

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ALLEN MEDICAL SYSTEMS, INC.)	
)	
Plaintiff,)	
)	JURY TRIAL DEMANDED
v.)	
)	
SCHUERCH CORPORATION,)	Case No.
d/b/a SchureMed)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Allen Medical Systems, Inc. (“Allen”) by its attorneys, for its Complaint against Defendant Schuerch Corporation, d/b/a SchureMed (“SchureMed”), states as follows:

PARTIES AND JURISDICTION

1. Allen Medical Systems, Inc. is a corporation organized and existing under the laws of the state of Indiana, with its principal place of business at 100 Discovery Way, Acton, Massachusetts 01720. Allen has been an industry leader in patient positioning technology for the past thirty years, notably in surgical positioners and positioners for patient recovery.

2. Upon information and belief, Schuerch Corporation is a corporation organized and existing under the laws of the Commonwealth of Massachusetts with its principal place of business at 452 Randolph Street, Abington, Massachusetts 02351. Schuerch Corporation does business under the trade name “SchureMed.” According to its website, SchureMed is a medical equipment manufacturer that focuses on surgical patient positioning equipment and devices.

3. This action arises under the United States patent laws, 35 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction pursuant to 35 U.S.C. §§ 271 and 281, and 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over SchureMed because SchureMed is incorporated and does business in the Commonwealth of Massachusetts, and markets and sells its products, including those at issue in this Complaint, in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) because a substantial part of the events and actions giving rise to the claims occurred in this jurisdiction and because SchureMed or its agents are subject to personal jurisdiction in this jurisdiction.

BACKGROUND

6. On July 6, 2010, U.S. Patent No. RE 41,412 (“the RE ’412 Patent”) entitled “Leg Holder System for Simultaneous Positioning in the Abduction and Lithotomy Dimensions,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the RE ’412 Patent is attached to this Complaint as Exhibit A.

7. On September 23, 2003, U.S. Patent No. 6,622,980 (“the ’980 Patent”) entitled “Socket and Rail Clamp Apparatus” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’980 Patent is attached to this Complaint as Exhibit B.

8. Allen is the owner by assignment of all legal rights, title, and interest in and to the RE ’412 Patent and the ’980 Patent, and possesses all rights of recovery thereunder, including the right to sue for infringement and recover injunctive relief and past damages.

COUNT I

Infringement of U.S. Patent No. RE 41,412

9. Allen realleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

10. Upon information and belief, SchureMed, without Allen's authorization and in violation of 35 U.S.C. § 271, has infringed and continues to infringe one or more claims of the RE '412 Patent by making, having made, using, selling, or offering to sell adjustable stirrups for positioning a patient's legs during surgical procedures, including without limitation, the adjustable surgical stirrups identified by SchureMed as "Great White" and/or "E-Z Lift" stirrups ("the SchureMed stirrups"), which are covered by one or more claims of the RE '412 Patent.

11. Upon further information and belief, SchureMed will continue to infringe the RE '412 Patent unless enjoined by this Court.

12. The SchureMed stirrups have each and every element of one or more claims of the RE '412 Patent, and SchureMed accordingly directly infringes the RE '412 Patent by manufacturing, selling, and offering for sale the SchureMed stirrups. Additionally, SchureMed actively induces its customers to infringe the RE '412 Patent by, with actual knowledge of the patent, selling the SchureMed stirrups and instructing its customers in use of the SchureMed stirrups. SchureMed accordingly indirectly infringes the RE '412 Patent.

13. On information and belief, SchureMed has had actual knowledge of the RE '412 Patent since at least May of 2013, and has continued its infringement unabated. Such willful and deliberate infringement justifies an increase of up to three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

14. Upon information and belief, SchureMed has caused or will cause, by its infringing conduct, irreparable harm to Allen for which there is no adequate remedy at law. As a result of SchureMed's actions, Allen has suffered and continues to suffer substantial injury, including damages including loss of sales and profits that Allen would have made but for the infringement by SchureMed.

COUNT II

Infringement of U.S. Patent No. 6,622,980

15. Allen realleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

16. Upon information and belief, SchureMed, without Allen's authorization and in violation of 35 U.S.C. § 271, has infringed and continues to infringe one or more claims of the '980 Patent by making, having made, using, selling, or offering to sell clamps for its adjustable stirrups for positioning a patient's legs during surgical procedures, including without limitation, the clamps identified by SchureMed as "SpringLoc" clamps ("the SchureMed clamps"), which are covered by one or more claims of the '980 Patent.

17. Upon further information and belief, SchureMed will continue to infringe the '980 Patent unless enjoined by this Court.

18. The SchureMed clamps have each and every element of one or more claims of the '980 Patent, and SchureMed accordingly directly infringes the '980 Patent by manufacturing, selling, and offering for sale the SchureMed clamps. Additionally, SchureMed actively induces its customers to infringe the '980 Patent by, with actual knowledge of the patent, selling the SchureMed clamps and instructing its customers in use of the SchureMed clamps. SchureMed accordingly indirectly infringes the '980 Patent.

19. Upon information and belief, SchureMed intentionally copied Allen's clamps and therefore knew or should have known of the '980 Patent, and has continued its infringement unabated. Such willful and deliberate infringement justifies an increase of up to three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

20. Upon information and belief, SchureMed has caused or will cause, by its infringing conduct, irreparable harm to Allen for which there is no adequate remedy at law. As a result of SchureMed's actions, Allen has suffered and continues to suffer substantial injury, including damages including loss of sales and profits that Allen would have made but for the infringement by SchureMed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that judgment be granted in its favor and against SchureMed and that this Court award it the following relief:

- (a) Enter judgment that SchureMed has infringed the RE '412 Patent;
- (b) Permanently and preliminarily enjoin SchureMed and its officers, agents, servants, employees, attorneys, and those in active concert or participation with them who receive actual notice of the Order, from manufacturing, using, selling and/or offering for sale products which infringe the RE '412 Patent;
- (c) Enter judgment that SchureMed has infringed the '980 Patent;
- (d) Permanently and preliminarily enjoin SchureMed and its officers, agents, servants, employees, attorneys, and those in active concert or participation with them who receive actual notice of the Order, from manufacturing, using, selling and/or offering for sale products which infringe the '980 Patent;

(e) Enter judgment and issue an Order requiring SchureMed to pay damages to Allen under 35 U.S.C. § 284, together with costs and prejudgment and post-judgment interest;

(f) Enter judgment that SchureMed's infringement was willful and issue an Order requiring SchureMed to pay treble damages pursuant to 35 U.S.C. § 284;

(g) Adjudge and decree this case exceptional under 35 U.S.C. § 285 and award Allen its costs and reasonable attorneys' fees; and

(h) An award of any other relief, in law and in equity, to which the Court finds Allen is justly entitled.

JURY DEMAND

Allen hereby demands a trial by jury on all issues as to which trial by jury is appropriate.

July 27, 2015

/s/ John D. Hamann
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