

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JOOVV, INC., a Delaware Corporation,

Plaintiff,

v.

PLATINUM LED HOLDINGS, LLC, a
Florida limited liability company

Defendant.

CIVIL ACTION No.:

JURY TRIAL DEMANDED

COMPLAINT

(PERMANENT INJUNCTIVE RELIEF REQUESTED)

Plaintiff, JOOVV, INC., a Delaware corporation, files this Complaint for Willful Patent Infringement against Defendant, PLATINUM LED HOLDINGS, LLC, a Florida limited liability company, and states:

JURISDICTION, VENUE AND THE PARTIES

1. This is an action brought pursuant to the Patent Laws of the United States, 35 U.S.C. §§ 271, *et. seq.*

2. This Court has original jurisdiction pursuant to Title 28, United States Code, Section 1331, as this case involves a federal question arising under the Constitution, laws, or treaties of the United States.

3. At all times material hereto, JOOVV, INC., a Delaware corporation (“Joovv”), had and has its principal address located in Orange County, California.

4. At all times material hereto, PLATINUM LED HOLDINGS, LLC, a Florida limited liability company (“Platinum LED”), has and had its principal address located in Seminole County, Florida.

5. This action arises as a result of the infringing conduct of Platinum LED, which implicates interstate commerce.

6. Venue is proper in the Middle District of Florida pursuant to Title 28, United States Code, Section 1400(b), which provides, in part, that “[a]ny civil action for patent infringement may be brought in the judicial district where the defendant resides.”

7. All conditions precedent have been met, waived, or satisfied to bring this lawsuit.

GENERAL ALLEGATIONS

8. Since 2016, under the Joovv[®] brand, Joovv has designed, marketed, and sold a number of market-leading LED red light therapy devices. These devices are medical grade and emit Red and NIR (Near Infrared) light onto the human to optimize cellular function. Joovv products are intended to provide topical heating for the purpose of elevating tissue temperature for: temporary relief of minor muscle pain, joint pain, minor arthritis pain, muscle spasms, temporary increase in local blood circulation, and temporary relaxation of muscles.

9. In order to protect its valuable light therapy inventions, Joovv has

filed for and received several patents covering said inventions, including but not limited to:

- a. U.S. Patent No. 10,639,495, titled *Photobiomodulation Therapy Systems and Methods* (the “495 Patent”)¹;
- b. U.S. Patent No. 10,828,505, titled *Therapeutic Light Source and Hanging Apparatus* (the “505 Patent”)²;
- c. U.S. Patent No. 10,478,635 titled *Photobiomodulation Therapy Systems and Methods* (the “635 Patent”)³;
- d. U.S. Patent No. 11,253,719 titled *Photobiomodulation Therapy Systems and Methods* (the “719 Patent”)⁴;

(collectively, the “Joovv Patents”).

10. Platinum LED is a competitor of Joovv and manufactures similar and competitive, albeit inferior, light therapy devices marketed under the series names of “Bio Lights” and “Biomax Series” (collectively, the “Accused Infringing Products”).

11. Included within the Bio Lights offerings are the “Bio 300,” Bio 450,” and “Bio 600,” which are offered for sale *at least* on Platinum LED’s website, at <https://platinumtherapylights.com/products/bio-rlt>.

12. Included within the Biomax Series of products are the “Biomax

¹ See *Exhibit A*. This patent was subject to an *Ex Parte Reexamination* and was reissued on February 10, 2022.

² See *Exhibit B*.

³ See *Exhibit C*. This patent was subject to an *Ex Parte Reexamination* and was reissued on March 11, 2022.

⁴ See *Exhibit D*.

300,” “Biomax 450,” “Biomax 600,” and “Biomax 900,” which are offered for sale *at least* on Platinum LED’s website, at <https://platinumtherapylights.com/products/biomax-rlt>.

13. Upon information and belief, Platinum LED began selling one or more of the Accused Infringing Products in or around 2018 – approximately two years after Joovv began selling its Products.

14. In or around September 2019, Joovv first became aware that Platinum LED was making, using, advertising, and selling one or more light therapy devices, namely, the Accused Infringing Products, which read on, *at a minimum*, patent claims within the ’635 Patent.

