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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10 FVOAI INC d/b/a FVOAI INC,  
11 Shenzhen Jiaxin Electronic Technology  
Co., Ltd. d/b/a Weaty,

12 *Plaintiffs,*

13 v.

14 HYPERICE IP SUBCO, LLC,  
15

16 *Defendant.*

Case No.: 8:24-cv-01317

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

17 This is an action brought under the Declaratory Judgment Act by Plaintiffs  
18 FVOAI INC d/b/a FVOAI INC (“FVOAI”), Shenzhen Jiaxin Electronic Technology  
19 Co., Ltd. d/b/a Weaty (“WEATY”) (collectively as “Plaintiffs”), against Defendant  
20 HYPERICE IP SUBCO, LLC (“HYPERICE”), claiming for patent non-

1 infringement of certain Massage Guns as defined herein (“Massage Guns”),  
2 invalidity against U.S. Patent No. 11,938,082 B1 (“’082 Patent”), and violation of  
3 California Unfair Competition Law Section 17200 (CAL. BUS. PROF. & CODE  
4 §17200, et seq.). Upon actual knowledge with respect to itself and its acts, and upon  
5 information and belief as to all other matters, Plaintiffs allege as follows:

### 6 **INTRODUCTION**

7 1. Plaintiffs received several notifications from Amazon.com on June 11  
8 and 12, 2024, stating that Plaintiffs’ Massage Guns were removed because of the  
9 alleged infringement of the ’082 Patent. Amazon notified Plaintiffs that it needs a  
10 court order stating that Plaintiffs are allowed to sell the removed products to  
11 reactivate their listings. Defendant’s objectively baseless infringement complaint to  
12 Amazon has caused and continues to cause significant harm to Plaintiffs as the  
13 Massage Guns have been removed from Amazon as Plaintiffs will lose all associated  
14 good will in the listings, not to mention lost sales. The alleged infringement to  
15 Amazon is wholly without merit as the Plaintiffs’ Massage Guns do not meet each  
16 and every limitation of any claim under the ’082 Patent. Furthermore, the ’082 Patent  
17 is invalid under 35 U.S.C. §§ 102, 103 and 112.

### 18 **NATURE OF THE ACTION**

19 2. This action seeks Declaratory Judgments of patent non-infringement  
20 under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the United States

1 Patent Laws, 35 U.S.C. § 101 *et seq.* Defendant's actions have caused and continues  
2 to cause significant harm to Plaintiffs as the Massage Guns have been removed from  
3 Amazon through the enforcement of the '082 Patent.

4 3. This is an action under the Declaratory Judgment Act, 28 U.S.C. §§  
5 2201 and 2202, seeking a declaratory judgment that Defendant's U.S. Patent No.  
6 11,478,082 is invalid under at least 35 U.S.C. §§ 102, 103 and 112.

7 4. This case is for unfair competition arising under California Business  
8 and Profession Code §§ 17200, §§ 17500, §§ 17535.

9 **PARTIES**

10 5. Plaintiff FVOAI is a California Stock Corporation having a place of  
11 business at 2209 San Gabriel Blvd Ste. F, Rosemead, CA 91770.

12 6. Plaintiff WEATY is a foreign company organized under the laws of the  
13 People's Republic of China. WEATY maintains a place of business at Room 410,  
14 4th Floor, Block A, Liutang Fengya Garden, No. 54 Jian'an 2nd Road, 77th District,  
15 Xixiang Street, Bao'an District, Shenzhen, Guangdong, China.

16 7. Upon information and belief, Defendant HYPERICE is a Delaware  
17 limited liability company with its principal place of business at 525 Technology  
18 Drive, Suite 100, Irvine, California 92618.

**JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction under 28 U.S.C. §§ 2201, 2202, 1331, 1338(a), because this action arises under the laws of the United States, in particular the Patent Act of the United States, 35 U.S.C. § 100 et seq.

