	Case 8:24-cv-00097	Document 1	Filed 01/1	6/24	Page 1 d	of 7	Page ID #:1	
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10 11	Attorneys for Plaint	iffs						
12	HYPER ICE, INC. and HYPERICE IP SUBCO, LLC							
13	UNITED STATES DISTRICT COURT							
14	CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION						ON	
15 16								
17	HYPER ICE, INC., corporation, and HY			CAS	E NO.			
18	SUBCO, LLC, a Delaware limited			COMPLAINT FOR PATENT INFRINGEMENT				
19	liability company,				MINGEIN		1	
20	Plaintif	ffs,		DEM	IAND FO	OR .	JURY TRIA	L
21	vs.			Trial	Date:	Nc	one Set	
22	DACORM,							
23	Defend	ant						
24	Derend	idiit.						
25 26								
26 27								
27 28								
20	4848-2190-1040.2							
		COMPLAI	INT FOR PAT	ENT IN	FRINGEM	ENT		

Plaintiff Hyper Ice, Inc. ("Plaintiff" or "Hyperice") alleges as follows 1 1. 2 for this Complaint for Patent Infringement ("Complaint") against defendant 3 Dacorm. ("Defendant" or "Dacorm"): THE PARTIES 4 Hyperice is a California corporation with its principal place of business 5 2. at 525 Technology Drive, Suite 100, Irvine, California 92618. 6 7 3. Hyperice is informed and believes, and based thereon alleges, that Defendant has place of business at 9105 Milliken Ave., Rancho Cucamonga, CA 8 9 91730. 10 4. On information and belief, either itself or through its subsidiaries, parents, or other related companies, Defendant sells infringing products via 11 Amazon.com and via its website, dacormmassagegun.com, to consumers in this 12 13 District, throughout the State of California, and throughout the United States. JURISDICTION AND VENUE 14 15 5. This is an action for patent infringement under 35 U.S.C. §§ 271 et seq. brought by Hyperice against Defendant for Defendant's infringement of U.S. Patent 16 No. 11,857,482 ("the '482 Patent"). 17 18 6. This Court has subject matter jurisdiction over Hyperice's claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because those claims 19 arise under the patent laws of the United States, 35 U.S.C. §§ 1 et seq. 20 This Court has personal jurisdiction over Defendant by virtue of, inter 21 7. alia, Defendant's conduct of business in this District; its purposeful availment of the 22 23 rights and benefits of California law; and its substantial, continuous, and systematic contacts with the State of California and this District. On information and belief, 24 Defendant: (1) intentionally markets and sells its infringing products to residents of 25 this State; and (2) enjoys substantial income from this State. 26 8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 28 27 28 U.S.C. § 1400(b) because Defendant has committed acts of infringement in this

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

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GENERAL ALLEGATIONS

9. The '482 Patent is entitled "Massage Device Having Variable Stroke
Length" and issued on January 2, 2024, claiming priority to Application No.
14/317,573, filed on June 27, 2014, and Provisional Application No. 61/841,693,
filed on July 1, 2013. A true and correct copy of the '482 Patent is attached hereto as
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 '48214 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

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

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16. Defendant infringes at least Claim 1 of the '482 Patent. Defendant
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offers for sale and/or sells infringing products, which are battery-powered
 percussive massagers that include the following claim limitations, either literally or
 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

e. a quick-connect system comprising the distal end of the piston
and a first massaging head, wherein the quick-connect system is configured to
secure the first massaging head to the percussive massager by a proximal end of the
massaging head being slid into the bore while the piston reciprocates the
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.

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

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1	PRAYER FOR RELIEF						
2	WHEREFORE, Hyperice prays for the following relief:						
3	1. That this Court enter judgment of infringement of the '482 Patent in						
4	favor of Hyperice and against Defendant;						
5	2. That this Court enter a permanent injunction against Defendant from						
6	infringing the '482 Patent;						
7	3. That this Court award Hyperice compensatory damages for						
8	infringement of the '482 Patent, as well as interest thereon;						
9	4. That this Court award Hyperice its costs of suit;						
10	5. That this Court declare this an exceptional case under 35 U.S.C. §285						
11	and award Hyperice its attorneys' fees and any other costs incurred in connection						
12	with this action;						
13	6. That this Court award Hyperice prejudgment and post-judgment						
14	interest; and						
15	7. That this Court grant such further relief as the Court deems just and						
16	proper.						
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	COMPLAINT FOR PATENT INFRINGEMENT						

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1 2	DATED: January 16	, 2024		BARONDESS LLP	
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13			Attorne	eys for Plaintiffs	
				R ICE, INC. and	
14			HYPEI	RICE IP SUBCO, LLC	
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1 2 3	DEMAND FOR JURY TRIAL 8. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs HYPEP ICE INC. and HYPEPICE IP SUPCO. LLC hereby demand a					
3	Plaintiffs HYPER ICE, INC. and HYPERICE IP SUBCO, LLC hereby demand a					
4	trial by jury of all issues triable by jury.					
5	DATED: January 16, 2024 MILLER BARONDESS LLP					
6						
7	By: <u>/s/Ben Herbert</u>					
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