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26 *Hoshizaki America, Inc.*

27 UNITED STATES DISTRICT COURT
28 CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

HOSHIZAKI AMERICA, INC.,

Plaintiff,

v.

BLUE AIR FSE LLC and
BLUENIX CO., LTD.

Defendants.

Case No. 2:23-CV-05588

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff, Hoshizaki America, Inc. (“Plaintiff” or “Hoshizaki”), by and through
2 its undersigned attorneys, files this Complaint for patent infringement against
3 Defendants Blue Air FSE LLC (“Blue Air”) and Bluenix Co., Ltd. (“Bluenix”)
4 (collectively, “Defendants”) and alleges as follows:

5 **NATURE OF ACTION**

6 1. This is an action for infringement arising under the patent laws of the
7 United States, 35 U.S.C. § 1 *et seq.*, to enjoin and obtain damages resulting from
8 Defendants’ willful infringement of U.S. Patent No. 10,107,538 B2, entitled “Ice
9 Cube Evaporator Plate Assembly” (“the ’538 patent”); U.S. Patent No. 10,113,785
10 B2, entitled “Ice Making Machine and Ice Cube Evaporator” (“the ’785 patent”); and
11 U.S. Patent No. 10,458,692 B2, entitled “Ice Making Machine and Ice Cube
12 Evaporator” (“the ’692 patent”) (collectively, “the Patents-in-Suit”). Copies of the
13 ’538 patent, the ’785 patent, and the ’692 patent are attached hereto as **Exhibits A**
14 **through C**, respectively.

15 2. Hoshizaki seeks damages, enhancement of damages, injunctive relief,
16 attorneys’ fees, costs, and interest for Defendants’ acts of willful patent infringement.

17 **PARTIES**

18 3. Hoshizaki is a corporation organized under the laws of the State of
19 Georgia, having a principal place of business at 618 Highway 74 South, Peachtree
20 City, GA 30269.

21 4. On information and belief, Blue Air is a limited liability company
22 organized and existing under the laws of the State of California, having a principal
23 place of business at 223 West Rosecrans Avenue, Gardena, CA 90248.

24 5. On information and belief, Bluenix is a corporation organized under the
25 laws of the Republic of Korea, having a principal place of business at 17, Emtibeui
26 3-ro, Danwon-gu, Ansan-si, Gyeonggi-do, Republic of Korea (15658). On
27 information and belief, Blue Air is at least partially owned and controlled by Bluenix.
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JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this patent infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Blue Air because Blue Air is a California corporation having a principal place of business in this District, and Blue Air has engaged in continuous and systematic minimum contacts with residents of California through the making, distribution, offering for sale, and/or sale of products and services in California, as well as its acts of patent infringement committed in this District.

8. This Court has personal jurisdiction over Bluenix at least because, on information and belief, Bluenix imports and ships infringing products (such as the BLMI-500A and BLMI-900A icemaking machines) into the state of California and, more specifically, ships and sells those products to Blue Air at its facilities in Gardena, California.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) and §§ 1391(b) and (c) because Defendants are subject to personal jurisdiction in this District, Defendants have committed acts of infringement in this District, Bluenix is a foreign corporation which may be sued in any District, and Blue Air is incorporated within the State of California, having a regular and established place of business within this District.

FACTUAL BACKGROUND

Plaintiff and the Patents-in-Suit

10. Hoshizaki is a world leader in the design, manufacturing and marketing of a wide range of commercial kitchen appliances and equipment throughout the world, including icemaking machines, dispensers, refrigerators, dish washers, worktops, preparation tables, equipment stands, and bottle coolers, to name a few.

11. Automatic icemaking machines are well known and are found, e.g., in

1 food and drink service establishments, hotels, motels, sports arenas, and other
2 commercial settings where large quantities of ice are needed on a continuous basis.
3 Given the large quantity of ice required and high energy consumption typical in the
4 production of ice, customers of such products value speed and energy efficiency in
5 the ice production process. Icemaker manufacturers must not only meet these
6 demands but must comply with increasingly stringent regulations established by the
7 U.S. Department of Energy's Office of Energy Efficiency and Renewable Energy.
8 These demands and regulations lead to enormous technical challenges that must be
9 overcome by innovation.

