

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
APR 04 2011
U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA

HILL-ROM SERVICES, INC.,
HILL-ROM COMPANY, INC., and
HILL-ROM MANUFACTURING, INC.,

Plaintiff,

vs.

STRYKER CORPORATION d/b/a
STRYKER MEDICAL and
STRYKER SALES CORPORATION

Defendant.

Case No.

1 : 11 -cv- 0 458 JMS -DML

COMPLAINT AND DEMAND FOR JURY TRIAL

For their complaint against Defendants Stryker Corporation d/b/a/ Stryker Medical ("Stryker Medical") and Stryker Sales Corporation ("Stryker Sales") (collectively "Stryker"), Plaintiffs Hill-Rom Services, Inc., Hill-Rom Company, Inc., and Hill-Rom Manufacturing, Inc. (collectively "Hill-Rom") allege as follows:

THE PARTIES

1. Plaintiff Hill-Rom Services, Inc. ("HRS") is an Indiana corporation with its principal place of business in Batesville, Indiana.
2. Plaintiff Hill-Rom Company, Inc. ("HRC") is an Indiana corporation with its principal place of business in Batesville, Indiana.
3. Plaintiff Hill-Rom Manufacturing, Inc. ("HRM") is an Indiana corporation with its principal place of business in Batesville, Indiana.

4. On information and belief, Defendant Stryker Medical is a corporation organized under the laws of the state of Michigan with a principal place of business at 2825 Airview Boulevard, Kalamazoo, Michigan 49002.

5. On information and belief, Defendant Stryker Sales Corporation is a corporation organized under the laws of the state of Michigan with a principal place of business at 2825 Airview Boulevard, Kalamazoo, Michigan 49002 and is registered to conduct business in the State of Indiana as a foreign business.

6. Hill-Rom is a leading provider of medical technologies, including hospital beds and stretchers, to the healthcare industry.

7. Under license from HRS, HRM manufactures Hill-Rom products and HRC sells and distributes Hill-Rom products.

8. Stryker manufactures and distributes hospital beds and stretchers for and to the healthcare industry.

THE PATENTS-IN-SUIT

9. On February 7, 2006, U.S. Patent No. 6,993,799 ("the '799 patent"), entitled "HOSPITAL BED" (Exhibit A), duly and legally issued. HRS owns all rights, title, and interest in and to the '799 patent and has the right to sue and recover for past, present, and future infringement.

10. On January 12, 2010, U.S. Patent No. 7,644,458 ("the '458 patent"), entitled "HOSPITAL BED" (Exhibit B), duly and legally issued. HRS owns all rights, title, and interest in and to the '458 patent and has the right to sue and recover for past, present, and future infringement.

11. On July 8, 2003, U.S. Patent No. 6,588,523 ("the '523 patent"), entitled "STRETCHER HAVING A MOTORIZED WHEEL" (Exhibit C), duly and legally issued. HRS owns all rights, title, and interest in and to the '523 patent and has the right to sue and recover for past, present, and future infringement.

12. On June 7, 2005, U.S. Patent No. 6,902,019 ("the '019 patent"), entitled "STRETCHER HAVING A MOTORIZED WHEEL" (Exhibit D), duly and legally issued. HRS owns all rights, title, and interest in and to the '019 patent and has the right to sue and recover for past, present, and future infringement.

13. On March 14, 2006, U.S. Patent No. 7,011,172 ("the '172 patent"), entitled "PATIENT SUPPORT APPARATUS HAVING A MOTORIZED WHEEL" (Exhibit E), duly and legally issued. HRS owns all rights, title, and interest in and to the '172 patent and has the right to sue and recover for past, present, and future infringement.

14. On October 23, 2007, U.S. Patent No. 7,284,626 ("the '626 patent"), entitled "PATIENT SUPPORT APPARATUS WITH POWERED WHEEL" (Exhibit F), duly and legally issued. HRS owns all rights, title, and interest in and to the '626 patent and has the right to sue and recover for past, present, and future infringement.