15. Accordingly, on September 20, 2019, counsel for Joovv placed Platinum LED on written notice of same and demanded that Platinum LED cease all marketing and sale of products reading upon those claims. *See Exhibit E*. A claims chart comparing the allowed claims to a Biomax Series product was also appended to the letter. *Id.*

16. Platinum LED failed to respond to the letter.

17. Meanwhile, in 2020, the USPTO also issued the ’495 and ’505 Patents.

18. Therefore, on April 5, 2021, Joovv’s counsel sent another letter notifying Platinum LED that the Accused Infringing Products also infringed one or more of the Joovv Patents. *See Exhibit F*.

19. Once again, Platinum LED failed to respond, and its infringing conduct has continued to this day.

20. The Joovv Patents inure economic benefit to Joovv as Joovv makes, uses, sells, and/or offers for sale light therapy devices that are the same or substantially similar to those devices claimed in the Joovv Patents.

21. The Joovv Patents are in force and enjoy a presumption of validity pursuant to 35 U.S.C. § 282.

22. Platinum LED continues to make, sell, offer for sale, use, and/or have, directly or indirectly, unjustly received and retained profits from the Accused Infringing Products in the United States.

23. As demonstrated by its willful disregard of Joovv's notice letters, Platinum LED has long been aware that the Accused Infringing Products infringe upon the Joovv Patents and that making, using, selling, and offering the Accused Infringing Products for sale in the United States is prohibited by United States law, specifically 35 U.S.C. § 271.

24. Platinum LED does not have a license, sub-license, or other authorization from Joovv to make, use, sell, or offer to sell the Accused Infringing Products or any product which reads on the claims of the Joovv Patents in the United States.

25. Joovv has suffered damages, lost profits and other economic harm as a direct and proximate result of Platinum LED's infringement of the Joovv

Patents.

26. Joovv has and continues to suffer irreparable harm as a result of Platinum LED's infringement.

27. Joovv has no adequate remedy at law.

28. Justice and the balance of the equities favor entry of permanent injunctive relief restraining and enjoining Platinum LED, and those acting in concert with it, or at their direction, from making, using, selling, or offering for sale products that infringe upon the Joovv Patents.

29. As a direct and proximate result of Platinum LED's actions, Joovv has been forced to incur litigation costs and retain the undersigned law firm to represent them in this action and has agreed to pay them a reasonable fee for their services.

COUNT I - WILLFUL DIRECT PATENT INFRINGEMENT
('495 Patent)

30. Plaintiff realleges and re-avers paragraphs 1-29 as if fully set forth herein.

31. This is an action for direct and indirect patent infringement pursuant to Title 35, United States Code, Section 271 of the United States Patent Act.

32. Platinum LED has infringed and continues to infringe *at least* Claim 1 of the '495 Patent by making, using, selling, and/or offering for sale

the Biomax Series products. A claims chart demonstrating Platinum LED's infringement of at least Claim 1 of the '495 Patent is attached as *Exhibit G*.

33. Platinum LED has infringed, literally and under the doctrine of equivalents, claims of the '495 Patent by making, using, selling, and/or offering for sale the Biomax Series products that read on, *at least*, Claim 1 of the '495 Patent.

34. All such infringing conduct of Platinum LED has occurred and was committed in a willful manner by at least its knowledge of the '495 Patent and having received specific accusations of infringement and claims charts in Joovv's multiple notice letters.

35. Platinum LED's actions have caused and continue to cause irreparable harm to Joovv, for which there is no adequate remedy at law.

36. Platinum LED's conduct in this instance is exceptional, and, as such, Joovv should be entitled to recover its attorneys' fees in this action pursuant to 35 USC § 285, which provides that the "court in exceptional cases may award reasonable attorney fees to the prevailing party."

COUNT II - WILLFUL DIRECT PATENT INFRINGEMENT
(505 Patent)

37. Plaintiff realleges and re-avers paragraphs 1-29 as if fully set forth herein.

38. This is an action for direct and indirect patent infringement

pursuant to Title 35, United States Code, Section 271 of the United States Patent Act.

39. Platinum LED has infringed and continues to infringe Claim 1 of the '505 Patent by making, using, selling, and/or offering for sale the Accused Infringing Products. Claims charts demonstrating Platinum LED's infringement of Claim 1 of the '505 Patent are attached as *Exhibit H*.

40. Platinum LED has infringed, literally and under the doctrine of equivalents, Claim 1 of the '505 Patent by making, using, selling, and/or offering for sale the Accused Infringing Products that read on Claim 1 of the '505 Patent.

