

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

POLYZEN, INC.  
1041 Classic Road  
Apex, NC 27539

Plaintiff,  
Civil Action No.: \_\_\_\_\_

v.

OBALON THERAPEUTICS, INC.  
5421 Avenida Encinas  
Carlsbad, CA 92008

Defendant,

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Polyzen, Inc. ("Polyzen"), through its counsel, brings this Complaint for patent infringement against Defendant, Obalon Therapeutics, Inc. ("Obalon"), as follows.

**JURISDICTION AND VENUE**

1. This is an action for patent infringement under Title 35 of the United States Code §§ 281 and 271 (a) (b) and/or (c) for infringement of US Patent 6,712,832 (the '832 Patent), US Patent 7,883,491 (the '491 Patent), US Patent 7,682,306 (the '306 Patent), and for pre-issuance damages under 35 U.S.C. §154.

2. This Court has jurisdiction over patent claims under 35 U.S.C. § 281 and 28 U.S.C. §§ 1331, 1338(a) providing for federal question jurisdiction of actions relating to patents.

3. Defendant Obalon is currently engaged in manufacturing, using, offering for sale, and/or selling in the United States, including within this judicial district, products formed by methods that infringe claims of the '832 Patent.

4. Defendant Obalon is currently engaged in manufacturing, using, offering for sale, and selling in the United States, including within this judicial district, products that infringe claims of the '491 Patent. Defendant also induces others to sell and use and contributes to the sale and use of infringing products.

5. Defendant Obalon is currently engaged in manufacturing, using, offering for sale, and/or selling in the United States, including within this judicial district, products formed by methods that infringe claims of the '306 Patent.

6. Jurisdiction and Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(a) and (b). Plaintiff, Polyzen, is a North Carolina corporation. Defendant, Obalon, is domestic corporation with a principal-place of business in California (Carlsbad), within this judicial district. Defendant manufactures and sells Accused Products in this judicial district and throughout the United States.

#### **THE PARTIES AND GENERAL ALLEGATIONS**

7. Plaintiff, Polyzen, is the owner by assignment of the entire interest in and to the '832 Patent, issued on March 30, 2004, naming Mr. Tilak M. Shah as the sole inventor. The '832 Patent published on April 17, 2003 as publication 2003/0074017 with claims substantially identical in scope to claims in the issued '832 Patent. Plaintiff is the owner by assignment of the entire interest in and to the '491 Patent, issued February 8, 2011, naming Mr. Shah as the sole inventor. The '491 Patent published on October 6, 2005 as publication 2005/0222329 with claims substantially identical in scope to claims in the issued '491 Patent. Plaintiff is owner by assignment of the entire interest in and to the '306 Patent, issued on October 30, 2006, naming Mr. Shah as the sole inventor. The '306 Patent published on December 27, 2007 as 2007/0299463 with claims substantially identical in scope to the claims in the issued '306 Patent.

8. Defendant, Obalon, upon information and belief, is a Delaware corporation with its principal place of business in Carlsbad, California. Upon information and belief, Obalon was formed in 2008 by entities having interest and control over Phagia Technologies, Inc. (“Phagia”). In about June, 2003, soon after the April 17, 2003 publication of the application for the '832 Patent, Phagia approached Plaintiff, Polyzen, for assistance with developing oral intragastric balloon technology. Phagia entered into a two-way agreement with Plaintiff, Polyzen, to protect the parties’ confidential intellectual property, know-how, and trade secrets. Phagia engaged Polyzen to develop various prototypes on a Purchase Order-by-Purchase Order basis. Polyzen delivered on its agreement and in so doing, used unique thermoforming RF-welding processes to join vacuum molded balloon halves to form balloon products. The balloon products and processes are covered by the patents-in-suit. Polyzen and Phagia began searching for commercial partners in about 2006 to 2007, and showed balloon devices and systems to certain Polyzen customers to explore interest in marketing the balloons and balloon systems. During this time, Polyzen and Phagia negotiated a development and commercialization agreement directed to ownership of technology, design, material and processes, a non-compete agreement, and a licensing agreement related to Polyzen’s patented processes in the event that Polyzen was unable or unwilling to fulfill Purchase Orders. Defendant, Obalon, acquired Phagia in about 2008, before the negotiated agreement between Phagia and Polyzen was signed. Polyzen and Obalon negotiated a Proposed Master Development and Pre-Commercial Supply Agreement to be effective as of July 16, 2008, but Obalon ceased negotiations and never signed the agreement. The Proposed Master Development and Pre-Commercial Supply Agreement offered Obalon the right to obtain an exclusive, worldwide and perpetual license for “Polyzen Background IP,” which included the '832 and any related intellectual property based on the subject matter of the

