

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MEDIDEA, LLC)
a Michigan Limited Liability Company)

Plaintiff,)

v.)

No. 2:09-CV-378

SMITH & NEPHEW, INC.,)
a Tennessee Corporation)

TRIAL BY JURY DEMANDED

Defendant.)

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, MEDIDEA, LLC, by its attorneys, hereby complains against
Defendants, SMITH & NEPHEW, INC. as follows:

I.

The Parties

1. Plaintiff, MEDIDEA, LLC. (“MEDIDEA”) is a Michigan Limited Liability Company with its principal place of business at 911 NW Loop 281, Suite 211-38, Longview, Texas 75604.

2. Defendant, SMITH & NEPHEW, INC. (“SMITH”) is, on information and belief, a company established under the laws of Delaware, with its principal place of business at 1450 Brooks Road, Memphis, Tennessee 38116 USA and is doing business in this judicial district and is engaged in the business of selling prosthesis’ used by orthopedic surgeons, from which it generates substantial revenue.

II.

Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. "1331 and 1338(a) because this action arises under the Patent Laws of the United States, 35 U.S.C. '1, et seq.

4. Venue properly lies in the Eastern District of Texas pursuant to 28 U.S.C. '1391(b) and (c) because a substantial part of the events giving rise to these claims occurred in this District, MEDIDEA maintains a principle place of business in this district, and SMITH is subject to personal jurisdiction in this District.

III.

Claims Related to Knee Patents

5. MEDIDEA is the owner of United States Patent Number 5,716,361 ("the '361 Patent"). A True and correct copy of the Patent as issued is attached hereto as Exhibit A.

6. MEDIDEA is the owner of United States Patent Number 5,885,296 ("the '296 Patent"). A True and correct copy of the Patent as issued is attached hereto as Exhibit B.

7. MEDIDEA is the owner of United States Patent Number 5,897,559 ("the '559 Patent"). A True and correct copy of the Patent as issued is attached hereto as Exhibit C.

8. MEDIDEA is the owner of United States Patent Number 5,944,722 ("the '722 Patent"). A True and correct copy of the Patent as issued is attached hereto as Exhibit D.

9. MEDIDEA is the owner of United States Patent Number 5,957,926 ("the '926 Patent"). A True and correct copy of the Patent as issued is attached hereto as Exhibit E.

10. MEDIDEA is the owner of United States Patent Number 6,077,269 ("the '269 Patent"). A True and correct copy of the Patent as issued is attached hereto as Exhibit F.

11. MEDIDEA is the owner of United States Patent Number 6,102,916 (“the ‘916 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit G.

12. MEDIDEA is the owner of United States Patent Number 6,500,179 (“the ‘179 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit H.

13. MEDIDEA is the owner of United States Patent Number 6,503,254 (“the ‘254 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit I.

14. The ‘361 Patent, the ‘296 Patent, the ‘559 Patent, the ‘722 Patent, the ‘926 Patent, the ‘269 Patent, the ‘916 Patent, the ‘179 Patent, and the ‘254 Patent (collectively “the Knee Patents”) are the result of pioneering research and development conducted in the field, among other areas, the proper preparation of knee prosthesis. The inventions disclosed by the Knee Patents have been incorporated by SMITH into its product lines, such as, for example, in its Profix Total Knee System.

15. It has been reported by SMITH that it generated substantial revenue related to the sale of knee prosthesis products alone.

16. SMITH has been infringing the Knee Patents by selling prosthesis’ with structures that are covered by and claimed in the Knee Patents in violation of 35 U.S.C. 271, with resultant damage to MEDIDEA.

17. SMITH, with actual knowledge of the Knee Patents, with knowledge of their infringement and without lawful justification, has willfully and deliberately infringed the Knee Patents.

IV.

Claims Related to Shoulder Patents

18. MEDIDEA is the owner of United States Patent Number 7,229,478 (“the ‘478 Patent”). A True and correct copy of the Patent as issued is attached hereto as Exhibit J.

19. The ‘478 Patent (“the Shoulder Patent”) is the result of pioneering research and development conducted in the field, among other areas, of the proper position of a prosthetic shoulder implant. The inventions disclosed by the Shoulder Patent has been incorporated by SMITH into its product lines, such as, for example, in its NEER 3 Total Shoulder.

20. It has been reported by SMITH that it has generated substantial revenue related to the sale of shoulder prosthesis products.

21. SMITH has been infringing the Shoulder Patent by selling shoulder prosthesis’ with structures that are covered by and claimed in the Shoulder Patent in violation of 35 U.S.C. 271, with resultant damage to MEDIDEA.

22. SMITH, with actual knowledge of the Shoulder Patent, with knowledge of their infringement and without lawful justification, has willfully and deliberately infringed the Shoulder Patent.

V.

Relief

WHEREFORE, the Plaintiff, MEDIDEA, L.L.C., prays:

(a) for the entry of judgment holding that the Hip Patents and the Shoulder Patent are good and valid in law, and to have been willfully and deliberately infringed by the Defendants;

(b) for a preliminary and injunction preventing the Defendants from committing any further act of infringement;

(c) for a judgment that this cause is “exceptional” in the sense of 35 U.S.C. 285 and that MEDIDEA is entitled to an award of its reasonable attorneys' fees in the prosecution of its action;

(d) for an award of damages adequately to compensate MEDIDEA for the past infringement of the Knee Patents and the Shoulder Patent by the Defendants, together with interest and costs as fixed by the Court, such damages to be trebled because of the willful and deliberate character of the infringement; and

(e) such other relief as the Court deems proper and just.

VI.

DEMAND FOR JURY TRIAL

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

Dated: December 4, 2009

Respectfully submitted,

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