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Attorneys for Plaintiff, CAO GROUP, INC.

**Pro Hac Vice Applications Forthcoming*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

CAO GROUP, Inc., a Utah corporation,

Plaintiff,

v.

SYBRON DENTAL SPECIALTIES,
INC., a Delaware corporation, and
KERR CORPORATION, a Delaware
corporation,

Defendants.

COMPLAINT

JURY DEMAND

Case No. 2:12-cv-01062-EJF

Judge Evelyn J. Furse

Plaintiff CAO Group, Inc. (“CAO”) hereby complains and alleges against Defendants Sybron Dental Specialties, Inc. (“Sybron”) and Kerr Corporation (“Kerr”) (collectively, “Defendants”) as follows:

PARTIES

1. Plaintiff CAO is a Utah corporation located at 4628 West Skyhawk Drive, West Jordan, UT 84084.
2. On information and belief, Defendant Sybron is a Delaware corporation with a principal place of business at 1717 West Collins Avenue, Orange, CA 92867.
3. On information and belief, Defendant Kerr is a Delaware corporation with a principal place of business at 1717 West Collins Avenue, Orange, CA 92867.
4. On information and belief, Defendant Kerr is a subsidiary of Defendant Sybron.

NATURE OF THE ACTION

5. This is an action for patent infringement arising under the Patent Laws of the United States 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271.
6. On information and belief, Defendants have infringed and continue to infringe, contribute to the infringement of, and/or actively induce others to infringe CAO’s U.S. Patent Nos. 6,719,559 (the “’559 Patent”), 6,755,648 (the “’648 Patent”), 6,783,362 (the “’362 Patent”), 6,799,967 (the “’967 Patent”), and 6,955,537 (the “’537 Patent”) (collectively “the Asserted Patents”).

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

8. This Court has personal jurisdiction over Defendant Sybron because, on information and belief, Sybron does and has done substantial business in this judicial District, including: (i) committing acts of patent infringement and/or contributing to or inducing acts of patent infringement by others in this judicial District and elsewhere in Utah; (ii) regularly conducting business in this State and judicial District; (iii) directing advertising to or soliciting business from persons residing in this state and judicial District through at least in-person sales efforts and maintaining a business entity registration with the State of Utah from as early as May 12, 2011 through at least August 20, 2012; and (iv) engaging in other persistent courses of conduct, and/or deriving substantial revenue from products and/or services provided to persons in this District and State.

9. This Court has personal jurisdiction over Defendant Kerr because, on information and belief, Kerr does and has done substantial business in this judicial District, including: (i) committing acts of patent infringement and/or contributing to or inducing acts of patent infringement by others in this judicial District and elsewhere in Utah; (ii) regularly conducting business in this State and judicial District and residing in this State as a registered Utah business entity, (iii) directing advertising to or soliciting business from persons residing in this state and judicial District through at least in-person sales efforts and Kerr's interactive and commercial website where the accused product may be purchased, and (iv) engaging in other persistent courses of conduct, and/or deriving substantial revenue from products and/or services provided to persons in this District and State.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

FACTUAL BACKGROUND

11. Plaintiff CAO designs, develops, manufactures, and markets various products for use in the dental industry, including but not limited to dental curing lights.

12. CAO has sought protection for its technological innovations, which has resulted in numerous issued patents, including the Asserted Patents.

13. The '559 Patent issued on April 13, 2004, and is titled "Curing Light." CAO is the owner by assignment of the '559 Patent.

14. The '648 Patent issued on June 29, 2004, and is titled "Curing Light." CAO is the owner by assignment of the '648 Patent.

15. The '362 Patent issued on August 31, 2004, and is titled "Dental Curing Light Using Primary And Secondary Heat Sink Combination." CAO is the owner by assignment of the '362 Patent.

16. The '967 Patent issued on October 5, 2004, and is titled "Light For Use In Activating Light-Activated Materials, The Light Having A Plurality Of Light Emitting Single Chip Arrays." CAO is the owner by assignment of the '967 Patent.

