

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SAGE PRODUCTS, LLC

Plaintiff,

v.

DEROYAL INDUSTRIES, INC.

Defendant.

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Case No.: 13-cv-5620

JURY TRIAL DEMANDED

COMPLAINT

Comes now Plaintiff, Sage Products, LLC (“Sage”), for its Complaint against DeRoyal Industries, Inc. (“DeRoyal” or “Defendant”). As its Complaint against Defendant, Plaintiff states and alleges as follows:

NATURE OF THE ACTION

1. This is an action against DeRoyal for infringement of U.S. Patent No. 8,435,199 (“199 patent”) entitled “THERAPEUTIC BOOTS STABILIZATION WEDGE” (Exhibit A) for the manufacture, use, sale, offer for sale and/or distribution of DeRoyal’s PRUventor™ Heel Off-loading Device and Anti-Rotation Wedge (“the Accused Product”).

2. As alleged and pleaded herein, Defendant has infringed and is infringing Sage’s patent rights through its activities regarding the Accused Product. Such unlawful activities are occurring throughout the United States and, in particular, in this District.

THE PARTIES

3. Plaintiff Sage is incorporated under the laws of Delaware, and has a place of business at 3909 Three Oaks Road, Cary, Illinois 60013.

4. Sage is the assignee of the '199 patent. The '199 patent issued on May 21, 2002, and is directed to a "THERAPEUTIC BOOTS STABILIZATION WEDGE."

5. For over 35 years, Sage has been providing innovative healthcare products for hospitals, including but not limited to heel devices.

6. Defendant DeRoyal is incorporated in Tennessee and has a principal place of business at 200 DeBusk Lane, Powell, Tennessee 37849.

7. DeRoyal manufactures and distributes the Accused Product for preventing the development of heel pressure ulcers by elevating and suspending the foot through the use of a padded boot and a removable wedge. The Accused Product has been offered for sale and sold within the United States and, in particular, in this District.

JURISDICTION AND VENUE

8. This is an action for patent infringement under 35 U.S.C. § 271. This Court has subject matter jurisdiction over Sage's federal claims of patent infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over the Defendant for the purposes of this action pursuant to 28 U.S.C. §§ 1391 and 1400 because the Defendant sells and/or offers to sell the Accused Product in this District.

10. DeRoyal maintains a website at <http://www.deroyal.com/>. Descriptions and images of the Accused Product are located at <http://www.deroyal.com/medicalproducts/orthopedics/product.aspx?id=pc-protection-pruventor>.

(Exhibit B). A video providing an overview of the Accused Product is available online at the following URL: <http://youtu.be/YyAXLEoaRFs>. (Exhibit C). A video demonstrating the use of the Accused Product is available online at the following URL: <http://youtu.be/ddSlz1IDo2E>. (Exhibit D).

11. DeRoyal maintains sales representatives in Illinois and coaches, trains, hires, and manages them in Illinois as well (Exhibit E).

12. Many of DeRoyal's customers are located in Illinois and sell DeRoyal products in Illinois. For example, Home Care Plus, Inc., located at 6447 N. Pulaski Road, Chicago IL 60646, sells DeRoyal's Prolign Lumbar Orthosis on its website at <http://www.homecareplusmobility.com> (Exhibit F). Allegro Medical is located at 360 Veterans Parkway, Suite 115, Bolingbrook, IL 60440 and sells a variety of DeRoyal's products on its website at <http://www.allegromedical.com>. (Exhibit G). Med-Vet International is located at 13822 West Boulton Blvd., Mettawa, IL 60045 and sells DeRoyal's Pediatric Post-op Shoe on its website at <http://www.shopmedvet.com>. (Exhibit H). Customers in Illinois can also directly order DeRoyal's products from its website at <http://www.deroyal.com/support/ordering.aspx>. (Exhibit I).

13. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because at least a substantial part of the events giving rise to Sage's claims occurred in this District and Defendant is subject to personal jurisdiction in this District.

14. A real, immediate, and justiciable controversy exists between Sage and the Defendant relating to the infringement of the '199 patent.

DEROYAL'S INFRINGEMENT OF THE '199 PATENT

15. The '199 patent issued on May 7, 2013 and includes Claims 1-18. Claims 1-18 are each directed to a device for stabilizing a limb through the use of at least a cushioned boot, a stabilization block, and a fastener.

16. The Accused Product literally infringes at least one claim of the '199 patent and/or infringes at least one claim of the '199 patent under the Doctrine of Equivalents. The Accused Product is a device for stabilizing a limb including a therapeutic boot, a stabilization block configured to impede rotation, and a fastener configured to couple the stabilization block with the limb or the therapeutic boot.

COUNT I: PATENT INFRINGEMENT AGAINST DEROYAL

17. Sage incorporates by reference each of the preceding allegations of paragraphs 1 - 16 above as though stated herein.

18. On information and belief, DeRoyal manufactures, uses, sells, offers to sell and/or imports the Accused Product within the United States.

19. On information and belief, DeRoyal has directly infringed one or more claims of the '199 patent within this District and elsewhere within the United States through its manufacture, use, sale, offer to sell, and/or importation of the Accused Product.

20. The afore-alleged and pleaded acts constitute literal infringement and/or infringement under the doctrine of equivalents.

21. Unless enjoined, DeRoyal's acts will cause Sage irreparable harm, loss, and injury.

WHEREFORE, Sage prays that:

- A. United States Patent No. 8,435,199 be adjudged by this Court to be enforceable and not invalid;
- B. Defendant be adjudged by this Court to have infringed U.S. Patent No. 8,435,199;
- C. Defendant be ordered by this Court to account for and pay Sage damages adequate to compensate Sage for the infringement of U.S. Patent No. 8,435,199, including interest under 35 U.S.C. § 284;
- D. A permanent injunction be issued preventing further infringement of U.S. Patent No. 8,435,199 against Defendant, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them;
- E. Defendant be ordered to pay interest, costs, and reasonable attorney fees to Sage under 15 U.S.C. § 1117(a); and
- F. Sage be awarded such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Sage demands a trial by jury in this action on all issues triable by jury.

Respectfully Submitted,

Date: August 7, 2013

/s/ Jon H. Beaupré

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