

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

HINGE HEALTH, INC., a Delaware
Corporation,

Plaintiff,

v.

TERRY I. YOUNGER, an individual,

Defendant.

No.

**COMPLAINT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 9,418,571**

Plaintiff Hinge Health, Inc., (“Plaintiff” or “Hinge Health”) hereby alleges for its Complaint against Defendant Terry I. Younger (“Defendant” or “Younger”) as follows:

NATURE AND HISTORY OF THE ACTION

1. This is an action for a declaratory judgment of non-infringement of U.S. Patent No. 9,418,571 (the “’571 Patent” or the “Patent-in-Suit”), attached hereto as Exhibit A.

2. On January 7, 2021, Defendant Younger, through his counsel of record, sent a letter alleging that Hinge Health infringes the Patent-in-Suit through its alleged manufacturing, marketing, importing, and sale of an apparatus and method for musculoskeletal care (“Accused Products”), attached hereto as Exhibit B. Younger claims to own all right, title and interest in and to the ’571 Patent and that the Accused Products infringe that Patent.

3. Since that first letter on January 7, 2021, Younger has sent additional e-mail correspondence, through his counsel of record, that continues to contend that Hinge Health infringes the ’571 Patent, including most recently on July 16, 2021.

4. Hinge Health does not infringe, nor has it infringed, any valid and enforceable claim of the Patent-in-Suit. An actual case or controversy exists between Hinge Health and Younger regarding whether Hinge Health infringes the Patent-in-Suit.

5. Younger's actions have created a real and immediate controversy between Hinge Health and Younger regarding whether the Accused Products infringe any claims of the Patent-in-Suit. Younger's accusation of infringement demonstrates that it is highly likely that he will assert infringement of the Patent-in-Suit against Hinge Health.

6. The facts and allegations recited herein show that there is a real, immediate, and justiciable controversy. A judicial declaration is necessary to determine the respective rights of the parties regarding the Patent-in-Suit, and Hinge Health seeks a judicial declaration that it does not infringe the Patent-in-Suit.

THE PARTIES

7. Plaintiff Hinge Health, Inc., is a corporation organized and existing under the laws of Delaware, with its principal place of business at 465 California Street, 14th Floor, San Francisco, California 94104.

8. On information and belief, Defendant Dr. Terry I. Younger is an individual residing in Illinois, with a medical practice at Swedish Hospital, 5140 North California Avenue, Chicago, Illinois 60625.

JURISDICTION AND VENUE

9. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

10. This Court has subject matter jurisdiction over the claims alleged in this action at least under 28 U.S.C. §§ 1331, 1332, 1338, 2201, and 2202, because this Court has exclusive jurisdiction over declaratory judgment claims arising under the Patent Laws pursuant to 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

11. This Court can provide the relief sought because an actual case and controversy exists between the parties within the scope of this Court's jurisdiction pursuant to 28 U.S.C. § 2201, at least because Younger has accused Hinge Health of infringement of the Patent-in-Suit, despite the fact that Hinge Health does not infringe, and has not infringed, any

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claims of the Patent-in-Suit. Younger's actions have created a real, live, immediate, and justiciable case or controversy between Younger and Hinge Health.

12. Younger is subject to personal jurisdiction in the Northern District of Illinois at least because, on information and belief, he resides and maintains a place of business in this District.

13. Venue in this District is proper under 28 USC §§ 1391(b), (c), and (d) with respect to Hinge Health's declaratory judgment claims because this Court has personal jurisdiction over Younger.

14. An actual and justiciable controversy exists under 28 U.S.C. §§ 2201-2202 between Hinge Health and Younger as to whether the Patent-in-Suit is infringed by Hinge Health's products and/or services.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment That Hinge Health Does Not Infringe The '571 Patent)

15. Hinge Health repeats and realleges each and every allegation contained in paragraphs 1-14 as if fully set forth herein.

16. In view of the facts and allegations set forth above, there is an actual, justiciable, substantial, and immediate controversy between Hinge Health, on the one hand, and Younger, on the other, regarding whether Hinge Health infringes any claim of the '571 Patent.

17. Hinge Health does not directly or indirectly infringe, either literally or under the doctrine of equivalents, any claim of the '571 Patent. Hinge Health has not directly or indirectly infringed, either literally or under the doctrine of equivalents, any claim of the '571 Patent.

18. For example, Hinge Health cannot infringe the '571 Patent because the '571 Patent teaches a method which includes, in every independent claim, steps that Hinge Health does not perform for its customers, such as the physical act of fixing or placing a brace.

19. Similarly, Hinge Health does not induce infringement of the '571 Patent because, for at least the reasons stated above, there is no direct infringement of any claim of the '571

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Patent. Additionally, Hinge Health has not acted with the knowledge and/or specific intent necessary for induced infringement and has not encouraged others' infringement.

20. Likewise, Hinge Health does not contributorily infringe the '571 Patent because, for at least the reasons stated above, there is no direct infringement of any claim of the '571 Patent. Additionally, the Accused Products were not designed for an infringing use, have substantial noninfringing uses, and are not a material part of any infringing combination. Furthermore, Hinge Health has not acted with the knowledge or intent necessary for contributory infringement.

21. Declaratory relief is necessary and appropriate so that Hinge Health may ascertain its rights regarding the '571 Patent.

22. For the reasons set forth above, Hinge Health respectfully requests that this Court declare that Hinge Health does not directly or indirectly infringe, nor has it directly or indirectly infringed, any claim of the '571 Patent, either literally or under the doctrine of equivalents.

PRAYER FOR RELIEF

Hinge Health respectfully requests the following relief:

A. That the Court enter a judgment declaring that Hinge Health has not infringed and does not infringe any enforceable claim of the '571 Patent;

B. That the Court declare that this case is exceptional under 35 U.S.C. § 285 and award Hinge Health its attorneys' fees, costs, and expenses incurred in this action;

C. That the Court award Hinge Health any and all other relief to which Hinge Health may show itself to be entitled; and

D. That the Court award Hinge Health any other relief as the Court may deem just, equitable, and proper.

JURY DEMAND

Hinge Health hereby demand a jury trial on all issues and claims so triable.

By: /s/ Tara Kurtis
One of Their Attorneys

Tara Kurtis (ARDC #6323880)
TKurtis@perkinscoie.com
PERKINS COIE LLP
131 S. Dearborn Street, Suite 1700
Chicago, IL 60603
Tel: (312) 324-8400
Fax: (312) 324-9400

David A. Perez (*Pro Hac Vice Pending*)
DPerez@perkinscoie.com
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Tel: (206) 359-8000
Fax: (206) 359-7767

John D. Esterhay (*Pro Hac Vice Pending*)
JEsterhay@perkinscoie.com
PERKINS COIE LLP
11452 El Camino Real, Ste 300
San Diego, California 92130-2080
Tel: (858) 720-5700
Fax: (858) 720-5858

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