17. The '537 Patent issued on October 18, 2005, and is titled "Light For Use In Activating Light-Activated Materials, The Light Having A Plurality Of Light Emitting Semiconductor Chips Emitting Light Of Differing Peak Wavelengths To Provide A Wide Light Spectrum Profile." CAO is the owner by assignment of the '537 Patent.

18. On information and belief, Defendants develop, market, and/or manufacture a number of products for the dental industry, including dental curing lights that include light emitting diodes ("LED").

19. On information and belief, Defendant Sybron operates and maintains a website at www.sybrondental.com, where Sybron's products are marketed to consumers worldwide.

20. On information and belief, Defendant Kerr purports to be a subsidiary of Defendant Sybron and a manufacturer of dental consumables sold worldwide.

21. Some of Defendants' LED dental curing lights are marketed in Defendant Kerr's "Demetron" series of products (including, for example, the LEDemetron II). Defendant Kerr

also markets an LED dental curing light under the trade name “Demi Plus LED Light Curing System” (hereafter “Demi Plus”). These products are exemplary and are referred to collectively hereafter as the “Accused Products.”

22. On information and belief, Defendant Kerr operates and maintains a website at www.kerrdental.com where Kerr’s products, including the Accused Products, are marketed to consumers worldwide and may be directly purchased online via the www.kerrdental.com website.

23. Instructions regarding how to use the Accused Products are available on the www.kerrdental.com website.

24. On or about November 22, 2006, CAO sent a letter to Defendant Kerr’s president, Dr. Edward Shellard. In its letter, CAO identified several of its patents including the ’648 Patent.

25. On November 14, 2012, CAO provided notice of each of the Asserted Patents to Defendants.

COUNT ONE

(Infringement Of The ’559 Patent Against All Defendants – 35 U.S.C. §§ 271 *et seq.*)

26. Plaintiff realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

27. The Accused Products, including at least the Demi Plus, do not have a substantial use that does not infringe at least claim 16 of the ’559 Patent.

28. On information and belief, Defendant Sybron and Defendant Kerr have had actual notice of the ’559 Patent since at least as early as November 14, 2012 as well as constructive notice pursuant to 35 U.S.C. § 287.

29. On information and belief, Defendant Sybron has (1) infringed and continues to infringe at least claim 16 of the '559 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 16 of the '559 Patent, and/or actively induced others to infringe at least claim 16 of the '559 Patent, in this District and elsewhere in the United States.

30. Defendant Sybron's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 16 of the '559 Patent in violation of 35 U.S.C. § 271.

31. On information and belief, Defendant Kerr has (1) infringed and continues to infringe at least claim 16 of the '559 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 16 of the '559 Patent, and/or actively induced others to infringe at least claim 16 of the '559 Patent, in this District and elsewhere in the United States.

32. Defendant Kerr's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 16 of the '559 Patent in violation of 35 U.S.C. § 271.

33. CAO has sustained damages and will continue to sustain damages as a result of Defendant Sybron's and Defendant Kerr's aforesaid acts of infringement.

34. CAO is entitled to recover damages sustained as a result of Defendant Sybron's and Defendant Kerr's wrongful acts in an amount to be proven at trial.

35. Defendant Sybron's and Defendant Kerr's infringement of CAO's rights under at least claim 16 of the '559 Patent will continue to damage CAO's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

36. Upon information and belief, Defendants Sybron and Kerr have willfully infringed at least claim 16 of the '559 Patent, entitling CAO to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT TWO

(Infringement Of The '648 Patent Against All Defendants – 35 U.S.C. §§ 271 *et seq.*)

37. Plaintiff reallages and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

38. The Accused Products, including at least the Demi Plus, do not have a substantial use that does not infringe at least claim 8 of the '648 Patent.

39. On information and belief, Defendant Sybron and Defendant Kerr have had actual notice of the '648 Patent since at least as early as November 22, 2006 as well as constructive notice pursuant to 35 U.S.C. §. 287.

