

1 Robert J. Carlson, WSBA #18455
LEE & HAYES, P.C.
2 701 Pike Street, Ste. 1600
Seattle, WA 98101
3 Phone: (206) 315-4001
carlson@leehayes.com
4

5 Sarah E. Elsdon, WSBA #51158
Caleb Hatch, WSBA #51292
6 LEE & HAYES, P.C.
601 W. Riverside Ave. Suite 1400
7 Spokane, Washington 99201
Telephone: (509) 324-9256
8 sarah.elsdon@leehayes.com
caleb.hatch@leehayes.com
9

10 *Attorney for Plaintiffs*

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF WASHINGTON**

13 FOX'S SPOKANE DENTURE
CLINIC, INC., a Washington
14 corporation; MARICONDA DENTAL,
PROFESSIONAL CORPORATION
15 d/b/a A.Q. DENTURE AND DENTAL
IMPLANT CENTER, a Nevada
16 professional corporation,

17 Plaintiffs,

18 v.

19 NOVEL TECHNOLOGIES, INC. d/b/a
20 IVORY DIGITAL DENTURES, a
Canadian corporation,

21 Defendant.
22
23
24

CASE NO. 2:21-cv-00080

COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiffs Fox's Spokane Denture Clinic, Inc. and Maricondia Dental, P.C.
2 d/b/a A.Q. Denture and Implant Center (collectively, "Plaintiffs"), through their
3 attorneys, bring this Complaint against Defendant Novel Technologies, Inc. d/b/a
4 Ivory Digital Dentures ("Defendant"), and allege as follows:

5 **NATURE OF THE ACTION**

6 1. This is an action for breach of contract under the Uniform Commercial
7 Code; breach of the implied covenant of good faith and fair dealing; unjust
8 enrichment; fraudulent and negligent misrepresentation; violation of the
9 Washington Consumer Protection Act, R.C.W.A. 19.86.020 *et seq.*; violation of the
10 Nevada Deceptive Trade Practices Act, NRS 598.0903 *et seq.*; and breach of
11 express warranty and implied warranties of merchantability and for a particular
12 purpose related to the advertisement and sale of defective software related to
13 fabrication of denture products.

14 **PARTIES**

15 2. Fox's Spokane Denture Clinic, Inc. ("Fox's Spokane") is a Washington
16 corporation in good standing with its principal place of business located in Spokane,
17 Washington.

18 3. Maricondia Dental, Professional Corporation d/b/a A.Q. Denture and
19 Implant Center ("A.Q. Denture") is a Nevada professional corporation in good
20 standing with its principal place of business located in Henderson, Nevada.

21 4. On information and belief, Defendant Novel Technologies, Inc. d/b/a
22 Ivory Digital Dentures ("Defendant") is an Ontario business corporation with its
23
24

1 principal place of business located at 11 Denmark Crescent, Toronto, Ontario,
2 Canada.

3 **JURISDICTION AND VENUE**

4 5. This Court has diversity jurisdiction under 28 U.S.C. § 1332 because
5 Plaintiffs and Defendant are citizens of different states and foreign states and the
6 amount in controversy exceeds \$75,000.

7 6. This Court has personal jurisdiction over Defendant because it
8 contracted with a business within this District and provided services related to that
9 contract in this District, which forms part of the basis of the claims at issue.
10 Defendant advertises and promotes its business in the United States through trade
11 shows and on its website. Defendant has traveled to the United States and marketed,
12 advertised, and sold products to United States consumers, provided professional
13 services in this District, and the effects of Defendant's unlawful conduct are felt in
14 this District.

15 7. The Court also has personal jurisdiction over Defendant pursuant to
16 Federal Rule of Civil Procedure 4(k)(2) because Defendant is not subject to
17 jurisdiction in any state's courts of general jurisdiction, and exercising jurisdiction
18 is consistent with the United States Constitution and laws.

19 8. Venue in this District is proper under 28 U.S.C. § 1391(b).

20 **FACTUAL ALLEGATIONS**

21 9. Fox's Spokane is a denture clinic located in Spokane, Washington.
22 Fox's Spokane provides valuable and necessary custom denture products and
23 services to its clients in Washington.

1 10. A.Q. Denture is a denture clinic located in Henderson, Nevada.
2 Similarly, A.Q. Denture provides valuable and necessary custom denture products
3 and services to its clients in Nevada.

4 11. In October 2018, representatives of Fox's Spokane Denture Clinic and
5 A.Q. Denture and Implant Center separately attended a denture professional trade
6 show in Las Vegas, Nevada as guests.

7 12. Defendant, through its employee representatives and/or owners
8 Sholomo Sharer and Benjamin Sharer, attended the trade show as a vendor exhibitor
9 to market a 3D denture system Defendant referred to as the "Denture System in a
10 Box" (the "Accused Product").

11 13. Defendant, both orally and in its marketing materials, represented to
12 Plaintiffs that the Accused Product, comprised of software, a 3D printer, resin, and
13 face mapping tool, among other components, could produce full, complete,
14 workable, and superior denture sets in three hours or less, and the entire denture
15 process, from initial visit to denture fitting, would take under a half day to complete.

16 14. Defendant, both orally and in its marketing materials, stated that the
17 resulting complete set of dentures would be completely safe and are as hard as
18 Lucitone 199 resin.

19 15. Defendant, both orally and in its marketing materials, stated that the
20 resin material included in the Accused Product was already approved by the FDA.

21 16. Based on those representations and other representations made in its
22 marketing materials, Defendant enticed Fox's Spokane and A.Q. Denture to
23 purchase Defendant's Accused Product at the trade show in Las Vegas, Nevada.

1 17. On October 12, 2018, in reliance on Defendant's representations,
2 warranties, statements, and promises – which turned out to be false – Fox's Spokane
3 and A.Q. Denture each entered into separate contracts with Defendant to purchase
4 the Accused Product for \$66,000 United States dollars.

5 18. Subsequent to the purchases of the Accused Product, Defendant's
6 representatives, including Benjamin Sharer, Elias Barroeta, Jessica Mazzaferro,
7 and/or Eriisa Sliwinski, traveled to Plaintiffs' respective business locations in
8 Spokane, Washington and Henderson, Nevada to install the Accused Product and to
9 provide hands-on training.

10 19. Despite its promises and representations, Defendant did not produce a
11 full set of dentures at Fox's Spokane or at A.Q. Denture during the on-site training
12 sessions.

13 20. Fox's Spokane and A.Q. Denture have not been able to manufacture a
14 single complete set of properly fitted dentures fit for consumer use, rendering the
15 Accused Product worthless.

16 21. The Accused Product does not function as advertised and the virtual
17 try-on feature does not work.

18 22. The Accused Product does not create precise bases or correctly set teeth
19 and the face scan function does not match the face tracking function.

20 23. Defendant represented that printed denture bases would have a smooth
21 exterior finish and eliminate the need for a denture technician, but that
22 representation also turned out to be false. Instead, the denture bases require hand
23 finishing and an increase in overall denturist time and cost.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.