

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

CERAMEDIC LLC,

Plaintiff,

v.

ZIMMER HOLDINGS, INC. and
ZIMMER, INC.

Defendants.

Civil Action No. 3:14-cv-1688

JURY TRIAL DEMANDED

COMPLAINT

CeraMedic LLC (“CeraMedic”) hereby asserts claims of patent infringement against Zimmer Holdings, Inc. and Zimmer, Inc. (“Zimmer”), and alleges as follows:

THE PARTIES

1. CeraMedic is a Florida limited liability company having a place of business at 2400 Dallas Parkway, Suite 200, Plano, Texas 75093, USA.

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.

PATENT-IN-SUIT

5. U.S. Patent No. 6,066,584 (“the ’584 patent”), entitled “Sintered AL₂O₃ Material, Process for Its Production and Use of the Material” was lawfully issued on May 23, 2000, with

the original assignee Fraunhofer-Gesellschaft zur Förderung der Angewandten Forschung e.V., Germany (“Fraunhofer”). CeraMedic 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 ’584 patent by the accused products and the use thereof. A copy of the ’584 patent is attached as Exhibit A.

BACKGROUND

6. Fraunhofer is Europe’s largest application-oriented research organization. Its research efforts are geared entirely to people’s needs: health, security, communication, energy and the environment. As a result, the work undertaken by its researchers and developers has a significant impact on people’s lives. Fraunhofer was honored by Thomson Reuters as one of the Top 100 Global Innovators in 2013.

7. Fraunhofer is assignee of over 1,500 U.S. patents, and was the original assignee of the ’584 patent. In early 2014, Fraunhofer assigned ownership of the ’584 patent to CeraMedic.

8. The ’584 patent relates to the field of ceramics and concerns sintered Al_2O_3 compositions and methods for the use of such material as medical implants or tool material.

9. On information and belief, CeramTec GmbH (“CeramTec”) developed and manufactures BIOLOX delta, an aluminum oxide matrix composite ceramic consisting of approximately 82% alumina (Al_2O_3), 17% zirconia (ZrO_2), and other trace elements.

10. BIOLOX delta is incorporated into Zimmer products such as the *BIOLOX OPTION* Ceramic Femoral Head System.

11. The *BIOLOX OPTION* Ceramic Femoral Head System can be used in conjunction with compatible Zimmer acetabular and femoral stem components for total hip arthroplasty.

12. Zimmer is knowledgeable about the science behind BIOLOX delta material, including its composition, performance characteristics, and manufacture.

13. On information and belief, Zimmer designs, develops, manufactures, offers for sale, sells, uses, distributes, and markets hip implants, many of which include the *BIOLOX OPTION* Ceramic Femoral Head System and/or other BIOLOX delta products.

JURISDICTION AND VENUE

14. 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.

15. This Court has personal jurisdiction over Zimmer because, among other things, Zimmer's headquarters are located in Warsaw, Indiana, and because, on information and belief, Zimmer engages in substantial and ongoing business in this District.

16. On information and belief, Zimmer offers to sell, sells, and distributes its *BIOLOX OPTION* Ceramic Femoral Head System, which infringes the '584 patent, to healthcare institutions and/or medical professionals within this District.

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

COUNT I – INFRINGEMENT OF THE '584 PATENT

18. CeraMedic realleges and incorporates by reference each of the preceding paragraphs.

19. On information and belief, Zimmer, directly or through the actions of its employees, divisions, and/or subsidiaries, has infringed and continues to infringe the '584 patent directly, literally, and/or by equivalents.

20. On information and belief, CeramTec manufactures BIOLOX delta using a process patented by the '584 Patent.

21. On information and belief, Zimmer has infringed and continues to infringe the '584 patent directly, literally, and/or by equivalents by, among other things, making, using, offering for sale, selling, and distributing the *BIOLOX OPTION* Ceramic Femoral Head System, and/or other products including BIOLOX delta, individually and/or as part of hip replacement products.

22. On information and belief, at least as of the filing of this Complaint, because Zimmer knew of the '584 patent and knew of the science behind BIOLOX delta including its manufacture, Zimmer has ignored and/or disregarded that Zimmer's actions constituted infringement of a valid patent and Zimmer continues to ignore and/or disregard an objectively high risk that Zimmer's actions constitute infringement of a valid patent.

23. On information and belief, at least as of the filing of this Complaint, Zimmer's infringement of the '584 patent is and has been willful and deliberate.

DAMAGES AND RELIEF

24. As a consequence of Zimmer's infringement of the '584 patent, CeraMedic has been damaged in an amount not yet determined and will suffer additional irreparable damage unless Zimmer's infringing acts are enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, CeraMedic respectfully requests that the Court enter judgment against Zimmer:

A. Determining that Zimmer has infringed and continues to infringe one or more claims of the '584 patent;

B. Preliminarily and permanently enjoining Zimmer, 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 the '584 patent;

C. Ordering Zimmer to account for and pay to CeraMedic all damages suffered by CeraMedic as a consequence of Zimmer's infringement of the '584 patent, together with interest and costs as fixed by the Court;

D. Trebling or otherwise increasing CeraMedic's damages under 35 U.S.C. § 284 on the grounds that Zimmer's infringement of the '584 patent was deliberate and willful;

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

F. Granting CeraMedic 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, CeraMedic hereby requests a trial by jury for all issues so triable.

Dated: June 27, 2014

Respectfully submitted,

s/ Michael J. Hays

James M. Lewis (#15784-71)

Michael J. Hays (#23606-71)

TUESLEY HALL KONOPA, LLP

212 E. LaSalle Avenue, Suite 100

South Bend, IN 46617

(574) 232-3538

jlewis@thklaw.com

mhays@thklaw.com

Attorneys for Plaintiff CeraMedic LLC

Of Counsel:

John M. Desmarais

Email: jdesmarais@desmaraisllp.com

Paul A. Bondor

Email: pbondor@desmaraisllp.com

Alex Henriques

Email: ahenriques@desmaraisllp.com

Dustin F. Guzior

Email: dguzior@desmaraisllp.com

DESMARAIS LLP

230 Park Avenue

New York, NY 10169

Tel: (212) 351-3400

Fax: (212) 351-3401