



Provided by:  
Overhauser Law Offices LLC  
www.iniplaw.org  
www.overhauser.com

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

BONUTTI RESEARCH INC., and )  
JOINT ACTIVE SYSTEMS, INC. )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
LANTZ MEDICAL, INC., )  
 )  
Defendant. )

Case No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**PLAINTIFFS' ORIGINAL COMPLAINT**

Plaintiffs Bonutti Research, Inc. and Joint Active Systems, Inc., for their Complaint against defendant Lantz Medical, Inc., allege as follows:

**Parties**

1. Plaintiff Bonutti Research Inc. ("Bonutti") is a Delaware corporation with its principal place of business at 1303 West Evergreen Avenue, Effingham, Illinois 62401.
2. Plaintiff Joint Active Systems, Inc. ("JAS") is an Illinois corporation with a principal place of business at 1303 West Evergreen Avenue, Effingham, Illinois 62401.
3. Upon information and belief, Defendant Lantz Medical, Inc. ("Lantz") is an Indiana corporation with a principal place of business at 7750 Zionsville Road, #800, Indianapolis, Indiana 46268.

**Jurisdiction and Venue**

4. This is an action arising under the patent laws of the United States, 35 U.S.C. sections 101 *et seq.*, seeking damages and injunctive relief. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a). This Court has personal

jurisdiction over Defendant because Defendant resides here and commits acts of infringement here.

5. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendant resides here and commits acts of infringement here.

### **Background**

6. On December 15, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,848,979 ("the '979 patent"), entitled "Orthosis." A copy of the '979 patent is attached as Exhibit 1. The claims of the '979 patent generally cover apparatuses for use in effecting relative movement between bones in an arm of a patient.

7. On June 7, 2011, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,955,286 ("the '286 patent"), entitled "Elbow Orthosis." A copy of the '286 patent is attached as Exhibit 2. The claims of the '286 patent generally cover apparatuses for stretching tissue around a joint of a patient between first and second relatively pivotable body portions.

8. On July 29, 2008, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,404,804 ("the '804 patent"), entitled "Finger Orthosis." A copy of the '804 patent is attached as Exhibit 3. The claims of the '804 patent generally cover apparatuses for positioning a joint in a finger on a hand of a patient.

9. On September 26, 2006, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,112,179 ("the '179 patent"), entitled "Orthosis." A copy of the '179 patent is attached as Exhibit 4. The claims of the '179 patent generally cover apparatuses for stretching tissue around a joint of a patient between first and second relatively pivotable body portions.

10. Bonutti is the owner by assignment of the '979, '179, '286, and '804 patents (collectively "the Asserted Patents") and holds all rights to sue for past, present, and future infringement of the Asserted Patents.

11. JAS is the exclusive licensee of the Asserted Patents. JAS is an innovator and market leader of systems utilizing principles of Static Progressive Stretch ("SPS") to achieve permanent restoration of joint range of motion ("ROM").

12. Among the products that JAS develops and markets are products covered by the Asserted Patents, including the JAS Pro/Sup, JAS EZ Pro/Sup, JAS EZ Elbow, JAS EZ Wrist, and JAS EZ Finger products (collectively "the Licensed Products").

13. JAS has complied with the marking requirements of 35 U.S.C. § 287 for the '979, '179 and '286 patents.

#### **Defendant's Infringing Activities**

14. Lantz manufactures and sells, among other products, the Stat-A-Dyne® ESP, Stat-A-Dyne® Pro/Sup, Stat-A-Dyne® Elbow, and Stat-A-Dyne® WHFO products ("Accused Products").

15. Each of the Accused Products is sold in direct competition with at least one of the Licensed Products.

16. The Stat-A-Dyne® ESP product is a tissue elongation device capable of treating flexion, extension, pronation, and/or supination loss.

17. The Stat-A-Dyne® ESP product is configured such that it can be operated to allow for a static-progressive or dynamic stretch.

18. The Stat-A-Dyne® ESP includes a base, which has a lower section and an upper section. The lower section of the base has two portions which are disposed in a telescopic relationship.

19. As explained on Defendant's website, the Stat-A-Dyne® ESP product includes a "radial based pronation and supination cuff" ("radial cuff") for securing the product to a hand, wrist and forearm of a user. The radial cuff is slidably mounted to a cuff arm member.

20. The cuff arm member of the Stat-A-Dyne® ESP product is connected to a drive assembly which is also connected to the lower section of the base. The drive assembly is operable to drive rotation of the cuff arm member and the radial cuff relative to the base.

21. The drive assembly of the Stat-A-Dyne® ESP product includes a gear that is connected to and rotatable with the cuff arm member. The gear includes teeth positioned along an arcuate path and the body of the gear includes arcuate slots.

22. The drive assembly of the Stat-A-Dyne® ESP product includes a worm that engages and drives rotation of the gear.

23. The Stat-A-Dyne® ESP product includes a second cuff for securing the product to the upper portion of the user's arm. This second cuff is attached to the upper section of the base with an adjustable L-shaped bracket that allows the cuff to tilt, thereby increasing and/or decreasing the range of motion ("ROM") of the product.

