

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

SMART PLATES, L.L.C.	*	CASE NO.
	*	
Plaintiff	*	
VERSUS	*	JUDGE:
	*	
CARESTREAM HEALTH, INC. AND	*	MAGISTRATE:
CARESTREAM DENTAL, LLC	*	
	*	
Defendants	*	JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Smart Plates, L.L.C., through its undersigned counsel, hereby files this Complaint for injunctive relief and damages arising out of claims for patent infringement and unfair trade practices against Defendants Carestream Health, Inc. and Carestream Dental, LLC.

PARTIES

1.

Plaintiff Smart Plates, L.L.C. is a Louisiana limited liability company with its principal place of business in Louisiana.

2.

Defendant Carestream Health, Inc. (“Carestream Health”) is a Delaware corporation which has registered offices in Louisiana.

3.

Defendant Carestream Dental, LLC (“Carestream Dental”) is a Georgia limited liability company with its principal place of business in Atlanta, Georgia. Carestream Dental LLC is not registered with the Louisiana Secretary of State to do business in Louisiana.

4.

Carestream Dental is an affiliate or subsidiary of Carestream Health and Carestream Dental and Carestream Health will be referred to herein collectively as “Defendants” or “Carestream.”

JURISDICTION AND VENUE

5.

This Court has original jurisdiction over the subject matter of this lawsuit under 28 U.S.C. §§ 1331 & 1338 because the claims herein involve, among other claims, federal law claims of patent infringement under 35 U.S.C. § 271. This Court has original and/or supplemental jurisdiction over the state law claim herein pursuant to 28 U.S.C. §§ 1338 & 1367.

6.

Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1400 & 1391 because Defendants reside in this judicial district and/or have committed infringing acts in this judicial district. For purposes of venue, Defendants reside in this judicial district because there is personal jurisdiction over the Defendants in this judicial district.

7.

Defendants are subject to personal jurisdiction in this Court because Defendants, among other activities, market, offer to sell and sell its infringing product in this judicial district as well as through nationwide distributors and databases that target this judicial district.

STATEMENT OF FACTS

8.

Smart Plates, L.L.C., by assignment, owns United States Patent No. 8,374,461 (“the ‘461 Patent”) which was issued by the United States Patent and Trademark Office (the “USPTO”) on February 12, 2013. The original inventors and assignors of the ‘461 Patent are Mr. Geoffrey Humphreys and Dr. Chad LaCour who are members of Smart Plates, L.L.C.

9.

Smart Plates, L.L.C.’s patented technology generally relates to a digital radiography plate identification system, in particular to an improvement on existing photostimulable phosphor plates (or PSPs). Dentists have long used PSPs as a type of media that can capture intra-oral images.

10.

Before Smart Plates, L.L.C.’s invention, a radiologist or dental technician taking a set of dental images with PSPs had to track manually each individual PSP as the images were taken, and once the images were taken and scanned into a computer system, had to manually place each image into the correct location and orientation within the image set or template for display or viewing. This process was both time-consuming and subject to mistakes in placing and orienting the images within a template.

11.

As an improvement on this existing technology and to solve the long-recognized limitations of PSPs, Mr. Geoffrey Humphreys and Dr. Chad LaCour invented a system and method for automatically processing and orienting dental radiographic images taken using PSPs. Specifically, Mr. Humphreys and Dr. LaCour added a machine-readable coding to each PSP that

would associate the image on the PSP with an appropriate location and orientation. As each image was scanned, the system would read the encoded image identifiers and automatically place each image in its proper location and orientation within a viewing or display template. This was an improvement over current PSP systems because the invention significantly reduced the time normally required by the user to place and orient the images, as well as the resultant time delay in servicing patient needs. Furthermore, the invention reduced, or even eliminated user error in processing PSPs.

12.

Mr. Humphreys and Dr. LaCour filed a provisional application on their invention on July 12, 2010 and the '461 Patent now held by Smart Plates, L.L.C. relates back to that date.

13.

After filing its provisional application, the principals of Smart Plates, L.L.C. began to meet with manufacturers of dental imaging systems to seek a buyer or licensee for its soon to be patented technology.

14.

On August 30, 2010, Smart Plates, L.L.C. filed an application for a federal trademark of "SMARTPLATES" with the USPTO for use in connection with its business and the sale or licensing of its soon to be patented technology.

15.

