

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

BTL INDUSTRIES, INC., a Delaware Corporation,)	
)	
Plaintiff,)	
)	Case: 1:22-cv-02216-
v.)	
)	
JV MEDICAL SUPPLIES, INC., an Indiana Corporation,)	
)	
Defendant.)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff BTL Industries, Inc. (hereinafter “BTL”), by and through its undersigned counsel, files this Complaint against JV Medical Supplies Inc. (hereinafter “JV Medical”) and alleges as follows:

NATURE OF THIS ACTION

1. This is a civil action by BTL against JV Medical for trademark infringement, unfair competition, false designation of origin, and false advertising under the Lanham Act, 15 U.S.C. §§ 1114, 1125(a); and patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

2. BTL and its affiliates pioneered the use of high-intensity electromagnetic energy for non-invasive aesthetic muscle toning. BTL launched the popular EMSCULPT aesthetic body-contouring device in the United States in June 2018. EMSCULPT has been cleared by the U.S. Food and Drug Administration (FDA) for non-invasive toning and strengthening of muscles in the abdomen, buttocks, legs, and arms. BTL and its affiliates have since protected the ground-breaking EMSCUPLT device with numerous patents and federally registered trademarks.

3. According to their website, JV Medical is a “Medical Supply Store” in Indiana that advertises and sells various medical devices. To that end, JV Medical offers for sale, and has sold, various medical related equipment, including devices advertised as BTL’s popular EMSCULPT device.

4. Through its false and misleading representations, JV Medical has sold counterfeit devices purporting to be authentic BTL EMSCULPT devices to unknowing consumers. JV Medical’s false and misleading representations as to the authenticity of the devices misled consumers into believing they were purchasing devices manufactured by BTL. JV Medical did this in part through advertising for sale counterfeit devices on its website that contained BTL’s EMSCULPT trademarks, as well as through emails and communications with customers representing that the counterfeit devices for sale were BTL’s EMSCULPT devices.

5. As detailed below, JV Medical’s actions violate BTL’s federal trademark rights, constitute unfair competition, false advertising, and deceptive practices under federal, state, and common law.

6. Furthermore, on information and belief, JV Medical’s actions violate BTL’s federal patent rights and constitute patent infringement.

7. JV Medical’s infringing, misleading, and fraudulent conduct irreparably harmed BTL’s EMSCULPT brand, the goodwill associated with the EMSCULPT brand, and the quality and goodwill of BTL’s EMSCULPT device. Importantly, the counterfeit devices, which unlike BTL’s EMSCULPT device, are not FDA cleared, may pose serious health and safety risks to the public as the safety and efficacy of the counterfeit devices has not been evaluated. Customers who bought the counterfeit devices were misled into believing they were purchasing and using BTL’s FDA-cleared EMSCULPT device.

8. BTL has filed this action to protect itself and the public against JV Medical's unauthorized use of BTL's trademarks and promotion and sale of counterfeit devices that infringe BTL's patent rights.

PARTIES

9. BTL is a privately held corporation organized and existing under the laws of Delaware with a principal place of business at 362 Elm Street, Marlborough, Massachusetts 01752. BTL is the owner or the exclusive U.S. licensee of U.S. Patent Nos. 10,695,576, 10,695,575, 11,266,852, 10,478,634, and D874009, as well as the owner or exclusive licensee of the trademarks at issue in this instant action.

10. On information and belief, JV Medical is a corporation existing under the laws of the State of Indiana, with a principal address at 844 Blanchard St. Shelbyville, IN 46176.

JURISDICTION AND VENUE

11. This Court has subject-matter jurisdiction over BTL's claims arising under the Lanham Act, 15 U.S.C. § 1121, and 15 U.S.C. § 1501, BTL's claims arising under the patent laws of the United States, 35 U.S.C. § 1 et seq, pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a)-(b).

12. This Court has personal jurisdiction over JV Medical because JV Medical is a registered Indiana corporation, has a principal place of business in Indiana, and committed acts of trademark infringement, patent infringement, and false, misleading and deceptive advertising under the Lanham Act in Indiana.

