

SHAWN J. KOLITCH, OSB No. 063980

E-mail: shawn@khpatent.com

KOLISCH HARTWELL, P.C.

200 Pacific Building

520 S.W. Yamhill Street

Portland, Oregon 97204

Telephone: (503) 224-6655

Facsimile: (503) 295-6679

Attorney for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

ACUMED LLC, a Delaware limited liability
company,

Plaintiff,

v.

SKELETAL DYNAMICS L.L.C., a
Florida limited liability company,

Defendant.

Case No. 3:15-cv-01581

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff Acumed LLC alleges, based on actual knowledge with respect to plaintiff and plaintiff's acts, and on information and belief with respect to other matters, as follows:

NATURE OF THE CASE

1. This is a civil suit for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 1 et seq., and specifically under 35 U.S.C. §§ 271 and 281.

THE PARTIES

2. Plaintiff Acumed LLC (“Acumed”) is a Delaware limited liability company, with a principal place of business and a mailing address at 5885 N.W. Cornelius Pass Road, Hillsboro, Oregon 97124.

3. Defendant Skeletal Dynamics L.L.C. (“Skeletal Dynamics”) is a privately held Florida limited liability company, with a principal place of business and a mailing address at 8905 S.W. 87 Avenue, Suite 201, Miami, Florida 33176.

JURISDICTION AND VENUE

4. This Court has federal question and diversity subject matter jurisdiction of this action. The Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) because of the claim under 35 U.S.C. § 271 for patent infringement. The Court has diversity jurisdiction under 28 U.S.C. § 1332 because the parties are citizens of different states (Oregon and Florida), and because the amount in controversy, exclusive of interest and costs, exceeds seventy-five thousand dollars (\$75,000).

5. This Court has personal jurisdiction in this action because Skeletal Dynamics conducts business, including selling and/or offering to sell products in connection with the allegations of this lawsuit, in the state of Oregon and in this judicial district.

6. Venue is proper in this judicial district under 28 U.S.C. § 1391 and 1400, because the injuries from the defendant’s actions are felt in this district, where Acumed’s principal place of business is located, and because Skeletal Dynamics is subject to personal jurisdiction in this district.

ACUMED'S PATENT

7. Acumed owns all right, title, and interest in U.S. Patent Nos. 6,030,162 (“the ‘162 patent”), including the right to sue thereon and the right to recover for infringement thereof. The ‘162 patent is titled “Axial Tension Screw” and issued on February 29, 2000. A copy of the ‘162 patent is attached hereto as Exhibit A. The ‘162 patent gives Acumed the right to exclude others from making, using, offering for sale, and selling the invention claimed in the patent within the United States and from importing the invention claimed in the patent into the United States.

THE SKELETAL DYNAMICS INFRINGING PRODUCTS

8. Skeletal Dynamics is making, using, offering for sale, selling, and/or importing bone fixation screws that include sections with varying thread pitch and diameter, under the name “REDUCT Headless Compression Screw,” constituting infringement of Acumed’s ‘162 patent. A copy of a publicly available Skeletal Dynamics brochure advertising the REDUCT Headless Compression Screws and related instrumentation is attached hereto as Exhibit B.

CAUSES OF ACTION

9. Skeletal Dynamics has infringed and is infringing the ‘162 patent by making, using, selling, offering to sell, and/or importing the Skeletal Dynamics REDUCT Headless Compression Screws.

10. Infringement by Skeletal Dynamics has been and continues to be willful.

11. Acumed has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial, through lost profits, lost sales, and/or lost royalties, due to infringement by Skeletal Dynamics.

12. Acumed has suffered, and will continue to suffer, permanent and irreparable injury, for which Acumed has no adequate remedy at law.

13. Acumed is entitled to relief provided by 35 U.S.C. §§ 281, 283, 284, and 285.

PRAYER FOR RELIEF

WHEREFORE, Acumed prays for judgment as follows:

A. That Skeletal Dynamics has infringed, and is infringing, the '162 patent in violation of 35 U.S.C. § 271;

B. That infringement by Skeletal Dynamics is willful;

C. That Skeletal Dynamics be preliminarily and permanently enjoined against all acts of patent infringement, including but not limited to making, using, selling, offering to sell, and importing the Skeletal Dynamics REDUCT Headless Compression Screws;

D. That Skeletal Dynamics be required to deliver to Acumed for destruction any and all articles in its possession and/or under its control that infringe the '162, including but not limited to all Skeletal Dynamics REDUCT Headless Compression Screws, and associated packaging and advertisements;

E. That Skeletal Dynamics be ordered to pay Acumed the damages that Acumed has suffered due to patent infringement by Skeletal Dynamics, together with interest thereon;

F. That Skeletal Dynamics be ordered to account for and pay Acumed the total profits Skeletal Dynamics has received from the sale of products infringing the '162 patent;

G. That this case be declared exceptional pursuant to 35 U.S.C. § 285, due to willful infringement by Skeletal Dynamics, and that Acumed be awarded trebled damages and its reasonable attorneys' fees and costs; and

H. That Acumed have such other and further relief as the Court and/or a jury deems just and proper.

