

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

FOUR MILE BAY LLC	)	
	)	
<i>Plaintiff,</i>	)	CAUSE NO. 3:15-cv-00063-PPS-MGG
	)	
v.	)	HON. PHILIP P. SIMON
	)	
ZIMMER BIOMET HOLDINGS, INC.	)	M.J. HON. MICHAEL G. GOTSCH, SR.
	)	
<i>Defendant.</i>	)	<b>JURY TRIAL DEMANDED</b>
	)	
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**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Four Mile Bay LLC (“FMB”), by its undersigned attorneys, for its Complaint against Defendant Zimmer Biomet Holdings, Inc. (“Zimmer”), states as follows:

**NATURE OF THE ACTION**

1. This is a patent-infringement action by FMB against Zimmer, a manufacturer and marketer of reconstructive orthopedic implants, including hip implants. As detailed below, FMB has been harmed by Zimmer’s unlawful use of FMB’s patents for commercial purposes.

**JURISDICTION AND VENUE**

2. This action arises under the patent laws of the United States, 35 U.S.C. §§ 101 *et seq.* This Court therefore has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court may exercise personal jurisdiction over Zimmer. Zimmer’s principal place of business is located in Warsaw, Indiana. Zimmer conducts continuous and systematic business in Indiana and this District.

4. Venue is proper under 28 U.S.C. §§ 1391(b)(1) and 1400(b).

**PARTIES**

5. FMB is a limited liability company organized under the laws of Nevada. FMB's principal place of business is located in Wadsworth, Ohio.

6. Zimmer is a corporation organized under the laws of Delaware, with its principal place of business located in Warsaw, Indiana. Zimmer designs, develops, manufactures, and markets, among other things, hip implants.

**COUNT I**  
**(INFRINGEMENT OF THE '582 PATENT)**

7. FMB incorporates paragraphs 1 through 6 herein by reference.

8. FMB owns United States Patent No. 8,821,582 (the "'582 Patent"), entitled "HIP IMPLANT WITH POROUS BODY." A true and correct copy of the '582 Patent is attached hereto as Exhibit A.

9. On September 2, 2014, the '582 Patent issued for an invention in a method of machining, fabricating, and attaching components of a hip implant with porous body. FMB owned the '582 Patent throughout the period of Zimmer's infringing acts and still owns the '582 Patent.

10. The '582 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

11. Zimmer has infringed and is still infringing the '582 Patent, including at least claim 1, by making, selling, using, offering to sell, and/or importing into the United States hip implants—such as the Trabecular Metal Primary Hip Prosthesis—that embody the patented invention.

12. FMB has been damaged as a result of Zimmer's infringing conduct described in this Count. Zimmer is, thus, liable to FMB in an amount that adequately compensates it for Zimmer's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT II**  
**(INFRINGEMENT OF THE '642 PATENT)**

13. FMB incorporates paragraphs 1 through 6 herein by reference.

14. FMB owns United States Patent No. 8,506,642 (the "'642 Patent"), entitled "HIP IMPLANT WITH POROUS BODY." A true and correct copy of the '642 Patent is attached hereto as Exhibit B.

15. On August 13, 2013, the '642 Patent issued for an invention of a hip implant with a porous body. FMB owned the '642 Patent throughout the period of Zimmer's infringing acts and still owns the '642 Patent.

16. The '642 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

17. Zimmer has infringed and is still infringing the '642 Patent, including at least claim 1, by making, selling, using, offering to sell and/or importing into the United States hip implants—such as the Trabecular Metal Primary Hip Prosthesis—that embody the patented invention.

18. FMB has been damaged as a result of Zimmer's infringing conduct described in this Count. Zimmer is, thus, liable to FMB in an amount that adequately compensates it for Zimmer's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT III**  
**(INFRINGEMENT OF THE '612 PATENT)**

19. FMB incorporates paragraphs 1 through 6 herein by reference.

20. FMB owns United States Patent No. 9,265,612 (the "'612 Patent"), entitled "HIP IMPLANT WITH POROUS BODY." A true and correct copy of the '612 Patent is attached hereto as Exhibit C.

