

# Kimberly-Clark Hit with Suit and Preliminary Injunction Motion Over Surgical Drapes

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On February 5, 2013, [Pedigo Products, Inc.](#) ("Pedigo") and OR Specific ("OR-S"), both based in Vancouver, Washington, filed a complaint in the Northern District of Georgia against [Kimberly-Clark Worldwide, Inc.](#), based in Irving, Texas, and Kimberly-Clark Global Sales, LLC, based in Neenah, Wisconsin (collectively, "Kimberly-Clark"), alleging that Kimberly-Clark's manufacture and sale of surgical [table covers](#) infringes [U.S. Patent No. 6,019,102](#) ("the '102 patent"). Pedigo and OR-S followed up several days later by [filing](#) a motion for a preliminary injunction, asking the court to enjoin Kimberly-Clark from making or selling the accused products pending a final resolution on the merits.

Pedigo's "Space Station" surgical table.

According to the complaint, Pedigo is a family-owned company in the business of manufacturing stainless steel and chrome equipment for the healthcare industry and selling its products to hospitals and other [healthcare providers](#). Pedigo claims that one of its leading products is the "[Space Station](#)," a multi-tiered surgical table designed to hold [surgical equipment](#) in operating rooms. To create a sterile environment for each new patient, Pedigo sells a single-use, sterile surgical drape specifically designed and manufactured to fit the Space Station table. The '102 patent, titled "Drape for Multiple-Tiered Sterile Hospital Surface and Associate Methods," issued in 2000 to Dan Becker, who later assigned the '102 patent to OR-S, a wholly-owned Pedigo subsidiary. Plaintiffs claim that Kimberly-Clark makes and sells a "Two-Tier, Padded, Heavy-Duty Back Table Cover" (model number 67501), which "directly infringes at least claim 27 of the '102 patent." According to the complaint, Kimberly-Clark did not comply with OR-S's request to cease its allegedly infringing conduct, which prompted the filing of this suit.

On February 7, 2013, Pedigo and OR-S moved for a preliminary injunction. In the motion and supporting brief, Pedigo and OR-S elaborate on their pre-suit dealings with Kimberly-Clark regarding the surgical drape product. Plaintiffs claim that Kimberly-Clark first approached them several years ago seeking to license the '102 patent, and later offered to manufacture the surgical drape product for Plaintiffs according to their [specifications](#). Pedigo and OR-S rejected both offers. The motion and brief claim that Kimberly-Clark thereafter began selling the products accused of infringement. Pedigo and OR-S go on to argue that they are entitled to a preliminary injunction because (1) they are likely to succeed on the merits; (2) they will suffer irreparable harm by way of loss of market share and

price erosion in the absence of a preliminary injunction; (3) the balance of hardships favors the plaintiffs; and (4) a preliminary injunction is in the public interest.<sup>[1]</sup>

On February 12, 2013, counsel for Kimberly-Clark entered an appearance and filed a consent motion to extend the time to respond to the preliminary injunction motion until March 8, 2013.

The case is ***Pedigo Prods., Inc. et al. v. Kimberly-Clark Worldwide, Inc. et al.***, No. 1:13-cv-398-SCJ, United States District Court for the Northern District of Georgia, Atlanta Division, and is assigned to Judge Steve C. Jones.

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[1] See, e.g., *Revision Military, Inc. v. Balboa Manufacturing Co.*, 2011-1628 (Fed. Cir. Nov. 27, 2012). For a copy of the full opinion, [click here](#).

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