

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IVOCLAR VIVADENT AG,

Plaintiff,

v.

Civil No. _____

HEANY INDUSTRIES, INC.

Defendant.

COMPLAINT

Ivoclar Vivadent AG (“Ivoclar”), for its Complaint against Heany Industries, Inc. (“Heany”), alleges as follows:

The Parties

1. Ivoclar is a Liechtenstein company with a principal place of business at Bendererstrasse 2, 9494 Schaan, Liechtenstein. It is a leading developer and supplier of dental products around the world. Ivoclar’s subsidiary, Ivoclar Vivadent, Inc., has a principal place of business at 175 Pineview Drive, Amherst, NY 14228, which is within this judicial district.

2. Heany is a New York corporation with a principal place of business at 249 Briarwood Lane, Scottsville, NY 14546. Heany manufactures and sells ceramics products, including certain dental products, for distribution throughout the United States, including New York.

Jurisdiction and Venue

3. This is a patent infringement action brought under the patent laws of the United States, 35 U.S.C. Section 101, *et seq.*, including 35 U.S.C. Section 271.

4. Ivoclar seeks damages for patent infringement and an injunction preventing Heany from making, using, selling, or offering to sell, and from inducing others to make, use, sell, or offer to sell, Ivoclar's patented technology without Ivoclar's permission.

5. This Court has subject matter jurisdiction under 28 U.S.C. Sections 1331 and 1338(a).

6. This Court has personal jurisdiction over Heany because Heany is a New York corporation with a principal place of business in New York and because Heany regularly does and solicits business in New York and in this judicial district. Heany has sold and/or offered to sell products that infringe the asserted patent, as alleged below, in New York and in this judicial district. Heany also manages and controls a website that markets the infringing products for sale to customers, including those residing in New York and in this judicial district.

7. Venue in this district is proper under 28 U.S.C. Sections 1400 and 1391 because Heany is subject to personal jurisdiction in this district. Heany has committed acts of infringement in this district.

First Claim for Patent Infringement
(Infringement of the '759 Patent)

8. Ivoclar repeats and realleges the allegations set forth in paragraphs 1 through 7.

9. U.S. Patent No. 7,604,759, entitled “Process for Producing Dental Prostheses” (the “’759 Patent”), issued on October 20, 2009. A copy of the ’759 Patent is attached as **Exhibit 1**.

10. Ivoclar is the owner by assignment of all right, title, and interest in the ’759 Patent.

11. Heany has infringed and continues to infringe the ’759 Patent by making, using, selling, and/or offering for sale, in this district and elsewhere, disks or blanks for producing dental prostheses, including but not limited to, Heany’s “Luxisse” product line.

12. Ivoclar informed Heany that Heany’s products and processes infringe the ’759 Patent. With knowledge of the ’759 Patent, and after receiving Ivoclar’s admonitions regarding infringement, Heany continued to infringe the ’759 Patent.

13. Heany’s actions in infringing the ’759 Patent have been, and continue to be, willful, deliberate, and/or in conscious disregard of the rights of Ivoclar, making this an exceptional case within the meaning of 35 U.S.C. Section 285.

14. As a result of Heany’s infringing activities, Ivoclar has sustained

damages in an amount to be proven at trial.

15. Heany will continue its infringing activities unless and until it is restrained and enjoined by this Court.

16. Heany's infringing activities have caused, and will continue to cause, Ivoclar irreparable harm for which there is no adequate remedy at law.

Jury Demand

17. Ivoclar demands trial by jury on all matters triable by jury.

WHEREFORE, Ivoclar is entitled to judgment for the following relief:

(1) declaring that Heany has infringed one or more claims of the '759 Patent;

(2) granting an injunction, under 35 U.S.C. Section 283, preliminarily and permanently enjoining Heany, its officers, directors, agents, servants, employees, attorneys, subsidiaries, affiliates, and all those acting in concert with or under or through them, from making, using, selling, and/or offering for sale any systems or products that infringe one or more claims of the '759 Patent, or otherwise directly or indirectly committing further acts of infringement of that Patent;

(3) ordering an accounting for damages arising from Heany's acts of infringement;

(4) awarding damages, including treble damages, under 35 U.S.C. Sections 284 and 285, with interest;

(5) finding that Heany's infringement is willful, that this is an exceptional case, and awarding reasonable attorneys' fees to Ivoclar under 35 U.S.C. Section 285; and

(6) awarding such further relief as this Court deems proper.

Dated: April 17, 2015

HODGSON RUSS LLP
Attorneys for Ivoclar Vivadent AG

By: s/Robert J. Fluskey, Jr.
Robert J. Fluskey, Jr.
rfluskey@hodgsonruss.com
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
Telephone: (716) 856-4000