

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

M.E.A.C. ENGINEERING, LTD,

Plaintiff,

v.

SIMEX TECHNOLOGIES, INC.,

Defendant.

Case No. 24-cv-940

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff MEAC Engineering LTD (“MEAC”), by its undersigned counsel, alleges as follows for its complaint against Defendant Simex Technologies, INC. (“Simex”).

I. THE NATURE OF THIS ACTION

1. MEAC brings this action against Simex pursuant to 35 U.S.C. §101 et. seq. and §§271, 281, 283, 284, & 285 inclusive, for infringement of one or more claims of U.S. Patent No. 8,858,534 (the '534 Patent) titled "Wound Closure and Drainage System." The '534 patent protects the inventions of Plaintiff in the area of Negative Pressure Wound Therapy (NPWT). Defendant has been made aware of the Patent-in-Suit but have continued to infringe and have refused to cease its infringing actions, thereby necessitating this lawsuit.

II. THE PARTIES

2. Plaintiff MEAC is an Israel corporation located at: 2 Aba Hill St., # 5808, Ramat Gan 5250601, Israel. MEAC is the owner of the patent-in-suit by assignment.

3. Defendant Simex is a German Corporation with a headquarters at Medizintechnik GmbH Brückstraße 30/1, 78652 Deisslingen, Germany. Simex manufactures, uses, offers to sell and sells the accused products throughout the United States.

4. Defendant, and customers of Defendant, use the accused products to practice the claimed methods of the Patent-in-Suit.

III. JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the laws of the United

States, 35 U.S.C. §271 et seq.

6. This Court has subject matter jurisdiction over this action pursuant to 35 U.S.C. §§271, 281 and 28 U.S.C. §§1331 and 1338(a), federal question, and 28 U.S.C. §1332 diversity jurisdiction.

7. This Court has personal jurisdiction over Defendant Simex Suunto because Defendant is a foreign corporation, sells products into the United States, and has committed acts of infringement in this district.

8. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391(b), 1391(c)(3) and 1400(b). Venue is proper in this Court as against Defendant Suunto under 28 U.S.C. § 1391(c)(3) because Defendant Suunto is a foreign corporation. In addition, Suunto has committed acts of infringement and imports infringing products into this District.

9. This Court has personal jurisdiction over Defendant and venue is proper over Defendant because this Court's jurisdiction over the Defendant comports with the constitutional standards of fair play and substantial justice and arises directly from the Defendant's purposeful minimum contacts with the State. In addition, Defendant has also made its products available within this judicial district and advertised to residents within the District.

IV. BACKGROUND AND GENERAL ALLEGATIONS

10. In 2005, Mr. Carmeli Adahan filed a patent application for his invention which advanced the treatment of wound care. His inventive Negative Pressure Wound Treatment system was granted several US and international patents, including the patent-in-suit, 8,858,534. The patent claims devices which provide wound closure and drainage.

11. Defendant manufactures and sells products know generally as Negative Pressure Wound Therapy equipment, including the following:

Simex200
Simex300

12. The accused Simex products infringe claims of the '534 patent.

13. On October 14, 2014, United States Patent No. 8,858,534 ("the '534 Patent"),

entitled “Wound closure and drainage system” was duly and legally issued by the United States Patent and Trademark Office (“USPTO”). The ‘534 Patent claims patent-eligible subject matter and is valid and enforceable. MEAC is the exclusive owner by assignment of all rights, title, and interest in the ‘534 Patent, including the right to bring this suit for injunction and damages, and including the right to sue and recover all past, present, and future damages for infringement of the ‘534 Patent. Defendant is not licensed to the ‘534 Patent, either expressly or implicitly, nor do they enjoy or benefit from any rights in or to the ‘534 patent whatsoever. A true and correct copy of the ‘534 Patent is attached hereto as **Exhibit A**.

14. The ‘534 Patent is referred to herein as the “patent-in-suit.”

15. Plaintiff MEAC is the owner of the entire right, title, and interest in and to the patent-in-suit. The patent-in-suit are presumed valid under 35 U.S.C. § 282.

V. THE PATENT

16. The claims of the '534 patent are directed to "a vacuum system for applying negative pressure to a wound" and to "a method for applying negative pressure to a wound." The '534 patent contains eighteen claims directed to the system and four claims directed to the method, Claim 1 of the '534 patent recites:

1. A vacuum system for applying negative pressure to a wound, the vacuum system comprising: an enclosure, a venting arrangement, a tube, a vacuum source, and a controller:

the enclosure being attachable to a periphery of the wound so as to define a confined volume;

the enclosure having an enclosure outlet connectable to said vacuum source via said tube so that negative pressure can be selectively created in said volume;

the venting arrangement comprising a flow restrictor to restrict flow through said venting arrangement and to thereby provide a controlled flow of ambient air into said vacuum system upstream of the vacuum source;

the controller configured for controlling operation of the vacuum source while providing venting of the vacuum system via said venting arrangement to provide a desired level of said negative pressure in said confined volume.

