

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

PROSTHETIC DESIGN, INC.
700 Harco Dr.
Clayton, OH 45315

Plaintiff,

VS.

BULLDOG TOOLS, INC.
4140 U.S. 40
Lewisburg, OH 45338

Defendant.

CASE NO. 3:09-cv-430

JUDGE

COMPLAINT FOR PATENT INFRINGEMENT

(DEMAND FOR JURY TRIAL)

Plaintiff, Prosthetic Design, Inc. (“Prosthetic Design”), for its Complaint for Patent Infringement and Demand for Jury Trial against Defendant, Bulldog Tools, Inc. (“Bulldog Tools”), alleges as follows:

PARTIES

1. Prosthetic Design is a corporation organized and existing under the laws of the State of Ohio with its place of business at 700 Harco Dr., Clayton, OH 45315.

2. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Ohio with its place of business at 4140 U.S. 40, Lewisburg, OH 45338.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the laws of the United States, 35 U.S.C. § 1, *et seq.* Jurisdiction and venue in this district are proper and based upon the provisions of 28 U.S.C. §§ 1331, 1338 (a), 35 U.S.C. § 281 and 28 U.S.C. §§ 1391 and 1400 (b).

4. This Court has personal jurisdiction over Bulldog Tools.
5. Upon information and belief, Bulldog Tools resides in this judicial district.

INFRINGEMENT OF UNITED STATES PATENT NO. 6,991,658

6. On January 31, 2006, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,991,658 (“the ’658 patent”), entitled “FLEXION CONTRACTURE TKA ADAPTOR.” A copy of the ’658 patent is attached hereto as Exhibit 1.

7. Prosthetic Design is the title owner and listed assignee of the ’658 patent.

8. Upon information and belief, Defendant makes, uses, sells, offers to sell and/or imports for sale into the United States flexion plates, including, but not limited to, 8FL-PL “8 degree flexion plate”; 15FL-PL “15 degree flexion plate”; 5FL-PL “5 degree flexion plate”; 10FL-PL “10 degree flexion plate”; ADJ-FLEX “flex-all adjustable flexion plate.”

9. Upon information and belief, Defendant has infringed and continues to infringe, has actively induced and currently is actively inducing others to infringe, and/or has contributorily infringed and currently is contributorily infringing at least one claim of the ’658 patent in the United States by making, using, selling and/or offering to sell products that embody the inventions described and claimed in the ’658 patent; specifically, by the making, using, selling and/or offering to sell flexion plates that meet all limitations of at least one claim of the ’658 patent.

10. By a letter dated April 25, 2003, Defendant was first placed on notice by Prosthetic Design of the published patent application, Publication No. US 2003/0074085, that matured into the ’658 patent.

11. Prosthetic Design provided subsequent notice of the '658 patent and issuance thereof at least by a letter dated May 6, 2009.

12. Upon information and belief, Defendant's infringement of the '658 patent has been willful, deliberate and in conscious disregard of Plaintiff's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285.

13. As a result of Bulldog Tools' actions, Prosthetic Design has suffered and continues to suffer substantial injury, including irreparable injury, and will result in damages to Prosthetic Design, including loss of sales and profits, which Prosthetic Design would have made but for the infringement by Bulldog Tools, unless Bulldog Tools is enjoined by this Court.

DEMAND FOR JUDGMENT

WHEREFORE, Prosthetic Design prays for judgment as follows:

1. Bulldog Tools be declared and adjudged to have infringed, actively induced others to infringe, and/or contributorily infringed at least one claim of United States Patent No. 6,991,658.

2. That Bulldog Tools, its agents, sales representatives, distributors, servants and employees, attorneys, affiliates, subsidiaries, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or in participation with any or all of them, be enjoined and restrained from infringing, actively inducing others to infringe, and/or contributorily infringing the claims of United States Patent No. 6,991,658.

3. An accounting be had for the profits and other damages arising out of Bulldog Tools' infringement of United States Patent No. 6,991,658 since the date of issuance, and that the damages be trebled pursuant to 35 U.S.C. § 284 for the willful acts of

infringement complained of herein and awarded to Prosthetic Design, together with reasonable attorneys' fees and prejudgment and post-judgment interest.

4. Prosthetic Design be awarded such other costs and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Prosthetic Design demands a trial by jury on the causes of action set forth herein.

Respectfully submitted,

/s/ Kevin W. Kirsch

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