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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 SANTA ANA DIVISION  
12

13 CHILDREN ORAL CARE, LLC,

14 Plaintiff,

15 v.

16 ASHTEL DENTAL INC.; ASHTEL  
17 STUDIOS, INC; and DOES 1-10,

18 Defendants.

Case No. 8:15-cv-01740-SJO-DFM

The Honorable S. James Otero

**FIRST AMENDED COMPLAINT  
FOR DAMAGES AND  
INJUNCTIVE RELIEF (PATENT  
INFRINGEMENT); DEMAND  
FOR JURY TRIAL**

19  
20 Plaintiff Children Oral Care, LLC (“Children Oral Care”) brings this  
21 Complaint against Defendant Ashtel Dental Inc. (“Ashtel”) and states as follows:  
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**THE PARTIES & JURISDICTION**

23 1. This is an action for patent infringement arising under the laws of the  
24 United States, 35 U.S.C. §§ 1 et seq., and more particularly, 35 U.S.C. §§ 271 and  
25 281. This Court has subject matter jurisdiction over this matter pursuant to 28  
26 U.S.C. § 1331 (Federal Question) and § 1338(a) (Patent).

27 2. Plaintiff Children Oral Care, LLC is a limited liability corporation  
28

1 organized under the laws of the State of Delaware and has its principal place of  
2 business in this District at 6645 Caballero Boulevard, Buena Park, California  
3 90620.

4 3. On information and belief, defendants Ashtel Dental Inc. and Ashtel  
5 Studio, Inc (collectively, "Ashtel") are California Corporations with their principal  
6 places of business in this District at 7950 Cherry Avenue, Suite 103, Fontana,  
7 California 92336. Plaintiff does not know the true names and capacities of  
8 defendants Does 1-10, inclusive, and therefore sues such defendants by fictitious  
9 names. Plaintiff is informed and believes, and thereon allege, that each fictitiously  
10 named defendant is in some manner responsible for the claims and causes of action  
11 alleged herein and that the acts or omissions of said fictitious defendants  
12 proximately caused damage and other harm alleged in this complaint. When  
13 plaintiff ascertains the actual names and capacities of Does 1-10, it will amend this  
14 complaint name such defendants by their true names.

15 4. Upon information and belief, this Court has personal jurisdiction over  
16 Ashtel because Ashtel has an office, has transacted business and has committed  
17 infringing acts within California and this District by the acts complained of herein.

18 5. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and  
19 § 1400(b) because Ashtel resides within this District.

#### 20 **THE PATENTS-IN-SUIT**

21 6. U.S. Patent No. 9,084,473 ("the '473 Patent") is entitled "Illuminated  
22 Flashing Toothbrush and Method of Use." The '473 Patent was duly issued by the  
23 United States Patent and Trademark Office on July 21, 2015. A true and correct  
24 copy of the '473 Patent is attached as **Exhibit A** to this Complaint.

25 7. U.S. Patent No. 9,060,596 ("the '596 Patent") is entitled "Illuminated  
26 Flashing Toothbrush and Method of Use." The '596 Patent was duly issued by the  
27 United States Patent and Trademark Office on June 23, 2015. A true and correct  
28 copy of the '596 Patent is attached as **Exhibit B** to this Complaint.

1           8.     U.S. Patent No. 8,707,500 (“the ’500 Patent”) is entitled “Illuminated  
2 Flashing Toothbrush and Method of Use.” The ’500 Patent was duly issued by the  
3 United States Patent and Trademark Office on April 29, 2014. A true and correct  
4 copy of the ’500 Patent is attached as **Exhibit C** to this Complaint.

5           9.     U.S. Patent No. 8,561,244 (“the ’244 Patent”) is entitled “Illuminated  
6 Flashing Toothbrush and Method of Use.” The ’244 Patent was duly and legally  
7 issued by the United States Patent and Trademark Office on October 22, 2013. A  
8 true and correct copy of the ’244 Patent is attached as **Exhibit D** to this Complaint.

9           10.    Children Oral Care is the assignee possessing all substantial right, title  
10 and interest in the ’473 Patent, the ’596 Patent, the ’500 Patent and the ’244 Patent.  
11 Accordingly, Children Oral Care has standing to sue for infringement of the ’473  
12 Patent, the ’596 Patent, the ’500 Patent and the ’244 Patent.

13           11.    Dr. Fresh, Children Oral Care’s affiliated company, sells personal care  
14 products including toothbrushes, mouthwash, and other oral care products. Among  
15 Dr. Fresh’s products are light-up timer toothbrushes for children. These brushes  
16 have a button that, when pressed, causes the brush to light up.