On November 11, 2010, Chad LaCour with Smart Plates, L.L.C. e-mailed a Product Line Manager of Defendants, Mr. Wesley Newsom, and sought to obtain a meeting with principals of the Defendants to have them purchase or obtain a license of Smart Plates, L.L.C.'s soon to be patented technology. In its e-mail, Smart Plates, L.L.C. called its technology "Smart Plates"

consistent with its application for a federal trade mark of “SMARTPLATES.” In a reply e-mail to Mr. LaCour on November 11, 2010, Mr. Newsom expressly acknowledged Smart Plates, L.L.C.’s technology was called “Smart Plates” and offered to discuss Smart Plates, L.L.C.’s Smart Plates technology “over a video conference or Webex session.”

16.

On November 12, 2010, principals of Smart Plates, L.L.C. agreed by e-mail to have a video conference or conference call with Mr. Newsom to discuss Smart Plates, L.L.C.’s Smart Plates technology.

17.

Numerous calls were made by the principals of Smart Plates, L.L.C. to Mr. Newsom after November 12, 2010, but Mr. Newsom has failed to return the phone calls to date.

18.

In or around February of 2012, Defendants introduced and offered for sale its CS7600 digital radiography imaging system and “Smart Plates” which is the same name that Smart Plates, L.L.C. had provided to Defendants’ representative back in November 2010 for the product of Smart Plates, L.L.C.

19.

As described on Defendants’ website, the Defendants’ CS7600 System includes “Smart Plates” and a scanning device that produces digital data images from the “Smart Plates.” In addition, Defendants’ scanning device includes a processing system with the ability to automatically recognize identifying information embedded on the plates and, using the embedded identifiers, send the scanned images to the appropriate computer, patient file and position on the screen for review. Defendants’ “Smart Plates” are PSPs with a special chip, or a

radio-frequency identification (“RFID”) strip, that can encode the identifiers for each image on the plates. The CS7600 can optionally include imaging software that enables processing and facilitates image sharing within a network. The system can also optionally include “Scan & Go” technology which enables the user to attach the information to be associated with the images on the “Smart Plates.”

20.

In use, the CS7600 with the “Scan & Go” technology (collectively the “CS7600 System”): (i) encodes each of a set of scannable image media, specifically the Defendants’ “Smart Plates” PSPs, with identifiers regarding image location and orientation; (ii) reads the scannable image media with a scanning apparatus to produce a set of data images and transmits those images to a processing system; and (iii) processes the set of images and their identifiers to place automatically each image in its proper location and orientation within a template for display or viewing.

21.

Defendants CS7600 System and “Smart Plates” directly and indirectly infringe on the claims of the ‘461 Patent and the use of “Smart Plates” will infringe the soon to be registered federal trademark of Smart Plates, L.L.C., once Smart Plates, L.L.C. uses the mark in commerce.

22.

Defendants have been infringing the ‘461 Patent by marketing, offering to sell, selling and using the CS7600 System and Smart Plates which embody the ‘461 Patent. Likewise, Defendants actions of marketing and selling its phosphorous plates as “Smart Plates” will be a violation of Smart Plates, L.L.C.’s soon to be registered federal trademark.

23.

Contemporaneous with filing this Complaint, Smart Plates, L.L.C. has notified Defendants that its CS7600 System and “Smart Plates” are infringing on the ‘461 Patent and will violate the soon to be registered federal trademark of Smart Plates, L.L.C. and made demand on the Defendants to cease and desist with their infringements.

COUNT ONE - PATENT INFRINGEMENT UNDER 35 U.S.C. § 271

24.

The allegations set forth in the paragraphs above are incorporated herein by reference.

25.

Defendants have infringed and are still infringing on the ‘461 Patent by making, selling, leasing, offering for sale or lease, and/or using apparatus and methods embodying the ‘461 Patent and they will continue to do so unless enjoined by this Court.

26.

Contemporaneously with filing this Complaint, Smart Plates, L.L.C. has provided actual notice of the ‘461 Patent and Defendants have still willfully infringed one or more claims of the ‘461 Patent.

27.

The apparatus and methods covered by the claims of the ‘461 Patent have no substantial non-infringing uses and is known by Defendants to be especially made or especially adapted for use in an infringement of one or more claims of the ‘461 Patent.

28.

Defendants are liable for contributory infringement by, among other things, offering to sell, selling, leasing, or otherwise providing the infringing CS7600 System and “Smart Plates” to

third parties that infringe one or more claims of the ‘461 Patent. The CS7600 System and “Smart Plates” were especially made for use in infringing the ‘461 Patent and the CS7600 System and “Smart Plates” are not staple articles or commodities of commerce suitable for substantial non-infringing use – that is, the CS7600 System and “Smart Plates” only use is in an infringement of the ‘461 Patent.

29.