15. On August 15, 2006, U.S. Patent No. 7,090,041 ("the '041 patent"), entitled "MOTORIZED TRACTION DEVICE FOR A PATIENT SUPPORT" (Exhibit G), duly and legally issued. HRS owns all rights, title, and interest in and to the '041 patent and has the right to sue and recover for past, present, and future infringement.

16. On September 25, 2007, U.S. Patent No. 7,273,115 ("the '115 patent"), entitled "CONTROL APPARATUS FOR A PATIENT SUPPORT" (Exhibit H), duly and legally issued.

HRS owns all rights, title, and interest in and to the '115 patent and has the right to sue and recover for past, present, and future infringement.

17. On August 5, 2008, U.S. Patent No. 7,407,024 ("the '024 patent"), entitled "MOTORIZED TRACTION DEVICE FOR A PATIENT SUPPORT" (Exhibit I), duly and legally issued. HRS owns all rights, title, and interest in and to the '024 patent and has the right to sue and recover for past, present, and future infringement.

18. On November 9, 2010, U.S. Patent No. 7,828,092 ("the '092 patent"), entitled "MOTORIZED TRACTION DEVICE FOR A PATIENT SUPPORT" (Exhibit J), duly and legally issued. HRS1 owns all rights, title, and interest in and to the '092 patent and has the right to sue and recover for past, present, and future infringement.

19. On August 10, 2004, U.S. Patent No. 6,772,850 ("the Stryker '850 patent"), entitled "POWER ASSISTED WHEELED CARRIAGE" (Exhibit K), issued. On information and belief, Stryker is the assignee of the Stryker '850 patent.

20. On June 22, 2004, U.S. Patent No. 6,752,224 ("the Stryker '224 patent"), entitled "WHEELED CARRIAGE HAVING A POWERED AUXILIARY WHEEL, AUXILIARY WHEEL OVERTRAVEL, AND AN AUXILIARY WHEEL DRIVE AND CONTROL SYSTEM" (Exhibit L), issued. On information and belief, Stryker is the assignee of the Stryker '224 patent.

JURISDICTION AND VENUE

21. Counts I-X of this Complaint are actions for patent infringement that arise under the patent laws of the United States, Title 35 U.S.C. § 1 *et seq.* and seek damages and injunctive relief as provided in 35 U.S.C. §§ 281 and 283-285. Counts XI-XII of this Complaint are actions for interfering patent claims that also arise under the patent laws of the United States, specifically

35 U.S.C. § 291, and seek a declaration of priority of invention. This Court has subject matter jurisdiction over all of these claims under 28 U.S.C. §§ 1331 and 1338(a).

22. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because Stryker has regularly conducted business in this Judicial District and has committed, and is continuing to commit, acts of patent infringement in this Judicial District by making, using, importing, selling, or offering to sell beds and stretchers with powered wheels that infringe Hill-Rom's patents.

23. This Court has personal jurisdiction over Stryker because Stryker has done and is doing substantial business in this Judicial District, both generally and with respect to the allegations in this Complaint, and Stryker has committed one or more acts of infringement in this District.

COUNT I - INFRINGEMENT OF U.S. PATENT NO. 6,993,799

24. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

25. Stryker has manufactured, used, imported, offered for sale, or sold stretchers with powered wheels, including at least the Prime™ Series Stretcher with the Zoom® Motorized Drive System, that directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 7 of the '799 patent in violation of 35 U.S.C. § 271.

26. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

27. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '799 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further

qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT II - INFRINGEMENT OF U.S. PATENT NO. 7,644,458

28. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

29. Stryker has manufactured, used, imported, offered for sale, or sold stretchers with powered wheels, including at least the Prime™ Series Stretcher with the Zoom® Motorized Drive System, that directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 7 of the '458 patent in violation of 35 U.S.C. § 271.

30. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

31. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '458 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT III - INFRINGEMENT OF U.S. PATENT NO. 6,588,523

32. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

33. Stryker has manufactured, used, imported, offered for sale, or sold beds and stretchers with powered wheels, including at least the InTouch® Bed, S3™ Bed, Epic II® Bed, and Prime™ Series Stretcher, which, when equipped with the Zoom® Motorized Drive System, directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 8 of the '523 patent in violation of 35 U.S.C. § 271.

34. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

35. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '523 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT IV - INFRINGEMENT OF U.S. PATENT NO. 6,902,019

36. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

37. Stryker has manufactured, used, imported, offered for sale, or sold beds and stretchers with powered wheels, including at least the InTouch® Bed, S3™ Bed, Epic II® Bed, and Prime™ Series Stretcher, which, when equipped with the Zoom® Motorized Drive System, directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 4 of the '019 patent in violation of 35 U.S.C. § 271.

38. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

39. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '019 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT V - INFRINGEMENT OF U.S. PATENT NO. 7,011,172

40. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

41. Stryker has manufactured, used, imported, offered for sale, or sold beds and stretchers with powered wheels, including at least the InTouch® Bed, S3™ Bed, Epic II® Bed, and Prime™ Series Stretcher, which, when equipped with the Zoom® Motorized Drive System, directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 1 of the '172 patent in violation of 35 U.S.C. § 271.

42. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

43. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '172 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT VI - INFRINGEMENT OF U.S. PATENT NO. 7,284,626

44. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

45. Stryker has manufactured, used, imported, offered for sale, or sold stretchers with powered wheels, including at least the Prime™ Series Stretcher with the Zoom® Motorized Drive System that directly or indirectly infringes, either literally or under the doctrine of equivalents, at least claim 1 of the '626 patent in violation of 35 U.S.C. § 271.

46. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

47. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '626 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT VII - INFRINGEMENT OF U.S. PATENT NO. 7,090,041

48. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

49. Stryker has manufactured, used, imported, offered for sale, or sold beds and stretchers with powered wheels, including at least the InTouch® Bed and the Prime™ Series Stretcher, which, when equipped with the Zoom® Motorized Drive System, directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 14 of the '041 patent in violation of 35 U.S.C. § 271.

50. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

51. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '041 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT VIII - INFRINGEMENT OF U.S. PATENT NO. 7,273,115

52. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

53. Stryker has manufactured, used, imported, offered for sale, or sold beds and stretchers with powered wheels, including at least the InTouch® Bed and the Prime™ Series Stretcher, which, when equipped with the Zoom® Motorized Drive System, directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 22 of the '115 patent in violation of 35 U.S.C. § 271.

54. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

55. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '115 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT IX - INFRINGEMENT OF U.S. PATENT NO. 7,407,024

56. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

57. Stryker has manufactured, used, imported, offered for sale, or sold beds and stretchers with powered wheels, including at least the InTouch® Bed and the Prime™ Series Stretcher, which, when equipped with the Zoom® Motorized Drive System, directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 1 of the '024 patent in violation of 35 U.S.C. § 271.

58. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

59. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '115 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT X - INFRINGEMENT OF U.S. PATENT NO. 7,828,092

60. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

61. Stryker has manufactured, used, imported, offered for sale, or sold beds and stretchers with powered wheels, including at least the InTouch® Bed and the Prime™ Series Stretcher, which, when equipped with the Zoom® Motorized Drive System, directly or indirectly infringe, either literally or under the doctrine of equivalents, at least claim 1 of the '092 patent in violation of 35 U.S.C. § 271.

62. Stryker's infringement has damaged and continues to damage and injure Plaintiffs. The injury to Plaintiffs is irreparable and will continue unless and until Stryker is enjoined from further infringement.

63. Upon information and belief, Stryker has engaged and is engaging in willful and deliberate infringement of the '092 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT XI - INTERFERING SUBJECT MATTER BETWEEN CLAIM 8 OF U.S. PATENT NO. 6,588,523 AND CLAIM 45 OF U.S. PATENT NO. 6,772,850

64. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

65. At least claim 8 of the '523 patent and claim 45 of the Stryker '850 patent are interfering in that they both claim the same or substantially the same subject matter. Both claims cover a wheeled patient support comprising a frame, a wheeled base, a retractable powered wheel, a switch that signals whether the powered wheel is lowered or raised, an on/off power switch, a member that is operated by the driver of the patient support to send a drive signal to power the wheel, and a control assembly that allows the powered wheel to be driven only when the power switch is on, the wheel is lowered into contact with the floor, and the user is operating the member that sends a drive signal to power the wheel.

