

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ALIMED, INC.

Plaintiff,

vs.

DIXIE USA, INC.

Defendant.

Civil Action No.

00 CV 10482 NG

**COMPLAINT FOR DECLARATORY JUDGMENT OF PATENT  
INVALIDITY, UNENFORCEABILITY, AND NON-INFRINGEMENT**

Plaintiff, AliMed, Inc. ("AliMed"), alleges:

1. AliMed is a Massachusetts corporation having a principal place of business at 297 High Street, Dedham, MA 02026.

2. On information and belief, defendant, Dixie USA, Inc. ("Dixie"), is a corporation having a principle place of business at 7888 Amelia Road, Houston, Texas 77855 and transacts and does business in this district.

3. On information and belief, Dixie is the owner of United States Design Patent No. Des. 329,216 ('216 patent) entitled "Patient Mover or Backboard," issued September 8, 1992, a copy of which is attached hereto as Exhibit A.

4. This is an action for declaratory judgment under 28 U.S.C. §2201(a) and §2202 that products sold by AliMed do not infringe the '216 patent and that the '216 patent is invalid

RECEIPT # 20950  
AMOUNT \$12.00  
SUMMARY OF FEES  
LOCAL REPLY \$1.00  
VALUE OF FEES \$1.00  
TOTAL \$13.00  
DATE 3-14-00

1

and unenforceable. The Court has jurisdiction under 28 U.S.C. §1338 (a). The amount in controversy exceeds \$75,000 (seventy five thousand dollars).

5. On February 29, 2000, Dixie, through its attorneys, sent a letter to AliMed at Dedham Massachusetts that charged AliMed with infringement of the '216 patent by sale of certain "patient shifters." Specifically, Dixie charged AliMed "patient shifters" having serial numbers #MC9-182, #MC9-076, #MC9-719, and #MC9-077 (referred to in an AliMed catalogue, see Exhibit B), which "patient shifters" have substantially the same appearance as "patient shifters" sold by AliMed at least as early as 1987, of infringing the '216 patent. As a result, an actual controversy exists between the parties with respect to the validity, enforceability and infringement of the '216 patent.

6. AliMed denies that any of its products infringe any valid claim of the '216 patent.

7. AliMed alleges that the '216 patent is invalid as not being proper subject matter for a design patent at least because the '216 patent is functional at any possible point of novelty.

8. AliMed alleges that the '216 patent is invalid for failure to meet the conditions of patentability of 35 U.S.C. §§ 102 and 103 at least because the alleged invention is anticipated by, taught by, suggested by, and/or obvious in view of, the prior art.

9. On information and belief, AliMed further alleges that the '216 patent is invalid and/or unenforceable because Dixie committed inequitable conduct in procuring the '216 patent by failing to disclose to the United States Patent and Trademark Office (PTO) material information related to Dixie's own, and others, prior commercialization, patents, sales, and use

-3-

of the patented product more than one year before the filing date of the '216 patent application, and such information was withheld with an intent to deceive the PTO. Dixie itself sold substantially the same "patient shifters" as covered by the '216 patent more than one year before the filing of the '216 patent.

10. AliMed further alleges that Dixie is barred from recovering past profits, past damages, or any other relief due to laches because Dixie's delay in bringing suit on the '216 patent was unreasonable and inexcusable and AliMed will suffer material prejudice attributable to the delay. AliMed relied on a settlement with Dixie in 1993 of intellectual property rights violations alleged by Dixie against AliMed resulting in AliMed changing its marketing position but retaining rights to make "patient shifters" substantially as referred to in Paragraph 5 hereof. Laches attaches in this instance because Dixie knew or should have known of AliMed's allegedly infringing activity no later than July 1, 1993, at which time Dixie accused AliMed of infringing its intellectual property rights.

11. AliMed repeats the allegations of Paragraph 10 and further alleges that Dixie is barred by the principle of equitable estoppel from enforcing the '216 patent because Dixie's prior statements and conduct more than six years ago and thereafter, on information and belief intentionally misled AliMed into reasonably believing that Dixie did not intend to ever enforce the '216 patent against AliMed "patient shifters" of the type referred to in Paragraph 5. AliMed relied on Dixie's statements or conduct beginning in at least 1993 and thereafter. Due to its reliance, AliMed will be materially prejudiced if Dixie is allowed to proceed with its claim.

