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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

11
12 NOVOLUTO GMBH, § Case No. 8:24-cv-01907
13 Plaintiff, §
14 vs. § **COMPLAINT FOR PATENT**
15 XR, LLC D/B/A XR BRANDS, § **INFRINGEMENT**
16 Defendant. § **JURY TRIAL DEMANDED**
17 §

18 **NOVOLUTO GMBH’S**
19 **COMPLAINT FOR PATENT INFRINGEMENT**

20 Plaintiff, Novoluto GmbH (“Novoluto” or “Plaintiff”), files this complaint
21 against Defendant, XR, LLC d/b/a XR Brands (“XR Brands” or “Defendant”),
22 seeking damages and other relief for XR Brands’ infringement of U.S. Patent Nos.
23 9,763,851, 10,857,063, 11,090,220, 11,103,418, 9,849,061, and 9,937,097.
24 Novoluto, by and through its counsel, alleges and states, with knowledge as to its
25 own acts and on information and belief as to other matters, as follows:

26 **NATURE OF ACTION**

27 1. This is a patent infringement case arising under the Patent Laws of the
28 United States, 35 U.S.C. § 1, et seq.

1 2. Novoluto owns U.S. Patent Nos. 9,763,851 (“the ’851 Patent”),
2 10,857,063 (“the ’063 Patent”), 11,090,220 (“the ’220 Patent”), 11,103,418 (“the
3 ’418 Patent”), 9,849,061 (“the ’061 Patent”), and 9,937,097 (“the ’097 Patent”)
4 (collectively “the Asserted Patents”), titled “Stimulation Device” (Exhibits 1-4) and
5 “Stimulation Device Having An Appendage” (Exhibits 5-6), and has the right to
6 enforce these patents against infringers.

7 3. XR Brands has directly infringed one or more claims of the Asserted
8 Patents by making, using, selling, offering to sell, and/or importing stimulation
9 devices, including at least the Shegasm Mini 12X Mini Silicone Clit Stimulator,
10 Bloomgasm Wild Rose 10X Suction Clit Stimulator, Shegasm Focused Clitoral
11 Stimulator, The Perfect Rose Clitoral Stimulator, Sweet Heart Rose 5X Suction Rose
12 + 10K Vibrator, Mystic Rose Sucking & Vibrating Silicone Rose, Bloomgasm Rose
13 Duet Sucking & Vibrating Silicone Duo, Enchanted Rose 10X Clit Stimulator,
14 Blooming Bunny Sucking & Thrusting Silicone Rabbit Vibrator, The Double Tease
15 Rose 10X Sucking & Licking Rose Stimulator, Romping Rose 10X Suction Rose &
16 Thrusting Vibrator, Royalty Rose Textured Suction Clit Stimulator, Passion Petals
17 10X Silicone Suction Rose Vibrator, Shegasm 5 Star Vibe Tech, and Gossip Rose
18 Crave 10X Silicone Clit Stimulator (the “Accused Products”). This infringement
19 has been willful as XR Brands knew about Novoluto’s patented products and its
20 patents when XR Brands designed the Accused Products.

21 **THE PARTIES**

22 4. Plaintiff Novoluto is a company organized and existing under the laws
23 of Germany, with a principal place of business at Hermann-Blankenstein-Str. 5,
24 10249 Berlin, Germany.

25 5. Defendant XR Brands is a corporation organized and existing under the
26 laws of Maryland, with a principal place of business at 15251 Pipeline Lane, in
27 Huntington Beach, California.

1 **JURISDICTION AND VENUE**

2 6. This is an action for patent infringement arising under the patent laws
3 of the United States, 35 U.S.C. §§ 1 et seq. This Court has subject matter jurisdiction
4 over this action pursuant to at least 28 U.S.C. §§ 1331 and 1338(a).

5 7. This Court has personal jurisdiction over Defendant because, *inter alia*,
6 Defendant resides in California and has its principal place of business in this District,
7 regularly conducts business in this District, and continues to commit acts of patent
8 infringement in this District, including by making, using, offering to sell, and/or
9 selling products that infringe the Asserted Patents within this District.