13. Venue is proper in the District under 28 U.S.C §1400(b) because JV Medical has a regular and established place of business in this District and has committed acts of infringement in the District. Venue is also proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events that gave rise to the claims occurred in this District, and JV Medical is subject to personal jurisdiction in this District.

FACTUAL ALLEGATIONS

14. BTL specializes in the innovation, development, and implementation of equipment and treatments for non-invasive body contouring. A true and correct copy of BTL's press release entitled "BTL Continues to Make Waves With Its Revolutionary HIFEM® Technology" is attached hereto as **Exhibit 1**. BTL and its affiliates developed proprietary and patent-protected HIFEM technology that uses high-intensity electromagnetic stimulation to tone and strengthen muscles in targeted areas. BTL applied its proprietary technology to develop a series of new FDA-cleared devices and developed protocols for using the technology for aesthetic therapies.

15. BTL tracks its devices through a unique serial number that ensures BTL can guarantee the quality and performance that BTL's EMSculpt device has come to embody in the industry and to consumers. BTL also offers customers purchasing its EMSculpt device additional options, such as extra warranty protection, that are tracked through a device's unique serial number.

16. BTL's EMSculpt device and treatments use high-intensity electromagnetic energy to induce powerful muscle contractions not achievable through voluntary contractions. The EMSculpt device is currently cleared by the FDA as a non-invasive treatment for the abdomen, buttocks, arms, calves and thighs. A true and correct copy of BTL's EMSculpt webpage is attached hereto as **Exhibit 2**.

17. A representative picture of an EMSculpt device is shown below:

[Remainder of page left intentionally blank]



18. BTL markets and distributes its non-invasive aesthetic body-contouring EMSCULPT device to healthcare professionals, and licenses these healthcare professionals to provide associated treatment services administered via authentic EMSCULPT devices that incorporate its proprietary technology, muscle toning protocols, and applicators in the United States.

19. The aesthetic industry has recognized BTL and its innovations, praising BTL’s EMSCULPT device as a “pioneer or trailblazer throughout the aesthetic enhancement world,” and identifying BTL’s EMSCULPT device as “unparalleled in the industry.” A true and correct copy of the article entitled “How Does EMSCULPT Work? Your EMSCULPT Questions Answered”

by Holden Timeless Beauty is attached hereto as **Exhibit 3**. The EMSCULPT device has been renowned as a “breakthrough in non-invasive body shaping,” with The Bend Magazine noting that EMSCULPT “is not a different version of an existing device. It’s a totally new technology.” True and correct copies of the articles “Why is Emsculpt a Breakthrough in Non-Invasive Body Shaping?” by DC Derm Docs and “Emsculpt: A Muscle Builder and a Fat Burner” by The Bend Magazine are attached hereto as **Exhibits 4 and 5**, respectively.

20. Indeed, commentators have recognized the technology’s significant departure from prior body-contouring procedures, comparing EMSCULPT to an iPhone or Botox, and describing the EMSCULPT device as a “revolutionary advance in non-surgical body contouring.” A true and correct copy of the article entitled “EmSculpt Changing the Rules” by Health Life Magazine is attached hereto as **Exhibit 6**.

THE PATENTS-IN-SUIT

21. As a result of BTL’s efforts and technological advances over the prior body-contouring devices, BTL applied for and was awarded U.S. Patents No. 10,695,576 (“the ’576 patent”), 10,695,575 (“the ’575 patent”), 11,266,852 (“the ’852 patent”), 10,478,634 (“the ’634 patent”), and D874009 (“the ’009 patent”).

22. The ’576 patent, entitled “Aesthetic Method of Biological Structure Treatment by Magnetic Field” was duly and legally issued on June 30, 2020. A true and correct copy of the ’576 patent is attached as **Exhibit 7**.

23. The ’576 patent names Thomás Schwarz and Ondra Prouza as co-inventors.

24. The ’576 patent relates to, among other things, a novel device that uses magnetic and induced electric fields for muscle toning a patient. The claimed devices “produce a time varying magnetic field for patient treatment which has a unique hardware components topology,

provide effective treatment protocols and provide a new treatment.” See **Exhibit 7**, ’576 patent, col. 3, lines 14-17.

