

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GEOMED MEDIZIN-TECHNIK GmbH & CO.,
a German corporation,

Plaintiff,

v.

ENDOSCOPIC TECHNOLOGIES, INC.,
a California corporation,

Defendant.

Case No.

Hon.

JURY TRIAL DEMANDED

_____/

Douglas W. Sprinkle (P-25326)
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Attorneys for Plaintiff

_____/

COMPLAINT AND JURY DEMAND

NOW COMES Geomed Medizin-Technik GmbH & Co. ("Geomed"), Plaintiff herein, by and through counsel, and for its complaint against Endoscopic Technologies, Inc. ("Endoscopic Technologies"), states as follows.

Parties and Jurisdiction

1. Geomed is a German corporation with its principal place of business at Ludwigstaler Strasse 27, 78532 Tuttlingen, Fed Rep, Germany.

2. On information and belief, Defendant Endoscopic Technologies is a California corporation, with its principal place of business at 2603 Camino Ramon, Suite 100, San Ramon,

California 94583. Defendant has engaged in actions in Michigan which confer personal jurisdiction over it.

3. This is an action brought pursuant to the Lanham Act, 15 U.S.C. § 1051 *et seq.*, for infringement of the trademark rights of Plaintiff, in violation of 15 U.S.C. §§1114 and 1125(a). Jurisdiction arises under 15 U.S.C. § 1121 and 15 U.S.C. § 1339. Venue is properly laid in this judicial district under 28 U.S.C. § 1391(b).

General Allegations

5. Plaintiff owns U.S. Trademark Registration No. 1,566,977 for the mark HERCULES for use in connection with medical, dental and veterinary instruments, namely, surgical pliers, tongs, pincers, forceps, cutters, pin drivers and combinations thereof. A copy of the Registration is attached hereto as Ex. A .

6. Plaintiff's use of HERCULES dates back to as early as the year 1988. The HERCULES mark has become an extremely valuable asset of Plaintiff.

7. Defendant Endoscopic Technologies is currently marketing a universal stabilizer arm under the mark "Hercules."

Count I – Lanham Act Trademark Infringement Under Sections 1114 and 1125(a)

8. Plaintiff incorporates by reference each and every allegation in Paragraphs 1-7 above as if fully set forth herein.

9. Defendants' adoption of the registered HERCULES mark in connection with universal stabilizer arms is likely to cause confusion as to the association with Plaintiff, the rightful owner of the HERCULES mark.

10. Defendants' actions constitute a willful violation of the Lanham Act, 15 U.S.C. § 1114 and 1125(a).

Count II – Michigan Unfair Competition

11. Plaintiff incorporates by reference each and every allegation in Paragraphs 1-10 above as if fully set forth herein.

12. By the acts set forth above, Defendants have engaged in unfair competition in violation of the common law of the State of Michigan.

WHEREFORE, Plaintiff seeks:

1. Plaintiff's actual damages, including all wrongfully earned profits of Defendant, suffered as a result of the infringement and unfair competition;
2. Plaintiff's costs incurred in connection herewith, including its reasonable attorney's fees, as provided in 15 USC §1117(b);
3. Such other relief as the Court deems equitable and just.

Respectfully submitted,

/s/Douglas W. Sprinkle
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Attorneys for Plaintiff

Date: December 14, 2011

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

/s/Douglas W. Sprinkle

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