

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

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JEFFORY D. FREED, HERBERT O.  
DIXON, JR., BURTON D. JOHNSON,  
JONATHAN F. FREED,

Plaintiffs,

vs.

BAGEL LABS, INC.,

Defendants

Civil Action No. 4:16-cv-499

**JURY TRIAL DEMANDED**

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**COMPLAINT**

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Plaintiff, Jeffory D. Freed, Herbert O. Dixon, Jr., Burton D. Johnson, Jonathan F. Freed (hereinafter “Freed et al.” or “Plaintiffs”), by and through its undersigned attorneys for its Complaint against Defendant, Bagel Labs, Inc. (hereinafter “Bagel Labs” or “Defendant”), alleges as follows:

PARTIES

1. Jeffory D. Freed is an individual having a principal residence in West Des Moines, Iowa.
2. Herbert O. Dixon, Jr. is an individual having a principal residence in Adel, Iowa.
3. Burton D. Johnson is an individual having a principal residence in Urbandale, Iowa.
4. Jonathan F. Freed is an individual having a principal residence in West Des Moines, Iowa.
5. Upon information and belief, Bagel Labs is a California Corporation, with a principal place of business located at 4340 Campus Drive, Ste 215, Newport Beach, California 92660, and is doing business in this judicial district and elsewhere.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the Patent Laws of the United States, 35 U.S.C. § 271.

7. Personal jurisdiction of the Defendant is proper in this Federal District pursuant to 28 U.S.C. § 1391(c) in that Defendant has conducted business, committed acts of infringement, and continues to commit acts of infringement in this District.

8. Venue is proper in this district based on 28 U.S.C. § 1391.

BACKGROUND FACTS

9. On December 29, 2010, Jeffery D. Freed, Herbert O. Dixon, Jr., Burton D. Johnson, and Jonathan F. Freed filed a provisional application for a United States patent for a “Measuring Device.”

10. Resulting from this application, U.S. Patent No. 8,739,426 (the ‘426 Patent) was duly and legally issued on June 3, 2014. A copy of the ‘426 Patent is attached as **Exhibit A**.

11. Jeffery D. Freed, Herbert O. Dixon, Jr., Burton D. Johnson, and Jonathan F. Freed have the right to enforce the ‘426 Patent.

12. Pursuant to 35 U.S.C. § 282, the ‘426 Patent is presumed valid.

COUNT I: FEDERAL PATENT INFRINGEMENT OF U.S. PATENT NO. 8,739,426  
(35 U.S.C. § 271)

13. Plaintiffs repeat, re-allege, and incorporate by reference, the foregoing paragraphs as though the same were fully set forth at length herein.

14. Based on information and belief, Bagel Labs manufactures and sells a measuring device. In manufacturing and selling this device, Bagel Labs is infringing directly, by

inducement, or by contributing to the infringement of at least one or more claims of the '426 Patent.

15. As a result of Defendant's infringing conduct, the Defendant has damaged Freed et al. Bagel Labs is liable to Freed et al. in an amount that adequately compensates Freed et al. for Bagel Lab's infringement, which by law, can in no event be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

16. As a consequence of Bagel Lab's infringement of the '426 patent, Freed et al. has been irreparably damaged and such damage will continue without the issuance of an injunction by this Court under 35 U.S.C. § 283.

17. The infringement by Bagel Labs has been willful and deliberate.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all issues triable by a jury.

**WHEREFORE**, Plaintiffs, Freed et al., request entry of judgment in its favor against Defendant, Bagel Labs, as follows:

- a. A declaration that Bagel Labs has infringed the '426 patent.
- b. A preliminary and permanent injunction enjoining Bagel Labs and its officers, agents, employees, and those acting in privity with it, from further infringement, contributory infringement and /or inducing infringement of the '426 patent.
- c. An award of damages arising out of the infringement of the '426 patent by Bagel Labs, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest in an amount according to proof.

- d. An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law.
- e. For such other costs and further relief as this Court may deem just and proper.

Dated: September 12, 2016

By: /s/Timothy J. Zarley  
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**D. Johnson, Jonathan F. Freed**