

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

_____	)	
SOMERSET DENTAL PRODUCTS, INC.,	)	
	)	
Plaintiff,	)	
v.	)	
	)	C.A. No. _____
BENCO DENTAL SUPPLY CO. and	)	
INDIGODENTAL GMBH & CO. KG,	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	
_____	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Somerset Dental Products, Inc. (“Somerset”) bring this Complaint for patent infringement against Defendants Benco Dental Supply Co. (“Benco”) and Indigodental GmbH & Co. KG (“Indigodental”) (collectively “Defendants”), and alleges as follows:

**PARTIES**

1. Plaintiff Somerset, formerly known as Pentron Ceramics, Inc., is a New Jersey corporation with its principal place of business at 500 Memorial Drive, Somerset, New Jersey 08873.
2. Upon information and belief, Defendant Benco is a Delaware corporation with its principal place of business at 11 Bear Creek Boulevard, Wilkes-Barre, Pennsylvania 18702.
3. Upon information and belief, Defendant Indigodental is a German limited liability company with its principal place of business at Fahlskamp 5, 25421 Pinneberg, Germany.
4. Upon information and belief, Indigodental makes, uses, offers for sale, sells, and imports into the United States dental block products for use in a CAD/CAM machine process.
5. Upon information and belief, Indigodental has entered into an exclusive supply agreement with Benco to sell Indigodental’s dental block products in the United States.

6. Upon information and belief, Indigodental has agreed to indemnify and hold Benco harmless from an against any liability, damages, claims, costs penalties or expenses arising out of any claim of patent infringement by any third party related to Benco's resale or importation of Indigodental's dental block products.

**JURISDICTION AND VENUE**

7. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 5,653,791**

10. The allegations of paragraphs 1 through 9 are incorporated by reference into this Count I as though fully set forth herein.

11. Plaintiff is the owner of United States Patent No. 5,653,791 ("the '791 Patent"), entitled "Two-Phase Dental Porcelain Composition." The '791 Patent was duly issued by the United States Patent and Trademark Office on August 5, 1997, and is valid and enforceable. A copy of the '791 Patent is attached as Exhibit A.

12. Upon information and belief, Defendants, without authority, make, use, offer to sell, sell within the United States, and/or import into the United States, products that are covered by one or more claims of the '791 Patent, thereby infringing, contributing to the infringement of, and/or actively inducing infringement of one or more claims of the '791 Patent.

13. Upon information and belief, Defendants are willfully infringing one or more claims of the '791 Patent and will continue to do so unless enjoined by this Court, and Somerset

has incurred, and will continue to incur, damages as a result of Defendants' infringement of the '791 Patent.

14. Somerset has been, is being, and will continue to be, seriously damaged and irreparably harmed unless Defendants are enjoined by this Court from the actions complained of herein, and thus Somerset is without an adequate remedy at law.

**COUNT II**  
**INFRINGEMENT OF U.S. PATENT NO. 5,944,884**

15. The allegations of paragraphs 1 through 14 are incorporated by reference into this Count II as though fully set forth herein.

16. Somerset is the owner of United States Patent No. 5,944,884 ("the '884 Patent"), entitled "Dental Porcelain Composition." The '884 Patent was duly issued by the United States Patent and Trademark Office on August 31, 1999, and is valid and enforceable. A copy of the '844 Patent is attached as Exhibit B.

17. Upon information and belief, Defendants, without authority, make, use, offer to sell, sell within the United States, and/or import into the United States, products that are covered by one or more claims of the '884 Patent, thereby infringing, contributing to the infringement of, and/or actively inducing infringement of one or more claims of the '884 Patent.

18. Upon information and belief, Defendants are willfully infringing one or more claims of the '884 Patent and will continue to do so unless enjoined by this Court, and Somerset has incurred, and will continue to incur, damages as a result of Defendants' infringement of the '884 Patent.

19. Somerset has been, is being, and will continue to be, seriously damaged and irreparably harmed unless Defendants are enjoined by this Court from the actions complained of herein, and thus Somerset is without an adequate remedy at law.

**REQUEST FOR RELIEF**

WHEREFORE, Somerset prays for judgment as follows:

(a) That this Court find that Defendants have committed acts of patent infringement in violation of the Patent Act, 35 U.S.C. § 271;

(b) That this Court enter an injunction enjoining Defendants, their officers, agents, servants, employees, and attorneys, and any other persons in active concert or participation with them, from continuing the acts herein complained of, and that Defendants and such other persons be permanently enjoined and restrained from further infringing the '791 and '884 Patents;

(c) That this Court require Defendants to file with this Court, within thirty (30) days after entry of final judgment, a written statement under oath setting forth in detail the manner in which Defendants have complied with the injunction;

(d) That the Court award Somerset all relief available under the patent laws of the United States, including but not limited to monetary damages, including prejudgment interest and enhanced damages, based on Defendants' infringement of the '791 and '884 Patents;

(e) That Defendants' infringement of the '791 and '884 Patents be judged willful and that the damages to Somerset be increased pursuant to 35 U.S.C. § 284 by three times the amount found or assessed;

(f) Finding this to be an exceptional case, and awarding Somerset its costs and reasonable attorneys' fees in respect thereto in accordance with 35 U.S.C. § 285; and

(g) Granting Somerset such other relief as the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Somerset demands a trial by jury on all issues so triable.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

*/s/ Melanie K. Sharp*

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