

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

BONUTTI SKELETAL  
INNOVATIONS LLC,

Plaintiff,

vs.

Civil Action No. 12-1107 (GMS)

ZIMMER HOLDINGS, INC. AND  
ZIMMER, INC.,

## JURY TRIAL DEMANDED

Defendants.

**FIRST AMENDED COMPLAINT**

Bonutti Skeletal Innovations LLC (“Bonutti Skeletal”) for its First Amended Complaint hereby asserts claims of patent infringement against Zimmer Holdings, Inc. and Zimmer, Inc. (collectively, “Zimmer” or “Defendants”), 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, Zimmer Holdings, Inc. is a Delaware corporation having a place of business at 345 East Main Street, Warsaw, Indiana 46580.
3. On information and belief, Zimmer, Inc. is a Delaware corporation having a place of business at 1800 West Center Street, Warsaw, Indiana 46581-0708.
4. On information and belief, Zimmer, Inc. is a wholly owned subsidiary of Zimmer Holdings, Inc.

**PATENTS-IN-SUIT**

5. U.S. Patent No. 6,702,821 (“the ’821 patent”), entitled “Instrumentation For Minimally Invasive Joint Replacement and Methods For Using Same,” was lawfully issued on March 9, 2004 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 ’821 patent by the accused products and the use thereof. A copy of the ’821 patent is attached as Exhibit A.

6. U.S. Patent No. 7,749,229 (“the ’9229 patent”), entitled “Total Knee Arthroplasty Through Shortened Incision,” was lawfully issued on July 6, 2010 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 ’9229 patent by the accused products and the use thereof. A copy of the ’9229 patent is attached as Exhibit B.

7. U.S. Patent No. 7,806,896 (“the ’896 patent”), entitled “Knee Arthroplasty Method,” was lawfully issued on October 5, 2010 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 ’896 patent by the accused products and the use thereof. A copy of the ’896 patent is attached as Exhibit C.

8. U.S. Patent No. 7,837,736 (“the ’736 patent”), entitled “Minimally Invasive Surgical Systems and Methods,” was lawfully issued on November 23, 2010 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 ’736 patent by the accused products and the use thereof. A copy of the ’736 patent is attached as Exhibit D.

9. U.S. Patent No. 7,959,635 (“the ’635 patent”), entitled “Limited Incision Total Joint Replacement Methods,” was lawfully issued on June 14, 2011 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 '635 patent by the accused products and the use thereof. A copy of the '635 patent is attached as Exhibit E.

10. U.S. Patent No. 8,133,229 ("the '3229 patent"), entitled "Knee Arthroplasty Method," was lawfully issued on March 13, 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 '3229 patent by the accused products and the use thereof. A copy of the '3229 patent is attached as Exhibit F.

### **BACKGROUND**

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

12. Because of Dr. Bonutti's expertise, insights, experience and research efforts, Dr. Bonutti is an inventor or co-inventor of over 150 United States patents, including the '821 patent, the '9229 patent, the '896 patent, the '736 patent, the '635 patent and the '3229 patent (collectively, "the patents-in-suit").

13. The patents-in-suit involve specialized procedures, instruments, implants, kits and systems invented by Dr. Bonutti for performing minimally invasive surgery, including minimally invasive knee surgery.

14. Zimmer is a competitor in the Orthopedics industry and in particular in the joint replacement industry. On information and belief, Zimmer designs, develops, manufactures, offers for sale, sells, uses, distributes and markets joint replacement implants and instruments including knee implants and surgical instruments used in knee surgery, as well as minimally invasive knee surgery.

15. On information and belief, Zimmer creates, distributes and otherwise makes available to surgeons, medical professionals and the public-at-large instructions for use, surgical technique guides, brochures and/or videos for implanting Zimmer knee implant systems including, but not limited to, the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Knee System, and the Zimmer NexGen Knee System.

16. On information and belief, Zimmer creates, distributes and otherwise makes available to surgeons, medical professionals and the public-at-large instructions for use, surgical technique guides, brochures and/or videos on using Zimmer surgical instruments, including minimally invasive instruments, for implanting Zimmer knee implant systems including, but not limited to, instruments for minimally invasive knee surgery, such as, for example, instruments for the Unicompartmental High Flex Knee, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High Flex Knee, instruments for the Gender Solutions Knee System, the Zimmer Patient Specific Instruments utilized with the Gender Solutions Knee System, instruments for the NexGen Knee System, and the Zimmer Patient Specific Instruments utilized with the NexGen Knee System.

