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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,

Civil Action No. 6:12-cv-1380-orl-22-TBS

Plaintiff,

**JURY TRIAL DEMANDED**

v.

ARTHREX, INC.

Defendant.

COMPLAINT

Plaintiff, Bonutti Skeletal Innovations LLC ("Bonutti Skeletal") hereby asserts claims of patent infringement against Arthrex, Inc. ("Arthrex"), 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, Arthrex is a Delaware corporation having a principal place of business at 1370 Creekside Boulevard, Naples, Florida 34108-1945.

PATENTS-IN-SUIT

3. U.S. Patent No. 5,921,986 ("the '986 patent"), entitled "Bone Suture," was lawfully issued on July 13, 1999 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 '986 patent by the accused products and the use thereof. A copy of the '986 patent is attached as **Exhibit A**.

4. U.S. Patent No. 8,147,514 ("the '514 patent"), entitled "Apparatus and Method for Securing a Portion of a Body," was lawfully issued on April 3, 2012 to the inventor 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 '514 patent by the accused products and the use thereof. A copy of the '514 patent is attached as **Exhibit B**.

5. U.S. Patent No. 7,087,073 ("the '073 patent"), entitled "Method of Securing Body Tissue," was lawfully issued on August 8, 2006 to the inventor 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 C**.

6. U.S. Patent No. 5,814,072 ("the '072 patent"), entitled "Method and Apparatus for Use in Anchoring A Suture," was lawfully issued on September 29, 1998 to the inventor 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 '072 patent by the accused products and the use thereof. A copy of the '072 patent is attached as **Exhibit D**.

7. U.S. Patent No. 5,782,862 ("the '862 patent"), entitled "Suture Anchor Inserter Assembly and Method," was lawfully issued on July 21, 1998 to the inventor 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 '862 patent by the accused products and the use thereof. A copy of the '862 patent is attached as **Exhibit E**.

8. U.S. Patent No. 6,569,187 ("the '187 patent"), entitled "Method and Apparatus for Securing a Suture," was lawfully issued on May 27, 2003 to the inventor 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 '187 patent by the accused products and the use thereof. A copy of the '187 patent is attached as **Exhibit F**.

9. U.S. Patent No. 5,980,559 (“the ’559 patent”), entitled “Suture Anchor,” was lawfully issued on November 9, 1999 to the inventor 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 ’559 patent by the accused products and the use thereof. A copy of the ’559 patent is attached as **Exhibit G**.

### **BACKGROUND**

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

11. 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 ’986 patent, the ’514 patent, the ’073 patent, the ’072 patent, the ’862 patent, the ’187 patent and the ’559 patent (collectively, “the patents-in-suit”).

12. The patents-in-suit involve 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.

13. On information and belief, Arthrex 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.

14. On information and belief, Arthrex 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, TightRope Syndesmosis Fixation, AC Joint TightRope Fixation, SutureBridge and SpeedBridge Rotator Cuff Repair, PushLock Bankart & SLAP Repair and Arthroscopic Meniscal Repair, which use Arthrex suture anchors and/or suture

anchor related instruments and products, including, but not limited to, TightRope products, GraftRope products, PushLock products, SwiveLock SP products, Corkscrew products, Suture Tak products, FASTak products and the Meniscal Cinch.

15. On information and belief, Arthrex also offers a comprehensive program of educational and support services to orthopaedic surgeons. This program of educational and support services includes surgeon courses offered in Naples, Florida, and other cities throughout the United States, including courses on distal extremities, hip courses, knee courses and shoulder courses. Arthrex also offers the opportunity to attend Arthrex surgeon observations pertaining to certain Arthrex techniques.

16. On information and belief, as a result of the activities of Arthrex in the field of suture anchors, Arthrex was aware of the patenting activities of Dr. Bonutti and had knowledge of Dr. Bonutti's patent portfolio and the patents-in-suit.

#### **JURISDICTION AND VENUE**

17. 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.

18. This Court has personal jurisdiction over Arthrex because, among other things, Arthrex has its principal place of business in this District and is engaged in substantial and not isolated activity within this District.

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

#### **COUNT I – INFRINGEMENT OF THE '987 PATENT**

20. Bonutti Skeletal realleges and incorporates by reference each of the preceding paragraphs.

21. On information and belief, Arthrex, directly or through the actions of its employees, divisions and/or subsidiaries, has infringed and continues to infringe the '986 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or equivalently.

