

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

APPLIED MEDICAL TECHNOLOGY, INC.,

Plaintiff,

v.

CORPAK MEDSYSTEMS, INC.

Defendant.

Case No. 1:16-CV-02190-PAG

JUDGE PATRICIA A. GAUGHAN

INITIAL INFRINGEMENT CONTENTIONS

Pursuant to Local Patent Rule 3.1, Plaintiff APPLIED MEDICAL TECHNOLOGY, INC. (“AMT”) hereby provides the following information to Defendant CORPAK MEDSYSTEMS, INC. (“Corpak”).

L.P.R. 3.1 (a): Infringed Claims

Corpak infringes claim 18 of U.S. Patent No. 6,631,715 (the ‘715 patent), which is entitled “Magnetic Nasal Tube Bridle System and Related Method,” under 35 U.S.C. § 271 (b). AMT reserves the right to allege that Corpak infringes claim 18 of the ‘715 patent under 35 U.S.C. § 271 (a) and/or 35 U.S.C. § 271 (c) as information is provided by Corpak.

L.P.R. 3.1 (b): Accused Instrumentalities

The above-identified claim of the ‘715 patent is infringed by Corpak’s device for nasogastric/nasointestinal tube retention named the CORGRIP NG/NI Tube Retention System (the “Corgrip System”) when used in accordance with Corpak’s instructions. Product numbers include 25-008, 25-010, and 25-012, for use with NG/NI feeding tubes of sizes 8 French, 10 French, and 12 French, respectively.

L.P.R. 3.1 (c): Claim Chart

AMT provides herewith as Exhibit A a detailed Claim Chart identifying specifically where each limitation of the asserted claim is found within each Accused Instrumentality. At present, AMT does not contend that any limitation in the asserted claim is governed by 35 U.S.C. § 112(6) (pre-AIA).

L.P.R. 3.1 (d): Direct Infringers

AMT alleges that claim 18 of the '715 patent is indirectly infringed under 35 U.S.C. § 271(b), and that the direct infringers are each medical care provider that uses Corpak's Corgrip System following the instructions provided by Corpak with the Corgrip System. See paragraphs 14-16 of the Complaint.

L.P.R. 3.1 (e): Literal Infringement

As set out in the Claim Chart attached as Exhibit A, it is believed that each limitation of the asserted claim is literally present during use of Corpak's Corgrip System by medical care providers following the instructions provided by Corpak with the Corgrip System. AMT reserves the right to amend these Contentions to describe how such limitations are alternatively met under the doctrine of equivalents, including for example if Corpak contends that one or more limitations of the asserted claim are not present during use of Corpak's Corgrip System by medical care providers.

L.P.R. 3.1(f): Priority Dates

The '715 patent has a filing date of August 24, 2001, and claims priority of U.S. Provisional Application No. 60/230,525, filed September 1, 2000. AMT contends that the asserted claim has a priority date of August 24, 2001.

L.P.R. 3.1 (g): Willful Infringement

AMT alleges that Corpak willfully infringed the asserted claim for at least the following reasons. Beginning in or about March 2014 Corpak began offering for sale and selling in the United States the Corgrip System. Corpak had actual knowledge of the '715 patent when it offered for sale and sold its Corgrip System and provided specific instructions for the use of that system. Corpak learned of the '715 patent at least as early as 2011 when it reviewed AMT's "Bridle" nasal tube retention system in connection with an attempt to acquire the rights to this innovative product from AMT. AMT's "Bridle" nasal tube retention system practiced the '715 patent and was marked with the '715 patent number.

Further, at about the time when Corpak announced the introduction of its Corgrip System, Corpak filed an Information Disclosure Statement in a patent application at the United States Patent and Trademark Office which disclosed the '715 patent, thereby showing that Corpak had knowledge of the '715 patent at that time.

In addition, Corpak had and has specific intent to encourage and induce medical care providers using the Corgrip System to infringe the asserted claim. This intent is shown in the detailed instructions Corpak has provided and continues to provide for the use of its Corgrip System. These instructions specifically direct medical care providers using the Corgrip System to carry out each and every step of the method claimed in claim 18 of the '715 patent as shown in the Claim Chart.

Furthermore, medical care providers using the Corgrip System have infringed and continue to infringe the asserted claim by using Corpak's Corgrip System as instructed by Corpak.

The reasonable implication of these facts is that Corpak knows that use of its Corgrip System, in accordance with its instructions for use thereof, infringes the asserted claim, and yet has consciously chosen to have made and sold the Corgrip System in derogation of the '715 patent.

L.P.R. 3.2: Document Production

Pursuant to Local Patent Rule 3.2, AMT is producing herewith documents that are required to be disclosed under that Rule. Nothing in these required disclosures shall be considered an admission that such disclosures are prior art or evidence of prior art under 35 U.S.C. § 102 (pre-AIA) or § 103 (pre-AIA).

Dated: November 8, 2016

Respectfully submitted,

/s/ Michael P. Padden

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CERTIFICATE OF SERVICE

I, Kristy M. Wiles, a non-attorney, hereby certify that I served this INITIAL INFRINGEMENT CONTENTIONS by serving a copy of each to the parties listed below by regular U.S. mail and email this 8th day of November, 2016:

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