10 12. Hoshizaki's icemaking machines that incorporate its patented
11 technology use a unique double-sided evaporator design that increases heat transfer
12 area to improve efficiency, thereby creating clean, clear ice in approximately half as
13 many ice-making cycles as conventional grid-cell machine. This, in turn, results in
14 icemaking machines that use less energy and water and have greater reliability and
15 longer life spans.

16 13. Hoshizaki and its affiliates have spent millions of dollars on research
17 and development of its products. As a result of Hoshizaki's history and dedication to
18 innovation, Hoshizaki has received numerous innovation awards from various
19 industries, as well as several United States patents (including the Patents-in-Suit)
20 directed to its technologies and products.

21 14. The Patents-in-Suit in particular are directed to a highly valuable
22 technology that sets apart Hoshizaki's flagship icemaking machines from those of
23 competitors in the marketplace. The technology relates to a novel and innovative
24 evaporator design that substantially increases the efficiency of icemaking machines.
25 These improvements allow Hoshizaki to offer the highest quality, state-of-the-art
26 icemaking machines, while at the same time meeting exacting efficiency and
27 environmental impact requirements of both its customers and energy certification
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1 programs, such as Energy Star®. This, together with other technological innovations
2 in efficiency, have led to Hoshizaki being awarded numerous industry awards,
3 including the Energy Star® Partner of the Year for “sustained excellence” 12 years
4 in a row—an award that requires Hoshizaki to continually innovate and build upon
5 prior efficiency and environmental impact achievements. It is believed that
6 Hoshizaki was also the first food service equipment manufacturer in the United States
7 to attain ISO-14001 certification for its compliance with standards set for
8 environmental conservation practices.

9 15. Hoshizaki sells numerous “crescent cuber” icemaking machines and
10 dispensers covered by one or more claims of the Patents-in-Suit, including the KM,
11 KMD, KMH, KML, KMS and DKM series icemaking machines. An image of the
12 Hoshizaki KM-1100MAJ50 is depicted below.



1 **Acts Giving Rise to this Action**

2 16. Defendants are trading on Hoshizaki’s substantial investments in
3 research and development by knowingly and willfully incorporating Hoshizaki
4 patented evaporator design into their products. More specifically, Defendants make,
5 use, offer for sale, sell and/or import into the United States various models of
6 icemaking machines, evaporators and evaporator plate assemblies that infringe one
7 or more claims of the Patents-in-Suit, including without limitation, the BLMI-500A
8 and BLMI-900A icemaking machines, as well as an icemaking machine recently
9 exhibited and offered for sale by Blue Air at the 2023 North American Association
10 of Food Equipment Manufacturers (“NAFEM”) Show in Orlando, Florida
11 (collectively, the “Accused Products”).¹ An image of the BLMI-500A icemaking
12 machine is depicted below:



23 17. On February 21, 2023, shortly after conclusion of the 2023 NAFEM
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25 ¹ Hoshizaki obtained and inspected physical specimens of the BLMI-500A and
26 BLMI-900A Accused Products. The infringing evaporator and evaporator plate
27 assemblies of both products appear identical in design, except for size. Charts
28 mapping various claims of the Patents-in-Suit to photographs of the BLMI-500A are
attached as **Exhibits D, F and G** and are representative with respect to at least the
BLMI-500A and BLMI-900A Accused Products. On information and belief, other

1 Show, counsel for Hoshizaki sent a letter to Blue Air demanding that Blue Air
2 immediately cease and desist from further distribution and sale in the United States
3 of Accused Products (the “C&D Letter”). The C&D Letter advised Blue Air that it
4 was infringing the ’538 Patent and stated that Hoshizaki may take action for
5 infringement of the ’785 and ’692 Patents as well. The C&D Letter requested that
6 Blue Air confirm compliance within ten (10) business days.

7 18. In a March 2, 2023, email, the Chief Operating Officer of Blue Air, Jart
8 Kang, confirmed receipt of the C&D Letter and advised that Blue Air would respond
9 upon completion of its review of the matter. Mr. Kang’s email response copied an
10 unknown individual at Bluenix (dwkim@bluenix.com), as well as an email address
11 (digitto@daeyeong.co.kr) also believed to be associated with Bluenix.

