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Attorneys for Plaintiff, WORLDWIDE CREATIONS, LLC

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

WORLDWIDE CREATIONS, LLC, a
Michigan Limited Liability Company,

Plaintiff,

v.

NEWACME LLC, an Oregon Limited
Liability Company, and NEUROCKET,
LLC, an Oregon Limited Liability
Company,

Defendants.

CASE NO. 2:20-cv-10896

**COMPLAINT FOR PATENT
INFRINGEMENT**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WORLDWIDE CREATIONS, LLC, by and through its attorneys,
Young Basile Hanlon & MacFarlane, P.C., for its complaint against NEWACME

1 LLC (“NEWACME”) and NEUROCKET, LLC (“NEUROCKET”), (collectively,
2 the “Defendants”), hereby states as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action for patent infringement under the United States Code,
5 Title 35, as amended.

6 **THE PARTIES**

7 2. The Plaintiff, WORLDWIDE CREATIONS, LLC (“Flowerhouse”) is a
8 Michigan limited liability company having an address of P.O. Box 595, Clio, MI,
9 48420.

10 3. On information and belief, NEWACME LLC, is an Oregon limited
11 liability company having an address of 13515 Streamside Drive, Lake Oswego, OR
12 97035.

13 4. On information and belief, NEUROCKET, LLC, is an Oregon limited
14 liability company having an address of 13515 Streamside Drive, Lake Oswego, OR
15 97035.

16 5. On information and belief, Defendants NEWACME LLC and
17 NEUROCKET, LLC are related entities under common ownership and control.

18 6. On information and belief, Defendants have places of business at 2808
19 Vail Ave., Commerce, CA 90040; 13515 Streamside Drive, Lake Oswego, OR
20 97035; 3980 Premier Ave, Memphis, TN, 38118; and 11500 S. Main Street, Suite
21 122, Houston, TX 77025.

22 7. On information and belief, Defendants do business using a number of
23 assumed names and/or brand names, including Mcombo, ExacMe, BarberPub,
24 Superfy, Lovepet and Ivinta.

25 **JURISDICTION AND VENUE**

26 8. On information and belief, Defendants have committed acts and
27 continue to commit acts of patent infringement giving rise to this action under the
28 patent laws of the United States, 35 U.S.C. §§ 271 and 281. This Court has original

1 subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

2 9. On information and belief, under California's long-arm statute, Cal.
 3 Code Civ. Proc. § 410.10, Defendants submitted to the personal jurisdiction of this
 4 Court because Defendants, inter alia: transacted business within the State of
 5 California; committed a tortious act within the State of California; engaged in an act
 6 of patent infringement in the State of California and this District; have a place of
 7 business within the State of California; regularly conduct or solicit business in the
 8 State of California; engage in other persistent courses of conduct in the State of
 9 California; and/or derive substantial revenue from goods and services provided to
 10 persons or entities in the State of California. Further, on information and belief,
 11 Defendants have established minimum contacts with the State of California and this
 12 District such that the exercise of jurisdiction over Defendants would not offend
 13 traditional notions of fair play and substantial justice.

14 10. On information and belief, venue is proper in this District under 28
 15 U.S.C. §§ 1391(b) and 1400(b) because Defendants have a regular and established
 16 place of business in this District or the State of California.

17 **COUNT I**

18 **INFRINGEMENT OF U.S. PATENT NO. 9,468,284**

19 11. Plaintiff Flowerhouse realleges and incorporates by reference the
 20 allegations of paragraphs 1-10 above, as if fully set forth herein.

21 12. On October 18, 2016, U.S. Patent No. 9,468,284 ("the '284 Patent")
 22 entitled "HANGING CHAIR" was duly and lawfully issued by the United States
 23 Patent and Trademark Office to Scott Wehner. A true and correct copy of the '284
 24 Patent is attached as Exhibit A.

25 13. Plaintiff Flowerhouse is the owner of the '284 patent by way of
 26 assignment.

27 14. The '284 patent confers upon the Plaintiff Flowerhouse the exclusive
 28 right to make, use, sell and offer for sale the invention therein described.

1 15. Since the grant of the '284 Patent, Plaintiff Flowerhouse has
2 continuously marked substantially all chairs manufactured according to the patent
3 by fixing thereon the word "patent" or the abbreviation "pat.", together with the
4 number of the patent, or by fixing thereon the word "patent" or the abbreviation
5 "pat." together with an address of a posting on the Internet, accessible to the public
6 without charge for accessing the address, that associates the patented article with the
7 number of the patent. Accordingly, Defendants have had constructive notice of the
8 '284 Patent since at least as early as October 18, 2016.

9 16. On information and belief, Defendants have made, used, offered for
10 sale, and sold and are now making, using, offering for sale, and/or selling, without
11 permission from Plaintiff Flowerhouse, hanging chairs that infringe claim 1 of the
12 '284 patent. At least some of these chairs are marketed under the name "Mcombo"
13 (herein, the "Mcombo Hanging Chair").

14 17. Examples of advertisements for hanging chairs offered for sale and sold
15 by Defendants are included in Exhibit E.

