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13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 PFM MEDICAL, INC.

16 Plaintiff,

17 v.

18 JIGSAW MEDICAL LLC

19 Defendant.

CASE NO. '21CV2020 TWR LL

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

20 **NATURE OF ACTION**

21 1. Plaintiff PFM Medical, Inc. ("Plaintiff" or "PFM" brings this action for
22 damages and injunctive relief relating to Defendant Jigsaw Medical LLC's
23 ("Defendant" or "Jigsaw") willful infringement of Plaintiff's patent rights.

24 **THE PARTIES**

25 2. Plaintiff is a corporation organized and existing under the laws of
26 California, with its principal place of business at 1916 Palomar Oaks Way, Suite 150,
27 Carlsbad, CA 92008.
28

1 3. On information and belief, Defendant is a limited liability company
2 organized and existing under the laws of Illinois, with its principal place of business
3 at 1012 Airpark Drive, Suite 1, Sugar Grove, IL 60554.

4 **JURISDICTION AND VENUE**

5 4. This Court has jurisdiction over Plaintiff's claim pursuant to 28 U.S.C.
6 §§ 1331 and 1338.

7 5. The amount in controversy exceeds the sum of \$75,000, exclusive of
8 interest and costs. This Court therefore also has jurisdiction over this matter pursuant
9 to 28 U.S.C. § 1332, based on the diversity of citizenship of the parties and the
10 amount in controversy.

11 6. Venue and personal jurisdiction over Defendants are proper under 28
12 U.S.C. § 1391(b) and because, on information and belief, Defendant has a regular
13 and established place of business here, including at least a sales representative and
14 an individual on the medical device sales team, and has committed acts of
15 infringement in this District. In particular, Defendant sells its infringing products to
16 Alvarado Hospital Medical Center, located at 6655 Alvarado Road, San Diego, CA
17 92120. Defendant's actions also have caused and will continue to cause Plaintiff
18 significant damage in this District.

19 **PLAINTIFF'S PATENT**

20 7. Plaintiff is the registered owner of U.S. Design Patent No. D896,952
21 ("the '952 Patent"). A true and correct copy of the '952 Patent is attached hereto.

22 8. The '952 Patent was duly issued by the U.S. Patent and Trademark Office
23 on September 22, 2020.

24 9. The '952 Patent covers Plaintiff's design of its wound drainage bottles.
25 A true and correct copy of the '952 Patent is attached to this Complaint as **Exhibit**
26 **A**.

DEFENDANT’S INFRINGING PRODUCTS

10. Until approximately June or July 2021, Defendant sold and distributed wound drainage bottles that brazenly and undisputedly infringed the ‘952 Patent (“Defendant’s First Design”).

11. Defendant’s First Design compared to the figures of the ‘952 Patent is shown below:



Jigsaw’s Infringing Product



Figure 1 to ‘952 Patent

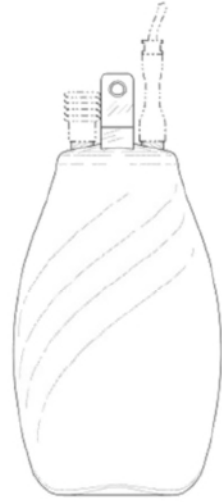


Figure 2 to ‘952 Patent

12. After Plaintiff notified Defendant that its First Design infringed the ‘952 Patent, Defendant informed Plaintiff that it would re-design its wound drainage bottle in a non-infringing manner.

13. The only change to the new design (“Defendant’s Second Design”) was relocating the blue hanger strap to the side of the bottle. Defendant’s First Design and Second Design are referred to herein as the “Accused Products.”

14. Defendant’s Second Design also infringes the ‘952 Patent.

15. Defendant continues to infringe the ‘952 Patent to this day.

CLAIM FOR RELIEF
PATENT INFRINGEMENT (35 U.S.C. § 271, *et seq.*)

16. Plaintiff repeats and realleges the allegations set forth in the paragraphs of this Complaint herein.

17. The '952 Patent claims a non-functional ornamental design, specifically, an ornamental design for a "Bottle for Wound Drainage."