12 19. In a March 9, 2023, email to Mr. Kang, counsel for Hoshizaki requested
13 an estimated date for completion of the review and, if available, contact information
14 for Blue Air’s United States counsel.

15 20. In a March 20, 2023, email, Mr. Kang advised that Blue Air was only
16 then retaining U.S. counsel and that a response would be provided “within a month.”
17 Hoshizaki received no further response from Defendants.

18 **The Bluenix Patent Application**

19 21. On April 16, 2018, Applicant Daeyeong E&B Co., Ltd. (“Daeyeong”)
20 in Korea filed a patent application (No. 15/954,396) (“the ’396 application”) with the
21 United States Patent and Trademark Office (“USPTO”) directed to an “Evaporator
22 for Ice Maker.” That same day, Daeyeong recorded an inventor assignment of the
23 ’396 application invention with the USPTO.

24 models in the BLMI and BLUI series of ice machines sold by Defendants (including
25 without limitation BLMI-300A, BLMI-500AD, BLMI-650A, BLMI-1300R, BLUI-
26 100A, BLUI-150A, BLUI-250A) and other crescent cuber icemaking machines,
27 evaporators and evaporator plate assemblies incorporated within these machines
28 utilize the same or similar infringing technology as the BLMI-500A and BLMI-900A
models. Hoshizaki intends to take discovery on the features of these additional
models and associated components to confirm this understanding.

1 22. In various Information Disclosure Statements (“IDSs”) submitted to the
2 USPTO in connection with prosecution of the ’396 application, Daeyeong identified
3 numerous patent references owned by Hoshizaki and its affiliates, including a July
4 11, 2018, IDS identifying a published patent application (2014/0138065 A1) that
5 eventually issued as the ’538 patent at issue in this case.

6 23. In an August 26, 2019, Office Action, the USPTO asserted various prior
7 art references against the ’396 application, including U.S. Patent App. Pub. No.
8 2017/0067678 (“the ’678 publication”), which is a publication of the application that
9 eventually issued as the ’785 patent. On December 26, 2019, Daeyeong responded
10 to the Office Action by amending its claims and specifically addressing the ’678
11 publication’s disclosure.

12 24. The ’396 application issued on June 9, 2020, and, on December 13,
13 2021, Daeyeong recorded a notice advising the USPTO of a change in corporate
14 name to Bluenix Co., Ltd.

15 COUNT I

16 **(Direct Infringement of U.S. Patent No. 10,107,538 B2)**

17 25. Hoshizaki incorporates by reference and realleges all the foregoing
18 paragraphs of this Complaint as if fully set forth herein.

19 26. Hoshizaki is the owner and assignee of all substantial rights, title and
20 interest in the ’538 patent.

21 27. Without license or authorization and in violation of 35 U.S.C. § 271(a),
22 Defendants directly infringed (and continue to directly infringe) at least claim 1 of
23 the ’538 patent throughout the United States, literally or under the doctrine of
24 equivalents, by making, using, offering for sale, and/or selling the Accused Products
25 in the United States, and/or importing the Accused Products into the United States.
26 An exemplary claim chart mapping the BLMI-500A icemaking machine to the
27 elements of claim 1 of the ’538 patent is attached hereto as **Exhibit D**. The chart
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1 attached as **Exhibit D** is also representative of the BLMI-900A icemaking machine.
2 *See supra* note 1.

3 28. Defendants’ past and continued acts of direct infringement of the ’538
4 patent have caused damage to Hoshizaki. Thus, Hoshizaki is entitled to recover
5 damages from Defendants in an amount to be determined at trial, including but not
6 limited to lost profits, but in no event less than a reasonable royalty for Defendants’
7 direct infringement together with interest and costs as fixed by the Court pursuant to
8 35 U.S.C. § 284.

9 29. On information and belief, Blue Air has intentionally and deliberately
10 infringed the ’538 patent, having had knowledge of the ’538 patent and Blue Air’s
11 infringement of that patent at least as of the date of Blue Air’s receipt of the February
12 21, 2023, C&D Letter. Blue Air’s direct infringement of the ’538 patent is therefore
13 willful, entitling Hoshizaki to enhanced damages.

