

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

PR MANUFACTURING ENTERPRISES, LLC)	
D/B/A PAL HEALTH TECHNOLOGIES, LLC)	
)	
Plaintiff,)	
)	
vs.)	CASE NO: 18-1456
)	
NORTHWEST PODIATRIC)	
LABORATORIES, INC.)	
)	JURY DEMANDED
Defendant.)	

**COMPLAINT FOR DECLARATORY JUDGMENT
REGARDING PATENT NON-INFRINGEMENT**

NOW COMES, Plaintiff, PR MANUFACTURING ENTERPRISES, LLC, D/B/A PAL HEALTH TECHNOLOGIES, LLC, by and through its Attorneys, Michael Evans Law Group, LLC., and for its complaint for declaratory judgment regarding non-infringement of U.S. Patent Nos. 8,567,081, 9,194,696, and 9,778,027 against Defendant NORTHWEST PODIATRIC LABORATORIES, INC., states as follows:

NATURE OF THE ACTION

1. This is an action brought pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, for a declaratory judgment of non-infringement of United States Patent Nos. 8,567,081, (attached hereto as **Exhibit A-1**) 9,194,696, (attached hereto as **Exhibit A-2**) and 9,778,027 (attached hereto as **Exhibit A-3**) (collectively, the “**NPL Patents**”) under the Patent Laws of the United States, 35 U.S.C. §§ 101, *et seq.*

PARTIES

2. At all times relevant hereto, Plaintiff was and is an Illinois limited liability company authorized to do business in the state of Illinois with its principal place of business located at 1805 Riverway Drive, Pekin, Illinois 61554.

3. Upon information and belief, at all times relevant hereto purported Defendant NPL Patent owner/assignee was and is a corporation with its principal place of business in Blaine, Washington.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant has constitutionally sufficient contacts with Illinois so as to make personal jurisdiction proper in this Court. In particular, upon information and belief, Defendant actively seeks to sell its products to residents of Illinois and this judicial district, and maintains a website that offers for sale products made by Defendant that are made available to residents of Illinois and this judicial district.

6. Venue is, therefore, proper in this district under 28 U.S.C. §§ 1391(b) and 1400.

FACTS AND ALLEGATIONS GIVING RISE TO THIS ACTION

7. Plaintiff designs, manufactures and sells custom orthotics. Plaintiff's passion for design and innovation is balanced with an unrelenting commitment to product quality and unmatched customer satisfaction.

8. For ease and simplicity in holding a patient's foot in neutral position so as to optimize the fit and function of Plaintiff's custom orthotics, Plaintiff offers for use, at no cost to its customers, its foot orientation apparatus.

9. On July 19, 2018 Defendant, through its counsel, sent Plaintiff a letter, a true and correct copy of which is attached as Exhibit B. In the letter, Defendant alleges that Plaintiff's apparatus violates Defendant's patent rights and that Defendant is prepared to litigate to enforce its rights.

10. Plaintiff, through its patent counsel, responded by letter dated August 15, 2018, a true and correct copy of which is attached as Exhibit C.

11. On October 16, 2018 Defendant, through its counsel, sent a further demand to Plaintiff, a true and correct copy of which is attached as Exhibit D. Again, Defendant claims that Plaintiff is infringing its patent rights and demands that Plaintiff cease infringement and account to Defendant for unlicensed sales.

12. Plaintiff, through its patent counsel, responded by letter dated October 24, 2018, a true and correct copy of which is attached as Exhibit E.

13. On December 11, 2018 Defendant, through its counsel, sent a further demand to Plaintiff, a true and correct copy of which is attached as Exhibit F.

14. By virtue of Defendant's actions and statements, Plaintiff has a reasonable fear and apprehension that patent infringement litigation will be brought against it. Therefore, there currently exists an actual and justiciable controversy between Plaintiff and Defendant relating to the NPL Patents.

15. Plaintiff filed a provisional patent application on its foot orientation apparatus with the Patent and Trademark Office. The application was assigned serial no. 62/739,962.

16. Defendant's allegations of Plaintiff's infringement of the NPL Patents places a cloud over Plaintiff's products and relationships with potential distributors and customers. In fact, and as outlined below, Plaintiff's products do not infringe, either directly or indirectly, any claim of the NPL Patents.

17. Under the circumstances, there exists a clear, substantial and continuing threat to Plaintiff's business as long as the current controversy remains unresolved. Accordingly, Plaintiff needs and seeks resolution of the issues raised in this complaint for declaratory relief to lift the cloud over its business. On at least such basis, Plaintiff is entitled to declaratory relief.

18. Plaintiff denies that it now infringes or in the past has infringed, either directly, indirectly, literally, or under the doctrine of equivalents, any claim of the NPL Patents.

FACTS RELATING TO NON-INFRINGEMENT

19. The NPL Patents relate to an imaging system that captures the shape of the feet for the purpose of making custom orthoses.

20. The NPL Patents disclose an apparatus for holding the foot in neutral position that uses a moveable heel support to set the foot in neutral position and a forefoot support that extends "substantially only beneath a lateral forefoot area" of the foot.

21. The Plaintiff's apparatus uses a fixed heel support, a forefoot support that is tensioned to set the foot in neutral position, and a forefoot support that extends across all or most of the width of the forefoot.

22. A patent claim is infringed if and only if every element (component or feature) recited, or an equivalent of it, is present in the accused product, and thus Plaintiff's apparatus does not infringe the NPL Patents.

23. Plaintiff's apparatus, and the use thereof, does not infringe any claim of the NPL Patents.

24. Accordingly, Plaintiff seeks a declaratory judgment that it does not now infringe, nor has in the past infringed, either directly, indirectly, literally, or under the doctrine of equivalents, any claim of the NPL Patents.

CLAIM FOR RELIEF

25. Plaintiff re-alleges and incorporates by reference all of the allegations contained in paragraphs 1-24 above.

26. Neither Plaintiff, nor its products nor the use thereof, infringe any claim of the NPL Patents.

27. Plaintiff is entitled to a declaratory judgment by the Court that it, and its products, including but not limited to its foot orientation apparatus, have not and do not infringe any of the NPL Patents.

DEMAND FOR JURY TRIAL

28. Plaintiff hereby demands a trial by jury on all issues so triable pursuant to Federal Rule of Civil Procedure 38, and will not stipulate to a jury of less than twelve (12) jurors.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for entry of judgment as follows:

1. That judgment be entered in favor of Plaintiff on all claims for relief raised in the Complaint;
2. For a declaratory judgment by the Court that Plaintiff and its products, including but not limited to its foot orientation apparatus, have not and do not infringe any of the claims of the NPL Patents.

3. For a declaration, as warranted, that this is an exceptional case under 35 U.S.C. § 285;
4. For an award to Plaintiff of its attorney's fees and expenses in this action;
5. That judgment and order be entered awarding Plaintiff all other relief to which Plaintiff may prove itself to be entitled; and
6. For such other and further relief as the Court deems just and proper.

DATED THIS 26th day of December, 2018.

PR Manufacturing Enterprises, LLC D/B/A
PAL Health Technologies, LLC, Plaintiff

By /S/ Carol J. Perkins,
Carol J. Perkins, Plaintiff Attorney

By /S/ Michael E. Evans,
Michael E. Evans, Plaintiff Attorney

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