40. On information and belief, Defendant Sybron has (1) infringed and continues to infringe at least claim 8 of the '648 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 8 of the '648 Patent, and/or actively induced others to infringe at least claim 8 of the '648 Patent, in this District and elsewhere in the United States.

41. Defendant Sybron's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 8 of the '648 Patent in violation of 35 U.S.C. § 271.

42. On information and belief, Defendant Kerr has (1) infringed and continues to infringe at least claim 8 of the '648 Patent by developing, making, using, offering to sell, selling

and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 8 of the '648 Patent, and/or actively induced others to infringe at least claim 8 of the '648 Patent, in this District and elsewhere in the United States.

43. Defendant Kerr's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 8 of the '648 Patent in violation of 35 U.S.C. § 271.

44. CAO has sustained damages and will continue to sustain damages as a result of Defendant Sybron's and Defendant Kerr's aforesaid acts of infringement.

45. CAO is entitled to recover damages sustained as a result of Defendant Sybron's and Defendant Kerr's wrongful acts in an amount to be proven at trial.

46. Defendant Sybron's and Defendant Kerr's infringement of CAO's rights under at least claim 8 of the '648 Patent will continue to damage CAO's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

47. Upon information and belief, Defendants Sybron and Kerr have willfully infringed at least claim 8 of the '648 Patent, entitling CAO to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT THREE

(Infringement Of The '362 Patent Against All Defendants – 35 U.S.C. §§ 271 *et seq.*)

48. Plaintiff reallages and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

49. The Accused Products, including at least the Demi Plus, do not have a substantial use that does not infringe at least claim 20 of the '362 Patent.

50. On information and belief, Defendant Sybron and Defendant Kerr have had actual notice of the '362 Patent since at least as early as November 14, 2012 as well as constructive notice pursuant to 35 U.S.C. § 287.

51. On information and belief, Defendant Sybron has (1) infringed and continues to infringe at least claim 20 of the '362 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 20 of the '362 Patent, and/or actively induced others to infringe at least claim 20 of the '362 Patent, in this District and elsewhere in the United States.

52. Defendant Sybron's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 20 of the '362 Patent in violation of 35 U.S.C. § 271.

53. On information and belief, Defendant Kerr has (1) infringed and continues to infringe at least claim 20 of the '362 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 20 of the '362 Patent, and/or actively induced others to infringe at least claim 20 of the '362 Patent, in this District and elsewhere in the United States.

54. Defendant Kerr's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 20 of the '362 Patent in violation of 35 U.S.C. § 271.

55. CAO has sustained damages and will continue to sustain damages as a result of Defendant Sybron's and Defendant Kerr's aforesaid acts of infringement.

56. CAO is entitled to recover damages sustained as a result of Defendant Sybron's and Defendant Kerr's wrongful acts in an amount to be proven at trial.

57. Defendant Sybron's and Defendant Kerr's infringement of CAO's rights under at least claim 20 of the '362 Patent will continue to damage CAO's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

58. Upon information and belief, Defendants Sybron and Kerr have willfully infringed at least claim 20 of the '362 Patent, entitling CAO to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT FOUR

(Infringement Of The '967 Patent Against All Defendants – 35 U.S.C. §§ 271 *et seq.*)

59. Plaintiff reallages and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

60. The Accused Products, including at least the Demi Plus, do not have a substantial use that does not infringe at least claim 1 of the '967 Patent.

61. On information and belief, Defendant Sybron and Defendant Kerr have had actual notice of the '967 Patent since at least as early as November 14, 2012 as well as constructive notice pursuant to 35 U.S.C. § 287.

62. On information and belief, Defendant Sybron has (1) infringed and continues to infringe at least claim 1 of the '967 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 1 of the '967 Patent, and/or actively induced others to infringe at least claim 1 of the '967 Patent, in this District and elsewhere in the United States.

63. Defendant Sybron's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 1 of the '967 Patent in violation of 35 U.S.C. § 271.