14 30. On information and belief, Bluenix has intentionally and deliberately
15 infringed the ’538 patent, having had knowledge of the ’538 patent specification at
16 least as of the July 11, 2018 IDS, and knowledge of the ’538 patent and Bluenix’s
17 infringement of that patent no later than Bluenix’s receipt of the March 2, 2023, email
18 from Mr. Kang responding to the February 21, 2023, C&D Letter. Bluenix’s direct
19 infringement of the ’538 patent is therefore willful, entitling Hoshizaki to enhanced
20 damages.

21 31. Defendants’ willful direct infringement of the ’538 patent has allowed
22 them to enjoy substantial sales they otherwise would not have had, grow market
23 share, and leverage Hoshizaki’s patented technology to develop their own products
24 and brands at the expense of Hoshizaki’s reputation as a market and technology
25 innovator, and on information and belief, Defendants lack any reasonable invalidity
26 or non-infringement defenses. For at least these reasons, this action is “exceptional”
27 within the meaning of 35 U.S.C. § 285, entitling Hoshizaki to reasonable attorneys’
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1 fees in bringing this action.

2 32. Defendants' ongoing direct infringement of the '538 patent has caused
3 and will continue to cause irreparable harm to Hoshizaki unless and until the Court
4 enters an injunction prohibiting Defendants from engaging in further acts of direct
5 infringement of the '538 patent.

6 **COUNT II**

7 **(Indirect Infringement of U.S. Patent No. 10,107,538 B2)**

8 33. Hoshizaki incorporates by reference and realleges all the foregoing
9 paragraphs of this Complaint as if fully set forth herein.

10 34. On information and belief, Blue Air has had knowledge of the '538
11 patent and Blue Air's infringement of that patent at least as of the date of Blue Air's
12 receipt of the February 21, 2023, C&D Letter.

13 35. On information and belief, Bluenix has had knowledge of the '538
14 patent specification at least as of the July 11, 2018, IDS, and knowledge of the '538
15 patent and Bluenix's infringement of that patent no later than Bluenix's receipt of the
16 March 2, 2023, email from Mr. Kang responding to the February 21, 2023, C&D
17 Letter.

18 36. Without license or authorization and in violation of 35 U.S.C. § 271(b),
19 Defendants indirectly infringed (and continue to indirectly infringe), for example, by
20 knowingly, intentionally, purposefully and actively inducing others (such as end-user
21 customers) to directly infringe at least claim 1 of the '538 patent, either literally or
22 under the doctrine of equivalents, by encouraging said others to make, use, offer to
23 sell, sell, and/or import into the United States the Accused Products, knowing that
24 such induced acts constitute patent infringement or with a belief of a high probability
25 that said others would infringe the '538 patent, while remaining willfully blind to
26 such infringement. For example, and without limitation, Defendants, with
27 knowledge of the '538 patent and their infringement, sell the BLMI-500A and BLMI-

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1 900A icemaking machines with user’s manuals (*see Exhibit E*) expressly instructing
2 customers on how to operate and use these machines in an infringing manner.
3 Defendants have also engaged in various marketing efforts (such as advertising and
4 marketing on their websites <https://www.blueair.com/> and
5 <http://www.daeyeong.co.kr/en/>) to entice users to purchase and use the Accused
6 Products in an infringing manner, knowing such use to constitute infringement of the
7 ’538 patent.

8 37. Defendants’ past and continued acts of indirect infringement of the ’538
9 patent have caused damage to Hoshizaki. Thus, Hoshizaki is entitled to recover
10 damages from Defendants in an amount to be determined at trial, including but not
11 limited to lost profits, but in no event less than a reasonable royalty for Defendants’
12 indirect infringement together with interest and costs as fixed by the Court pursuant
13 to 35 U.S.C. § 284.

14 38. On information and belief, Defendants have intentionally and
15 deliberately infringed the ’538 patent. Defendants’ indirect infringement of the ’538
16 patent is therefore willful, entitling Hoshizaki to enhanced damages.

17 39. Defendants’ willful indirect infringement of the ’538 patent has allowed
18 them to enjoy substantial sales they otherwise would not have had, grow market
19 share, and leverage Hoshizaki’s patented technology to develop their own products
20 and brands at the expense of Hoshizaki’s reputation as a market and technology
21 innovator, and on information and belief, Defendants lack any reasonable invalidity
22 or non-infringement defenses. For at least these reasons, this action is “exceptional”
23 within the meaning of 35 U.S.C. § 285, entitling Hoshizaki to reasonable attorneys’
24 fees in bringing this action.

