

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

OsteoMed LLC,

Plaintiff,

v.

Stryker Corporation,

Defendant.

Case No. 1:20-cv-6821

**JURY TRIAL DEMANDED**

**PLAINTIFF OSTEOMED LLC'S COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff OsteoMed LLC ("OsteoMed") files this complaint for patent infringement against Defendant Stryker Corporation ("Stryker") alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

**NATURE OF THE ACTION**

1. This is a civil action arising under the patent laws of the United States, 35 U.S.C. § 1 et seq., including specifically 35 U.S.C. § 271, based on Stryker's willful infringement of 8,529,608 ("the '608 Patent") (Exhibit A); 9,351,776 ("the '776 Patent") (Exhibit B); 9,763,716 ("the '716 Patent") (Exhibit C); and 10,245,085 ("the '085 Patent") (Exhibit D) (collectively "the Patents-in-Suit").

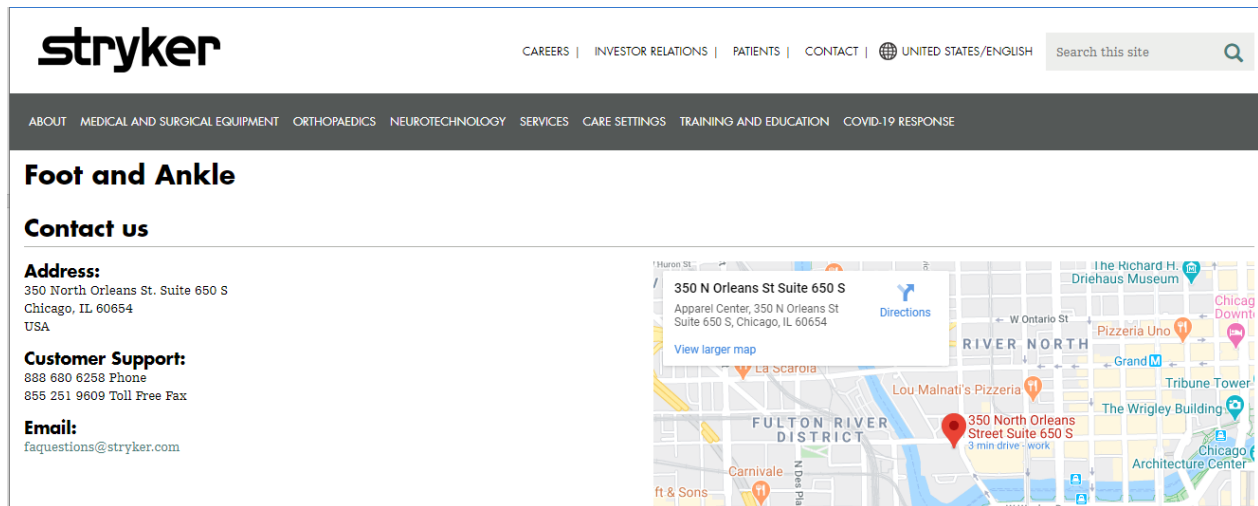
**THE PARTIES**

2. OsteoMed is a Delaware limited liability company with its principle place of business at 3885 Arapaho Road Addison, Texas 75001.

3. Stryker is a Michigan corporation with its principal place of business at 2825 Airview Boulevard, Kalamazoo, Michigan 49002.

4. Upon information and belief, Stryker’s unincorporated division, Stryker Foot and Ankle, has a place of business at 350 North Orleans St. Suite 650 S., Chicago, Illinois 60654.

5. Stryker advertises its Foot and Ankle location in Chicago, Illinois on its website:



The screenshot displays the Stryker website's 'Foot and Ankle' contact page. At the top, the Stryker logo is on the left, and navigation links for CAREERS, INVESTOR RELATIONS, PATIENTS, CONTACT, and UNITED STATES/ENGLISH are on the right. A search bar is also present. Below the navigation bar, a dark grey header contains links for ABOUT, MEDICAL AND SURGICAL EQUIPMENT, ORTHOPAEDICS, NEUROTECHNOLOGY, SERVICES, CARE SETTINGS, TRAINING AND EDUCATION, and COVID-19 RESPONSE. The main content area features the heading 'Foot and Ankle' and a sub-heading 'Contact us'. Under 'Address', it lists '350 North Orleans St. Suite 650 S, Chicago, IL 60654 USA'. Under 'Customer Support', it provides phone numbers '888 680 6258' and '855 251 9609', and an email address 'faquestions@stryker.com'. To the right of the text is a map of Chicago with a red pin at '350 N Orleans St Suite 650 S', labeled as 'Apparel Center, 350 N Orleans St Suite 650 S, Chicago, IL 60654'. The map also shows nearby landmarks like the Richard H. Driehaus Museum, Pizzeria Uno, and the Tribune Tower.

6. Upon information and belief, Stryker customer service support to customers who purchase the Anchorage<sup>®</sup> CP, Anchorage<sup>®</sup> 2 CP, and VariAx<sup>®</sup> 2 plating systems (collectively referred to herein as the “Anchorage CP plating systems”) through its location in Chicago, Illinois.