22. On information and belief, Arthrex has infringed and continues to infringe the '986 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 64 and/or 76 of the '986 patent, and/or by, among other things, instructing and encouraging medical professionals to use Arthrex suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claims 64 and/or 76 of the '986 patent. The suture anchors and products include, but are not limited to, Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS (No Button), the TightRope ABS Button and the PCL TightRope System, and associated instruments, products and surgical technique guides, including, but not limited to, those for the TightRope Syndesmosis Fixation and the AC Joint TightRope Fixation.

23. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '986 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS (No Button), the

TightRope ABS Button and the PCL TightRope System, in the United States a manner that practices the method of at least claims 64 and/or 76 of the '986 patent.

24. On information and belief, Arthrex had and continues to have knowledge and is aware of Dr. Bonutti's patents, including the '986 patent.

25. On information and belief, Arthrex has infringed and continues to infringe the '986 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 Arthrex suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claims 64 and/or 76 of the '986 patent, by, for example, creating and distributing instructions for use and surgical technique guides, including, but not limited to, the TightRope Syndesmosis Fixation and the AC Joint TightRope Fixation, for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS (No Button), the TightRope ABS Button and the PCL TightRope System, that instruct use of these Arthrex products in a manner that practices the method of at least claims 64 and/or 76 of the '986 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 Arthrex suture anchors, including, but not limited to, Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS (No Button), the TightRope ABS

Button and the PCL TightRope System, that are specially designed for use in and are used in a manner that practices the method of at least claims 64 and/or 76 of the '986 patent.

26. On information and belief, Arthrex's infringement of the '986 patent is and has been willful and deliberate.

## **COUNT II – INFRINGEMENT OF THE '514 PATENT**

27. Bonutti Skeletal realleges and incorporates by reference each of the preceding paragraphs.

28. On information and belief, Arthrex, directly or through the actions of its employees, divisions and/or subsidiaries, has infringed and continues to infringe the '514 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or equivalently.

29. On information and belief, Arthrex has infringed and continues to infringe the '514 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 embodying at least claim 1 of the '514 patent, and/or by, among other things, instructing and encouraging medical professionals to use Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claim 1 of the '514 patent. The suture anchors and products include, but are not limited to, certain Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS Button and the PCL TightRope System, and associated instruments, products and surgical technique guides, including, but not limited to, those for the TightRope Syndesmosis Fixation and the AC Joint TightRope Fixation.

30. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '514 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using in the United States Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, certain Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS Button and the PCL TightRope System, that embody at least claim 1 of the '514 patent.

31. On information and belief, Arthrex had and continues to have knowledge and is aware of Dr. Bonutti's patents, including the '514 patent.

32. On information and belief, Arthrex has infringed and continues to infringe the '514 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 others to make, use, offer for sale, sell and/or import within the United States Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claim 1 of the '514 patent, by, for example, promoting, offering to sell, selling and/or distributing Arthrex suture anchors and/or suture anchor related products, including, but not limited to, certain Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS Button and the PCL TightRope System, that embody at least claim 1 of the '514 patent, by creating and distributing instructions for use and surgical technique guides, including, but not limited to, the TightRope Syndesmosis Fixation and the AC Joint TightRope Fixation, for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, certain Arthrex TightRope products, including, but not



limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS Button and the PCL TightRope System, that embody at least claim 1 of the '514 patent, and by designing, manufacturing, promoting, offering for sale, selling and instructing surgeons, physicians and medical professionals in the use of suture anchor related instruments and products specially designed to promote use of Arthrex suture anchors, including, but not limited to, certain Arthrex TightRope products, including, but not limited to, the TightRope, the TightRope AC, the Mini TightRope, the ACL TightRope RT, the ACL TightRope DB, the BTB TightRope, the TightRope ABS Button and the PCL TightRope System, that embody at least claim 1 of the '514 patent.

33. On information and belief, Arthrex's infringement of the '514 patent is and has been willful and deliberate.

### **COUNT III – INFRINGEMENT OF THE '073 PATENT**

34. Bonutti Skeletal realleges and incorporates by reference each of the preceding paragraphs.

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

36. On information and belief, Arthrex has infringed and continues 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 Arthrex 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, Arthrex Pushlock products, including, but not limited to, the PEEK PushLock, the Bio-Pushlock, the Biocomposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP; and Arthrex Corkscrew products, including, but not limited to, the Bio-Corkscrew, the Corkscrew, the Corkscrew II, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT, the Corkscrew FT, the Corkscrew FT II and the Corkscrew FT III, and associated instruments, products and surgical technique guides, including, but not limited to, those for the SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge surgical techniques.

