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FILED
DISTRICT COURT
21 MAY 04 PM 1:17
DISTRICT OF UTAH
BY: _____

Attorneys for Plaintiff

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

ULTRADENT PRODUCTS, INC., a Utah corporation,)	Civil Action No. 2:04CV00160 DS
)	
Plaintiff,)	
)	AMENDED COMPLAINT
v.)	
)	
DENTSPLY INTERNATIONAL, INC., a Delaware corporation,)	(JURY TRIAL DEMANDED)
)	
Defendant.)	Honorable David Sam
)	
)	

Plaintiff Ultradent Products, Inc. complains and alleges against defendant Dentsply International, Inc., as follows:

PARTIES

1. Plaintiff Ultradent Products, Inc., ("Ultradent") is a Utah corporation having a principal place of business at 505 West 10200 South, Salt Lake City, Utah 84065.
2. Defendant Dentsply International, Inc. ("Dentsply") is a Delaware corporation with its principal place of business at 570 West College Avenue, York, Pennsylvania 17405.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement by defendant Dentsply arising under the patent laws of the United States, and more specifically, under Title 35 U.S.C. §§ 271, 281, 283, 284 and 285. Jurisdiction of this court is founded upon 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, defendant Dentsply has transacted business, contracted to supply goods or services, and caused injury within the state of Utah, and has otherwise purposely availed itself of the privileges and benefits of the laws of the state of Utah, and is therefore subject to the jurisdiction of this court pursuant to Fed.R.Civ.P. 4(k)(1)(A) and § 78-27-24, Utah Code Ann.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b).

FIRST CLAIM

INFRINGEMENT OF U.S. PATENT NO. 5,376,006

6. U.S. Patent No. 5,376,006 (“the ‘006 patent”) issued on December 27, 1994, bearing the title “Dental Bleaching Compositions and Methods for Bleaching Teeth Surfaces.” (Exhibit A.)

7. Ultradent is the owner by assignment of the ‘006 patent.

8. Defendant Dentsply has made and/or sold and continues to make and/or sell dental bleaching compositions within the scope of the claims of the ‘006 patent without license or authority from Ultradent and in violation of Ultradent’s rights, thereby directly infringing the ‘006 patent.

9. Defendant Dentsply has sold and continues to sell dental bleaching compositions with instructions and methods for use by dental professionals and patients within the scope of the

method claims of the '006 patent without authority or license from Ultradent, and in violation of Ultradent's rights, thereby actively inducing and contributing to infringement of the '006 patent.

10. On information and belief, defendant Dentsply has and has had actual notice of the existence of the '006 patent, despite such notice continues to willfully, wantonly and deliberately engage in acts of infringement without regard to the '006 patent, and will continue to do so unless otherwise enjoined by this court.

11. The amount of money damages which Ultradent has suffered due to the acts of infringement of defendant Dentsply cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the '006 patent by defendant Dentsply is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

SECOND CLAIM

INFRINGEMENT OF U.S. PATENT NO. 5,725,843

12. U.S. Patent No. 5,725,843 ("the '843 patent") issued on March 10, 1998, bearing the title "Methods for Bleaching Teeth Surfaces." (Exhibit B.)

13. Ultradent is the owner by assignment of the '843 patent.

14. Defendant Dentsply has sold and continues to sell dental bleaching compositions with instructions and methods for use by dental professionals and patients within the scope of the method claims of the '843 patent without authority or license from Ultradent, and in violation of Ultradent's rights, thereby actively inducing and contributing to infringement of the '843 patent.

15. On information and belief, defendant Dentsply has and has had actual notice of the existence of the '843 patent, despite such notice continues to willfully, wantonly and

deliberately engage in acts of infringement without regard to the '843 patent, and will continue to do so unless otherwise enjoined by this court.

16. The amount of money damages which Ultradent has suffered due to the acts of infringement of defendant Dentsply cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the '843 patent by defendant Dentsply is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

THIRD CLAIM

INFRINGEMENT OF U.S. PATENT NO. 5,746,598

17. U.S. Patent No. 5,746,598 ("the '598 patent") issued on May 5, 1998, bearing the title "Dental Bleaching Compositions Including a Sticky Matrix Material." (Exhibit C.)

18. Ultradent is the owner by assignment of the '598 patent.

19. Defendant Dentsply has made and/or sold and continues to make and/or sell dental bleaching compositions within the scope of the claims of the '598 patent without license or authority from Ultradent and in violation of Ultradent's rights, thereby directly infringing the '598 patent.

20. On information and belief, defendant Dentsply has and has had actual notice of the existence of the '598 patent, despite such notice continues to willfully, wantonly and deliberately engage in acts of infringement without regard to the '598 patent, and will continue to do so unless otherwise enjoined by this court.

21. The amount of money damages which Ultradent has suffered due to the acts of infringement of defendant Dentsply cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the

'598 patent by defendant Dentsply is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

FOURTH CLAIM

INFRINGEMENT OF U.S. PATENT NO. 5,759,037

22. U.S. Patent No. 5,759,037 ("the '037 patent") issued on June 2, 1998, bearing the title "Methods for Manufacturing Dental Trays Having Thin Walls for Increased Comfort." (Exhibit D.)

