IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SYCLONE IP LLC	§	
Plaintiff,	§	**CIVIL ACTION NO. 1:20-cv-04941-LJL**
v.	§	**JURY TRIAL DEMANDED**
SONY ELECTRONICS, INC.	§	
Defendant.	§	

FIRST AMENDED COMPLAINT FOR INFRINGEMENT OF PATENT

COMES NOW, Plaintiff Syclone IP LLC ("Syclone" or Plaintiff), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code ("U.S.C.") to prevent and enjoin defendant Sony Electronics, Inc. (hereinafter "Defendant"), from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or of the consent from Syclone, from U.S. Patent No. 8,941,363 (the "'363 patent", attached hereto as Exhibit "A") pursuant to 35 U.S.C. §271, and to recover damages, attorney's fees, and costs.

THE PARTIES

2. Plaintiff Syclone is a Texas entity with its principal place of business at 6009 W. Parker Rd., Ste. 149-1085, Plano, TX 75093.

3. Upon information and belief, Defendant is a corporation established under the laws of the Delaware, having a principal place of business at 16535 Via Esprillo, San Diego, California 92127. Upon information and belief, Defendant may be served with process at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq*.

5. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with this jurisdiction, including having branches and employees in New York, as well as because of the injury to Syclone, and the cause of action Syclone has risen, as alleged herein.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the New York Long Arm Statute, *N.Y. Civ. Pract. L. R. 302*, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in New York and in this judicial district.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because Defendant has committed acts of infringement and has a regular and established place of business in this district.

FACTUAL ALLEGATIONS

8. On January 27, 2015, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '363 patent, entitled "Device Battery Management" after a full and fair examination. (Exhibit A).

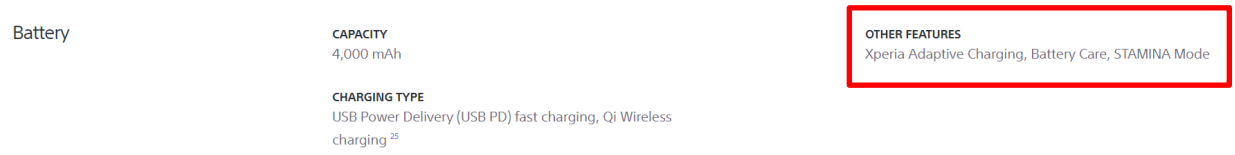
9. Syclone is presently the owner of the patent, having received all right, title and interest in and to the '363 patent from the previous assignee of record. Syclone possesses all rights of recovery under the '363 patent, including the exclusive right to recover for past infringement.

10. The '363 patent contains five independent claims and twenty-five dependent claims. Defendant commercializes, inter alia, products that contain all the elements recited in at least one claim of the '363 patent.

11. The invention claimed in the '363 patent comprises a system and method for providing battery management for a device.

