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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

PLUS EV HOLDINGS, INC., a
Missouri corporation,

Plaintiff,

vs.

NEWFLORA LLC, a California
limited liability corporation,

Defendant.

Case No: '24CV1363 LL BLM

**COMPLAINT FOR DESIGN
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff Plus EV Holdings, Inc. (“Plus EV” or “Plaintiff”) dba Intimate
2 Rose (“Intimate Rose”), for its complaint against Defendant NewFlora LLC
3 (“NewFlora” or “Defendant”), hereby alleges as follows:

4 **NATURE OF THE ACTION**

5 1. Plaintiff Plus EV brings this action for design patent infringement of
6 U.S. Design Patent No. D1,029,286 (“the ’D286 Patent,” attached as Exhibit 1)
7 against NewFlora in light of NewFlora selling and offering to sell a pelvic wand
8 that is substantially similar to the design of the ’D286 Patent.

9 **THE PARTIES**

10 2. Plaintiff Plus EV is a Missouri corporation with a principal place of
11 business at 1419 Murray Street, North Kansas City, Missouri. Plus EV crafts
12 solutions for a variety of clients, including in the health industry.

13 3. Defendant NewFlora is a California limited liability company with a
14 principal place of business at 1650 N Coast Highway 101, Unit B, Encinitas,
15 California, as indicated on its business filing with the State of California. *See*
16 Exhibit 2. NewFlora sells tools for pelvic health products and competes with Plus
17 EV for product sales in the State of California. On information and belief,
18 NewFlora sells the products at issue in this Complaint to customers in this District
19 and throughout the State of California.

20 **JURISDICTION AND VENUE**

21 4. This Court has subject matter jurisdiction because this is an action for
22 design patent infringement arising under the patent laws of the United States, 35
23 U.S.C. § 101 *et seq.* arising out of the Defendant’s infringing activity. This Court
24 has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

25 5. Defendant is duly registered as a California company and, upon
26 information and belief, transacts business and ships and warehouses infringing
27 products in this State and in this District from which the causes of action set forth
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1 herein arise and is therefore subject to personal jurisdiction in this Court pursuant
2 to Fed. R. Civ. P. 4(k)(1)(A).

3 6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and
4 1400(b) because Defendant resides in this District and Defendant has committed
5 acts of infringement and has a regular and established place of business in this
6 District.

7 **FACTUAL BACKGROUND**

8 **Plus EV and its Intellectual Property**

9 7. Plus EV crafts solutions for a variety of clients, and under the
10 business name Intimate Rose, offers products and services in the pelvic health
11 industry.

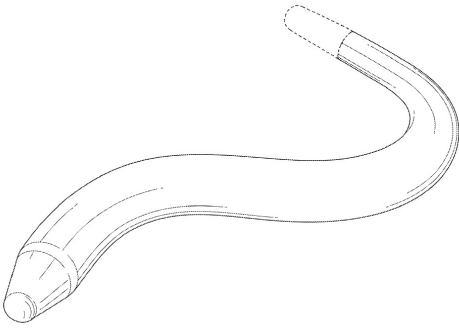

12 8. Plus EV invests in intellectual property to protect some of its unique
13 product designs, trademarks, and copyrightable material.

14 9. Plus EV is the owner by assignment of the 'D286 Patent.

15 **The Defendant Copied Plus EV's Patented Design**

16 10. Upon information and belief, Defendant has copied Plus EV's
17 products and manufactures, uses, distributes, imports, sells, and/or offers to sell
18 products that embody the design claimed in the 'D286 Patent.

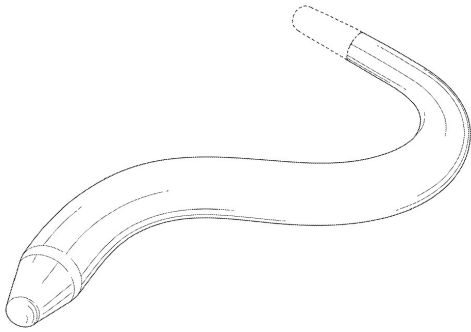

19 11. A photograph of a Plus EV product, sold under the name Intimate
20 Rose, that embodies the design claimed in the 'D286 Patent is set forth in the table
21 below next to Figure 1 from the 'D286 Patent:
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<p>1 2 3 4 5 6 7 8 9 10 11</p>  <p>Plus EV U.S. Patent No. D1,029,286 S</p>	 <p>Intimate Rose Pelvic Floor Wand & Massage Therapy Tool</p> <p>Exhibit 3: https://www.intimaterose.com/products/pelvic-wand</p>
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12 12. Upon information and belief, Defendant has copied the design of Plus
13 EV's Intimate Rose Pelvic Floor Wand & Massage Therapy Tool. A photograph
14 and corresponding exemplary links for a product distributed, imported, sold, and/or
15 offered for sale by the Defendant (hereinafter the "NewFlora Pelvic Wand") are set
16 forth in the table below next to Figure 1 from the 'D286 Patent:

<p>17 18 19 20 21 22 23 24 25 26 27 28</p>  <p>Plus EV U.S. Patent No. D1,029,286 S</p>	 <p>NewFlora Pelvic Wand</p> <p>Exhibit 4: https://newflora.com/products/pelvic-wands</p>
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1 13. A photograph of a second Plus EV product, also sold under the name
2 Intimate Rose, that also embodies the design claimed in the 'D286 Patent is set
3 forth in the table below next to Figure 1 from the 'D286 Patent:
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 <p>5 6 7 8 9 10 11 12 Plus EV U.S. Patent No. D1,029,286 S</p>	 <p>13 Intimate Rose Pelvic Floor Massage 14 Tool – Pelvic Wand Vibration 15 16 Exhibit 5: 17 https://www.intimaterose.com/products/ 18 vibrating-pelvic-wand</p>
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17 14. Upon information and belief, Defendant has copied the design of Plus
18 EV's Intimate Rose Pelvic Floor Massage Tool – Pelvic Wand Vibration. A
19 photograph and corresponding exemplary links for a product distributed, imported,
20 sold, and/or offered for sale by the Defendant (hereinafter the "NewFlora Vibrating
21 Pelvic Wand") are set forth in the table below next to Figure 1 from the 'D286
22 Patent:
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15. The products set out in paragraphs 12 and 14 are hereinafter collectively referred to as the “Infringing Products.”

Defendant Has Notice of the 'D286 Patent

16. On June 17, 2024, Plus EV sent Defendant a letter (“the June 17 Letter”), via FedEx and e-mail, informing Defendant that its NewFlora Pelvic Wand and NewFlora Vibrating Pelvic Wand (together “the Infringing Products”) infringe the 'D286 Patent and demanding that it stop selling the Infringing Products.

17. Defendant did not respond to the June 17 Letter.

FIRST CLAIM FOR RELIEF

Infringement of U.S. Patent No. D1,029,286—35 U.S.C. § 271

18. Plus EV hereby realleges and incorporates by reference the allegations of paragraphs 1-17 of this Complaint into this Claim for Relief as though fully set forth herein.

19. The 'D286 Patent, entitled “Pelvic Wand” was duly and lawfully issued by the United States Patent and Trademark Office on May 28, 2024.

1 A. For judgment holding Defendant liable for design patent infringement
2 of the 'D286 Patent under 35 U.S.C. § 271;

3 B. For an Order adjudging Defendant to have willfully infringed the
4 'D286 Patent;

5 C. For an injunction prohibiting Defendant from infringing the 'D286
6 Patent pursuant to 35 U.S.C. § 283;

7 D. For an award of damages, including pre-judgment and post-judgment
8 interest, caused by Defendant's infringement of the 'D286 Patent and a trebling of
9 damages for Defendant's willful infringement under 35 U.S.C. § 284, or an award
10 of Defendant's profits from their infringement pursuant to 35 U.S.C. § 289,
11 whichever is greater;

12 E. For a judgment that this is an exceptional case and an award of
13 attorney fees for Defendant's design patent infringement pursuant to 35 U.S.C. §
14 285;

15 F. For an award of costs of this action, including pre-judgment and post-
16 judgment interest, pursuant to Fed. R. Civ. P. 54(d)(1); and

17 G. For such other relief as the Court may deem equitable and appropriate.
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19 Dated: August 1, 2024

Respectfully submitted,

20 HALEY GUILIANO LLP

21 *and*

22 WORKMAN NYDEGGER PC

23 By: s/Donny Samporna

24 Donny K. Samporna

25 *Attorneys for Plus EV Holdings, Inc.*
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JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plus EV demands a trial by jury on all claims and defenses so triable.

Dated: August 1, 2024

Respectfully submitted,

HALEY GUILIANO LLP

and

WORKMAN NYDEGGER PC

By: s/Donny Samporna
Donny K. Samporna

Attorneys for Plus EV Holdings, Inc.