

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

STRYKER CORPORATION and STRYKER
SALES, LLC,

Plaintiffs,

v.

FERNO-WASHINGTON, INC. and FERNO
GROUP, INC.,

Defendants.

Case No. 1:22-cv-00588-MB

**DEFENDANT FERNO-WASHINGTON,
INC. and FERNO GROUP, INC.'S,
THIRD AMENDED ANSWER TO
PLAINTIFFS' AMENDED
COMPLAINT AND COUNTERCLAIM
AGAINST PLAINTIFFS**

ANSWER

Now comes Defendants, Ferno-Washington, Inc., d/b/a Ferno (“**Ferno**”) and Ferno Group, Inc. (“**Ferno Group**”) (collectively, “**Defendants**” or “**Ferno Defendants**” or “**Ferno Parties**”) by and through its counsel, and for its Answer to the Amended Complaint of Plaintiffs Stryker Corporation and Stryker Sales, LLC (collectively, “**Stryker**”, “**Plaintiffs**” or “**Stryker Plaintiffs**”) hereby states and avers as follows below.

Unless otherwise expressly admitted herein, Defendants hereby deny all allegations contained in the Amended Complaint, and deny that Plaintiffs are entitled to any relief. The following numbered paragraphs and headings correspond to the numbered paragraphs and headings contained in the Amended Complaint.

Defendants deny any and all allegations in the opening paragraph of the Amended Complaint.

ANSWER TO INTRODUCTION

1. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 1, and therefore deny them.

2. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 2, and therefore deny them.

3. Defendants admit that the United States Patent and Trademark Office has issued the following patents: (a) U.S. Patent No. 7,398,571 (the “’571 Patent”); (b) U.S. Reissue Patent No. 44,884 (the “’884 Reissue Patent”); (c) U.S. Patent No. 7,725,968 (the “’968 Patent”); (d) U.S. Patent No. 8,056,950 (the “’950 Patent”); (e) U.S. Patent No. 10,058,464 (the “’464 Patent”); (f) U.S. Design Patent No. D794,205 (the “’205 Design Patent”); (g) U.S. Design Patent No. D833,623 (the “’623 Design Patent”); (h) U.S. Design Patent No. D875,950 (the “’950 Design Patent”); and (i) U.S. Patent No. 11,090,207 (the “’207 Patent”) (collectively, the “Asserted Patents”). Defendants admit that the face of these patents, attached to the Amended Complaint as Exs. A-I and M, list Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

4. Defendants deny the allegations contained in Paragraph 4.

5. Defendants admit that Plaintiffs purport to state claims for patent infringement arising under the patent laws of the United States. Defendants deny the remaining allegations of Paragraph 5.

6. Defendants admit that Plaintiffs purport to state claims for patent infringement. Defendants deny the remaining allegations of Paragraph 6.

ANSWER TO THE PARTIES

7. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 7, and therefore deny them.

8. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 7, and therefore deny those allegations.

9. Defendants admit the allegations contained in Paragraph 9.
10. Defendants admit the allegations contained in Paragraph 10.
11. Defendants admit the allegations contained in Paragraph 11.

ANSWER TO JURISDICTION AND VENUE

12. Defendants admit the allegations contained in Paragraph 12.
13. Defendants admit that Defendants are subject to personal jurisdiction in this District. Defendants admit that Defendants are formed under the laws of the State of Ohio. Defendants admit that they transact business in this District. Defendants admit that Defendants use, market, distribute, and offer for sale products, devices, and instruments in this District (namely, the POWER X1 Ambulance Cot (“X1 Cot”), the iNX Integrated Patient Transport & Loading System (“iNX Cot”), and the PRO F1 Universal Cot Fastener (“F1 Fastener”)). Defendants deny all remaining allegations contained in Paragraph 13.
14. Defendants admit the allegations contained in Paragraph 14.

ANSWER TO FACTUAL BACKGROUND

15. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 15, and therefore deny them.
16. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 16, and therefore deny them.
17. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 17, and therefore deny them.
18. Defendants admit that Exhibit A to the Amended Complaint appears to be United States Patent No. 7,398,571 (the 571 Patent), entitled “Ambulance Cot And Hydraulic Elevating Mechanism Therefor,” and that based on the face of Exhibit A the 571 Patent issued on July 15,

2008 and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

19. Defendants admit that Exhibit B to the Amended Complaint appears to be United States Patent No. RE44,884 (the 884 Reissue Patent), entitled “Ambulance Cot With Pinch Safety Feature,” and that based on the face of Exhibit B the 884 Reissue Patent issued on May 13, 2014 and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

20. Defendants admit that Exhibit C to the Amended Complaint appears to be United States Patent No 7,725,968 (the 968 Patent), entitled “Ambulance Cot With Retractable Head Section And Control System Therefor,” and that based on the face of Exhibit C the 968 Patent issued on June 1, 2010 and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

21. Defendants admit that Exhibit D to the Amended Complaint appears to be United States Patent No 8,056,950 (the 950 Patent), entitled “In-Ambulance Cot Shut-off Device,” and that based on the face of Exhibit D the 950 Patent issued on November 15, 2011 and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

22. Defendants admit that Exhibit E to the Amended Complaint appears to be United States Patent No 10,058,464 (the 464 Patent), entitled “Cot Fastening System,” and that based on the face of Exhibit E the 464 Patent issued on August 28, 2018 and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

23. Defendants admit that Exhibit F to the Amended Complaint appears to be United States Patent No. D794,205 (the 205 Patent), entitled “Cot Fastener,” and that based on the face of Exhibit F the 205 Patent issued on August 8, 2017 and listed Stryker Corporation as the assignee.

Defendants deny all remaining allegations of this paragraph.

24. Defendants admit that Exhibit G to the Amended Complaint appears to be United States Design Patent No. D833,623 (the 623 Design Patent), entitled “Cot Fastener,” and that based on the face of Exhibit G the 623 Design Patent issued on November 13, 2018 and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

25. Defendants admit that Exhibit H to the Amended Complaint appears to be United States Design Patent No. D875,950 (the 950 Design Patent), entitled “Cot Fastener,” and that based on the face of Exhibit H the 950 Design Patent issued on February 18, 2020 and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

26. Defendants admit that Exhibit M to the Amended Complaint appears to be United States Design Patent No. 11,090,207 (the 207 Patent), entitled “Cot Fastening System,” and that based on the face of Exhibit M the 207 Patent issued on August 17, 2021, and listed Stryker Corporation as the assignee. Defendants deny all remaining allegations of this paragraph.

27. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 27, and therefore deny them.

28. Defendants admit that Defendants’ business includes pre-hospital emergency care solutions, including ambulatory cots, patient transfer devices, and cot fastening devices.

29. Defendants admit that Defendants market the X1 Cot, the iNX Cot, and the F1 Fastener. Defendants further admit that its sale of these Accused Products have earned a profit.

30. Defendants admit that they provide reference materials to third parties including customers. Defendants further admit that the www.ferno.com website includes links to certain publications. However, Defendants have insufficient knowledge or information as to which of these publications constitute the “various publications” referenced in paragraph 30 to form a belief

as to the truth or falsity of the allegations of Paragraph 30, and therefore deny them. To the extent that Paragraph 30 otherwise contains any allegations, Defendants otherwise deny the same.

31. Defendants admit that the documents referenced in Paragraph 31—which documents speak for themselves—are attached to the Amended Complaint. To the extent that Paragraph 31 otherwise contains any allegations, Defendants otherwise deny the same.

32. Defendants deny the allegations contained in Paragraph 32.

33. Defendants admit that they had actual knowledge of at least some of the Asserted Patents inasmuch as some of the Asserted Patents were cited during prosecution of certain patent applications filed by Defendants. Defendants deny all remaining allegations of this paragraph.

34. Defendants admit that at least one former Stryker employee was employed by Defendants, and that this former Stryker employee is named as an inventor on the 571 Patent. Defendants have insufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations of Paragraph 34, and therefore deny them.

35. Defendants admit that Defendants and Plaintiffs are competitors, that Defendants were made aware of the Asserted Patents by receipt of this complaint, and that certain of Defendants' products are cross-compatible with one or more of Plaintiffs' products. Defendants otherwise have insufficient knowledge or information to form a belief as to the truth or falsity of the allegations of Paragraph 35, and therefore deny them.

36. Defendants deny the allegations contained in Paragraph 36.

ANSWER TO FIRST CAUSE OF ACTION
(Infringement of U.S. 7,398,571)

37. Defendants repeat and reallege its responses to paragraphs 1 through 36 of the Amended Complaint as if fully set forth herein.

38. Defendants deny the allegations contained in Paragraph 38.

39. Defendants deny the allegations contained in Paragraph 39.

X1 Cot

40. Defendants deny the allegations contained in Paragraph 40.

41. Defendants admit that this paragraph recites the language of Claim 1 of the 571

Patent.

42. Defendants deny the allegations contained in Paragraph 42.

43. Defendants deny the allegations contained in Paragraph 43.

44. Defendants deny the allegations contained in Paragraph 44.

45. Defendants admit that this paragraph recites the language of Claim 2 of the 571

Patent.

46. Defendants deny the allegations contained in Paragraph 46.

47. Defendants deny the allegations contained in Paragraph 47.

48. Defendants deny the allegations contained in Paragraph 48.

49. Defendants deny the allegations contained in Paragraph 49.

50. Defendants deny the allegations contained in Paragraph 50.

51. Defendants admit that this paragraph recites the language of Claim 5 of the 571

Patent.

52. Defendants deny the allegations contained in Paragraph 52.

53. Defendants deny the allegations contained in Paragraph 53.

54. Defendants deny the allegations contained in Paragraph 54.

55. Defendants admit that this paragraph recites the language of Claim 6 of the 571

Patent.

56. Defendants deny the allegations contained in Paragraph 56.

57. Defendants deny the allegations contained in Paragraph 57.

58. Defendants admit that this paragraph recites the language of Claim 7 of the 571 Patent.

59. Defendants deny the allegations contained in Paragraph 59.

60. Defendants deny the allegations contained in Paragraph 60.

61. Defendants admit that this paragraph recites the language of Claim 8 of the 571 Patent.

62. Defendants deny the allegations contained in Paragraph 62.

63. Defendants deny the allegations contained in Paragraph 63.

64. Defendants admit that this paragraph recites the language of Claim 9 of the 571 Patent.

65. Defendants deny the allegations contained in Paragraph 65.

66. Defendants deny the allegations contained in Paragraph 66.

67. Defendants admit that this paragraph recites the language of Claim 10 of the 571 Patent.

68. Defendants deny the allegations contained in Paragraph 68.

69. Defendants deny the allegations contained in Paragraph 69.

70. Defendants admit that this paragraph recites the language of Claim 14 of the 571 Patent.

71. Defendants deny the allegations contained in Paragraph 71.

iNX Cot

72. Defendants deny the allegations contained in Paragraph 72.

73. Defendants admit that this paragraph recites the language of Claim 1 of the 571

Patent.

- 74. Defendants deny the allegations contained in Paragraph 74.
- 75. Defendants deny the allegations contained in Paragraph 75.
- 76. Defendants deny the allegations contained in Paragraph 76.
- 77. Defendants admit that this paragraph recites the language of Claim 2 of the 571

Patent.

- 78. Defendants deny the allegations contained in Paragraph 78.
- 79. Defendants deny the allegations contained in Paragraph 79.
- 80. Defendants deny the allegations contained in Paragraph 80.
- 81. Defendants deny the allegations contained in Paragraph 81.
- 82. Defendants deny the allegations contained in Paragraph 82.
- 83. Defendants admit that this paragraph recites the language of Claim 5 of the 571

Patent.

- 84. Defendants deny the allegations contained in Paragraph 84.
- 85. Defendants deny the allegations contained in Paragraph 85.
- 86. Defendants deny the allegations contained in Paragraph 86.
- 87. Defendants admit that this paragraph recites the language of Claim 6 of the 571

Patent.

- 88. Defendants deny the allegations contained in Paragraph 88.
- 89. Defendants deny the allegations contained in Paragraph 89.
- 90. Defendants admit that this paragraph recites the language of Claim 7 of the 571

Patent.

- 91. Defendants deny the allegations contained in Paragraph 91.

92. Defendants deny the allegations contained in Paragraph 92.

93. Defendants admit that this paragraph recites the language of Claim 8 of the 571

Patent.

94. Defendants deny the allegations contained in Paragraph 94.

95. Defendants deny the allegations contained in Paragraph 95.

96. Defendants admit that this paragraph recites the language of Claim 9 of the 571

Patent.

97. Defendants deny the allegations contained in Paragraph 97.

98. Defendants deny the allegations contained in Paragraph 98.

99. Defendants admit that this paragraph recites the language of Claim 10 of the 571

Patent.

100. Defendants deny the allegations contained in Paragraph 100.

101. Defendants deny the allegations contained in Paragraph 101.

102. Defendants admit that this paragraph recites the language of Claim 14 of the 571

Patent.

103. Defendants deny the allegations contained in Paragraph 103.

104. Defendants deny the allegations contained in Paragraph 104.

105. Defendants deny the allegations contained in Paragraph 105.

106. Defendants deny the allegations contained in Paragraph 106.

107. Defendants deny the allegations contained in Paragraph 107.

108. Defendants deny the allegations contained in Paragraph 108.

109. Defendants deny the allegations contained in Paragraph 109.

110. Defendants deny the allegations contained in Paragraph 110.

- 111. Defendants deny the allegations contained in Paragraph 111.
- 112. Defendants deny the allegations contained in Paragraph 112.
- 113. Defendants deny the allegations contained in Paragraph 113.
- 114. Defendants deny the allegations contained in Paragraph 114.
- 115. Defendants deny the allegations contained in Paragraph 115.
- 116. Defendants deny the allegations contained in Paragraph 116.
- 117. Defendants deny the allegations contained in Paragraph 117.

ANSWER TO SECOND CAUSE OF ACTION
(Infringement of U.S. RE44,884)

118. Defendants repeat and reallege its responses to paragraphs 1 through 117 of the Amended Complaint as if fully set forth herein.

- 119. Defendants deny the allegations contained in Paragraph 119.
- 120. Defendants deny the allegations contained in Paragraph 120.
- 121. Defendants deny the allegations contained in Paragraph 121.
- 122. Defendants admit that this paragraph recites the language of Claim 3 of the 884

Reissue Patent.

- 123. Defendants deny the allegations contained in Paragraph 123.
- 124. Defendants deny the allegations contained in Paragraph 124.
- 125. Defendants deny the allegations contained in Paragraph 125.
- 126. Defendants deny the allegations contained in Paragraph 126.
- 127. Defendants admit that this paragraph recites the language of Claim 4 of the 884

Reissue Patent.

- 128. Defendants deny the allegations contained in Paragraph 128.
- 129. Defendants deny the allegations contained in Paragraph 129.

- 130. Defendants deny the allegations contained in Paragraph 130.
- 131. Defendants deny the allegations contained in Paragraph 131.
- 132. Defendants deny the allegations contained in Paragraph 132.
- 133. Defendants deny the allegations contained in Paragraph 133.
- 134. Defendants deny the allegations contained in Paragraph 134.
- 135. Defendants deny the allegations contained in Paragraph 135.
- 136. Defendants deny the allegations contained in Paragraph 136.
- 137. Defendants deny the allegations contained in Paragraph 137.
- 138. Defendants deny the allegations contained in Paragraph 138.
- 139. Defendants deny the allegations contained in Paragraph 139.
- 140. Defendants deny the allegations contained in Paragraph 140.
- 141. Defendants deny the allegations contained in Paragraph 141.
- 142. Defendants deny the allegations contained in Paragraph 142.

