

TRASK BRITT

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DISTRICT OF UTAH
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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT OF THE DISTRICT OF UTAH,
CENTRAL DIVISION**

<p>DENTAL COMPONENTS, INC., an Oregon corporation,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>SYBRON INTERNATIONAL CORPORATION; SYBRON DENTAL SPECIALTIES; KERR CORPORATION; PINNACLE PRODUCTS, INC.; Bernard S. Esrock, an individual,</p> <p>Defendants.</p>	<p style="text-align: center;">COMPLAINT</p> <p style="text-align: center;">2:01CV-0744J</p> <p>Civil No. _____</p> <p>JUDGE _____</p> <p style="text-align: center;">JURY TRIAL REQUESTED</p>
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Plaintiff, Dental Components, Inc. ("DCI"), hereby complains and alleges against defendants and each of them as follows:

PARTIES, JURISDICTION & VENUE

1. DCI is a Corporation of the state of Oregon, having a business address at 305 N. Springbrook, Newberg, OR 97132, and does business throughout the United States, including in this judicial district.

2. Defendant Sybron International Corp. is a corporation of the state of Wisconsin, with a business address at 411 East Wisconsin Avenue, Milwaukee, WI 53202. Sybron International Corp. also conducts business as Apogent Technologies, with a business address at 48 Congress Street, Portsmouth, NH 03801.

3. Defendant, Sybron Dental Specialties, Inc. is a corporation of the state of Delaware, is a subsidiary of Sybron International Corp. and has a business address at 1717 West Collins Avenue, Orange, CA 92867.

4. Defendant Kerr Corporation is a corporation of the state of Delaware, is a subsidiary of Sybron Dental Specialties, Inc. and has a business address at 1717 West Collins Avenue, Orange, CA 92867. Upon information and belief Defendant Pinnacle Products, Inc. is believed to be affiliated with Kerr Corporation.

5. Defendant, Bernard S. Esrock, is an individual resident of the state of Missouri, with a last known address at 320 Dungeness, Chesterfield, MO 63017 .

6. Each of the corporate defendants does business throughout the United States, including in this judicial district.

7. Individual defendant Esrock is the owner of record of U.S. Patent No. 4, 984,984 (the '984 patent)

8. This is an action for declaratory judgment of non-infringement and invalidity under 28 U.S.C. §§ 1338 and 2201. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338, 2201 and 2202, as a declaratory judgment action arising under the Patent Laws, Title 35 of the United States Code.

9. Venue is proper in this district by virtue of Title 28 U.S.C. §§ 1391 and 1400(b) because some of plaintiff's acts of alleged infringement took place within this jurisdiction and

because defendants are either found in this District, or are otherwise subject to personal jurisdiction in this District.

GENERAL ALLEGATIONS

10. Each of the corporate defendants has claimed to have the right to enforce the '984 patent and has accused plaintiff of infringing the claims of that patent by making, using and selling disposable plastic dental syringe tips.

11. Counsel identifying themselves variously as representing each of the corporate defendants have demanded in writing that plaintiff discontinue its sales of "Suretip" disposable air/water syringe tips to Henry Schein, a major distributor of syringe tips to the dental industry, or risk being sued for infringement of the '984 patent.

12. A controversy exists between DCI and the respective defendants concerning the ownership, validity and infringement of the '984 patent.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Non-infringement)

13. DCI incorporates the allegations of paragraphs 1-12 of this Complaint, and further alleges as follows:

14. The "Suretip" disposable air/water syringe tips previously sold to Henry Schein by DCI, do not infringe any of the claims of the '984 patent.

15. The disposable air/water syringe tips currently being made, used, sold or offered for sale by plaintiff avoid the claims of the '984 patent both literally and under the doctrine of equivalents, to the extent that doctrine may be applicable to the claims of the '984 patent.

16. DCI is entitled to a judgment declaring that its disposable water/air syringe tips do not infringe, either literally or by virtue of the doctrine of equivalents, any of the claims of the '984 patent.

SECOND CLAIM FOR RELIEF
(Declaratory Judgment of Invalidity).

17. DCI incorporates the allegations of paragraphs 1-16 of this Complaint, and further alleges as follows:

18. Each of the claims of the '984 patent is invalid under 35 U.S.C. § 102 because patentability of the inventions defined by each such claim is barred by one or more of the provisions of that statute.

19. Each of the claims of the '984 patent is invalid under 35 U.S.C. § 103 because the inventions defined by each such claim would have been obvious at the time it was made to one of ordinary skill in the relevant art.

20. Each of the claims of the '984 patent is invalid under 35 U.S.C. § 112 because each such claim fails to define that which the inventor considered to be his invention and/or the specification fails to provide an adequate disclosure of said invention and/or is not enabling of the claimed invention(s).

21. DCI is entitled to a judgment declaring that each claim of the '984 patent is invalid.

PRAYER FOR RELIEF

WHEREFORE, DCI prays that this court enter judgment as follows:

a. Declaring that the '984 patent is invalid, and that defendants are without right or authority to enforce or threaten to enforce any claims of that patents against DCI or any customer of DCI.

b. Declaring that the '984 patent is not now and has never been infringed by DCI, and contains no claims which read, either literally or by application of the doctrine of equivalents, upon any product marketed by DCI or any customer of DCI.

c. Granting DCI such other and further equitable and legal relief, whether general or special, as the court deems appropriate under the circumstances of this case.

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

DATED this 25th day of September, 2001.

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