

1 Ronald P. Oines (State Bar No. 145016)
 roines@rutan.com
 2 Benjamin C. Deming (State Bar No.233687)
 bdeming@rutan.com
 3 Kathryn Domin (State Bar No. 274771)
 kdomin@rutan.com
 4 RUTAN & TUCKER, LLP
 611 Anton Boulevard, Fourteenth Floor
 5 Costa Mesa, California 92626-1931
 Telephone: 714-641-5100
 6 Facsimile: 714-546-9035

7 Attorneys for Plaintiff ALTAIR INSTRUMENTS,
 INC.

8
 9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

11
 12 ALTAIR INSTRUMENTS, INC., a
 California corporation,
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 Plaintiff,
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 vs.
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 16 SKINACT, a California corporation;
 SPA AND EQUIPMENT, an entity of
 unknown form, and DOES 1 through 10,
 17
 Defendants.
 18

Case No. 17-cv-00894
**COMPLAINT FOR PATENT
 INFRINGEMENT**
DEMAND FOR JURY TRIAL

19 Plaintiff ALTAIR INSTRUMENTS, INC. (“Altair”) as its Complaint against
 20 Defendants SKINACT, SPA AND EQUIPMENT (“Spa & Equipment”) and Does 1
 21 through 10, inclusive (collectively, “Defendants”) alleges as follows:

22 **JURISDICTION AND VENUE**

23 1. This is an action for patent infringement arising under the Patent Laws
 24 of the United States, Title 35, United States Code. This Court has jurisdiction over
 25 the subject matter of this action pursuant to 28 U.S.C. § 1338(a) (action arising
 26 under an Act of Congress relating to patents) and 28 U.S.C. § 1331 (federal
 27 question).

28 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b)

1 and 28 U.S.C. § 1391(c). On information and belief, Defendants reside in this
2 judicial district because, among other things, they have a principal place of business
3 in this judicial district and Defendants sell and have sold and/or offer to sell in this
4 judicial district products that infringe the patent-in-suit.

5 **THE PARTIES**

6 3. Plaintiff Altair is a California corporation with its principal place of
7 business at 1834 Palma Drive, Suite F, Ventura, California 93003.

8 4. On information and belief, defendant Skinact is a California
9 corporation with a principal place of business located at 12701 Van Nuys Blvd.,
10 Suite Q, Pacoima, California 91331. On information and belief, defendant Spa and
11 Equipment is an entity of unknown form with a principal place of business located
12 at 12701 Van Nuys Boulevard, Suite Q, Pacoima, California 91331.

13 5. The true names and capacities, whether individual, corporate, associate
14 or otherwise, of defendants DOES 1 through 10, inclusive, are unknown to Altair,
15 which therefore sues said defendants by such fictitious names. Altair will seek leave
16 of this Court to amend this Complaint to include their proper names and capacities
17 when they have been ascertained. Altair is informed and believes, and based
18 thereon alleges, that each of the fictitiously named defendants participated in and are
19 in some manner responsible for the acts described in this Complaint and the damage
20 resulting therefrom.

21 6. Altair alleges on information and belief that each of the defendants
22 named herein as Does 1 through 10, inclusive, performed, participated in, or abetted
23 in some manner, the acts alleged herein, proximately caused the damages alleged
24 hereinbelow, and are liable to Altair for the damages and relief sought herein.

25 7. Altair alleges on information and belief that, in performing the acts and
26 omissions alleged herein, and at all times relevant hereto, each of the Defendants
27 was the agent and employee of each of the other defendants and was at all times
28 acting within the course and scope of such agency and employment with the

1 knowledge and approval of each of the other Defendants.

2 **GENERAL ALLEGATIONS**

3 8. On June 5, 2001, United States Patent No. 6,241,739, entitled
4 “Microdermabrasion Device And Method Of Treating The Skin Surface” (“the ‘739
5 patent”), was duly and legally issued by the United States Patent and Trademark
6 Office (the “USPTO”).

7 9. By assignment, Altair is the owner of all rights, title and interest in and
8 to the ‘739 patent, including all rights to recover for any and all past infringement
9 thereof. A true and correct copy of the ‘739 patent, with Reexamination
10 Certificates, is attached hereto as **Exhibit “A.”** Altair has given notice to the public
11 of its patent by marking its own products with the ‘739 patent in conformity with 35
12 U.S.C. § 287(a).

13 10. On October 16, 2014, Altair, through its counsel, sent a copy of the
14 ‘739 patent to Defendants. Therefore, Defendants have had actual notice of the ‘739
15 patent since at least October 16, 2014.