ANSWER TO THIRD CAUSE OF ACTION
(Infringement of U.S. 7,725,968)

143. Defendants repeat and reallege its responses to paragraphs 1 through 142 of the Amended Complaint as if fully set forth herein.

- 144. Defendants deny the allegations contained in Paragraph 144.
- 145. Defendants deny the allegations contained in Paragraph 145.
- 146. Defendants deny the allegations contained in Paragraph 146.
- 147. Defendants admit that this paragraph recites the language of Claim 1 of the 968

Patent.

- 148. Defendants deny the allegations contained in Paragraph 148.
- 149. Defendants deny the allegations contained in Paragraph 149.

150. Defendants deny the allegations contained in Paragraph 150.

151. Defendants deny the allegations contained in Paragraph 151.

152. Defendants deny the allegations contained in Paragraph 152.

153. Defendants deny the allegations contained in Paragraph 153.

154. Defendants admit that this paragraph recites the language of Claim 2 of the 968

Patent.

155. Defendants deny the allegations contained in Paragraph 155.

156. Defendants admit that this paragraph recites the language of Claim 3 of the 968

Patent.

157. Defendants deny the allegations contained in Paragraph 157.

158. Defendants admit that this paragraph recites the language of Claim 4 of the 968

Patent.

159. Defendants deny the allegations contained in Paragraph 159.

160. Defendants admit that this paragraph recites the language of Claim 5 of the 968

Patent.

161. Defendants deny the allegations contained in Paragraph 161.

162. Defendants deny the allegations contained in Paragraph 162.

163. Defendants admit that this paragraph recites the language of Claim 6 of the 968

Patent.

164. Defendants deny the allegations contained in Paragraph 164.

165. Defendants admit that this paragraph recites the language of Claim 7 of the 968

Patent.

166. Defendants deny the allegations contained in Paragraph 166.

167. Defendants admit that this paragraph recites the language of Claim 8 of the 968 Patent.

168. Defendants deny the allegations contained in Paragraph 168.

169. Defendants admit that this paragraph recites the language of Claim 9 of the 968 Patent.

170. Defendants deny the allegations contained in Paragraph 170.

171. Defendants admit that this paragraph recites the language of Claim 10 of the 968 Patent.

172. Defendants deny the allegations contained in Paragraph 172.

173. Defendants admit that this paragraph recites the language of Claim 12 of the 968 Patent.

174. Defendants deny the allegations contained in Paragraph 174.

175. Defendants admit that this paragraph recites the language of Claim 13 of the 968 Patent.

176. Defendants deny the allegations contained in Paragraph 176.

177. Defendants admit that this paragraph recites the language of Claim 15 of the 968 Patent.

178. Defendants deny the allegations contained in Paragraph 178.

179. Defendants deny the allegations contained in Paragraph 179.

180. Defendants deny the allegations contained in Paragraph 180.

181. Defendants deny the allegations contained in Paragraph 181.

182. Defendants deny the allegations contained in Paragraph 182.

183. Defendants deny the allegations contained in Paragraph 183.

184. Defendants admit that this paragraph recites the language of Claim 16 of the 968 Patent.

185. Defendants deny the allegations contained in Paragraph 185.

186. Defendants admit that this paragraph recites the language of Claim 17 of the 968 Patent.

187. Defendants deny the allegations contained in Paragraph 187.

188. Defendants admit that this paragraph recites the language of Claim 18 of the 968 Patent.

189. Defendants deny the allegations contained in Paragraph 189.

190. Defendants admit that this paragraph recites the language of Claim 19 of the 968 Patent.

191. Defendants deny the allegations contained in Paragraph 191

192. Defendants admit that this paragraph recites the language of Claim 20 of the 968 Patent.

193. Defendants deny the allegations contained in Paragraph 193.

194. Defendants admit that this paragraph recites the language of Claim 21 of the 968 Patent.

195. Defendants deny the allegations contained in Paragraph 195.

196. Defendants admit that this paragraph recites the language of Claim 22 of the 968 Patent.

197. Defendants deny the allegations contained in Paragraph 197.

198. Defendants deny the allegations contained in Paragraph 198.

199. Defendants deny the allegations contained in Paragraph 199.

- 200. Defendants deny the allegations contained in Paragraph 200.
- 201. Defendants deny the allegations contained in Paragraph 201.
- 202. Defendants deny the allegations contained in Paragraph 202.
- 203. Defendants deny the allegations contained in Paragraph 203.
- 204. Defendants deny the allegations contained in Paragraph 204.
- 205. Defendants deny the allegations contained in Paragraph 205.
- 206. Defendants deny the allegations contained in Paragraph 206.
- 207. Defendants deny the allegations contained in Paragraph 207.
- 208. Defendants deny the allegations contained in Paragraph 208.
- 209. Defendants deny the allegations contained in Paragraph 209.
- 210. Defendants deny the allegations contained in Paragraph 210.
- 211. Defendants deny the allegations contained in Paragraph 211.

ANSWER TO FOURTH CAUSE OF ACTION
(Infringement of U.S. 8,056,950)

212. Defendants repeat and reallege its responses to paragraphs 1 through 211 of the Amended Complaint as if fully set forth herein.

- 213. Defendants deny the allegations contained in Paragraph 213.
- 214. Defendants deny the allegations contained in Paragraph 214.

X1 Cot

- 215. Defendants deny the allegations contained in Paragraph 215.
- 216. Defendants admit that this paragraph recites the language of Claim 1 of the 950 Patent.
- 217. Defendants deny the allegations contained in Paragraph 217.
- 218. Defendants deny the allegations contained in Paragraph 218.

219. Defendants deny the allegations contained in Paragraph 219.

220. Defendants deny the allegations contained in Paragraph 220.

221. Defendants deny the allegations contained in Paragraph 221.

222. Defendants deny the allegations contained in Paragraph 222.

223. Defendants admit that this paragraph recites the language of Claim 2 of the 950

Patent.

224. Defendants deny the allegations contained in Paragraph 224.

225. Defendants deny the allegations contained in Paragraph 225.

226. Defendants admit that this paragraph recites the language of Claim 10 of the 950

Patent.

227. Defendants deny the allegations contained in Paragraph 227.

228. Defendants deny the allegations contained in Paragraph 228.

229. Defendants deny the allegations contained in Paragraph 229.

230. Defendants deny the allegations contained in Paragraph 230.

231. Defendants deny the allegations contained in Paragraph 231.

232. Defendants deny the allegations contained in Paragraph 232.

iNX Cot

233. Defendants deny the allegations contained in Paragraph 233.

234. Defendants admit that this paragraph recites the language of Claim 1 of the 950

Patent.

235. Defendants deny the allegations contained in Paragraph 235.

236. Defendants deny the allegations contained in Paragraph 236.

237. Defendants deny the allegations contained in Paragraph 237.

238. Defendants deny the allegations contained in Paragraph 238.

239. Defendants admit that this paragraph recites the language of Claim 2 of the 950 Patent.

240. Defendants deny the allegations contained in Paragraph 240.

241. Defendants admit that this paragraph recites the language of Claim 10 of the 950 Patent.

242. Defendants deny the allegations contained in Paragraph 242.

243. Defendants deny the allegations contained in Paragraph 243.

244. Defendants deny the allegations contained in Paragraph 244.

245. Defendants deny the allegations contained in Paragraph 245.

246. Defendants deny the allegations contained in Paragraph 246.

247. Defendants deny the allegations contained in Paragraph 247.

248. Defendants deny the allegations contained in Paragraph 248.

249. Defendants deny the allegations contained in Paragraph 249.

250. Defendants deny the allegations contained in Paragraph 250.

251. Defendants deny the allegations contained in Paragraph 251.

252. Defendants deny the allegations contained in Paragraph 252.

253. Defendants deny the allegations contained in Paragraph 253.

254. Defendants deny the allegations contained in Paragraph 254.

255. Defendants deny the allegations contained in Paragraph 255.

256. Defendants deny the allegations contained in Paragraph 256.

257. Defendants deny the allegations contained in Paragraph 257.

258. Defendants deny the allegations contained in Paragraph 258.

259. Defendants deny the allegations contained in Paragraph 259.

ANSWER TO FIFTH CAUSE OF ACTION
(Infringement of U.S. 10,058,464)

260. Defendants repeat and reallege its responses to paragraphs 1 through 259 of the Amended Complaint as if fully set forth herein.

261. Defendants deny the allegations contained in Paragraph 261.

262. Defendants deny the allegations contained in Paragraph 262.

263. Defendants deny the allegations contained in Paragraph 263.

264. Defendants admit that this paragraph recites the language of Claim 1 of the 464 Patent.

265. Defendants deny the allegations contained in Paragraph 265.

266. Defendants deny the allegations contained in Paragraph 266.

267. Defendants deny the allegations contained in Paragraph 267.

268. Defendants deny the allegations contained in Paragraph 268.

269. Defendants deny the allegations contained in Paragraph 269.

270. Defendants deny the allegations contained in Paragraph 270.

271. Defendants deny the allegations contained in Paragraph 271.

272. Defendants admit that this paragraph recites the language of Claim 2 of the 464 Patent.

273. Defendants deny the allegations contained in Paragraph 273.

274. Defendants admit that this paragraph recites the language of Claim 3 of the 464 Patent.

275. Defendants deny the allegations contained in Paragraph 275.

276. Defendants admit that this paragraph recites the language of Claim 7 of the 464

Patent.

277. Defendants deny the allegations contained in Paragraph 277.

278. Defendants admit that this paragraph recites the language of Claim 8 of the 464

Patent.

279. Defendants deny the allegations contained in Paragraph 279.

280. Defendants deny the allegations contained in Paragraph 280.

281. Defendants deny the allegations contained in Paragraph 281.

282. Defendants deny the allegations contained in Paragraph 282.

283. Defendants deny the allegations contained in Paragraph 283.

284. Defendants deny the allegations contained in Paragraph 284.

285. Defendants deny the allegations contained in Paragraph 285.

286. Defendants admit that this paragraph recites the language of Claim 9 of the 464

Patent.

287. Defendants deny the allegations contained in Paragraph 287.

288. Defendants admit that this paragraph recites the language of Claim 10 of the 464

Patent.

289. Defendants deny the allegations contained in Paragraph 289.

290. Defendants admit that this paragraph recites the language of Claim 11 of the 464

Patent.

291. Defendants deny the allegations contained in Paragraph 291.

292. Defendants admit that this paragraph recites the language of Claim 12 of the 464

Patent.

293. Defendants deny the allegations contained in Paragraph 293.

294. Defendants admit that this paragraph recites the language of Claim 13 of the 464 Patent.

295. Defendants deny the allegations contained in Paragraph 295.

296. Defendants admit that this paragraph recites the language of Claim 14 of the 464 Patent.

297. Defendants deny the allegations contained in Paragraph 297.

298. Defendants admit that this paragraph recites the language of Claim 15 of the 464 Patent.

299. Defendants deny the allegations contained in Paragraph 299.

300. Defendants admit that this paragraph recites the language of Claim 16 of the 464 Patent.

301. Defendants deny the allegations contained in Paragraph 301.

302. Defendants admit that this paragraph recites the language of Claim 17 of the 464 Patent.

303. Defendants deny the allegations contained in Paragraph 303.

304. Defendants admit that this paragraph recites the language of Claim 18 of the 464 Patent.

305. Defendants deny the allegations contained in Paragraph 305.

306. Defendants admit that this paragraph recites the language of Claim 19 of the 464 Patent.

307. Defendants deny the allegations contained in Paragraph 307.

308. Defendants admit that this paragraph recites the language of Claim 21 of the 464 Patent.

- 309. Defendants deny the allegations contained in Paragraph 309.
- 310. Defendants deny the allegations contained in Paragraph 310.
- 311. Defendants deny the allegations contained in Paragraph 311.
- 312. Defendants deny the allegations contained in Paragraph 312.
- 313. Defendants deny the allegations contained in Paragraph 313.
- 314. Defendants deny the allegations contained in Paragraph 314.
- 315. Defendants deny the allegations contained in Paragraph 315.
- 316. Defendants deny the allegations contained in Paragraph 316.
- 317. Defendants deny the allegations contained in Paragraph 317.
- 318. Defendants deny the allegations contained in Paragraph 318.
- 319. Defendants deny the allegations contained in Paragraph 319.
- 320. Defendants deny the allegations contained in Paragraph 320.
- 321. Defendants deny the allegations contained in Paragraph 321.
- 322. Defendants deny the allegations contained in Paragraph 322.
- 323. Defendants deny the allegations contained in Paragraph 323.

ANSWER TO SIXTH CAUSE OF ACTION
(Infringement of U.S. D794,205)

324. Defendants repeat and reallege its responses to paragraphs 1 through 323 of the Amended Complaint as if fully set forth herein.

- 325. Defendants deny the allegations contained in Paragraph 325.
- 326. Defendants deny the allegations contained in Paragraph 326.
- 327. Defendants deny the allegations contained in Paragraph 327.
- 328. Defendants deny the allegations contained in Paragraph 328.
- 329. Defendants deny the allegations contained in Paragraph 329.

- 330. Defendants deny the allegations contained in Paragraph 330.
- 331. Defendants deny the allegations contained in Paragraph 331.
- 332. Defendants deny the allegations contained in Paragraph 332.
- 333. Defendants deny the allegations contained in Paragraph 333.
- 334. Defendants deny the allegations contained in Paragraph 334.
- 335. Defendants deny the allegations contained in Paragraph 335.
- 336. Defendants deny the allegations contained in Paragraph 336.
- 337. Defendants deny the allegations contained in Paragraph 337.
- 338. Defendants deny the allegations contained in Paragraph 338.
- 339. Defendants deny the allegations contained in Paragraph 339.
- 340. Defendants deny the allegations contained in Paragraph 340.
- 341. Defendants deny the allegations contained in Paragraph 341.

ANSWER TO SEVENTH CAUSE OF ACTION
(Infringement of U.S. D833,623)

342. Defendants repeat and reallege its responses to paragraphs 1 through 341 of the Amended Complaint as if fully set forth herein.

- 343. Defendants deny the allegations contained in Paragraph 343.
- 344. Defendants deny the allegations contained in Paragraph 344.
- 345. Defendants deny the allegations contained in Paragraph 345.
- 346. Defendants deny the allegations contained in Paragraph 346.
- 347. Defendants deny the allegations contained in Paragraph 347.
- 348. Defendants deny the allegations contained in Paragraph 348.
- 349. Defendants deny the allegations contained in Paragraph 349.
- 350. Defendants deny the allegations contained in Paragraph 350.

- 351. Defendants deny the allegations contained in Paragraph 351.
- 352. Defendants deny the allegations contained in Paragraph 352.
- 353. Defendants deny the allegations contained in Paragraph 353.
- 354. Defendants deny the allegations contained in Paragraph 354.
- 355. Defendants deny the allegations contained in Paragraph 355.
- 356. Defendants deny the allegations contained in Paragraph 356.
- 357. Defendants deny the allegations contained in Paragraph 357.
- 358. Defendants deny the allegations contained in Paragraph 358.
- 359. Defendants deny the allegations contained in Paragraph 359.

ANSWER TO EIGHTH CAUSE OF ACTION
(Infringement of U.S. D875,950)

360. Defendants repeat and reallege its responses to paragraphs 1 through 359 of the Amended Complaint as if fully set forth herein.

- 361. Defendants deny the allegations contained in Paragraph 361.
- 362. Defendants deny the allegations contained in Paragraph 362.
- 363. Defendants deny the allegations contained in Paragraph 363.
- 364. Defendants deny the allegations contained in Paragraph 364.
- 365. Defendants deny the allegations contained in Paragraph 365.
- 366. Defendants deny the allegations contained in Paragraph 366.
- 367. Defendants deny the allegations contained in Paragraph 367.
- 368. Defendants deny the allegations contained in Paragraph 368.
- 369. Defendants deny the allegations contained in Paragraph 369.
- 370. Defendants deny the allegations contained in Paragraph 370.
- 371. Defendants deny the allegations contained in Paragraph 371.

