

**UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

SCRIPTPRO LLC and SCRIPTPRO USA INC.,	)	
	)	
Plaintiffs,	)	
	)	Civil Action No. 07-2476 JWL
v.	)	
	)	<u>Jury Trial Demanded</u>
YUYAMA U.S.A., INC., YUYAMA CO., LTD.,	)	
YUYAMA MFG. CO. LTD., and	)	
AUTOMED TECHNOLOGIES, INC.,	)	
	)	
Defendants.		

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs ScriptPro LLC and ScriptPro USA Inc. (collectively “ScriptPro”), for their Complaint against Defendants Yuyama U.S.A., Inc., Yuyama Co., Ltd., Yuyama Mfg. Co. Ltd., (collectively “Yuyama”) and AutoMed Technologies, Inc. (“AutoMed”), state:

**PARTIES**

1. Plaintiff ScriptPro LLC is a Kansas limited liability company with a principal place of business at 5828 Reeds Road, Mission, KS 66202. Plaintiff ScriptPro USA Inc. is a corporation with a principal place of business at 5828 Reeds Road, Mission, KS 66202, and is a distributor for ScriptPro LLC. ScriptPro is engaged in the creation, design, manufacturing and distribution of automated pharmaceutical equipment.

2. Defendants Yuyama are foreign corporations with a principal place of business at 1513 Carmen Drive, Elk Grove Village, IL 60007. Process may be served on Yuyama by delivering copies of the summons and complaint to an officer, director, managing agent, or other person authorized to receive service of process.

3. Defendant AutoMed is a foreign corporation with a principal place of business at 875 Woodlands Parkway, Vernon Hills, IL 60061. Process may be served on AutoMed by delivering copies of the summons and complaint to an officer, director, managing agent, or other person authorized to receive service of process.

4. Yuyama markets for sale certain automated pharmaceutical products. As related to the claims in this lawsuit, it markets, sells, and distributes certain automated pharmaceutical equipment directly under its own name, and it sometimes markets, sells, and distributes certain equipment under other names. AutoMed also markets for sale certain automated pharmaceutical products. The products involved in this lawsuit are known as the “Yuyama EV-1” and the “AutoMed R800.”

### **JURISDICTION**

5. This is an action for patent infringement under 35 U.S.C. §271. This Court has subject matter jurisdiction under 28 U.S.C. §1338(a). Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400, because a substantial part of the events giving rise to this claim occurred in this District.

6. Moreover, this cause of action arose from one or more of the following under 60-308(b) K.S.A.: Yuyama and AutoMed’s transaction of business in Kansas; Yuyama and AutoMed’s commission of tortious acts in Kansas; Yuyama and AutoMed’s causing injury to persons or property in Kansas arising out of an acts or omissions outside of Kansas while Yuyama and AutoMed were engaged in solicitation or service activities in Kansas, or while products, materials or things processed, serviced or manufactured by Yuyama or AutoMed elsewhere were used or consumed in Kansas in the ordinary course of trade or use.

**The '487 Patent**

7. On February 3, 1998, United States Patent No. 5,713,487 entitled *Medicament Verification in an Automatic Dispensing System* (the '487 patent) was duly and legally issued to ScriptPro, which remains its owner. A copy of the '487 patent is attached as Exhibit 1.

8. ScriptPro has complied with any applicable marking requirements of 35 U.S.C. § 287 with respect to the '487 patent.

**The '919 Patent**

9. On August 16, 1994, United States Patent No. 5,337,919 entitled *Automatic Dispensing System for Prescriptions and the Like* (the '919 patent) was duly and legally issued to Dispensing Technologies, Inc. On May 25, 1996, the Dispensing Technologies, Inc. assigned the '919 patent to ScriptPro LLC at Reel 007978 Frame 0745. A copy of the '919 patent is attached as Exhibit 2.

10. ScriptPro has complied with any applicable marking requirements of 35 U.S.C. § 287 with respect to the '919 patent.

**COUNT I – YUYAMA – THE '487 PATENT**

ScriptPro incorporates by reference as though fully set forth herein the allegations contained in paragraphs 1 through 10.

11. Yuyama is infringing the '487 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, and selling the patented invention claimed therein.

12. If it is learned during discovery that Yuyama is also inducing infringement of the '487 patent under 35 U.S.C. §271(b), then Yuyama is a contributory infringer under 35 U.S.C. §271(c).

13. Yuyama has knowledge of the '487 patent, and Yuyama's infringement of the '487 patent has been and continues to be willful and deliberate.

14. ScriptPro has been damaged as a direct result of Yuyama's infringement. ScriptPro has lost profits and royalties as a direct result of the infringement and is entitled to damages adequate to compensate it for the infringement in an amount that is in no event less than a reasonable royalty under 35 U.S.C. §284. ScriptPro may also be entitled to recover prejudgment interest, costs, and up to treble damages under 35 U.S.C. §284. Further, this is an exceptional case under 35 U.S.C. §285, and ScriptPro should be awarded its attorney fees.