17           12.    On information and belief, Ashtel is selling, offering for sale,  
18 manufacturing, and/or importing in this District toothbrushes that light up when a  
19 button on the handle of the brush is pressed. On information and belief, Ashtel  
20 sells these toothbrushes via its website ([www.brushbuddies.com](http://www.brushbuddies.com)) and to other  
21 distributors and/or retailers. On information and belief, Ashtel’s accused  
22 toothbrushes are sold in the United States under the name “Brush Buddies  
23 Shopkins” and “Brush Buddies BriteBeatz”. True and correct photographs of  
24 exemplars of these brushes are attached hereto as **Exhibit E** and **Exhibit F**.

25                           **Count I – Patent Infringement of the ’473 Patent**

26           13.    Children Oral Care restates and incorporates by reference the  
27 allegations in paragraphs 1 through 12 of the Complaint as if fully set forth herein.

28           14.    Ashtel has notice of the infringement alleged herein, including by

1 virtue of the filing of this Complaint.

2 15. On information and belief, Ashtel, by itself, and through its parents,  
3 subsidiaries, affiliates and/or agents, has been, and is, infringing the '473 Patent by  
4 manufacturing, importing, selling and/or offering to sell in this District and  
5 elsewhere in the United States toothbrushes that light up when a button on the  
6 handle is pressed, including the "Brush Buddies Shopkins" toothbrush shown in  
7 **Exhibit E** and the "Brush Buddies BriteBeatz" toothbrush shown in **Exhibit F**.

8 16. The toothbrushes shown in **Exhibit E** and **Exhibit F** have been and  
9 continue to be on-sale in this District. One or both of these products infringe at  
10 least claims 1 and 15 of the '473 Patent. Unless enjoined by the Court, Ashtel will  
11 continue to infringe the '473 Patent.

12 17. By reason of Ashtel's infringement, Children Oral Care has suffered  
13 and is suffering damages, including lost profits in an amount to be proved at trial.

14 18. Ashtel's acts of infringement are causing irreparable harm to Children  
15 Oral Care and will continue to cause irreparable harm unless enjoined by this Court.

16 19. Upon information and belief, Ashtel's infringement of the '473 Patent  
17 has been willful and deliberate, rendering this case "exceptional" within the  
18 meaning of 35 U.S.C. § 285.

19 **Count II – Patent Infringement of the '596 Patent**

20 21. Children Oral Care restates and incorporates by reference the  
21 allegations in paragraphs 1 through 12 of the Complaint as if fully set forth herein.

22 22. Ashtel has notice of the infringement alleged herein, including by  
23 virtue of the filing of this Complaint.

24 23. On information and belief, Ashtel, by itself, and through its parents,  
25 subsidiaries, affiliates and/or agents, has been, and is, infringing the '596 Patent by  
26 manufacturing, importing, selling and/or offering to sell in this District and  
27 elsewhere in the United States toothbrushes that light up when a button on the  
28 handle is pressed, including the "Brush Buddies Shopkins" toothbrush shown in

1 **Exhibit E** and the “Brush Buddies BriteBeatz” toothbrush shown in **Exhibit F**.

2 24. The toothbrushes shown in **Exhibit E** and **Exhibit F** have been and  
3 continue to be on-sale in this District. One or both of these products infringe at  
4 least claim 8 of the ’596 Patent. Unless enjoined by the Court, Ashtel will continue  
5 to infringe the ’596 Patent.

6 25. By reason of Ashtel’s infringement, Children Oral Care has suffered  
7 and is suffering damages, including lost profits in an amount to be proved at trial.

8 26. Ashtel’s acts of infringement are causing irreparable harm to Children  
9 Oral Care and will continue to cause irreparable harm unless enjoined by this Court.

10 27. Upon information and belief, Ashtel’s infringement of the ’596 Patent  
11 has been willful and deliberate, rendering this case “exceptional” within the  
12 meaning of 35 U.S.C. § 285.

13 **Count III – Patent Infringement of the ’500 Patent**

14 29. Children Oral Care restates and incorporates by reference the  
15 allegations in paragraphs 1 through 12 of the Complaint as if fully set forth herein.

16 30. Ashtel has notice of the infringement alleged herein, including by  
17 virtue of the filing of this Complaint.

18 31. On information and belief, Ashtel, by itself, and through its parents,  
19 subsidiaries, affiliates and/or agents, has been, and is, infringing the ’500 Patent by  
20 manufacturing, importing, selling and/or offering to sell in this District and  
21 elsewhere in the United States toothbrushes that light up when a button on the  
22 handle is pressed, including the “Brush Buddies Shopkins” toothbrush shown in  
23 **Exhibit E** and the “Brush Buddies BriteBeatz” toothbrush shown in **Exhibit F**.