372. Defendants deny the allegations contained in Paragraph 372.

373. Defendants deny the allegations contained in Paragraph 373.

374. Defendants deny the allegations contained in Paragraph 374.

375. Defendants deny the allegations contained in Paragraph 375.

376. Defendants deny the allegations contained in Paragraph 376.

377. Defendants deny the allegations contained in Paragraph 377.

ANSWER TO NINTH CAUSE OF ACTION
(Infringement of U.S. 11,090,207)

378. Defendants repeat and reallege its responses to paragraphs 1 through 377 of the Amended Complaint as if fully set forth herein.

379. Defendants deny the allegations contained in Paragraph 379.

380. Defendants deny the allegations contained in Paragraph 380.

381. Defendants deny the allegations contained in Paragraph 381.

382. Defendants admit that this paragraph recites the language of Claim 1 of the 207 Patent.

383. Defendants deny the allegations contained in Paragraph 383.

384. Defendants deny the allegations contained in Paragraph 384.

385. Defendants deny the allegations contained in Paragraph 385.

386. Defendants deny the allegations contained in Paragraph 386.

387. Defendants deny the allegations contained in Paragraph 387.

388. Defendants deny the allegations contained in Paragraph 388.

389. Defendants deny the allegations contained in Paragraph 389.

390. Defendants deny the allegations contained in Paragraph 390.

391. Defendants admit that this paragraph recites the language of Claim 2 of the 207

Patent.

392. Defendants deny the allegations contained in Paragraph 392.

393. Defendants admit that this paragraph recites the language of Claim 3 of the 207

Patent.

394. Defendants deny the allegations contained in Paragraph 394.

395. Defendants admit that this paragraph recites the language of Claim 4 of the 207

Patent.

396. Defendants deny the allegations contained in Paragraph 396.

397. Defendants admit that this paragraph recites the language of Claim 5 of the 207

Patent.

398. Defendants deny the allegations contained in Paragraph 398.

399. Defendants admit that this paragraph recites the language of Claim 6 of the 207

Patent.

400. Defendants deny the allegations contained in Paragraph 400.

401. Defendants admit that this paragraph recites the language of Claim 7 of the 207

Patent.

402. Defendants deny the allegations contained in Paragraph 402.

403. Defendants deny the allegations contained in Paragraph 403.

404. Defendants deny the allegations contained in Paragraph 404.

405. Defendants deny the allegations contained in Paragraph 405.

406. Defendants deny the allegations contained in Paragraph 406.

407. Defendants deny the allegations contained in Paragraph 407.

408. Defendants deny the allegations contained in Paragraph 408.

- 409. Defendants deny the allegations contained in Paragraph 409.
- 410. Defendants deny the allegations contained in Paragraph 410.
- 411. Defendants deny the allegations contained in Paragraph 411.
- 412. Defendants deny the allegations contained in Paragraph 412.
- 413. Defendants deny the allegations contained in Paragraph 413.
- 414. Defendants deny the allegations contained in Paragraph 414.
- 415. Defendants deny the allegations contained in Paragraph 415.
- 416. Defendants deny the allegations contained in Paragraph 416.

DEMAND FOR JURY TRIAL

Defendants admit that Plaintiffs have demanded a trial by jury of all issues in this action so triable.

PRAYER FOR RELIEF

Defendants deny that Plaintiffs are entitled to any of the relief requested in the Amended Complaint.

DEFENDANTS' AFFIRMATIVE DEFENSES

Further answering the Amended Complaint and as additional defenses thereto, Defendants assert the following Affirmative Defenses, without assuming the burden of proof when such burden would otherwise be on Plaintiffs, and without prejudice to Defendants' right to plead additional defenses as discovery into the facts of the matter warrant:

FIRST AFFIRMATIVE DEFENSE

The Amended Complaint fails to state a claim against Defendants for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants have not infringed and do not directly, indirectly, willfully or otherwise infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed, valid and/or enforceable asserted claim of any of the Asserted Patents.

THIRD AFFIRMATIVE DEFENSE

Each of the asserted claims of the Asserted Patents is invalid for failure to meet one or more conditions of patentability specified in 35 U.S.C. §§ 101, 102, 103 and/or 112.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrines of laches, estoppel, waiver and/or acquiescence as a result of delay in seeking to enforce the Asserted Patents against Defendants.

FIFTH AFFIRMATIVE DEFENSE

To the extent that Plaintiffs allege infringement under the doctrine of equivalents, Plaintiffs' alleged causes of action are barred by the doctrine of prosecution history estoppel arising during the prosecution of the application for the Asserted Patents and any applications to which the Asserted Patents claim priority.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any, are limited by 35 U.S.C. §§ 286 and/or 287.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs failed to mitigate damages.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to injunctive relief at least because any alleged injury is not

immediate or irreparable, and because Plaintiffs have an adequate remedy at law for any alleged injury.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' asserted design patents (U.S. Design Patent No. D794,205, D833,623 and D875,950) are invalid due to functionality.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs' asserted design patents (U.S. Design Patent Nos. D794,205, D833,623 and/or D875,950) are invalid due to both: (a) same invention type (also known as "statutory") double patenting under 35 U.S.C. § 171; and (b) obviousness-type double patenting (also known as "nonstatutory double patenting" or the "doctrine of double inclusion").

ELEVENTH AFFIRMATIVE DEFENSE

Defendants will rely on any and all further defenses that become available or appear during discovery or other proceedings and specifically reserves the right to amend its pleadings to assert any such additional defenses or claims.

COUNTERCLAIMS

The Ferno Parties, by and through their undersigned counsel, hereby assert the following counterclaims against the Stryker Plaintiffs:

INTRODUCTION

1. At its core, this is a simple case. The Ferno Parties pioneered a number of technologies in the ambulance cot industry. Unfortunately, one of the Ferno Parties' competitors, Stryker, has not only infringed the Ferno Parties' patent rights, but has preemptively brought a meritless complaint against the Ferno Parties. The Ferno Parties bring this counterclaim in an effort to both "set the record straight" and to seek redress for Stryker's unauthorized use of the Ferno

Parties' patent rights.

2. The Ferno Parties have a storied and foundational history in the ambulance cot industry. Indeed, the Ferno Parties' founder, Richard ("Dick") Ferneau, can rightly be considered the father of the modern ambulance cot.

3. In 1952, while working for the Washington Mortuary Supply Company ("**Washington**"), Mr. Ferneau filed what later issued as U.S. Patent Number 2,747,919 entitled "Multi-Level Ambulance Cot." This invention is believed to have been the world's first height-adjustable ambulance cot. Prior to this, ambulance cots were made with a low profile to fit inside an ambulance (but, thus, had serious maneuverability issues).

4. In 1955, Mr. Ferneau started his own company, Ferno Manufacturing. In 1961, Ferno Manufacturing acquired Washington, and the newly combined enterprise was renamed Ferno-Washington, Inc.

5. In 1966, Mr. Ferneau once again developed an industry-disrupting invention: the Model 30 X-Frame Cot—the first truly modern ambulance cot for which Ferno received U.S. Patent Number 3,380,085.

6. In the nearly fifty years since, the Ferno Parties have grown to become an industry leader in the ambulance cot industry with sales and distribution in more than 120 countries.

7. In addition to the historical patents noted above, the United States Patent and Trademark Office has awarded certain member-companies of the Ferno Parties numerous other patents covering inventions related to ambulatory cots and cot fasteners, including, *inter alia*, U.S. Patent No. 11,458,050 (the "'050 Patent") and U.S. Patent No. 10,568,787 (the "'787 Patent").

8. On October 4, 2022, the USPTO duly and lawfully issued to Ferno, as assignee, the '050 Patent which is entitled "Cot Fastening System Having a Crash Stable, Cot Fastener Track

and Method of Affixing an Emergency Cot Thereto.” The ’050 Patent is valid, enforceable and currently in full force and effect. A true and correct copy of the ’050 Patent is attached hereto as Exhibit A.

9. On February 25, 2020, the USPTO duly and lawfully issued to Ferno, as assignee, the ’787 Patent which is entitled “Cot Fastening System Having a Crash Stable, Cot Fastener Track and Method of Affixing an Emergency Cot Thereto.” The ’787 Patent is valid, enforceable and currently in full force and effect. A true and correct copy of the ’787 Patent is attached hereto as Exhibit B.

10. This is an action for both declaratory judgment as to invalidity / non-infringement and for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, 25 U.S.C. § 100, *et seq.* Stryker has infringed and continues to infringe, either literally or under the doctrine of equivalents, one or more claims of the ’050 Patent and the ’787 Patent in violation of 35 U.S.C. § 271. Stryker’s infringement will continue unless enjoined by this Court. Ferno brings this action to stop Stryker from infringing the ’050 Patent and the ’787 Patent.

THE PARTIES

11. Ferno Group, Inc. is a corporation organized under the laws of Ohio, with its headquarters at 70 Weil Way, Wilmington, OH 45177.

12. Ferno-Washington, Inc. is a corporation organized under the laws of Ohio, with its headquarters at 70 Weil Way, Wilmington, OH 45177.

13. On information and belief, Stryker is a corporation organized and existing under the laws of the State of Michigan, with a principal place of business at 2825 Airview Boulevard, Kalamazoo, Michigan 49002.

14. On information and belief, Stryker Sales is a corporation organized and existing under the laws of the State of Michigan, with its principal place of business at 2825 Airview Boulevard, Kalamazoo, Michigan 49002.

JURISDICTION AND VENUE

15. Certain of the counterclaims are for declaratory judgment of U.S. Patent Nos. (a) 7,398,571 (the “571 Patent”); (b) Reissue Patent No. 44,884 (the “884 Reissue Patent”); (c) 7,725,968 (the “968 Patent”); (d) 8,056,950 (the “950 Patent”); (e) 10,058,464 (the “464 Patent”); (f) U.S. Design Patent No. D794,205 (the “205 Design Patent”); (g) D833,623 (the “623 Design Patent”); (h) D875,950 (the “950 Design Patent”) and (i) U.S. Patent No. 11,090,207 (the “207 Patent”) (collectively, the “Asserted Patents”), and each and every asserted claim thereof, are invalid and/or not infringed by the manufacture, use, sale, or offer for sale in the United States of any product of the Ferno Parties.

16. Certain other counterclaims are for patent infringement claims, namely: (a) Stryker’s direct infringement of the ’050 Patent—either literally or under the doctrine of equivalents—under 35 U.S.C. § 271(a); (b) Stryker’s indirect infringement by inducement of the ’050 Patent under 35 U.S.C. § 271(b); (c) Stryker’s indirect infringement by contributory infringement of the ’050 Patent under 35 U.S.C. § 271(c); (d) Stryker’s direct infringement of the ’787 Patent—either literally or under the doctrine of equivalents—under 35 U.S.C. § 271(a); (e) Stryker’s indirect infringement of the ’787 Patent by inducement under 35 U.S.C. § 271(b); and (f) Stryker’s indirect infringement of the ’787 Patent by contributory infringement under 35 U.S.C. § 271(c).

17. This Court has subject matter jurisdiction over all of these Counterclaims and the matters pleaded hereunder under 28 U.S.C §§ 1331 and 1338(a) because these Counterclaims arise

under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and under the patent laws of the United States, 35 U.S.C. § 100, *et seq.*

18. Venue is established in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

19. More specifically, on October 12, 2022, Stryker accused the Ferno Parties of infringement of the Asserted Patents by filing a pleading captioned “Complaint for Patent Infringement” in this District. Thereafter, on November 1, 2022, Stryker filed a pleading captioned “First Amended Complaint for Patent Infringement” (the “**Amended Complaint**”). By filing the Amended Complaint, Stryker has consented to personal jurisdiction and venue in this District.

FACTUAL BACKGROUND

20. According to Stryker’s website,¹ beginning in 1994—over forty years after the Ferno Parties and their predecessors-in-interest began patenting and manufacturing ambulance cots—Stryker first became involved in the ambulance cot industry.

21. As noted in, *inter alia*, paragraph 16 of the Amended Complaint, Stryker manufactures a number of emergency cot products, including the “Performance-LOAD Cot Fastening System” (the “**Performance-LOAD System**”) shown in **Figure 1** below:



Figure 1²

¹ See: <https://www.stryker.com/us/en/about/history.html>.

² Annotated image from page 1 of the Stryker *Performance-LOAD® Cot Fastener System Operations Manual*, a copy of the English language section of which (hereinafter “**Stryker Operations Manual**”) is attached hereto as **Exhibit C**.

22. There is an actual, present, justiciable and substantial controversy between the Ferno Parties and Stryker as to the Ferno Parties' rights to exploit the Accused Products as evidenced by, *inter alia*, Stryker filing the underlying Amended Complaint against the Ferno Parties.

23. On information and belief, at all relevant times to this action, Stryker knew and/or was willfully blind to the '050 Patent and the '787 Patent. For example, Stryker referenced various Stryker patents related to ambulatory cots and cot fasteners during prosecution of various of the Asserted Patents.

24. Other facts further indicate Stryker had knowledge of the Asserted Patents. The Ferno Parties and Stryker are direct and active competitors. Finally, Stryker has additional knowledge of the '050 Patent and the '787 Patent upon receipt of this complaint.

25. Stryker's willful and egregious conduct justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284, and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

FIRST CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of the '571 Patent)

26. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

27. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of "at least claims 1-2, 5-10, and 14 of the 571 Patent" regarding "certain products, including but not limited to the X1 Cot and the iNX Cot..." (1st Am. Compl., ¶ 38).

28. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly

construed or valid claim of the 571 Patent, and the Ferno Parties are not liable for infringement thereof. By way of illustrative, non-exhaustive example, the Accused Products made by the Ferno Parties do not practice various limitations as required by the 571 Patent such as the “detect[ion] ... of a force”, an “elevating mechanism” and/or a “deployment mechanism”. For instance, the Accused Products detect distance and have a different means of lifting than the elevating mechanism and deployment mechanism as described and claimed.

29. Second, the claims of the 571 Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 571 Patent’s effective priority date. For example, relevant prior art (e.g., US 4,534,077) alone or in combination with other prior art (e.g., the references cited during prosecution and various prior art configured to detect a force such as a force sensor) would render obvious all of the limitations of the asserted claims.

30. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

31. As another example, the 571 Patent is invalid as indefinite for failing to clearly set forth a definition for various claim terms (e.g., “deployment mechanism”).

32. Stryker’s claim for infringement of the 571 Patent is also barred for the reasons set forth in the Ferno Parties’ Affirmative Defenses above.

SECOND CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of 884 Reissue Patent)

33. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

34. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of “at least Claims 3 and 4 of the 884 Reissue Patent” regarding “certain products, including but not limited to the X1 Cot...” (1st Am. Compl., ¶ 119).

35. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of the 884 Reissue Patent, and the Ferno Parties are not liable for infringement thereof. By way of illustrative, non-exhaustive example, the Accused Products made by the Ferno Parties do not practice various limitations as required by the 884 Reissue Patent such as the undefined “support mechanism” (discussed more fully below).

36. Second, the claims of the 884 Reissue Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 884 Reissue Patent’s effective priority date. For example, relevant prior art (e.g., US 7,302,718; US 4,192,541; US 5,575,026; and EP 1598042) alone or in combination with other prior art (e.g., the references cited during prosecution) would render obvious all of the limitations of the asserted claims.

37. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

38. As another example, the 884 Reissue Patent is invalid as indefinite for failing to clearly set forth a definition for various claim terms (e.g., “support mechanism”).

39. Stryker’s claim for infringement of the 884 Reissue Patent is also barred for the reasons set forth in the Ferno Parties’ Affirmative Defenses above.

THIRD CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of the 968 Patent)

40. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

41. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of “at least claims 1-10, 12-13, and 15-22 of the 968 Patent” regarding “certain products, including but not limited to the iNX Cot...” (1st Am. Compl., ¶ 144).

42. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of the 968 Patent, and the Ferno Parties are not liable for infringement thereof. By way of illustrative, non-exhaustive example, the Accused Products made by the Ferno Parties do not practice various limitations as required by the 968 Patent such as “a wheeled base”, a “locking mechanism deactivation mechanism” “a latch disabler” and/or a “safety bar.” For instance, the Accused Products do not have the ambiguously recited wheel base inasmuch as they do not include longitudinally extending side rails and crosswise extending rails that form a rectangle, and the Accused Products do not have a locking mechanism as described and claimed.

43. Second, the claims of the 968 Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 968 Patent’s effective priority date. For example, relevant prior art (e.g., US 6,389,623; US 5,987,673; US 7,302,718; US 6,125,485; and JPH10315819) alone or in combination with other prior art (e.g., the references cited during

prosecution) would render obvious all of the limitations of the asserted claims.

44. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

45. As another example, the 968 Patent is invalid as indefinite for failing to clearly set forth a definition for various claim terms (e.g., “wheeled base”).

46. Stryker’s claim for infringement of the 968 Patent is also barred for the reasons set forth in the Ferno Parties’ Affirmative Defenses above.

FOURTH CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of the 950 Patent)

47. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

48. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of “at least claims 1-2 and 10 of the 950 Patent” regarding “certain products, including but not limited to the X1 Cot and the iNX Cot...” (1st Am. Compl., ¶ 213).

49. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of the 950 Patent, and the Ferno Parties are not liable for infringement thereof. By way of illustrative, non-exhaustive example, the Accused Products made by the Ferno Parties do not practice various limitations as required by the 950 Patent such as a rod and magnet being the “first device” and “second device.” For instance, the Accused Products use an electrical connection that does not employ a rod and a magnet.

50. Second, the claims of the 950 Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of

enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 950 Patent's effective priority date. For example, relevant prior art (e.g., US 7,478,855; and GB2283137) alone or in combination with other prior art (e.g., the references cited during prosecution) would render obvious all of the limitations of the asserted claims.

51. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

52. As another example, the 950 Patent is invalid as indefinite for failing to clearly set forth a definition for various claim terms (e.g., a "first device").

53. Stryker's claim for infringement of the 950 Patent is also barred for the reasons set forth in the Ferno Parties' Affirmative Defenses above.

FIFTH CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of the 464 Patent)

54. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

55. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of "at least claims 1-3, 7-19, and 21 of the 464 Patent" regarding "certain products, including but not limited to the F1 Fastener...." (1st Am. Compl., ¶ 261).

56. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of 464 Patent, and the Ferno Parties are not liable for infringement thereof. By way of illustrative, non-exhaustive example, the Accused Products made by the Ferno Parties

do not practice various limitations as required by the 464 Patent such as the undefined “load wheel spacing” (discussed more fully below).

57. Second, the claims of the 464 Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 464 Patent’s effective priority date. For example, relevant prior art (e.g., US 8,308,212; US 6,796,757; and US 5,913,559) alone or in combination with other prior art (e.g., the references cited during prosecution) would render obvious all of the limitations of the asserted claims.

58. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

59. As another example, the 464 Patent is invalid as indefinite for failing to clearly set forth a definition for various claim terms (e.g., “load wheel spacing”).

60. Stryker’s claim for infringement of the 464 Patent is also barred for the reasons set forth in the Ferno Parties’ Affirmative Defenses above.

SIXTH CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of the 205 Design Patent)

61. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

62. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of “the invention defined by the 205 Design Patent” by the F1 Fastener (1st Am. Compl., ¶ 325).

63. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively

induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of the 205 Design Patent, and the Ferno Parties are not liable for infringement thereof. For instance, the Accused Products made by the Ferno Parties do not practice any protectable ornamental design as shown and described in the 205 Design Patent, i.e., an ordinary observer would not conclude that the Accused Products embody any non-functional aspects of the patented design (or any colorable imitation thereof) inasmuch as the similarities, if any, are limited to purely functional aspects (e.g., the two side rails which guide a cot into / out of an emergency vehicle as confirmed in Stryker’s own advertising materials).

64. Second, the claims of the 205 Design Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 205 Design Patent’s effective priority date. For example, relevant prior art (e.g., 10,568,787 (which claims priority to, *inter alia*, U.S. provisional patent application serial number 62/039,005 filed on 08/19/2014); and US 7,287,794) alone or in combination with other prior art (e.g., the references cited during prosecution) would render obvious all of the limitations of the asserted claims.

65. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

66. Third, Stryker’s claim for infringement of the 205 Design Patent is also barred for the reasons set forth in the Ferno Parties’ Affirmative Defenses above; including, *inter alia*, by reason of the 205 Design Patent covering functional subject matter, i.e., the 205 Design Patent covers a primarily functional design. More specifically, the design covers of a cot fastener system

the shape of which functionally guides a cot onto the fastener and maintains the position of a cot.

67. Fourth, Stryker's claim for infringement of the 205 Design Patent is also barred under both: (a) same invention type (also known as "statutory") double patenting under 35 U.S.C. 171; and (b) obviousness-type double patenting (also known as "nonstatutory double patenting" or the "doctrine of double inclusion"). More specifically, the 464 Patent, 207 Patent, 205 Design Patent, 623 Design Patent and 950 Design Patent are all directed to the same invention, namely, a cot fastening system. The design shown and claimed in the 205 Design Patent, 623 Design Patent and 950 Design Patent is identical with the exception of which elements are shown in broken lines. Moreover, neither the 205 Design Patent, the 623 Design Patent nor the 950 Design Patent contain a terminal disclaimer with respect to one another or with respect to the 464 Patent and/or the 207 Patent—improperly lengthening the term of protection and creating the possibility of multiple suits by different assignees.

SEVENTH CAUSE OF ACTION

(Declaratory Judgment For Noninfringement and Invalidity of the 623 Design Patent)

68. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

69. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of "the invention defined by the 623 Design Patent" by the F1 Fastener embodying (1st Am. Compl., ¶ 343).

70. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of the 623 Design Patent, and the Ferno Parties are not liable for infringement thereof. For instance, the Accused Products made by the Ferno Parties do not practice any protectable ornamental design as shown and described in the 623 Design Patent, i.e., an

ordinary observer would not conclude that the Accused Products embody the patented design (or any colorable imitation thereof) inasmuch as the similarities, if any, are limited to purely functional aspects (e.g., the two side rails which guide a cot into / out of an emergency vehicle as confirmed in Stryker's own advertising materials).

71. Second, the claims of the 623 Design Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 623 Design Patent's effective priority date. For example, relevant prior art (e.g., 10,568,787 (which claims priority to, *inter alia*, U.S. provisional patent application serial number 62/039,005 filed on 08/19/2014); and US 7,287,794) alone or in combination with other prior art (e.g., the references cited during prosecution) would render obvious all of the limitations of the asserted claims.

72. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

73. Third, Stryker's claim for infringement of the 623 Design Patent is also barred for the reasons set forth in the Ferno Parties' Affirmative Defenses above; including, *inter alia*, by reason of the 623 Design Patent covering functional subject matter, i.e., the 623 Design Patent covers a primarily functional design. More specifically, the design covers side rails and rear members of a cot fastener system the shape of which functionally guide a cot onto the fastener and to maintain the position of a cot.

74. Fourth, Stryker's claim for infringement of the 623 Design Patent is also barred under both: (a) same invention type (also known as "statutory") double patenting under 35 U.S.C.

171; and (b) obviousness-type double patenting (also known as “nonstatutory double patenting” or the “doctrine of double inclusion”). More specifically, the 464 Patent, 207 Patent, 205 Design Patent, 623 Design Patent and 950 Design Patent are all directed to the same invention, namely, a cot fastening system. The design shown and claimed in the 205 Design Patent, 623 Design Patent and 950 Design Patent is identical with the exception of which elements are shown in broken lines. Moreover, neither the 205 Design Patent, the 623 Design Patent nor the 950 Design Patent contain a terminal disclaimer with respect to one another or with respect to the 464 Patent and/or the 207 Patent—improperly lengthening the term of protection and creating the possibility of multiple suits by different assignees.

EIGHTH CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of the 950 Design Patent)

75. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

76. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of “the invention defined by the 950 Design Patent” by the F1 Fastener (1st Am. Compl., ¶ 361).

77. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of the 950 Design Patent, and the Ferno Parties are not liable for infringement thereof. For instance, the Accused Products made by the Ferno Parties do not practice any protectable ornamental design as shown and described in the 950 Design Patent, i.e., an ordinary observer would not conclude that the Accused Products embody the patented design (or any colorable imitation thereof) inasmuch as the similarities, if any, are limited to purely functional aspects (e.g., the two side rails which guide a cot into / out of an emergency vehicle as confirmed

in Stryker's own advertising materials).

78. Second, the claims of the 950 Design Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 950 Design Patent's effective priority date. For example, relevant prior art (e.g., 10,568,787 (which claims priority to, *inter alia*, U.S. provisional patent application serial number 62/039,005 filed on 08/19/2014); and US 7,287,794) alone or in combination with other prior art (e.g., the references cited during prosecution) would render obvious all of the limitations of the asserted claims.

79. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

80. Third, Stryker's claim for infringement of the 950 Design Patent is also barred for the reasons set forth in the Ferno Parties' Affirmative Defenses above; including, *inter alia*, by reason of the 950 Design Patent covering functional subject matter, i.e., the 950 Design Patent covers a primarily functional design. More specifically, the design covers side rails of a cot fastener system the shape of which functionally guide a cot onto the fastener.

81. Fourth, Stryker's claim for infringement of the 950 Design Patent is also barred under both: (a) same invention type (also known as "statutory") double patenting under 35 U.S.C. 171; and (b) obviousness-type double patenting (also known as "nonstatutory double patenting" or the "doctrine of double inclusion"). More specifically, the 464 Patent, 207 Patent, 205 Design Patent, 623 Design Patent and 950 Design Patent are all directed to the same invention, namely, a cot fastening system. The design shown and claimed in the 205 Design Patent, 623 Design Patent

and 950 Design Patent is identical with the exception of which elements are shown in broken lines. Moreover, neither the 205 Design Patent, the 623 Design Patent nor the 950 Design Patent contain a terminal disclaimer with respect to one another or with respect to the 464 Patent and/or the 207 Patent—improperly lengthening the term of protection and creating the possibility of multiple suits by different assignees.

NINTH CAUSE OF ACTION
(Declaratory Judgment For Noninfringement and Invalidity of the 207 Patent)

82. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

83. There is an actual case or controversy between the Parties inasmuch as Stryker has asserted infringement by the Ferno Parties of “at least claims 1-7 of the 207 Patent” regarding “certain products, including but not limited to the F1 Fastener...” (1st Am. Compl., ¶ 379).

84. First, the Ferno Parties do not infringe, contribute to the infringement of, or actively induce others to infringe—either literally or under the doctrine of equivalents—any properly construed or valid claim of the 207 Patent, and the Ferno Parties are not liable for infringement thereof. By way of illustrative, non-exhaustive example, the Accused Products made by the Ferno Parties do not practice various limitations as required by the 207 Patent such as the undefined “fixed position” (discussed more fully below).

85. Second, the claims of the 207 Patent are invalid under Title 35 U.S.C. § 100 *et seq.*, including, without limitation, §§ 101, 102, 103, and/or 112 (including the requirements of enablement, definiteness and written description). By way of illustrative, non-exhaustive example, the claimed subject matter would have been obvious to a person having ordinary skill in the art to which said subject matter pertains as of the 207 Patent’s effective priority date. For example, relevant prior art (e.g., US 8,308,212; and US 6,796,757) alone or in combination with other prior

art (e.g., the references cited during prosecution) would render obvious all of the limitations of the asserted claims.

86. The Ferno Parties reserve the right to identify other prior art under 35 U.S.C. §§ 102 and 103 as it becomes available.

87. As another example, the 207 Patent is invalid as indefinite for failing to clearly set forth a definition for various claim terms (e.g., “fixed position”).

88. Stryker’s claim for infringement of the 207 Patent is also barred for the reasons set forth in the Ferno Parties’ Affirmative Defenses Above.

TENTH CAUSE OF ACTION
(Direct Infringement of U.S. 11,458,050)

89. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

90. Stryker has directly infringed—and continues to directly infringe—the ’050 Patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, and/or selling within the United States, and/or by importing into the United States, certain products, including but not limited to the Performance-LOAD System.

91. More specifically, the Ferno Parties provide the following examples to show that Stryker’s Performance-LOAD System infringes at least Claims 1, 4, 7, 10, 13 and 15 of the ’050 Patent as set forth in greater detail below.

Claim 1

92. Claim 1 of the ’050 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[1.0] **[1.0.1]** A cot fastening system **[1.0.2]** which fixes and holds within a transport vehicle **[1.0.3]** an emergency cot **[1.0.4]** having mounted thereon wheels, **[1.0.5]** a first fixture and **[1.0.6]** a second fixture,

said cot fastening system comprising:

- [1.1]** **[1.1.1]** a cot fastener track having **[1.1.2]** a longitudinal length with **[1.1.3]** opposite first and **[1.1.4]** second ends, **[1.1.5]** a pair of open side rails longitudinally extending between the first and second ends, and **[1.1.6]** a channel centrally located between the open side rails, **[1.1.7]** said open side rails being configured to align therewith, accommodate therein and guide together the first fixture of the cot along the longitudinal length of the cot fastener track towards the first end as the cot is rolled by the wheels within the vehicle and to retain the first fixture adjacent the first end at least vertically and laterally therein, and **[1.1.8]** said channel being configured to accommodate therein and retain the second fixture adjacent the second end at least vertically and laterally therein; and
- [1.2]** a securing mechanism operably selectable between secure and unsecure conditions, in which said secure condition prevents both removal of the first fixture from the open side rails and removal of the second fixtures from the channel.