15. By reason of Yuyama's infringement of the '487 patent, ScriptPro has suffered and will continue to suffer irreparable harm and impairment of the value of its patent rights, is threatened with continuing loss of sales to its existing and potential customers, is losing and will continue to lose the goodwill of its customers, and is suffering the violation of its patent rights, all of which will continue unless Yuyama is preliminarily and permanently enjoined by this Court from infringing the '487 patent under 35 U.S.C. §283.

WHEREFORE, ScriptPro asks this Court to enter the following orders and judgments:

(a) Preliminarily and permanently enjoining Defendant Yuyama and its parents, subsidiaries, divisions, agents, dealers, officers, employees, successors, and assigns, and all others acting in concert or participation with them, from:

- (1) making, using, selling, practicing, or offering to sell the invention of U.S. Patent No. 5,713,487;
- (2) contributing to the infringement of U.S. Patent No. 5,713,487; and
- (3) inducing infringement of U.S. Patent No. 5,713,487;

(b) Finding the infringement to be willful;

(c) Ordering an accounting of and awarding ScriptPro such damages, profits, royalties, attorneys' fees, costs, prejudgment interest, and enhanced damages as may be shown by the evidence;

(d) Finding this to be an exceptional case and awarding ScriptPro its reasonable attorney fees under 35 U.S.C. §285; and

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

### **COUNT II – YUYAMA – THE '919 PATENT**

ScriptPro incorporates by reference as though fully set forth herein the allegations contained in paragraphs 1 through 10.

16. Yuyama is infringing claims 24, 26, and 27 of the '919 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, and selling the patented invention claimed therein.

17. If it is learned during discovery that Yuyama is also inducing infringement of claims 24, 26, and 27 of the '919 patent under 35 U.S.C. §271(b), then Yuyama is a contributory infringer under 35 U.S.C. §271(c).

18. If it is learned during discovery that Yuyama has knowledge of the '919 patent, then Yuyama's infringement of claims 24, 26, and 27 of the '919 patent has been and continues to be willful and deliberate.

19. ScriptPro has been damaged as a direct result of Yuyama's infringement. ScriptPro has lost profits and royalties as a direct result of the infringement and is entitled to damages adequate to compensate it for the infringement in an amount that is in no event less than

a reasonable royalty under 35 U.S.C. §284. ScriptPro may also be entitled to recover prejudgment interest, costs, and up to treble damages under 35 U.S.C. §284. Further, this is an exceptional case under 35 U.S.C. §285, and ScriptPro should be awarded its attorney fees.

20. By reason of Yuyama's infringement of claims 24, 26, and 27 of the '919 patent, ScriptPro has suffered and will continue to suffer irreparable harm and impairment of the value of its patent rights, is threatened with continuing loss of sales to its existing and potential customers, is losing and will continue to lose the goodwill of its customers, and is suffering the violation of its patent rights, all of which will continue unless Yuyama is preliminarily and permanently enjoined by this Court from infringing the '919 patent under 35 U.S.C. §283.

WHEREFORE, ScriptPro asks this Court to enter the following orders and judgments:

(a) Preliminarily and permanently enjoining Defendant Yuyama and its parents, subsidiaries, divisions, agents, dealers, officers, employees, successors, and assigns, and all others acting in concert or participation with them, from

- (1) making, using, selling, practicing, or offering to sell the invention of U.S. Patent No. 5,337,919;
- (2) contributing to the infringement of U.S. Patent No. 5,337,919; and
- (3) inducing infringement of U.S. Patent No. 5,337,919;

(b) Finding the infringement to be willful;

(c) Ordering an accounting of and awarding ScriptPro such damages, profits, royalties, attorneys' fees, costs, prejudgment interest, and enhanced damages as may be shown by the evidence;

(d) Finding this to be an exceptional case and awarding ScriptPro its reasonable attorney fees under 35 U.S.C. §285; and

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

**COUNT III – AUTOMED – THE ‘487 PATENT**

ScriptPro incorporates by reference as though fully set forth herein the allegations contained in paragraphs 1 through 10.

21. AutoMed is infringing the ‘487 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, and selling the patented invention claimed therein.

22. If it is learned during discovery that AutoMed is also inducing infringement of the ‘487 patent under 35 U.S.C. §271(b), then AutoMed is a contributory infringer under 35 U.S.C. §271(c).

23. If it is learned during discovery that AutoMed has knowledge of the ‘487 patent, then AutoMed’s infringement of the ‘487 patent has been and continues to be willful and deliberate.