9. This Court also has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367. Plaintiff brings this action under the principle of pendent jurisdiction, to recover damages, costs of suit, and reasonable attorneys' fees, against Defendant for appropriate relief arising from Defendant's violation of California Business and Profession Code §§ 17200, §§ 17500, §§ 17535.

10. An actual case or controversy exists between the parties to this action. Defendant's actions have caused and continue to cause significant harm to Plaintiffs as the Massage Guns have been removed from Amazon through the enforcement of the '082 Patent. Defendant's actions thereby give rise to an actual controversy under 28 U.S.C. §§ 2201 et. seq.

11. Venue is proper in this district pursuant to at least 28 U.S.C. § 1391, because a substantial part of the events giving rise to the claim occurred in this District. At issue in this action is whether Plaintiffs commit acts of infringement in the United States and whether products made, sold, offered for sale, used and/or imported into the United States by Plaintiffs infringe the '082 Patent. Defendant has

1 its principal place of business in this District and the allegedly infringing activities  
2 have occurred in this District.

3 12. Furthermore, Personal jurisdiction and venue exist in this Court over  
4 Defendant as it is domiciled in this judicial district.

5 **THE PLAINTIFFS' MASSAGE GUNS**

6 13. FVOAI sells the Massage Guns on Amazon under the storefront  
7 FVOAI INC which has earned a lifetime rating of 4.9 out of 5 stars. The FVOAI  
8 Massage Guns listings at issue are identified by ASIN Nos. B0BCHSHBFL and  
9 B0BC166Z67.

10 14. On or about June 11, 2024, FVOAI received a notification from  
11 Amazon. *See* Exhibit A. This notice informed FVOAI that Amazon removed  
12 FVOAI's listings, ASIN Nos. B0BCHSHBFL and B0BC166Z67, because of the  
13 alleged infringement of the '082 Patent. The Rights owner's name is HYPERICE  
14 and its email address is barnold@hyperice.com. *Id.*

15 15. WEATY sells the Massage Guns on Amazon under the storefront  
16 Weaty. The WEATY Massage Guns listings at issue are identified by ASIN Nos.  
17 B0BC1GS34Q and B0BC1DVHSD.

18 16. On or about June 12, 2024, WEATY received a notification from  
19 Amazon. *See* Exhibit B. This notice informed WEATY that Amazon removed  
20 WEATY's listings, ASIN Nos. B0BC1GS34Q and B0BC1DVHSD, because of the

1 alleged infringement of the '082 Patent. The Rights owner's name is HYPERICE  
2 and its email address is barnold@hyperice.com. *Id.*

3 17. The Amazon marketplace constitutes Plaintiffs' primary sales channel  
4 into the United States. To remain competitive in the United States market for  
5 Massage Guns, Plaintiffs need their products listed in the Amazon marketplace.  
6 Amazon has removed Plaintiffs' Massage Guns from the marketplace, preventing  
7 Plaintiffs from accessing their largest channel of trade because of Defendant's  
8 infringement reports. Thus, Defendant's submission of Amazon infringement  
9 reports has caused and continues to cause immediate and irreparable harm to  
10 Plaintiffs.

11 **U.S. PATENT NO. 11,938,082 B1**

12 18. The face of the '082 Patent lists HYPERICE IP SUBCO, LLC, as the  
13 applicant and assignee, attached as Exhibit C.

14 19. The '082 Patent is entitled "Massage Device Having Variable Stroke  
15 Length" and claims "A percussive massager comprising: [ ] drive mechanism that  
16 controls a predetermined stroke length of the piston; and quick-connect system [ ] is  
17 configured to have a proximal end of the first massaging head inserted into or  
18 removed from the bore while the piston reciprocates the predeter- mined stroke  
19 length at the first speed." *See* Exhibit C, at 9:64; 10: 4-11.

21. Plaintiffs incorporate by reference the allegations set forth above in this Complaint as if fully set forth herein.

22. An actual, continuing and justiciable controversy exists between Plaintiffs and Defendant concerning the non-infringement of the '082 Patent by the Massage Guns, as evidenced by Defendant's allegations of infringement on Amazon, as set forth above.