'832 Patent. Obalon took over product development, and refused to enter in to any license agreements with Polyzen for using Polyzen's thermoform balloon technology, despite continuing research and development activities and commercialization of products and systems that infringe the patents-in-suit. As of September, 2016, upon information and belief, Obalon had manufactured in the United States 23,000 infringing balloon products made by infringing processes. *See* Exhibit A, Obalon Press Release (Sept. 22, 2016).

8. Upon information and belief, Defendant, Obalon, manufactures balloon systems to facilitate weight loss referred to as the "Obalon Balloon" (i.e. Accused Products) and distributes Accused Products nationwide in the United States. Obalon induces and contributes to the sale and use by others within the United States. Accused Products include balloon systems for temporary use to facilitate weight loss.

10. Details of the specific correspondence between the elements of the claims of the patents-in-suit and the presently identified Accused Products is detailed in the Claim Charts attached hereto at Exhibit B and incorporated fully by reference into this Complaint.

#### **THE 6,712,832 PATENT-IN-SUIT**

11. U. S. Patent 6,712,832 is titled LOW-PRESSURE MEDICAL BALLOONS AND METHOD OF MAKING SAME.

12. The '832 Patent includes exemplary independent claim 1:

Claim 1.

1. A method for manufacturing low-pressure balloon, comprising the steps of:
  - (a) providing a thin film of thermoplastic polymeric material;
  - (b) heating the thermoplastic polymeric thin film to a sufficient temperature for vacuum forming thereof;
  - (c) forming a first half section for a balloon on the thermoplastic polymeric thin film by vacuum suction;
  - (d) forming a second half section for the balloon on a same or different thermoplastic polymeric thin film by vacuum suction; and

(e) bonding the first half-section to the second half-section along edges of the half-sections to form the balloon.

**THE ACCUSED METHOD**

13. Obalon manufactures, uses, offers for sale, sells, distributes and exports, balloons and balloon systems for temporary use to facilitate weight loss. The Accused Method presently known to Plaintiff is the method used by Obalon to manufacture the Obalon Balloon System. The Obalon Balloon system is a weight loss aid that includes swallowable intragastric balloons formed and configured in the manner claimed in the '832 Patent. *See* Obalon Brochure, Exhibit C. Upon information and belief, Obalon manufactures the Accused Product in the United States using the Accused Method, exports the Accused Product, and has submitted an application for Food and Drug Administration approval for offering for sale and selling the Accused Product throughout the United States. Plaintiff anticipates identification of additional infringing devices and systems during discovery.

14. Details of the specific correspondence between the elements of the claims of the patents-in-suit and the presently identified Accused Method is detailed in the Claim Charts attached hereto at Exhibit B, and incorporated fully by reference into this Complaint.

15. Plaintiff filed a petition with the U.S. Patent and Trademark Office Patent and Trial Appeal Board for Inter Partes Review of the '832 Patent on January 30, 2017. IPR2017-01023. The Patent Office has not yet decided whether to grant the petition.

**COUNT I**  
**DIRECT INFRINGEMENT OF 6,712,832 BY OBALON**

16. Obalon has directly infringed and continues to directly infringe one or more of the claims of the '832 Patent under 35 U.S.C. 271(a) by: making Accused Products using the

Accused Method, using the Accused Method to make Accused Products, offering Accused Products made by the Accused Method for sale and/or selling Accused Products made by an infringing method protected by one or more claims of the '832 Patent, through the activities of Obalon in connection with the manufacture and sale of balloons and balloon systems that include oral self-inflating intragastric balloons manufactured using processes in a manner claimed in the '832 Patent, including the Obalon Balloon System of the Accused Products described above.

17. Plaintiff is the owner of all rights, title and interest in and to and has had standing to sue for infringement of the '832 Patent.

18. 35 U.S.C. §271(a) states:

"(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."