93. Stryker's Performance-LOAD System is a "cot fastening system" (i.e., limitation **1.0.1**) which "fixes and holds within a transport vehicle" (i.e., limitation **1.0.2**) an "emergency cot" (i.e., limitation **1.0.3**) which has mounted wheels (i.e., limitation **1.0.4**) as the following annotated image shows:

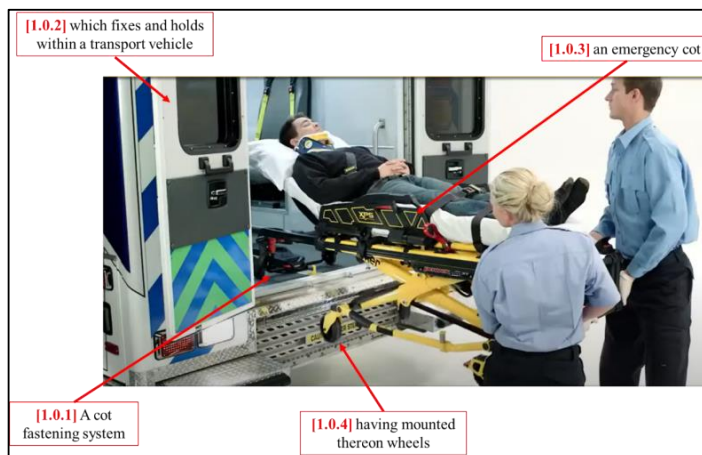


Figure 2³

³ Stryker Performance-LOAD Cot Fastening System video published on YouTube on August

94. Stryker's Performance-LOAD System also has a first fixture (i.e., limitation **1.0.5**) and a second fixture (i.e., limitation **1.0.6**) as the following annotated image shows:

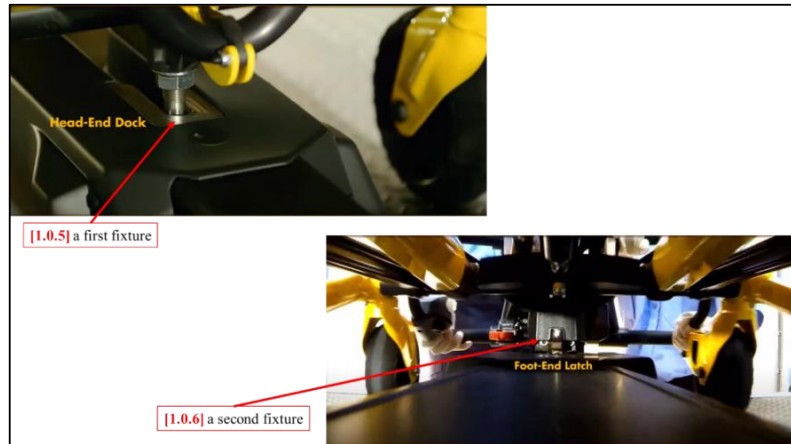


Figure 3⁴

95. Stryker's Performance-LOAD System also has a “cot fastener track” (i.e., limitation **1.1.1**), a “longitudinal length” (i.e., limitation **1.1.2**), opposite first and second ends (i.e., limitations **1.1.3** and **1.1.4**) and a “channel centrally located between the open side rails” (i.e., limitation **1.1.6**) as the following annotated image shows:

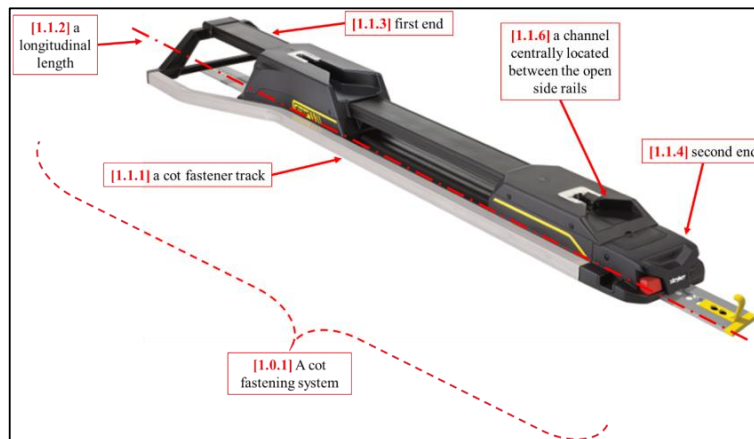


Figure 4⁵

16, 2017. Available at: <https://www.youtube.com/watch?v=EQ3ap1hPZvk> (last accessed November 28, 2022) (hereinafter “**Stryker YouTube Video**”).

⁴ Stryker YouTube Video.

⁵ Exhibit C, *Stryker Operations Manual*, pg. 1.

96. Stryker's Performance-LOAD System also has a "pair of open side rails longitudinally extending between the first and second ends" (i.e., limitation **1.1.5**) as the following annotated image shows:

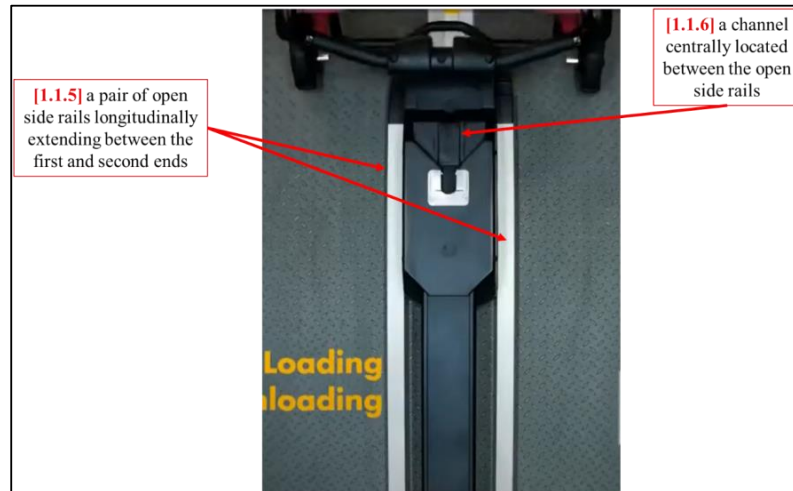


Figure 5⁶

97. Stryker's Performance-LOAD System also has "open side rails being configured to align therewith, accommodate therein and guide together the first fixture of the cot along the longitudinal length of the cot fastener track towards the first end as the cot is rolled by the wheels within the vehicle and to retain the first fixture adjacent the first end at least vertically and laterally therein" (i.e., limitation **1.1.7**) as the following annotated image shows:

⁶ Stryker YouTube Video.

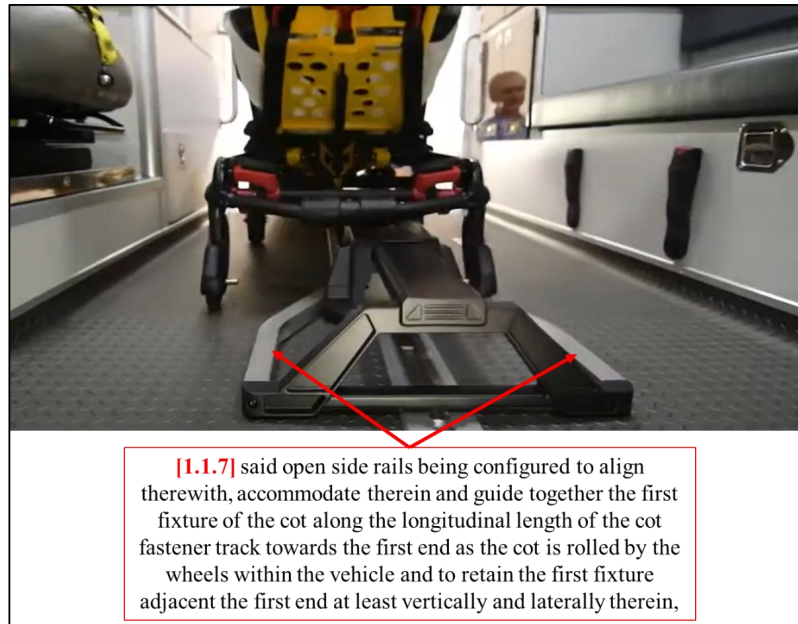


Figure 6⁷

98. This feature is also promoted by Stryker in its marketing literature. More specifically, Stryker’s marketing literature notes that the Performance-LOAD System includes a “[l]inear transfer system” which “[g]uides and centers the cot during loading and unloading” and “improves operator efficiency by reducing cot drift”.⁸

99. Stryker’s Performance-LOAD System also has “said channel being configured to accommodate therein and retain the second fixture adjacent the second end at least vertically and laterally therein” (i.e., limitation **1.1.8**) as the following annotated image shows:

⁷ Stryker YouTube Video.

⁸ Page 2 of the Stryker Performance-LOAD® Manual Fastener booklet (“**Stryker Booklet**”) a copy of which is attached hereto as **Exhibit D**.

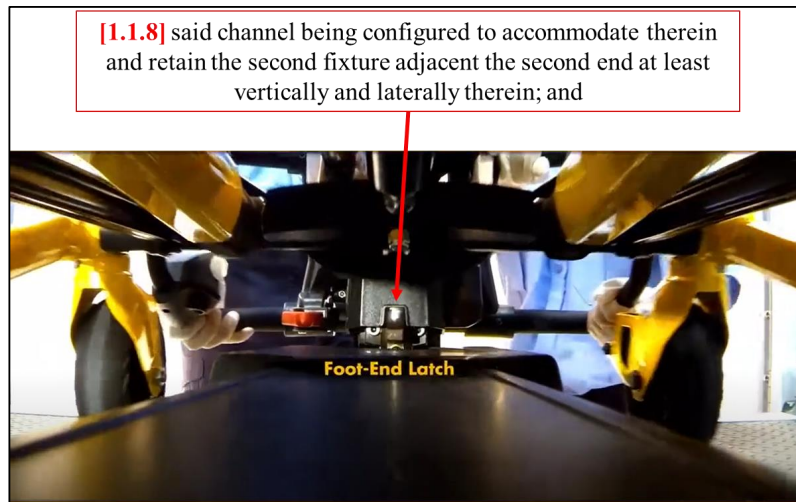


Figure 7⁹

100. Stryker's Performance-LOAD System also has a “securing mechanism operably selectable between secure and unsecure conditions, in which said secure condition prevents both removal of the first fixture from the open side rails and removal of the second fixtures from the channel” (i.e., limitation 1.2) as the following annotated image shows:

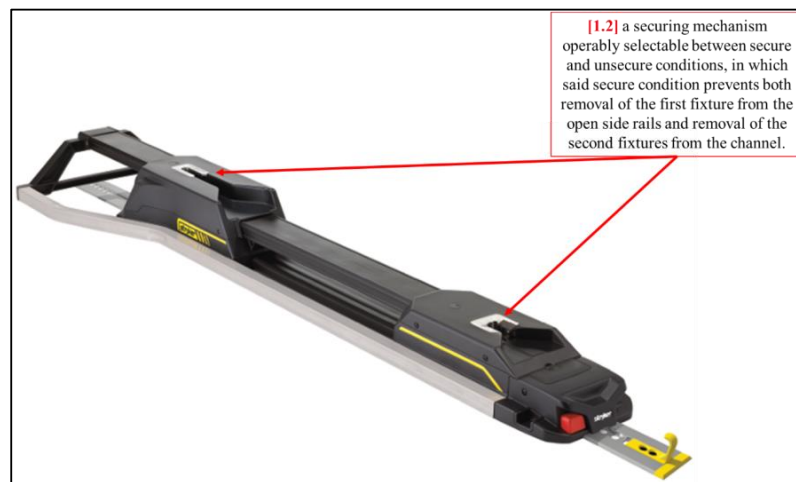


Figure 8¹⁰

101. Based on the above, it is clear that each and every limitation of Claim 1 of the '050

⁹ Stryker YouTube Video.

¹⁰ Exhibit C, Stryker Operations Manual, pg. 1.

Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker’s Performance-LOAD System.

Claim 4

102. Claim 4 of the ’050 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[4.0] The cot fastening system according to claim 1, wherein **[4.0.1]** the first end has a first width and **[4.0.2]** the second end has a second width that is smaller than the first width.

103. Stryker’s Performance-LOAD System is a “cot fastening system according to claim 1” as demonstrated above. The first end of Stryker’s Performance-LOAD System also has a “first width” (i.e., limitation **4.0.1**) while the second end of Stryker’s Performance-LOAD System has a “second width” (i.e., limitation **4.0.2**) as the following annotated image shows:

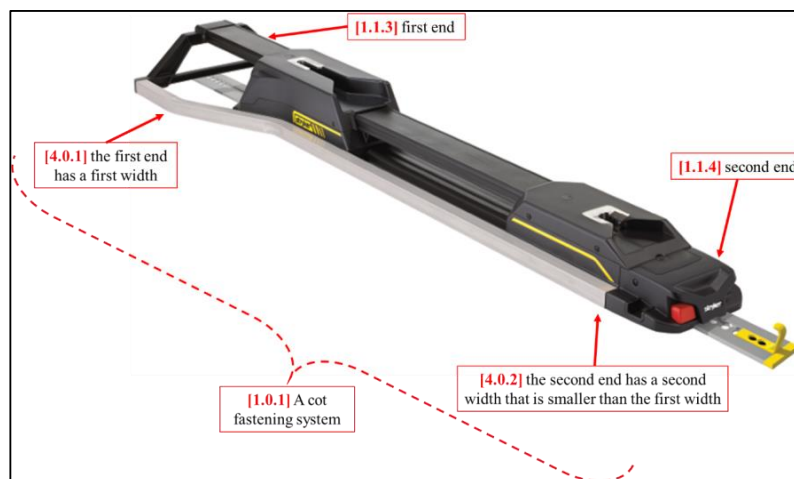


Figure 9¹¹

104. Based on the above, it is clear that each and every limitation of Claim 4 of the ’050 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker’s Performance-LOAD System.

¹¹ Exhibit C, *Stryker Operations Manual*, pg. 1.

Claim 7

105. Claim 7 of the '050 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[7.0] The cot fastening system according to claim 1, wherein at least one of the open side rails and the channel is configured to prevent movement of the first fixture beyond the first end of the cot fastener track.

106. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has "at least one of the open side rails and the channel is configured to prevent movement of the first fixture beyond the first end of the cot fastener track" (i.e., limitation **7.0**) as the following annotated image shows:

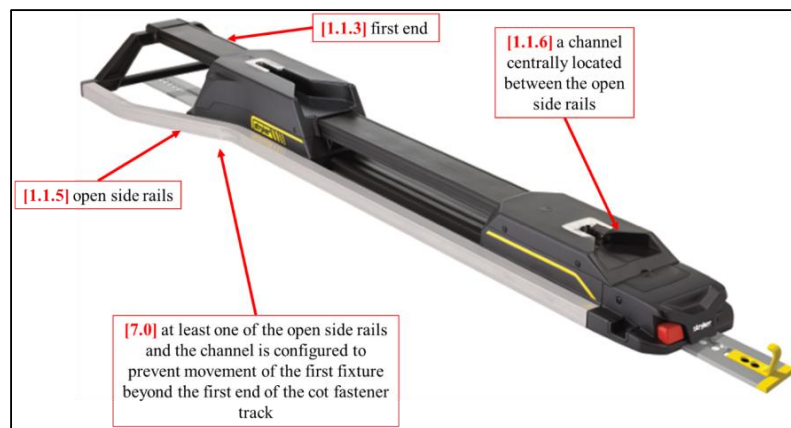


Figure 10¹²

107. Based on the above, it is clear that each and every limitation of Claim 7 of the '050 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 10

108. Claim 10 of the '050 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

¹² Exhibit C, *Stryker Operations Manual*, pg. 1.

[10.0] The cot fastening system according to claim 1, wherein the securing mechanism is located in the channel.

109. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has "the securing mechanism" "located in the channel" (i.e., limitation **10.0**) as the following annotated image shows:

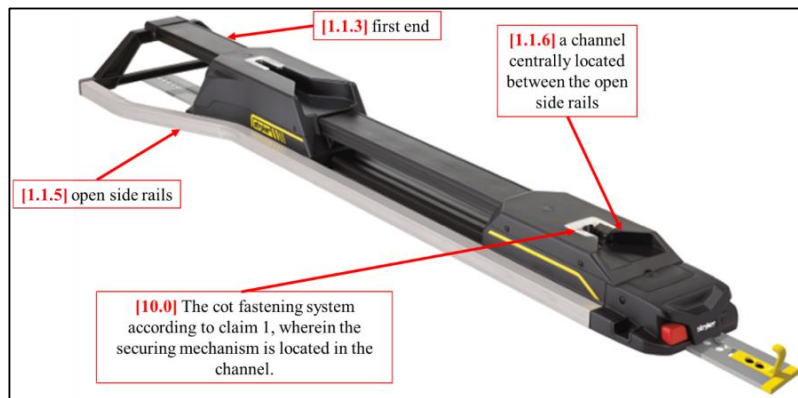


Figure 11¹³

110. Based on the above, it is clear that each and every limitation of Claim 10 of the '050 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 13

111. Claim 13 of the '050 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[13.0] The cot fastening system according to claim 1, wherein the cot fastener track is configured to provide power to the cot when secured thereto.

112. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Moreover, according to marketing material published by Stryker, the

¹³ Exhibit C, *Stryker Operations Manual*, pg. 1.

Performance-LOAD System includes an optional “inductive charging” system which “Charges the SMRT battery when in transport position (no cable or connectors required).”¹⁴

113. Based on the above, it is clear that each and every limitation of Claim 13 of the ’050 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker’s Performance-LOAD System.

114. Based on the above, it is clear that each and every limitation of Claim 13 of the ’050 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker’s Performance-LOAD System.

Claim 15

115. Claim 15 of the ’050 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[15.0] [15.0.1] A method of fixing and holding [15.0.2] within a transport vehicle [15.0.3] an emergency cot [15.0.4] having wheels mounted thereon, [15.0.5] a first fixture and [15.0.6] a second fixture, said method comprises:

[15.1] [15.1.1] rolling the cot by the wheels within the transport vehicle [15.1.2] having a cot fastener track according to any one of the proceeding claims, [15.1.3] wherein the first fixture is aligned therewith, accommodated therein and guided by the open side rails along the longitudinal length of the cot fastener track towards the first end and then retained adjacent the first end at least vertically and laterally therein, [15.1.4] wherein the second fixture is accommodated and retained adjacent the second end at least vertically and laterally therein by the channel, and [15.1.5] wherein the securing mechanism automatically in said secure condition prevents both removal of the first fixture from the open side rails and removal of the second fixtures from the channel.

116. Stryker’s Performance-LOAD System is operated following a method of “fixing and holding” (i.e., limitation 15.0.1) within a transport vehicle (i.e., limitation 15.0.2) an

¹⁴ Exhibit D, *Stryker Booklet*, pgs. 1-2.

emergency cot (i.e., **15.0.3**) having wheels mounted thereon (i.e., limitation **15.0.4**). Stryker's Performance-LOAD System is operated by "rolling the cot by the wheels within the transport vehicle" (i.e., limitation **15.1.1**) as the following annotated image shows:

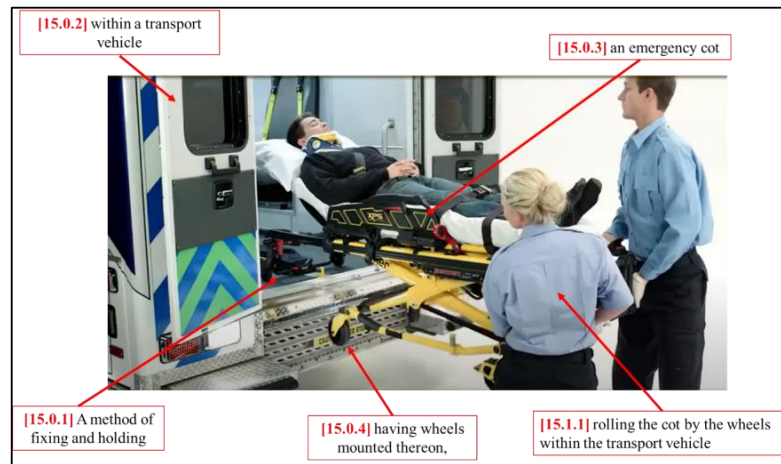


Figure 12¹⁵

117. Stryker's Performance-LOAD System is further operated following a method of using an emergency cot which has a "first fixture" (i.e., limitation **15.0.5**) and a "second fixture" (i.e., limitation **15.0.6**) as the following annotated image shows:

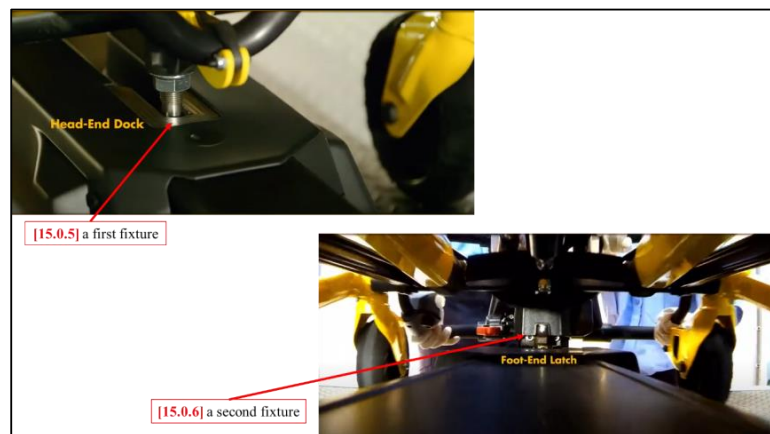


Figure 13¹⁶

118. Stryker's Performance-LOAD System is further operated following a method of

¹⁵ Stryker YouTube Video.

¹⁶ Stryker YouTube Video.

“having a cot fastener track according to any one of the proceeding claims” (i.e., limitation **15.1.3** which is satisfied in view of the infringement analysis as to Claims 1, 4, 7, 10 and 13 noted above) and wherein “the securing mechanism automatically in said secure condition prevents both removal of the first fixture from the open side rails and removal of the second fixtures from the channel” (i.e., limitation **15.1.5**) as the following annotated image shows:

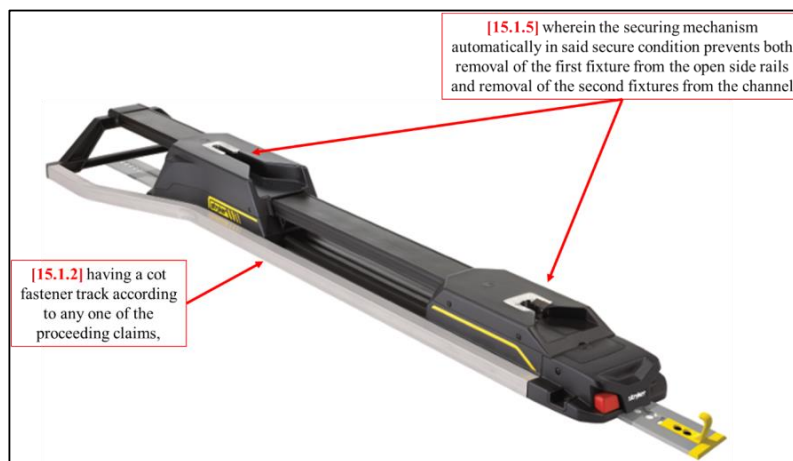


Figure 14¹⁷

119. Moreover, it is clear from videos showing the operation of the Stryker Performance-LOAD System that the securing mechanism of same automatically engages the first and second fixtures of the ambulance cot.¹⁸

120. Stryker’s Performance-LOAD System is further operated following a method “wherein the first fixture is aligned therewith, accommodated therein and guided by the open side rails along the longitudinal length of the cot fastener track towards the first end and then retained adjacent the first end at least vertically and laterally therein” (i.e., limitation **15.1.3**) as the following annotated image shows:

¹⁷ Exhibit C, *Stryker Operations Manual*, pg. 1.

¹⁸ *Stryker YouTube Video*.

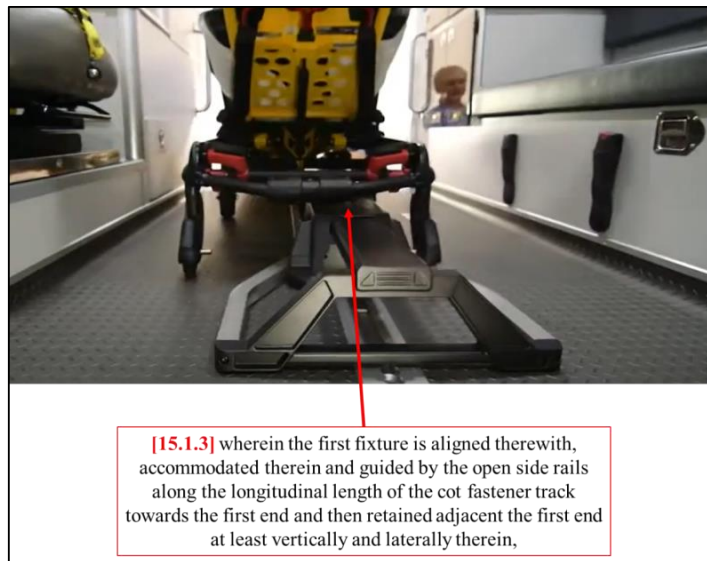


Figure 15¹⁹

121. Stryker's Performance-LOAD System is further operated following a method "wherein the second fixture is accommodated and retained adjacent the second end at least vertically and laterally therein by the channel" (i.e., limitation 15.1.4) as the following annotated image shows:

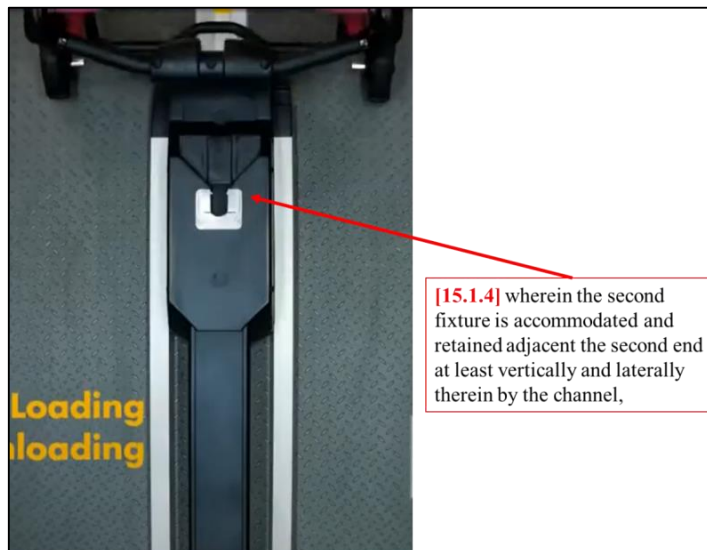


Figure 16²⁰

¹⁹ Stryker YouTube Video.

²⁰ Stryker YouTube Video.

122. Based on the above, it is clear that each and every limitation of Claim 15 of the '050 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

123. Based on the above, it is clear that Stryker, whether during the course of its manufacture or testing of the Performance-LOAD System, has performed each and every step of the method of Claim 15 of the '050 Patent.

124. On information and belief, at all relevant times, Stryker knew or was willfully blind to how the Performance-LOAD System infringes the '050 Patent.

125. Unless enjoined by this Court, Defendants will continue to infringe the '050 Patent and, as a direct result, the Ferno Parties will continue to suffer harm, including irreparable harm for which there is no adequate remedy at law. Accordingly, the Ferno Parties are entitled to injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

ELEVENTH CAUSE OF ACTION
(Induced Infringement of U.S. 11,458,050)

126. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

127. To the extent Stryker contends that the '050 Patent cannot be infringed unless and until its Performance-LOAD System is combined with a transport vehicle and/or emergency cot, Stryker has indirectly infringed—and continues to indirectly infringe—the '050 Patent by inducing its customers to infringe the '050 Patent through their use of the Performance-LOAD System in a transport vehicle to secure an emergency cot, such being the intended, designed, and instructed use of Stryker's Performance-LOAD System.

128. On information and belief, despite Stryker's knowledge of the '050 Patent and its knowledge that customers will necessarily infringe the '050 Patent when the Performance-LOAD

System is used as instructed within a transport vehicle to secure an emergency cot, Stryker has encouraged, and continues to encourage, direct infringement by its customers.

129. Stryker has been and is actively inducing infringement of the '050 Patent by actively and knowingly inducing third parties such as customers (e.g., hospitals, EMS providers, and EMS personnel) to commit acts that Stryker knows constitutes infringement of the '050 Patent (including, most notably, Claim 15).

130. On information and belief, Stryker actively and knowingly intended to aid, abet, direct, encourage, or otherwise instruct such third parties by Stryker's offer for sale and sale of the Performance-LOAD System and instructions to infringe the '050 Patent by using the Performance-LOAD System within a transport vehicle to secure an emergency cot.

131. Stryker encourages infringement by customers at least by providing product promotional materials and guides, as discussed above (including, without limitation, instructions provided in both Stryker's printed booklets, operations manual and/or videos Stryker produced) that instruct users on how to use the Performance-LOAD System in an infringing manner. Stryker has intended and continues to specifically intend to induce infringement of the '050 Patent.

132. The manner in which Stryker encourages and instructs its customers to infringe Claims 1, 4, 7, 10, 13 and 15 of the '050 Patent is described more fully in Paragraphs 92 – 122 of this Counterclaim, which are incorporated herein by reference. As described in those portions of the Counterclaim, Stryker instructs its customers to complete the system and practice the method by using the Performance-LOAD System within a transport vehicle to secure an emergency cot.

133. Unless enjoined by this Court, Stryker will continue to induce infringement of the '050 Patent and, as a direct result, the Ferno Parties will continue to suffer harm, including irreparable harm for which there is no adequate remedy at law. Accordingly, the Ferno Parties are

entitled to injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

TWELFTH CAUSE OF ACTION
(Contributory Infringement of U.S. 11,458,050)

134. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

135. To the extent Stryker contends that the '050 Patent cannot be infringed unless and until its Performance-LOAD System is combined with a transport vehicle and/or emergency cot, Stryker contributes to infringement of the '050 Patent by its customers in violation of 35 U.S.C. §271(c).

136. The manner in which Stryker's Performance-LOAD System contributes to its customers' infringement of Claims 1, 4, 7, 10, 13 and 15 of the '050 Patent is described more fully in Paragraphs 92 – 122 of this Counterclaim, which are incorporated herein by reference.

137. On information and belief, Stryker was aware of the '050 Patent at all relevant times, as discussed above. Stryker sells and offers for sale within the United States the Performance-LOAD System knowing that same constitutes a material part of the claimed invention of the '050 Patent (including, inter alia, Claim 15), knowing that the Performance-LOAD System is especially made or especially adapted for use in infringing the '050 Patent, and knowing that the Performance-LOAD System is not a staple article or commodity of commerce suitable for substantial non-infringing use.

138. Unless enjoined by this Court, Stryker will continue to contribute to its customers' infringement of the '050 Patent and, as a direct result, the Ferno Parties will continue to suffer harm, including irreparable harm for which there is no adequate remedy at law. Accordingly, the Ferno Parties are entitled to injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

THIRTEENTH CAUSE OF ACTION
(Direct Infringement of U.S. 10,568,787)

139. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

140. Stryker has directly infringed—and continues to directly infringe—the '787 Patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, and/or selling within the United States, and/or by importing into the United States, certain products, including but not limited to the Performance-LOAD System.

141. More specifically, the Ferno Parties provide the following examples to show that Stryker's Performance-LOAD System infringes at least Claims 1-5, 9, 11, 16 and 20-22 of the '787 Patent as set forth in greater detail below.

Claim 1

142. Claim 1 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

- [1.0] [1.0.1] A cot fastening system which [1.0.2] fixes and holds to a floor of a transport vehicle [1.0.3] an emergency cot [1.0.4] having mounted thereon load wheels, [1.0.5] a first fixture and [1.0.6] a second fixture, said cot fastening system comprising:
 - [1.1] [1.1.1] a cot fastener track for mounting to the floor of the transport vehicle and having [1.1.2] a longitudinal length with [1.1.3] opposite first and [1.1.4] second ends that define [1.1.5] a loading direction therebetween, [1.1.6] the first end being wider than the second end, and
 - [1.2] [1.2.1] first and [1.2.2] second central channels spaced-apart and aligned coaxially with respect to each other in the loading direction along the longitudinal length in a fixed relationship between the first and second ends, [1.2.3] wherein the second central channel is arranged lower in height relative to the floor than said first central channel such that the first fixture passes over the second central channel when the cot is moved in the loading direction.