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12. As a result of the conduct described in the foregoing Paragraphs 5-11, Dixie has misused the '216 patent and is barred from asserting the '216 patent, which Dixie knew or should have known is invalid and/or unenforceable, under the doctrine of patent misuse.

EXCEPTIONAL CASE

13. AliMed is informed and believes and thereupon alleges that this is an exceptional case warranting an award of attorneys fees to it under 35 U.S.C. §285.

WHEREFORE, AliMed prays:

- A. For entry of judgment that AliMed does not infringe the '216 patent;
- B. For entry of judgment that the '216 patent is invalid;
- C. For entry of judgment that the '216 is invalid and unenforceable because of Dixie's inequitable conduct in procuring the '216 patent;
- D. For entry of judgment that Dixie is barred by the doctrine of patent misuse from asserting the invalid or unenforceable '216 patent;
- E. For entry of judgment that Dixie is barred by laches from recovering past damages, past profits other relief;
- F. For entry of judgment that Dixie is barred by equitable estoppel from enforcing the '216 patent against AliMed or recovering damages, profits or other relief;

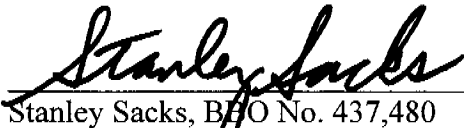
-5-

G. For entry of judgment awarding AliMed its attorneys' fees pursuant to 35 U.S.C. §285 and/or the general power of the court; and

H. For entry of judgment granting AliMed costs and such other and further relief as the Court may deem proper.

Dated: March 14, 2000

AliMed, Inc.



Stanley Sacks, BBO No. 437,480  
Matthew B. Lowrie, BBO No. 563,414  
M. Brad Lawrence, BBO No. 641,400  
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US00D329216S

**United States Patent** [19]

Beeley et al.

[11] **Patent Number:** **Des. 329,216**[45] **Date of Patent:** **\*\* Sep. 8, 1992**[54] **PATIENT MOVER OR BACKBOARD**[75] **Inventors:** **Robert A. Beeley; Brenda K. Oswalt,**  
both of Tomball, Tex.[73] **Assignee:** **Dixie U.S.A., Inc., Houston, Tex.**[\*\*] **Term:** **14 Years**[21] **Appl. No.:** **609,667**[22] **Filed:** **Nov. 5, 1990**[52] **U.S. Cl. .... D12/128; D24/183**[58] **Field of Search .... D12/128, 133; D24/183,**  
**D24/184; 5/81 R, 81 C, 81 B, 82 R**[56] **References Cited****U.S. PATENT DOCUMENTS**4,283,068 8/1981 Keyser ..... 5/82 R  
4,369,982 1/1983 Hein et al. .... 5/82 R**FOREIGN PATENT DOCUMENTS**

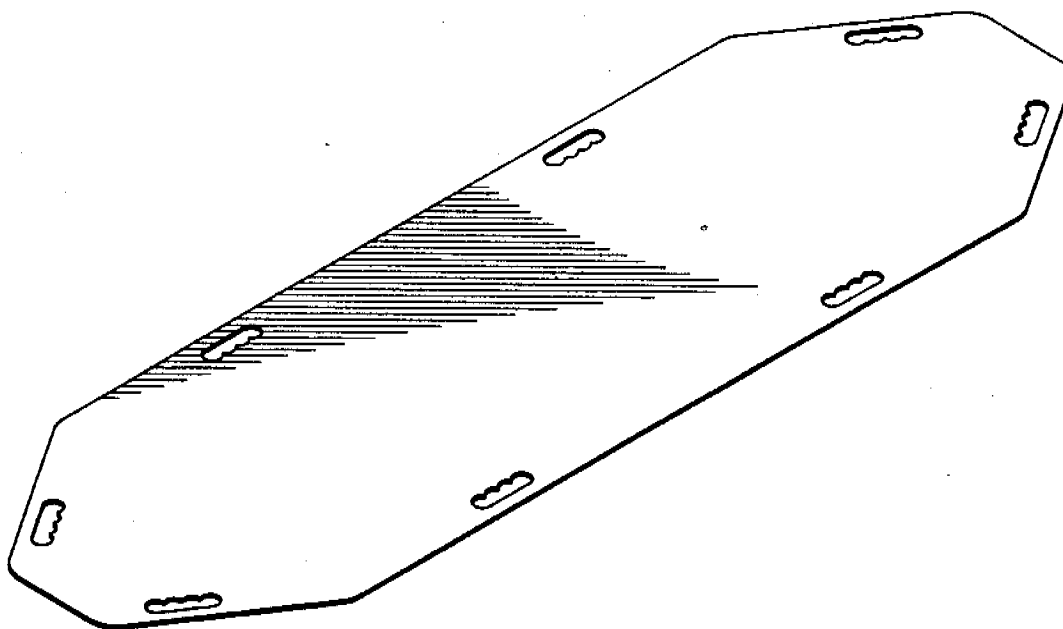
2212401 7/1989 United Kingdom ..... 5/82 R