10 8. Venue is proper in the Central District of California pursuant to 28
11 U.S.C. § 1400(b) because Defendant resides in, has committed and continues to
12 commit acts of patent infringement in, and has its principal place of business in, this
13 District.

14 **BACKGROUND**

15 9. The Asserted Patents describe the first sexual stimulation devices to use
16 modulated positive and negative pressures with respect to a reference pressure to
17 enhance sexual arousal.

18 10. The '851, '063, '220, and '418 Patents are each generally directed to a
19 handheld sexual stimulation device with various components and features, including
20 an opening through which modulated positive and negative pressures can be applied
21 to female erogenous zones, particularly the clitoris. The '097 and '061 Patents are
22 also generally directed to handheld sexual stimulation devices that, among other
23 features, each include an opening through which modulated positive and negative
24 pressures can be applied to female erogenous zones, particularly the clitoris, as well
25 as a vaginal dildo appendage.

26 11. The commercial embodiments of the Asserted Patents are branded
27 under the originally German name, "Womanizer®", a name given by the German
28 inventor, inspired by the idea that the invention would revolutionize sexual arousal

1 for women. Translated to English, the name bears unfortunate colloquial negative
2 connotations that have been noted by various commentators; however, due to the
3 products' patented features, the products experienced such rapid success that a name
4 change in the United States became impractical. The commercial embodiments of
5 the Asserted Patents include, among others, the "Classic," "Premium," "Starlet," and
6 "Pro40" products, and are collectively referred to here as "Commercial
7 Embodiments." The Commercial Embodiments have been described as "an entirely
8 new type of sex toy," "totally unique," and "nothing short of perfection."

9 12. After Novoluto filed the applications that led to the Asserted Patents
10 and launched the first commercial embodiments, the industry saw an influx of
11 devices attempting to capitalize on the innovative technology disclosed in the
12 Asserted Patents, including a multitude of Defendant's "Rose" type products (both
13 with and without appendages), as well as various products in Defendant's Shegasm
14 and Bloomgasm lines of products.

15 13. On information and belief, Defendant has been aware of the Asserted
16 Patents and the Commercial Embodiments since before the commercial release of
17 Defendant's first air pleasure product.

18 14. As explained in more detail below and in the associated claim charts
19 included with this complaint (Exhibits 7-12), the Accused Products infringe the
20 Asserted Patents.

21 COUNT I

22 INFRINGEMENT OF U.S. PATENT NO. 9,763,851

23 15. Plaintiff realleges and incorporates by reference the allegations in the
24 preceding paragraphs.

25 16. The '851 Patent is titled "Stimulation Device." On September 19,
26 2017, the '851 Patent was duly and legally issued by the U.S. Patent and Trademark
27 Office (USPTO). Novoluto is the assignee of the entire right, title, and interest in
28 and to the '851 Patent, including all rights to enforce this patent against infringers.

1 A true and correct copy of the '851 Patent is attached as Exhibit 1.

2 17. Defendant has infringed at least claim 1 of the '851 Patent at least by
3 making, using, selling, offering to sell, and/or importing stimulation devices such as
4 the Accused Products in the United States.

5 18. At least each of the Shegasm Mini 12x Mini Silicone Clit Stimulator,
6 Shegasm Focused Clitoral Stimulator, Mystic Rose Sucking & Vibrating Silicone
7 Rose, Romping Rose 10x Suction Rose Thrusting Vibrator, and Passion Petals 10x
8 Silicone Suction Rose Vibrator directly infringe, either literally or under the doctrine
9 of equivalents, at least claim 1 of the '851 Patent, under 35 U.S.C. § 271(a). A
10 representative claim chart showing that the Romping Rose 10X Suction Rose &
11 Thrusting Vibrator (“The Romping Rose”) includes each and every element of
12 representative claim 1 of the '851 Patent, and therefore infringes the '851 Patent, is
13 attached as Exhibit 7. The Romping Rose is a representative infringing product that
14 is functionally and structurally substantially similar to the previously listed products,
15 which also infringe, either literally or under the doctrine of equivalents, at least claim
16 1 of the '851 Patent.

