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11 Attorneys for Plaintiff THERABODY, INC.

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

16 THERABODY, INC., a Delaware
corporation,,

17 Plaintiff,

18 v.

19 ADURO PRODUCTS LLC; JACK
20 BRACHA; and DOES 1 through 10,
inclusive,

21 Defendants.

Case No. 2:22-cv-00596

COMPLAINT FOR:

(1) BREACH OF CONTRACT;

**(2) INFRINGEMENT OF U.S.
PATENT NOS. 10,702,448;
10,918,565; 11,160,722;**

DEMAND FOR JURY TRIAL

22
23 Plaintiff Therabody, Inc. ("Therabody") files this complaint against
24 defendants Aduro Products LLC and Jack Bracha (collectively, "Aduro") and Does
25 1-10, inclusive (collectively "Defendants").

26 **THE PARTIES**

27 1. Therabody is, and at all times relevant hereto was, a corporation duly
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1 organized and existing under the laws of the state of Delaware, with its principal place
2 of business at 6100 Wilshire Blvd., Ste. 200, Los Angeles, CA 90048.

3 2. Therabody is informed and believes and, based thereon, alleges that
4 defendant Aduro Products LLC is a New Jersey limited liability company, with
5 offices at 250 Liberty Street, Metuchen, New Jersey 08840.

6 3. Therabody is informed and believes and, based thereon, alleges that
7 defendant Jack Braha is a resident of the state of New York and the owner of Aduro.

8 4. Therabody is ignorant of the true names and capacities of Defendants
9 sued herein as Does 1 through 10, inclusive, and therefore sues these Defendants by
10 such fictitious names and capacities. Therabody will amend this Complaint to allege
11 their true names and capacities when ascertained, along with the appropriate
12 charging allegations.

13 5. Therabody is informed and believes and thereon alleges that
14 Defendants are manufacturing, using, selling, or offering for sale within the United
15 States, or importing into the United States the infringing percussive massage devices
16 described below.

17 6. Therabody is informed and believes and thereon alleges that each of the
18 Defendants conspired and acted in concert with one or more other Defendants to
19 commit the wrongs against Therabody alleged herein, and in doing so were at all
20 relevant times the agents, servants, employees, principals, joint venturers, alter egos,
21 and/or partners of each other. Therabody is further informed and believes and on
22 that basis alleges that, in doing the things alleged in this Complaint, each of the
23 Defendants was acting within the scope of authority conferred upon that Defendant
24 by the consent, approval, and/or ratification of one or more of the other Defendants.

25 **JURISDICTION AND VENUE**

26 7. This is an action for (a) breach of contract and (b) patent infringement
27 under the patent laws of the United States, 35 U.S.C. § 271.

28 8. This Court has subject matter jurisdiction over the breach of contract

1 claims under 28 U.S.C. § 1332 because the parties are diverse and the amount in
2 controversy exceeds \$75,000. The Court has subject matter jurisdiction over the
3 patent claims pursuant to 28 U.S.C. § 1338.

4 9. This Court has personal jurisdiction over Defendants and venue is
5 proper in this District pursuant to 28 U.S.C. §§ 1391(b) & (c), Defendant Aduro's
6 consent to the exclusive jurisdiction of courts in County of Los Angeles, State of
7 California for Theragun's breach of contract claim, and under pendent venue
8 doctrine given that Theragun's patent infringement claims arise out of the same
9 nucleus of operative fact as its properly venued claim for breach of contract.
10 Therabody is informed and believes and, based thereon, alleges that, all Defendants
11 distribute, promote, market, use, sell, offer for sale, import, and/or advertise their
12 infringing products in or to this District and/or to businesses and individuals in this
13 District. Therabody is further informed and believes and, based thereon, alleges that
14 Defendants derive substantial revenue from the distribution, promotion, marketing,
15 manufacture, use, sale, offer for sale, or import of infringing products in or to this
16 District.