17. On information and belief, the Zimmer Institute is created, organized, sponsored, funded and run by Zimmer, and Zimmer, through at least the Zimmer Institute, offers a variety of courses conducted at regional training facilities across the United States which provides surgeons and medical professionals exposure to the latest surgical procedures, including courses on Primary and Revision Arthroplasty, Unicompartmental Knee Arthroplasty and minimally invasive surgery ("MIS") techniques and instruments for implanting knee implants including specifically the Zimmer total, revision and unicompartmental knee implants and MIS instruments for use in implanting the Zimmer total, revision and unicompartmental knee implants.

18. On information and belief, Zimmer, through at least the Zimmer Institute, offers a surgical video library that provides videos of surgeries performed by its faculty. This video library includes surgical video programs for procedures using Zimmer knee implants and instrumentation including, but not limited to, the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Knee Systems, and the Zimmer NexGen Knee System and associated Zimmer Patient Specific Instruments for those knee implant systems, as well as other Zimmer instrumentation for implanting knee replacement systems.

19. On information and belief, Zimmer, through the Zimmer Institute, offers Surgeon-To-Surgeon ("S2S") programs with participants attending a day or more of observation in a faculty member's operating room. These programs include specific procedural instruction. The Zimmer Institute offers enrollment for S2S programs on topics including, but not limited to, the Zimmer Gender Solutions Knee System, the Zimmer NexGen Knee System, the Zimmer Unicompartmental Knee System, the Zimmer Patient Specific Instruments utilized with the Zimmer Unicompartmental High Flex Knee System, and other Zimmer Patient Specific Instruments and associated knee systems as well as other instrument systems for implanting knee systems.

20. In 1988, Dr. Bonutti received an A.O.A Bristol Meyer-Zimmer Award and, from 2001 to 2003, Dr. Bonutti was a consultant for Zimmer in relation to Unicompartmental Knee Arthroplasty.

21. As early as at least 2001, Zimmer, Inc. recognized Dr. Bonutti's knowledge and skill in the design and evaluation of orthopedic implants and in orthopedic surgical techniques, and expressed its desire to obtain patent rights, licenses and expertise from Dr. Bonutti pertaining to minimally invasive instrumentation, implants and techniques including a new unicondylar

knee implant system with associated MIS instrumentation. This desire was memorialized in an October 2001 license agreement signed by Zimmer.

22. Zimmer, in March 2003, terminated its 2001 license agreement with Dr. Bonutti on the unicondylar knee implant system.

23. Zimmer, Inc. further expressed its interest in Dr. Bonutti's knowledge and expertise in a confidential disclosure agreement made on April 24, 2002 in which Zimmer, Inc. and Bonutti Research, Inc. entered into a confidential business relationship for the exchange of information related to MIS Technologies.

24. Prior to February 10, 2003, including but not limited to November 6, 2002, and February 7, 2003, Dr. Bonutti and/or representatives of Dr. Bonutti, engaged in patent discussions with Zimmer officials in which Dr. Bonutti and/or his representatives disclosed certain ideas related to total knee arthroplasty.

25. In February 2003, Dr. Bonutti and/or his representatives continued to meet with Zimmer officials to discuss certain intellectual property rights of Dr. Bonutti and met on at least four occasions from February 2003 through February 15, 2007. Dr. Bonutti and/or his representatives have had numerous communications with Zimmer over the years regarding Dr. Bonutti's patents on minimally invasive knee surgery.

26. Zimmer regularly applies for patents on the joint replacement implants and instruments it makes and sells, including patents covering the surgical techniques that use these instruments to implant Zimmer joint replacement systems. Zimmer owns over 500 patents and pending patent applications.

27. Zimmer has hired dedicated patent counsel to assist with its joint replacement and orthopedic business. Zimmer marks its products and/or product-literature, including its joint

replacement systems, such as, for example, its knee replacement systems, with its patents. Zimmer has patents that reference and cite to Dr. Bonutti's patents. On information and belief Zimmer is knowledgeable about patents at least from its business operations.

