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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

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US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

BONUTTI SKELETAL INNOVATIONS LLC,

Plaintiff,

Civil Action No.

v.

JURY TRIAL DEMANDED

LINVATEC CORPORATION AND
CONMED CORPORATION,

6-12-CV-1709-ORE-GTB S

Defendants.

COMPLAINT

Bonutti Skeletal Innovations LLC ("Bonutti Skeletal") hereby asserts claims of patent infringement against Linvatec Corporation and ConMed Corporation (collectively, "ConMed" or "Defendants"), and alleges as follows:

THE PARTIES

1. Bonutti Skeletal is a Delaware limited liability company having a place of business at 6136 Frisco Square Blvd., Suite 385, Frisco, Texas 75034.
2. On information and belief, Linvatec Corporation, d/b/a ConMed Linvatec, is a Florida corporation having its principal place of business at 11311 Concept Blvd., Largo, Florida 33773.
3. On information and belief, Linvatec Corporation is a wholly-owned subsidiary of ConMed Corporation.
4. On information and belief, ConMed Corporation is a New York corporation having a place of business at 525 French Road, Utica, New York 13502.

PATENT-IN-SUIT

5. U.S. Patent No. 7,087,073 (“the ’073 patent”), entitled “Method of Securing of Body Tissue,” was lawfully issued on August 8, 2006 to the inventor Peter M. Bonutti (“Dr. Bonutti”). Bonutti Skeletal is the owner, through assignment, of the title, interest and rights to enforce and collect damages for all past, present and future infringements of the ’073 patent by the accused products and the use thereof. A copy of the ’073 patent is attached as **Exhibit A**.

BACKGROUND

6. Dr. Bonutti is an orthopedic surgeon with experience in performing over 20,000 orthopedic surgical procedures.

7. Because of Dr. Bonutti’s expertise, insights, experience and research efforts, Dr. Bonutti is an inventor or co-inventor of over 150 U.S. patents, including the ’073 patent (“the patent-in-suit”).

8. The ’073 patent involves specialized procedures, instruments, systems, kits and apparatuses invented by Dr. Bonutti relating to suture anchors and suture anchor related instruments used in certain surgical procedures, including, for example, bone and joint fixation and body-tissue re-attachment.

9. On information and belief, ConMed designs, develops, manufactures, offers for sale, sells, uses, distributes and markets suture anchors and/or suture anchor related instruments and products used in such surgical procedures.

10. On information and belief, ConMed creates, distributes and otherwise makes available to surgeons and the public at large instructions for use and/or videos on surgical techniques, including, but not limited to, the Linvatec SRS Shoulder Restoration System, which use ConMed suture anchors and/or suture anchor related instruments and products, including, but

not limited to, ConMed Impact, CrossFT, PopLok, XO-Button, Paladin, Duet, Bio Mini Revo, Presto, Bio-Anchor and Y-Knot products.

11. At least as early as 2005, Dr. Bonutti, either directly or through representatives, was in communication with certain ConMed entities regarding certain of Dr. Bonutti's intellectual property rights.

12. On information and belief, as a result of this contact and communication between Dr. Bonutti and ConMed, as well as the activities of ConMed in the field of suture anchors, ConMed was aware of the patenting activities of Dr. Bonutti and had knowledge of Dr. Bonutti's patent portfolio and the patent-in-suit.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 et seq.

14. This Court has personal jurisdiction over Defendants because, among other things, on information and belief, Linvatec Corporation is a Florida corporation, has its principal place of business in this District and is engaged in substantial and not isolated activity within this District and, on information and belief, ConMed Corporation directs and/or controls the activities of Linvatec Corporation and as a result carries on substantial and not isolated activity and business within this District.

15. On information and belief, Defendants operate, conduct, engage in and carry on a business or business venture in this District and have an office or agency in this District out of which this cause of action arises.

