent laws of the United States, codified in Title 35 of the United States Code.

### **PARTIES**

2. Ormco is a corporation organized and existing under the laws of the State of Delaware and has its principal place of business at 1717 West Collins, Orange, CA 92867. Ormco is in the business of designing, producing, and supplying orthodontic appliances and services, including what is known as self-ligating orthodontic brackets.

3. WCT alleges that it is a corporation organized and existing under the laws of the State of Oregon with its headquarters in McMinnville, Oregon, and does business as Ortho Classic. WCT also alleges that it is in the business of designing and manufacturing orthodontic brackets in Oregon, and sells its brackets in Oregon, nationally and internationally. WCT further alleges that it is launching the sale of its self-ligating orthodontic bracket H4 (hereinafter “the H4 bracket”). See WCT’s Complaint, Dkt. 1, ¶ 2. On the basis of WCT’s averments in paragraph 2 of its Complaint, Ormco alleges the same.

### **JURISDICTION AND VENUE**

4. This is an action for patent infringement under the United States Patent Laws, 35 U.S.C. § 271, et seq. This Court has jurisdiction over the subject matter of this action under the provisions of 28 U.S.C. §§ 1331 and 1338.

5. WCT is subject to the personal jurisdiction in this Court because, as an Oregon corporation with a principle place of business in McMinnville, Oregon, WCT is a resident of the forum state. WCT has also submitted to personal jurisdiction in this Court by virtue of initiating an action against Ormco for declaratory judgment of non-infringement here. Moreover, WCT admits that it conducts business in the State of Oregon related to its sales of orthodontic brackets, including the infringing H4 orthodontic bracket.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

**COUNT ONE –**  
**INFRINGEMENT OF U.S. PATENT NO. 8,393,896**

7. Ormco incorporates the foregoing paragraphs of its Counterclaim by reference as though fully set forth herein.

8. This action arises out of WCT's infringement of U.S. Patent No. 8,393,896 ("the '896 patent"), which is owned by Ormco. WCT's acts of infringement have occurred within this judicial district and, upon information and belief, elsewhere throughout the United States.

9. On March 12, 2013, the United States Patent and Trademark Office duly and legally issued the '896 patent, entitled "Self-Ligating Orthodontic Bracket." A copy of the '896 patent is attached hereto as Exhibit A.

10. Ormco is the owner by assignment of all right, title, and interest in and to the '896 patent.

11. Upon information and belief, WCT has infringed and continues to infringe, either literally or under the doctrine of equivalents, at least one claim of the '896 patent in the United States by making, using, offering to sell, and/or selling products that are covered by one or more claims of the '896 patent. More specifically, WCT has violated 35 U.S.C. § 271

through conduct that constitutes patent infringement by making, using, offering to sell, and/or selling self-ligating orthodontic brackets, including its H4 orthodontic bracket.

12. Ormco's filing of this Counterclaim constitutes proper notice of Ormco's claims of infringement to WCT under 35 U.S.C. § 287.

13. Unless enjoined by this Court, Ormco believes that WCT's infringing conduct will continue.

14. As a result of WCT's actions, Ormco has suffered and will continue to suffer substantial injury, including irreparable injury, and has suffered and will continue to suffer damages in an amount to be determined at trial, including lost profits, which Ormco would have made but for WCT's infringing conduct.

#### **PRAYER FOR RELIEF**

WHEREFORE, Ormco requests entry of judgment in its favor and against WCT as follows:

- A. That WCT be declared and adjudged to have infringed the '896 patent;
- B. That WCT, its agents, sales representatives, distributors, servants and employees, attorney, affiliates, subsidiaries, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or in participation with any or all of them, be enjoined and restrained preliminarily and permanently, for infringing, actively inducing others to infringe, and/or contributorily infringing the '896 patent.
- C. That WCT be held liable for damages sufficient to compensate Ormco for any and all infringement of the '896 patent under 35 U.S.C. § 284;
- D. That WCT be held liable for enhanced and treble damages under 35 U.S.C. § 284;

E. That this case be declared exceptional and WCT be held liable for an award of Ormco's reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

F. That the Court grant such other and further relief as it may deem proper, just, and equitable under the circumstances.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Ormco demands a jury trial on all issues triable by jury.

Date: March 15, 2013

Respectfully submitted,

**ORMCO CORPORATION**

By: s/ Todd M. Siegel

Todd M. Siegel, OSB No. 00104

E-mail: todd.siegel@klarquist.com

KLARQUIST SPARKMAN LLP

One World Trade Center

121 S.W. Salmon Street

Suite 1600

Portland, Oregon 97204

Telephone: 503.595.5300

Facsimile: 503.595-5301

Counsel for Defendant Ormco Corporation

Of Counsel:

Gregory F. Ahrens, Esq.

E-mail: gahrens@whe-law.com

Paul J. Linden, Esq.

E-mail: plinden@whe-law.com

Lisa M.A. Nolan, Esq.

E-mail: lnolan@whe-law.com

Wood Herron & Evans, LLP

2700 Carew Tower

441 Vine Street

Cincinnati, OH 45202

Telephone: 513-241-2324

Facsimile: 513-241-6234

Christopher B. Mead, Esq.  
E-mail: cmead@londonandmead.com  
London & Mead  
1225 19th Street, N.W.  
Suite 320  
Washington, D.C. 20036  
Telephone: 202-331-3334  
Facsimile: 202-785-4280

*Pro Hac Vice Motions Forthcoming*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 15, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and a copy of the foregoing will be served upon counsel of record by the Court's ECF system.

s/ Todd M. Siegel  
Todd M. Siegel, OSB No. 00104  
E-mail: todd.siegel@klarquist.com  
KLARQUIST SPARKMAN LLP  
One World Trade Center  
121 S.W. Salmon Street  
Suite 1600  
Portland, Oregon 97204  
Telephone: 503.595.5300  
Facsimile: 503.595-5301

Counsel for Defendant Ormco Corporation