

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN,
MILWAUKEE DIVISION

JOSEPH GUO,)	
)	
Plaintiff,)	CIVIL ACTION NO. _____
)	
v.)	JURY TRIAL REQUESTED
)	
OVATION HAND INSTITUTE, LLC,)	
OVATION HAND INSTITUTE)	
MANAGEMENT, LLC, RICHARD)	
HARRISON, and RICHARD ANDERSON,)	
)	
Defendants.)	

COMPLAINT

Plaintiff, for his Complaint, alleges as follows:

THE PARTIES

1. Plaintiff, Joseph Guo (“Guo”), is an individual residing at 733 Ridgecrest St., Monterey Park, California 91754.
2. On information and belief, defendant Ovation Hand Institute, LLC (“Ovation”) is a Wisconsin limited liability company having a place of business at 10532 N. Port Washington Rd., Mequon, WI 53092.
3. On information and belief, defendant Ovation Hand Institute Management, LLC (“Ovation Management”) is a Wisconsin limited liability company having a place of business at 10532 N. Port Washington Rd., Mequon, WI 53092.
4. On information and belief, defendant Dr. Richard Harrison (“Harrison”) is an individual residing at 984 Highland Springs Ct., Oneida, Wisconsin, within Wisconsin and within this district, and practicing medicine within Wisconsin and within this district.

5. On information and belief, Harrison is and/or was a Director of defendants Ovation and Ovation Management, and currently is the sole owner of defendant Ovation.

6. On information and belief, defendant Mr. Richard Anderson (“Anderson”) is an individual residing at 7580 N. River Rd., River Hills, Wisconsin, within Wisconsin and within this district, and also engaged in business within Wisconsin and within this district.

7. On information and belief, Anderson was and/or is the Chairman and a Director of defendants Ovation and Ovation Management.

JURISDICTION AND VENUE

8. This is a civil action for patent infringement arising under the patent laws of the United States, United States Code, Title 35 including, without limitation, Sections 271, 281, 283, 284 and 285, and subject matter jurisdiction of this court is conferred by United States Code, Title 28, Section 1338(a).

9. This Court has personal jurisdiction over defendant Ovation because Ovation is a Wisconsin limited liability company and because Ovation conducts continuous and systematic business within Wisconsin and within this district from its principal place of business in Mequon, Wisconsin, and has committed infringing acts within Wisconsin and within this district.

10. This Court has personal jurisdiction over defendant Ovation Management because Ovation Management is a Wisconsin limited liability company and because Ovation Management conducts continuous and systematic business within Wisconsin and within this district from its place of business in Mequon, Wisconsin, and has committed infringing acts within Wisconsin and within this district.

11. This Court has personal jurisdiction over defendant Harrison because Harrison is a Wisconsin resident and because Harrison conducts continuous and systematic business within

Wisconsin and within this district, and has committed infringing acts within Wisconsin and within this district.

12. This Court has personal jurisdiction over defendant Anderson because Anderson is a Wisconsin resident and because Anderson conducts continuous and systematic business within Wisconsin and within this district, and has committed infringing acts within Wisconsin and within this district.

13. Venue is proper in this district under 28 U.S.C. §1400(b) because defendants Ovation and Ovation Management are Wisconsin limited liability companies and therefore resides in Wisconsin, and because defendants Harrison and Anderson are individuals residing in Wisconsin.

STATEMENT OF FACTS

14. Plaintiff repeats and re-alleges each and every allegation of the paragraphs above as though fully set forth herein.

15. Guo is the inventor and lawful owner of United States Patent Nos. 10,022,141, entitled “Method and Apparatus for Thread Transection of a Ligament” (“the ’141 patent”).

16. The ’141 patent has been duly examined and issued by the United States Patent and Trademark Office (“USPTO”).

17. A true and correct copy of the ’141 patent is attached as Exhibit A.

18. As the owner of the ’141 patent, Guo is authorized and has standing to bring legal action to enforce all rights arising under the ’141 patent.

19. The ’141 patent claims include methods for transecting a soft tissue within a body.

20. Defendant Ovation was formed as a Wisconsin limited liability company on June 1, 2018, and its initial directors included defendant Anderson, defendant Harrison, and Dr. Danzhu Guo, the brother of plaintiff Guo.

21. Dr. Danzhu Guo provided training to defendant Harrison and other physicians associated with Ovation in performing certain surgical techniques, including those invented by plaintiff Guo and claimed in the '141 patent.

22. In November 2018, defendant Ovation opened its first clinic in Mequon, Wisconsin, offering what it promoted as the “Guo Technique.”

