

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:13-cv-1035

**LANX, INC.,**

Plaintiff,

v.

**PIONEER SURGICAL TECHNOLOGY, INC.,**

Defendant.

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**COMPLAINT FOR PATENT INFRINGEMENT WITH JURY DEMAND**

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Plaintiff Lanx, Inc., for its Complaint against Defendant Pioneer Surgical Technology, Inc., states and alleges as follows:

**THE PARTIES**

1. Plaintiff Lanx, Inc. ("Lanx") is a Delaware corporation having its principal place of business at 310 Interlocken Parkway, Ste. 120, Broomfield, CO 80021.

2. Defendant Pioneer Surgical Technology, Inc. is a Michigan corporation with its principal place of business at 375 River Park Circle, Marquette, MI 48855 ("Pioneer").

### **JURISDICTION AND VENUE**

3. This is an action for patent infringement under the patent laws of the United States, Title 35, United States Code, specifically §§ 271 and 281-285. This Court has subject matter jurisdiction under Title 28 United States Code §§ 1331 and 1338(a).

4. Personal jurisdiction over Defendant Pioneer comports with the United States Constitution and Section 13.1.124 of the Colorado Code because (1) Defendant regularly conducts business within and has had systematic and continuous contacts with this judicial district; (2) Defendant has committed and continues to commit and has contributed and induced, and continues to contribute to or to induce, acts of patent infringement in this district as alleged in this Complaint; and (3) Lanx has been damaged in this judicial district by Defendant's tortious conduct.

5. Venue is properly within the district under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

### **BACKGROUND**

6. Lanx owns all of the rights and interests in United States Patent No. 8,382,801 ("the '801 Patent").

7. The '801 Patent, entitled "Spinous Process Implants, Instruments, and Methods," was duly and legally issued by the United States Patent and Trademark Office on February 26, 2013, after full and fair examination. A copy of the '801 Patent is attached hereto as Exhibit A.

8. Pioneer sells and distributes, including, upon information and belief, sales and distribution within the District of Colorado, medical products and devices including but not limited to spinal fixation devices, such as the accused products in this case.

9. One of Pioneer's spinal fixation devices is a direct knock-off of Lanx's patented Aspen device which is covered by the claims of the '801 Patent and other patents. A photograph of the Pioneer knock-off device is attached as Exhibit B.

### **COUNT I**

#### **INFRINGEMENT OF THE '801 PATENT**

10. Plaintiff incorporates each of the preceding paragraphs 1 - 9 as if fully set forth herein.

11. Pioneer is infringing the '801 Patent literally, or under the doctrine of equivalents, by making, using, selling, or offering for sale in the United States, including the District of Colorado, products embodying the patented inventions claimed in the '801 Patent without authority, including but not limited to the products identified in preceding paragraphs 8-9.

12. Upon information and belief, Pioneer has contributed to the infringement of or induced others to infringe the '801 Patent within the United States.

13. Upon information and belief, Pioneer has willfully engaged in its infringing conduct, at least by making within the United States a spinal fixation device that, upon information and belief, was substantially or completely copied from Lanx's patented Aspen device.

14. The infringement by Pioneer of the '801 Patent has injured Lanx and will cause Lanx added irreparable injury and damage in the future unless Pioneer is enjoined from infringing the '801 Patent.

### **DEMANDS FOR RELIEF**

WHEREFORE, Lanx respectfully requests that judgment be entered in its favor and against Defendant Pioneer as follows:

- a. That Pioneer has infringed the '801 Patent;
- b. That Pioneer's infringement of the '801 Patent has been willful;
- c. That Pioneer and its respective agents, servants, officers, directors, employees, and all persons acting in concert with them, directly or indirectly, be temporarily and permanently enjoined from infringement, inducing others to infringe, or contributing to the infringement of the '801 Patent;
- d. That Pioneer be ordered to account for and pay to Lanx the damages to which Lanx is entitled as a consequence of the infringement of the '801 Patent, together with pre-judgment interest and costs;
- e. That a post-judgment equitable accounting of damages be ordered for the period of infringement of the '801 Patent;
- f. That all other damages permitted by Title 35 United States Code § 284, including increased damages up to three times the amount of compensatory damages found, be awarded;
- g. That this case be deemed exceptional under 35 U.S.C. § 285, and that Lanx be awarded its costs and attorneys' fees; and
- h. That Lanx be awarded such other and further relief as the Court may deem just and equitable.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Lanx demands a trial by jury of all issues so triable in this action.

Respectfully submitted,

Dated: April 18, 2010

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