19. The '832 Patent, as set forth in the claims, protects: "Low-pressure Medical Balloons and Method of Making Same." Obalon makes, uses, sells, and offers to sell balloons and balloon systems for facilitating weight loss. The method used by Obalon in the manufacture of certain of Obalon's balloons and balloon systems have been accused of infringement herein. Thus, Obalon is a direct infringer of the '832 Patent.

20. Upon information and belief, Defendant, Obalon, currently directly infringes and has directly infringed one or more of the claims of the '832 Patent under 35 U.S.C. § 271 by the activities as described above.

21. Plaintiff is entitled to recover damages from Obalon including reasonable royalties and lost profits, sustained as a result of Obalon's infringing acts under 35 U.S.C. § 271 and § 284.

22. Defendants have been aware of Plaintiff's rights in the patents-in-suit and of Plaintiff's intent to enforce those rights. Defendants have, with full knowledge of those rights, willfully proceeded to infringe, in disregard of Plaintiff's rights. Plaintiff is entitled to enhanced damages under 35 U.S.C. § 284.

23. Plaintiff is entitled to damages for direct infringement as set forth in 35 USC § 284 and § 285.

24. Plaintiff is entitled to pre-issuance damages under 35 U.S.C. § 154.

**THE 7,883,491 PATENT-IN-SUIT**

25. U. S. Patent 7,883,491 is titled EXTRUSION LAMINATE POLYMERIC FILM ARTICLE AND GASTRIC OCCLUSIVE DEVICE COMPRISING SAME.

26. The '491 Patent includes exemplary independent claim 1:

Claim 1.

1. A gastric occlusive device comprising:

a balloon that in an inflated state is non-pillowed and spheroidal in shape, formed from two vacuum thermoformed half-sections of a multilayer film comprising: (A) a layer of sealing film, having main top and bottom surfaces; and (B) at least one layer of thermoplastic polymer film, laminated to the layer of sealing film, on at least one of the main top and bottom surfaces; wherein the sealing film has a composition and thickness imparting gas barrier character to the multilayer film and wherein the at least one layer of thermoplastic polymer film alone lacks such gas barrier character, wherein the half-sections are processed in a vacuum thermoforming die having a substantially non-planar surface, and the vacuum thermoformed half-sections are bonded to one another along peripheral portions thereof to form a peripheral seam; and

an inflation element adapted to permit inflation of the balloon within the gastric cavity of a subject for treatment of said subject.

**THE ACCUSED PRODUCT**

27. Obalon manufactures, offers for sale, sells, and exports balloons and balloon systems for temporary use to facilitate weight loss. The Accused Product presently known to Plaintiff includes the Obalon Balloon System. The Obalon Balloon system is a weight loss aid that includes swallowable intragastric balloons configured in the manner claimed in the '491 Patent. *See* Obalon Brochure, Exhibit C. Upon information and belief, Obalon manufactures Accused Products within the United States, exports Accused Products, and has submitted an application for and obtained Food and Drug Administration approval for the Accused Product for offering for sale and selling the Accused Product throughout the United States. Plaintiff anticipates identification of additional infringing devices and systems during discovery.

28. Details of the specific correspondence between the elements of the claims of the patents-in-suit and the presently identified Accused Products is detailed in the Claim Charts attached hereto as Exhibit B and incorporated fully by reference into this Complaint.

29. Plaintiff filed a petition with the U.S. Patent and Trademark Office Patent and Trial Appeal Board for Inter Partes Review of the '491 Patent on January 30, 2017. IPR2017-00813. The Patent Office has not yet decided whether to grant the petition.

**COUNT I**  
**DIRECT INFRINGEMENT OF 7,883,491 BY OBALON**

30. Obalon has directly infringed and continues to directly infringe one or more of the claims of the '491 Patent under 35 U.S.C. 271(a) by: making, using, offering for sale, and/or selling devices that infringe one or more claims of the '491 Patent, through the activities of Obalon in connection with the manufacture, use, and sale of balloons and balloon systems that include oral self-inflating intragastric balloons manufactured using processes in a manner



claimed in the '491, including the Obalon Balloon System of the Accused Products described above.

31. Plaintiff is the owner of all rights, title and interest in and to and has had standing to sue for infringement of the '491 Patent.

32. 35 U.S.C. § 271(a) states:

"(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."