23. Plaintiffs' Massage Guns do not infringe any of the presumably valid claims of the '082 Patent, as the Massage Guns fail to meet one or more elements of the two independent claims 1 and 18 of the '082 Patent.

-7-

1 mechanism that controls a predetermined stroke length of the piston, whether  
2 literally or under the doctrine of equivalents.

3 25. As another example, the limitations of claim 1 of the '082 Patent  
4 comprise "A percussive massager comprising: quick-connect system [ ] is  
5 configured to have a proximal end of the first massaging head inserted into or  
6 removed from the bore while the piston reciprocates the predetermined stroke length  
7 at the first speed." See Exhibit C, at 9:64; 10: 4-11. Plaintiffs' Massage Guns do not  
8 meet such a quick-connect system, nor can it have the proximal end of the  
9 first massaging head inserted into or removed from the bore while  
10 the piston reciprocates the predetermined stroke length at the first speed, whether  
11 literally or under the doctrine of equivalents. If the Plaintiffs' massage guns operate  
12 in the manner described in claim 1, it will lead to motor overload, which in turn can  
13 cause serious safety incidents such as explosions and fires. This is a prohibited  
14 unsafe behavior for the Plaintiffs' massage guns.

15 26. Thus, among other things, Plaintiffs' Massage Guns have entirely  
16 different structure and do not meet the limitation of claim 1 of the '082 Patent.

17 27. Likewise, since the sole independent claim 1 is not infringed, neither  
18 are dependent claims 2-17. *Wahpeton Canvas Co. v. Frontier, Inc.*, 870 F.2d 1546,  
19 1552 n.9, 1553 (Fed. Cir. 1989) (a dependent claim cannot be infringed if any claim  
20 from which it depends is not infringed).



**COUNT II**  
**(DECLARATORY JUDGMENT OF INVALIDITY OF THE '082 PATENT)**

31. An actual, continuing and justiciable controversy exists between Plaintiffs and Defendants concerning the validity of the '082 Patent, as evidenced by Defendant's allegations of infringement on Amazon, as set forth above.

33. U.S. Patent No. 6,682,496 is entitled “Deep muscle stimulator device” to Pivaroff (“Pivaroff”). Pivaroff has an earliest effective filing date of December 28, 1999. A copy of Pivaroff is attached as Exhibit D.

## COMPLAINT

1           35. U.S. Patent Publication No. 2008/0243039 is entitled “Oxygenating  
2 cosmetic instrument” to Rhoades (“Rhoades”). Rhoades has an application date of  
3 May 2, 2008. A copy of Rhoades is attached as Exhibit F.

4           36. U.S. Patent Publication No. 2015/0374576 is entitled “Self-Massage  
5 Device” to Dagan (“Dagan”). Dagan has an application date of Aug 27, 2015. A  
6 copy of Dagan is attached as Exhibit G.

7           37. For example, Claims 1 and 18 are rendered obvious over Pivaroff,  
8 Meyer, and Dagan/Rhoades under 35 U.S.C. §103 (with citations in the  
9 corresponding reference below):

- 10           a. Pivaroff discloses a massager apparatus (Fig. 2, device 10) comprising:
- 11               a housing (Fig. 2, body 12 and top element 16 form an overall  
12               “housing” for the device); a massaging head (mating head 44) having  
13               a proximal end; a handle (Fig. 2, handle 14); a piston having a  
14               proximal end and a distal end (Figs. 3-5, link 34 and rod 38 form a  
15               “piston.” Link 34 is located at the proximal end of the piston and rod  
16               38 is located at the distal end of the piston); a motor at least partially  
17               within the housing and operatively connected to the proximal end of  
18               the piston (Fig. 6, electrical motor 24 is mounted within the handle  
19               portion of the housing. Motor 24 is connected to the link 34 via  
20               elements 26, 28, 30, and 32), wherein the motor is configured to cause  
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the piston to reciprocate at a first speed (Col. 3, In. 44-47, discloses speeds between 2000 to 3600 RPM); and a releasable/detachable connector at the distal end of the piston, wherein the releasable connector is configured to connect to a first massaging head (Fig. 3, recessed opening 40 in rod 38 is threaded and forms a releasable connector for attaching a mating head 44); and a drive mechanism (Figs. 3-5, cam element 30 with finger 32) for converting the rotary motion of the motor into linear reciprocating motion. *See* Pivaroff's drawings below:

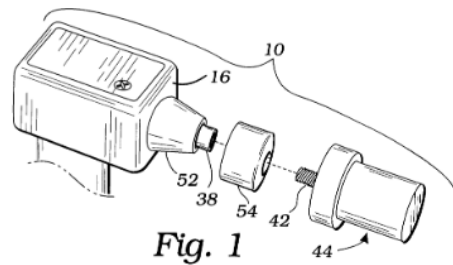


Fig. 1

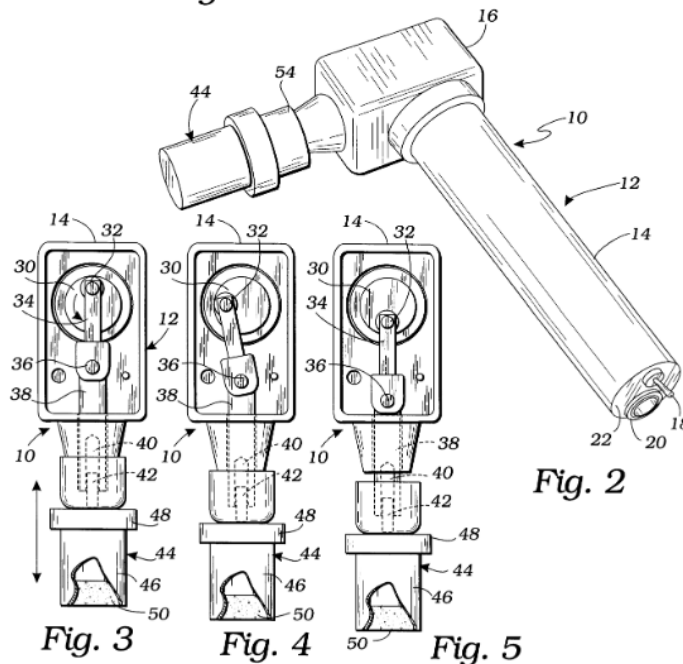


Fig. 2

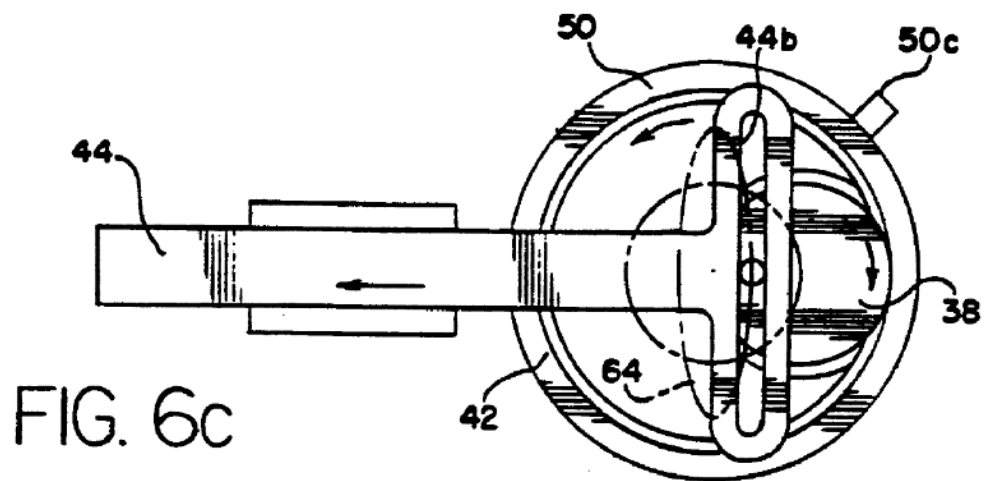
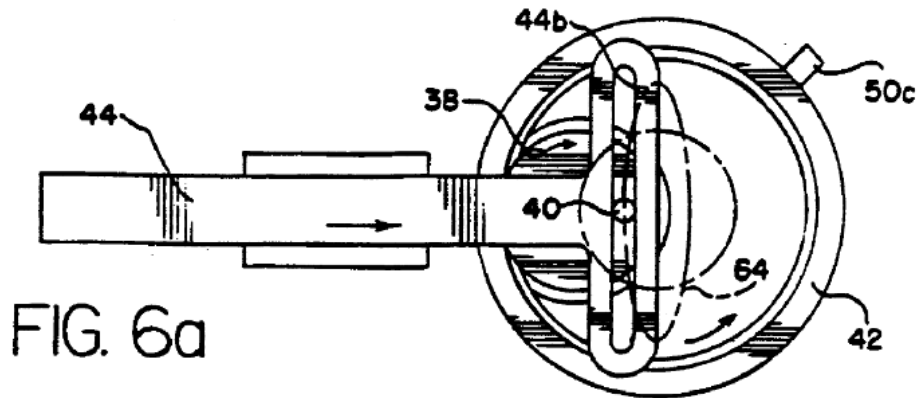
Fig. 3