16. On information and belief, Defendants offer to sell, sell and distribute their suture

anchors and/or suture anchor related instruments and products, which either infringe the patent-in-suit or are for use in infringing procedures, to healthcare institutions and/or medical professionals within this District. On information and belief, Defendants' suture anchors and/or suture anchor related instruments and products are used, including in infringing procedures, by healthcare institutions and/or medical professionals within this District. On information and belief, Defendants, independently and/or collectively, have committed, contributed to and/or induced acts of patent infringement within this District.

17. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

COUNT I – INFRINGEMENT OF THE '073 PATENT

18. Bonutti Skeletal re-alleges and incorporates by reference each of the preceding paragraphs.

19. On information and belief, Defendants, directly or through the actions of its employees, divisions and/or subsidiaries, have infringed and continue to infringe the '073 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or equivalently.

20. On information and belief, Defendants have infringed and continue to infringe the '073 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, making, using, offering for sale, selling and/or importing within the United States suture anchors and/or suture anchor related instruments and products for use in a manner that practices the method of at least claims 35 and/or 39 of the '073 patent, and/or by, among other things, instructing and encouraging medical professionals to use ConMed suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claims 35 and/or 39 of the '073 patent. The suture anchors and products include, but are not limited to,

ConMed CrossFT and PopLok products, and associated instruments, products and surgical technique guides, including, but not limited to, those for the Linvatec SRS Shoulder Restoration System.

21. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '073 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using ConMed suture anchors and/or suture anchor related instruments and products, including, but not limited to, ConMed CrossFT and PopLok products, in the United States a manner that practices the method of at least claims 35 and/or 39 of the '073 patent.

22. On information and belief, Defendants had and continue to have knowledge and are aware of Dr. Bonutti's patents, including the '073 patent.

23. On information and belief, Defendants have infringed and continue to infringe the '073 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, encouraging, instructing, contributing to the infringement of, and otherwise encouraging, promoting and inducing surgeons, physicians and medical professionals to use within the United States ConMed suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claims 35 and/or 39 of the '073 patent, by, for example, creating and distributing instructions for use and surgical technique guides, including, but not limited to, the Linvatec SRS Shoulder Restoration System surgical technique guide, for ConMed suture anchors and/or suture anchor related instruments and products, including, but not limited to, ConMed CrossFT and PopLok products, that instruct use of these ConMed products in a manner that practices the method of at least claims 35 and/or 39 of the '073 patent, and by designing, manufacturing, offering for sale, selling and instructing of surgeons, physicians and

medical professionals in the use of suture anchor related instruments and products for use with ConMed suture anchors, including, but not limited to, ConMed CrossFT and PopLok products, that are specially designed for use in and are used in a manner that practices the method of at least claims 35 and/or 39 of the '073 patent.

24. On information and belief, Defendants' infringement of the '073 patent is and has been willful and deliberate.

DAMAGES AND RELIEF

25. As a consequence of Defendants' infringement of the patent-in-suit, Bonutti Skeletal has been damaged in an amount not yet determined and will suffer additional irreparable damage unless Defendants' infringing acts are enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Bonutti Skeletal respectfully requests that the Court enter judgment against Defendants:

A. Determining that Defendants have infringed and continue to infringe one or more claims of the '073 patent;

B. Preliminarily and permanently enjoining Defendants, its respective officers, agents, servants, directors, employees and attorneys, and all persons acting in concert or participation with it, directly or indirectly, or any of them who receive actual notice of the judgment, from further infringing, inducing others to infringe, or contributing to the infringement of the patent-in-suit;

C. Ordering Defendants to account for and pay to Bonutti Skeletal all damages suffered by Bonutti Skeletal as a consequence of Defendants' infringement of the patent-in-suit, together with interest and costs as fixed by the Court;

D. Trebling or otherwise increasing Bonutti Skeletal's damages under U.S.C. § 284 on the grounds that Defendants' infringement of the patent-in-suit was deliberate and willful;

E. Declaring that this case is exceptional and awarding Bonutti Skeletal its costs and attorneys' fees in accordance with 35 U.S.C. § 285; and

F. Granting Bonutti Skeletal such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Bonutti Skeletal hereby requests a trial by jury for all issues so triable.

Dated: November 14, 2012

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