33. The '491 Patent, as set forth in the claims, protects: "Extrusion Laminate Polymeric Film Article and Gastric Occlusive Device Comprising Same." Obalon makes, exports, uses, sells and offers to sell balloons and balloon systems for facilitating weight loss. Certain of Obalon's balloons and balloon systems have been accused of infringement herein. Thus, Obalon is a direct infringer of the '491 Patent.

34. Upon information and belief, Defendant, Obalon, currently directly infringes and has directly infringed one or more of the claims of the '491 Patent under 35 U.S.C. § 271 by the activities as described above.

35. Plaintiff is entitled to recover damages from Obalon including reasonable royalties and lost profits, sustained as a result of Obalon's infringing acts under 35 U.S.C. § 271 and § 284.

36. Defendants have been aware of Plaintiff's rights in the patents in suit and of Plaintiff's intent to enforce those rights. Defendants have, with full knowledge of those rights, willfully proceeded to infringe, in disregard of Plaintiff's rights. Plaintiff is entitled to enhanced damages under 35 U.S.C. § 284.

37. Plaintiff is entitled to damages for direct infringement as set forth in 35 USC § 284 and § 285.

38. Plaintiff is entitled to pre-issuance damages under 35 U.S.C. § 154.

**COUNT II**  
**INDUCING INFRINGEMENT OF 7,883,491 BY OBALON**

39. Obalon has infringed and continues to infringe one or more of the claims of the '491 Patent under 35 U.S.C. 271(b) by inducing others to infringe one or more of the claims of the '491 Patent, through the sale of infringing products that are used (an induced act of infringement), through the activities of Obalon in connection with the manufacture, use, offer for sale, and sale of balloons and balloon systems that include oral self-inflating intragastric balloons manufactured using processes as claimed in the '491 Patent, including the Accused Products described above.

40. Obalon has induced and continues to induce others to infringe one or more of the claims of the '491 Patent, through sales of Accused Products which are resold and through the sale of Accused Products, which are used in an infringing manner to infringe one or more of the claims of the '491 Patent.

41. 35 U.S.C. § 271(b) states:

"Whoever actively induces infringement of a patent shall be liable as an infringer."

42. Plaintiff is the owner of all rights, title and interest in and to and has had standing to sue for infringement of the '491 Patent.

43. The '491 Patent, as set forth in the claims, protects: "Extrusion Laminate Polymeric Film Article and Gastric Occlusive Device Comprising Same." Obalon manufactures, uses, offers to sell, and sells balloons and balloon systems. Certain models of Obalon's balloons

and balloon systems have been accused of infringement herein. Obalon provides instructional material that instructs purchasers and users of its balloon systems on how to use the infringing balloons. The instructions include a description of the infringing components and the manner of use of the components. Obalon's instructions induce and encourage infringing use. Thus, Obalon induces infringement when others re-sell or use the Accused Products that have been provided by Obalon, with Obalon's knowledge that such products infringe the '491 Patent.

44. Upon information and belief, Defendant, Obalon, currently infringes and has infringed one or more of the claims of the '491 Patent under 35 U.S.C. § 271 by the activities as described above.

45. Plaintiff is entitled to recover damages from Obalon including reasonable royalties and lost profits, sustained as a result of Obalon's infringing acts under 35 U.S.C. § 271 and § 284.

46. Defendants have been aware of Plaintiff's rights in the patents in suit and of Plaintiff's intent to enforce those rights. Defendants have, with full knowledge of those rights, willfully proceeded to infringe, in disregard of Plaintiff's rights. Plaintiff is entitled to enhanced damages under 35 U.S.C. § 284.

47. Plaintiff is entitled to damages for induced infringement as set forth in 35 USC § 284 and § 285.

48. Plaintiff is entitled to pre-issuance damages under 35 U.S.C. § 154.

**COUNT III**  
**CONTRIBUTORY INFRINGEMENT OF 7,883,491 BY OBALON**

49. Obalon has contributed to the infringement and continues to contribute to the infringement of one or more of the claims of the '491 Patent under 35 USC 271(c) by

contributing components to the use and/or sale of devices which infringe the claims of the '491 Patent, such components constituting a material part of the invention, and Obalon knowing the components to be especially made and adapted for use in an infringement of the '491 Patent. The components are not staple articles or commodities of commerce suitable for substantial noninfringing use. Obalon's contribution of components includes manufacture and sale of components. Obalon's manufacture and sale of components is in connection with the manufacture, use, and sale of balloons and balloon systems that include oral self-inflating intragastric balloons manufactured using processes as claimed in the '491 Patent, including the Accused Products described above, including the Accused Products described above.