### **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the claims herein arise under the patent laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. § 271.

8. This Court has personal jurisdiction over Stryker in this action because Stryker, upon information and belief, has committed acts of infringement within the State of Illinois and within this District through, for example, the sale of the Anchorage CP plating systems in this District. Stryker regularly transacts business in the State of Illinois and within this District. Stryker engages in other persistent courses of conduct and derives substantial revenue from products provided in this District and in Illinois, and has purposefully established substantial, systematic,

and continuous contacts within this District and should reasonably expect to be sued in a court in this District. For example, Stryker has an office in this District and offers customer service support to customers who buy the infringing products in this District. Stryker also has a registered agent for service in Illinois. Given these contacts, the Court's exercise of jurisdiction over Stryker will not offend traditional notions of fair play and substantial justice.

9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b). Stryker has regular and established places of business in this District, including at 350 North Orleans St. Suite 650 S., Chicago, Illinois 60654. Stryker has committed acts within this District, giving rise to this action. Stryker continues to conduct business in this District, including one or more acts of making, selling, importing and/or offering for sale infringing products or providing support service to Stryker's customers in this District.

#### **FACTUAL BACKGROUND**

10. OsteoMed is a leading global innovator, developer, manufacturer and marketer of specialty medical devices, surgical implants, and powered surgical instruments.

11. OsteoMed was founded in 1990 in Glendale, California by Rick Buss, a medical device sales representative, and Jim Lafferty, a medical device engineer. The company was founded on the principle of close collaboration between the company and doctors, with products made to their specifications. In the mid-1990s, OsteoMed relocated to Addison, Texas, seeking a more central location for product distribution.

12. OsteoMed focuses on meeting the needs of surgeons and their patients by developing and delivering innovative, technically advanced, quality products focused on improving patient outcomes.

13. OsteoMed provides a variety of implantable devices used in foot and ankle surgery, including its ExtremiLOCK™ Foot Plating System.

14. The ExtremiLOCK™ Foot Plating System includes the latest in variable angled locking screw and plate technology to treat multiple reconstructive and trauma applications of the forefoot, midfoot, and hindfoot. The ExtremiLOCK™ Foot Plating System features double-lead screws which allow for faster insertion and reduced O.R. time. Specialized instrumentation complete this comprehensive system which allows for multiple intra-operative options to better treat the indication.

15. “The metatarso-phalangeal joint is a joint between a metatarsal bone of the foot and the proximal phalanx of a toe. It is common, particularly in sports, for the first metatarso-phalangeal joint (e.g., the metatarso-phalangeal joint of the big toe) to be injured as a result of trauma to or hyper extension of the big toe. In other scenarios, degradation of the metatarso-phalangeal joint may be caused by arthritis.” Ex. A, ’608 Patent at 3:14–20.

16. While minor injuries to the metatarso-phalangeal joint may often be treated using conservative measures such as immobilization and icing of the toe, accompanied by rest and anti-inflammatory medication, severely damaged metatarso-phalangeal joint may require a bone plate that is laid across the joint. *See id.* at 3:20–45.

17. “The plate may then be screwed to the bones of the joint to hold them in alignment next to one another, enabling the joint fuse. However, when a load is placed upon the joint (e.g., when weight is placed upon the foot) it is possible for the plate to bend or break above the joint. This may cause the bones of the joint to fall out of approximation, resulting in a non-union (e.g., a failed fusion of the joint). Consequently, the ability to rigidly hold the bones of a joint in tight

approximation without bending or breaking is one metric for judging the effectiveness of a joint-fixation plate.” *Id.* at 3:45–55.

### **OsteoMed’s Solution – Use of a Transfixation Screw**

18. In early 2009, OsteoMed began investigating the use of a transfixation screw to “increase the durability and reliability of a joint-fixation plate.” *Id.* at 3:56–59.

19. OsteoMed found that “once the transfixation screw is screwed across the joint, it may absorb some of the stress that would otherwise be exerted on the plate when a load is placed upon the joint. This may reduce the strain on the plate, increasing its reliability and durability. Additionally, while the plate may provide lateral support for the joint, the transfixation screw may hold the bones of the joint in tight approximation, increasing the likelihood of a positive fusion of the joint. This may be particularly important on the plantar side of the joint due to tensile stresses exerted on that side of the joint when loaded.” *Id.* at 3:59–4:2.

20. On April 28, 2009, Lance Terrill, an engineer specializing in orthopedic applied research and product development, and Dr. Bruce Werber, DPM, a Board-Certified reconstructive foot and ankle surgeon, filed U.S. Patent Application No. 12/431,017, which later issued as the ’608 Patent on September 10, 2013.

21. The claims of the ’608 Patent are directed to “[a] plate for securing bones together across an intermediate joint [that includes] a transfixation screw hole.” *Id.* at cl. 11.

22. On August 30, 2013, U.S. Patent Application No. 14/015,900 was filed, which claimed priority to U.S. Patent Application No. 12/431,017, and eventually issued as the ’776 Patent on May 31, 2016.

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