DEFENDANT'S PRODUCTS

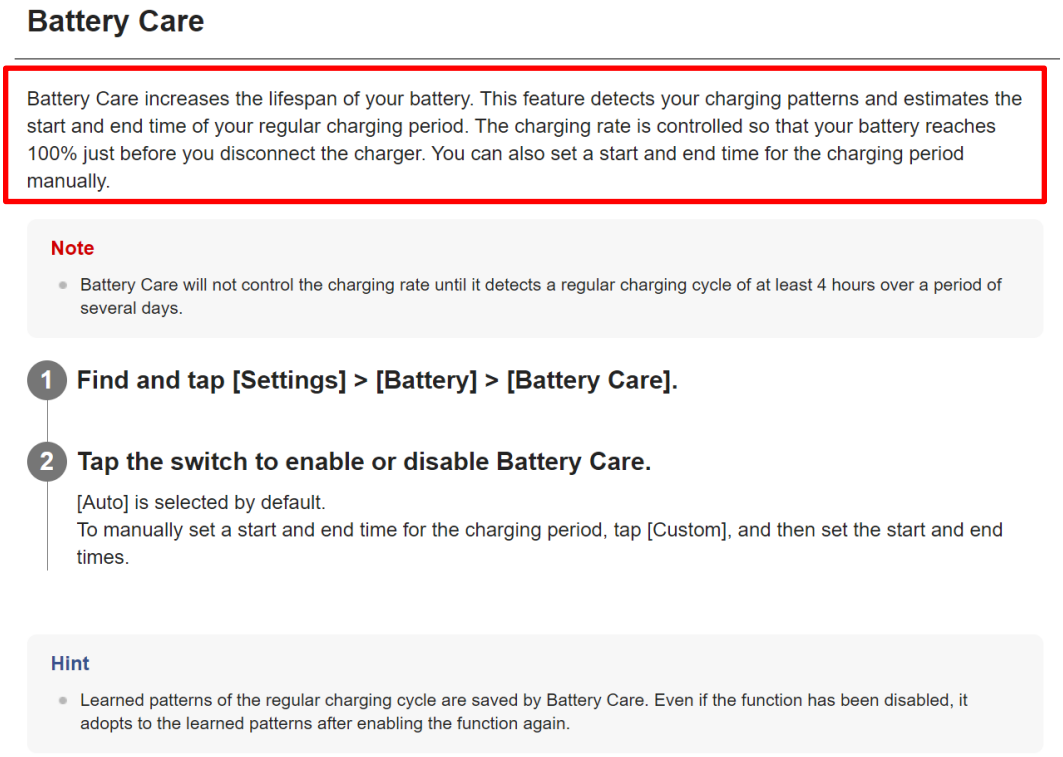
12. Defendant offers electronic products for individuals and businesses, such as the "Xperia 1 II" smartphone (the "Accused Instrumentality")[1], that performs a method for providing battery management for a device, as recited in claim 1 of the '363 patent.[2] For example, as shown in Defendant's website, the Accused Instrumentality includes Xperia Adaptive charging & Battery care for providing battery management:[3]



13. As recited in claim 1 of the '363 patent, the Accused Instrumentality performs the step of charging the device battery to a less than full charge using the device charger. For example,

[1] The Xperia 1 II is not the only model that infringes. Upon information or belief, the following devices perform the same steps and would infringe the '363 Patent: Xperia 1 II, Xperia 5, Xperia 1, Xperia 10, and Xperia 10 Plus. This would be addressed in the respective infringement contentions.
[2] https://www.sony.com/electronics/smartphones/xperia-1m2/specifications, last visited August 19, 2020
[3] *Id.*

the Accused Instrumentality practices, through Battery Care, controlling the battery's charging rate so that it reaches 100% only just before disconnecting the device charger:[4]



14. As recited in claim 1 of the '363 patent, the Accused Instrumentality performs the step of determining a device battery top off charge trigger associated with the device and the device battery. For example, the Accused Instrumentality detects a user's charge patterns and estimates the start and end time of the regular charging period in order to allow the battery to charge to 100% just before disconnecting the charger.[5]

15. As recited in claim 1 of the '363 patent, the Accused Instrumentality performs the step of maintaining the less than full charge until a top off charge is to be provided. For example,

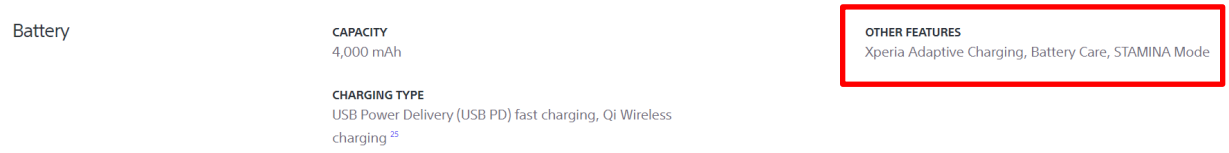
[4] https://helpguide.sony.net/mobile/xperia-1m2/v1/en/contents/TP0001866598.html, last visited August 19, 2020
[5] *Id.*

the Accused Instrumentality resumes charging when the time for disconnecting the device from the charger is close.[6]