*Primary Examiner*—Kay H. Chin*Attorney, Agent, or Firm*—Fay E. Morisseau, II; Leslie  
Clark[57] **CLAIM**

The ornamental design for a patient mover or backboard, as shown and described.

**DESCRIPTION**

FIG. 1 is a top perspective view of a patient mover or backboard showing our new design;  
 FIG. 2 is a top plan view thereof, the bottom plan view being a mirror image of that shown;  
 FIG. 3 is a front elevational view thereof, the rear elevational view being a mirror image of that shown; and,  
 FIG. 4 is a side elevational view thereof, the opposite side elevational view being a mirror image of that shown.

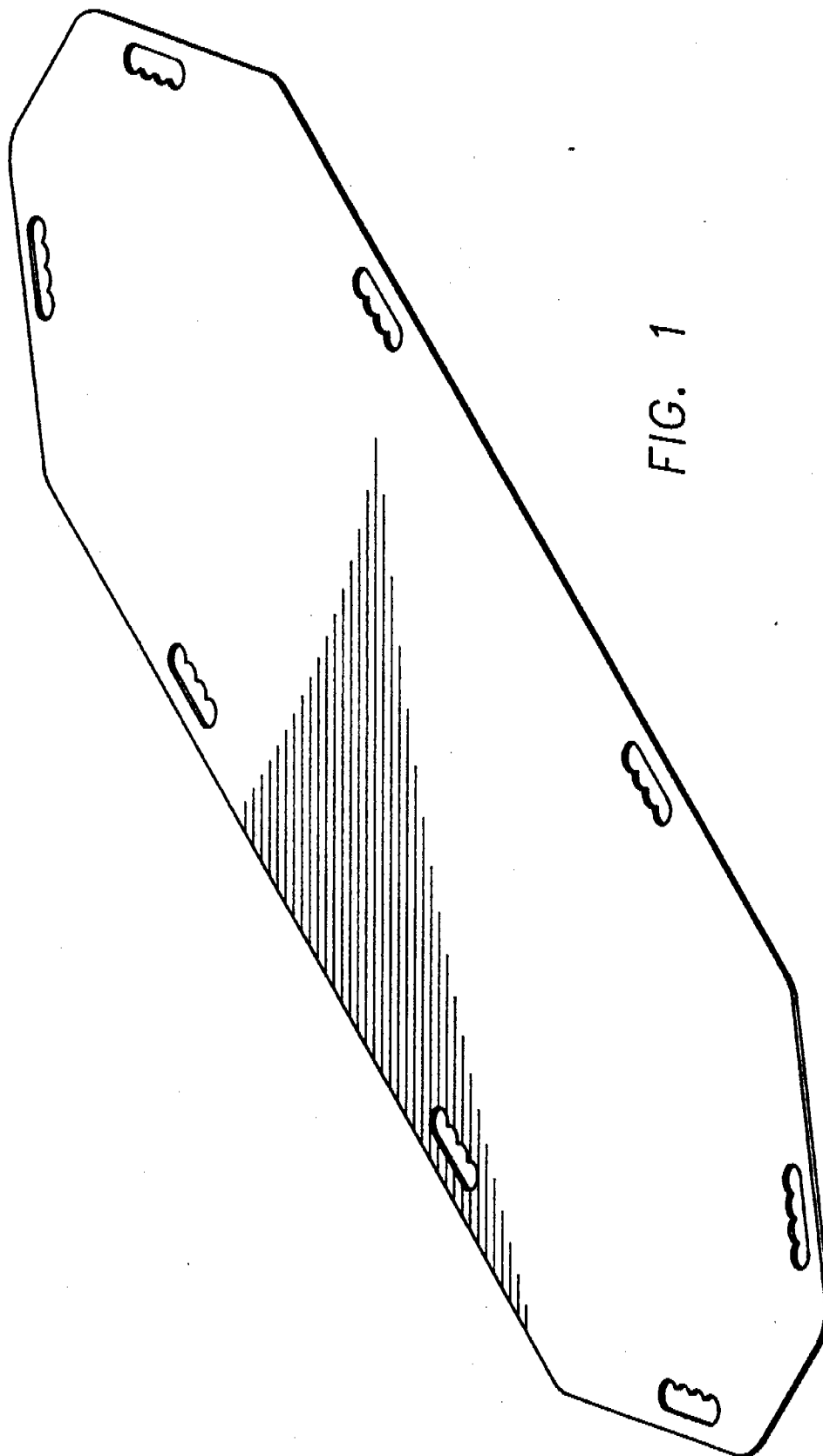


**U.S. Patent**

**Sep. 8, 1992**

**Sheet 1 of 2**

**Des. 329,216**



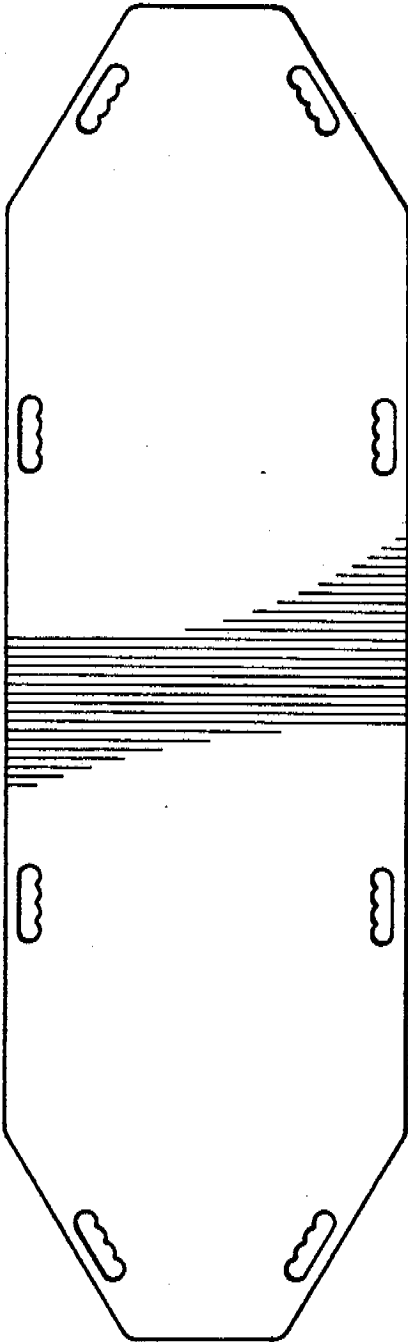
**FIG. 1**

**U.S. Patent**

**Sep. 8, 1992**

**Sheet 2 of 2**

**Des. 329,216**



*FIG. 2*

*FIG. 3*

*FIG. 4*



# dealer guide

1997-1998

- *New low pricing!*
- *Dedicated customer service for dealers*
- *Special mailings and broadcast faxes for dealers only—bringing the best deals and most up-to-date product information*



**AliMed®**

297 High Street.  
Dedham, MA 02026

<http://www.alimed.com>

**Easier for you!** 1:00-cv-104

Our new Shipping Rate Table makes your purchasing process easier. We are dedicated to providing you with continuous improvements and increased customer satisfaction.

***A few benefits include:***

- *No small order charge*
- *Instant freight quotations*
- *No additional freight on back orders*

### Ground (UPS, RPS, Postal)

Merchandise value	Shipping, handling & insurance	
	Inside continental US	Outside continental US* and Canada
\$ 0-\$49.99	\$ 8.35	\$20.75
50-99.99	9.85	24.50
100-149.99	11.35	28.25
150-199.99	12.35	30.75
200-249.99	13.60	33.75
250-499.99	14.85	37.00
500+	16.60	41.25

For COD orders, add \$7.50 to above rates.  
For 2nd Day Air, add \$10 to above rates.  
For Next Day Air and Saturday delivery,  
add \$15 to above rates.  
See inside front cover for truck shipments.

