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14 Attorneys for Plaintiffs
15 HYPER ICE, INC. and
16 HYPERICE IP SUBCO, LLC

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

19 HYPER ICE, INC., a California
20 corporation, and HYPERICE IP
21 SUBCO, LLC, a Delaware limited
22 liability company,

23 Plaintiffs,

24 vs.

25 DACORM,

26 Defendant.

CASE NO.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Trial Date: None Set

1 District and has a regular and established place of business in this District.

2 **GENERAL ALLEGATIONS**

3 9. The '482 Patent is entitled "Massage Device Having Variable Stroke
4 Length" and issued on January 2, 2024, claiming priority to Application No.
5 14/317,573, filed on June 27, 2014, and Provisional Application No. 61/841,693,
6 filed on July 1, 2013. A true and correct copy of the '482 Patent is attached hereto as
7 Exhibit 1.

8 10. Philip C. Danby and John Charles Danby are the named inventors of
9 the inventions disclosed in the '482 Patent. Hyperice IP Subco, LLC, a wholly
10 owned subsidiary of Hyper Ice, Inc., is the owner of the '482 Patent. Hyper Ice, Inc.
11 is a licensee that has been granted the express, irrevocable right to, *inter alia*,
12 sublicense, enforce, and defend the '482 Patent.

13 11. This action arises out of Defendant's direct infringement of the '482
14 Patent.

15 12. Since at least 2018, Hyperice has developed, arranged for the
16 manufacture of, offered for sale, and sold the Hypervolt line of battery-powered
17 percussive massage devices, including the Hypervolt Go 2, Hypervolt 2, and
18 Hypervolt 2 Pro, all of which are covered by one or more claims of the '482 Patent.

19 13. Defendant offers for sale and/or sells products that infringe the '482
20 Patent, including but not limited to all Dacorm and Dacorma massage guns.

21 **COUNT 1 – PATENT INFRINGEMENT**

22 14. Hyperice incorporates by reference the allegations in Paragraphs 1-13
23 above.

24 15. Defendant has infringed and continues to infringe the '482 Patent under
25 the Patent Laws of the United States, 35 U.S.C §§ 271 *et seq.* Defendant offers for
26 sale and/or sells the infringing products at issue in this case.

27 16. Defendant infringes at least Claim 1 of the '482 Patent. Defendant
28

- 1 offers for sale and/or sells infringing products, which are battery-powered
2 percussive massagers that include the following claim limitations, either literally or
3 under the doctrine of equivalents:
- 4 a. a housing;
 - 5 b. a piston having a proximal end and a distal end, the distal end of
6 the piston having a substantially cylindrical bore;
 - 7 c. a motor at least partially within the housing and operatively
8 connected to the proximal end of the piston, wherein the motor is configured to
9 cause the piston to reciprocate at a first speed;
 - 10 d. a drive mechanism that controls a predetermined stroke length of
11 the piston; and
 - 12 e. a quick-connect system comprising the distal end of the piston
13 and a first massaging head, wherein the quick-connect system is configured to
14 secure the first massaging head to the percussive massager by a proximal end of the
15 massaging head being slid into the bore while the piston reciprocates the
16 predetermined stroke length at the first speed.

17 17. Defendant's infringement of the '482 Patent has caused, and will
18 continue to cause, significant damage to Hyperice. As a result, Hyperice is entitled
19 to an award of damages adequate to compensate it for the infringement in an amount
20 that is in no event less than a reasonable royalty pursuant to 35 U.S.C. §284.
21 Hyperice is also entitled to recover prejudgment interest, post-judgment interest, and
22 costs.

23 18. As a result of Defendant's infringement of the '482 Patent, Hyperice
24 has suffered irreparable harm and impairment of the value of its patent rights, and
25 Hyperice will continue to suffer irreparable harm and impairment of the value of its
26 patent rights, unless and until Defendant is permanently enjoined by this Court from
27 infringing the '482 Patent under 35 U.S.C. §283. Hyperice has no adequate remedy
28 at law and is entitled to a permanent injunction against Defendant.

PRAYER FOR RELIEF

WHEREFORE, Hyperice prays for the following relief:

1. That this Court enter judgment of infringement of the '482 Patent in favor of Hyperice and against Defendant;
2. That this Court enter a permanent injunction against Defendant from infringing the '482 Patent;
3. That this Court award Hyperice compensatory damages for infringement of the '482 Patent, as well as interest thereon;
4. That this Court award Hyperice its costs of suit;
5. That this Court declare this an exceptional case under 35 U.S.C. §285 and award Hyperice its attorneys' fees and any other costs incurred in connection with this action;
6. That this Court award Hyperice prejudgment and post-judgment interest; and
7. That this Court grant such further relief as the Court deems just and proper.

1 DATED: January 16, 2024

MILLER BARONDESS LLP

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DEMAND FOR JURY TRIAL

8. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs HYPER ICE, INC. and HYPERICE IP SUBCO, LLC hereby demand a trial by jury of all issues triable by jury.

DATED: January 16, 2024 **MILLER BARONDESS LLP**

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