16. As recited in claim 1 of the '363 patent, the Accused Instrumentality performs the step of providing the top off charge to the device battery in response to the device battery top off charge trigger. For example, the Accused Instrumentality only charges the device's battery up to 100% just before the charger is disconnected.[7]

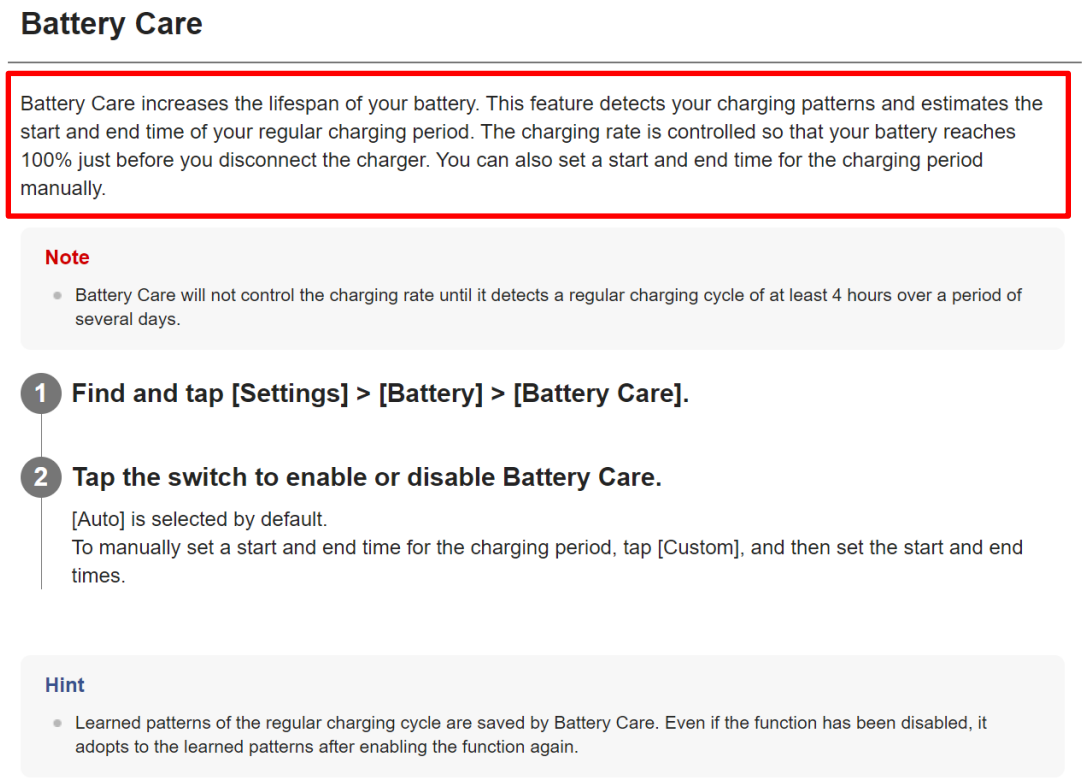
17. The steps described in paragraphs 12-16 are covered by at least claim 1 of the '363 patent. Thus, Defendant's use of the Accused Instrumentality is enabled by the invention described in the '363 patent.

18. As recited in claim 14 of the '363 patent, the Accused Instrumentality includes a machine readable non-transitory medium having stored therein instructions that, when executed, cause the machine to provide battery management for the device.[8] For example, as shown in Defendant's website, the Accused Instrumentality includes Xperia Adaptive charging & Battery care for providing battery management through software stored in its 256GB internal memory:[9]



[6] *Id.*
[7] *Id.*
[8] https://www.sony.com/electronics/smartphones/xperia-1m2/specifications, last visited August 19, 2020
[9] *Id.*

19. As recited in claim 14 of the '363 patent, the Accused Instrumentality executes instructions for charging the device battery to a less than full charge using the device charger. For example, the Accused Instrumentality executes instructions, through Battery Care, for controlling the battery's charging rate so that it reaches 100% only just before disconnecting the device charger:[10]