37. 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 Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio SwiveLock C and the Bio-SwiveLock SP; and Arthrex Corkscrew products, including, but not limited to, the Bio-Corkscrew, the Corkscrew, the Corkscrew II, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT, the Corkscrew FT, the Corkscrew FT II and the Corkscrew FT III, in the United States in a manner that practices the method of at least claims 35 and/or 39 of the '073 patent.

38. On information and belief, Arthrex had and continues to have knowledge and is aware of Dr. Bonutti's patents, including the '073 patent.

39. On information and belief, Arthrex has infringed and continues 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 Arthrex 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 SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge surgical techniques, for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP; and Arthrex Corkscrew products, including, but not limited to, the Bio-Corkscrew, the Corkscrew, the Corkscrew II, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT, the Corkscrew FT, the Corkscrew FT II and the Corkscrew FT III, that instruct use of these Arthrex 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 Arthrex suture anchors, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK

PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP; and Arthrex Corkscrew products, including, but not limited to, the Bio-Corkscrew, the Corkscrew, the Corkscrew II, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT, the Corkscrew FT, the Corkscrew FT II and the Corkscrew FT III, 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.

40. On information and belief, Arthrex's infringement of the '073 patent is and has been willful and deliberate.

#### **COUNT IV – INFRINGEMENT OF THE '072 PATENT**

41. Bonutti Skeletal realleges and incorporates by reference each of the preceding paragraphs.

42. On information and belief, Arthrex, directly or through the actions of its employees, divisions and/or subsidiaries, has infringed and continues to infringe the '072 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or equivalently.

43. On information and belief, Arthrex has infringed and continues to infringe the '072 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 claim 1 of the '072 patent, and/or by, among other things, instructing and encouraging medical professionals to use Arthrex suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claim 1 of the '072 patent. The suture anchors and products include, but are not limited to, Arthrex PushLock

products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP; and certain Arthrex Corkscrew FT products, including, but not limited to, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT and the Corkscrew FT, and associated instruments, products and surgical technique guides, including, but not limited to, those for the PushLock Bankart & SLAP Repair, the SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge surgical techniques.

44. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '072 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP; and certain Arthrex Corkscrew FT products, including, but not limited to, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT and the Corkscrew FT, in the United States in a manner that practices the method of at least claim 1 of the '072 patent.

45. On information and belief, Arthrex has infringed and continues to infringe the '072 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 Arthrex suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claim 1 of the '072 patent, by, for example, creating and distributing instructions for use and surgical technique guides, including, but not limited to, the PushLock Bankart & SLAP Repair, the SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge, for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP; and certain Arthrex Corkscrew FT products, including, but not limited to, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT and the Corkscrew FT, that instruct use of these Arthrex products in a manner that practices the method of at least claim 1 of the '072 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 Arthrex suture anchors, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP; Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP; and certain Arthrex Corkscrew FT products, including, but not limited to, the Bio-Corkscrew FT, the PEEK Corkscrew FT, the Bio-Composite Corkscrew FT and the Corkscrew FT, that are specially designed for use in and are used in a manner that practices the method of at least claim 1 of the '072 patent.

46. On information and belief, Arthrex has infringed and continues to infringe the '072 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 embodying at least claims 8 and/or 90 of the '072 patent, and/or by, among other things, instructing and encouraging medical professionals to use Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claims 8 and/or 90 of the '072 patent. The suture anchors and products include, but are not limited to, Arthrex PushLock SP products, including, but not limited to, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock SP products, including, but not limited to, the Bio-SwiveLock SP, and associated instruments, products and surgical technique guides, including, but not limited to, those for the PushLock Bankart & SLAP Repair, the SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge surgical techniques.

47. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '072 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using in the United States Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock SP products, including, but not limited to, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock SP products, including, but not limited to, the Bio-SwiveLock SP, that embody at least claims 8 and/or 90 of the '072 patent.

48. On information and belief, Arthrex has infringed and continues to infringe the '072 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 others to make, use, offer for sale, sell and/or import within the United

States Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claims 8 and/or 90 of the '072 patent, by, for example, promoting, offering for sale, selling and/or distributing Arthrex suture anchors and/or suture anchor related products, including, but not limited to, Arthrex PushLock SP products, including, but not limited to, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock SP products, including, but not limited to, the Bio-SwiveLock SP, that embody at least claims 8 and/or 90 of the '072 patent, by creating and distributing instructions for use and surgical technique guides, including, but not limited to, the PushLock Bankart & SLAP Repair, the SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge, for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock SP products, including, but not limited to, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock SP products, including, but not limited to, the Bio-SwiveLock SP, that embody at least claims 8 and/or 90 of the '072 patent, and by designing, manufacturing, promoting, offering for sale, selling and instructing surgeons, physicians and medical professionals in the use of suture anchor related instruments and products specially designed to promote use of Arthrex suture anchors, including, but not limited to, Arthrex PushLock SP products, including, but not limited to, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock SP products, including, but not limited to, the Bio-SwiveLock SP, that embody at least claims 8 and/or 90 of the '514 patent.