16 18. A claim chart demonstrating infringement of the '284 patent by the
17 Defendants' Mcombo Hanging Chair is included as Exhibit F. As shown in Exhibit
18 F, Defendants' Mcombo Hanging Chair includes all of the elements of claim 1 of
19 the '284 patent.

20 19. The Defendants have infringed the '284 Patent by making, using,
21 selling, and/or offering for sale hanging chairs, including the Mcombo Hanging
22 Chair.

23 20. The Defendants are jointly and severally liable for infringement of the
24 '284 Patent.

25 21. On information and belief, Defendants have had actual notice of the
26 '284 Patent since at least July 17, 2020.

27 22. On information and belief, Defendants' infringement of the '284 Patent
28 has been willful and deliberate.

25. The present case is an exceptional case, entitling Plaintiff Flowerhouse to an award of attorney's fees.

INFRINGEMENT OF U.S. PATENT NO. 10,016,048

31. On information and belief, Defendants have made, used, offered for

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1 sale, and sold and are now making, using, offering for sale, and/or selling, without
2 permission from Plaintiff Flowerhouse, hanging chairs that infringe at least claims
3 1-9, 11-13, 15, 16, and 20 of the '048 patent. These chairs include the Mcombo
4 Hanging Chair.

5 32. Examples of advertisements for hanging chairs offered for sale and sold
6 by Defendants are included in Exhibit E.

7 33. A claim chart demonstrating infringement of the '048 patent by the
8 Defendants' Mcombo Hanging Chair is included as Exhibit G. As shown in Exhibit
9 G, Defendants' Mcombo Hanging Chair includes all of the elements of at least
10 claims 1-9, 11-13, 15, 16, and 20 of the '048 patent.

11 34. The Defendants have infringed the '048 Patent by making, using,
12 selling, and/or offering for sale hanging chairs, including the Mcombo Hanging
13 Chair.

14 35. The Defendants are jointly and severally liable for infringement of the
15 '048 Patent.

16 36. On information and belief, Defendants have had actual notice of the
17 '048 Patent since at least July 17, 2020.

18 37. As a result of the Defendants' infringement, Plaintiff Flowerhouse has
19 suffered damage, and unless and until the actions of the Defendants are enjoined,
20 Plaintiff Flowerhouse will continue to suffer damage.

21 38. Defendants' infringing activities have and continue to directly and
22 proximately cause Plaintiff damages.

23 39. The present case is an exceptional case, entitling Plaintiff Flowerhouse
24 to an award of attorney's fees.

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COUNT III

INFRINGEMENT OF U.S. PATENT NO. 10,398,214

40. Plaintiff Flowerhouse realleges and incorporates by reference the allegations of paragraphs 1-40 above, as if fully set forth herein.

41. On September 3, 2019, U.S. Patent No. 10,398,214 (“the ’214 Patent”) entitled “CHAIR WITH ARCUATE FRAME MEMBERS” was duly and lawfully issued by the United States Patent and Trademark Office to Scott Wehner. A true and correct copy of the ’214 Patent is attached as Exhibit C.

42. Plaintiff Flowerhouse is the owner of the ’214 patent by way of assignment.

43. The ’214 patent confers upon the Plaintiff Flowerhouse the exclusive right to make, use, sell and offer for sale the invention therein described.

44. Since the grant of the ’214 Patent, Plaintiff Flowerhouse has continuously marked substantially all chairs manufactured according to the patent by fixing thereon the word “patent” or the abbreviation “pat.”, together with the number of the patent, or by fixing thereon the word “patent” or the abbreviation “pat.” together with an address of a posting on the Internet, accessible to the public without charge for accessing the address, that associates the patented article with the number of the patent. Accordingly, Defendants have had constructive notice of the ’214 Patent since at least as early as September 3, 2019.

45. On information and belief, Defendants have made, used, offered for sale, and sold and are now making, using, offering for sale, and/or selling, without permission from Plaintiff Flowerhouse, hanging chairs that infringe claims 1-19 of the ’214 patent. These chairs include the Mcombo Hanging Chair.

46. Examples of advertisements for hanging chairs offered for sale and sold by Defendants are included in Exhibit E.

47. A claim chart demonstrating infringement of the ’214 patent by the Defendants’ Mcombo Hanging Chair is included as Exhibit H. As shown in Exhibit

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1 H, Defendants' Mcombo Hanging Chair includes all of the elements of claims 1-19
2 of the '214 patent.

3 48. The Defendants have infringed the '214 Patent by making, using,
4 selling, and/or offering for sale hanging chairs, including the Mcombo Hanging
5 Chair.

6 49. The Defendants are jointly and severally liable for infringement of the
7 '214 Patent.

8 50. On information and belief, Defendants have had actual notice of the
9 '214 Patent since at least July 17, 2020.

10 51. As a result of the Defendants' infringement, Plaintiff Flowerhouse has
11 suffered damage, and unless and until the actions of the Defendants are enjoined,
12 Plaintiff Flowerhouse will continue to suffer damage.

13 52. Defendants' infringing activities have and continue to directly and
14 proximately cause Plaintiff damages.