20. As recited in claim 14 of the '363 patent, the Accused Instrumentality executes instructions for determining a device battery top off charge trigger associated with the device and

[10] https://helpguide.sony.net/mobile/xperia-1m2/v1/en/contents/TP0001866598.html, last visited August 19, 2020

the device battery. For example, the Accused Instrumentality detects a user's charge patterns and estimates the start and end time of the regular charging period in order to allow the battery to charge to 100% just before disconnecting the charger.[11]

21. As recited in claim 14 of the '363 patent, the Accused Instrumentality executes instructions for maintaining the less than full charge until a top off charge is to be provided. For example, the Accused Instrumentality resumes charging when the time for disconnecting the device from the charger is close.[12]

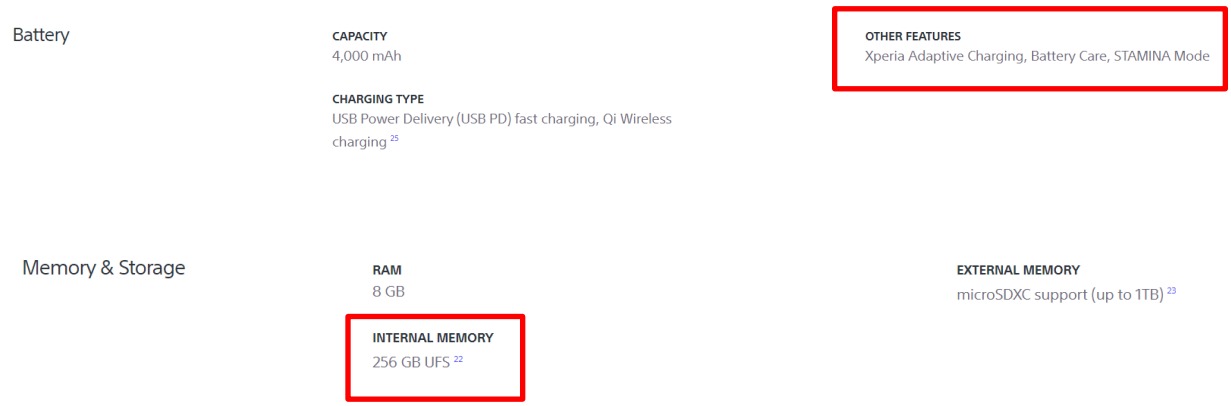
22. As recited in claim 14 of the '363 patent, the Accused Instrumentality executes instructions for providing the top off charge to the device battery in response to the device battery top off charge trigger. For example, the Accused Instrumentality only charges the device's battery up to 100% just before the charger is disconnected.[13]

23. The steps described in paragraphs 18-22 are covered by at least claim 14 of the '363 patent. Thus, Defendant's use and manufacturing of the Accused Instrumentality is enabled by the invention described in the '363 patent.

24. As recited in claim 21 of the '363 patent, the Accused Instrumentality comprises a device battery, device charger configured to be electrically coupled to the device, and a machine readable non-transitory medium having stored therein instructions that, when executed, cause the machine to provide battery management for the device.[14] For example, as shown in Defendant's website, the Accused Instrumentality includes Xperia Adaptive charging & Battery care for

