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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
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12 ALTAIR INSTRUMENTS, INC., a
California corporation,
13 Plaintiff,
14 vs.
15 DERMAMED SOLUTIONS, LLC. and
16 DOES 1 through 10,
17 Defendants.

Case No. 17-CV-00880

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

18
19 Plaintiff ALTAIR INSTRUMENTS, INC. (“Altair”) as its Complaint against
20 Defendant DERMAMED SOLUTIONS, LLC (“Dermamed”) and Does 1 through
21 10, inclusive (collectively, “Defendants”) alleges as follows:

22 **JURISDICTION AND VENUE**

23 1. This is an action for patent infringement arising under the Patent Laws
24 of the United States, Title 35, United States Code. This Court has jurisdiction over
25 the subject matter of this action pursuant to 28 U.S.C. § 1338(a) (action arising
26 under an Act of Congress relating to patents) and 28 U.S.C. § 1331 (federal
27 question).

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

1 and 28 U.S.C. § 1391(c). On information and belief, Dermamed resides in this
2 judicial district because, among other things, Dermamed sells and has sold and/or
3 offers to sell in this judicial district products that infringe the patent-in-suit.

4 **THE PARTIES**

5 3. Plaintiff Altair is a California corporation with its principal place of
6 business at 1834 Palma Drive, Suite F, Ventura, California 93003.

7 4. On information and belief, Dermamed is a Pennsylvania Limited
8 Liability Company with a principal place of business located at 394 Parkmount
9 Road, Lenni, Pennsylvania 19052-0198.

10 5. The true names and capacities, whether individual, corporate, associate
11 or otherwise, of defendants DOES 1 through 10, inclusive, are unknown to Altair,
12 which therefore sues said defendants by such fictitious names. Altair will seek leave
13 of this Court to amend this Complaint to include their proper names and capacities
14 when they have been ascertained. Altair is informed and believes, and based
15 thereon alleges, that each of the fictitiously named defendants participated in and are
16 in some manner responsible for the acts described in this Complaint and the damage
17 resulting therefrom.

18 6. Altair alleges on information and belief that each of the defendants
19 named herein as Does 1 through 10, inclusive, performed, participated in, or abetted
20 in some manner, the acts alleged herein, proximately caused the damages alleged
21 hereinbelow, and are liable to Altair for the damages and relief sought herein.

22 7. Altair alleges on information and belief that, in performing the acts and
23 omissions alleged herein, and at all times relevant hereto, each of the Defendants
24 was the agent and employee of each of the other Defendants and was at all times
25 acting within the course and scope of such agency and employment with the
26 knowledge and approval of each of the other Defendants.

27 **GENERAL ALLEGATIONS**

28 8. On June 5, 2001, United States Patent No. 6,241,739, entitled

COMPLAINT FOR PATENT
INFRINGEMENT; DEMAND FOR JURY
TRIAL

1 “Microdermabrasion Device And Method Of Treating The Skin Surface” (“the ‘739
2 patent”), was duly and legally issued by the United States Patent and Trademark
3 Office (the “USPTO”).

4 9. By assignment, Altair is the owner of all rights, title and interest in and
5 to the ‘739 patent, including all rights to recover for any and all past infringement
6 thereof. A true and correct copy of the ‘739 patent, with Reexamination
7 Certificates, is attached hereto as **Exhibit “A.”** Altair has given notice to the public
8 of its patent by marking its own products with the ‘739 patent in conformity with 35
9 U.S.C. § 287(a).

10 10. On October 16, 2014, Altair, through its counsel, sent a copy of the
11 ‘739 patent to Dermamed. Therefore, Dermamed has had actual notice of the ‘739
12 patent since at least October 16, 2014.

13 **CLAIM FOR RELIEF**

14 **(Infringement of the ‘739 Patent)**

15 11. Altair realleges each and every allegation set forth in paragraphs 1
16 through 10 above, and incorporates them herein.

17 12. Dermamed makes, uses, sells, offers to sell, and/or imports into the
18 United States, including in this Judicial District, one or more microdermabrasion
19 devices, including one known as the “MegaPeel Ex” (the “Accused Devices”) which
20 contain each and every element of independent claim 1 and dependent claims 2, 3,
21 5, 6 and 8, independent claim 9 and dependent claim 10, independent claim 12 and
22 dependent claims 13 and 14, and independent claim 16 and dependent claims 17 and
23 18 of the ‘739 Patent. Users of the Accused Devices also infringe the ‘739 patent.
24 Defendants have infringed and are infringing the ‘739 patent and will continue to do
25 so, unless enjoined by this Court. Defendants directly infringes the ‘739 patent, and
26 are also liable for contributory infringement and induced infringement.

27 13. On October 16, 2014, Altair sent a copy of the ‘739 patent to
28 Dermamed. At that time, the ‘739 patent was involved in an ongoing reexamination

1 proceeding at the USPTO. On July 15, 2015, the USPTO concluded the
2 reexamination and issued a Reexamination Certificate. Despite Dermamed's
3 knowledge of the '739 patent, Dermamed continued to infringe such patent. On
4 information and belief, Dermamed has been and is currently aware of the '739
5 patent and has been and is aware that the sale, offer to sell and use of the Accused
6 Devices infringes the '739 patent.

7 14. Defendants' infringement of the '739 patent has been and will continue
8 to be willful, wanton and deliberate with full knowledge and awareness of Altair's
9 patent rights, unless enjoined by this Court.

10 15. Altair has been damaged in an amount to be determined at trial, but
11 which is no less than a reasonable royalty, and has been irreparably injured by
12 Defendants' infringing activities. Altair will continue to be so damaged and
13 irreparably injured unless such infringing activities are enjoined by this Court.

14 **PRAYER**

15 WHEREFORE, Altair prays for the following relief:

16 a. Preliminary and permanent injunctions pursuant to
17 35 U.S.C. § 283 enjoining and restraining Defendants, their officers,
18 directors, agents, employees, successors and assigns, and all those
19 acting in privity or concert with Defendants or any of them, from
20 further infringement of the '739 patent;

21 b. A judgment by the Court that Defendants have infringed
22 and are infringing the '739 patent;

23 c. An award of damages for infringement of the
24 '739 patent, together with prejudgment interest and costs, said
25 damages to be trebled by reason of the intentional and willful nature
26 of Defendants' infringement, as provided by 35 U.S.C. § 284;

27 d. An award of Altair's reasonable attorneys' fees pursuant
28 to 35 U.S.C. § 285 in that this is an exceptional case;

- 1 e. Altair's costs of suit herein; and
2 f. For such other and further relief as this Court deems just
3 and proper.

4 Dated: February 3, 2017

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RONALD P. OINES
BENJAMIN DEMING
KATHRYN DOMIN

7 By: /s/ Ronald P. Oines
8 Ronald P. Oines
9 Attorneys for Plaintiff ALTAIR
INSTRUMENTS, INC.

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DEMAND FOR JURY TRIAL

Altair hereby demands a trial by jury.

Dated: February 3, 2017

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By: /s/ Ronald P. Oines
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