28. Zimmer, on information and belief, like most competitors in the joint replacement market, regularly monitors the patent literature including issued patents and published patent applications from third parties, and, like most competitors, throughout the cycle of researching, developing, commercializing, and marketing implants, techniques and/or instrumentation systems, searches the patent literature and published patent applications and obtains opinions and advice from patent counsel on the patents and published applications it finds as a result of its monitoring and searching efforts.

29. On information and belief, as a result of the above-described contact and communication between Dr. Bonutti and Zimmer, and the activities of Zimmer in the field of joint replacement and knee implants, including its patent activities whereby it monitors and searches the patent literature, Zimmer 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**

30. 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.

31. This Court has personal jurisdiction over Defendants because, among other things, Defendants are both Delaware corporations and are thus subject to personal jurisdiction in this District, and because, on information and belief, Defendants engage in substantial and ongoing business in this District.

32. On information and belief, Defendants offer to sell, sell and distribute their knee implants and/or knee implant related instruments and products, which either infringe one or more of the patents-in-suit or are for use in infringing procedures, to healthcare institutions and/or medical professionals within this District. On information and belief, Defendants' knee implants and/or knee implant related instruments and products are used, including in infringing procedures, by healthcare institutions and/or medical professionals within this District. On information and belief, Defendants, independently and/or collectively, have committed, contributed to and/or induced acts of patent infringement within this District.

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

#### **COUNT I – INFRINGEMENT OF THE '821 PATENT**

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

35. On information and belief, Defendants, directly or through the actions of their employees, divisions and/or subsidiaries, have infringed and continue to infringe the '821 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or by equivalents.

36. On information and belief, Defendants have infringed and continue to infringe the '821 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, making, using, offering for sale, selling, distributing and/or importing Zimmer products within the United States that infringe or are for use in a manner that practices the method of at least one claim of the '821 patent. The Zimmer products that infringe or are used to infringe the method of at least one claim of the '821 patent include, or are included in, Zimmer knee implant systems and associated instruments used with and for implanting these Zimmer knee implant systems.



These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, and associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System.

37. On information and belief, Defendants have infringed and continue to infringe the '821 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems and/or using Zimmer instruments to implant Zimmer knee implants in a manner that practices the method of at least one claim of the '821 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, and associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System.

38. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '821 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems, implanting Zimmer knee implant systems, and/or using Zimmer instruments in the United States in a manner that practices the method of at least one claim of the '821 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, and the associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System.

39. On information and belief, Defendants had and continue to have knowledge and are aware of Dr. Bonutti's patents, including the '821 patent.

40. On information and belief, Defendants have infringed and continue to infringe the '821 patent, directly, indirectly, jointly, literally and/or 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 Zimmer knee implant systems, implant Zimmer knee implant systems, and/or use Zimmer instruments to implant Zimmer knee implant systems within the United States in a manner that practices the method of at least one claim of the '821 patent.

41. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '821 patent, by, for example, creating and distributing Zimmer surgical technique guides, brochures, instructions for use and package inserts that explain and set forth procedures and techniques for using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments to implant the Zimmer knee implant systems. These surgical technique guides, brochures, instructions for use and package inserts which encourage, promote, teach, induce and set forth the method of infringing at least one claim of the '821 patent are for at least the Zimmer Unicompartmental High Flex Knee System, and the associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System.

42. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '821 patent, by, for example, designing, manufacturing, offering for sale, selling, distributing and instructing surgeons, physicians and medical professionals in the use of instruments specially designed and used for implanting Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer Unicompartmental High Flex Knee System.

43. On information and belief, Defendants have encouraged, promoted and contributed to and continue to encourage, promote and contribute to the infringement of the

method of at least one claim of the '821 patent, by, for example, designing, manufacturing, offering for sale, selling and distributing to surgeons, physicians, medical professionals and health care institutions instruments specially designed and used for implanting Zimmer knee implants and instructing surgeons, physicians and medical professionals in the use of these specially designed instruments used for implanting Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer Unicompartmental High Flex Knee System. These specially designed instruments are specifically designed to promote, encourage and assist surgeons and medical professionals in techniques that infringe the method of at least one claim of the '821 patent, and, on information and belief, these specially designed instruments are not staple articles of commerce and have no substantial non-infringing uses.