21. On February 23, 2016, the '612 Patent issued for an invention of a hip implant with a porous body. FMB owned the '612 Patent throughout the period of Zimmer's infringing acts and still owns the '612 Patent.

22. The '612 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

23. Zimmer has infringed and is still infringing the '612 Patent, including at least claim 1, by making, selling, using, offering to sell and/or importing into the United States hip implants—such as the Trabecular Metal Primary Hip Prosthesis—that embody the patented invention.

24. FMB has been damaged as a result of Zimmer's infringing conduct described in this Count. Zimmer is, thus, liable to FMB in an amount that adequately compensates it for Zimmer's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT IV**  
**(INFRINGEMENT OF THE '080 PATENT)**

25. FMB incorporates paragraphs 1 through 6 herein by reference.

26. FMB owns United States Patent No. 9,283,080 (the "'080 Patent"), entitled "HIP IMPLANT WITH POROUS BODY." A true and correct copy of the '080 Patent is attached hereto as Exhibit D.

27. On March 15, 2016, the '080 Patent issued for an invention of a hip implant with a porous body. FMB owned the '080 Patent throughout the period of Zimmer's infringing acts and still owns the '080 Patent.

28. The '080 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

29. Zimmer has infringed and is still infringing the '080 Patent, including at least claim

1, by making, selling, using, offering to sell and/or importing into the United States hip implants—such as the Trabecular Metal Primary Hip Prosthesis—that embody the patented invention.

30. FMB has been damaged as a result of Zimmer’s infringing conduct described in this Count. Zimmer is, thus, liable to FMB in an amount that adequately compensates it for Zimmer’s infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT V**  
**(INFRINGEMENT OF THE ’093 PATENT)**

31. FMB incorporates paragraphs 1 through 6 herein by reference.

32. FMB owns United States Patent No. 9,308,093 (the “’093 Patent”), entitled “HIP IMPLANT WITH POROUS BODY.” A true and correct copy of the ’093 Patent is attached hereto as Exhibit E.

33. On April 12, 2016, the ’093 Patent issued for an invention of a hip implant with a porous body. FMB owned the ’093 Patent throughout the period of Zimmer’s infringing acts and still owns the ’093 Patent.

34. The ’642 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

35. Zimmer has infringed and is still infringing the ’093 Patent, including at least claim 1, by making, selling, using, offering to sell and/or importing into the United States hip implants—such as the Trabecular Metal Primary Hip Prosthesis—that embody the patented invention.

36. FMB has been damaged as a result of Zimmer’s infringing conduct described in this Count. Zimmer is, thus, liable to FMB in an amount that adequately compensates it for Zimmer’s infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), FMB demands a trial by jury of all claims in the Complaint so triable.

**REQUEST FOR RELIEF**

WHEREFORE, FMB prays for the following relief against Zimmer:

(A) Judgment that Zimmer has directly infringed claims of U.S. Patent No. 8,506,642; U.S. Patent No. 8,821,582; U.S. Patent No. 9,265,612; U.S. Patent No. 9,283,080; U.S. Patent No. 9,308,093;

(B) Judgment that Zimmer account for and pay FMB all damages to and costs incurred by FMB because of Zimmer's infringing activities and other conduct complained of herein;

(C) For pre-judgment interest and post-judgment interest, at the maximum rate allowed by law, on the damages caused by Zimmer's infringing activities and other conduct complained of herein; and

(D) That FMB be granted such other and further relief as the Court may deem just and proper.

Dated: October 13, 2016

Respectfully submitted,

/s/ Jeffrey A. Andrews

Jeffrey A. Andrews (*pro hac vice*)

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***Counsel for Plaintiff***

**FOUR MILE BAY LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 13, 2016, I caused the foregoing document to be filed electronically with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Jeffrey A. Andrews