25. As noted above, the inventions claimed in the ’576 patent represent an advancement over what was then the existing available body-contouring devices and procedures.

26. The ’576 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the ’576 patent and owns the right to seek damages for past, current, and future infringement thereof.

27. The ’575 patent, entitled “Aesthetic Method of Biological Structure Treatment by Magnetic Field” was duly and legally issued on June 30, 2020. A true and correct copy of the ’575 patent is attached as **Exhibit 8**.

28. The ’575 patent names Thomás Schwarz and Ondra Prouza as co-inventors.

29. The ’575 patent relates to, among other things, a novel device that uses magnetic and induced electric fields for muscle toning a patient. The claimed methods “producing a time varying magnetic field for patient treatment which has a unique hardware components topology including multiple magnetic field generating devices, provide effective treatment protocols and provide a new treatment.” See **Exhibit 8**, ’575 patent, col. 3, lines 14-22.

30. As noted above, the inventions claimed in the ’575 patent represent an advancement over what was then the existing available body-contouring devices and procedures.

31. The ’575 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the ’575 patent and owns the right to seek damages for past, current, and future infringement thereof.

32. The ’852 patent, entitled “Aesthetic Method of Biological Structure Treatment by Magnetic Field” was duly and legally issued on March 8, 2022. A true and correct copy of the ’852 patent is attached as **Exhibit 9**.

33. The '852 patent names Thomás Schwarz and Ondra Prouza as co-inventors.

34. The '852 patent relates to, among other things, a novel device that uses magnetic and induced electric fields for muscle toning a patient. The claimed devices “produce a time varying magnetic field for patient treatment which has a unique hardware components topology, provide effective treatment protocols and provide a new treatment.” See **Exhibit 9**, '852 patent, col. 3, lines 14-22.

35. As noted above, the inventions claimed in the '852 patent represent an advancement over what was then the existing available body-contouring devices and procedures.

36. The '852 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the '852 patent and owns the right to seek damages for past, current, and future infringement thereof.

37. The '634 patent, entitled “Aesthetic Method of Biological Structure Treatment by Magnetic Field” was duly and legally issued on November 19, 2019. A true and correct copy of the '634 patent is attached as **Exhibit 10**.

38. The '634 patent names Thomás Schwarz and Ondra Prouza as co-inventors.

39. The '634 patent relates to, among other things, methods for toning muscles of a patient using time-varying magnetic fields. See **Exhibit 10**, Claim 1.

40. As noted above, the inventions claimed in the '634 patent represent an advancement over what was then the existing available body-contouring devices and procedures.

41. The '634 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the '634 patent and owns the right to seek damages for past, current, and future infringement thereof.

42. The '009 patent, entitled “Medical Device” was duly and legally issued on January 28, 2020. A true and correct copy of the '009 patent is attached as **Exhibit 11**.

43. The '009 patent names Ivan Dlabáč as the inventor.

44. The '009 patent is a design patent that relates to an ornamental design for a medical device. See **Exhibit 11**, Claim 1.

45. The '009 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the '009 patent and owns the right to seek damages for past, current, and future infringement thereof.

46. BTL's EMSCULPT device has also received numerous awards and accolades from well-respected media outlets and aesthetic industry organizations. For example, RealSelf identified BTL's EMSCULPT device as one of the 2019 and 2020 "Most Worth It Procedures." True and correct copies of RealSelf, Inc.'s 2019 and 2020 rankings are attached hereto as **Exhibits 12 and 13**, respectively. Harper's Bazaar named EMSCULPT the "Best Body-Firming Treatment" in its 2020 Anti-Aging Awards. A true and correct copy of the article entitled "BAZAAR's 2020 Anti-Aging Awards" is attached hereto as **Exhibit 14**. BTL's EMSCULPT device earned the American Health & Beauty 2018 Readers' Choice Award for "Most Innovative Device." A true and correct copy of the article entitled "Emsculpt Awarded 'Most Innovative Device'" by American Health & Beauty is attached hereto as **Exhibit 15**. And NewBeauty named BTL's EMSCULPT device one of the "Best Innovations" in its NewBeauty 2019 Awards. A true and correct copy of the article entitled "NewBeauty 2019 Award Winners: Best Innovations" by NewBeauty Editors is attached hereto as **Exhibit 16**.