49. On information and belief, Arthrex had and continues to have knowledge and is aware of Dr. Bonutti's patents, including the '072 patent.

50. On information and belief, Arthrex's infringement of the '072 patent is and has been willful and deliberate.



**COUNT V – INFRINGEMENT OF THE '862 PATENT**

51. Bonutti Skeletal realleges and incorporates by reference each of the preceding paragraphs.

52. On information and belief, Arthrex, directly or through the actions of its employees, divisions and/or subsidiaries, has infringed and continues to infringe the '862 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or equivalently.

53. On information and belief, Arthrex has infringed and continues to infringe the '862 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 embodying at least claims 34, 153 and/or 168 of the '862 patent, and/or by, among other things, instructing and encouraging medical professionals to use Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claims 34, 153 and/or 168 of the '862 patent. The suture anchors and products include, but are not limited to, the Meniscal Cinch, and associated instruments and surgical technique guides, including, but not limited to, those for the Arthroscopic Meniscal Repair.

54. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '862 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using in the United States Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, the Meniscal Cinch, that embody at least claims 34, 153 and/or 168 of the '862 patent.

55. On information and belief, Arthrex had and continues to have knowledge and is aware of Dr. Bonutti's patents, including the '862 patent.

56. On information and belief, Arthrex has infringed and continues to infringe the '862 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 others to make, use, offer for sale, sell and/or import within the United States Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claims 34, 153 and/or 168 of the '862 patent, by, for example, promoting, offering for sale, selling and/or distributing Arthrex suture anchors and/or suture anchor related products, including, but not limited to, the Meniscal Cinch, that embody at least claims 34, 153 and/or 168 of the '862 patent, by creating and distributing instructions for use and surgical technique guides, including, but not limited to, Arthroscopic Meniscal Repair, for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, the Meniscal Cinch, that embody at least claims 34, 153 and/or 168 of the '862 patent, and by designing, manufacturing, promoting, offering for sale, selling and instructing surgeons, physicians and medical professionals in the use of suture anchor related instruments and products specially designed to promote use of Arthrex suture anchors, including, but not limited to, the Meniscal Cinch, that embody at least claims 34, 153 and/or 168 of the '862 patent.

57. On information and belief, Arthrex's infringement of the '862 patent is and has been willful and deliberate.

#### **COUNT VI – INFRINGEMENT OF THE '187 PATENT**

58. Bonutti Skeletal realleges and incorporates by reference each of the preceding paragraphs.

59. On information and belief, Arthrex, directly or through the actions of its employees, divisions and/or subsidiaries, has infringed and continues to infringe the '187 patent

directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or equivalently.

60. On information and belief, Arthrex has infringed and continues to infringe the '187 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 claim 14 of the '187 patent, and/or by, among other things, instructing and encouraging medical professionals to use Arthrex suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claim 14 of the '187 patent. The suture anchors and products include, but are not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP, and associated instruments, products and surgical technique guides, including, but not limited to, those for the SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge surgical techniques.

61. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '187 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-

SwiveLock C and the Bio-SwiveLock SP, in the United States in a manner that practices the method of at least claim 14 of the '187 patent.

62. On information and belief, Arthrex had and continues to have knowledge and is aware of Dr. Bonutti's patents, including the '187 patent.

63. On information and belief, Arthrex has infringed and continues to infringe the '187 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 Arthrex suture anchors and/or suture anchor related instruments and products in a manner that practices the method of at least claim 14 of the '187 patent, by, for example, creating and distributing instructions for use and surgical technique guides, including, but not limited to, the SutureBridge (and SpeedBridge) Rotator Cuff Repair and the Achilles SutureBridge, for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock, the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP, that instruct use of these Arthrex products in a manner that practices the method of at least claim 14 of the '187 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 Arthrex suture anchors, including, but not limited to, Arthrex PushLock products, including, but not limited to, the PEEK PushLock, the Bio-PushLock, the BioComposite PushLock, the Bio-PushLock SP and the PEEK PushLock SP and Arthrex SwiveLock products, including, but not limited to, the Bio-SwiveLock, the PEEK SwiveLock,

the PEEK SwiveLock C, the Bio-SwiveLock C and the Bio-SwiveLock SP, that are specially designed for use in and are used in a manner that practices the method of at least claim 14 of the '187 patent.