17 19. On information and belief, Defendant has had knowledge of the '851
18 Patent and the application from which it issued prior to the issuance of the '851
19 Patent.

20 20. On information and belief, Defendant also provided their customers
21 with instructions and training, including user manuals and instructional videos, that
22 teach, recommend and induce the infringing use and operation of the Accused
23 Products in the United States.

24 21. On information and belief, Defendant is aware that use and operation
25 of the Accused Products in the United States by Defendant or their customers
26 directly infringes the '851 Patent.

27 22. On information and belief, Defendant, with knowledge of the '851
28 Patent, encourages distributors and retailers to sell the Accused Products and

1 specifically educates distributors and retailers on the infringing use and operation of
2 the Accused Products in the United States.

3 23. On information and belief, Defendant aids and abets their customers'
4 direct infringement of the '851 Patent with knowledge that use of the Accused
5 Products in the United States directly infringes the '851 Patent.

6 24. Defendant's actions actively induce infringement of the '851 Patent.
7 Accordingly, Defendant is also liable for indirect infringement pursuant to 35 U.S.C.
8 § 271(b).

9 25. On information and belief, Defendant knows that the Accused Products
10 are not staple articles of commerce, are not suitable for substantial non-infringing
11 use, and are especially made or adapted for use in a manner that infringes Novoluto's
12 patent rights associated with the '851 Patent.

13 26. Defendant's actions constitute contributory infringement of the '851
14 Patent pursuant to 35 U.S.C. § 271(c).

15 27. Novoluto has been damaged by Defendant's infringing conduct. Thus,
16 Defendant is liable to Novoluto in an amount that adequately compensates it for such
17 infringement, which, by law, cannot be less than a reasonable royalty, together with
18 interest and costs as fixed by this Court under 35 U.S.C. § 284.

19 28. On information and belief, Defendant's infringement of the '851 Patent
20 has been willful at least because despite being aware of the '851 Patent and being
21 aware of the similarities between the Accused Products and the Commercial
22 Embodiments, such infringing conduct continues in conscious disregard of
23 Novoluto's rights in the '851 Patent.

24 29. Novoluto has satisfied all statutory obligations required to collect pre-
25 filing damages for the full period allowed by law for Defendant's infringement of
26 the '851 Patent.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 10,857,063

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2
3 30. Plaintiff realleges and incorporates by reference the allegations in
4 the preceding paragraphs.

5 31. The '063 Patent is titled "Stimulation Device." On December 8,
6 2020, the '063 Patent was duly and legally issued by the USPTO. Novoluto is
7 the assignee of the entire right, title, and interest in and to the '063 Patent,
8 including all rights to enforce this patent against infringers. A true and correct
9 copy of the '063 Patent is attached as Exhibit 2.

10 32. Defendant has infringed at least claim 1 of the '063 Patent at least by
11 making, using, selling, offering to sell, and/or importing stimulation devices such as
12 the Accused Products in the United States.

13 33. At least each of the Bloomgasm Wild Rose 10x Suction Clit Stimulator,
14 The Perfect Rose Clitoral Stimulator, Sweet Heart Rose 5x Suction Rose + 10K
15 Vibrator, Bloomgasm Rose Duet Sucking & Vibrating Silicone Duo, Enchanted
16 Rose 10x Clit Stimulator, Blooming Bunny Sucking & Thrusting Silicone Rabbit
17 Vibrator, The Double Tease Rose 10x Sucking & Licking Rose Stimulator, Gossip
18 Rose Crave 10X Silicone Clit Stimulator, Shegasm 5 Star Vibe Tech, and Royalty
19 Rose Textured Suction Clit Stimulator directly infringe, either literally or under the
20 doctrine of equivalents, at least claim 1 of the '063 Patent, under 35 U.S.C. § 271(a).
21 A representative claim chart showing that the Enchanted Rose 10X Clit Stimulator
22 includes each and every element of representative claim 1 of the '063 Patent, and
23 therefore infringes the '063 Patent, is attached as Exhibit 8. The Enchanted Rose is
24 a representative infringing product that is functionally and structurally substantially
25 similar to the previously listed products, which also infringe, either literally or under
26 the doctrine of equivalents, at least claim 1 of the '063 Patent.