44. On information and belief, Defendants have had and continue to have knowledge of the '821 patent, have been and are aware of the direct infringement of the '821 patent, and have intended and continue to intend to induce and/or contribute to that infringement.

45. Because Defendants knew of the '821 patent, Defendants have ignored and/or disregarded that Defendants' actions constituted infringement of a valid patent and Defendants continue to ignore and/or disregard an objectively high risk that Defendants' actions constitute infringement of a valid patent.

46. On information and belief, Defendants' infringement of the '821 patent is and has been willful and deliberate.

#### **COUNT II – INFRINGEMENT OF THE '9229 PATENT**

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

48. On information and belief, Defendants, directly or through the actions of their employees, divisions and/or subsidiaries, have infringed and continue to infringe the '9229 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or by equivalents.

49. On information and belief, Defendants have infringed and continue to infringe the '9229 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, making, using, offering for sale, selling, distributing and/or importing Zimmer products within the United States that infringe or are for use in a manner that practices the method of at least one claim of the '9229 patent. The Zimmer products that infringe or are used to infringe the method of at least one claim of the '9229 patent include, or are included in, Zimmer knee implant systems, and associated instruments used with and for implanting these Zimmer knee implant systems. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems and/or associated instruments, products and surgical technique guides.

50. On information and belief, Defendants have infringed and continue to infringe the '9229 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems and/or using Zimmer instruments to implant Zimmer knee implants in a manner that practices the method of at least one claim of the '9229 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems, and associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

51. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '9229 patent, directly, indirectly, jointly, literally and/or by

equivalents, by, among other things, using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments in the United States in a manner that practices the method of at least one claim of the '9229 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

52. On information and belief, Defendants had and continue to have knowledge and are aware of Dr. Bonutti's patents, including the '9229 patent.

53. On information and belief, Defendants have infringed and continue to infringe the '9229 patent, directly, indirectly, jointly, literally and/or 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 Zimmer knee implant systems, implant Zimmer knee implant systems, and/or use Zimmer instruments to implant Zimmer knee implant systems within the United States in a manner that practices the method of at least one claim of the '9229 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

54. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '9229 patent, by, for example, creating and distributing Zimmer surgical technique guides, brochures, instructions for use and package inserts that explain and set forth procedures and techniques for using Zimmer knee implant systems, implanting Zimmer knee implants,

and/or using Zimmer instruments to implant the Zimmer knee implant systems. These surgical technique guides, brochures, instructions for use and package inserts which encourage, promote, teach, induce and set forth the method of infringing at least one claim of the '9229 patent are for at least the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

55. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '9229 patent, by, for example, designing, manufacturing, offering for sale, selling, distributing and instructing of surgeons, physicians and medical professionals in the use of instruments specially designed and used for implanting Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

56. On information and belief, Defendants have encouraged, promoted and contributed to and continue to encourage, promote and contribute to the infringement of the method of at least one claim of the '9229 patent, by, for example, designing, manufacturing, offering for sale, selling and distributing to surgeons, physicians, medical professionals and health care institutions instruments specially designed and used for implanting Zimmer knee implants and instructing the surgeons, physicians, and medical professionals in the use of these specially designed instruments used for implanting Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems. These specially designed instruments are specifically designed to promote, encourage and assist surgeons and medical professionals in the

infringement of the method of at least one claim of the '9229 patent, and, on information and belief, these specially designed instruments are not staple articles of commerce and have no substantial non-infringing uses.

57. On information and belief, Defendants have had and continue to have knowledge of the '9229 patent, have been and are aware of the direct infringement of the '9229 patent, and have intended and continue to intend to induce and/or contribute to that infringement.

58. Because Defendants knew of the '9229 patent, Defendants have ignored and/or disregarded that Defendants' actions constituted infringement of a valid patent and Defendants continue to ignore and/or disregard an objectively high risk that Defendants' actions constitute infringement of a valid patent.

59. On information and belief, Defendants' infringement of the '9229 patent is and has been willful and deliberate.

### **COUNT III – INFRINGEMENT OF THE '896 PATENT**

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

61. On information and belief, Defendants, directly or through the actions of their employees, divisions and/or subsidiaries, have infringed and continue to infringe the '896 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or by equivalents.