25 40. Defendants’ ongoing indirect infringement of the ’538 patent has caused
26 and will continue to cause irreparable harm to Hoshizaki unless and until the Court
27 enters an injunction prohibiting Defendants from engaging in further acts of indirect
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1 infringement of the '538 patent.

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3 **COUNT III**

4 **(Direct Infringement of U.S. Patent No. 10,113,785 B2)**

5 41. Hoshizaki incorporates by reference and realleges all the foregoing
6 paragraphs of this Complaint as if fully set forth herein.

7 42. Hoshizaki is the owner and assignee of all substantial rights, title and
8 interest in the '785 patent.

9 43. Without license or authorization and in violation of 35 U.S.C. § 271(a),
10 Defendants directly infringed (and continue to directly infringe) at least claim 1 of
11 the '785 patent throughout the United States, literally or under the doctrine of
12 equivalents, by making, using, offering for sale, and/or selling the Accused Products
13 in the United States, and/or importing the Accused Products into the United States.
14 An exemplary claim chart mapping the BLMI-500A icemaking machine to the
15 elements of claim 1 of the '785 patent is attached hereto as **Exhibit F**. The chart
16 attached as **Exhibit F** is also representative of the BLMI-900A icemaking machine.
17 *See supra* note 1.

18 44. Defendants' past and continued acts of direct infringement of the '785
19 patent have caused damage to Hoshizaki. Thus, Hoshizaki is entitled to recover
20 damages from Defendants in an amount to be determined at trial, including but not
21 limited to lost profits, but in no event less than a reasonable royalty for Defendants'
22 direct infringement together with interest and costs as fixed by the Court pursuant to
23 35 U.S.C. § 284.

24 45. On information and belief, Blue Air has intentionally and deliberately
25 infringed the '785 patent, having had knowledge of the '785 patent and Blue Air's
26 infringement of that patent at least as of the date of Blue Air's receipt of the February
27 21, 2023, C&D Letter. Blue Air's direct infringement of the '785 patent is therefore
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1 willful, entitling Hoshizaki to enhanced damages.

2 46. On information and belief, Bluenix has intentionally and deliberately
3 infringed the '785 patent, having had knowledge of the '785 patent specification at
4 least as of the August 26, 2019 Office Action citing the '678 publication against
5 Bluenix's '396 application, and knowledge of the '785 patent and Bluenix's
6 infringement of that patent no later than Bluenix's receipt of the March 2, 2023, email
7 from Mr. Kang responding to the February 21, 2023, C&D Letter. Bluenix's direct
8 infringement of the '785 patent is therefore willful, entitling Hoshizaki to enhanced
9 damages.

10 47. Defendants' willful direct infringement of the '785 patent has allowed
11 them to enjoy substantial sales they otherwise would not have had, grow market
12 share, and leverage Hoshizaki's patented technology to develop their own products
13 and brands at the expense of Hoshizaki's reputation as a market and technology
14 innovator, and on information and belief, Defendants lack any reasonable invalidity
15 or non-infringement defenses. For at least these reasons, this action is "exceptional"
16 within the meaning of 35 U.S.C. § 285, entitling Hoshizaki to reasonable attorneys'
17 fees in bringing this action.

18 48. Defendants' ongoing direct infringement of the '785 patent has caused
19 and will continue to cause irreparable harm to Hoshizaki unless and until the Court
20 enters an injunction prohibiting Defendants from engaging in further acts of direct
21 infringement of the '785 patent.

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23 **COUNT IV**

24 **(Indirect Infringement of U.S. Patent No. 10,113,785 B2)**

25 49. Hoshizaki incorporates by reference and realleges all the foregoing
26 paragraphs of this Complaint as if fully set forth herein.

27 50. On information and belief, Blue Air has had knowledge of the '785
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1 patent and Blue Air’s infringement of that patent at least as of the date of Blue Air’s
2 receipt of the February 21, 2023, C&D Letter.

3 51. On information and belief, Bluenix has had knowledge of the ’785
4 patent specification at least as of the August 26, 2019, Office Action citing the ’678
5 publication against Bluenix’s ’396 application, and knowledge of the ’785 patent and
6 Bluenix’s infringement of that patent no later than Bluenix’s receipt of the March 2,
7 2023, email from Mr. Kang responding to the February 21, 2023, C&D Letter.

