

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

DENSTPLY INTERNATIONAL INC.

Plaintiff,

v.

US ENDODONTICS, LLC

Defendant.

Civil Action No. _____

DECLARATION OF JOHN VOSKUIL

I, John Voskuil, affirm and declare as follows:

1. I am currently am the Vice President and General Manager for Tulsa Dental Products, LLC d/b/a Tulsa Dental Specialties ("TDS"), a subsidiary of Dentsply International Inc., Plaintiff in this action. I have held this position since May 1, 2013. In my position as Vice President and General Manager I am responsible for the overall management of the United States and Canadian endodontic business and associate product portfolio, including; NiTi and Stainless Steel endodontic files, obturation, endodontic irrigation, related equipment and other related endodontic products

2. I submit this declaration in support of Dentsply's Motion for a Preliminary Injunction. All statements contained herein as to Dentsply are based upon my personal knowledge, including those relating to the organization and operation of both TDS and Dentsply International Inc. All statements contained herein as to persons and/or entities other than Dentsply and matters unrelated to Dentsply, such as the sales and marketing activities of US Endodontics, LLC ("US Endodontics") and Edge Endo, LLC ("Edge Endo") are based upon my knowledge, information and belief.

GOLD STANDARD EXHIBIT 2006
US ENDODONTICS v. GOLD STANDARD
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3. Dentsply is a Delaware corporation with its principal place of business in York, Pennsylvania.

4. Dentsply has been in the business of selling high quality dental products since 1899, making it one of the world's oldest and largest designer, developer, manufacturer, and marketer of a broad range of consumable dental products for the professional dental market. Dentsply's principal product categories include dental consumable products, dental laboratory products, dental specialty products, and consumable medical device products.

5. Dentsply began selling nickel-titanium endodontic dental files for use in rotating drills in 1994. Since that time, Dentsply has continued to expand and improve its product offerings by introducing additional nickel-titanium endodontic files. Dentsply sells several different nickel-titanium rotary and reciprocating endodontic dental files including the ProFile®, ProTaper®, GT-Series®, Vortex® and WaveOne® products.

6. In December 2011, Dentsply first offered its innovative post-machined, heat-treated ("post-heat-treated") nickel-titanium endodontic file, the Vortex Blue® for sale, and the official product launch occurred in February 2012. Dentsply also sells other post-heat-treated, nickel-titanium endodontic files, such as the ProTaper Gold® which was introduced in February 2014. Because it is post-heat-treated, the Vortex Blue® file, when bent retains a significantly greater retained, bent shape than non-post-heat-treated files. This allows the dentist to pre-shape the file to follow the natural curved passage of the tooth when performing a root canal procedure, thus yielding better canal shaping and a safer experience for the patient.

7. Dentsply has priced its files in accordance with their premium quality, and at a price necessary to account for the research and development required to achieve such quality and innovation, and the clinical and educational support provided to the market

8. The high-quality standard that Dentsply established resulted in a loyal customer base among dentists and endodontists across the country. The results of a customer satisfaction survey completed by almost 1500 dentists and endodontists, Dentsply's customers indicated general customer service/support satisfaction levels are high across all dentists (78% - 80% are extremely/very satisfied with D/TDS' customer service/support). Dentsply also has among the highest, or the highest, rated endodontic products across dentists of every type (low GP, med GP, high GP, Endodontist).

9. Dentsply's Vortex Blue® file is manufactured using a process that falls within the scope of the claims of the '773 patent.

10. In August 2013, Dentsply obtained an option to license several patents, including United States Patent No. 8,562,341 (the "'341 Patent") and United States Patent No. 8,727,773 (the "'773 Patent") from Gold Standard Instruments, LLC.

11. In April 2014, Dentsply executed its option and acquired an exclusive license for the '341 and '773 patents from Gold Standard Instruments, LLC including the right to sue for current, past and future damages.

12. Edge Endo sells nickel-titanium endodontic dental files for use in rotating drills under the name EdgeFile™. Edge Endo commercially introduced the EdgeFile X3, the EdgeFile X5 and the EdgeFile X3 in November 2012. Edge Endo introduced the EdgeFile X1 in June 2013.

13. Edge Endo is a direct competitor of Dentsply.

14. Edge Endo sells, markets, and distributes the files manufactured by US Endodontics directly to retail dentists and endodontists under the trade name EdgeFile™. *See* Gifford Decl. Ex. D through H. Edge Endo specifically targets Dentsply's customers and seeks

to benefit from Dentsply’s superior reputation for quality products by providing a compatibility chart instructing dentists and endodontists who use Dentsply’s WaveOne® to use EdgeFile X1, those who use Dentsply’s Protaper® to use EdgeFile X3, those who use Dentsply’s GT® and GT®X to use EdgeFile X5, and those who use Dentsply’s Vortex® or Profile® to use EdgeFile X7 on its product website (shown below).

| If You Use... | Use This File | | | |
|---------------------|---------------|----|----|----|
| | X1 | X3 | X5 | X7 |
| WAVEONE® | ✓ | | | |
| PROTAPER® | | ✓ | | |
| GT® OR GT SERIES X® | | | ✓ | |
| VORTEX® | | | | ✓ |
| PROFILE® | | | | ✓ |
| K3® | | | | ✓ |
| SEQUENCE® | | | | ✓ |

15. In an effort to lure customers away from Dentsply, Edge Endo sells its EdgeFiles at a retail price that is less than half of the price of Dentsply’s competing files. More specifically, Dentsply’s WaveOne® files have an average selling price of \$52.53 (for a package of 3) compared to \$19.95 for the same number of EdgeFile X1 files. Dentsply’s Profile® GT files have an average selling price of \$49.63 (for a package of 6) compared to \$19.95 for the same number of EdgeFile X5 files. Dentsply’s Vortex® and Vortex Blue® files have an average selling price of \$43.71 and \$47.33 (for a package of 6) respectively, compared to \$19.95 for the same number of EdgeFile X7 files.

16. According to information submitted by US Endodontics to the United States Food and Drug Administration (“FDA”), US Endodontics is the “contract manufacturer” of the EdgeFile™ line of products that are sold and marketed by Edge Endo. *See* Gifford Decl. Ex. C.

17. US Endodontics is a New Mexico limited liability company. *See* Gifford Decl.

Ex. M. Upon information and belief, US Endodontics has a manufacturing facility located in Johnson City, Tennessee.

18. Upon information and belief, US Endodontics is owned by Melissa Bennett and Bobby Bennett. Mr. Bennett was employed by TDS from September 27, 1988 until July 4, 2008.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19 day of June, 2014



John Voskuil