41. All such infringing conduct of Platinum LED has occurred and was committed in a willful manner by at least its knowledge of the '505 Patent and having received specific accusations of infringement from and within Joovv's multiple notice letters.

42. Platinum LED's actions have caused and continue to cause irreparable harm to Joovv, for which there is no adequate remedy at law.

43. Platinum LED's conduct in this instance is exceptional, and, as such, Joovv should be entitled to recover its attorneys' fees in this action pursuant to 35 USC § 285, which provides that the "court in exceptional cases may award reasonable attorney fees to the prevailing party."

COUNT III - WILLFUL DIRECT PATENT INFRINGEMENT
(’635 Patent)

44. Plaintiff realleges and re-avers paragraphs 1-29 as if fully set forth herein.

45. This is an action for direct and indirect patent infringement pursuant to Title 35, United States Code, Section 271 of the United States Patent Act.

46. Platinum LED has infringed and continues to infringe *at least* Claim 1 of the ’635 Patent by making, using, selling, and/or offering for sale the Biomax Series products. A claims chart demonstrating Platinum LED’s infringement of at least Claim 1 of the ’635 Patent is attached as *Exhibit I*.

47. Platinum LED has infringed, literally and under the doctrine of equivalents, claims of the ’635 Patent by making, using, selling, and/or offering for sale the Biomax Series products that read on, *at least*, Claim 1 of the ’635 Patent.

48. All such infringing conduct of Platinum LED has occurred and was committed in a willful manner by at least its knowledge of the ’635 Patent.

49. Platinum LED’s actions have caused and continue to cause irreparable harm to Joovv, for which there is no adequate remedy at law.

50. Platinum LED’s conduct in this instance is exceptional, and, as such, Joovv should be entitled to recover its attorneys’ fees in this action

pursuant to 35 USC § 285, which provides that the “court in exceptional cases may award reasonable attorney fees to the prevailing party.”

COUNT IV - WILLFUL DIRECT PATENT INFRINGEMENT
(’719 Patent)

51. Plaintiff realleges and re-avers paragraphs 1-29 as if fully set forth herein.

52. This is an action for direct and indirect patent infringement pursuant to Title 35, United States Code, Section 271 of the United States Patent Act.

53. Platinum LED has infringed and continues to infringe *at least* Claim 1 of the ’719 Patent by making, using, selling, and/or offering for sale the Biomax Series products. A claims chart demonstrating Platinum LED’s infringement of at least Claim 1 of the ’719 Patent is attached as *Exhibit J*.

54. Platinum LED has infringed, literally and under the doctrine of equivalents, claims of the ’719 Patent by making, using, selling, and/or offering for sale the Biomax Series products that read on, *at least*, Claim 1 of the ’719 Patent.

55. All such infringing conduct of Platinum LED has occurred and was committed in a willful manner by at least its knowledge of the ’719 Patent.

56. Platinum LED’s actions have caused and continue to cause irreparable harm to Joovv, for which there is no adequate remedy at law.

57. Platinum LED's conduct in this instance is exceptional, and, as such, Joovv should be entitled to recover its attorneys' fees in this action pursuant to 35 USC § 285, which provides that the "court in exceptional cases may award reasonable attorney fees to the prevailing party."

PRAYER FOR RELIEF

WHEREFORE, Joovv respectfully demands judgment against Platinum LED, said judgment which should include provisions:

1. Permanently enjoining Platinum LED and all of those acting in concert with it, including, but not limited to, their agents, affiliates, subsidiaries, officers, directors, attorneys and employees from using, making, selling, or offering to sell the Accused Infringing Products, and all colorable imitations thereof;
2. Compensating Joovv for the full amount of damages sustained, including, but not limited to, any and all damage remedies available pursuant to the Patent Laws of the United States, 35 U.S.C. §§ 271, *et. seq.*, which include, but are not limited to, lost profits and a reasonable royalty award;
3. Declaring this case exceptional and trebling all damages awarded to Joovv;
4. Imposition of all pre- and post-judgment interest at the maximum allowable rate on the full compensatory and trebled amount awarded to Joovv;
5. Awarding remuneration of all attorneys' fees, costs and expenses

for Joovv having to investigate, prepare and prosecute this action; and

6. For such further and additional relief this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Joovv demands a trial by jury of all issues so triable as a matter of law.

Dated: May 31, 2022.

Respectfully Submitted,

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