8 52. Without license or authorization and in violation of 35 U.S.C. § 271(b),
9 Defendants indirectly infringed (and continue to indirectly infringe), for example, by
10 knowingly, intentionally, purposefully and actively inducing others (such as end-user
11 customers) to directly infringe at least claim 1 of the ’785 patent, either literally or
12 under the doctrine of equivalents, by encouraging said others to make, use, offer to
13 sell, sell, and/or import into the United States the Accused Products, knowing that
14 such induced acts constitute patent infringement or with a belief of a high probability
15 that said others would infringe the ’785 patent, while remaining willfully blind to
16 such infringement. For example, and without limitation, Defendants, with
17 knowledge of the ’785 patent and its infringement, sell the BLMI-500A and BLMI-
18 900A icemaking machines with user’s manuals (*see Exhibit E*) expressly instructing
19 customers on how to operate and use these machines in an infringing manner.
20 Defendants have also engaged in various marketing efforts (such as advertising and
21 marketing on their websites <https://www.blueair.com/> and
22 <http://www.daeyeong.co.kr/en/>) to entice users to purchase and use the Accused
23 Products in an infringing manner, knowing such use to constitute infringement of the
24 ’785 patent.

25 53. Without license or authorization and in violation of 35 U.S.C. § 271(c),
26 Defendants indirectly infringed (and continue to indirectly infringe), for example, by
27 making, using, offering to sell, selling, and/or importing into the United States the
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1 Accused Products, knowing that users (such as end-user customers) would
2 incorporate (and did incorporate) the Accused Products into systems that directly
3 infringe at least claim 16 of the '785 patent, where the Accused Products have no
4 substantial non-infringing uses. For example, and without limitation, the BLMI-
5 500A and BLMI-900A icemaking machines are each a material component of the ice
6 making system recited in claim 16 and have no use other than to be combined with a
7 source of water to meet all limitations of the claim (*see* exemplary chart attached as
8 **Exhibit F** mapping the BLMI-500A to the elements of claim 16, which chart is
9 representative also of the BLMI-900A, *see supra* note 1), and on information and
10 belief, at least one user directly infringed claim 16 by combining the BLMI-500A
11 and/or BLMI-900A icemaking machines with such a water source, as instructed by
12 Blue Air in its user manuals for these machines (*see Exhibit E* at pp. 16-17).

13 54. Defendants' past and continued acts of indirect infringement of the '785
14 patent have caused damage to Hoshizaki. Thus, Hoshizaki is entitled to recover
15 damages from Defendants in an amount to be determined at trial, including but not
16 limited to lost profits, but in no event less than a reasonable royalty for Defendants'
17 indirect infringement together with interest and costs as fixed by the Court pursuant
18 to 35 U.S.C. § 284.

19 55. On information and belief, Defendants have intentionally and
20 deliberately infringed the '785 patent. Defendants' indirect infringement of the '785
21 patent is therefore willful, entitling Hoshizaki to enhanced damages.

22 56. Defendants' willful indirect infringement of the '785 patent has allowed
23 them to enjoy substantial sales they otherwise would not have had, grow market
24 share, and leverage Hoshizaki's patented technology to develop their own products
25 and brands at the expense of Hoshizaki's reputation as a market and technology
26 innovator, and on information and belief, Defendants lack any reasonable invalidity
27 or non-infringement defenses. For at least these reasons, this action is "exceptional"
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1 within the meaning of 35 U.S.C. § 285, entitling Hoshizaki to reasonable attorneys’
2 fees in bringing this action.

3 57. Defendants’ ongoing indirect infringement of the ’785 patent has caused
4 and will continue to cause irreparable harm to Hoshizaki unless and until the Court
5 enters an injunction prohibiting Defendants from engaging in further acts of indirect
6 infringement of the ’785 patent.

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8 **COUNT V**

9 **(Direct Infringement of U.S. Patent No. 10,458,692 B2)**

10 58. Hoshizaki incorporates by reference and realleges all the foregoing
11 paragraphs of this Complaint as if fully set forth herein.

