

Jennifer Silverman (JS 5908)

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Z. PAUL LORENC, M.D.,

Plaintiff,

-against-

COAPT SYSTEMS, INC.,

Defendant

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Case No.: 03 CV 9603 (JGK)

AMENDED COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Z. Paul Lorenc, M.D. ("Dr. Lorenc") sues defendant Coapt Systems, Inc.

("Coapt") and alleges the following:

JURISDICTION AND VENUE

1. This is an action for infringement of United States Patent No. 5,611,814 ("the '814 patent").

2. Plaintiff Z. Paul Lorenc, M.D. is an individual with his principal place of business at 983 Park Avenue, New York, New York. Dr. Lorenc is a plastic surgeon and is the named inventor on the '814 patent.

3. Defendant Coapt is a California corporation with its principal place of business at 1820 Embarcadero Road, Palo Alto, California 94303. Coapt is a medical device company that designs, develops, markets and sells bio-absorbable implants for use in soft tissue fixation during facial cosmetic surgery procedures.

4. This action arises under the patent laws of the United States, Title 35, United States Code. This Court has jurisdiction over the subject matter of this action pursuant to Title 28 United States Code § 1331 and § 1338(a).

5. Venue for this action is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400, in that, at a minimum, Coapt is subject to personal jurisdiction, and thus is deemed to reside, in this judicial district.

COUNT I

(Patent Infringement)

6. Defendant Coapt develops, manufactures and markets medical devices which are used in cosmetic surgery. In particular, Defendant manufactures and markets devices known as Tissue Support Devices. These Tissue Support Devices include: the "ENDOTINE™ Forehead," the "ENDOTINE™ Midface," the "ENDOTINE™ Chin," the "Hand Tendon," and the "Transbleph Device." These Devices are inserted during surgical procedures and are used to hold soft tissue in place.

7. On March 18, 1997, the United States Patent and Trademark Office issued the '814 Patent, entitled "Resorbable Surgical Appliances and Endoscopic Soft Tissue Suspension

Procedure" to Z. Paul Lorenc. Dr. Lorenc owns all rights with respect to this patent. A copy of the '814 patent is appended hereto as Exhibit A.

8. One aspect of the '814 patent covers a device used in cosmetic surgery to support soft tissue.

9. The Coapt Tissue Support Devices infringe one or more claims of the '814 patent literally and/or under the doctrine of equivalents.

10. Dr. Lorenc, through his counsel, notified defendant Coapt that its manufacture, marketing and sale of the ENDOTINE™ Forehead infringes the '814 patent and offered a non-exclusive license to Coapt.

11. Coapt refused to discontinue the manufacturing, marketing, and sale of the ENDOTINE™ Forehead and refused to license the rights to the '814 patent from Dr. Lorenc.

12. After Coapt was notified that its manufacture, marketing and sale of the ENDOTINE™ Forehead infringed the '814 patent, Coapt began to manufacture, market, and sell some or all of the other Coapt Tissue Support Devices.

13. Dr. Lorenc has suffered and continues to suffer a financial loss due to Coapt's infringing use of the Coapt Tissue Support Devices.

14. Coapt's infringement of the '814 patent is willful.

15. An actual case and controversy now exists as between Dr. Lorenc and Coapt arising under the patent laws of the United States as to Coapt's infringement of the '814 patent.

COUNT II

(Inducement of Infringement)

16. Plaintiff incorporates by reference paragraphs 1-15 above, as though fully set forth herein.

17. Coapt sells some or all of the Coapt Tissue Support Devices to medical personnel throughout the country, thereby actively inducing infringement of the '814 patent.

18. Dr. Lorenc has suffered and continues to suffer a financial loss due to Coapt's inducement of others to infringe the '814 patent.

19. Coapt's infringement of the '814 patent is willful.

COUNT III

(Contributory Infringement)

20. Plaintiff incorporates by reference paragraphs 1-19 above, as though fully set forth herein.

21. Coapt sells and/or offers to sell some or all of the Coapt Tissue Support Devices which are used in practicing a patented process and constitutes a material part of the invention of the '814 patent. Coapt knows that the Coapt Tissue Support Devices are especially made for use in an infringement of the '814 patent. The Coapt Tissue Support Devices are not staple articles or commodities of commerce suitable for substantial noninfringing use; therefore, Coapt is liable as a contributory infringer.

22. Dr. Lorenc has suffered and continues to suffer a financial loss due to Coapt's contributory infringement.

23. Coapt's infringement of the '814 patent is willful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Z. Paul Lorenc, M.D. requests entry of an order:

(a) preliminarily and permanently enjoining Defendant Coapt from making, using and selling any device that infringes the '814 patent, and

(b) awarding him damages in an amount to be determined at trial, together with interest, costs and attorneys' fees to the extent permitted by law.

Dated: July 13 ,2004

Respectfully submitted,

/s/ Jennifer D. Silverman

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DEMAND FOR JURY TRIAL

Plaintiff, Z. Paul Lorenc, M.D. hereby demands a jury trial of all issues so triable.

Dated: July 13, 2004

/s/ Jennifer D. Silverman

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