VI. INFRINGEMENT

17. The Simex NPWT Systems and components infringe claims of the '534 patent.

18. Defendant has, under 35 U.S.C. §271(a), directly infringed, and continue to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '534 Patent, by making, using, testing, selling, offering for sale and/or importing into the United States Defendant's Accused Products.

19. Defendant also indirectly infringes the '534 patent by actively inducing the direct infringement by third parties under 35 U.S.C. §271(b). Defendant has knowingly and intentionally actively aided, abetted and induced and continues to induce others to directly infringe at least one claim of the '534 patent, including its customers throughout the United States. Defendant continues to induce infringement of the '534 patent. Defendant has contributorily infringed and continues to contributory infringe under 35 U.S.C. §271(c) because, with knowledge of the '534 patent, Defendant supplies a material part of an infringing method and/or system, where the material part is not a staple article of commerce, and is incapable of substantial noninfringing use. Defendant contributes to its customers' infringement because, with knowledge of the '534 patent, Defendant supplies the technology that allows its customers to infringe the patent, including the method claims.

20. Plaintiff has conducted a detailed analysis, establishing and confirming that

21. Defendant's Accused Products directly infringe and when used according to Defendant's instructions for operation, or parts are supplied, indirectly infringe claims of the '534 Patent.

22. Attached as Exhibits to the Complaint are claim charts demonstrating the correspondence of the operation of the accused products with elements of exemplary claims of the '534 patent.

23. Defendant and its customers have continued infringement. The accused products satisfy the elements of the asserted claims. Shown below is exemplary claim 1 of the '534 patent:

1. A vacuum system for applying negative pressure to a wound, the vacuum system comprising: an enclosure, a venting arrangement, a tube, a vacuum source, and a controller:



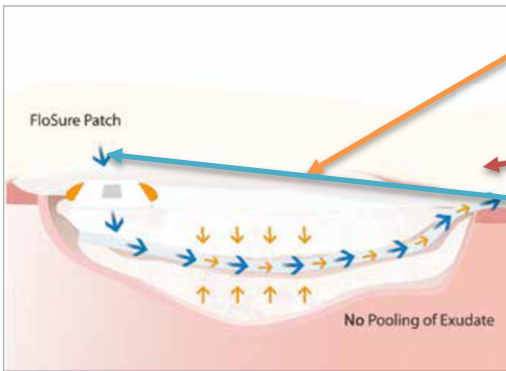
2.1.3 SIM^{EX} 300



Fig. 2 SIM^{EX} 300

- A Disposable exudate canister system (1,000 ml)
- B Holder for external canister
- C Connecting tube
- D Display
- E Control panel (Ⓞ (On) and Ⓞ (Off) buttons and ▲ and ▼ arrow buttons)
- F SIM^{EX} 300 device
- G Socket for power supply unit

the enclosure being attachable to a periphery of the wound so as to define a confined volume;



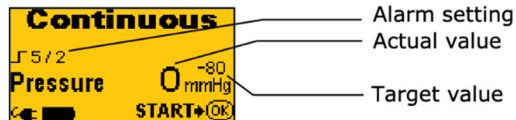
the enclosure having an enclosure outlet connectable to said vacuum source via said tube so that negative pressure can be selectively created in said volume;

the venting arrangement comprising a flow restrictor to restrict flow through said venting arrangement and to thereby provide a controlled flow of ambient air into said vacuum system upstream of the vacuum source;

the controller configured for controlling operation of the vacuum source while providing venting of the vacuum system via said venting arrangement to provide a desired level of said negative pressure in said confined volume.

5. Use the arrow buttons to set the prescribed vacuum value.

6. Confirm the setting by pressing the button. The following overview screen is displayed:



7. Press the button to start the therapy. (Default target value: -80 mmHg)

24. Defendant has infringed, and continues to infringe, at least claims 1 - 22 of the '534 Patent, under 35 U.S.C. § 271(a)(b) and/or (c), by (a) making, using, offering to sell, selling and/or importing into the United States, vacuum systems, enclosures, disposable assemblies that infringe the asserted claims and by performing the claimed methods in the United States, (b) by inducing others to use the accused products and/or sell the accused products and to perform the claimed methods in the United States, (c) by contributing to the infringement of others and by selling components of the patented systems, including dual lumen tubing, enclosures, and disposable elements and (b & c) by selling a product for performing the patented process. Defendant continues to manufacture, use, offer to sell, sell and import accused products. The accused products are also being used to infringe. Defendant continues to sell accused products inducing and contributing to infringement by others and also continue to perform infringing activity by performing the claimed method in the United States.

