

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

SIRONA DENTAL SYSTEMS INC. and	)	
CALIFORNIA INSTITUTE OF TECHNOLOGY	:	
	)	
	:	
Plaintiffs,	)	
	:	
v.	)	CIVIL ACTION NO:
	:	
PALODEX GROUP OY and	)	
INSTRUMENTARIUM DENTAL, INC.	:	
	)	
Defendants.	:	
	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

For their Complaint herein, Plaintiffs allege as follows:

**THE PARTIES**

1. Plaintiff Sirona Dental Systems Inc. (“Sirona”) is a corporation incorporated under the laws of Delaware. Its headquarters are at 30-30 47th Avenue, Suite 500, Long Island City, New York 11101.
2. Plaintiff California Institute of Technology (“Caltech”) is a private university having a principal address of 1200 East California Boulevard, Pasadena, California 91125.
3. Sirona is a dental equipment company, and is in the business of, among other things, making and selling digital dental radiography products in the United States and elsewhere, both directly and through its wholly-owned subsidiary Schick Technologies, Inc.

4. Upon information and belief, Defendant Palodex Group Oy (“Palodex”) is a company organized under the laws of under the laws of Finland, and has an office and principal place of business at Nahkelantie 160, 04300, Tuusula, Finland.

5. Upon information and belief, Defendant Instrumentarium Dental, Inc. (“Instrumentarium”) is a corporation incorporated under the laws of Wisconsin, and has an office and principal place of business at 300 W. Edgerton Avenue, Milwaukee, Wisconsin 53207.

### **JURISDICTION AND VENUE**

6. This is an action for patent infringement, arising under the patent laws of the United States of America, Title 35 of the United States Code. Jurisdiction is founded on 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants in that each, directly or through intermediaries, has committed acts within Wisconsin and this judicial district giving rise to this action and/or each has established minimum contacts with the former such that the exercise of jurisdiction would not offend traditional notions of fair play and justice.

8. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c) and/or (d) and 28 U.S.C. § 1400(b).

### **FACTUAL BACKGROUND**

9. Sirona is the exclusive licensee of U.S. Patent No. 6,549,235 (the “235 patent”), entitled “Single Substrate Camera Device With CMOS Image Sensor,” in the field dental radiography (the “Field”). Caltech is the owner of the 235 patent by assignment. The 235 patent was duly and legally issued to Caltech on April 15, 2003. Among Sirona’s rights as exclusive licensee is the sole authority to enforce the 235 patent in the Field, including without limitation the sole authority to initiate, conduct and conclude legal proceedings.

10. Sirona is the exclusive licensee of U.S. Patent No. 6,570,617 (the “617 patent”), entitled “CMOS Active Pixel Sensor Type Imaging System On A Chip,” in the Field. Caltech is the owner of the 617 patent by assignment. The 617 patent was duly and legally issued to Caltech on May 27, 2003. Among Sirona’s rights as exclusive licensee is the sole authority to enforce the 617 patent in the Field, including without limitation the sole authority to initiate, conduct and conclude legal proceedings.

11. Sirona is the exclusive licensee of U.S. Patent No. 6,744,068 (the “068 patent”), entitled “Active Pixel Sensor With Intra-Pixel Charge Transfer,” in the Field. Caltech is the owner of the 068 patent by assignment. The 068 patent was duly and legally issued to Caltech on June 1, 2004. Among Sirona’s rights as exclusive licensee is the sole authority to enforce the 068 patent in the Field, including without limitation the sole authority to initiate, conduct and conclude legal proceedings.

12. Sirona is the exclusive licensee of U.S. Patent No. 7,369,166 (the “166 patent”), entitled “Single Substrate Camera Device With CMOS Image Sensor,” in the Field. Caltech is the owner of the 166 patent by assignment. The 166 patent was duly and legally issued to Caltech on May 6, 2008. Among Sirona’s rights as exclusive licensee is the sole authority to enforce the 166 patent in the Field, including without limitation the sole authority to initiate, conduct and conclude legal proceedings.

13. Upon information and belief, since at least January, 2009, Defendants have been making, using, offering for sale and/or selling in the United States, including within this Judicial District, a digital intraoral sensor under the name SNAPSHOT.