50. 35 U.S.C. § 271(c) states:

"(c) Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination or composition, or a material 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."

51. The '491 Patent, as set forth in the claims, protects: Extrusion Laminate Polymeric Film Article and Gastric Occlusive Device Comprising Same." Obalon manufactures, offers for sale, and sells components in connection with the manufacture, use, offer for sale, and sale of balloons and balloon systems that include oral self-inflating intragastric balloons manufactured using processes as claimed in the '491 Patent. Certain models of Obalon's balloons and balloon systems have been accused of infringement herein. Thus, when Obalon sells parts, which constitute a material part of the invention, knowing the components to be especially made and adapted for use in an infringement of the '491 Patent and the components are not a staple articles or commodities of commerce suitable for substantial noninfringing use, to others who combine

them with other parts to create an accused device, Obalon is a contributory infringer of the '491 Patent.

52. Obalon has contributed to the infringement of the '491 Patent through its activities, which manufacture, sell and contribute parts and components of Accused Products which infringe claims of the '491 Patent.

53. Plaintiff is the owner of all rights, title and interest in and to and has had standing to sue for infringement of the '491 Patent.

54. Upon information and belief, Defendant, Obalon, currently contributes to the infringement and has contributed to the infringement of one or more of the claims of the '491 Patent under 35 U.S.C. § 271(c) by the activities as described above.

55. Plaintiff is entitled to recover damages from Obalon including reasonable royalties and lost profits, sustained as a result of Obalon's infringing acts under 35 U.S.C. § 271 and § 284.

56. Defendants have been aware of Plaintiff's rights in the patents in suit and of Plaintiff's intent to enforce those rights. Defendants have, with full knowledge of those rights, willfully proceeded to infringe, in disregard of Plaintiff's rights. Plaintiff is entitled to enhanced damages under 35 U.S.C. § 284.

57. Plaintiff is entitled to damages for contributory infringement as set forth in 35 U.S.C. § 284 and § 285.

58. Plaintiff is entitled to pre-issuance damages under 35 U.S.C. § 154.

**THE 7,682,306 PATENT-IN-SUIT**

59. U. S. Patent 7,682,306 is titled THERAPEUTIC INTERVENTION SYSTEMS EMPLOYING IMPLANTABLE BALLOON DEVICES.

60. The '306 Patent includes exemplary independent claim 1:

Claim 1.

1. A method of therapeutic intervention for treatment of a patient in need of such treatment, said method comprising:

introducing to a physiological locus of said patient a balloon formed from two vacuum thermoformed half-sections of a multilayer film comprising:

(A) a layer of sealing film, having main top and bottom surfaces;  
and

(B) at least one layer of thermoplastic polymer film, disposed along least one of the main top and bottom surfaces of the sealing film; wherein the sealing film has a composition and thickness imparting gas barrier character to the multilayer film and wherein the at least one layer of thermoplastic polymer film alone lacks such gas barrier character; wherein the half-sections are processed in a vacuum thermoforming die, and the vacuum thermoformed half-sections are bonded together along peripheral portions thereof to form a peripheral seam; and wherein the balloon comprises an inflation element adapted to permit the inflation of the balloon at said physiological locus with a fluid; and  
inflating the balloon, yielding a balloon that is non-pillowed and generally spherical or flattened spherical in shape.

#### **THE ACCUSED METHOD**

61. Obalon manufactures, uses, offers for sale, sells, distributes and exports, balloons and balloon systems for temporary use to facilitate weight loss. The Accused Method presently known to Plaintiff is the method used by Obalon to manufacture the Obalon Balloon System. The Obalon Balloon system is a weight loss aid that includes swallowable intragastric balloons formed and configured in the manner claimed in the '306 Patent. *See* Obalon Brochure, Exhibit C. Upon information and belief, Obalon manufactures the Accused Product in the United States using the Accused Method, exports the Accused Product, and has submitted an application for Food and Drug Administration approval for offering for sale and selling the Accused Product throughout the United States. Plaintiff anticipates identification of additional infringing devices and systems during discovery.

62. Details of the specific correspondence between the elements of the claims of the patents-in-suit and the presently identified Accused Method is detailed in the Claim Charts attached hereto at Exhibit B, and incorporated fully by reference into this Complaint.

