

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

F & E GESELLSCHAFT FÜR
BEKLEIDUNGSINNOVATION
mbH & CO. KG,

Plaintiff,

V.

SURGICAL APPLIANCES
INDUSTRIES, INC., et al. and
JING YUN PLASTIC CO. LTD.,

Defendants.

CASE NO. 1:09-cv-563

COMPLAINT FOR PATENT
INFRINGEMENT OF UNITED STATES
PATENT NOS. 5,607,473 AND 5,603,791

[JURY TRIAL DEMANDED]

Plaintiff, F & E Gesellschaft Für Bekleidungsinnovation mbH & Co. KG (“F&E”), brings this action for patent infringement against Defendants, Surgical Appliance Industries, Inc. (“Surgical”) and Jing Yun Plastic Co. Ltd. (“Jing Yun”), and alleges as follows:

The Parties

1. Plaintiff F&E is a corporation organized and existing under the laws of Germany, having its principal place of business at Grafenstrasse 23, 83098 Brannenburg, Germany. F&E is the assignee and present owner of U.S. Patent No. 5,607,473 for “Breast Prosthesis,” and U.S. Patent No. 5,603,791 for “Method of Making Breast Prosthesis,” attached as Exhibits A and B.

2. Defendant Surgical is a corporation organized and existing under the laws of the State of Ohio, having its principal place of business in Cincinnati, Ohio.

3. Defendant Jing Yun is a corporation of Taiwan having a principal place of business at Shulin City, Taipei County, Taiwan.

Jurisdiction and Venue

4. This action for patent infringement arises under title 35, United States Code, and more particularly under Sections 271, 281, 283 and 284 of that title.

5. The jurisdiction of this Court is founded upon Title 28, United States Code, Sections 1331 and 1338 (a).

6. The venue of this action is laid in the Southern District of Ohio, pursuant to Title 28, United States Code, Sections 1400 (b) and 1391 (d).

7. Defendant Jing Yun is subject to personal jurisdiction in this judicial district because, *inter alia*, (i) Jing Yun is a patent indemnitor of Surgical, a distributor of the infringing prosthetic devices in this district that infringe the patents in suit, and because (ii) Jing Yun regularly transacts business within the district in a substantial and continuous manner, including but not limited to, selling the infringing devices to Surgical, who offers for sale the breast prostheses and other infringing devices and accessories in this judicial district.

First Count

8. F & E is the assignee and present owner of U.S. Patent No. 5,607,473 (“the ‘473 Patent”). On information and belief, Surgical and Jing Yun have been and continue to infringe the ‘473 Patent by making, using, selling and offering for sale breast prostheses that embody the patented invention throughout the United States, including the Southern District of Ohio, and by actively inducing others to use and sell breast prostheses that embody the patented invention in this district, with the knowledge and intention that such manufacture, use and sale infringes the ‘473 Patent. Surgical and Jing Yun will continue to do so unless enjoined by this Court.

Second Count

9. Plaintiff realleges paragraphs 1 through 8 of its complaint with the same force and effect as if set forth herein in full.

10. F&E is the assignee and present owner of U.S. Patent No. 5,603,791 (“the ‘791 Patent”). On information and belief, Surgical and Jing Yun have been and continue to infringe the ‘791 Patent by manufacturing, importing into the United States, and selling, offering to sell and using breast prostheses, which are made by the patented method, in the United States, including the Southern District of Ohio, and by actively inducing others to use and sell breast prostheses, made by the patented method, in this District, with the knowledge and intention that such use and sale infringes said patent and will continue to do so unless enjoined by this Court.

WHEREFORE, Plaintiff demands:

- A. For a declaration and adjudication that Defendants, Surgical and Jing Yun, have infringed, actively induced others to infringe, and/or contributorily infringed the ‘473 patent.
- B. For a declaration and adjudication that Defendants, Surgical and Jing Yun, have infringed, actively induced others to infringe, and/or contributorily infringed the ‘791 Patent.
- C. For a final injunction, enjoining Defendants, Surgical and Jing Yun, their agents, servants, employees, parents, subsidiaries or affiliates, and all those controlled by it or by them or in privity with them, from any and all activities which infringe or threaten to infringe F&E's rights with respect to the ‘473 and ‘791 Patents;

- D. For an accounting of the damages, together with interests, costs, and reasonable attorneys' fees;
- E. For any such other and further relief as may seem just and proper to this Court.

Respectfully submitted,

/s/ Kevin W. Kirsch

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JURY DEMAND

Pursuant to Civil Rule 38(a), F&E demands a trial by jury on all issues so triable.

Respectfully submitted,

/s/ Kevin W. Kirsch

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