47. BTL's market success and superior performance are by-products of technological innovations. BTL continues to implement these innovations today, for example, by continuing to obtain additional FDA indications for use of its non-invasive aesthetic body-contouring devices.

BTL'S TRADEMARKS

48. BTL uses and licenses registered and unregistered trademarks and trade dress, to market its aesthetic equipment and treatments in the U.S. (the "BTL Trademarks"), including the following federally registered marks:

Reg. No.	Mark	Reg. Date	First Use in Commerce or Priority Date	Goods/Services
5,572,801	EMSCULPT	Oct. 2, 2018	Sept. 29, 2017	Class 10: Medical apparatus and instruments for the treatment of cellulite; medical apparatus and instruments for body toning and body shaping; medical apparatus and instruments for the removal of fat, circumference reduction, tightening of skin, reduction of wrinkles, reduction of scars, reduction of stretch marks, rejuvenation of skin, and treatment of pigmentation spots; above medical apparatuses with exception for the treatment of the nasopharynx including inhalers and nasal irrigators; massage apparatus; medical apparatus and instruments for aesthetic skin treatment procedures; medical apparatus generating electromagnetic, magnetic, electrical, mechanical or thermal energy for use in skin treatment procedures; medical apparatus particularly apparatus for pain management, elimination of muscle spasms; gynaecological and urological apparatus and instruments, namely, for genital rejuvenation, treatment sexual dysfunction, gynecological treatment and pelvic floor treatment

Reg. No.	Mark	Reg. Date	First Use in Commerce or Priority Date	Goods/Services
6,069,279	EMSCULPT	Jun. 2, 2020	Sept. 29, 2017	Class 44: medical services; gynecology services; medical equipment rental; cosmetic and plastic surgery; beauty salons; liposuction services; removal of body cellulite
4,750,101	BTL (figurative)	Jun. 09, 2015	Apr. 03, 2014	Class 10: Physiotherapy apparatus in the nature of apparatus for electrotherapy, laser therapy, ultrasound therapy, magnetotherapy, and shockwave therapy, all for electrical nerve and muscle stimulation, infrared heat, wound healing, pain therapy, and treatment of inflammation; body rehabilitation apparatus for medical purposes; esthetic massage apparatus; hydrotherapy massage apparatus; medical and veterinary diagnostic apparatus and instruments, namely, electrocardiographs, heart monitors, spirometers, and blood pressure monitors; Medical devices for nonsurgical cosmetic treatments; medical devices for body toning and body shaping, tightening of skin, treatment of skin laxity, wrinkles, rhytides, and cellulite, and fat removal; lymphatic drainage equipment, namely, massage apparatus and lasers for medical use

49. The BTL Trademarks have been used exclusively and continuously by BTL and have never been abandoned. The above U.S. registrations are valid and subsisting in full force and effect. True and correct “status” copies of these registrations, obtained from the Trademark Status Document Retrieval (“TSDR”) database of the United States Patent and Trademark Office, are

attached hereto as **Exhibit 17**. These registrations constitute *prima facie* evidence of their validity and of BTL's exclusive right to use the trademarks pursuant to 15 U.S.C. § 1057(b).

50. The BTL Trademarks perform an important source-identifying function for BTL's aesthetic body-contouring devices and associated treatment services, signifying to purchasers that the devices come from BTL, and that the services are rendered by BTL devices and administered by BTL trained and authorized service providers. The BTL Trademarks are inherently distinctive, and have acquired considerable brand loyalty through BTL's sales and promotion, and via direct word-of-mouth promotion by consumers. In addition, BTL has expended significant time, money, and resources in developing, marketing, advertising, promoting, and selling its products and services under the BTL Trademarks in the United States. The market reputation and consumer goodwill associated with the BTL Trademarks are of incalculable and inestimable value to BTL.