17 GENERAL ALLEGATIONS

18 10. Therabody is in the business of developing, manufacturing, and selling
19 high-quality, innovative percussive therapy devices and attachments therefor.
20 Therabody invests considerable time, effort and money in developing and protecting
21 its intellectual property, including patenting its innovative products.

22 11. Therabody is the owner of United States Patent Number 10,702,448
23 entitled "Percussive Massage Device and Method of Use" (hereinafter the '448
24 Patent), issued on July 7, 2020. A true and correct copy of the '448 Patent is
25 attached hereto as Exhibit A.

26 12. The '448 Patent pertains to a vibrating massage device or percussive
27 massage device that provides reciprocating motion. The '448 Patent is presumed to
28 be valid and is *prima facie* proof that the inventions claimed in the '448 Patent are

1 novel and non-obvious.

2 13. Therabody is the owner of United States Patent Number 10,918,565,
3 entitled “Percussive massage device and method of use” (hereinafter the ‘565
4 Patent”), issued on February 16, 2021. A true and correct copy of the ‘565 Patent is
5 attached hereto as Exhibit B.

6 14. The ‘565 Patent pertains to a vibrating massage device or percussive
7 massage device that provides reciprocating motion. The ‘565 Patent is presumed to
8 be valid and is *prima facie* proof that the inventions claimed in the ‘565 Patent are
9 novel and non-obvious.

10 15. Therabody is the owner of United States Patent Number 11,160,722,
11 entitled “Percussive Therapy Device and Method of Use” (hereinafter the ‘722
12 Patent”), issued on November 2, 2021. A true and correct copy of the ‘722 Patent is
13 attached hereto as Exhibit C.

14 16. The ‘722 Patent pertains to a vibrating massage device or percussive
15 massage device and method of use. The ‘722 Patent is presumed to be valid and is
16 *prima facie* proof that the inventions claimed in the ‘722 Patent are novel and non-
17 obvious. The ‘448, ‘565 and ‘722 Patents are hereafter “Asserted Patents.”

18 17. Therabody’s patented and patent-pending devices are innovative and
19 have received industry praise and recognition, including the 2019 A’ Design Award
20 in Digital and Electronic Devices Design for its Therabody G3PRO design.

21 **Defendants’ Conduct**

22 18. On or around July of 2021, Therabody became aware of an infringing
23 percussive massage device made by Defendant Aduro, namely, the Aduro Sport
24 Massage Gun Pro.

25 19. Following negotiations regarding Therabody’s infringement claim,
26 Therabody and Aduro entered into a Settlement Agreement effective December 9,
27 2021.

28 20. After the Effective Date of the Settlement Agreement, Therabody

1 became aware that Defendants were competing with Therabody in the percussive
 2 massage device industry by manufacturing and selling other percussive massage
 3 devices that infringe the Asserted Patents. Specifically, Defendants are marketing,
 4 promoting, advertising, using, selling, offering to sell, and/or importing the
 5 infringing device, the “Recovery Massage Gun Max Grip,” shown below (the
 6 “Infringing Product”).



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 18 21. The Infringing Product is integral to Defendants’ product offering as
 19 shown on Amazon.¹ From this, it is apparent that Defendants have been actively
 20 advertising the Infringing Product, touting the products throughout a variety of
 21 markets and to numerous audiences. Therabody is informed and believes that
 22 Defendants sell their Infringing Product in the same marketing channels as
 23 Therabody.

24 22. On December 22, 2021, Therabody notified Defendants by their
 25 counsel of record that the Infringing Product was infringing Therabody's Asserted
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 28 ¹ https://www.amazon.com/Aduro-Percussion-Massage-Massager-Athletes/dp/B09FL8QMN5/ref=sr_1_6?keywords=aduro+sport+massage+gun&qid=1641848461&srefix=aduro+%2Caps%2C126&sr=8-6

1 Patents and demanded that Defendants immediately cease and permanently
2 discontinue all manufacture, offer for sale, sale, use and importation of the
3 Infringing Product.