64. On information and belief, Arthrex's infringement of the '187 patent is and has been willful and deliberate.

**COUNT VII – INFRINGEMENT OF THE '559 PATENT**

65. Bonutti Skeletal realleges and incorporates by reference each of the preceding paragraphs.

66. On information and belief, Arthrex, directly or through the actions of its employees, divisions and/or subsidiaries, has infringed and continues to infringe the '559 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or equivalently.

67. On information and belief, Arthrex has infringed and continues to infringe the '559 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 embodying at least claims 13, 24, 34 and/or 47 of the '559 patent, and/or by, among other things, instructing and encouraging medical professionals to use Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claims 13, 24, 34 and/or 47 of the '559 patent. The suture anchors and products include, but are not limited to, the Bio-Corkscrew, the Bio-Corkscrew FT, the Bio-Composite Corkscrew FT, Mini Bio-Suture Tak, Micro Bio-Suture Tak, Bio-Suture Tak, Bio-Composite Suture Tak and Bio-FASTak, and associated instruments, products and surgical technique guides.

68. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '559 patent, directly, indirectly, jointly, literally and by equivalents, by, among other things, using in the United States Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, the Bio-Corkscrew, the Bio-Corkscrew FT, the Bio-Composite Corkscrew FT, Mini Bio-Suture Tak, Micro Bio-Suture Tak, Bio-Suture Tak, Bio-Composite Suture Tak and Bio-FASTak, that embody at least claims 13, 24, 34 and/or 47 of the '559 patent.

69. On information and belief, Arthrex had and continues to have knowledge and is aware of Dr. Bonutti's patents, including the '559 patent.

70. On information and belief, Arthrex has infringed and continues to infringe the '559 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 others to make, use, offer for sale, sell and/or import within the United States Arthrex suture anchors and/or suture anchor related instruments and products embodying at least claims 13, 24, 34 and/or 47 of the '559 patent, by, for example, promoting, offering for sale, selling and/or distributing Arthrex suture anchors and/or suture anchor related products, including, but not limited to, the Bio-Corkscrew, the Bio-Corkscrew FT, the Bio-Composite Corkscrew FT, Mini Bio-Suture Tak, Micro Bio-Suture Tak, Bio-Suture Tak, Bio-Composite Suture Tak and and Bio-FASTak, that embody at least claims 13, 24, 34 and/or 47 of the '559 patent, by creating and distributing instructions for use and surgical technique guides for Arthrex suture anchors and/or suture anchor related instruments and products, including, but not limited to, the Bio-Corkscrew, the Bio-Corkscrew FT, the Bio-Composite Corkscrew FT, Mini Bio-Suture Tak, Micro Bio-Suture Tak, Bio-Suture Tak, Bio-Composite Suture Tak and Bio-FASTak, that embody at least claims 13, 24, 34 and/or 47 of the '559 patent, and by designing,

manufacturing, promoting, offering for sale, selling and instructing surgeons, physicians and medical professionals in the use of suture anchor related instruments and products specially designed to promote use of Arthrex suture anchors, including, but not limited to, the Bio-Corkscrew, the Bio-Corkscrew FT, the Bio-Composite Corkscrew FT, Mini Bio-Suture Tak, Micro Bio-Suture Tak, Bio-Suture Tak, Bio-Composite Suture Tak and Bio-FASTak, that embody at least claims 1 and/or 29 of the '514 patent.

71. On information and belief, Arthrex's infringement of the '559 patent is and has been willful and deliberate.

#### **DAMAGES AND RELIEF**

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

#### **PRAYER FOR RELIEF**

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

A. Determining that Arthrex has infringed and continues to infringe one or more claims of the '986 patent;

B. Determining that Arthrex has infringed and continues to infringe one or more claims of the '514 patent;

C. Determining that Arthrex has infringed and continues to infringe one or more claims of the '073 patent;

D. Determining that Arthrex has infringed and continues to infringe one or more claims of the '072 patent;

E. Determining that Arthrex has infringed and continues to infringe one or more claims of the '862 patent;

F. Determining that Arthrex has infringed and continues to infringe one or more claims of the '187 patent;

G. Determining that Arthrex has infringed and continues to infringe one or more claims of the '559 patent;

H. Preliminarily and permanently enjoining Arthrex, 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 patents-in-suit;

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

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

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

L. 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: September 10, 2012

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<sup>1</sup> Applications for the *pro hac vice* admission of Messrs. Rothery, Pokotilow and Chadha will be filed in short order.