JV MEDICAL'S UNLAWFUL CONDUCT

51. Upon information and belief, JV Medical promoted on its website and communications directly to customers several devices for sale that were purported to be BTL EMSCULPT devices. Each device was promoted and offered for sale as a "BTL EMSCULPT System" and included use of BTL's EMSCULPT Trademark. True and correct copies of a representative of JV Medical's website offering for sale each device are attached as **Exhibits 18, 19, 20 and 21**.

52. Upon information and belief, each of the devices JV Medical advertised and sold is counterfeit (the "Counterfeit Devices").

53. The below pictures are a representative picture of the Counterfeit Devices JV Medical offers for sale on its website and sold to customers:



54. As the above pictures show, JV Medical's Counterfeit Devices used BTL's EMSculpt Trademark.

55. Below is a side-by-side view of one of the counterfeit JV Medical devices above (on the left) next to an authentic EMSculpt® device:

[Remainder of page left intentionally blank]



56. Upon information and belief, JV Medical was aware that each device it has advertised and/or sold is counterfeit and not an authentic BTL device. JV Medical nevertheless offered for sale and subsequently sold those Counterfeit Devices to unsuspecting customers while making liberal use of BTL's Trademarks and patented technology to mislead consumers into believing they were purchasing an authentic BTL EMSCULPT device.

57. Upon information and belief, JV Medical was aware the devices it was promoting as BTL's EMSCULPT devices were not authentic EMSCULPT devices and misrepresented that fact to its customers. The devices JV Medical advertises and/or sold had missing or different components necessary to properly operate an authentic EMSCULPT device, had missing serial numbers (unlike an authentic device), had different user interfaces, and listed a fake manufacturing site. Indeed, the listed manufacturing site on at least one of the Accused Devices does not even

exist. For at least those reasons, JV Medical was aware or should have been aware that the devices were not authentic BTL EMSCULPT devices.

58. Upon information and belief, on at least one occasion, JV Medical supplied to a customer a fraudulent serial number for one of the sold Counterfeit Devices. Upon information and belief, JV Medical was aware the serial number was fraudulent and was sent to portray the counterfeit device as an authentic EMSCULPT device.

59. Upon information and belief, the serial numbers for each device was fraudulent and supplied in an attempt to portray an device as an authentic EMSCULT device to the detriment of the customer.

60. Upon information and belief, JV Medical used its Indiana offices to advertise, offer for sale, and sell counterfeit devices.

61. Upon information and belief, JV Medical was aware of and hid from its customers that the Counterfeit Devices JV Medical offers for sale and sells are not authentic EMSCULPT devices.

62. Furthermore, upon information and belief, JV Medical intended for and thus induced its customers to use the devices to treat patients.

BTL HAS BEEN HARMED BY JV MEDICAL'S CONDUCT

63. JV Medical's use of BTL's trademarks on counterfeit devices has injured and, if done again, will continue to irreparably harm BTL's business and goodwill associated with its brand, as well as BTL's reputation for providing high-quality and safe body-contouring aesthetic devices, which are subject to strict quality control standards.

64. Furthermore, JV Medical's offer for sale and sale of devices using BTL's Trademarks and holding those devices out to be authentic BTL EMSCULPT devices risks

exposing consumers and patients to unnecessary safety and health risks because these devices are not FDA cleared and have an unknown level of quality or quality control.

65. JV Medical's actions are likely to and/or have caused confusion, mistake, or deception as to the source and origin of the devices offered for sale and sold by JV Medical. These actions are likely to and do falsely suggest that the devices are authentic BTL EMSCULPT machines. JV Medical's actions have also diverted profits from BTL.

**FIRST CLAIM FOR RELIEF
(TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114)**

66. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

67. BTL owns exclusive rights to enforce the EMSCULPT trademarks in the U.S. The United States trademark registrations for the EMSCULPT trademarks are in full force and effect. Upon information and belief, JV Medical had knowledge of BTL's rights in its EMSCULPT trademarks and willfully infringed those trademarks. JV Medical's willful, intentional, and unauthorized use of the BTL Trademarks likely caused confusion, mistake, and deception as to the origin and quality of the JV Medical Counterfeit Devices among the general public.