4 23. As of the date of the filing of this complaint, Defendants continued to
5 sell the Infringing Product despite notice that it was infringing the Asserted Patents.

6 **FIRST CAUSE OF ACTION**

7 **Breach of Contract**

8 (Against Aduro)

9 24. Therabody incorporates by reference all other paragraphs of this
10 complaint as if fully set forth herein.

11 25. The Settlement Agreement is a valid and enforceable contract between
12 Therabody and Aduro.

13 26. Aduro breached the Settlement Agreement by, inter alia, making,
14 marketing, advertising, selling, importing, offering for sale, and/or distributing the
15 Infringing Product.

16 27. As a result of Aduro's breach, Therabody has suffered harm in an
17 amount exceeding \$75,000.

18 28. Aduro's breaches are without excuse under law or contract.

19 29. Therabody has fully performed all of its obligations and satisfied all
20 conditions for performance under the Settlement Agreement.

21 30. Aduro has willfully, and with conscious disregard for the contractual
22 obligations owed to Therabody, breached the Settlement Agreement.

23 31. Unless restrained and enjoined by the Court, Aduro will continue to
24 breach the Settlement Agreement.

25 **SECOND CAUSE OF ACTION**

26 **Patent Infringement of the '448 Patent, 35 U.S.C. §§ 101 et seq.**

27 (Against All Defendants)

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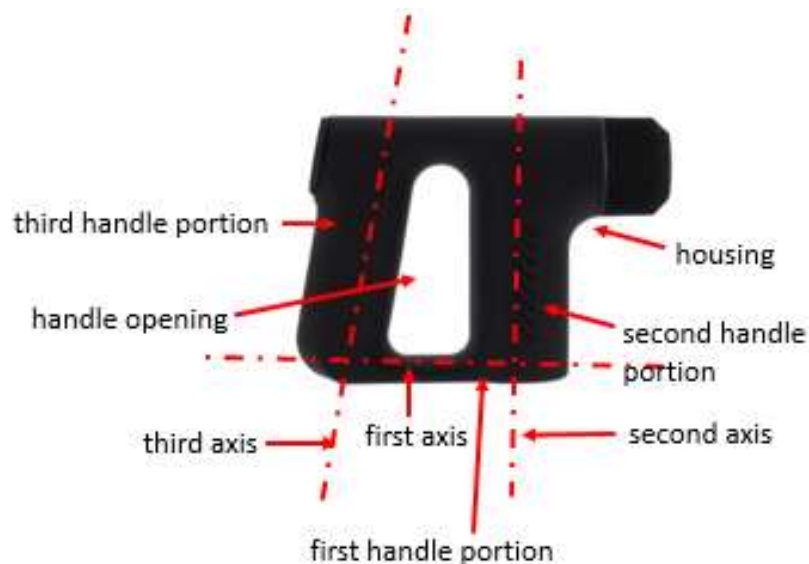
1 32. Therabody realleges and incorporates by reference all foregoing
2 paragraphs as if fully set forth herein.

3 33. At all times herein mentioned the '448 Patent was and is valid and fully
4 enforceable.

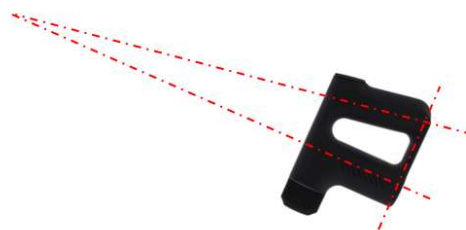
5 34. Defendants are offering percussive massage devices that infringe at
6 least claim 6 of the '448 Patent, including at least the Infringing Product.

7 35. Defendants' Infringing Product is a percussive massage device.

8 36. As shown below, the Infringing Product includes a housing wherein the
9 housing includes first, second and third handle portions that cooperate to at least
10 partially define a handle opening.



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21 37. As shown below, Defendants' Infringing Product includes a first handle
22 portion that defines a first axis, a second handle portion defines a second axis and a
23 third handle portion defines a third axis, and wherein the first, second and third axes
24 cooperate to form a triangle.