24. ScriptPro has been damaged as a direct result of AutoMed’s infringement. ScriptPro has lost profits and royalties as a direct result of the infringement and is entitled to damages adequate to compensate it for the infringement in an amount that is in no event less than a reasonable royalty under 35 U.S.C. §284. ScriptPro may also be entitled to recover prejudgment interest, costs, and up to treble damages under 35 U.S.C. §284. Further, this is an exceptional case under 35 U.S.C. §285, and ScriptPro should be awarded its attorney fees.

25. By reason of AutoMed’s infringement of the ‘487 patent, ScriptPro has suffered and will continue to suffer irreparable harm and impairment of the value of its patent rights, is threatened with continuing loss of sales to its existing and potential customers, is losing and will

continue to lose the goodwill of its customers, and is suffering the violation of its patent rights, all of which will continue unless AutoMed is preliminarily and permanently enjoined by this Court from infringing the '487 patent under 35 U.S.C. §283.

WHEREFORE, ScriptPro asks this Court to enter the following orders and judgments:

(a) Preliminarily and permanently enjoining Defendant AutoMed and its parents, subsidiaries, divisions, agents, dealers, officers, employees, successors, and assigns, and all others acting in concert or participation with them, from:

- (1) making, using, selling, practicing, or offering to sell the invention of U.S. Patent No. 5,713,487;
- (2) contributing to the infringement of U.S. Patent No. 5,713,487; and
- (3) inducing infringement of U.S. Patent No. 5,713,487;

(b) Finding the infringement to be willful;

(c) Ordering an accounting of and awarding ScriptPro such damages, profits, royalties, attorneys' fees, costs, prejudgment interest, and enhanced damages as may be shown by the evidence;

(d) Finding this to be an exceptional case and awarding ScriptPro its reasonable attorney fees under 35 U.S.C. §285; and

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

#### **COUNT IV – AUTOMED – THE '919 PATENT**

ScriptPro incorporates by reference as though fully set forth herein the allegations contained in paragraphs 1 through 10.



26. AutoMed is infringing claims 24, 26, and 27 of the '919 patent in violation of 35 U.S.C. § 271(a) by making, using, offering to sell, and selling the patented invention claimed therein.

27. If it is learned during discovery that AutoMed is also inducing infringement of claims 24, 26, and 27 of the '919 patent under 35 U.S.C. §271(b), then AutoMed is a contributory infringer under 35 U.S.C. §271(c).

28. If it is learned during discovery that AutoMed has knowledge of the '919 patent, then AutoMed's infringement of claims 24, 26, and 27 of the '919 patent has been and continues to be willful and deliberate.

29. ScriptPro has been damaged as a direct result of AutoMed's infringement. ScriptPro has lost profits and royalties as a direct result of the infringement and is entitled to damages adequate to compensate it for the infringement in an amount that is in no event less than a reasonable royalty under 35 U.S.C. §284. ScriptPro may also be entitled to recover prejudgment interest, costs, and up to treble damages under 35 U.S.C. §284. Further, this is an exceptional case under 35 U.S.C. §285, and ScriptPro should be awarded its attorney fees.

30. By reason of AutoMed's infringement of claims 24, 26, and 27 of the '919 patent, ScriptPro has suffered and will continue to suffer irreparable harm and impairment of the value of its patent rights, is threatened with continuing loss of sales to its existing and potential customers, is losing and will continue to lose the goodwill of its customers, and is suffering the violation of its patent rights, all of which will continue unless AutoMed is preliminarily and permanently enjoined by this Court from infringing the '919 patent under 35 U.S.C. §283.

WHEREFORE, ScriptPro asks this Court to enter the following orders and judgments:

(a) Preliminarily and permanently enjoining Defendant AutoMed and its parents, subsidiaries, divisions, agents, dealers, officers, employees, successors, and assigns, and all others acting in concert or participation with them, from

(1) making, using, selling, practicing, or offering to sell the invention of U.S. Patent No. 5,337,919;

(2) contributing to the infringement of U.S. Patent No. 5,337,919; and

(3) inducing infringement of U.S. Patent No. 5,337,919;

(b) Finding the infringement to be willful;

(c) Ordering an accounting of and awarding ScriptPro such damages, profits, royalties, attorneys' fees, costs, prejudgment interest, and enhanced damages as may be shown by the evidence;

(d) Finding this to be an exceptional case and awarding ScriptPro its reasonable attorney fees under 35 U.S.C. §285; and

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

**JURY DEMAND**

A trial by jury on all triable issues in this Complaint is demanded.

**DESIGNATION OF PLACE OF TRIAL**

Pursuant to L.R. 40.2, Plaintiffs, ScriptPro LLC and ScriptPro USA Inc., hereby designate Kansas City, Kansas as its place of trial.

Respectfully submitted,

LATHROP & GAGE L.C.

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