25. The Simex NPWT Systems are infringing systems and thus directly infringe '534 Claims 1-18. The systems are used to perform the method of Claims 19 - 22 of the '534 patent and thus directly and indirectly by inducement, infringe Claims 19-22 of the '534 patent.

26. The '534 patent is also infringed under 35 USC 271(a) when an accused product is "used" by Defendant to perform the applying negative pressure method of claims 19 - 22 of the '534 patent; the '534 patent is infringed under 271(b) when Defendant "induces" others to practice the claimed method; the '534 patent is infringed under 271(c) when Defendant provides components for use by others in practicing the patented method.

27. Upon information and belief, Defendant has directly infringed one or more of claims of the '534 patent under 35 USC §271(a):

"(a) Except as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent."

28. By engaging in accused activity including making, using, offering to sell, selling and importing accused products and/or by practicing the claimed method in the United States. Defendant continues to infringe claims of the '534 Patent.

29. Upon information and belief, Defendant has indirectly infringed one or more of the claims of the '534 patent under 35 USC §271(b):

(b) Whoever actively induces infringement of a patent shall be liable as an infringer.

30. By providing accused products, with instructions, which are used to practice the patented methods according to the instructions and thereby inducing others to use the products in an infringing manner.

31. Upon information and belief, Defendant has indirectly infringed one or more of the claims of the '534 patent under 35 USC §271(c):

(c) Whoever offers to sell or sells within the United States or imports into the United States . . . or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for

use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

32. By providing accused products, and other components and supplies, which are combined to form an infringing product and/or used in practicing methods which infringe the claims of the '534 patent, thus contributing to the infringement of the '534 patent.

33. Defendant does not have a license or authority to use the '534 Patent. Upon information and belief, Defendant has no good faith defense to Plaintiff's infringement allegations and have refused to cease selling products or to engage in further attempts to reach a business resolution. Instead, Defendant has intentionally continued their knowing infringement.

34. As a result of Defendant's infringement of the '534 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

VII. COUNT I INFRINGEMENT OF U.S. PATENT NO. 8,858,534 BY SIMEX

35. The allegations of each of the paragraphs above are hereby re-alleged and incorporated herein by reference.

36. Defendant Simex has infringed, and continues to directly infringe, at least claims 1 - 29 of the '534 Patent, under 35 U.S.C. § 271(a), by making, using, offering to sell, selling and importing the Accused Products in the United States and by practicing the claimed method.

37. Upon information and belief, Defendant Simex has indirectly infringed one or more claims of the '534 patent under 35 USC §271(b) by providing accused products, with instructions, which are used to practice the patented methods according to the instructions and thereby inducing others to use the products in an infringing manner.

38. Upon information and belief, Defendant Simex has indirectly infringed one or more of the claims of the '534 patent under 35 USC §271(c) by providing accused products, and components and supplies, which are used as components of infringing systems and in practicing a patented process and which are used to practice methods which infringe the claims of the '534 patent, thus contributing to the infringement of the '534 patent.

39. Simex does not have a license or authority to use the '534 Patent.

40. As a result of Simex's infringement of the '534 Patent, Plaintiff has suffered and will continue to suffer damages in an amount not yet determined, of at least a reasonable royalty.

VIII. PRAYER FOR RELIEF

For relief for the forgoing, Plaintiff asks this Court:

- A. For a judgment declaring that Defendant has infringed the '534 Patent.
- B. For a grant of a permanent injunction pursuant to 35 U.S.C. §283, enjoining the Defendant from further acts of infringement;
- C. For a judgment awarding Plaintiff compensatory damages as a result of Defendant's infringement sufficient to reasonably and entirely compensate Plaintiff for infringement of the '534 Patent in an amount to be determined at trial;
- D. For a judgment and order awarding a compulsory ongoing royalty;
- E. For a judgment declaring that this case is exceptional and awarding Plaintiff its expenses, costs and attorneys' fees in accordance with 35 U.S.C. § 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
- F. For a judgment awarding Plaintiff prejudgment interest pursuant to 35 U.S.C. §284, and a further award of post judgment interest, pursuant to 28 U.S.C. §1961, continuing until such judgment is paid.
- G. For a judgment awarding Plaintiff enhanced damages under 35 U.S.C. §284; and For such other relief to which Plaintiff is entitled under the applicable United States laws and regulations or as this Court deems just and proper.

IX. DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38(b), Plaintiff hereby demands trial by jury as to all claims in this litigation.

Respectfully submitted,

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