62. On information and belief, Defendants have infringed and continue to infringe the '896 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, making, using, offering for sale, selling, distributing and/or importing Zimmer products within the United States that infringe or are for use in a manner that practices the method of at least one

claim of the '896 patent. The Zimmer products that infringe or are used to infringe the method of at least one claim of the '896 patent include, or are included in, Zimmer knee implant systems, and associated instruments used with and for implanting these Zimmer knee implant systems. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, the Gender Solutions Natural Knee Flex Systems and the NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems and associated instruments, including, but not limited to, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High Flex Knee implants, the Zimmer Patient Specific Instruments utilized with the Gender Solutions Natural Knee Flex System and the Zimmer Patient Specific Instruments utilized with the NexGen Complete Knee Solution System.

63. On information and belief, Defendants have infringed and continue to infringe the '896 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems and/or using Zimmer instruments to implant Zimmer knee implants in a manner that practices the method of at least one claim of the '896 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, the Gender Solutions Natural Knee Flex Systems and the NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems and associated instruments, including, but not limited to, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High Flex Knee implants, the Zimmer Patient Specific Instruments utilized with the Gender Solutions Natural Knee Flex System and the Zimmer Patient Specific Instruments utilized with the NexGen Complete Knee Solution System.

64. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '896 patent, directly, indirectly, jointly, literally and/or by



equivalents, by, among other things, using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments in the United States in a manner that practices the method of at least one claim of the '896 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, the Gender Solutions Natural Knee Flex Systems and the NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems and associated instruments, including, but not limited to, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High Flex Knee implants, the Zimmer Patient Specific Instruments utilized with the Gender Solutions Natural Knee Flex System and the Zimmer Patient Specific Instruments utilized with the NexGen Complete Knee Solution System.

65. On information and belief, Defendants had and continue to have knowledge and are aware of Dr. Bonutti's patents, including the '896 patent.

66. On information and belief, Defendants have infringed and continue to infringe the '896 patent, directly, indirectly, jointly, literally and/or 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 Zimmer knee implant systems, implant Zimmer knee implant systems, and/or use Zimmer instruments to implant Zimmer knee implant systems within the United States in a manner that practices the method of at least one claim of the '896 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, the Gender Solutions Natural Knee Flex Systems and the NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems and associated instruments, including, but not limited to, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High Flex Knee implants, the

Zimmer Patient Specific Instruments utilized with the Gender Solutions Natural Knee Flex System and the Zimmer Patient Specific Instruments utilized with the NexGen Complete Knee Solution System.

67. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '896 patent, by, for example, creating and distributing Zimmer surgical technique guides, brochures, instructions for use and package inserts that explain and set forth procedures and techniques for using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments to implant the Zimmer knee implant systems. These surgical technique guides, brochures, instructions for use and package inserts which encourage, promote, teach, induce and set forth the method of infringing at least one claim of the '896 patent are for at least the Zimmer Unicompartmental High Flex Knee System, the Gender Solutions Natural Knee Flex Systems and the NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems and associated instruments, including, but not limited to, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High Flex Knee implants, the Zimmer Patient Specific Instruments utilized with the Gender Solutions Natural Knee Flex System and the Zimmer Patient Specific Instruments utilized with the NexGen Complete Knee Solution System.

68. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '896 patent, by, for example, designing, manufacturing, offering for sale, selling, distributing and instructing of surgeons, physicians and medical professionals in the use of instruments specially designed and used for implanting Zimmer knee implants, including, but not limited to, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High

Flex Knee implants, the Zimmer Patient Specific Instruments utilized with the Gender Solutions Natural Knee Flex System and the Zimmer Patient Specific Instruments utilized with the NexGen Complete Knee Solution System.

69. On information and belief, Defendants have encouraged, promoted and contributed to and continue to encourage, promote and contribute to the infringement of the method of at least one claim of the '896 patent, by, for example, designing, manufacturing, offering for sale, selling and distributing to surgeons, physicians, medical professionals and health care institutions instruments specially designed and used for implanting Zimmer knee implants and instructing surgeons, physicians and medical professionals in the use of these specially designed instruments used for implanting Zimmer knee implants, including, but not limited to, the Zimmer Patient Specific Instruments utilized with the Unicompartmental High Flex Knee implants, the Zimmer Patient Specific Instruments utilized with the Gender Solutions Natural Knee Flex System and the Zimmer Patient Specific Instruments utilized with the NexGen Complete Knee Solution System. These specially designed instruments are specifically designed to promote, encourage and assist surgeons and medical professionals in techniques that infringe the method of at least one claim of the '896 patent, and, on information and belief, these specially designed instruments are not staple articles of commerce and have no substantial non-infringing uses.