23. In May 2019, Defendant Ovation opened its second clinic, in Green Bay, Wisconsin.

24. Defendant Ovation issued a press release in May 2019 related to the opening of its Green Bay clinic, attached as Exhibit B. The May 2019 press release attached as Exhibit B states, in part, “The clinic will give patients in the Green Bay area exclusive access to the Guo Technique, an advanced surgical solution for carpal tunnel syndrome.”

25. The May 2019 press release attached as Exhibit B identifies defendant Anderson as the “Chairman of Ovation Hand Institute” and quotes Anderson as stating, “The founding principle of the Ovation Hand Institute is to provide a superior, safe, and accessible solution to patients in need via The Guo Technique.”

26. Defendant Ovation initially purchased specialized transecting threads from Ridge & Crest Company, a company affiliated with plaintiff Guo. The transecting threads were regulated by the U.S. Food and Drug Administration as surgical instruments. A copy of the FDA registration information for the transecting thread sold by Ridge & Crest Company to defendant Ovation is attached as Exhibit C.

27. On information and belief, defendant Ovation reorganized its business in late 2019. As part of this reorganization, defendant Ovation Management was organized as a Wisconsin limited liability company on September 6, 2019 under the name Ovation Hand Institute Holdings, LLC, and its initial Directors included defendant Anderson, defendant Harrison, and Dr. Danzhu Guo. On information and belief, all of the assets of Ovation were transferred to Ovation Management, and ownership of Ovation was modified so that defendant Harrison would remain the sole owner. The name Ovation Hand Institute Holdings, LLC was changed to Ovation Hand Institute Management, LLC on October 10, 2019.

28. Ridge & Crest's final shipment of transecting threads to Ovation was delivered on or about November 7, 2019.

29. In November and December 2019, Ovation failed to pay Ridge & Crest on outstanding invoices for the transecting threads, forcing Ridge & Crest to cease supplying transecting threads to Ovation.

30. In January 2020, Dr. Danzhu Guo resigned from the board of directors of defendant Ovation Management.

31. On information and belief, one or more of defendants changed the ovationhand.com website in December 2019 to change references to "Guo Technique" to "Ovation Technique," or otherwise directed that such change be made to the ovationhand.com website.

32. On information and belief, defendants Ovation, Harrison, and Anderson have had actual and express notice of the '141 patent since at least November 2018.

33. On information and belief, defendant Ovation Management has had actual and express notice of the '141 patent since Ovation Management's formation on September 6, 2019.

34. On October 23, 2019, legal counsel for defendants Ovation and Ovation Management provided Guo with a proposed Supply and Intellectual Property License Agreement, which included terms licensing the '141 patent to Ovation Management, and which permitted Ovation Management to sublicense the '141 patent to others.

35. Defendants and other affiliated physicians performed or facilitated and promoted performance of the claimed methods of the '141 patent under an implied license from Guo until December 2019, at which time the defendants and other affiliated physicians lost any authorization from plaintiff to practice the '141 patent.

36. On January 15, 2020, legal counsel for plaintiff Guo sent correspondence to defendants Ovation, Anderson, and Harrison, demanding that they cease infringement of the '141 patent.

37. Physicians associated with defendants Ovation and/or Ovation Management, including but not limited to defendant Harrison, practice one or more claims of the '141 patent when performing what defendants Ovation and/or Ovation Management formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique.”

38. Physicians associated with defendants Ovation and/or Ovation Management, including but not limited to defendant Harrison, perform what defendants Ovation and/or Ovation Management formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique” at physical premises owned by or leased and operated by one or more of defendants Ovation and/or Ovation Management.

39. Defendants Ovation and Ovation Management promote services formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique,” provide facilities and equipment for physicians to perform services formerly characterized as the

“Guo Technique” and now characterized as the “Ovation Technique,” provide administrative and other personnel support, and conduct billing related to services formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique.”

40. On information and belief, defendants Anderson and Harrison each personally directed and controlled the acts of defendants Ovation and Ovation Management as set forth above and benefitted financially from such acts

41. On information and belief, when Ridge & Crest ceased providing transecting threads to Ovation and Ovation Management in late 2019, Ovation and Ovation Management, and their associated physicians, suspended performing what was formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique.”

42. On information and belief, after Ridge & Crest ceased providing transecting threads to Ovation and Ovation Management, defendants Ovation, Ovation Management, Anderson, and Harrison pursued an alternative thread source.

43. On information and belief, defendants Ovation, Ovation Management, Anderson, and Harrison re-designed, developed and sourced an alternative transecting thread for use in performing what was formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique.”