1 38. As shown above, the Infringing Product includes that the first handle
2 portion is generally straight, the second handle portion is generally straight, and that
3 the third handle portion is generally straight, such that a user can grasp any of the
4 first, second or third handle portions independently to use the percussive massage
5 device.

6 39. The Infringing Product includes an electrical source, a motor positioned
7 in the housing, a switch for activating the motor, and a push rod assembly
8 operatively connected to the motor and configured to reciprocate in response to
9 activation of the motor.

10 40. On information and belief, at least since Plaintiff's December 21, 2021
11 email, Defendants have knowingly and actively induced the infringement of one or
12 more of the '448 Patent claims by, *inter alia*, marketing, promoting, and offering for
13 use the Infringing Product, knowingly and intending that the use of the Infringing
14 Product by Defendants' customers and by users infringes the '448 Patent. For
15 example, Defendants intend to induce such infringement by, among other things,
16 promoting users to purchase and use the Infringing Product knowing that its
17 purchase and use infringes one or more claims of the '448 Patent.

18 41. On information and belief, at least since Plaintiff's December 21, 2021
19 email, Defendants have contributed to the infringement of the '448 Patent by their
20 customers and users of the Infringing Product by, *inter alia*, making, offering to sell,
21 selling and/or importing into the United States, a component of a patented machine,
22 manufacture or combination, or an apparatus for use in practicing a patented
23 process, constituting a material part of the invention, knowing the same to be
24 especially made or especially adapted for use in infringing the '448 Patent. The
25 Infringing Product is not a staple article or commodity of commerce suitable for
26 substantial non-infringing use and is known by Defendants to be especially made or
27 especially adapted to the infringe the '448 Patent. As a result, Defendants'
28 Infringing Product has been used by its customers and by users to infringe the '448

1 Patent. Defendants continue to engage in acts of contributory infringement of the
2 ‘448 Patent even after receiving notice of its contributory infringement.

3 42. Defendants infringe literally or under the doctrine of equivalents, or
4 both.

5 43. At no time has Therabody granted Defendants authorization, license, or
6 permission to utilize the inventions claimed in the ‘448 Patent.

7 44. Therabody has been damaged by Defendants’ acts of infringement of
8 the ‘448 Patent and Therabody will continue to be damaged by such infringement
9 unless enjoined by this Court. Therabody is entitled to recover damages adequate to
10 compensate for the infringement under 35 U.S.C. § 284.

11 45. Therabody is, and has been, irreparably harmed by Defendants’ on-
12 going infringement including the following harm which cannot be quantified or
13 recouped through monetary damages: (1) lost market share that will be difficult, if
14 not impossible, to recoup later as the Infringing Product becomes entrenched with
15 retail sellers and trainers who recommend them to their clients, (2) loss of first
16 mover advantage that Therabody enjoyed as the first company to offer its innovative
17 percussive devices and patented attachments, (3) loss of Therabody’s investment in
18 developing the market for percussive devices and its patented attachments,
19 (4) negative effect on its reputation as innovator and pioneer, (5) the unquantifiable
20 effect on lost sales of related products, (6) price erosion due to Defendants’
21 Infringing Product being sold at a price point lower than Therabody’s patented
22 products, (7) diversion of resources to defend against loss of market share caused by
23 sales of the Infringing Product, and (8) Defendants’ unauthorized sales that are
24 enticing others to offer for sale and sell infringing attachments that leads to
25 additional irreparable harm described above.

26 46. Defendants’ acts of infringement, including continuing the infringing
27 activities after receiving notice of Defendants’ direct and indirect infringement, have
28 been, and continue to be, willful and deliberate and therefore warrant the award of

1 attorneys' fees pursuant to 35 U.S.C. § 285 and the award of enhanced damages
2 pursuant to 35 U.S.C. § 284.