16 **CLAIM FOR RELIEF**

17 **(Infringement of the ‘739 Patent)**

18 11. Altair realleges each and every allegation set forth in paragraphs 1
19 through 10 above, and incorporates them herein.

20 12. Defendants make, use, sell, offer to sell, and/or import into the United
21 States, including in this Judicial District, one or more microdermabrasion devices,
22 including devices known as the “PR-01 Diamond Peel” (SKU16580), “PR-02
23 Diamond Peel” (SKU16581), “Supra 5 in 1 Microdermabrasion [etc.]” (SKU17813),
24 “Diamond Microdermabrasion With Ultrasonic and Cold/Hot Hammer”
25 (SKU16140), “Diamond Microdermabrasion Machine” (SKU16141), “Diamond
26 Microdermabrasion Machine” (SKU16397), “Cosmo 15 Function Skin Care System
27 (With Diamond Microdermabrasion)” (SKU16148), “Crystal and Diamond
28 Microdermabrasion with Hot Towel Cabinets” (SKU16144), “Modena 19 in 1 Skin

1 Care System” (SKU16582), “Oxygen Infusion System and Microdermabrasion
2 Machine” (SKU16383), “SP1 – 6 in 1 Microdermabrasion Computerized System”
3 (SKU16419) (the “Accused Devices”) which contain each and every element of
4 independent claim 1 and dependent claims 2, 3, 5, 6 and 8, independent claim 9 and
5 dependent claim 10, independent claim 12 and dependent claims 13 and 14, and
6 independent claim 16 and dependent claims 17 and 18 of the ‘739 Patent. Users of
7 the Accused Devices also infringe the ‘739 patent. Defendants have infringed and
8 are infringing the ‘739 patent and will continue to do so, unless enjoined by this
9 Court. Defendants directly infringe the ‘739 patent, and are also liable for
10 contributory infringement and induced infringement.

11 13. On October 16, 2014, Altair sent a copy of the ‘739 patent to
12 Defendants. At that time, the ‘739 patent was involved in an ongoing reexamination
13 proceeding at the USPTO. On July 15, 2015, the USPTO concluded the
14 reexamination and issued a Reexamination Certificate. Despite Defendants’
15 knowledge of the ‘739 patent, Defendants continued to infringe such patent. On
16 information and belief, Defendants have been and are currently aware of the ‘739
17 patent and have been and are aware that the sale, offer to sell and use of the Accused
18 Devices infringes the ‘739 patent.

19 14. Defendants’ infringement of the ‘739 patent has been and will continue
20 to be willful, wanton and deliberate with full knowledge and awareness of Altair’s
21 patent rights, unless enjoined by this Court.

22 15. Altair has been damaged in an amount to be determined at trial, but
23 which is no less than a reasonable royalty, and has been irreparably injured by
24 Defendants’ infringing activities. Altair will continue to be so damaged and
25 irreparably injured unless such infringing activities are enjoined by this Court.

26 **PRAYER**

27 WHEREFORE, Altair prays for the following relief:

28 a. Preliminary and permanent injunctions pursuant to

COMPLAINT FOR PATENT
INFRINGEMENT; DEMAND FOR JURY
TRIAL

1 35 U.S.C. § 283 enjoining and restraining Defendants, their officers,
2 directors, agents, employees, successors and assigns, and all those
3 acting in privity or concert with Defendants or any of them, from
4 further infringement of the '739 patent;

5 b. A judgment by the Court that Defendants have infringed
6 and are infringing the '739 patent;

7 c. An award of damages for infringement of the
8 '739 patent, together with prejudgment interest and costs, said
9 damages to be trebled by reason of the intentional and willful nature
10 of Defendants' infringement, as provided by 35 U.S.C. § 284;

11 d. An award of Altair's reasonable attorneys' fees pursuant
12 to 35 U.S.C. § 285 in that this is an exceptional case;

13 e. Altair's costs of suit herein; and

14 f. For such other and further relief as this Court deems just
15 and proper.

16 Dated: February 3, 2017

RUTAN & TUCKER, LLP
RONALD P. OINES
BENJAMIN DEMING
KATHRYN DOMIN

19 By: /s/ Ronald P. Oines
Ronald P. Oines
Attorneys for Plaintiff ALTAIR
INSTRUMENTS, INC.

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DEMAND FOR JURY TRIAL

Altair hereby demands a trial by jury.

Dated: February 3, 2017

RUTAN & TUCKER, LLP
RONALD P. OINES
BENJAMIN DEMING
KATHRYN DOMING

By: /s/ Ronald P. Oines
Ronald P. Oines
Attorneys for Plaintiff
ALTAIR INSTRUMENTS, INC.