

JURISDICTION AND VENUE

3. This is a civil action for patent infringement by defendant Premier arising under the patent laws of the United States, and more specifically, under Title 35 U.S.C. §§ 271, 281, 283, 284 and 285. Jurisdiction of this court is founded upon 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, defendant Premier has transacted business, contracted to supply goods or services, and caused injury within the state of Utah, and has otherwise purposely availed itself of the privileges and benefits of the laws of the state of Utah, and is therefore subject to the jurisdiction of this court pursuant to Fed.R.Civ.P. 4(k)(1)(A) and § 78-27-24, Utah Code Ann.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b).

FIRST CLAIM

INFRINGEMENT OF U.S. PATENT NO. 6,086,855

1. U.S. Patent No. 6,086,855 (“the ‘855 patent”) issued on July 11, 2000, bearing the title “Methods for Making Scalloped Dental Trays for Use in Treating Teeth With Sticky Dental Compositions.” (Exhibit A.)

2. Ultradent is the owner by assignment of the ‘855 patent.

3. Defendant Premier has sold and continues to sell dental kits to dental professionals with instructions to practice methods for making scalloped dental trays within the scope of claims 3, 4, 9, 10, 11, 18 and 20 of the ‘855 patent without authority or license from Ultradent, and in violation of Ultradent’s rights, thereby actively inducing and contributing to infringement of those claims of the ‘855 patent.

4. On information and belief, defendant Premier has and has had actual notice of the existence of the ‘855 patent, and despite such notice continues to willfully, wantonly and

deliberately engage in acts infringing claims 3, 4 and 18 of the '855 patent without regard to the '855 patent, and will continue to do so unless otherwise enjoined by this court.

5. The amount of money damages which Ultradent has suffered due to the above-referred to acts of infringement of defendant Premier cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the '855 patent by defendant Premier is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

SECOND CLAIM

INFRINGEMENT OF U.S. PATENT NO. 6,183,251 B1

6. U.S. Patent No. 6,183,251 B1 ("the '251 patent") issued on February 6, 2001, bearing the title "Scalloped Dental Trays for Use in Treating Teeth With Sticky Dental Compositions." (Exhibit B.)

7. Ultradent is the owner by assignment of the '251 patent.

8. Defendant Premier has made and/or sold and continues to make and sell dental kits with tray material and instructions for making scalloped dental trays within the scope of claims 4 and 5 of the '251 patent without license or authority from Ultradent and in violation of Ultradent's rights, thereby actively inducing and contributing to infringement of those claims of the '251 patent.

9. On information and belief, defendant Premier has and has had actual notice of the existence of the '251 patent, and despite such notice continues to willfully, wantonly and deliberately engage in acts infringing claims 4 and 5 of the '251 patent without regard to the '251 patent, and will continue to do so unless otherwise enjoined by this court.

10. The amount of money damages which Ultradent has suffered due to the above-referred to acts of infringement of defendant Premier cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the '251 patent by defendant Premier is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

WHEREFORE, Ultradent prays:

A. For judgment holding defendant liable for infringement of claims 3, 4 and 18 of the '855 patent and claims 4 and 5 of the '251 patent;

B. For a preliminary and permanent injunction enjoining defendant, its officers, agents, servants, employers and attorneys, and all other persons in active concert or participation with defendant from further infringement of claims 3, 4 and 18 of the '855 patent and claims 4 and 5 of the '251 patent;

C. That defendant be ordered to deliver up for destruction all infringing dental kits and dental trays;

D. For an award to Ultradent of its damages, and that such damages be trebled in view of the willful and deliberate nature of defendant's infringement;

E. That this be declared an exceptional case, and that Ultradent be awarded its attorneys fees;

F. For an award of Ultradent's costs of this action; and

G. For such other and further relief as this court deems Ultradent may be entitled in law and in equity.

JURY DEMAND

Plaintiff Ultradent demands a trial by jury on all issues triable to a jury as a matter of right.

DATED this 5th day of August, 2004.

WORKMAN NYDEGGER

By Thomas R. Vuksinick

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Please see the
case file.