15 53. The present case is an exceptional case, entitling Plaintiff Flowerhouse
16 to an award of attorney's fees.

17 **COUNT IV**

18 **INFRINGEMENT OF U.S. DESIGN PATENT NO. D759,396**

19 54. Plaintiff Flowerhouse realleges and incorporates by reference the
20 allegations of paragraphs 1-53 above, as if fully set forth herein.

21 55. On June 21, 2016, U.S. Design Patent No. D759,396 ("the '396 design
22 patent") entitled "HANGING CHAIR" was duly and lawfully issued by the United
23 States Patent and Trademark Office to Scott Wehner. A true and correct copy of the
24 '396 design patent is attached as Exhibit D.

25 56. Plaintiff Flowerhouse is the owner of the '396 design patent by way of
26 assignment.

27 57. The '396 design patent confers upon the Plaintiff Flowerhouse the
28 exclusive right to make, use, sell and offer for sale the invention therein described.

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1 58. Since the grant of the '396 design Patent, Plaintiff Flowerhouse has
2 continuously marked substantially all chairs manufactured according to the patent
3 by fixing thereon the word "patent" or the abbreviation "pat.", together with the
4 number of the patent, or by fixing thereon the word "patent" or the abbreviation
5 "pat." together with an address of a posting on the Internet, accessible to the public
6 without charge for accessing the address, that associates the patented article with the
7 number of the patent. Accordingly, Defendants have had constructive notice of the
8 '396 design patent since at least as early as June 21, 2016.

9 59. On information and belief, Defendants have made, used, offered for
10 sale, and sold and are now making, using, offering for sale, and/or selling, without
11 permission from Plaintiff Flowerhouse, hanging chairs that infringe the claim of the
12 '396 design patent. These chairs include the Mcombo Hanging Chair.

13 60. Examples of advertisements for hanging chairs offered for sale and sold
14 by Defendants are included in Exhibit E.

15 61. A side by side comparison chart demonstrating infringement of the
16 '396 design patent by the Defendants' Mcombo Hanging Chair is included as
17 Exhibit I. As shown in Exhibit I, the Mcombo Hanging Chair is identical to the
18 patented design, such that an ordinary observer would conclude that the design of
19 the Mcombo Hanging Chair is substantially the same as the patented design when
20 the two designs are compared in the context of the prior art.

21 62. The Defendants have infringed the '396 design patent by making,
22 using, selling, and/or offering for sale hanging chairs, including the Mcombo
23 Hanging Chair.

24 63. The Defendants are jointly and severally liable for infringement of the
25 '396 design patent.

26 64. On information and belief, Defendants have had actual notice of the
27 '396 design patent since at least July 17, 2020.

28 65. On information and belief, Defendants' infringement of the '396 design

1 patent has been willful and deliberate.

2 66. As a result of the Defendants' infringement, Plaintiff Flowerhouse has
3 suffered damage, and unless and until the actions of the Defendants are enjoined,
4 Plaintiff Flowerhouse will continue to suffer damage.

5 67. Defendants' infringing activities have and continue to directly and
6 proximately cause Plaintiff damages.

7 68. The present case is an exceptional case, entitling Plaintiff Flowerhouse
8 to an award of attorney's fees.

9 **RELIEF REQUESTED**

10 WHEREFORE, Plaintiff respectfully requests that this Court:

11 A. Enter judgment for Flowerhouse against Defendants, declaring that
12 they have willfully infringed Plaintiff Flowerhouse's patents

13 B. Award Plaintiff Flowerhouse all damages it has sustained as a result of
14 Defendants' patent infringement and order that the damages be trebled pursuant to
15 35 U.S.C. § 284.

16 C. Declare this case exceptional and find that Plaintiff Flowerhouse is
17 entitled to recover its costs and reasonable attorney's fees incurred in this action,
18 pursuant to 35 U.S.C. § 285.

19 D. Permanently enjoin and restrain Defendants and their agents, servants,
20 employees, partners, attorneys, successors and assigns, and all those acting in
21 concert with them, from infringing, contributory infringing or inducing infringement
22 of Plaintiff Flowerhouse's patents.

23 E. Enter an order requiring Defendants to offer up for destruction any and
24 all remaining inventory of any infringing products.

25 F. Enter judgment granting such other relief as justice and equity may
26 require.

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DEMAND FOR JURY TRIAL

Plaintiff Flowerhouse hereby requests a jury trial of all issues.

DATED: December 1, 2020

Respectfully submitted,

HURRELL CANTRALL LLP

By: /s/ Thomas C. Hurrell

THOMAS C. HURRELL

Attorneys for Plaintiff,

WORLDWIDE CREATIONS, LLC

DATED: December 1, 2020

**YOUNG BASILE HANLON &
MACFARLANE, P.C.**

By: /s/ Craig A. Redinger

Craig A. Redinger (*Pro Hac Vice to be Filed*)

Jeffrey D. Wilson (*Pro Have Vice to be Filed*)

Attorneys for Plaintiff,

WORLDWIDE CREATIONS, LLC

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