63. Plaintiff filed a petition with the U.S. Patent and Trademark Office Patent and Trial Appeal Board for Inter Partes Review of the '306 Patent on January 30, 2017. IPR2017-00812. The Patent Office has not yet decided whether to grant the petition.

**COUNT I**  
**DIRECT INFRINGEMENT OF 7,883,306 BY OBALON**

64. Obalon has directly infringed and continues to directly infringe one or more of the claims of the '306 Patent under 35 U.S.C. 271(a) by: making Accused Products using the Accused Method, using the Accused Method to make Accused Products, offering Accused Products made by the Accused Method for sale, and/or selling the Accused Products made by an infringing method protected by one or more claims the '306 Patent, through the activities of Obalon in connection with the manufacture and sale of balloons and balloon systems that include oral self-inflating intragastric balloons manufactured using processes in a manner claimed in the '306 Patent, including the Balloon System of the Accused Products described above.

65. Plaintiff is the owner of all rights, title and interest in and to and has had standing to sue for infringement of the '306 Patent.

66. 35 U.S.C. § 271(a) states:

"(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."

67. The '306 Patent, as set forth in the claims, protects: "Therapeutic Intervention Systems Employing Implantable Balloon." Obalon makes, imports, uses, sells and offers to sell balloons and balloon systems for facilitating weight loss. Certain of Obalon's balloons and balloon systems have been accused of infringement herein. Thus, Obalon is a direct infringer of the '306 Patent.

68. Upon information and belief, Defendant, Obalon, currently directly infringes and has directly infringed one or more of the claims of the '306 Patent under 35 U.S.C. § 271 by the activities as described above.

69. Plaintiff is entitled to recover damages from Obalon including reasonable royalties and lost profits, sustained as a result of Obalon's infringing acts under 35 U.S.C. § 271 and § 284.

70. Defendants have been aware of Plaintiff's rights in the patents in suit and of Plaintiff's intent to enforce those rights. Defendants have, with full knowledge of those rights, willfully proceeded to infringe, in disregard of Plaintiff's rights. Plaintiff is entitled to enhanced damages under 35 U.S.C. § 284.

71. Plaintiff is entitled to damages for direct infringement as set forth in 35 USC § 284 and § 285.

72. Plaintiff is entitled to pre-issuance damages under 35 U.S.C. § 154.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

A. That Defendant Obalon, Inc. be held to have infringed the '832 Patent, the '491 Patent, and the '306 Patent under 35 U.S.C. §271(a)(b) and (c).



B. That Defendants have acted with knowledge of the '832 Patent, the '491 Patent, and the '306 Patent.

C. That judgment be entered for Plaintiff against Defendants, for Plaintiff's damages according to proof, and for any additional damages attributable to infringements of Plaintiff's patent rights and for enhanced damages under 35 U.S.C. § 284 and § 285.

D. That judgment be entered for Plaintiff against Defendant, adequate to compensate Plaintiff, for reasonable royalties and/or other statutory damages based upon Defendant's acts of patent infringement and for its other violations of law under 35 U.S.C. § 271, § 284 and § 285.

E. That Defendant be required to account for all gains, profits, and advantages derived from its acts of infringement and for its other violations of law and that Plaintiff be awarded damages in the amount of such profits under 35 U.S.C. §284 and §285.

F. That the actions of Defendant be found willful.

G. That judgment be entered for Plaintiff and against Defendant, for enhancement of the damages awarded for patent infringement under 35 U.S.C. §284 and §285.

H. That Plaintiff is entitled to pre-issuance damages under 35 U.S.C. § 154.

I. That the actions of Defendant be found exceptional under 35 U.S.C. §285.

J. That Plaintiff be granted judgment against the Defendant for Plaintiff's costs and attorney's fees under 35 U.S.C. §285 and/or the inherent powers of the Court.

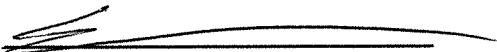
K. That the Court grant such other, further, and different relief as the Court deems proper under the circumstances.

**DEMAND FOR JURY TRIAL**

L. Pursuant to Fed. R. Civ. P. 38(b), Plaintiff hereby demands a trial by jury on all issues raised by the complaint which are properly triable to a jury.

DATED: June 21, 2017

Respectfully submitted,

  
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