68. JV Medical's actions constitute willful trademark infringement under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

69. The injuries and damages BTL sustained have been directly and proximately caused by JV Medical's wrongful promotion, marketing, offering for sale, and sale of the Counterfeit Devices that infringe BTL's brand.

70. As a result of JV Medical's infringement, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of JV Medical's wrongful acts in an amount yet to be determined, plus the cost of this action.

**SECOND CLAIM FOR RELIEF
(FALSE ADVERTISING UNDER 15 U.S.C. § 1125)**

71. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

72. JV Medical's promotion, marketing, offering for sale, and sale of the Counterfeit Devices using BTL's Trademarks constitute false advertising and created a likelihood and/or caused actual confusion, mistake, and deception among the general public as to the affiliation, connection, or association between the Counterfeit Devices and BTL.

73. By using BTL's Trademarks within its promotion, marketing, offering for sale, and sale of the Counterfeit Devices, JV Medical engaged in false advertising and created the false impression that the Counterfeit Devices are genuine BTL EMSCULPT devices.

74. JV Medical's actions constitute a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

75. JV Medical's false advertising practices constitute misleading descriptions and misrepresentations of fact in commerce that, in commercial advertising and promotion, mispresent the nature, characteristics, and quality of the Counterfeit Devices in violation of the Lanham Act, 15 U.S.C. § 1125.

76. The injuries and damages BTL sustained have been directly and proximately caused by JV Medical's wrongful promotion, marketing, offering for sale, and sale of the Counterfeit Devices that infringe BTL's brand.

77. As a result of JV Medical's infringement, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of JV Medical's wrongful acts in an amount yet to be determined, plus the cost of this action.

THIRD CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 10,695,576)

78. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

79. BTL is informed and believes, and on this basis alleges, that JV Medical has committed and may commit in the future acts of direct infringement of the '576 patent by making, using, selling, offering for sale, and/or importing into the United States the Counterfeit Devices.

80. BTL is informed and believes, and on this basis alleges, that JV Medical has and currently is intentionally aiding and encouraging third parties (including JV Medical customers and end users) to use the Counterfeit Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '576 patent, with the specific intent that those using the Counterfeit Devices infringe the '576 patent.

81. BTL is informed and believes, and on this basis alleges, that JV Medical has intentionally aided and encouraged third parties (including JV Medical's supplier) to import into the United States the Counterfeit Devices, having known that the acts it was causing would infringe or have a high probability of infringing the '576 patent and with the specific intent that those performing the acts infringe the '576 patent.

82. As a result of JV Medical's infringement of the '576 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of JV Medical's wrongful acts in an amount yet to be determined, plus the cost of this action.

FOURTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 10,695,575)

83. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

84. BTL is informed and believes, and on this basis alleges, that JV Medical has committed and may commit in the future acts of induced infringement of the '575 patent by inducing others to use in the United States the Counterfeit Devices.

85. BTL is informed and believes, and on this basis alleges, that JV Medical has and currently is intentionally aiding and encouraging third parties (including JV Medical customers and end users) to use the Counterfeit Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '575 patent, with the specific intent that those using the Counterfeit Devices infringe the '575 patent.

86. As a result of JV Medical's infringement of the '575 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of JV Medical's wrongful acts in an amount yet to be determined, plus the cost of this action.

FIFTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 11,266,852)

87. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

88. BTL is informed and believes, and on this basis alleges, that JV Medical has committed and may commit in the future acts of direct infringement of the '852 patent by making, using, selling, offering for sale, and/or importing into the United States the Counterfeit Devices.

89. BTL is informed and believes, and on this basis alleges, that JV Medical has and currently is intentionally aiding and encouraging third parties (including JV Medical customers and end users) to use the Counterfeit Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '852 patent, with the specific intent that those using the Counterfeit Devices infringe the '852 patent.

90. BTL is informed and believes, and on this basis alleges, that JV Medical has intentionally aided and encouraged third parties (including JV Medical's supplier) to import into the United States the Counterfeit Devices, having known that the acts it was causing would infringe or have a high probability of infringing the '852 patent and with the specific intent that those performing the acts infringe the '852 patent.

91. As a result of JV Medical's infringement of the '852 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of JV Medical's wrongful acts in an amount yet to be determined, plus the cost of this action.

SIXTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 10,478,634)

92. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

93. BTL is informed and believes, and on this basis alleges, that JV Medical has committed and may commit in the future acts of induced infringement of the '634 patent by inducing others to use in the United States the Counterfeit Devices.

94. BTL is informed and believes, and on this basis alleges, that JV Medical has and currently is intentionally aiding and encouraging third parties (including JV Medical customers and end users) to use the Counterfeit Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '634 patent, with the specific intent that those using the Counterfeit Devices infringe the '634 patent.

95. As a result of JV Medical's infringement of the '634 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of JV Medical's wrongful acts in an amount yet to be determined, plus the cost of this action.

**SEVENTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D874,009)**

96. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

97. BTL is informed and believes, and on this basis alleges, that JV Medical has committed and may commit in the future acts of direct infringement of the '009 patent by by making, using, selling, offering for sale, and/or importing into the United States the Counterfeit Devices.

98. BTL is informed and believes, and on this basis alleges, that JV Medical has and currently is intentionally aiding and encouraging third parties (including JV Medical customers and end users) to use the Counterfeit Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '009 patent, with the specific intent that those using the Counterfeit Devices infringe the '009 patent.

99. BTL is informed and believes, and on this basis alleges, that JV Medical has intentionally aided and encouraged third parties (including JV Medical's supplier) to import into the United States the Counterfeit Devices, having known that the acts it was causing would infringe or have a high probability of infringing the '009 patent and with the specific intent that those performing the acts infringe the '009 patent.

100. As a result of JV Medical's infringement of the '009 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of JV Medical's wrongful acts in an amount yet to be determined, plus the cost of this action.

PRAYER FOR RELIEF

WHEREFORE, BTL requests that this Court enter judgment against JV Medical as follows:

- A. That JV Medical has violated the Lanham Act, 15 U.S.C. § 1114 by committing acts of trademark infringement;
- B. That JV Medical has violated the Lanham Act, 15 U.S.C. § 1125 by committing acts of federal unfair competition, false designation of origin, and false advertising;
- C. That JV Medical pay damages to BTL adequate to compensate BTL for JV Medical's unlaw, unfair, and deceptive acts;
- D. That JV Medical is liable for treble damages for its willful acts;
- E. That JV Medical has infringed the '576 patent;
- F. That JV Medical pay damages adequate to compensate BTL for JV Medical's infringement of the '576 patent, together with interest and costs under 35 U.S.C. § 284;
- G. That JV Medical has infringed the '575 patent;
- H. That JV Medical pay damages adequate to compensate BTL for JV Medical's infringement of the '575 patent, together with interest and costs under 35 U.S.C. § 284;
- I. That JV Medical has infringed the '852 patent;
- J. That JV Medical pay damages adequate to compensate BTL for JV Medical's infringement of the '852 patent, together with interest and costs under 35 U.S.C. § 284;
- K. That JV Medical has infringed the '634 patent;
- L. That JV Medical pay damages adequate to compensate BTL for JV Medical's infringement of the '634 patent, together with interest and costs under 35 U.S.C. § 284;
- M. That JV Medical has infringed the '009 patent;

- N. That JV Medical pay damages adequate to compensate BTL for JV Medical's infringement of the '009 patent, together with interest and costs under 35 U.S.C. § 284;
- O. That JV Medical be ordered to pay pre-judgment and post-judgment interest on the damages assessed;
- P. That JV Medical's infringement is willful and that the damages awarded to BTL should be enhanced up to three times the actual damages awarded;
- Q. That this is an exceptional case under 35 U.S.C. § 284 and that JV Medical pay BTL's attorneys' fees and costs in this action;
- R. That JV Medical be enjoined from continuing to engage in any further willful acts; and
- S. That BTL be awarded any such other and further relief, including equitable relief, as this Court deems just and proper.

JURY DEMAND

BTL hereby demands a trial by jury on all issues so triable.

Dated: November 16, 2022

Respectfully submitted,

Sally Franklin Zweig

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CERTIFICATE OF SERVICE

I hereby certify that on **November 16, 2022**, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's ECF. Parties may access this filing through the Court's

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