Fig. 4

Fig. 5

1           *See* Exhibit E.

2           b. Meyer disclosed such a drive mechanism that controls a  
3           predetermined stroke length of the piston. Specifically, Meyer  
4           disclosed a cam (Figs. 6a-7c, actuator plate 50, ring gear 42, and pin  
5           40 form a cam) having a first rotational position that controls a  
6           predetermined stroke length of the piston to the minimum  
7           reciprocation stroke length (Figs. 6a-6b depict the actuator plate 50  
8           and actuator lever 50c in a first rotational position for a minimum  
9           stroke length), a second rotational position that controls the  
10          predetermined stroke length of the piston to the maximum  
11          reciprocation stroke length (Figs. 7a-7b depict the actuator plate 50  
12          and actuator lever 50c in a second rotational position for a maximum  
13          stroke length), and a plurality of intermediate rotational positions that  
14          control the predetermined stroke length of the piston to a plurality of  
15          intermediate stroke lengths between the minimum reciprocation stroke  
16          length and the maximum reciprocation stroke length (Col. 4, In. 45-  
17          54, discloses positioning the arm 50c in different intermediate  
18          positions to cause the pin 40 to move through intermediate elliptical  
19          paths). See Meyer's drawings below:  
20



See Exhibit E.

- c. Based on Meyer's teachings, a person of ordinary skill in the art would be motivated to utilize Meyer's cam (actuator plate 50, ring gear 42, and pin 40) to modify or replace the drive mechanism in Pivaroff. In this way, the modified Pivaroff would be able to control a predetermined stroke length of the piston. This would merely be a predictable use of the established function of Meyer's cam (changing the stroke length).

d. In addition, Rhoades discloses a massaging device (Fig. 4A, device 100) comprising a housing (Fig. 4A, handle portion 130 and head portions 120, 140 form a housing) having a quick release connector for attaching removable massage heads (Figs. 4A-4B, attachment heads 200 may be connected to the head portions 120/140 of the housing via a quick release connector). Rhoades discloses that these quick release connectors can be threaded mating or magnetic attractive force ([0061]). See Rhoades's drawings below:

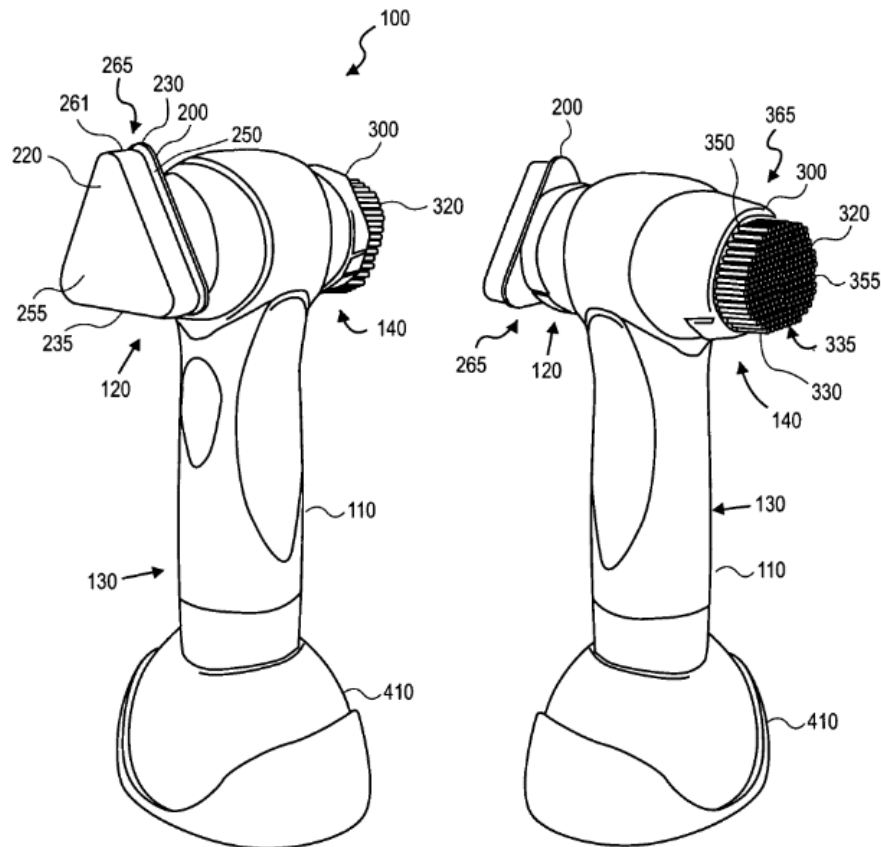


FIG. 4A

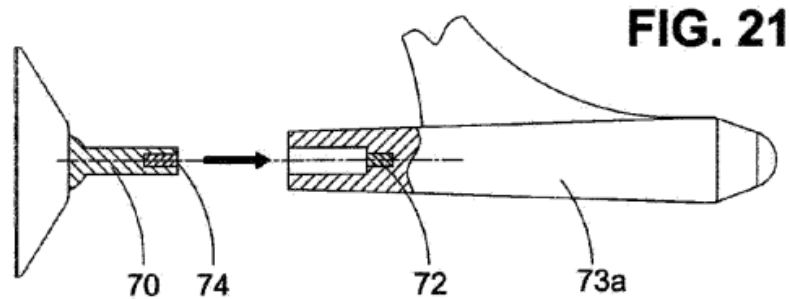
FIG. 4B

1           *See* Exhibit F.

2           e. Therefore, it would have been obvious to one of ordinary skill in the  
3           art before the effective filing date of the claimed invention to replace  
4           the threaded connection between the massaging head and the piston of  
5           Pivaroff with a magnetic attractive force connection as taught by  
6           Rhoades.

7           f. For the Pivaroff-Meyer-Rhoades combination, a person of ordinary  
8           skill in the art would understand that the combination itself would  
9           inherently allow the user to perform the functions configured for the  
10          quick-connect system as claimed in claim 1.

11          g. Alternatively, Dagan also teaches a massaging device comprising a  
12          base (Fig. 21, arm 73a having a recess defined therein to house a  
13          securing magnet 72) and an attachment member that removably  
14          couples to the base via magnetic attraction (Fig. 21, stem 70 comprises  
15          a recess holding a magnet 74 to attract the magnet 72 of the arm 73a).  
16          Dagan also discloses such a magnetic attachment mechanism for body  
17          treatment members (Figs. 28-31, internal magnet 80; see [0056],  
18          which discloses internal magnet 80 magnetically coupling to a magnet  
19          within the main massage device body). *See* Dagan's drawings below:  
20