24. The carry angle of the L-shaped bracket and second cuff of the Stat-A-Dyne® ESP product is adjustable to accommodate gender or pathological differences.

25. The upper and lower sections of the base of the Stat-A-Dyne® ESP are pivotally connected to one another.

26. The Stat-A-Dyne® ESP product includes a second drive assembly that is operable to drive rotation of the upper and lower sections of the base relative to one another. During operation, the upper and lower sections of the base can rotate relative to each other about the axis of rotation of the elbow.

27. The Stat-A-Dyne® Pro/Sup product is a tissue elongation device capable of treating pronation and/or supination loss.

28. The Stat-A-Dyne® Pro/Sup product is configured such that it can be operated to allow for a static-progressive or dynamic stretch.

29. The Stat-A-Dyne® Pro/Sup includes a base, which has a lower section and an upper section. The lower section of the base has two portions that can telescope with respect to each other.

30. The Stat-A-Dyne® Pro/Sup product includes a radial based pronation and supination cuff ("radial cuff") for securing the product to a hand, wrist and forearm of a user. The radial cuff is slidably mounted to a cuff arm member.

31. The cuff arm member of the Stat-A-Dyne® Pro/Sup product is connected to a drive assembly which is also connected to the lower section of the base. The drive assembly is operable to drive rotation of the cuff arm member and the radial cuff relative to the base.

32. The drive assembly of the Stat-A-Dyne® Pro/Sup product includes a gear that is connected to and rotatable with the cuff arm member. The teeth of the gear are positioned along an arcuate path and the gear body includes arcuate slots.

33. The drive assembly of the Stat-A-Dyne® Pro/Sup product includes a worm that engages and drives rotation of the gear.

34. The Stat-A-Dyne® Pro/Sup product includes a second cuff for securing the product to the upper portion of the user's arm. This second cuff is attached to the upper section of the base.

35. The Stat-A-Dyne® Elbow product is a tissue elongation device capable of treating flexion and extension of the elbow joint.

36. The Stat-A-Dyne® Elbow product is configured such that it can be operated to allow for a static-progressive or dynamic stretch.

37. The Stat-A-Dyne® Elbow product includes a lower arm member and an upper arm member. The lower and upper arm members are operatively connected and movable relative to one another.

38. During operation, the upper and lower arm members of the Stat-A-Dyne® Elbow product are rotatable relative to one another along a curved path about the axis of rotation of the elbow.

39. The Stat-A-Dyne® Elbow product includes a first cuff that is attached to the upper arm member for securing the product to the upper portion of the user's arm. This first cuff is attached to the upper arm member with an adjustable L-shaped bracket that allows the cuff to tilt, thereby increasing and/or decreasing the ROM of the product.

40. The Stat-A-Dyne® Elbow product includes a second cuff attachable to the lower arm member for securing the product to a hand, wrist and forearm of the user. This second cuff is attached to the lower arm member with an adjustable L-shaped bracket that allows the cuff to tilt, thereby increasing and/or decreasing the ROM.

41. The Stat-A-Dyne® WHFO product provides full ROM therapy for both wrist and finger extension and flexion.

42. The Stat-A-Dyne® WHFO product is configured such that it can be operated to allow for a static-progressive or dynamic stretch.

43. The Stat-A-Dyne® WHFO product has a first arm member affixable to a forearm of a user and second arm member affixable to a hand of the user. The first and second arm members are movable relative to one another.

44. The Stat-A-Dyne® WHFO product includes a hand cuff slidably mounted to the second arm member and affixable to the hand of the user.

45. The Stat-A-Dyne® WHFO product has a detachable finger gearing that allows the finger gearing to be removed from the rest of the product. The finger gearing includes first and second rotatable portions.

46. As explained on Defendant's website, the Stat-A-Dyne® WHFO includes "malleable spring finger attachments" that can be attached with Velcro® type fasteners to one or more fingers of the user. These finger attachments allow for different ROM considerations to be addressed for each finger.

47. The Stat-A-Dyne® WHFO includes a knob located between the first and second rotatable portions of the finger gearing. When the knob is rotated, a force is applied to rotate the first and second rotatable portions about first and second axes, respectively.

48. Lantz sells these Accused Products to distributors and individual customers throughout the United States. The distributors sell the Accused Products to individual customers.

**Count I: Infringement of U.S. Patent No. 5,848,979**

49. Plaintiffs incorporate by reference paragraphs 1 through 48 of this Complaint as if more fully set forth herein.

50. Defendant's manufacture, use, offers for sale and sale of the Stat-A-Dyne® ESP product infringe claims 28, 29, 34, , 37, 44, 45, 48, 52, 53, 56, 57, 63, 97, 98, 102, 106, 125, 126, and 128 of the '979 patent literally and/or under the doctrine of equivalents.

51. Defendant's manufacture, use, offers for sale and sale of the Stat-A-Dyne® Pro/Sup product infringe claims 28, 29, 34, and 37 of the '979 patent literally and/or under the doctrine of equivalents.