27 34. On information and belief, Defendant has had knowledge of the '063
28 Patent and the application from which it issued prior to the issuance of the '063

1 Patent.

2 35. On information and belief, Defendant also provided their customers
3 with instructions and training, including user manuals and instructional videos, that
4 teach, recommend and induce the infringing use and operation of the Accused
5 Products in the United States.

6 36. On information and belief, Defendant is aware that use and operation
7 of the Accused Products in the United States by Defendant or their customers
8 directly infringes the '063 Patent.

9 37. On information and belief, Defendant, with knowledge of the '063
10 Patent, encourages distributors and retailers to sell the Accused Products and
11 specifically educates distributors and retailers on the infringing use and operation of
12 the Accused Products in the United States.

13 38. On information and belief, Defendant aids and abets their customers'
14 direct infringement of the '063 Patent with knowledge that use of the Accused
15 Products in the United States directly infringes the '063 Patent.

16 39. Defendant's actions actively induce infringement of the '063 Patent.
17 Accordingly, Defendant is also liable for indirect infringement pursuant to 35 U.S.C.
18 § 271(b).

19 40. On information and belief, Defendant knows that the Accused Products
20 are not staple articles of commerce, are not suitable for substantial non-infringing
21 use, and are especially made or adapted for use in a manner that infringes Novoluto's
22 patent rights associated with the '063 Patent.

23 41. Defendant's actions constitute contributory infringement of the '063
24 Patent pursuant to 35 U.S.C. § 271(c).

25 42. Novoluto has been damaged by Defendant's infringing conduct. Thus,
26 Defendant is liable to Novoluto in an amount that adequately compensates it for such
27 infringement, which, by law, cannot be less than a reasonable royalty, together with
28 interest and costs as fixed by this Court under 35 U.S.C. § 284.

1 43. On information and belief, Defendant’s infringement of the ’063 Patent
2 has been willful at least because despite being aware of the ’063 Patent and being
3 aware of the similarities between the Accused Products and the Commercial
4 Embodiments, such infringing conduct continues in conscious disregard of
5 Novoluto’s rights in the ’063 Patent.

6 44. Novoluto has satisfied all statutory obligations required to collect pre-
7 filing damages for the full period allowed by law for Defendant’s infringement of
8 the ’063 Patent.

9 **COUNT III**

10 **INFRINGEMENT OF U.S. PATENT NO. 11,090,220**

11 45. Plaintiff realleges and incorporates by reference the allegations in the
12 preceding paragraphs.

13 46. The ’220 Patent is titled “Stimulation Device.” On August 17, 2021,
14 the ’220 Patent was duly and legally issued by the USPTO. Novoluto is the assignee
15 of the entire right, title, and interest in and to the ’220 Patent, including all rights to
16 enforce this patent against infringers. A true and correct copy of the ’220 Patent is
17 attached as Exhibit 3.

18 47. Defendant has infringed at least claim 1 of the ’220 Patent at least by
19 making, using, selling, offering to sell, and/or importing stimulation devices such as
20 the Accused Products in the United States.

21 48. At least each of the Bloomgasm Wild Rose 10x Suction Clit Stimulator,
22 Shegasm Mini 12x Mini Silicone Clit Stimulator, Shegasm Focused Clitoral
23 Stimulator, The Perfect Rose Clitoral Stimulator, Sweet Heart Rose 5x Suction Rose
24 + 10K Vibrator, Bloomgasm Rose Duet Sucking & Vibrating Silicone Duo,
25 Enchanted Rose 10x Clit Stimulator, Blooming Bunny Sucking & Thrusting
26 Silicone Rabbit Vibrator, The Double Tease Rose 10x Sucking & Licking Rose
27 Stimulator, The Romping Rose, Royalty Rose Textured Suction Clit Stimulator,
28 Gossip Rose Crave 10X Silicone Clit Stimulator, Shegasm 5 Star Vibe Tech, and

1 Passion Petals 10x Silicone Suction Rose Vibrator directly infringe, either literally
2 or under the doctrine of equivalents, at least claim 1 of the '220 Patent, under 35
3 U.S.C. § 271(a). A representative claim chart showing that The Romping Rose
4 includes each and every element of representative claim 1 of the '220 Patent, and
5 therefore infringes the '220 Patent, is attached as Exhibit 9. The Romping Rose is a
6 representative infringing product that is functionally and structurally substantially
7 similar to the previously listed products, which also infringe, either literally or under
8 the doctrine of equivalents, at least claim 1 of the '220 Patent.