*See Exhibit G.*

h. Therefore, it would have been obvious to one of ordinary skill in the art before the effective filing date of the claimed invention to modify the treatment member of Pivaroff (already modified by Meyer) to have a recess that holds a magnet for magnetic connection to a magnet in the distal end of the reciprocating shaft as taught by Dagan in order to provide a removable connection between the treatment member and the reciprocating shaft that is quick to connect and remove, yet strong during use of the device. it is understood by those skilled in the art that the Pivaroff-Meyer-Dagan combination, due to the presence of a magnetic coupling mechanism, will inherently enable the user to achieve/perform the action of securing the massage head during piston movement as recited in claim 1.

38. The claim 1 of the '082 Patent is also invalid pursuant to 35 U.S.C. § 112, due to the inclusion of both a product and a method in the same claim. Specifically, claim 1 includes both the quick-connect system and the user operations or actions using this quick-connect system to install/secure the massage head.





1           44. As demonstrated above, Defendant violated the Unfair Competition  
2 Law by sending false complaints to Amazon as to the alleged Plaintiff's  
3 infringement of Defendant's D'082 Patent.

4           45. Defendant will continue to cause confusion, mistake, and deception as  
5 to Plaintiffs' Massage Guns due to Defendant wrongfully accusing Plaintiffs'  
6 infringement of Defendant's D'082 Patent.

7           46. Plaintiffs directly compete with Defendant in the Massage Guns  
8 industry.

9           47. By reason of Defendant's acts of unfair competition, Plaintiff has  
10 suffered and will continue to suffer irreparable injury unless and until this Court  
11 enters an order enjoining Defendant from any further acts of unfair competition.  
12 Defendant's continuing acts of unfair competition, unless enjoined, will cause  
13 irreparable damage to Plaintiff in that there is no adequate remedy at law to compel  
14 Defendant to cease such acts, and no way to determine its losses proximately caused  
15 by such acts of Defendant. Plaintiff is therefore entitled to a preliminary injunction  
16 against further unlawful, and unfair conduct by Defendant.

17           48. As a direct and proximate result of Defendant's acts of unfair  
18 competition, Defendant has wrongfully taken Plaintiff's profits and sales, as well as  
19 its substantial investment of time, energy and money. Defendant should therefore  
20 disgorge all profits from the above conduct and further should be ordered to perform  
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1 full restitution to Plaintiffs as a consequence of Defendant's unlawful, unfair, and  
2 fraudulent activities.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 5 A. Preliminary and permanent injunctions ordering Defendants to  
6 withdraw all Amazon infringement complaints lodged against the  
7 Massage Guns based on the '082 Patent, and to refrain from lodging  
8 any further infringement complaints regarding the same.
- 9 B. A declaration that the Massage Guns do not infringe any of the claims  
10 of the '082 Patent;
- 11 C. A declaration that the claims of the '082 Patent are invalid for failing to  
12 satisfy the criteria of 35 U.S.C. § 102 and/or § 103, in light of the newly  
13 cited prior arts;
- 14 D. A finding that this case is exceptional and an award to Plaintiffs of their  
15 costs, expenses, and reasonable attorney fees incurred in this action  
16 pursuant to 35 U.S.C § 285; and
- 17 E. Awarding Plaintiffs damages due to Defendant's improper acts,  
18 doubled and/or trebled due to the willful and exceptional nature of the  
19 case.  
20  
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F. Awarding Plaintiffs compensatory, general and special, consequential and incidental damages in an amount to be determined at trial.

G. Awarding Plaintiffs exemplary, punitive, statutory, and enhanced damages.

H. Awarding pre- and post- judgment interest.

I. Awarding Plaintiffs such other and further relief as this Court deems is just and proper.

**JURY TRIAL DEMAND**

Plaintiffs hereby demand a jury trial on all issues so triable.

Respectfully submitted,  
Glacier Law LLP

Date: June 17, 2024

By: /s/ Tianyu Ju

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