3 **THIRD CAUSE OF ACTION**

4 **Patent Infringement of the '565 Patent, 35 U.S.C. §§ 101 et seq.**

5 (Against All Defendants)

6 47. Therabody realleges and incorporates by reference all foregoing
7 paragraphs as if fully set forth herein.

8 48. At all times herein mentioned the '565 Patent was and is valid and fully
9 enforceable.

10 49. Defendants are offering percussive massage devices that infringe at
11 least claim 6 of the '565 Patent, including at least the Infringing Product.

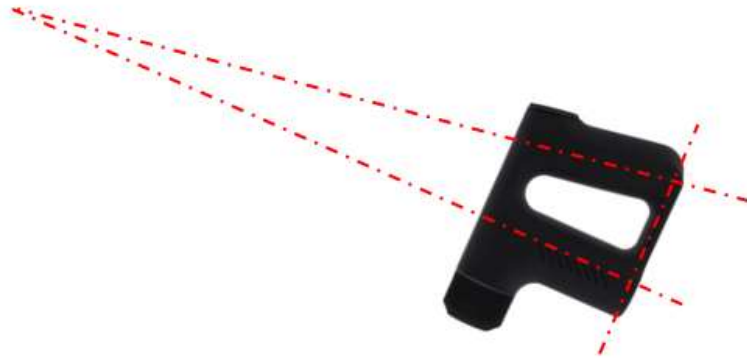
12 50. Defendants' Infringing Product is a percussive massage device.

13 51. As shown below, the Infringing Product includes a housing wherein the
14 housing includes first, second and third handle portions that cooperate to at least
15 partially define a handle opening.



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26 52. As shown below, Defendants' Infringing Product includes a first handle
27 portion that defines a first axis, a second handle portion defines a second axis and a
28 third handle portion defines a third axis, and wherein the first, second and third axes

1 cooperate to form a triangle.
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9 53. As shown above, the Infringing Product includes that the first handle
10 portion is generally straight, the second handle portion is generally straight, and that
11 the third handle portion is generally straight, such that a user can grasp any of the
12 first, second or third handle portions independently to use the percussive massage
13 device.

14 54. The Infringing Product includes an electrical source, a motor positioned
15 in the housing, a switch for activating the motor, and a push rod assembly
16 operatively connected to the motor and configured to reciprocate in response to
17 activation of the motor.

18 55. On information and belief, at least since Plaintiff’s December 21, 2021
19 email, Defendants have knowingly and actively induced the infringement of one or
20 more of the ’565 Patent claims by, *inter alia*, marketing, promoting, and offering for
21 use the Infringing Product, knowingly and intending that the use of the Infringing
22 Product by Defendants’ customers and by users infringes the ’565 Patent. For
23 example, Defendants intend to induce such infringement by, among other things,
24 promoting users to purchase and use the Infringing Product knowing that its
25 purchase and use infringes one or more claims of the ’565 Patent.

26 56. On information and belief, at least since Plaintiff’s December 21, 2021
27 email, Defendants have contributed to the infringement of the ’565 Patent by their
28 customers and users of the Infringing Product by, *inter alia*, making, offering to sell,

1 selling and/or importing into the United States, a component of a patented machine,
2 manufacture or combination, or an apparatus for use in practicing a patented
3 process, constituting a material part of the invention, knowing the same to be
4 especially made or especially adapted for use in infringing the ‘565 Patent. The
5 Infringing Product is not a staple article or commodity of commerce suitable for
6 substantial non-infringing use and is known by Defendants to be especially made or
7 especially adapted to the infringe the ‘565 Patent. As a result, Defendants’
8 Infringing Product has been used by its customers and by users to infringe the ‘565
9 Patent. Defendants continue to engage in acts of contributory infringement of the
10 ‘565 Patent even after receiving notice of its contributory infringement.

11 57. Defendants infringe literally or under the doctrine of equivalents, or
12 both.

13 58. At no time has Therabody granted Defendants authorization, license, or
14 permission to utilize the inventions claimed in the ‘565 Patent.