9 49. On information and belief, Defendant has had knowledge of the '220
10 Patent and the application from which it issued prior to the issuance of the '220
11 Patent.

12 50. On information and belief, Defendant also provided their customers
13 with instructions and training, including user manuals and instructional videos, that
14 teach, recommend and induce the infringing use and operation of the Accused
15 Products in the United States.

16 51. On information and belief, Defendant is aware that use and operation
17 of the Accused Products in the United States by Defendant or their customers
18 directly infringes the '220 Patent.

19 52. On information and belief, Defendant, with knowledge of the '220
20 Patent, encourages distributors and retailers to sell the Accused Products and
21 specifically educates distributors and retailers on the infringing use and operation of
22 the Accused Products in the United States.

23 53. On information and belief, Defendant aids and abets their customers'
24 direct infringement of the '220 Patent with knowledge that use of the Accused
25 Products in the United States directly infringes the '220 Patent.

26 54. Defendant's actions actively induce infringement of the '220 Patent.
27 Accordingly, Defendant is also liable for indirect infringement pursuant to 35 U.S.C.
28 § 271(b).

1 55. On information and belief, Defendant knows that the Accused Products
2 are not staple articles of commerce, are not suitable for substantial non-infringing
3 use, and are especially made or adapted for use in a manner that infringes Novoluto’s
4 patent rights associated with the ’220 Patent.

5 56. Defendant’s actions constitute contributory infringement of the ’220
6 Patent pursuant to 35 U.S.C. § 271(c).

7 57. Novoluto has been damaged by Defendant’s infringing conduct. Thus,
8 Defendant is liable to Novoluto in an amount that adequately compensates it for such
9 infringement, which, by law, cannot be less than a reasonable royalty, together with
10 interest and costs as fixed by this Court under 35 U.S.C. § 284.

11 58. On information and belief, Defendant’s infringement of the ’220 Patent
12 has been willful at least because despite being aware of the ’220 Patent and being
13 aware of the similarities between the Accused Products and the Commercial
14 Embodiments, such infringing conduct continues in conscious disregard of
15 Novoluto’s rights in the ’220 Patent.

16 59. Novoluto has satisfied all statutory obligations required to collect pre-
17 filing damages for the full period allowed by law for Defendant’s infringement of
18 the ’220 Patent.

19 **COUNT IV**

20 **INFRINGEMENT OF U.S. PATENT NO. 11,103,418**

21 60. Plaintiff realleges and incorporates by reference the allegations in the
22 preceding paragraphs.

23 61. The ’418 Patent is titled “Stimulation Device.” On August 31, 2021,
24 the ’418 Patent was duly and legally issued by the USPTO. Novoluto is the assignee
25 of the entire right, title, and interest in and to the ’418 Patent, including all rights to
26 enforce this patent against infringers. A true and correct copy of the ’418 Patent is
27 attached as Exhibit 4.

28 62. Defendant has infringed at least claim 1 of the ’418 Patent at least by

1 making, using, selling, offering to sell, and/or importing stimulation devices such as
2 the Accused Products in the United States.

