

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

CENTURION MEDICAL PRODUCTS	)	
CORPORATION f/k/a TRI-STATE HOSPITAL	)	
SUPPLY CORPORATION,	)	Civil Action No. _____
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
SURGICAL DESIGN, INC.,	)	
	)	
Defendant.	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Centurion Medical Products Corporation f/k/a Tri-State Hospital Supply Corporation (“CENTURION”), by and through its attorneys, hereby complains of Defendant, Surgical Design, Inc. (“SURGICAL DESIGN”), as follows:

**PARTIES**

1. CENTURION is a corporation organized and existing under the laws of the State of Michigan, with offices located at 301 Catrell Drive, Howell, Michigan.
2. On information and belief, SURGICAL DESIGN is a corporation organized and existing under the laws of the state of Virginia, with offices located at 7351-D, Lockport Place, Lorton, Virginia.

**JURISDICTION AND VENUE**

3. The present action alleges infringement of United States Patent rights, under 35 U.S.C. §171 and § 271, including at least § 271(a) and § 271(b).
4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331,

1338(a), and 35 USC § 281.

5. This Court has personal jurisdiction over SURGICAL DESIGN because, on information and belief, SURGICAL DESIGN has purposefully and voluntarily placed its products, including infringing products, into the stream of commerce with the expectation that these products will be purchased by consumers in this judicial district, and on information and belief, have been and continue to be purchased by consumers in this judicial district.

6. Venue is proper in this judicial district under 28 U.S.C. §§1391 and 1400.

### **FACTS**

7. CENTURION is a company that strives to meet a variety of healthcare needs through innovative products. CENTURION's extensive research and development efforts are focused on improving patient health care by creating products to ensure that medical procedures are consistently performed in the most efficient manner possible.

8. CENTURION is the owner of all right, title and interest in and to U.S. Patent No. 7,351,248 entitled "Surgical Instrument with Snag Free Box Hinge" ("the '248 Patent, Exhibit A hereto"), which was duly and legally issued on April 1, 2008, and U.S. Patent No. D492,777 entitled "Surgical Instrument Box Hinge" ("the '777 Patent, Exhibit B hereto"), which was duly and legally issued on July 6, 2004, The '248 Patent, and the '777 Patent pertain to, among other things, surgical instruments with snag free box hinges. The patents are considered valid and enforceable against SURGICAL DESIGN.

9. On information and belief, SURGICAL DESIGN is a company that manufactures and/or commercializes multiple surgical instruments in the United States, including but not limited to model number FG203-06LRSSP and others like it ("The Products"). On information and belief, SURGICAL DESIGN has imported into the United

States, and has used, offered for sale and/or sold each of these Products in the United States, including within this jurisdictional district.

**PATENT INFRINGEMENT**

**COUNT I**

10. CENTURION incorporates herein by this reference the allegations of paragraphs 1 through 9.

11. SURGICAL DESIGN is infringing and will continue to infringe the '248 Patent by making, using, selling, and/or offering for sale in the United States, including within this jurisdictional district, certain surgical instruments made in the United States utilizing the invention claimed in one or more claims of the '248 Patent, including but not limited to The Products.

12. As a result of the infringement by SURGICAL DESIGN, CENTURION is being and continues to be damaged and irreparably harmed.

13. SURGICAL DESIGN was well aware of the '248 Patent prior to the commission of the infringing acts alleged herein. Infringement of the '248 Patent by SURGICAL DESIGN is and will continue to be reckless, egregious and willful.

14. CENTURION has no adequate remedy at law.

15. On information and belief, SURGICAL DESIGN will continue its infringing activities, and continue to damage CENTURION, unless enjoined by this Court. The extent of CENTURION's damages from the aforesaid actions of SURGICAL DESIGN are not yet determined.

16. SURGICAL DESIGN's reckless, egregious and willful infringement of the '248 Patent makes this an exceptional case under 35 U.S.C. § 285.

**COUNT II**

17. CENTURION incorporates herein by this reference the allegations of paragraphs 1 through 9.

18. SURGICAL DESIGN is infringing and will continue to infringe the '777 Patent by making, using, selling, and/or offering for sale in the United States, including within this jurisdictional district, certain surgical instruments made in the United States utilizing the design claimed in the '777 Patent, including but not limited to "The Products".

19. As a result of the infringement by SURGICAL DESIGN, CENTURION is being and continues to be damaged and irreparably harmed.

20. SURGICAL DESIGN was well aware of the '777 Patent prior to the commission of the infringing acts alleged herein. Infringement of the '777 Patent by SURGICAL DESIGN is and will continue to be reckless, egregious and willful.

21. CENTURION has no adequate remedy at law.

22. On information and belief, SURGICAL DESIGN will continue its infringing activities, and continue to damage CENTURION, unless enjoined by this Court. The extent of CENTURION's damages from the aforesaid actions of SURGICAL DESIGN are not yet determined.

23. SURGICAL DESIGN's reckless, egregious and willful infringement of the '777 Patent makes this an exceptional case under 35 U.S.C. § 285.

**WHEREFORE**, CENTURION prays for judgment that:

- A. SURGICAL DESIGN has infringed claims of the '248 Patent and the '777 Patent;
- B. SURGICAL DESIGN, its officers, agents, servants and employees, and those

persons in active concert and participation with any of them, be preliminarily and permanently enjoined from further infringement of the '248 Patent and the '777 Patent;

C. CENTURION be awarded damages sufficient to compensate it for the infringement, including lost profits, but in no event less than a reasonable royalty for such infringement, and that such damages be increased to three times the amount found or assessed pursuant to 35 U.S.C. § 284, together with prejudgment interest;

D. This case be declared exceptional pursuant to 35 U.S.C. § 285 and that CENTURION be awarded its attorney's fees, costs and expenses in this action;

E. That SURGICAL DESIGN be ordered to deliver to CENTURION all infringing Products in its possession for destruction; and

F. CENTURION be awarded such other and further relief as the Court may deem just.

**DEMAND FOR JURY TRIAL**

CENTURION hereby demands a jury trial on all issues.

DATED: August 3, 2009

By: /s/ Michael H. Baniak  
Michael H. Baniak (*baniak@mbhb.com*)  
Patrick G. Gattari (*gattari@mbhb.com*)  
Nicole E. Lammers (*lammers@mbhb.com*)  
McDONNELL BOEHNEN HULBERT  
& BERGHOFF LLP  
300 South Wacker Drive  
Chicago, Illinois 60606  
(312) 913-0001 Telephone  
(312) 913-0002 Facsimile  
Attorneys for Plaintiff