15 59. Therabody has been damaged by Defendants’ acts of infringement of
16 the ‘565 Patent and Therabody will continue to be damaged by such infringement
17 unless enjoined by this Court. Therabody is entitled to recover damages adequate to
18 compensate for the infringement under 35 U.S.C. § 284.

19 60. Therabody is, and has been, irreparably harmed by Defendants’ on-
20 going infringement including the following harm which cannot be quantified or
21 recouped through monetary damages: (1) lost market share that will be difficult, if
22 not impossible, to recoup later as the Infringing Product becomes entrenched with
23 retail sellers and trainers who recommend them to their clients, (2) loss of first
24 mover advantage that Therabody enjoyed as the first company to offer its innovative
25 percussive devices and patented attachments, (3) loss of Therabody’s investment in
26 developing the market for percussive devices and its patented attachments,
27 (4) negative effect on its reputation as innovator and pioneer, (5) the unquantifiable
28 effect on lost sales of related products, (6) price erosion due to Defendants’

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1 Infringing Product being sold at a price point lower than Therabody’s patented
2 products, (7) diversion of resources to defend against loss of market share caused by
3 sales of the Infringing Product, and (8) Defendants’ unauthorized sales that are
4 enticing others to offer for sale and sell infringing attachments that leads to
5 additional irreparable harm described above.

6 61. Defendants’ acts of infringement, including continuing the infringing
7 activities after receiving notice of Defendants’ direct and indirect infringement, have
8 been, and continue to be, willful and deliberate and therefore warrant the award of
9 attorneys’ fees pursuant to 35 U.S.C. § 285 and the award of enhanced damages
10 pursuant to 35 U.S.C. § 284.

11 **FOURTH CAUSE OF ACTION**

12 **Patent Infringement of the ’722 Patent, 35 U.S.C. §§ 101 et seq.**

13 (Against All Defendants)

14 62. Therabody realleges and incorporates by reference all foregoing para-
15 graphs as if fully set forth herein.

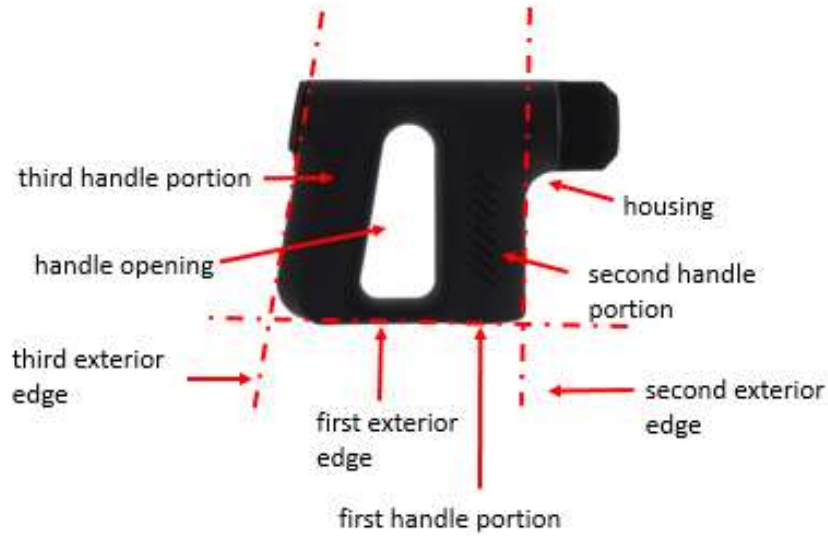
16 63. At all times herein mentioned the ’722 Patent was and is valid and fully
17 enforceable.

18 64. Defendants are offering percussive massage devices that infringe at
19 least claim 12 of the ’722 Patent, including at least the Infringing Product.