64. On information and belief, Defendant Kerr has (1) infringed and continues to infringe at least claim 1 of the '967 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 1 of the '967 Patent, and/or actively induced others to infringe at least claim 1 of the '967 Patent, in this District and elsewhere in the United States.

65. Defendant Kerr's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 1 of the '967 Patent in violation of 35 U.S.C. § 271.

66. CAO has sustained damages and will continue to sustain damages as a result of Defendant Sybron's and Defendant Kerr's aforesaid acts of infringement.

67. CAO is entitled to recover damages sustained as a result of Defendant Sybron's and Defendant Kerr's wrongful acts in an amount to be proven at trial.

68. Defendant Sybron's and Defendant Kerr's infringement of CAO's rights under at least claim 1 of the '967 Patent will continue to damage CAO's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

69. Upon information and belief, Defendants Sybron and Kerr have willfully infringed at least claim 1 of the '967 Patent, entitling CAO to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT FIVE

(Infringement Of The '537 Patent Against All Defendants – 35 U.S.C. §§ 271 *et seq.*)

70. Plaintiff reallages and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

71. The Accused Products, including at least the Demi Plus, do not have a substantial use that does not infringe at least claim 21 of the '537 Patent.

72. On information and belief, Defendant Sybron and Defendant Kerr have had actual notice of the '537 Patent since at least as early as November 14, 2012 as well as constructive notice pursuant to 35 U.S.C. § 287.

73. On information and belief, Defendant Sybron has (1) infringed and continues to infringe at least claim 21 of the '537 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 21 of the '537 Patent, and/or actively induced others to infringe at least claim 21 of the '537 Patent, in this District and elsewhere in the United States.

74. Defendant Sybron's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 21 of the '537 Patent in violation of 35 U.S.C. § 271.

75. On information and belief, Defendant Kerr has (1) infringed and continues to infringe at least claim 21 of the '537 Patent by developing, making, using, offering to sell, selling and/or importing, in this District and elsewhere in the United States, the Accused Products including at least the Demi Plus and/or (2) contributed to the infringement of at least claim 21 of the '537 Patent, and/or actively induced others to infringe at least claim 21 of the '537 Patent, in this District and elsewhere in the United States.

76. Defendant Kerr's actions constitute infringement, active inducement of infringement, and/or contributory infringement of at least claim 21 of the '537 Patent in violation of 35 U.S.C. § 271.

77. CAO has sustained damages and will continue to sustain damages as a result of Defendant Sybron's and Defendant Kerr's aforesaid acts of infringement.

78. CAO is entitled to recover damages sustained as a result of Defendant Sybron's and Defendant Kerr's wrongful acts in an amount to be proven at trial.

79. Defendant Sybron's and Defendant Kerr's infringement of CAO's rights under at least claim 21 of the '537 Patent will continue to damage CAO's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

80. Upon information and belief, Defendants Sybron and Kerr have willfully infringed at least claim 21 of the '537 Patent, entitling CAO to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CAO asks this Court to enter judgment in its favor and against Defendants Sybron and Kerr and grant the following relief:

A. An adjudication that Defendants Sybron and Kerr have willfully infringed and continue to infringe Asserted Patents.

B. Orders of this Court temporarily, preliminarily, and permanently enjoining Defendants Sybron and Kerr, their agents, servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner any of the claims of Asserted Patents pursuant to at least 35 U.S.C. § 283;

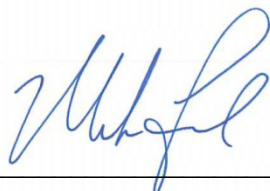
- C. An award of damages adequate to compensate CAO for Defendant Sybron's and Defendant Kerr's infringement of the Asserted Patents in an amount to be proven at trial;
- D. A finding that this is an exceptional case and an award of Plaintiff's costs and attorney fees;
- E. A trebling of the damage award to Plaintiff;
- F. An assessment and award of pre- and post-judgment interest on all damages awarded; and
- I. Any further relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all claims and all issues properly triable thereby.

Dated: November 15, 2012

MASCHOFF GILMORE & ISRAELSEN

By: 

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