24 32. The toothbrushes shown in **Exhibit E** and **Exhibit F** have been and  
25 continue to be on-sale in this District. One or both of these products infringe at  
26 least claim 13 of the ’500 Patent. Unless enjoined by the Court, Ashtel will  
27 continue to infringe the ’500 Patent.

28 33. By reason of Ashtel’s infringement, Children Oral Care has suffered

1 and is suffering damages, including lost profits in an amount to be proved at trial.

2 34. Ashtel's acts of infringement are causing irreparable harm to Children  
3 Oral Care and will continue to cause irreparable harm unless enjoined by this Court.

4 35. Upon information and belief, Ashtel's infringement of the '500 Patent  
5 has been willful and deliberate, rendering this case "exceptional" within the  
6 meaning of 35 U.S.C. § 285.

7 **Count IV – Patent Infringement of the '244 Patent**

8 37. Children Oral Care restates and incorporates by reference the  
9 allegations in paragraphs 1 through 12 of the Complaint as if fully set forth herein.

10 38. Ashtel has notice of the infringement alleged herein, including by  
11 virtue of the filing of this Complaint.

12 39. On information and belief, Ashtel, by itself, and through its parents,  
13 subsidiaries, affiliates and/or agents, has been, and is, infringing the '244 Patent by  
14 manufacturing, importing, selling and/or offering to sell in this District and  
15 elsewhere in the United States toothbrushes that light up when a button on the  
16 handle is pressed, including the "Brush Buddies Shopkins" toothbrush shown in  
17 **Exhibit E** and the "Brush Buddies BriteBeatz" toothbrush shown in **Exhibit F**.

18 40. The toothbrushes shown in **Exhibit E** and **Exhibit F** have been and  
19 continue to be on-sale in this District. One or both of these products infringe at  
20 least claims 1 and 6 of the '244 Patent. Unless enjoined by the Court, Ashtel will  
21 continue to infringe the '244 Patent.

22 41. By reason of Ashtel's infringement, Children Oral Care has suffered  
23 and is suffering damages, including lost profits in an amount to be proved at trial.

24 42. Ashtel's acts of infringement are causing irreparable harm to Children  
25 Oral Care and will continue to cause irreparable harm unless enjoined by this Court.

26 43. Upon information and belief, Ashtel's infringement of the '244 Patent  
27 has been willful and deliberate, rendering this case "exceptional" within the  
28 meaning of 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, Children Oral Care prays for:

A. Judgment that Ashtel has infringed U.S. Patent No. 9,084,473;

B. Judgment that Ashtel has infringed U.S. Patent No. 9,060,596;

C. Judgment that Ashtel has infringed U.S. Patent No. 8,707,500;

D. Judgment that Ashtel has infringed U.S. Patent No. 8,561,244;

E. Judgment that Ashtel's acts of patent infringement are willful;

F. An award of damages for infringement of U.S. Patent No. 9,084,473 in an amount to be determined at trial;

G. An award of damages for infringement of U.S. Patent No. 9,060,596 in an amount to be determined at trial;

H. An award of damages for infringement of U.S. Patent No. 8,707,500 in an amount to be determined at trial;

I. An award of damages for infringement of U.S. Patent No. 8,561,244 in an amount to be determined at trial;

J. An award of treble damages because of Ashtel's willful infringement of the '473 Patent, the '596 Patent, the '500 Patent and the '244 Patent, in accordance with 35 U.S.C. § 285;

K. An assessment of pre-judgment and post-judgment interest and costs against Ashtel, together with an award of such interests and costs, all in accordance with 35 U.S.C. § 284;

L. A permanent injunction prohibiting Ashtel and its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, from further infringement of the '473 Patent, the '596 Patent, the '500 Patent and the '244 Patent;

M. Judgment that this is an exceptional case under 35 U.S.C. § 285 and awarding Children Oral Care its reasonable attorneys' fees;

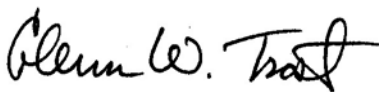
N. Costs of suit; and

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O. Such other relief as the Court deems just and proper.

Dated: November 18, 2015

SNELL & WILMER L.L.P.

By: 

Glenn W. Trost  
Ketan S. Vakil

Attorneys for Plaintiff  
CHILDREN ORAL CARE, LLC



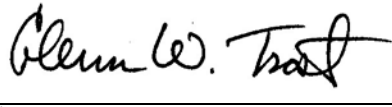
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**DEMAND FOR JURY TRIAL**

Children Oral Care demands trial by jury of all issues triable by a jury.

Dated: November 18, 2015

SNELL & WILMER L.L.P.

By: 

Glenn W. Trost  
Ketan S. Vakil

Attorneys for Plaintiff  
CHILDREN ORAL CARE, LLC