3 63. At least each of the Bloomgasm Wild Rose 10x Suction Clit Stimulator,
4 Shegasm Mini 12x Mini Silicone Clit Stimulator, Shegasm Focused Clitoral
5 Stimulator, The Perfect Rose Clitoral Stimulator, Sweet Heart Rose 5x Suction Rose
6 + 10K Vibrator, Bloomgasm Rose Duet Sucking & Vibrating Silicone Duo,
7 Enchanted Rose 10x Clit Stimulator, Blooming Bunny Sucking & Thrusting
8 Silicone Rabbit Vibrator, The Double Tease Rose 10x Sucking & Licking Rose
9 Stimulator, The Romping Rose, Royalty Rose Textured Suction Clit Stimulator,
10 Gossip Rose Crave 10X Silicone Clit Stimulator, Shegasm 5 Star Vibe Tech, and
11 Passion Petals 10x Silicone Suction Rose Vibrator directly infringe, either literally
12 or under the doctrine of equivalents, at least claim 1 of the '418 Patent, under 35
13 U.S.C. § 271(a). A representative claim chart showing that The Romping Rose
14 includes each and every element of representative claim 1 of the '418 Patent, and
15 therefore infringes the '418 Patent, is attached as Exhibit 10. The Romping Rose is
16 a representative infringing product that is functionally and structurally substantially
17 similar to the previously listed products, which also infringe, either literally or under
18 the doctrine of equivalents, at least claim 1 of the '418 Patent.

19 64. On information and belief, Defendant has had knowledge of the '418
20 Patent and the application from which it issued prior to the issuance of the '418
21 Patent.

22 65. On information and belief, Defendant also provided their customers
23 with instructions and training, including user manuals and instructional videos, that
24 teach, recommend and induce the infringing use and operation of the Accused
25 Products in the United States.

26 66. On information and belief, Defendant is aware that use and operation
27 of the Accused Products in the United States by Defendant or their customers
28 directly infringes the '418 Patent.

1 67. On information and belief, Defendant, with knowledge of the '418
2 Patent, encourages distributors and retailers to sell the Accused Products and
3 specifically educates distributors and retailers on the infringing use and operation of
4 the Accused Products in the United States.

5 68. On information and belief, Defendant aids and abets their customers'
6 direct infringement of the '418 Patent with knowledge that use of the Accused
7 Products in the United States directly infringes the '418 Patent.

8 69. Defendant's actions actively induce infringement of the '418 Patent.
9 Accordingly, Defendant is also liable for indirect infringement pursuant to 35 U.S.C.
10 § 271(b).

11 70. On information and belief, Defendant knows that the Accused Products
12 are not staple articles of commerce, are not suitable for substantial non-infringing
13 use, and are especially made or adapted for use in a manner that infringes Novoluto's
14 patent rights associated with the '418 Patent.

15 71. Defendant's actions constitute contributory infringement of the '418
16 Patent pursuant to 35 U.S.C. § 271(c).

17 72. Novoluto has been damaged by Defendant's infringing conduct. Thus,
18 Defendant is liable to Novoluto in an amount that adequately compensates it for such
19 infringement, which, by law, cannot be less than a reasonable royalty, together with
20 interest and costs as fixed by this Court under 35 U.S.C. § 284.

21 73. On information and belief, Defendant's infringement of the '418 Patent
22 has been willful at least because despite being aware of the '418 Patent and being
23 aware of the similarities between the Accused Products and the Commercial
24 Embodiments, such infringing conduct continues in conscious disregard of
25 Novoluto's rights in the '418 Patent.

26 74. Novoluto has satisfied all statutory obligations required to collect pre-
27 filing damages for the full period allowed by law for Defendant's infringement of
28 the '418 Patent.

1 **COUNT V**

2 **INFRINGEMENT OF U.S. PATENT NO. 9,849,061**

3 75. Plaintiff realleges and incorporates by reference the allegations in the
4 preceding paragraphs.

5 76. The '061 Patent is titled "Stimulation Device Having An Appendage."
6 On December 26, 2017, the '061 Patent was duly and legally issued by the USPTO.
7 Novoluto is the assignee of the entire right, title, and interest in and to the '061
8 Patent, including all rights to enforce this patent against infringers. A true and
9 correct copy of the '061 Patent is attached as Exhibit 5.

10 77. Defendant has infringed at least claim 1 of the '061 Patent at least by
11 making, using, selling, offering to sell, and/or importing stimulation devices such as
12 the Accused Products in the United States.