12 59. Hoshizaki is the owner and assignee of all substantial rights, title and
13 interest in the ’692 patent.

14 60. Without license or authorization and in violation of 35 U.S.C. § 271(a),
15 Defendants directly infringed (and continue to directly infringe) at least claim 1 of
16 the ’692 patent throughout the United States, literally or under the doctrine of
17 equivalents, by making, using, offering for sale, and/or selling the Accused Products
18 in the United States, and/or importing the Accused Products into the United States.
19 An exemplary claim chart mapping the BLMI-500A icemaking machine to the
20 elements of claim 1 of the ’692 patent is attached hereto as **Exhibit G**. The chart
21 attached as **Exhibit G** is also representative of the BLMI-900A icemaking machine.
22 *See supra* note 1.

23 61. Defendants’ past and continued acts of direct infringement of the ’692
24 patent have caused damage to Hoshizaki. Thus, Hoshizaki is entitled to recover
25 damages from Defendants in an amount to be determined at trial, including but not
26 limited to lost profits, but in no event less than a reasonable royalty for Defendants’
27 direct infringement together with interest and costs as fixed by the Court pursuant to
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1 35 U.S.C. § 284.

2 62. On information and belief, Blue Air has intentionally and deliberately
3 infringed the '692 patent, having had knowledge of the '692 patent and Blue Air's
4 infringement of that patent at least as of the date of Blue Air's receipt of the February
5 21, 2023, C&D Letter. Blue Air's direct infringement of the '692 patent is therefore
6 willful, entitling Hoshizaki to enhanced damages.

7 63. On information and belief, Bluenix has intentionally and deliberately
8 infringed the '692 patent, having had knowledge of the '692 patent and Bluenix's
9 infringement of that patent no later than Bluenix's receipt of the March 2, 2023, email
10 from Mr. Kang responding to the February 21, 2023, C&D Letter. Bluenix's direct
11 infringement of the '692 patent is therefore willful, entitling Hoshizaki to enhanced
12 damages.

13 64. Defendants' willful direct infringement of the '692 patent has allowed
14 them to enjoy substantial sales they would otherwise not have had, grow market
15 share, and leverage Hoshizaki's patented technology to develop their own products
16 and brands at the expense of Hoshizaki's reputation as a market and technology
17 innovator, and on information and belief, Defendants lack any reasonable invalidity
18 or non-infringement defenses. For at least these reasons, this action is "exceptional"
19 within the meaning of 35 U.S.C. § 285, entitling Hoshizaki to reasonable attorneys'
20 fees in bringing this action.

21 65. Defendants' ongoing direct infringement of the '692 patent has caused
22 and will continue to cause irreparable harm to Hoshizaki unless and until the Court
23 enters an injunction prohibiting Defendants from engaging in further acts of direct
24 infringement of the '692 patent.

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COUNT VI
(Indirect Infringement of U.S. Patent No. 10,458,692 B2)

1 66. Hoshizaki incorporates by reference and realleges all the foregoing
2 paragraphs of this Complaint as if fully set forth herein.

3 67. On information and belief, Blue Air has had knowledge of the '692
4 patent and Blue Air's infringement of that patent at least as of the date of Blue Air's
5 receipt of the February 21, 2023, C&D Letter.

6 68. On information and belief, Bluenix has had knowledge of the '692
7 patent at least as of Bluenix's receipt of the March 2, 2023, email from Mr. Kang
8 responding to the February 21, 2023, C&D Letter.

9 69. Without license or authorization and in violation of 35 U.S.C. § 271(b),
10 Defendants indirectly infringed (and continue to indirectly infringe), for example, by
11 knowingly, intentionally, purposefully and actively inducing others (such as end-user
12 customers) to directly infringe at least claim 1 of the '692 patent, either literally or
13 under the doctrine of equivalents, by encouraging said others to make, use, offer to
14 sell, sell, and/or import into the United States the Accused Products, knowing that
15 such induced acts constitute patent infringement or with a belief of a high probability
16 that said others would infringe the '692 patent, while remaining willfully blind to
17 such infringement. For example, and without limitation, Defendants, with
18 knowledge of the '692 patent and its infringement, sell the BLMI-500A and BLMI-
19 900A icemaking machines with user's manuals (*see Exhibit E*) expressly instructing
20 customers on how to operate and use these machines in an infringing manner.
21 Defendants have also engaged in various marketing efforts (such as advertising and
22 marketing on their websites <https://www.blueair.com/> and
23 <http://www.daeyeong.co.kr/en/>) to entice users to purchase and use the Accused
24 Products in an infringing manner, knowing such use to constitute infringement of the
25 '692 patent.