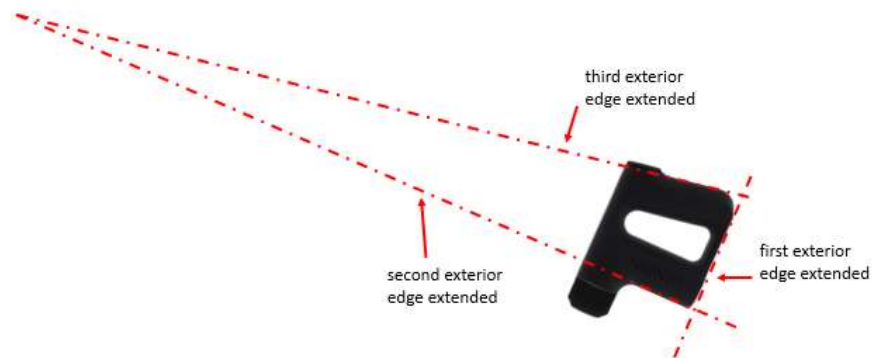
20 65. The Infringing Product is a percussive massage device.

21 66. As shown below, the Infringing Product includes a housing, wherein
22 the housing includes first, second and third handle portions that cooperate to at least
23 partially define a handle opening, wherein the first handle portion includes a first
24 handle portion exterior edge, wherein the second handle portion includes a second
25 handle portion exterior edge, wherein the third handle portion includes a third
26 handle portion exterior edge, wherein the first handle portion exterior edge defines a
27 first handle portion exterior edge extended, wherein the second handle portion
28 exterior edge defines a second handle portion exterior edge extended, wherein the

1 third handle portion exterior edge defines a third handle portion exterior edge
2 extended.



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13 67. As shown below, the Infringing Product includes first, second and third
14 exterior edges extended cooperate to define a triangle that surrounds the handle
15 opening, such that a user can grasp any of the first, second or third handle portions
16 independently to use the percussive massage device.



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25 68. The Infringing Product includes an electrical source, a motor positioned
26 in the housing, a switch for activating the motor, and a push rod assembly
27 operatively connected to the motor and configured to reciprocate in response to
28 activation of the motor.

1 69. As shown above, the Infringing Product includes the first handle
2 portion exterior edge is generally straight, wherein the second handle portion
3 exterior edge is generally straight, and wherein the third handle portion exterior
4 edge is generally straight.

5 70. Defendants’ infringe literally or under the doctrine of equivalents, or
6 both.

7 71. On information and belief, at least since Plaintiff’s December 21, 2021
8 email, Defendants have knowingly and actively induced the infringement of one or
9 more of the ’722 Patent claims by, inter alia, marketing, promoting, and offering for
10 use the Infringing Product, knowingly and intending that the use of the Infringing
11 Product by Defendants’ customers and by users infringes the ’722 Patent. For
12 example, Defendants intend to induce such infringement by, among other things,
13 promoting users to purchase and use the Infringing Product knowing that its
14 purchase and use infringes one or more claims of the ’722 Patent.

15 72. On information and belief, at least since Plaintiff’s December 21, 2021
16 email, Defendants have contributed to the infringement of the ’722 Patent by their
17 customers and users of the Infringing Product by, inter alia, making, offering to sell,
18 selling and/or importing into the United States, a component of a patented machine,
19 manufacture or combination, or an apparatus for use in practicing a patented
20 process, constituting a material part of the invention, knowing the same to be
21 especially made or especially adapted for use in infringing the ’722 Patent. The
22 Infringing Product is not a staple article or commodity of commerce suitable for
23 substantial non-infringing use and is known by Defendants to be especially made or
24 especially adapted to the infringe the ’722 Patent. As a result, Defendants’
25 Infringing Product has been used by its customers and by users to infringe the ’722
26 Patent. Defendants continue to engage in acts of contributory infringement of the
27 ’722 Patent even after receiving notice of its contributory infringement.

28 73. At no time has Therabody granted Defendants authorization, license, or

1 permission to utilize the design claimed in the '722 Patent.

2 74. Therabody has been damaged by Defendants' acts of infringement of
3 the '722 Patent and Therabody will continue to be damaged by such infringement
4 unless enjoined by this Court. Therabody is entitled to recover damages adequate to
5 compensate for the infringement under 35 U.S.C. § 284.