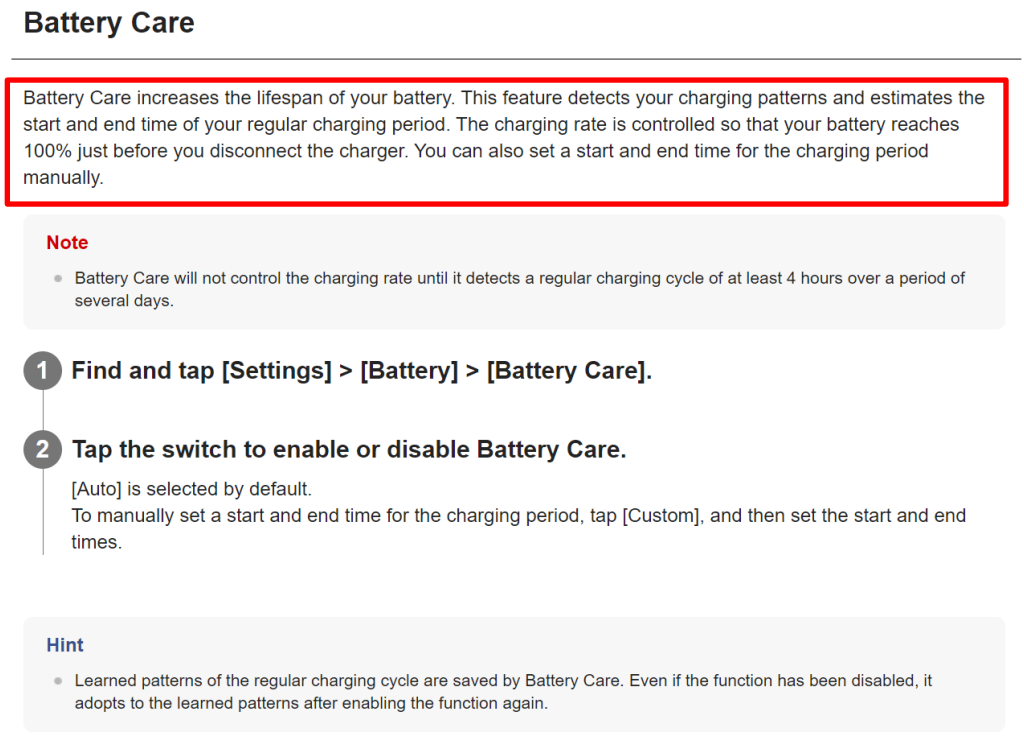
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] https://www.sony.com/electronics/smartphones/xperia-1m2/specifications, last visited August 19, 2020

providing battery management through software stored in its 256GB internal memory using the included charger:[15]



25. As recited in claim 21 of the '363 patent, the Accused Instrumentality executes instructions for charging the device battery to a less than full charge using the device charger. For example, the Accused Instrumentality executes instructions, through Battery Care, for controlling the battery's charging rate so that it reaches 100% only just before disconnecting the device charger:[16]

[15] *Id.*
[16] https://helpguide.sony.net/mobile/xperia-1m2/v1/en/contents/TP0001866598.html, last visited August 19, 2020



Battery Care

Battery Care increases the lifespan of your battery. This feature detects your charging patterns and estimates the start and end time of your regular charging period. The charging rate is controlled so that your battery reaches 100% just before you disconnect the charger. You can also set a start and end time for the charging period manually.

Note

- Battery Care will not control the charging rate until it detects a regular charging cycle of at least 4 hours over a period of several days.

1 Find and tap [Settings] > [Battery] > [Battery Care].

2 Tap the switch to enable or disable Battery Care.

[Auto] is selected by default.
To manually set a start and end time for the charging period, tap [Custom], and then set the start and end times.

Hint

- Learned patterns of the regular charging cycle are saved by Battery Care. Even if the function has been disabled, it adopts to the learned patterns after enabling the function again.

26. As recited in claim 21 of the '363 patent, the Accused Instrumentality executes instructions for determining a device battery top off charge trigger associated with the device and the device battery. For example, the Accused Instrumentality detects a user's charge patterns and estimates the start and end time of the regular charging period in order to allow the battery to charge to 100% just before disconnecting the charger.[17]

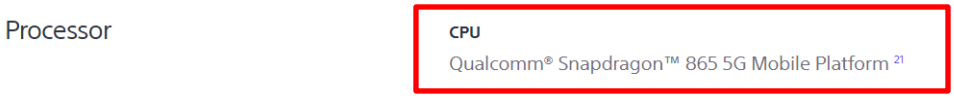
27. As recited in claim 21 of the '363 patent, the Accused Instrumentality executes instructions for maintaining the less than full charge until a top off charge is to be provided. For example, the Accused Instrumentality resumes charging when the time for disconnecting the device from the charger is close.[18]