26 70. Without license or authorization and in violation of 35 U.S.C. § 271(c),
27 Defendants indirectly infringed (and continue to indirectly infringe), for example, by
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1 making, using, offering to sell, selling, and/or importing into the United States the
2 Accused Products, knowing that users (such as end-user customers) would
3 incorporate (and did incorporate) the Accused Products into systems that directly
4 infringe at least claim 11 of the '692 patent, where the Accused Products have no
5 substantial non-infringing uses. For example, and without limitation, the BLMI-
6 500A and BLMI-900A icemaking machines are each a material component of the ice
7 making system recited in claim 11 and have no use other than to be combined with a
8 source of water to meet all limitations of the claim (*see* exemplary chart attached as
9 **Exhibit G** mapping the BLMI-500A to the elements of claim 11, which chart is
10 representative also of the BLMI-900A, *see supra* note 1), and on information and
11 belief, at least one user directly infringed claim 11 by combining the BLMI-500A
12 and/or BLMI-900A icemaking machines with such a water source, as instructed by
13 Blue Air in its user manuals for these machines (*see Exhibit E* at pp. 16-17).

14 71. Defendants' past and continued acts of indirect infringement of the '692
15 patent have caused damage to Hoshizaki. Thus, Hoshizaki is entitled to recover
16 damages from Defendants in an amount to be determined at trial, including but not
17 limited to lost profits, but in no event less than a reasonable royalty for Defendants'
18 indirect infringement together with interest and costs as fixed by the Court pursuant
19 to 35 U.S.C. § 284.

20 72. On information and belief, Defendants have intentionally and
21 deliberately infringed the '692 patent. Defendants' indirect infringement of the '692
22 patent is therefore willful, entitling Hoshizaki to enhanced damages and costs.

23 73. Defendants' willful indirect infringement of the '692 patent has allowed
24 them to enjoy substantial sales they would otherwise not have had, grow market
25 share, and leverage Hoshizaki's patented technology to develop their own products
26 and brands at the expense of Hoshizaki's reputation as a market and technology
27 innovator, and on information and belief, Defendants lack any reasonable invalidity
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1 or non-infringement defenses. For at least these reasons, this action is “exceptional”
2 within the meaning of 35 U.S.C. § 285, entitling Hoshizaki to reasonable attorneys’
3 fees in bringing this action.

4 74. Defendants’ ongoing indirect infringement of the ’692 patent has caused
5 and will continue to cause irreparable harm to Hoshizaki unless and until the Court
6 enters an injunction prohibiting Defendants from engaging in further acts of indirect
7 infringement of the ’692 patent.

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9 **PRAYER FOR RELIEF**

10 WHEREFORE, for the reasons set forth above, Hoshizaki respectfully
11 requests that this Court enter judgement in its favor, and against Blue Air, and award
12 relief including, but not limited to, the following:

- 13 A. a judgment that Defendants have infringed each of the Patents-in-Suit;
14 B. a judgment that Defendants’ infringement of the Patents-in-Suit was
15 willful;
16 C. an order permanently enjoining Defendants from further acts of
17 infringement of the Patents-in-Suit;
18 D. an order awarding damages adequate to compensate Hoshizaki for
19 Defendants’ unauthorized acts of infringement, including lost profits,
20 and in an amount not less than a reasonable royalty;
21 E. an order awarding Hoshizaki treble damages under 35 U.S.C. § 284 as
22 a result of Defendants’ willful and deliberate infringement of the
23 Patents-in-Suit;
24 F. a declaration that this case is exceptional within the meaning of 35
25 U.S.C. § 285 and an award of Hoshizaki’s reasonable attorneys’ fees
26 incurred in the prosecution of this action;
27 G. an order awarding costs and expenses incurred by Hoshizaki in this
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action;

H. an order awarding pre-judgment and post-judgment interest to Hoshizaki; and

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

Dated: July 12, 2023

By: /s/ John S. Kyle

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