18. The '952 Patent is valid and enforceable.

19. Defendant has sold and distributed in interstate commerce wound drainage bottles that infringe the '952 Patent.

20. The overall appearance of both Accused Products is such that an ordinary observer, giving them the attention that purchasers usually give, is likely to believe that the Accused Products and designed claimed in the '952 Patent are substantially similar or the same, inducing him or her to purchase an Accused Product supposing it to be the design claimed in the '952 Patent.

21. Defendant is liable for patent infringement pursuant to 35 U.S.C. § 271, because Defendant has literally, directly and willfully infringed, and continues to infringe the '952 Patent by at least using, selling, offering for sale, and/or importing the Accused Products. Defendant also indirectly infringed the '952 Patent by encouraging end users and distributors to make, sell, offer for sale, and/or use the infringing products.

22. Defendant's marketing and sales of its infringing designs have caused and will continue to cause serious damage to Plaintiff's sales and to the value of Plaintiff's patent rights, in an amount to be determined at trial.

23. Defendant copied the design of Plaintiff's wound drainage bottle, which embodies the design claimed in the '952 Patent, to arrive at the design of the Accused Products.

24. Defendant's infringement of the '952 Patent is willful.

1 25. Defendant's infringement of the '952 Patent has caused and will continue
2 to cause immediate and irreparable harm to Plaintiff for which there is no adequate
3 remedy at law, unless this Court enjoins and restrains such activities.

4 26. Despite Defendant's knowledge of its infringement of the '952 Patent,
5 Defendant has continued to manufacture, import, use, sell, and offer to sell the
6 Accused Products.

7 27. Plaintiff is entitled to enhanced damages pursuant to 35 U.S.C. § 284,
8 and costs, including attorneys' fees pursuant to 35 U.S.C. § 285, incurred prosecuting
9 this action.

10 28. As a direct and proximate result of Defendant's willful actions, Plaintiff
11 has been damaged and will continue to suffer irreparable harm.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff requests that this Court enter judgment in its favor on
14 the claim for relief set forth above, and award Plaintiff relief including, but not
15 limited to, the following:

16 A. Adjudge that Defendant has infringed the claim of the '952 Patent, and
17 the manufacture, use, sale, offer for sale, and/or importation of the Accused Products
18 infringes the claim of the '952 Patent;

19 B. A preliminary and permanent injunction enjoining Defendant and its
20 officers, agents, employees, directors, shareholders, subsidiaries, related companies,
21 affiliates, distributors, dealers, suppliers, and all persons in active concert or
22 participation with any of them, from making, using, selling, offering to sell, and/or
23 importing the Accused Products, as well as any products substantially similar to such
24 designs;

25 C. An Order awarding Plaintiff damages adequate to compensate for
26 Defendant's infringement of the '952 Patent, but in no event less than a reasonable
27 royalty as permitted by 35 U.S.C. § 284, together with prejudgment interest from the
28

1 date infringement began;

2 D. An Order requiring Defendant to account for and pay to Plaintiff any and
3 all of Defendant's profits arising from the foregoing acts in accordance with 35
4 U.S.C. § 289;

5 E. An Order requiring Defendant to pay Plaintiff compensatory and/or other
6 actual damages in an amount as yet undetermined caused by the foregoing acts and
7 trebling such damages in accordance with 35 U.S.C. § 284;

8 F. An Order requiring Defendant to pay Plaintiff's costs and attorneys' fees
9 in this action;

10 G. An Order declaring this an exceptional case under 35 U.S.C. § 285; and

11 H. Such other relief as the Court may deem appropriate.

12
13 Dated: December 1, 2021

Respectfully submitted,

14 MINTZ LEVIN COHN FERRIS
15 GLOVSKY AND POPEO, P.C.

16
17 By: /s/ Andrew D. Skale

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18 Samuel D. Sazer (313037)

19 Attorneys for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues triable by jury.

Dated: December 1, 2021

Respectfully submitted,

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO, P.C.

By: /s/ Andrew D. Skale

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