14. Upon information and belief, the SNAPSHOT sensor utilizes complementary metal oxide semiconductor (CMOS) active pixel sensors (APS) chip.

15. Upon information and belief, the SNAPSHOT sensor is made and sold to compete directly with Sirona's products, including without limitation the Sirona XIOS® family of products and the Schick Technologies CDR® family of products.

**INFRINGEMENT OF THE 235 PATENT**

16. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 15 above.

17. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are directly infringing the 235 patent.

18. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are engaging in contributory infringement of the 235 patent.

19. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are actively inducing others to infringe the 235 patent.

20. As a consequence of the acts of infringement of the 235 patent as set forth above, Plaintiffs have been damaged, and will continue to be damaged unless such acts are enjoined by the Court.

21. Defendants have had actual notice of the 235 patent and have nonetheless continued to engage in its infringing acts. Accordingly, their infringement is willful and deliberate, and this case is exceptional under 35 U.S.C. § 285.

**INFRINGEMENT OF THE 617 PATENT**

22. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 21 above.

23. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are directly infringing the 617 patent.

24. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are engaging in contributory infringement of the 617 patent.

25. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are actively inducing others to infringe the 617 patent.

26. As a consequence of the acts of infringement of the 617 patent as set forth above, Plaintiffs have been damaged, and will continue to be damaged unless such acts are enjoined by the Court.

27. Defendants have had actual notice of the 617 patent and have nonetheless continued to engage in its infringing acts. Accordingly, their infringement is willful and deliberate, and this case is exceptional under 35 U.S.C. § 285.

#### **INFRINGEMENT OF THE 068 PATENT**

28. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 27 above.

29. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are directly infringing the 068 patent.

30. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are engaging in contributory infringement of the 068 patent.

31. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are actively inducing others to infringe the 068 patent.

32. As a consequence of the acts of infringement of the 068 patent as set forth above, Plaintiffs have been damaged, and will continue to be damaged unless such acts are enjoined by the Court.

33. Defendants have had actual notice of the 068 patent and have nonetheless continued to engage in its infringing acts. Accordingly, their infringement is willful and deliberate, and this case is exceptional under 35 U.S.C. § 285.

**INFRINGEMENT OF THE 166 PATENT**

34. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 33 above.

35. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are directly infringing the 166 patent.

36. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are engaging in contributory infringement of the 166 patent.

37. By making, using, offering for sale and/or selling at least the SNAPSHOT sensor, Defendants are actively inducing others to infringe the 166 patent.

38. As a consequence of the acts of infringement of the 166 patent as set forth above, Plaintiffs have been damaged, and will continue to be damaged unless such acts are enjoined by the Court.

39. Defendants have had actual notice of the 166 patent and have nonetheless continued to engage in its infringing acts. Accordingly, their infringement is willful and deliberate, and this case is exceptional under 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that:

A. Defendants be declared and adjudged to have directly infringed, engaged in the contributory infringement of and actively induce others to infringe the 235 patent, the 617 patent, the 068 patent and the 166 patent;

B. Defendants' infringement, contributory infringement and active inducement of infringement of the 235 patent, the 617 patent, the 068 patent and the 166 patent be declared and adjudged to be willful and deliberate;

C. Defendants, and any of their officers, directors, agents, servants, employees, successors, assigns, and all those controlled by them or in active participation with them, be preliminarily and permanently enjoined from further acts of infringement of the 235 patent, the 617 patent, the 068 patent and the 166 patent;

D. Defendants be required to account for and pay over to Plaintiffs all actual damages suffered by Plaintiffs by reason of Defendants' infringement, including without limitation lost profits and/or a reasonable royalty;

E. By reason of the willful and deliberate nature of the aforesaid infringing acts, such damages be trebled pursuant to 35 U.S.C. § 285;

F. By reason of the exceptional nature of this case within the meaning of 35 U.S.C. § 285, Plaintiffs be awarded their attorneys fees;

G. Defendants be ordered to pay to Plaintiffs' prejudgment and postjudgment interest, and costs; and

H. This Court grant Plaintiffs such other further legal and equitable relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiffs hereby demand a jury trial on all issues.

Dated: April 30, 2009

/s/ Michael J. Modl  
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