70. On information and belief, Defendants have had and continue to have knowledge of the '896 patent, have been and are aware of the direct infringement of the '896 patent, and have intended and continue to intend to induce and/or contribute to that infringement.

71. Because Defendants knew of the '896 patent, Defendants have ignored and/or disregarded that Defendants' actions constituted infringement of a valid patent and Defendants

continue to ignore and/or disregard an objectively high risk that Defendants' actions constitute infringement of a valid patent.

72. On information and belief, Defendants' infringement of the '896 patent is and has been willful and deliberate.

**COUNT IV – INFRINGEMENT OF THE '736 PATENT**

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

74. On information and belief, Defendants, directly or through the actions of their employees, divisions and/or subsidiaries, have infringed and continue to infringe the '736 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or by equivalents.

75. On information and belief, Defendants have infringed and continue to infringe the '736 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, making, using, offering for sale, selling, distributing and/or importing Zimmer products within the United States that infringe or are for use in a manner that practices the method of at least one claim of the '736 patent. The Zimmer products that infringe or are used to infringe the method of at least one claim of the '736 patent include, or are included in, Zimmer knee implant systems, and associated instruments used with and for implanting these Zimmer knee implant systems. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems, and associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

76. On information and belief, Defendants have infringed and continue to infringe the '736 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things,

using Zimmer knee implant systems and/or using Zimmer instruments to implant Zimmer knee implants in a manner that practices the method of at least one claim of the '736 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems, and associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

77. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '736 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments in the United States in a manner that practices the method of at least one claim of the '736 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

78. On information and belief, Defendants had and continue to have knowledge and are aware of Dr. Bonutti's patents, including the '736 patent.

79. On information and belief, Defendants have infringed and continue to infringe the '736 patent, directly, indirectly, jointly, literally and/or 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 Zimmer knee implant systems, implant Zimmer knee implant systems, and/or use Zimmer instruments to implant Zimmer knee implant systems within the United States in a manner that practices the method of at least one claim of the '736 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee

Systems, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

80. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '736 patent, by, for example, creating and distributing Zimmer surgical technique guides, brochures, instructions for use and package inserts that explain and set forth procedures and techniques for using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments to implant the Zimmer knee implant systems. These surgical technique guides, brochures, instructions for use and package inserts which encourage, promote, teach, induce and set forth the method of infringing at least one claim of the '736 patent are for at least the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

81. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '736 patent, by, for example, designing, manufacturing, offering for sale, selling, distributing and instructing of surgeons, physicians and medical professionals in the use of instruments specially designed and used for implanting Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee Systems.

82. On information and belief, Defendants have encouraged, promoted and contributed to and continue to encourage, promote and contribute to the infringement of the method of at least one claim of the '736 patent, by, for example, designing, manufacturing,

offering for sale, selling and distributing to surgeons, physicians, medical professionals and healthcare institutions instruments specially designed and used for implanting Zimmer knee implants and instructing surgeons, physicians and medical professionals in the use of these specially designed instruments to implant Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System. These specially designed instruments are specifically designed to promote, encourage, and assist surgeons, physicians and medical professionals in the techniques that infringe the method of at least one claim of the '736 patent, and, on information and belief, these specially designed instruments are not staple articles of commerce and have no substantial non-infringing uses.

83. On information and belief, Defendants have had and continue to have knowledge of the '736 patent, have been and are aware of the direct infringement of the '736 patent, and have intended and continue to intend to induce and/or contribute to that infringement.

84. Because Defendants knew of the '736 patent, Defendants have ignored and/or disregarded that Defendants' actions constituted infringement of a valid patent and Defendants continue to ignore and/or disregard an objectively high risk that Defendants' actions constitute infringement of a valid patent.

85. On information and belief, Defendants' infringement of the '736 patent is and has been willful and deliberate.

#### **COUNT V – INFRINGEMENT OF THE '635 PATENT**

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

87. On information and belief, Defendants, directly or through the actions of their employees, divisions and/or subsidiaries, have infringed and continue to infringe the '635 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or by equivalents.