143. Stryker's Performance-LOAD System is a "cot fastening system" (i.e., limitation **1.0.1**) which "fixes and holds to a floor of a transport vehicle" (i.e., limitation **1.0.2**) an "emergency cot" (i.e., limitation **1.0.3**) which has mounted "load wheels" (i.e., limitation **1.0.4**) as the following annotated image shows:

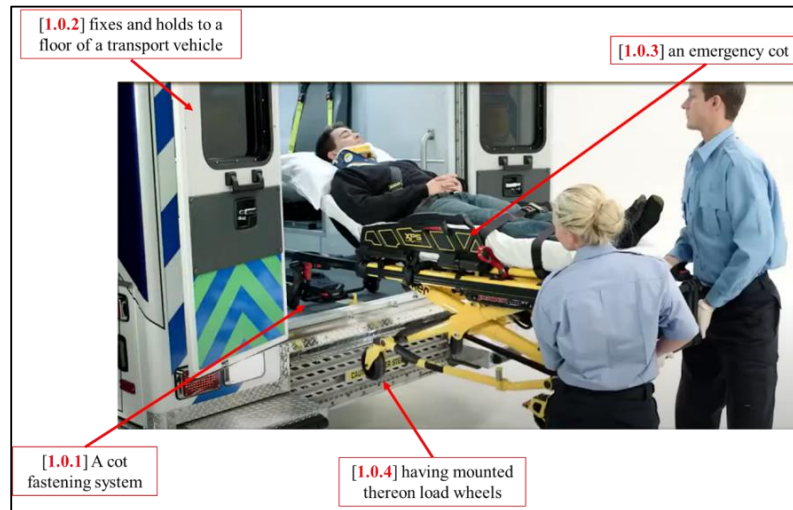


Figure 17²¹

144. Stryker's Performance-LOAD System also has a first fixture (i.e., limitation **1.0.5**) and a second fixture (i.e., limitation **1.0.6**) as the following annotated image shows:



Figure 18²²

²¹ Stryker YouTube Video.

²² Stryker YouTube Video.

145. Stryker’s Performance-LOAD System also has a “cot fastener track for mounting to the floor of the transport vehicle” (i.e., limitation **1.1.1**) which has a “longitudinal length” (i.e., limitation **1.1.2**) with opposite first and second ends (i.e., limitations **1.1.3** and **1.1.4**) that define “a loading direction therebetween” (i.e., limitation **1.1.5**) with the “first end being wider than the second end, and (i.e., limitation **1.1.6**) as the following annotated image shows:

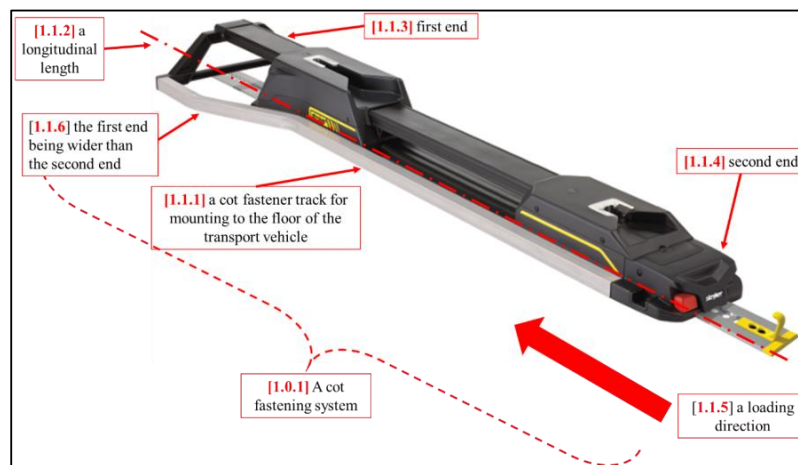


Figure 19²³

146. Stryker’s Performance-LOAD System also has first and second central channels (i.e., limitations **1.2.1** and **1.2.2**) which are “spaced-apart and aligned coaxially with respect to each other in the loading direction along the longitudinal length in a fixed relationship between the first and second ends” where the “second central channel is arranged lower in height relative to the floor” than the first central channel (i.e., limitation **1.2.3**) such that “the first fixture passes over the second central channel when the cot is moved in the loading direction” as the following two annotated images show:

²³ Exhibit C, *Stryker Operations Manual*, pg. 1.

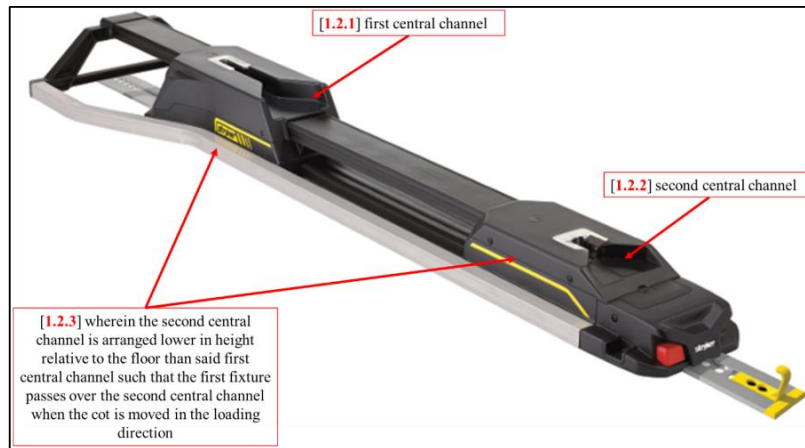


Figure 20²⁴

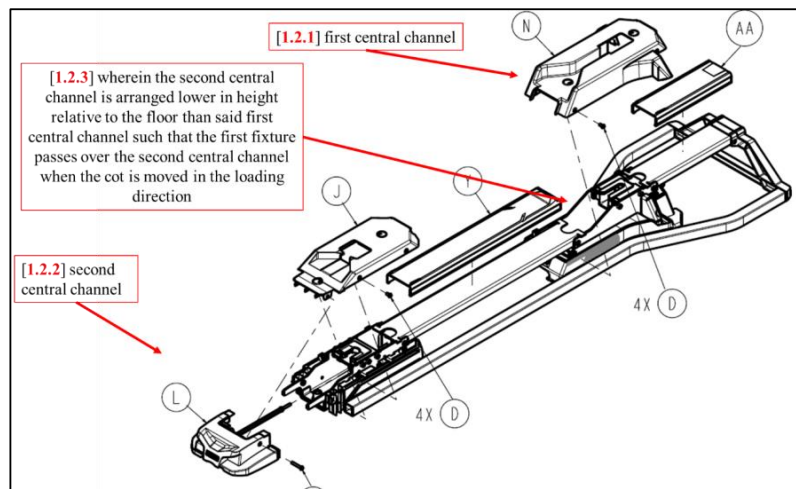


Figure 21²⁵

147. Based on the above, it is clear that each and every limitation of Claim 1 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 2

148. Claim 2 of the '787 Patent reads as follows (*N.B.* reference numerals have been

²⁴ Exhibit C, *Stryker Operations Manual*, pg. 1.

²⁵ Annotated image from page 26 of the *Stryker Performance-LOAD™ Cot Fastener System Maintenance Manual* ("**Stryker Maintenance Manual**") a copy of which is attached hereto as **Exhibit E**.

interlineated in bracketed red text for ease of reference):

[2.0] The cot fastening system according to claim 1, wherein the second central channel is located closer to the second end than the first central channel is to the first end.

149. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has the "second central channel is located closer to the second end than the first central channel is to the first end" (i.e., limitation 2.0) as the following annotated image shows:

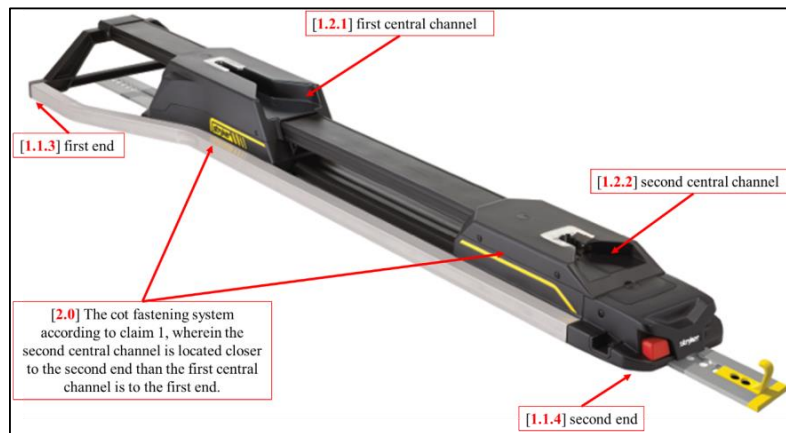


Figure 22²⁶

150. Based on the above, it is clear that each and every limitation of Claim 2 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 3

151. Claim 3 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[3.0] The cot fastening system according to claim 1, wherein the cot fastener track has a pair of opposed sidewalls longitudinally extending between the first and second ends.

²⁶ Exhibit C, *Stryker Operations Manual*, pg. 1.

152. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has "a pair of opposed sidewalls longitudinally extending between the first and second ends" (i.e., limitation 3.0) as the following annotated composite image shows:

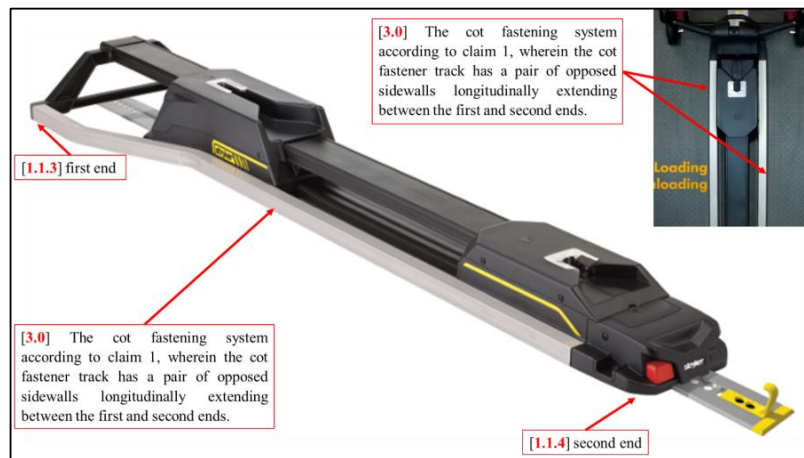


Figure 23²⁷

153. Based on the above, it is clear that each and every limitation of Claim 3 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 4

154. Claim 4 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[4.0] The cot fastening system according to claim 1, wherein the cot fastener track is shaped to guide the first fixture of the cot along the longitudinal length towards the first end and into alignment with the first central channel as the cot is rolled by the load wheels within the vehicle.

155. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has a cot fastener track

²⁷ Exhibit C, *Stryker Operations Manual*, pg. 1.

“shaped to guide the first fixture of the cot along the longitudinal length towards the first end and into alignment with the first central channel as the cot is rolled by the load wheels within the vehicle” (i.e., limitation **4.0**) as the following three annotated images show:

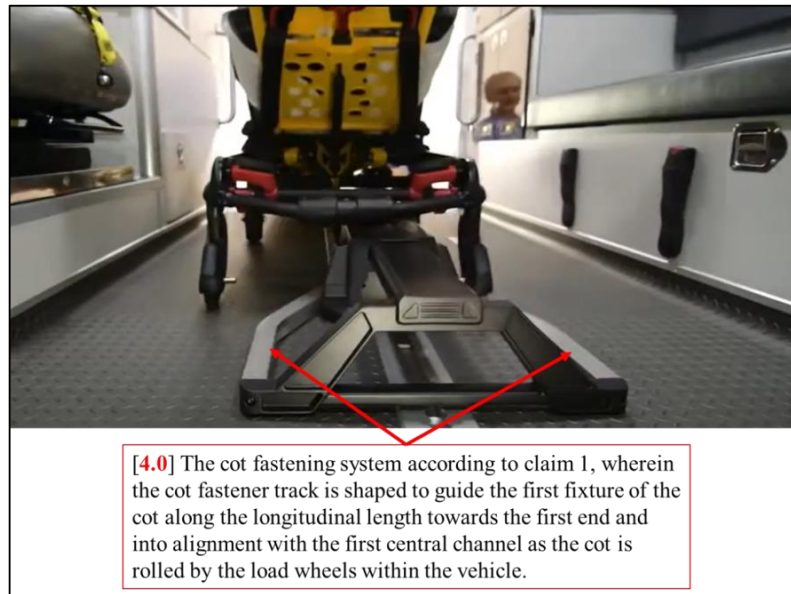


Figure 24²⁸

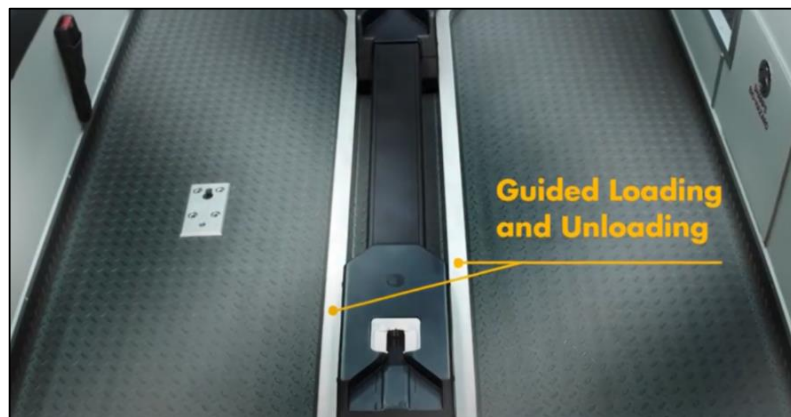


Figure 25²⁹

²⁸ Stryker YouTube Video.

²⁹ Stryker YouTube Video.



Figure 26³⁰

156. Based on the above, it is clear that each and every limitation of Claim 4 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 5

157. Claim 5 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[5.0] The cot fastening system according to claim 1, wherein a portion of the cot fastener track tapers from a first width to a second width.

158. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has "a portion of the cot fastener track" which "tapers from a first width to a second width" (i.e., limitation 5.0) as the following annotated image shows:

³⁰ Stryker YouTube Video.

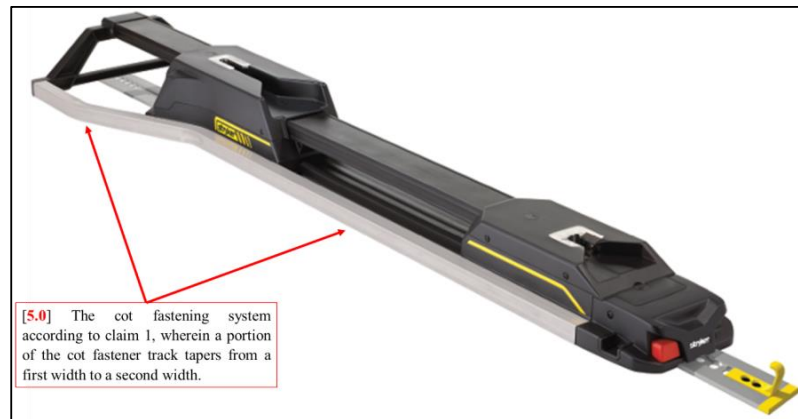


Figure 27³¹

159. Based on the above, it is clear that each and every limitation of Claim 5 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 9

160. Claim 9 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[9.0] The cot fastening system according to claim 1, wherein the cot fastener track is configured to provide power to the cot when secured thereto via charging connectors.

161. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has a cot fastener track which "configured to provide power to the cot when secured thereto via charging connectors" (i.e., limitation 9.0) as the following annotated image shows:

³¹ Exhibit C, *Stryker Operations Manual*, pg. 1.

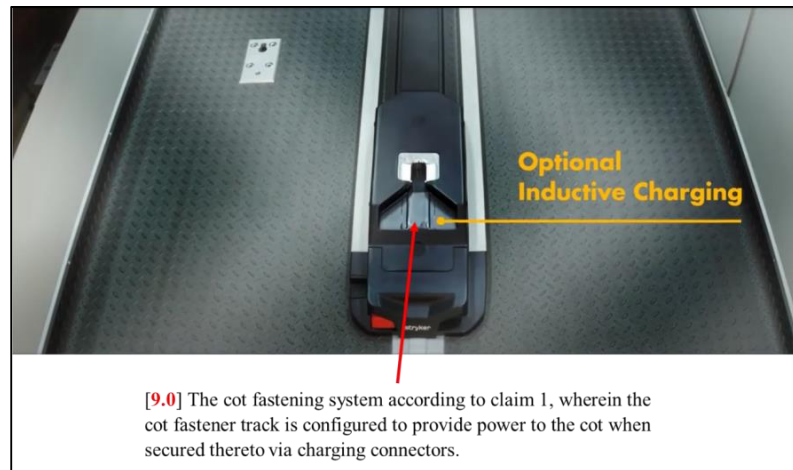


Figure 28³²

162. Moreover, according to marketing material published by Stryker, the Performance-LOAD System includes an optional “inductive charging” system which “Charges the SMRT battery when in transport position (no cable or connectors required).”³³

163. Based on the above, it is clear that each and every limitation of Claim 9 of the ’787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker’s Performance-LOAD System.

Claim 11

164. Claim 11 of the ’787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[11.0] The cot fastening system according to claim 1, wherein the first central channel and the second central channel each have a [11.0.1] first side-to-side channel width that is smaller than [11.0.2] a second side-to-side channel width, the first side-to-side channel width being closer to the first end than the second side-to-side channel width.

165. Stryker’s Performance-LOAD System is a “cot fastening system according to claim

³² Stryker YouTube Video.

³³ Exhibit D, *Stryker Booklet*, pgs. 1-2.

1” as demonstrated above. Stryker’s Performance-LOAD System also has its first and second central channels having a “first side-to-side channel width that is smaller than a second side-to-side channel width” (i.e., limitations **11.0.1** and **11.0.2**) where the “first side-to-side channel width being closer to the first end than the second side-to-side channel width” as the following three annotated image shows:

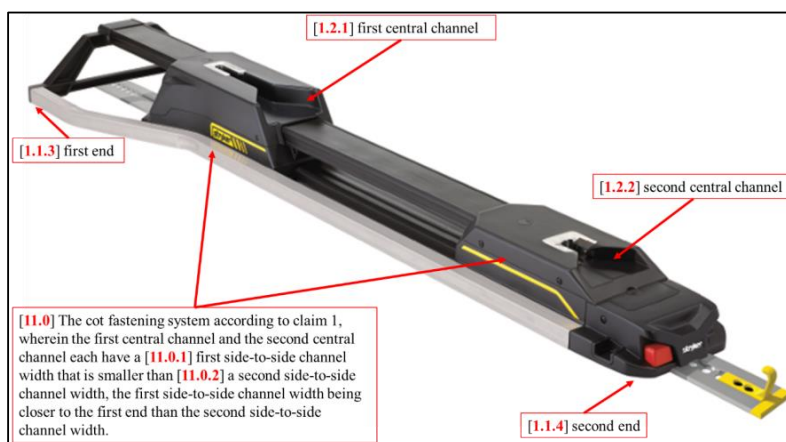


Figure 29³⁴



Figure 30³⁵

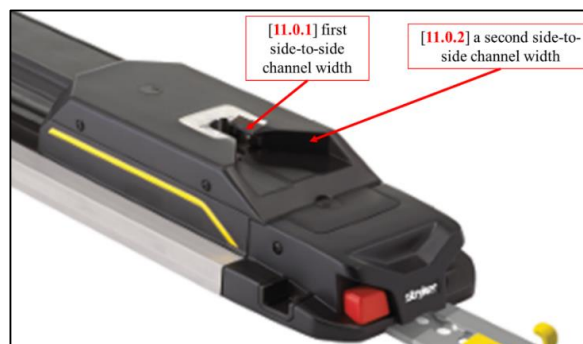


Figure 31³⁶

166. Based on the above, it is clear that each and every limitation of Claim 11 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by

³⁴ Exhibit C, *Stryker Operations Manual*, pg. 1.

³⁵ Exhibit C, *Stryker Operations Manual*, pg. 1.

³⁶ Exhibit C, *Stryker Operations Manual*, pg. 1.

Stryker's Performance-LOAD System.

Claim 16

167. Claim 16 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[16.0] The cot fastening system according to claim 1, wherein the cot fastener track has a fixed safety hook adjacent the second end.

168. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has a cot fastener track with a "fixed safety hook adjacent the second end" (i.e., limitation 16.0) as the following annotated image shows:



Figure 32³⁷

169. Based on the above, it is clear that each and every limitation of Claim 16 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 20

170. Claim 20 of the '787 Patent reads as follows (*N.B.* reference numerals have been

³⁷ Exhibit C, *Stryker Operations Manual*, pg. 1.

interlineated in bracketed red text for ease of reference):

[20.0] The cot fastening system according to claim 1, wherein the cot fastener track has a locking mechanism operably selectable between secure and unsecure conditions, in which said secure condition prevents removal of the second fixture from the second central channel.

171. Stryker's Performance-LOAD System is a "cot fastening system according to claim 1" as demonstrated above. Stryker's Performance-LOAD System also has a cot fastener track with "a locking mechanism operably selectable between secure and unsecure conditions, in which said secure condition prevents removal of the second fixture from the second central channel" (i.e., limitation 20.0) as the following annotated image shows:

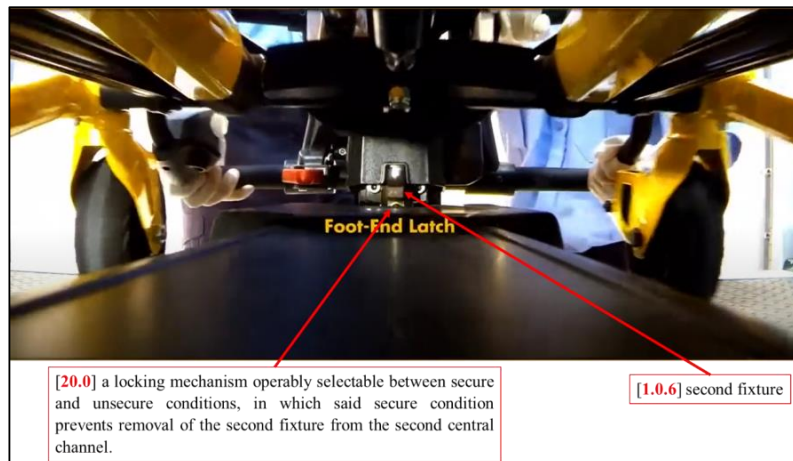


Figure 33³⁸

172. Based on the above, it is clear that each and every limitation of Claim 20 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 21

173. Claim 21 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

³⁸ Stryker YouTube Video.

[21.0] The cot fastening system according to claim 20, wherein the locking mechanism is operable to be placed in the unsecure condition via a wireless remote control or a pushbutton.

174. Stryker's Performance-LOAD System is a "cot fastening system according to claim 20" as demonstrated above. Stryker's Performance-LOAD System also has a "locking mechanism" which is "operable to be placed in the unsecure condition via a wireless remote control or a pushbutton" (i.e., limitation 21.0), namely, via a pushbutton as the following three annotated image shows:



Figure 34³⁹



Figure 35⁴⁰

³⁹ Exhibit C, *Stryker Operations Manual*, pg. 1.

⁴⁰ *Stryker YouTube Video*.



Figure 36⁴¹

175. Based on the above, it is clear that each and every limitation of Claim 21 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

Claim 22

176. Claim 22 of the '787 Patent reads as follows (*N.B.* reference numerals have been interlineated in bracketed red text for ease of reference):

[22.0] The cot fastening system according to claim 20, wherein the locking mechanism is located in the second central channel.

177. Stryker's Performance-LOAD System is a “cot fastening system according to claim 20” as demonstrated above. Stryker's Performance-LOAD System also has a “locking mechanism” “located in the second central channel” (i.e., limitation 22.0) as the following annotated image shows:

⁴¹ Stryker YouTube Video.

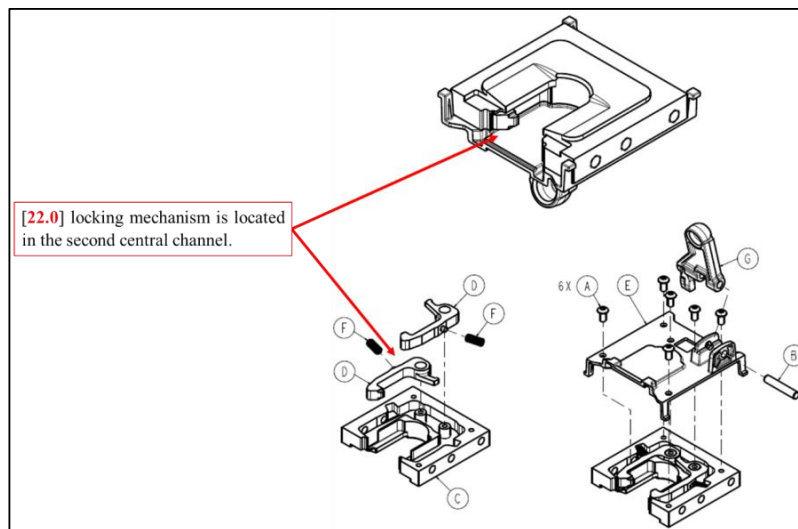


Figure 37⁴²

178. Based on the above, it is clear that each and every limitation of Claim 22 of the '787 Patent is directly infringed—either literally or under the doctrine of equivalents—by Stryker's Performance-LOAD System.

179. On information and belief, at all relevant times, Stryker knew or was willfully blind to how the Performance-LOAD System infringes the '787 Patent.

180. Unless enjoined by this Court, Defendants will continue to infringe the '787 Patent and, as a direct result, the Ferno Parties will continue to suffer harm, including irreparable harm for which there is no adequate remedy at law. Accordingly, the Ferno Parties are entitled to injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

FOURTEENTH CAUSE OF ACTION
(Induced Infringement of U.S. 10,568,787)

181. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

182. To the extent Stryker contends that the '787 Patent cannot be infringed unless and

⁴² Exhibit E, *Stryker Maintenance Manual*, pg. 33.

until its Performance-LOAD System is combined with a transport vehicle and/or an emergency cot, Stryker has indirectly infringed—and continues to indirectly infringe—the '787 Patent by inducing its customers to infringe the '787 Patent through their use of the Performance-LOAD System in a transport vehicle to secure an emergency cot, such being the intended, designed, and instructed use of Stryker's Performance-LOAD System.

183. On information and belief, despite Stryker's knowledge of the '787 Patent and its knowledge that customers will necessarily infringe the '787 Patent when the Performance-LOAD System is used as instructed, Stryker has encouraged, and continues to encourage, infringement.

184. Stryker has been and is actively inducing infringement of the '787 Patent by actively and knowingly inducing third parties such as customers (e.g., hospitals, EMS providers, and EMS personnel) to commit acts that Stryker knows constitutes infringement of the '787 Patent.

185. On information and belief, Stryker actively and knowingly intended to aid, abet, direct, encourage, or otherwise instruct such third parties by Stryker's offer for sale and sale of the Performance-LOAD System and instructions to infringe the '787 Patent by using the Performance-LOAD System within a transport vehicle to secure an emergency cot.

186. Stryker encourages infringement by customers at least by providing product promotional materials and guides, as discussed above (including, without limitation, instructions provided in both Stryker's printed booklets, operations manual and/or videos Stryker produced) that instruct users on how to use the Performance-LOAD System in an infringing manner. Stryker has intended and continues to specifically intend to induce infringement of the '787 Patent.

187. The manner in which Stryker encourages and instructs its customers to infringe Claims 1-5, 9, 11, 16 and 20-22 of the '787 Patent is described more fully in Paragraphs 142 – 178 of this Counterclaim, which are incorporated herein by reference. As described in those portions

of the Counterclaim, Stryker instructs its customers to complete the system by using the Performance-LOAD System within a transport vehicle to secure an emergency cot.

188. Unless enjoined by this Court, Stryker will continue to induce infringement of the '787 Patent and, as a direct result, the Ferno Parties will continue to suffer harm, including irreparable harm for which there is no adequate remedy at law. Accordingly, the Ferno Parties are entitled to injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

FIFTEENTH CAUSE OF ACTION
(Contributory Infringement of U.S. 10,568,787)

189. The Ferno Parties reallege and incorporate by reference the allegations of Paragraphs 1 through 25 of this Counterclaim as if fully set forth herein.

190. To the extent Stryker contends that the '787 Patent cannot be infringed unless and until its Performance-LOAD System is combined with a transport vehicle and/or an emergency cot, Stryker contributes to infringement of the '787 Patent by its customers in violation of 35 U.S.C. §271(c).

191. The manner in which Stryker's Performance-LOAD System contributes to its customers' infringement of Claims 1-5, 9, 11, 16 and 20-22 of the '787 Patent is described more fully in Paragraphs 142 – 178 of this Counterclaim, which are incorporated herein by reference.

192. On information and belief, Stryker was aware of the '787 Patent at all relevant times, as discussed above. Stryker sells and offers for sale within the United States the Performance-LOAD System knowing that same constitutes a material part of the claimed inventions of the '787 Patent, knowing that the Performance-LOAD System is especially made or especially adapted for use in infringing the '787 Patent, and knowing that the Performance-LOAD System is not a staple article or commodity of commerce suitable for substantial non-infringing use.

193. Unless enjoined by this Court, Stryker will continue to contribute to its customers' infringement of the '787 Patent and, as a direct result, the Ferno Parties will continue to suffer harm, including irreparable harm for which there is no adequate remedy at law. Accordingly, the Ferno Parties are entitled to injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

REQUEST FOR RELIEF

WHEREFORE, Defendants and Counterclaimants, the Ferno Parties, respectfully request that the Court enter an Order:

A. Dismissing Plaintiffs' Amended Complaint and all of Plaintiffs' claims against Defendants with prejudice;

B. Declaring that Defendants have not infringed and do not directly, indirectly, willfully or otherwise infringe, contribute to the infringement of, or actively induce others to infringe any asserted claim of the Asserted Patents

C. Declaring that the Asserted Patents are invalid;

D. Declaring that Plaintiffs' claims under the Asserted Patents are barred;

E. Awarding Defendants damages for patent infringement in an amount to be determined at trial;

F. An order trebling damages pursuant to 35 U.S.C. § 284 as a result of Stryker's willful infringement;

G. Declaring that this is an exceptional case pursuant to 35 U.S.C. § 285 and award Defendants its attorneys' fees and full costs of suit; and

H. Awarding Defendants such other and further relief as this Court deems just and appropriate.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Defendants respectfully demand a trial by jury as to all issues in this lawsuit so triable.

Dated: October 11, 2023

Respectfully submitted,

VORYS, SATER, SEYMOUR AND PEASE LLP

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*Counsel for Defendants Ferno-Washington,
Inc. and Ferno Group, Inc.*

CERTIFICATE OF SERVICE

A copy of the foregoing was file this 11th day of October, 2023, and will be served on all counsel of record through the Court's electronic filing system.

/s/ Michael J. Garvin

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