13 78. At least each of The Romping Rose and Passion Petals 10x Silicone
14 Suction Rose Vibrator directly infringe, either literally or under the doctrine of
15 equivalents, at least claim 1 of the '061 Patent, under 35 U.S.C. § 271(a). A
16 representative claim chart showing that The Romping Rose includes each and every
17 element of representative claim 1 of the '061 Patent, and therefore infringes the '061
18 Patent, is attached as Exhibit 11. The Romping Rose is a representative infringing
19 product that is functionally and structurally substantially similar to the previously
20 listed products, which also infringe, either literally or under the doctrine of
21 equivalents, at least claim 1 of the '061 Patent.

22 79. On information and belief, Defendant has had knowledge of the '061
23 Patent and the application from which it issued prior to the issuance of the '061
24 Patent.

25 80. On information and belief, Defendant also provided their customers
26 with instructions and training, including user manuals and instructional videos, that
27 teach, recommend and induce the infringing use and operation of the Accused
28 Products in the United States.

1 81. On information and belief, Defendant is aware that use and operation
2 of the Accused Products in the United States by Defendant or their customers
3 directly infringes the '061 Patent.

4 82. On information and belief, Defendant, with knowledge of the '061
5 Patent, encourages distributors and retailers to sell the Accused Products and
6 specifically educates distributors and retailers on the infringing use and operation of
7 the Accused Products in the United States.

8 83. On information and belief, Defendant aids and abets their customers'
9 direct infringement of the '061 Patent with knowledge that use of the Accused
10 Products in the United States directly infringes the '061 Patent.

11 84. Defendant's actions actively induce infringement of the '061 Patent.
12 Accordingly, Defendant is also liable for indirect infringement pursuant to 35 U.S.C.
13 § 271(b).

14 85. On information and belief, Defendant knows that the Accused Products
15 are not staple articles of commerce, are not suitable for substantial non-infringing
16 use, and are especially made or adapted for use in a manner that infringes Novoluto's
17 patent rights associated with the '061 Patent.

18 86. Defendant's actions constitute contributory infringement of the '061
19 Patent pursuant to 35 U.S.C. § 271(c).

20 87. Novoluto has been damaged by Defendant's infringing conduct. Thus,
21 Defendant is liable to Novoluto in an amount that adequately compensates it for such
22 infringement, which, by law, cannot be less than a reasonable royalty, together with
23 interest and costs as fixed by this Court under 35 U.S.C. § 284.

24 88. On information and belief, Defendant's infringement of the '061 Patent
25 has been willful at least because despite being aware of the '061 Patent and being
26 aware of the similarities between the Accused Products and the Commercial
27 Embodiments, such infringing conduct continues in conscious disregard of
28 Novoluto's rights in the '061 Patent.

1 89. Novoluto has satisfied all statutory obligations required to collect pre-
2 filing damages for the full period allowed by law for Defendant's infringement of
3 the '061 Patent.

4 **COUNT VI**

5 **INFRINGEMENT OF U.S. PATENT NO. 9,937,097**

6 90. Plaintiff realleges and incorporates by reference the allegations in the
7 preceding paragraphs.

8 91. The '097 Patent is titled "Stimulation Device Having An Appendage."
9 On April 10, 2018, the '097 Patent was duly and legally issued by the USPTO.
10 Novoluto is the assignee of the entire right, title, and interest in and to the '097
11 Patent, including all rights to enforce this patent against infringers. A true and
12 correct copy of the '097 Patent is attached as Exhibit 6.

13 92. Defendant has infringed at least claim 1 of the '097 Patent at least by
14 making, using, selling, offering to sell, and/or importing stimulation devices such as
15 the Accused Products in the United States.

16 93. At least each of the Sweet Heart Rose 5x Suction Rose + 10K Vibrator,
17 Bloomgasm Rose Duet Sucking & Vibrating Silicone Duo, Blooming Bunny
18 Sucking & Thrusting Silicone Rabbit Vibrator, The Romping Rose, Royalty Rose
19 Textured Suction Clit Stimulator, Passion Petals 10x Silicone Suction Rose Vibrator,
20 and Shegasm 5 Star Vibe Tech directly infringe, either literally or under the doctrine
21 of equivalents, at least claim 1 of the '097 Patent, under 35 U.S.C. § 271(a). A
22 representative claim chart showing that The Romping Rose includes each and every
23 element of representative claim 1 of the '097 Patent, and therefore infringes the '097
24 Patent, is attached as Exhibit 12. The Romping Rose is a representative infringing
25 product that is functionally and structurally substantially similar to the previously
26 listed products, which also infringe, either literally or under the doctrine of
27 equivalents, at least claim 1 of the '097 Patent.