Defendants are also liable to Smart Plates, L.L.C. for inducement of infringement. Defendants have induced, aided and/or abetted acts of infringement by third parties with specific intent to cause infringement of one or more claims of the ‘461 Patent. Defendants specific intent to induce infringement include selling and/or leasing the infringing CS7600 System to third parties, instructing third parties on how to use the infringing CS7600 System, soliciting third parties to use the infringing CS7600 System and employing the patented methods and distributing advertisements inviting third parties to use the infringing CS7600 System and employ the patented methods.

30.

Defendants now know of the existence of the ‘461 Patent, know that its acts directly and indirectly infringe the claims of the ‘461 Patent, and still continue to engage in infringing acts anyway. Defendants continue to act despite an objectively high likelihood that its actions constitute infringement of the ‘461 Patent.

31.

Defendants’ activities have irreparably harmed and, if not enjoined, will continue to irreparably harm Smart Plates, L.L.C.

32.

Smart Plates, L.L.C.'s remedies of law are inadequate to fully compensate it for its injuries inflicted by Defendants. Accordingly, Smart Plates, L.L.C. is entitled to preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283.

33.

By reason of Defendants willful acts alleged herein, Smart Plates, L.L.C. is also entitled to any award of damages in an amount to be determined at trial to compensate for the infringement in an amount no less than a reasonable royalty along with lost profits and together enhanced up to three times their amount, for the use made of the invention by the Defendants, together with interest and costs under 35 U.S.C. § 284 plus an amount necessary for Defendant to disgorge all profits that they have derived by reason of their unlawful acts set forth herein.

34.

This is an exceptional case entitling Smart Plates, L.L.C. an award of attorney's fees under 35 U.S.C. § 285.

**COUNT TWO - VIOLATION OF LOUISIANA UNFAIR TRADE PRACTICES AND
CONSUMER PROTECTION ACT UNDER LA. REV. STAT. § 51:1401 ET. SEQ.**

35.

The allegations set forth in the paragraphs above are incorporated herein by reference.

36.

Under the Louisiana Unfair Trade Practices and Consumer Protection Act (the "Louisiana Unfair Trade Practices Act"), La. Rev. Stat. § 51:1401 *et. seq.*, unfair trade practices are prohibited. Unfair trade practices include practices which are unethical, oppressive, and/or unscrupulous.

37.

Defendants' acts described above, including infringement of the '461 Patent and Smart Plates, L.L.C.'s soon to be registered trademark as well as the misappropriation of the "Smart Plate" name after it was disclosed to representatives of Defendants back in November 2010, constitute unfair trade practices in violation of the Louisiana Unfair Trade Practices Act. Consequently, Plaintiff Smart Plates, L.L.C. requests a judgment against Defendants in an amount to be determined at trial for damages incurred by Defendants' actions.

38.

Additionally, to the extent that Defendants continue with their unfair trade practices after being put on notice by the Louisiana Attorney General's Office, then Plaintiff Smart Plates, L.L.C. is entitled to and requests an award of three times the actual damages sustained as per the provisions of the Louisiana Unfair Trade Practices Act.

39.

Smart Plates, L.L.C. further seeks all attorney's fees and costs incurred in pursuing this action as provided under the Louisiana Unfair Trade Practices Act and other law.

COUNT THREE – TRADEMARK INFRINGEMENT

Smart Plates, L.L.C. hereby reserves its right to amend this Complaint to assert additional counts for trademark infringement and other trademark infringement related claims once Smart Plates, L.L.C. obtains its federal registration of the mark "SMARTPLATES."

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Smart Plates, L.L.C. demands a trial by jury of all issues properly triable to a jury in this case.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Smart Plates, L.L.C. respectfully requests that judgment be rendered in its favor and against Defendants Carestream Health, Inc. and Carestream Dental, LLC wherein this Court:

1. Enters a preliminary and permanent injunction against all continued direct and indirect patent infringement;
2. Order that the Defendants account to Smart Plates, L.L.C. for and to disgorge all profits in an amount to be determined at trial that they have derived by reason of the unlawful acts complained of herein;
3. Order that the Defendants pay damages in an amount to be determined at trial arising from the claims herein, in an amount no less than a reasonable royalty and for lost profits, and that those damages be enhanced up to three times their amount under 35 U.S.C. § 284 and/or the Louisiana Unfair Trade Practices Act;
4. Order that the Defendants pay Smart Plates, L.L.C. reasonable attorney's fees and costs of this action under 35 U.S.C. § 285 and/or under the Louisiana Unfair Trade Practices Act;
5. Require the Defendants to file with this Court and serve Smart Plates, L.L.C. with a report in writing, under oath, setting forth and each other manner and form in which Defendants have complied with the terms of any injunction entered by this Court; and
6. Award all other relief as this Court deems just and proper.

Respectfully Submitted:

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