28. As recited in claim 21 of the '363 patent, the Accused Instrumentality executes instructions for providing the top off charge to the device battery in response to the device battery

[17] *Id.*
[18] *Id.*

top off charge trigger. For example, the Accused Instrumentality only charges the device's battery up to 100% just before the charger is disconnected.[19]

29. As recited in claim 21 of the '363 patent, the Accused Instrumentality comprises a processor coupled to the machine readable medium to execute the plurality of instructions. For example, as shown in Defendant's website[20], the Accused Instrumentality includes a Qualcomm Snapdragon 865 processor:



30. The steps described in paragraphs 24-29 are covered by at least claim 21 of the '363 patent. Thus, Defendant's use and manufacturing of the Accused Instrumentality is enabled by the invention described in the '363 patent.

COUNT I
(DIRECT INFRINGEMENT OF THE '363 PATENT)

31. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 30.

32. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly infringing the '363 patent by making and using a product, at least during internal testing, that includes all the elements recited in claims 1, 14 and 21 of the '363 patent, as outlined in paragraphs 12-30 of the present complaint.

33. Defendant has had knowledge of infringement of the '363 patent at least as of the service of the present complaint.

[19] *Id.*
[20] https://www.sony.com/electronics/smartphones/xperia-1m2/specifications, last visited August 19, 2020

34. Defendant has directly infringed and continues to directly infringe at least claims 1, 14 and 21 of the '363 patent by using the Accused Instrumentality without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '363 patent, Plaintiff has been and continues to be damaged.

35. By engaging in the conduct described herein, Defendant has injured Syclone and is thus liable for infringement of the '363 patent, pursuant to 35 U.S.C. § 271.

36. Defendant has committed these acts of infringement without license or authorization.

37. As a result of Defendant's infringement of the '363 patent, Syclone has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

38. Syclone will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Syclone is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

COUNT II
(INDIRECT INFRINGEMENT OF THE '363 PATENT)

39. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 38.

40. In violation of 35 U.S.C. § 271, Defendant is now, and has been indirectly infringing the '363 patent.

41. Defendant has had knowledge of infringement of the '363 patent at least as of the service of the present complaint.

42. Defendant has indirectly infringed and continues to indirectly infringe at least claims 1, 14 and 21 of the '363 patent by actively inducing its respective customers, users, and/or licensees to directly infringe by using the Accused Instrumentality. Defendant engaged or will have engaged in such inducement having knowledge of the '363 patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Instrumentality through websites or digital distribution platforms that are available in New York, specifically intending that its customers use it.[21] Furthermore, Defendant's customers' use of the Accused Instrumentality is facilitated by the invention described in the '363 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '363 patent, Plaintiff has been and continues to be damaged.

43. By engaging in the conduct described herein, Defendant has injured Syclone and is thus liable for infringement of the '363 patent, pursuant to 35 U.S.C. § 271.

44. Defendant has committed these acts of infringement without license or authorization.

45. As a result of Defendant's infringement of the '363 patent, Syclone has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs. Syclone will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such,

[21] https://www.sony.com/electronics/smartphones/xperia-1m2/specifications, last visited August 19, 2020

Syclone is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

46. Syclone demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Syclone prays for the following relief:

a. That Defendant be adjudged to have directly infringed the '363 patent either literally or under the doctrine of equivalents;

b. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the '363 patent;

c. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Syclone for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

d. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

e. That Defendant be directed to pay enhanced damages, including Syclone's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

f. That Syclone have such other and further relief as this Court may deem just and proper.

Dated: August 24, 2020 Respectfully Submitted,

By: */s/ Nicholas Loaknauth*
Nicholas Loaknauth
USDC # NL0880
Law Office of Nicholas Loaknauth, P.C.
1460 Broadway
New York, NY 10036
(212) 641-0745
Facsimile: (718) 301-1247
Email: nick@loaknauthlaw.com

ATTORNEYS FOR PLAINTIFF
SYCLONE IP LLC