6 75. Therabody is, and has been, irreparably harmed by Defendants' on-
7 going infringement including the following harm which cannot be quantified or
8 recouped through monetary damages: (1) lost market share that will be difficult, if
9 not impossible, to recoup later as the Infringing Product becomes en-trenched with
10 retail sellers and trainers who recommend them to their clients, (2) loss of first
11 mover advantage that Therabody enjoyed as the first company to offer its innovative
12 and patented percussive devices, (3) loss of Therabody's investment in developing
13 the market for percussive devices, (4) negative effect on its reputation as innovator
14 and pioneer, (5) the unquantifiable effect on lost sales of related products, (6) price
15 erosion due to Defendants' Infringing Product being sold at a price point lower than
16 Therabody's patented products, (7) diversion of resources to defend against loss of
17 market share caused by sales of the Infringing Product, and (8) Defendants'
18 unauthorized sales that are enticing others to offer for sale and sell infringing
19 attachments that leads to additional irreparable harm described above.

20 76. Defendants' acts of infringement have been, and continue to be, willful
21 and de-liberate and therefore warrant the award of attorneys' fees pursuant to 35
22 U.S.C. § 285 and the award of enhanced damages pursuant to 35 U.S.C. § 284

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Therabody prays for judgment as follows:

25 A. A judgment that Defendants are liable on all causes of action alleged
26 herein;

27 B. For an order requiring Defendants to account for all gains, profits,
28 unjust enrichment, and other advantages derived from their breach of the Settlement

1 Agreement;

2 C. For an order awarding Therabody is attorneys' fees and costs as the
3 prevailing party pursuant to the terms of the Settlement Agreement;

4 D. For an order finding that the Asserted Patents are valid and enforceable;

5 E. For an order finding that Defendants have infringed the Asserted
6 Patents directly, contributorily, and/or by inducement, literally or by equivalents, in
7 violation of 35 U.S.C. § 271;

8 F. For an order temporarily, preliminarily and permanently enjoining
9 Defendants, their officers, directors, agents, servants, affiliates, employees,
10 subsidiaries, divisions, branches, parents, attorneys, representatives, privies, and all
11 others acting in concert or participation with any of them, from further breaching the
12 Settlement Agreement and infringing the Asserted Patents directly, contributorily
13 and/or by inducement, or otherwise engaging in acts of unfair competition;

14 G. For a judgment directing that any products in the possession, custody or
15 control of Defendants which infringe the Asserted Patents be delivered up and
16 destroyed within 30 days of entry of judgment;

17 H. For a judgment directing Defendants to recall all such infringing
18 products and any other materials sold, distributed, advertised or marketed which
19 infringe the Asserted Patents;

20 I. For an order directing Defendants to file with the Court, and serve upon
21 Therabody's counsel, within thirty (30) days after entry of the order of injunction, a
22 report setting forth the manner and form in which each of them has complied with
23 the injunction;

24 J. For an order finding that Defendants' conduct alleged herein was
25 willful and intentional and in conscious disregard of Therabody's rights;

26 K. For compensatory damages in an amount to be proven at trial,
27 including compensatory damages, lost profits and/or reasonable royalty, in amounts
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1 to be fixed by the Court in accordance with proof, including general, statutory,
2 enhanced, exemplary, treble, and/or punitive damages, as appropriate;

3 L. For an order finding that this is an exceptional case, and awarding
4 Plaintiff's reasonable attorney's fees according to proof;

5 M. For an order awarding Therabody its costs of court; and

6 N. For such other and further relief as the Court may deem just and proper.
7

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff demands trial by jury on all issues so triable.
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11 DATED: January 27, 2022

12 JEFFER MANGELS BUTLER &
13 MITCHELL LLP
14 STANLEY M. GIBSON
15 GREGORY S. CORDREY
16 JOSEPH J. MELLEMA
17 ROD S. BERMAN

18 By: /s/ Gregory S. Cordrey
19 GREGORY S. CORDREY
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