*\*Shipments to HI and AK are sent by 2nd Day Air, unless otherwise requested. International shipments (except Canada) are sent Freight Collect and require a \$100.00 (US) minimum order.*

*To place an order,  
call toll free 800-665-2000.*

***To fax an order, use our  
24-hour fax 800-437-2966.***

## TO ORDER

## ■ MAIL

**AliMed® inc.**

Order Department

297 High St., Dedham, MA 02026-9135

■ PHONE 800-665-2000

8:00<sub>AM</sub>-8:00<sub>PM</sub> ET, Mon.-Fri.

■ 24-HOUR FAX 800-437-2966

**CHARGE IT**   

By phone, fax or mail. Please see our new Shipping Rate Table for exact charges.

## ■ QUESTION OR RETURN?

Customer Service, ext. 6901



**AliMed® inc.**

297 High Street

Dedham, MA 02026-9135



***Copy this order form!***

Company Name \_\_\_\_\_ Cust. # \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Ordered By (your name) \_\_\_\_\_

Phone # ( ) \_\_\_\_\_ Fax # ( ) \_\_\_\_\_ P.O. # \_\_\_\_\_

Payment Type: ☐ Check Enclosed ☐ MasterCard ☐ VISA ☐ Amex ☐ Invoice

Card # \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Shipping address if different: \_\_\_\_\_

[illegible]

## Shipping

Total

*See inside front cover for AliMed ordering information.*

BULK RATE  
U.S. POSTAGE

PAID

**AliMed<sup>®</sup> inc.**

## These cost less! ▶

- *Lightweight*
- *Radiolucent*
- *Artifact free*
- *Slip coating ensures easy slide*
- *Antistatic treated*

### Standard Antistat Shifter

slides easily on a bed sheet or stretcher pad, thanks to the near friction-free surface. Special slip coating prevents the patient from sticking to the mover during transfers and results in less static buildup. No more wrenching pulls. No more back strains.

Thin,  $\frac{3}{16}$ " thick, warp resistant, smooth polyethylene board has convenient hand holes for positioning. Uneven transfers are a breeze—the semirigid board bridges uneven gaps.

Radiolucent and artifact-free, the shifter can be left in place during X-ray procedures and minor surgery.

Choose **22"W Standard Width** for shifting patients from bed to stretcher to table. 9 lbs.

Choose **18"W Narrow Width** for close quarters.  $7\frac{3}{4}$  lbs.



## ◀ This can't shock!

- *Simply cannot build charge*
- *Radiolucent*
- *Artifact free*
- *Can't affect delicate electronics*

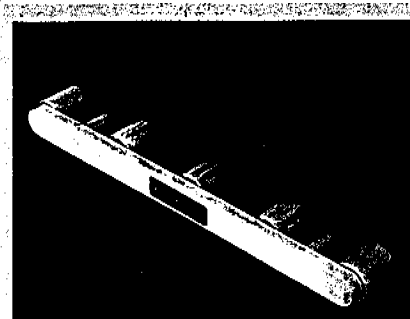
### Conductive Shifters

Surprise zaps aren't just painful and dangerous for patients—they can jeopardize and down

expensive electronic equipment.

Conductive Shifter is made from carbon-filled plastic, which actually conducts electricity. It's not simply treated with an antistat product to reduce static. Static charges can't build up on a conductive surface, so there are no more painful shocks... ever...**GUARANTEED!**

Try AliMed's Conductive Shifter. We're sure you will be happy with it at all times. If not, just call us. We'll pick it up and refund you 100% of the purchase price. Or, if you simply feel it is no better than a standard shifter, call us and we will refund you the difference in cost and you can keep the conductive shifter. (Not a single customer has asked for either refund. We're confident in your complete satisfaction!)



## Rollers transfer patients

1. Tilt patient



2. Slip roller under



3. Transfer patient



4. Remove roller



• *Greatly reduces the risk of back injuries in hospital personnel*

• *Ball bearing rollers*

• *Durable covers*

**Patient Transfer Device** lets one or two persons effortlessly move a dependent patient from one surface to another, even up a height of 3" (from a bed to an uneven stretcher), without lifting, pulling or disrupting sheeting. Long-lasting and trouble-free aluminum rollers with steel ball bearings and a heavy-duty cover. Clean with soap and water or disinfectant.

#MC9-254 Sh., 25"L x 14"W, 5.8 lbs.

#MC9-729 Med., 30"L x 14"W, 6.3 lbs.

#MC9-728 Lg., 67"L x 14"W, 13 lbs.