28 94. On information and belief, Defendant has had knowledge of the '097

1 Patent and the application from which it issued prior to the issuance of the '097
2 Patent.

3 95. On information and belief, Defendant also provided their customers
4 with instructions and training, including user manuals and instructional videos, that
5 teach, recommend and induce the infringing use and operation of the Accused
6 Products in the United States.

7 96. On information and belief, Defendant is aware that use and operation
8 of the Accused Products in the United States by Defendant or their customers
9 directly infringes the '097 Patent.

10 97. On information and belief, Defendant, with knowledge of the '097
11 Patent, encourages distributors and retailers to sell the Accused Products and
12 specifically educates distributors and retailers on the infringing use and operation of
13 the Accused Products in the United States.

14 98. On information and belief, Defendant aids and abets their customers'
15 direct infringement of the '097 Patent with knowledge that use of the Accused
16 Products in the United States directly infringes the '097 Patent.

17 99. Defendant's actions actively induce infringement of the '097 Patent.
18 Accordingly, Defendant is also liable for indirect infringement pursuant to 35 U.S.C.
19 § 271(b).

20 100. On information and belief, Defendant knows that the Accused Products
21 are not staple articles of commerce, are not suitable for substantial non-infringing
22 use, and are especially made or adapted for use in a manner that infringes Novoluto's
23 patent rights associated with the '097 Patent.

24 101. Defendant's actions constitute contributory infringement of the '097
25 Patent pursuant to 35 U.S.C. § 271(c).

26 102. Novoluto has been damaged by Defendant's infringing conduct. Thus,
27 Defendant is liable to Novoluto in an amount that adequately compensates it for such
28 infringements, which, by law, cannot be less than a reasonable royalty, together with

1 interest and costs as fixed by this Court under 35 U.S.C. § 284.

2 103. On information and belief, Defendant's infringement of the '097 Patent
3 has been willful at least because despite being aware of the '097 Patent and being
4 aware of the similarities between the Accused Products and the Commercial
5 Embodiments, such infringing conduct continues in conscious disregard of
6 Novoluto's rights in the '097 Patent.

7 104. Novoluto has satisfied all statutory obligations required to collect pre-
8 filing damages for the full period allowed by law for Defendant's infringement of
9 the '097 Patent.

10 **JURY DEMAND**

11 Plaintiff hereby demands a trial by jury on all issues triable as of right by a
12 jury.

13 **PRAYER FOR RELIEF**

14 Novoluto requests the Court find in its favor and against Defendant, and that
15 the Court grant Novoluto the following relief:

16 A. Judgment that one or more claims of the Asserted Patents have been
17 infringed, either literally and/or under the doctrine of equivalents, by Defendant;

18 B. Judgment that Defendant's infringement has been willful;

19 C. A permanent injunction enjoining Defendant and its officers, directors,
20 agents, affiliates, employees, divisions, branches, subsidiaries, parents, and all
21 others acting in concert therewith from the infringement of the Asserted Patents; or,
22 in the alternative, an award of ongoing damages for future infringement.

23 D. Judgment that Defendant account for and pay to Novoluto all damages
24 to and costs incurred by Novoluto because of Defendant's infringing activities and
25 other conduct complained of herein, including an award of all increased damages
26 to which Novoluto is entitled under 35 U.S.C. § 284;

27 E. That Novoluto be granted pre-judgment and post-judgment interest on
28 the damages caused by Defendant's infringing activities and other complained-of-

1 conduct;

2 F. That this Court declare this an exceptional case and award Novoluto its
3 reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

4 G. That Novoluto be granted such other and further relief as the Court may
5 deem just and proper under the circumstances.

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1 Date: September 3, 2024

**OSHA BERGMAN WATANABE & BURTON
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2
3 By:



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