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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

ACUMED LLC, a Delaware limited liability
company,

Plaintiff,

v.

ARTHREX, INC., a Delaware
corporation,

Defendant.

Case No. 3:16-cv-00243

**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 Arthrex, Inc. (“Arthrex”) is a privately held Delaware corporation, with a principal place of business and a mailing address at 1370 Creekside Boulevard, Naples, Florida 34108.

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 Arthrex 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 Arthrex’s actions are felt in this district, where Acumed’s principal place of business is located, and because Arthrex is subject to personal jurisdiction in this district.

ACUMED’S PATENT

7. Acumed owns all right, title, and interest in U.S. Patent Nos. 8,425,575 (“the ‘575 patent”), including the right to sue thereon and the right to recover for infringement thereof. The

'575 patent is titled "Bone Plate Supported by a Leg Member and Used as a Lever" and issued on April 23, 2013. A copy of the '575 patent is attached hereto as Exhibit A. The '575 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.

ARTHREX'S INFRINGING PRODUCTS

8. Arthrex is making, using, offering for sale, selling, and/or importing bone fixation systems under the name "Arthrex Wrist Plating System," including a fracture reduction tool referred to by Arthrex as a "Plate Elevator," constituting infringement of Acumed's '575 patent. A copy of a publicly available Arthrex brochure advertising the Wrist Plating System and teaching its surgical use, including the Plate Elevator and related instrumentation, is attached hereto as Exhibit B.

9. As demonstrated, for example, in Exhibit B, the Arthrex Wrist Plating System with the Plate Elevator is used to reduce wrist fractures in a manner that infringes the '575 patent, is material to practicing the invention claimed in the '575 patent, has no substantial non-infringing uses, and is especially made or especially adapted for use in a manner that infringes the '575 patent.

10. Arthrex teaches a surgical technique, including, for example, in Exhibit B, which uses the Arthrex Wrist Plating System with the Plate Elevator in a manner that infringes the '575 patent, and which actively induces infringement of the '575 patent by users of the Plate Elevator.

CAUSES OF ACTION

11. Arthrex has infringed and is infringing the '575 patent, directly and/or indirectly, by making, using, selling, offering to sell, and/or importing the Arthrex Wrist Plating System

with the Plate Elevator, and by teaching infringing uses of the Arthrex Wrist Plating System with the Plate Elevator.

12. Arthrex's infringement has been and continues to be willful.

13. 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 Arthrex's infringement.

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

15. 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 Arthrex has infringed, and is infringing, the '575 patent in violation of 35 U.S.C. § 271;

B. That Arthrex's infringement is willful;

C. That Arthrex 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 Arthrex Wrist Plating System with the Plate Elevator;

D. That Arthrex be required to deliver to Acumed for destruction any and all articles in its possession and/or under its control that infringe the '575 patent, including but not limited to the Arthrex Wrist Plating System with the Plate Elevator, components thereof, and associated packaging and advertisements;

E. That Arthrex be ordered to pay Acumed the damages that Acumed has suffered due to Arthrex's patent infringement, together with interest thereon;