66. The inventors of the '523 patent are the senior inventors because the '523 patent has an earlier effective filing date than the Stryker '850 patent. Specifically, the '523 patent has an effective filing date of September 15, 1999, whereas the Stryker '850 patent has an effective filing date of January 21, 2000.

67. The inventors of the '523 patent conceived of and reduced to practice the invention claimed in the '523 patent before the earliest date of record for the conception and reduction to practice of the invention claimed in the Stryker '850 patent.

68. On information and belief, the inventors of the '523 patent conceived of and reduced to practice the invention claimed in the '523 patent before the inventors of the Stryker '850 patent conceived of and reduced to practice the invention claimed in the Stryker '850 patent.

69. The inventors of the '523 patent did not abandon, suppress, or conceal their invention.

70. At least claim 45 of the Stryker '850 patent is invalid under 35 U.S.C. § 102(g)(1).

COUNT XII - INTERFERING SUBJECT MATTER BETWEEN CLAIM 2 OF U.S. PATENT NO. 7,090,041 AND CLAIM 25 OF U.S. PATENT NO. 6,752,224

71. Plaintiffs incorporate paragraphs 1-23 as if fully set forth herein.

72. At least claim 2 of the '041 patent and claim 25 of the Stryker '224 patent are interfering in that they both claim the same or substantially the same subject matter. Both claims cover a wheeled patient support comprising a frame, a wheeled base, a retractable powered wheel, a member to which the user applies force to drive the powered wheel, at least one load cell that receives the force input from the user, and a control mechanism coupled to the at least one load cell that drives the wheel based on the force from the user.

73. The inventors of the '041 patent conceived of and reduced to practice the invention claimed in the '041 patent before the earliest date of record for the conception and reduction to practice of the invention claimed in the Stryker '224 patent.

74. The inventors of the '041 patent are the senior inventors because the '041 patent has an earlier effective filing date than the Stryker '224 patent. Specifically, the '041 patent has an effective filing date of May 11, 2000, whereas the Stryker '224 patent has an effective filing date of February 28, 2002.

75. On information and belief, the inventors of the '041 patent conceived of and reduced to practice the invention claimed in the '041 patent before the inventors of the Stryker '224 patent conceived of and reduced to practice the invention claimed in the Stryker '224 patent.

76. The inventors of the '041 patent did not abandon, suppress, or conceal their invention.

77. At least claim 25 of the Stryker '224 patent is invalid under 35 U.S.C. § 102(g)(1).

JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for entry of judgment as follows:

A. Declaring that United States Patent Nos. 6,993,799, 7,644,458, 6,588,523, 6,902,019, 7,011,172, 7,284,626, 7,090,041, 7,273,115, 7,407,024, and 7,828,092 are valid, enforceable, and infringed by Stryker, and that Stryker's infringement is willful.

B. Declaring that Stryker, its subsidiaries, parents, divisions, agents, servants, and employees are permanently enjoined from making, using, selling, offering for sale, importing, or distributing any beds or stretchers that directly or indirectly infringe United States Patent Nos. 6,993,799, 7,644,458, 6,588,523, 6,902,019, 7,011,172, 7,284,626, 7,090,041, 7,273,115, 7,407,024, and 7,828,092.

C. Declaring that the inventors of the '523 patent are the first inventors of the subject matter in the interfering claims of the '523 patent and the Stryker '850 patent.

D. Declaring that at least the claims of the Stryker '850 patent that interfere with the '523 patent are invalid.

E. Declaring that the inventors of the '041 patent are the first inventors of the subject matter in the interfering claims of the '041 patent and the Stryker '224 patent.

F. Declaring that at least the claims of the Stryker '224 patent that interfere with the '041 patent are invalid.

G. Declaring that Plaintiffs be awarded judgment against Stryker for damages, together with interest and costs.

H. Declaring that this case is exceptional and awarding Plaintiffs its reasonable costs and attorneys' fees pursuant to 35 U.S.C. § 285.

I. Awarding Plaintiffs further relief as this Court deems just and equitable.

Dated: April 4, 2011

Respectfully submitted,



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