88. On information and belief, Defendants have infringed and continue to infringe the '635 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, making, using, offering for sale, selling, distributing and/or importing Zimmer products within the United States that infringe or are for use in a manner that practices the method of at least one claim of the '635 patent. The Zimmer products that infringe or are used to infringe the method of at least one claim of the '635 patent include, or are included in, Zimmer knee implant systems, and associated instruments used with and for implanting these Zimmer knee implant systems. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

89. On information and belief, Defendants have infringed and continue to infringe the '635 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems and/or using Zimmer instruments to implant Zimmer knee implants in a manner that practices the method of at least one claim of the '635 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

90. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '635 patent, directly, indirectly, jointly, literally and/or by



equivalents, by, among other things, using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments in the United States in a manner that practices the method of at least one claim of the '635 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

91. On information and belief, Defendants had and continue to have knowledge and are aware of Dr. Bonutti's patents, including the '635 patent.

92. On information and belief, Defendants have infringed and continue to infringe the '635 patent, directly, indirectly, jointly, literally and/or 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 Zimmer knee implant systems, implant Zimmer knee implant systems, and/or use Zimmer instruments to implant Zimmer knee implant systems within the United States in a manner that practices the method of at least one claim of the '635 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

93. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '635 patent, by, for example, creating and distributing Zimmer surgical technique guides, brochures, instructions for use and package inserts that explain and set forth procedures and techniques for using Zimmer knee implant systems, implanting Zimmer knee implants,

and/or using Zimmer instruments to implant the Zimmer knee implant systems. These surgical technique guides, brochures, instructions for use and package inserts which encourage, promote, teach, induce and set forth the method of infringing at least one claim of the '635 patent are for at least the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and the associated instruments for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

94. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '635 patent, by, for example, designing, manufacturing, offering for sale, selling, distributing and instructing of surgeons, physicians and medical professionals in the use of instruments specially designed and used for implanting Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

95. On information and belief, Defendants have encouraged, promoted and contributed to and continue to encourage, promote and contribute to the infringement of the method of at least one claim of the '635 patent, by, for example, designing, manufacturing, offering for sale, selling and distributing to surgeons, physicians, medical professionals and health care institutions instruments specially designed and used for implanting Zimmer knee implants and instructing surgeons, physicians, and medical professionals in the use of these specially designed instruments to implant Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System. These specially designed instruments are specifically designed to promote, encourage and assist surgeons and medical professionals in

techniques that infringe the method of at least one claim of the '635 patent, and, on information and belief, these specially designed instruments are not staple articles of commerce and have no substantial non-infringing uses.

96. On information and belief, Defendants have had and continue to have knowledge of the '635 patent, have been and are aware of the direct infringement of the '635 patent, and have intended and continue to intend to induce and/or contribute to that infringement.

97. Because Defendants knew of the '635 patent, Defendants have ignored and/or disregarded that Defendants' actions constituted infringement of a valid patent and Defendants continue to ignore and/or disregard an objectively high risk that Defendants' actions constitute infringement of a valid patent.

98. On information and belief, Defendants' infringement of the '635 patent is and has been willful and deliberate.

#### **COUNT VI – INFRINGEMENT OF THE '3229 PATENT**

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

100. On information and belief, Defendants, directly or through the actions of their employees, divisions and/or subsidiaries, have infringed and continue to infringe the '3229 patent directly, indirectly (by inducing infringement by others or contributing to infringement), jointly, literally and/or by equivalents.

101. On information and belief, Defendants have infringed and continue to infringe the '3229 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, making, using, offering for sale, selling, distributing and/or importing Zimmer products within the United States that infringe or are for use in a manner that practices the method of at least one

claim of the '3229 patent. The Zimmer products that infringe or are used to infringe the method of at least one claim of the '3229 patent include, or are included in, Zimmer knee implant systems, and associated instruments used with and for implanting these Zimmer knee implant systems. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

102. On information and belief, Defendants have infringed and continue to infringe the '3229 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems and/or using Zimmer instruments to implant Zimmer knee implants in a manner that practices the method of at least one claim of the '3229 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex Systems and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knees Systems.

