

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ALPS SOUTH, LLC,
a Florida limited liability company,

Plaintiff,

v.

Case No. _____

**THE OHIO WILLOW WOOD
COMPANY, an Ohio corporation,**

Defendant.

_____/

**COMPLAINT AND DEMAND FOR
JURY TRIAL, INJUNCTIVE RELIEF SOUGHT**

Plaintiff, ALPS SOUTH, LLC, sues Defendant, THE OHIO WILLOW WOOD COMPANY, and as its complaint states as follows:

NATURE OF ACTION

1. This is an action for patent infringement under the United States Patent Law, 35 U.S.C. § 271 et. seq.

PARTIES

2. Plaintiff, ALPS SOUTH, LLC ("Plaintiff"), is a Florida limited liability company with its principal place of business in St. Petersburg, Florida. Plaintiff is engaged in the business of manufacturing and selling prosthetic liners for use by customers who have prosthetic limbs.

3. Defendant, THE OHIO WILLOW WOOD COMPANY ("Defendant"), is an Ohio corporation with its principal place of business in Mt. Sterling, Ohio. Defendant is engaged in the same type of business as, and is a competitor of, Plaintiff.

JURISDICTION AND VENUE

4. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338 in that this Complaint states an action based upon a federal question relating to patents.

5. Defendant is subject to jurisdiction in Florida because it has engaged in business in, or has an office in, the State of Florida; is engaged in substantial and not isolated activity within the State of Florida; and/or has committed acts of infringement in the State of Florida.

6. Venue is proper in this district and in this division under 28 U.S.C. §§ 1391 and 1400.

CLAIM FOR PATENT INFRINGEMENT

7. Plaintiff is engaged in the business of manufacturing and selling prosthetic liners for use by customers who have prosthetic limbs.

8. On April 21, 2003, a patent application was filed with the U.S. Patent and Trademark Office to protect Mr. John Y. Chen's invention entitled "Tear resistant gels, composites, and liner articles," which application was assigned Serial No. 10/420,492. The ownership rights to the invention disclosed and claimed in the application were assigned to Applied Elastomerics, Inc. ("AEI").

9. On March 18, 2008, United States Patent No. 7,344,568 (the “‘568 Patent”) was duly, validly, and legally issued to AEI, which remains the owner of all right, title, and interest in and to the ‘568 Patent. A true and correct copy of the ‘568 Patent is attached hereto as Exhibit 1.

10. On August 31, 2008, AEI granted an exclusive license to Plaintiff under the ‘568 Patent pursuant to a Patent Sale and License Agreement.

11. On information and belief, Defendant has been, and is now, infringing one or more of claims of the ‘568 Patent in violation of 35 U.S.C. § 271(a) by:

- (a) making, importing, using, offering to sell, and/or selling in this judicial district, and elsewhere in the United States, products which embody the invention claimed in the ‘568 Patent; and/or
- (b) actively inducing others to infringe the ‘568 Patent; and/or
- (c) contributing to the infringement of the ‘568 Patent.

12. Defendant’s actions with respect to the ‘568 Patent are without authority or license from Plaintiff.

13. Defendant has been, and will continue, making, importing, using, offering to sell, and/or selling products that infringe the ‘568 Patent without a license from Plaintiff.

14. Defendant’s conduct as described in this Complaint has been, and will continue to be, willful.

15. As a direct and proximate result of Defendant’s infringement, Plaintiff has been damaged and will continue to be damaged in an amount to be determined at trial.

16. As a direct and proximate result of Defendant's infringement of the '568 Patent, Plaintiff has suffered and continues to suffer irreparable harm and impairment of the value of its licensed 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 a violation of its licensed patent rights, all of which will continue unless Defendant is preliminarily and permanently enjoined by this Court from infringing the '568 Patent under 35 U.S.C. § 283. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment:

(a) Finding that Defendant has been and is infringing, contributing to the infringement of, and/or actively inducing infringement of U.S. Patent No. 6,552,568;

(b) Entering preliminary and permanent injunctions against Defendant and its parents, subsidiaries, divisions, directors, officers, employees, agents, representatives, distributors, dealers, successors, and assigns, and all others acting in concert or participation with them, from making, importing, using, offering to sell, and/or selling the invention of U.S. Patent No. 6,552,568 B1, practicing the invention of U.S. Patent No. 6,552,568, and/or securing or supplying items used to infringe U.S. Patent No. 6,552,568;

(c) Finding the infringement to be willful;

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

(e) Finding this to be an exceptional case under 35 U.S.C. § 283 and awarding Plaintiff its reasonable attorneys' fees under 35 U.S.C. § 285; and

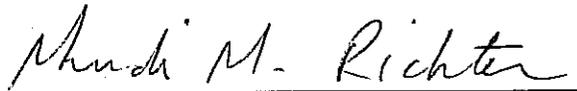
(f) Awarding Plaintiff such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: March 3, 2009

Respectfully submitted,



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