23. Ultradent is the owner by assignment of the '037 patent.

24. Defendant Dentsply has sold and continues to sell dental kits with instructions and methods for use by dental professionals and patients within the scope of the method claims of the '037 patent without authority or license from Ultradent, and in violation of Ultradent's rights, thereby actively inducing and contributing to infringement of the '037 patent.

25. On information and belief, defendant Dentsply has and has had actual notice of the existence of the '037 patent, despite such notice continues to willfully, wantonly and deliberately engage in acts of infringement without regard to the '037 patent, and will continue to do so unless otherwise enjoined by this court.

26. The amount of money damages which Ultradent has suffered due to the acts of infringement of defendant Dentsply cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the '037 patent by defendant Dentsply is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

FIFTH CLAIM

INFRINGEMENT OF U.S. PATENT NO. 5,759,038

27. U.S. Patent No. 5,759,038 (“the ‘038 patent”) issued on June 2, 1998, bearing the title “Dental Kit for Applying Sticky Dental Bleaching Compositions to a Person’s Teeth.” (Exhibit E.)

28. Ultradent is the owner by assignment of the ‘038 patent.

29. Defendant Dentsply has made and/or sold and continues to make and sell dental kits within the scope of the claims of the ‘038 patent without license or authority from Ultradent and in violation of Ultradent’s rights, thereby directly infringing the ‘038 patent.

30. On information and belief, defendant Dentsply has and has had actual notice of the existence of the ‘038 patent, despite such notice continues to willfully, wantonly and deliberately engage in acts of infringement without regard to the ‘038 patent, and will continue to do so unless otherwise enjoined by this court.

31. The amount of money damages which Ultradent has suffered due to the acts of infringement of defendant Dentsply cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the ‘038 patent by defendant Dentsply is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

SIXTH CLAIM

INFRINGEMENT OF U.S. PATENT NO. 6,086,855

32. U.S. Patent No. 6,086,855 (“the ‘855 patent”) issued on July 11, 2000, bearing the title “Methods for Making Scalloped Dental Trays for Use in Treating Teeth With Sticky Dental Compositions.” (Exhibit F.)

33. Ultradent is the owner by assignment of the '855 patent.

34. Defendant Dentsply has sold and continues to sell dental kits with instructions and methods for use by dental professionals and patients within the scope of claims 3, 4, 9, 10, 11, 18 and 20 of the '855 patent without authority or license from Ultradent, and in violation of Ultradent's rights, thereby actively inducing and contributing to infringement of those claims of the '855 patent.

35. On information and belief, defendant Dentsply has and has had actual notice of the existence of the '855 patent, despite such notice continues to willfully, wantonly and deliberately engage in acts of infringement without regard to the '855 patent, and will continue to do so unless otherwise enjoined by this court.

36. The amount of money damages which Ultradent has suffered due to the acts of infringement of defendant Dentsply cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the '855 patent by defendant Dentsply is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

SEVENTH CLAIM

INFRINGEMENT OF U.S. PATENT NO. 6,183,251 B1

37. U.S. Patent No. 6,183,251 B1 ("the '251 patent") issued on February 6, 2001, bearing the title "Scalloped Dental Trays for Use in Treating Teeth With Sticky Dental Compositions." (Exhibit G.)

38. Ultradent is the owner by assignment of the '251 patent.

39. Defendant Dentsply has made and/or sold and continues to make and sell dental kits with tray material instructions for making scalloped dental trays within the scope of claims 4

and 5 of the '251 patent without license or authority from Ultradent and in violation of Ultradent's rights, thereby actively inducing and contributing to infringement of those claims of the '251 patent.

40. On information and belief, defendant Dentstply has and has had actual notice of the existence of the '251 patent, despite such notice continues to willfully, wantonly and deliberately engage in acts of infringement without regard to the '251 patent, and will continue to do so unless otherwise enjoined by this court.

41. The amount of money damages which Ultradent has suffered due to the acts of infringement of defendant Dentstply cannot be determined without an accounting, and is thus subject to proof at trial. Further, the harm to Ultradent arising from acts of infringement of the '251 patent by defendant Dentstply is not fully compensable by money damages, but rather, results in irreparable harm to Ultradent.

WHEREFORE, Ultradent prays:

A. For judgment holding defendant liable for infringement of the '006 patent, the '843 patent, the '598 patent, the '037 patent, the '038 patent, the '855 patent and the '251 patent;

B. For a preliminary and permanent injunction enjoining defendant, its officers, agents, servants, employers and attorneys, and all other persons in active concert or participation with defendant from further infringement of the '006 patent, the '843 patent, the '598 patent, the '037 patent, '038 patent, the '855 patent and the '251 patent;

C. That defendant be ordered to deliver up for destruction all infringing dental bleaching compositions, dental kits, and dental trays;

D. For an award to Ultradent of its damages, and that such damages be trebled in view of the willful and deliberate nature of defendant's infringement;

E. That this be declared an exceptional case, and that Ultradent be awarded its attorneys fees;

F. For an award of Ultradent's costs of this action; and

G. For such other and further relief as this court deems Ultradent may be entitled in law and in equity.

JURY DEMAND

Plaintiff Ultradent demands a trial by jury on all issues triable to a jury as a matter of right.

DATED this 21st day of May, 2004.

WORKMAN NYDEGGER

By Thomas R. Vuksinick
BRENT P. LORIMER
THOMAS R. VUKSINICK

Attorneys for Plaintiff

Exhibits/
Attachments
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Please see the
case file.