44. On information and belief, the alternative transecting thread is regulated by the U.S. Food and Drug Administration.

45. On information and belief, one or more of defendants Ovation and Ovation Management supplies such alternative transecting threads to their associated physicians for use in performing what was formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique.”

46. The physicians associated with defendants Ovation and/or Ovation Management performed and perform the procedure formerly characterized as the “Guo Technique” and now characterized as the “Ovation Technique” using the alternative transecting thread at the Ovation and/or Ovation Management locations without authorization from Guo.

47. On information and belief, each defendant is engaged in the commercial development, manufacture, sale, importation, or distribution of such alternative transecting threads.

48. On information and belief, one or more of defendants Ovation and Ovation Management sell such alternative transecting threads to their patients and/or patient insurers and/or to affiliated company Ovation Hand Institute – Illinois, Ltd.

49. On information and belief, defendants Anderson and Harrison each personally directed and controlled the acts of defendants Ovation and Ovation Management as set forth above and benefitted financially from such acts.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 10,022,141

50. Plaintiff repeats and re-alleges each and every allegation of the paragraphs above as though fully set forth herein.

51. Defendant Harrison infringed, and is currently infringing, at least claims 1, 6, 7, 8 and 9 of the ’141 patent in violation of 35 U.S.C. § 271(a) by using and selling, without license or authority, the “Ovation Technique” for carpal tunnel surgery, which practices the claimed methods of the ’141 patent.

52. Defendants Ovation, Ovation Management, Harrison, and Anderson each has actively induced infringement, and is currently actively inducing infringement, of at least claims 1, 6, 7, 8 and 9 of the ’141 patent in violation of 35 U.S.C. § 271(b) by promoting, advertising,

instructing, facilitating, and supporting others, without license or authority, to use and sell the “Ovation Technique” for carpal tunnel surgery, which practices the claimed methods of the ’141 patent.

53. Defendants Ovation, Ovation Management, Harrison, and Anderson each has contributed to infringement, and is currently contributing to infringement, of at least claims 1, 6, 7, 8 and 9 of the ’141 patent in violation of 35 U.S.C. § 271(c) by selling and/or offering to sell and/or importing into the United States, without license or authority, specialized transecting threads for performing the “Ovation Technique” for carpal tunnel surgery, which practices the claimed methods of the ’141 patent.

54. The Ovation transecting threads constitute a material part of performing at least claims 1, 6, 7, 8 and 9 of the ’141 patent, are especially made or especially adapted for use in an infringement of at least claims 1, 6, 7, 8 and 9 of the ’141 patent, and are not staple articles or commodities of commerce suitable for substantial noninfringing use.

55. Defendants were aware of the ’141 patent when defendant Harrison and other Ovation-affiliated physicians performed the “Ovation Technique” for carpal tunnel surgery, which practices the claimed methods of the ’141 patent, at Ovation and/or Ovation Management premises, when defendants promoted the “Ovation Technique,” provided facilities and equipment for physicians to perform the “Ovation Technique,” and provided administrative and other support for the “Ovation Technique.”

56. On information and belief, defendants specifically intended to induce infringement of the ’141 patent and knew they had induced acts that constitute infringement of the ’141 patent.

57. Defendants engaged in the foregoing conduct with respect to the '141 patent during the term of the patent and without authority from plaintiff Guo.

58. Defendants' infringement of one or more claims of the '141 patent has been and will continue to be willful, deliberate and intentional.

59. As a direct and proximate result of defendants' infringement of one or more claims of the '141 patent, plaintiff Guo has been and will continue to be irreparably damaged and deprived of its rights in the '141 patent in amounts not yet determined, and for which plaintiff Guo is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Guo prays for a judgment that:

- A. Each defendant has infringed the '141 patent;
- B. Each defendant's infringement of the '141 patent is willful;
- C. Each defendant, its officers, directors, employees, agents, subsidiaries, licensees, servants, successors and assigns, and any and all persons acting in privity or in concert or participation with such defendant, be permanently enjoined from infringement of the '141 patent under 35 U.S.C. § 283;
- G. Plaintiff be awarded all damages adequate to compensate plaintiff for defendants' infringement of the '141 patent, and such damages be trebled under 35 U.S.C. § 284 and awarded to plaintiff, with pre-judgment and post-judgment interest as allowed by law;
- H. This case be adjudged an exceptional case under 35 U.S.C. § 285, and plaintiff be awarded attorneys' fees, expert witness fees, costs, and all expenses incurred in this action, with interest;
- I. Plaintiff be awarded all actual and compensatory damages; and

J. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable by jury.

Respectfully submitted,

Date: March 30, 2020

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