52. Defendant has made, used, offered for sale, and sold (and continues to make, use, offer for sale and sell) its infringing Stat-A-Dyne® Pro/Sup and ESP products within this judicial district and throughout the United States.

53. Plaintiffs are being damaged and irreparably harmed by Defendant's infringement of the '979 patent and are thus entitled to recover damages adequate to compensate them for the infringement complained of herein, but in no event less than a reasonable royalty.

54. Defendant's infringement has injured and will continue to injure Plaintiffs, unless and until such infringement is enjoined by this Court.

**Count II: Infringement of U.S. Patent No. 7,955,286**

55. Plaintiffs incorporate by reference paragraphs 1 through 48 of this Complaint as if more fully set forth herein.

56. Defendant's manufacture, use, offers for sale and sale of the Stat-A-Dyne® ESP and Elbow products infringe claims 26, 27, 28, 29, 30, 31, 32, and 33 of the '286 patent literally and/or under the doctrine of equivalents.

57. Defendant has made, used, offered for sale, and sold (and continues to make, use, offer for sale and sell) its infringing Stat-A-Dyne® ESP and Elbow products within this judicial district and throughout the United States.



58. Plaintiffs are being damaged and irreparably harmed by Defendant's infringement of the '286 patent and are thus entitled to recover damages adequate to compensate them for the infringement complained of herein, but in no event less than a reasonable royalty.

59. Defendant's infringement has injured and will continue to injure Plaintiffs, unless and until such infringement is enjoined by this Court.

**Count III: Infringement of U.S. Patent No. 7,404,804**

60. Plaintiffs incorporate by reference paragraphs 1 through 48 of this Complaint as if more fully set forth herein.

61. Defendant's manufacture, use, offers for sale and sale of the Stat-A-Dyne® WHFO product infringe claims 1, 5, and 6 of the '804 patent literally and/or under the doctrine of equivalents.

62. Defendant has made, used, offered for sale, and sold (and continues to make, use, offer for sale and sell) its infringing Stat-A-Dyne® WHFO product within this judicial district and throughout the United States.

63. Plaintiffs are being damaged and irreparably harmed by Defendant's infringement of the '804 patent and are thus entitled to recover damages adequate to compensate them for the infringement complained of herein, but in no event less than a reasonable royalty.

64. Defendant's infringement has injured and will continue to injure Plaintiffs, unless and until such infringement is enjoined by this Court.

**Count IV: Infringement of U.S. Patent No. 7,112,179**

65. Plaintiffs incorporate by reference paragraphs 1 through 48 of this Complaint as if more fully set forth herein.

66. Defendant's manufacture, use, offers for sale and sale of the Stat-A-Dyne® Pro/Sup, ESP, Elbow, and WHFO products infringe claim 26 of the '179 patent literally and/or under the doctrine of equivalents.

67. Defendant has made, used, offered for sale, and sold (and continues to make, use, offer for sale and sell) its infringing Stat-A-Dyne® Pro/Sup, ESP, Elbow, and WHFO products within this judicial district and throughout the United States.

68. Plaintiffs are being damaged and irreparably harmed by Defendant's infringement of the '179 patent and are thus entitled to recover damages adequate to compensate them for the infringement complained of herein, but in no event less than a reasonable royalty.

69. Defendant's infringement has injured and will continue to injure Plaintiffs, unless and until such infringement is enjoined by this Court.

**Jury Demand**

70. Plaintiffs request a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, on all issues triable to a jury.

**Prayer for Relief**

WHEREFORE, Plaintiffs seek a judgment against Defendant including the following:

A. An injunction ordering that Defendant, and each of its respective officers, agents, servants, employees, and attorneys, and all of those persons in active concert or participation with it, be enjoined permanently from directly or indirectly infringing U.S. Patent Nos. 5,848,979, 7,112,179, 7,955,286, and 7,404,804 and from selling the Accused Products;

B. Plaintiffs be awarded damages against Defendant accrued from the date of issue of the Asserted Patents;

C. Prejudgment and post-judgment interest;

- D. An assessment of Plaintiffs' costs against Defendant;
- E. An assessment of Plaintiffs reasonable attorneys' fees under 35 U.S.C. § 285

against Defendant; and

- F. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,

*/s/ Steven D. Groth*

---

Steven D. Groth (Atty. No. 17643-71)

Attorney for Plaintiffs

BOSE McKINNEY & EVANS LLP  
111 Monument Circle, Suite 2700  
Indianapolis, IN 46204  
317-684-5000  
317-684-5173 fax  
[sgroth@boselaw.com](mailto:sgroth@boselaw.com)

Robert M. Evans, Jr.  
Michael J. Hartley  
Elizabeth E. Fabick  
*(pro hac vice applied for)*  
SENNINGER POWERS LLP  
100 N. Broadway, 17<sup>th</sup> Floor  
St. Louis, MO 63102  
314-345-7000  
314-345-7004 DDN  
314-345-7600 fax  
[revans@senniger.com](mailto:revans@senniger.com)