**Replacement Covers** fit every roller on the market (except Spenco).

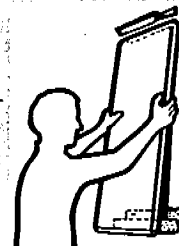
#MC9-209 Short for #9-254, 25" x 15"

#MC9-478 Medium for #9-729, 30" x 15"

#MC9-477 Long for #9-728, 67" x 15"

### Patient Transfer Device Rack

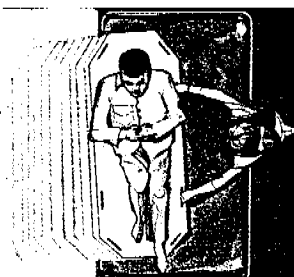
fits all models. Two-piece set screws into wall. Top bracket: 7"L x  $1\frac{1}{8}$ " thick. Bottom bracket:  $9\frac{1}{4}$ "L x  $1\frac{1}{4}$ " thick.



#MC9-721 Transfer Device Rack

## You decide which shifter is best for you!

	Description	Color	Width	Length
#MC9-182	Conductive	Black	22"	72"
#MC9-076	Standard Antistat	Aqua	22"	72"
#MC9-719	Standard Antistat	White	22"	72"
#MC9-077	Narrow Antistat	Aqua	18"	72"



*Patients glide during transfer—lightweight shifter slips easily under patient*

## Sheet transfers...sitting or supine

**Sheet Transfer System** transfers patients in any position—even upright, with an epidural catheter or spinal anesthetic.

- Smooth and flexible—makes clean and soiled sheet transfers effortless
- Lightweight—a mere 7.8 oz.—easy to handle
- Compact 33"L x 22"W size for easy storage and transport

Hang a dedicated slide in every room with the convenient adhesive hook. No tools required. Latex free. White. Radiolucent. Stain resistant. Cleans with hospital-approved disinfectant.

#MC91-657 Schure Slide

Request free instructional video #MC91-658 with your order.

Patent #5,511,225



*Priced low so you can equip every room.*



*Tilt patient up and insert slide.*



*Glide patient over slide.*



*Remove slide, lower patient.*

JS 44  
(Rev. 11/95)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
ALIMED, INC.

**DEFENDANTS**  
DIXIE USA, INC.

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF** NORFOLK  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**  
STANLEY SACKS (Bar # 437,480) (617) 720-3500  
WOLF, GREENFIELD & SACKS, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210

ATTORNEYS (IF KNOWN)

00 cv 10482 NG

**I. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**V. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC/Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

This is an action for declaratory judgment under 28 U.S.C §2201(a) and §2202 that products sold by AliMed do not infringe U.S. Patent Number Des. 329,216 and that such patent is invalid and unenforceable

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

**VIII. RELATED CASE(S)** (See instructions):  
IF ANY

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

March 14, 2000

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

## DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) ALIMED, INC. v. DIXIE USA, INC.
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).
- \_\_\_ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- X II. 195, 368, 400, 440, 441-444, 510, 515, 615, 710, 720, 730, 740, 790, 791, 820, 830, 840, 850, 890, 892-894, 895, 950.
- \_\_\_ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- \_\_\_ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- \_\_\_ V. 150, 152, 153.
3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).
4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?
- NO
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST?
- NO
- IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? (SEE 28 USC 2403)
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284?
- NO
7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C)). NO OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? - (SEE LOCAL RULE 40.1(D)).
- NO
8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? NO (a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE?
9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? EASTERN
10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL SECTION
- N/A OR WESTERN SECTION N/A

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME STANLEY SACKS

ADDRESS WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE, BOSTON, MA 02210

TELEPHONE NO. 617-720-3500

**00cv 10482 NG**

# Wolf, Greenfield & Sacks, P.C.

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600 Atlantic Avenue  
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Tel +1 617-720-3500  
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## BY HAND

March 14, 2000

00 cv 10482 NG

Clerks Office  
United States District Court  
For the District of Massachusetts  
U.S. Courthouse  
One Courthouse Way  
Boston, MA 02210

## Alimed, Inc. v. Dixie USA, Inc.

Dear Sir or Madam:

Enclosed is a complaint to be filed in reference to the above captioned matter. I have included a \$150.00 check to cover the filing fee. Please time and date stamp the copy and return to the courier.

If you have any questions, please do not hesitate to phone me at 617-720-3500.

Very truly yours,

*Eileen G. Sebestyen*  
Eileen G. Sebestyen  
Paralegal