103. On information and belief, surgeons, physicians and medical professionals have infringed and continue to infringe the '3229 patent, directly, indirectly, jointly, literally and/or by equivalents, by, among other things, using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments in the United States in a manner that practices

the method of at least one claim of the '3229 patent. These Zimmer knee implant systems include, but are not limited to, the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and the associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

104. On information and belief, Defendants had and continue to have knowledge and are aware of Dr. Bonutti's patents, including the '3229 patent.

105. On information and belief, Defendants have infringed and continue to infringe the '3229 patent, directly, indirectly, jointly, literally and/or 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 Zimmer knee implant systems, implant Zimmer knee implant systems, and/or use Zimmer instruments to implant Zimmer knee implant systems within the United States in a manner that practices the method of at least one claim of the '3229 patent.

106. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '3229 patent, by, for example, creating and distributing Zimmer surgical technique guides, brochures, instructions for use and package inserts that explain and set forth procedures and techniques for using Zimmer knee implant systems, implanting Zimmer knee implants, and/or using Zimmer instruments to implant the Zimmer knee implant systems. These surgical technique guides, brochures, instructions for use and package inserts which encourage, promote, teach, induce and set forth the method of infringing at least one claim of the '3229 patent are for

at least the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System, and the associated instruments for implanting the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

107. On information and belief, Defendants have encouraged, promoted and induced and continue to encourage, promote and induce the infringement of the method of at least one claim of the '3229 patent, by, for example, designing, manufacturing, offering for sale, selling, distributing and instructing of surgeons, physicians and medical professionals in the use of instruments specially designed and used for implanting Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System.

108. On information and belief, Defendants have encouraged, promoted and contributed to and continue to encourage, promote and contribute to the infringement of the method of at least one claim of the '3229 patent, by, for example, by designing, manufacturing, offering for sale, selling and distributing to surgeons, physicians, medical professionals and healthcare institutions instruments specially designed and used for implanting Zimmer knee implants and instructing surgeons, physicians and medical professionals in the use of these specially designed instruments to implant Zimmer knee implants, including, but not limited to, the instruments specially designed and used for implanting the Zimmer Unicompartmental High Flex Knee System, the Zimmer Gender Solutions Natural Knee Flex System and the Zimmer NexGen LPS-Flex Mobile and LPS-Mobile Bearing Knee System. These specially designed

instruments are specifically designed to promote, encourage and assist surgeons and medical professionals in techniques that infringe the method of at least one claim of the '3229 patent, and, on information and belief, these specially designed instruments are not staple articles of commerce and have no substantial non-infringing uses.

109. On information and belief, Defendants have had and continue to have knowledge of the '3229 patent, have been and are aware of the direct infringement of the '3229 patent, and have intended and continue to intend to induce and/or contribute to that infringement.

110. Because Defendants knew of the '3229 patent, Defendants have ignored and/or disregarded that Defendants' actions constituted infringement of a valid patent and Defendants continue to ignore and/or disregard an objectively high risk that Defendants' actions constitute infringement of a valid patent.

111. On information and belief, Defendants' infringement of the '3229 patent is and has been willful and deliberate.

#### **DAMAGES AND RELIEF**

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

#### **PRAYER FOR RELIEF**

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

A. Determining that Defendants have infringed and continue to infringe one or more claims of the '821 patent;

B. Determining that Defendants have infringed and continue to infringe one or more claims of the '9229 patent;

C. Determining that Defendants have infringed and continue to infringe one or more claims of the '896 patent;

D. Determining that Defendants have infringed and continue to infringe one or more claims of the '736 patent;

E. Determining that Defendants have infringed and continue to infringe one or more claims of the '635 patent;

F. Determining that Defendants have infringed and continue to infringe one or more claims of the '3229 patent;

G. Preliminarily and permanently enjoining Defendants, their respective officers, agents, servants, directors, employees and attorneys, and all persons acting in concert or participation with them, 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;

H. Ordering Defendants to recall and retrieve all infringing products including implant systems and instrument sets utilized in infringing procedures, including all instrument sets which induce or contribute to the infringement of any one of the patents-in-suit;

I. Ordering Defendants to account for and pay to Bonutti Skeletal all damages suffered by Bonutti Skeletal as a consequence of Defendants' 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 Defendants' 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.

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1090207

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