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15 **UNITED STATES DISTRICT COURT**
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 THE ERGO BABY CARRIER, INC.,

18 Plaintiff,

19 vs.

20 BOBA INC.,

21 Defendant.

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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1 Plaintiff The ERGO Baby Carrier, Inc. (“Plaintiff” or “Ergobaby”) hereby
2 alleges against Defendant Boba Inc. (“Defendant” or “Boba”) as follows:

3 **THE PARTIES**

4 1. Ergobaby is a Hawaii corporation with its principal place of business
5 at 617 West 7th Street, Suite 1000, Los Angeles, California 90017, which is within
6 the Central District of California. Ergobaby is, and at all times mentioned herein
7 has been, qualified to do business in the State of California.

8 2. Ergobaby is informed, and on that basis alleges, that Defendant Boba
9 is a corporation duly organized and existing under the laws of the State of
10 Wyoming with its principal place of business at 1712 Pioneer Avenue, Suite 5580,
11 Cheyenne, Wyoming 82001.

12 **JURISDICTION AND VENUE**

13 3. This action arises under the patent laws of the United States, 35 U.S.C.
14 §§ 271, 281, 283–285. This Court has jurisdiction over the subject matter of this
15 action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

16 4. Boba is subject to personal jurisdiction in this District and subject to
17 this Court’s specific and general jurisdiction, pursuant to due process and/or the
18 California Long-Arm Statute, Cal. Civ. Proc. Code § 410.10, on the grounds that
19 Boba has committed acts of patent infringement in this District and the State of
20 California, and regularly conducts and/or solicits business, engages in other
21 persistent courses of conduct, and/or derives substantial revenue from the sale of
22 goods to persons or entities in this District. These contacts include providing a
23 website with advertisements and information regarding the accused baby carriers,
24 as well as an extensive list of, and links to, its retail partners where consumers may
25 purchase such products. Many of these retailers are located in this District.

26 5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and
27 (c) and 1400 because a substantial part of the events or omissions giving rise to the
28 claims asserted herein occurred in this District, including the commission by Boba

1 of acts of patent infringement in this District, and because Boba is subject to
2 personal jurisdiction in this District.

3 **FACTUAL BACKGROUND**

4 6. Ergobaby is a leading, premium baby consumer products company that
5 is headquartered in Los Angeles, California, and specializes in creating innovative
6 and ergonomic baby carrier products, as well as carrier accessories, swaddlers and
7 other baby products, designed to meet the needs of today's parents. Ergobaby's
8 products are sold in more than 700 retailers throughout the United States and in
9 over 50 countries worldwide.

10 7. Ergobaby is the legal owner of U.S. Patents 8,590,757 (the "757
11 Patent") and 9,022,260 (the "260 Patent") (collectively, the "Ergobaby Patents"),
12 which are directed to, among other things, a lightweight child carrier that can be
13 mounted upon the front or back of a wearer's torso.

14 8. Boba also is a baby consumer products company that makes, uses,
15 offers to sell, sells, and/or imports various baby carrier products and accessories,
16 including lines of baby carriers advertised under the names "Boba 4G" and "Boba
17 Air" (collectively, the "Boba Carriers").

18 9. This lawsuit arises out of Boba's manufacture, use, offer to sell, sale,
19 and/or importation of the Boba Carriers, which infringe one or more claims of each
20 of the Ergobaby Patents.

21 **COUNT I**

22 **(INFRINGEMENT OF U.S. PATENT NO. 8,590,757)**

23 10. Ergobaby incorporates by reference all previous allegations as though
24 fully set forth herein.

25 11. On November 26, 2013, the United States Patent and Trademark
26 Office (the "PTO") duly and legally issued the '757 Patent, titled BABY
27 CARRIER, to Karin A. Frost. The '757 Patent is directed to, among other things, a
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1 lightweight child carrier that can be mounted upon the front or back of a wearer's
2 torso.

3 12. Ergobaby owns by assignment all right, title, and interest in and to the
4 '757 Patent, including full rights to recover for past and future damages thereunder
5 and to seek injunctive relief against infringing parties. A copy of the '757 Patent is
6 attached hereto as Exhibit A.

7 13. Ergobaby has complied with the marking requirements of 35 U.S.C. §
8 287 with respect to the '757 Patent, to the extent necessary and applicable.

9 14. Boba is infringing and has infringed one or more claims of the '757
10 Patent under 35 U.S.C. § 271, literally and/or under the doctrine of equivalents.

11 15. Boba's infringing acts include, without limitation: making, using,
12 offering to sell, selling, and/or importing the Boba Carriers that embody at least one
13 claim of the '757 Patent. Boba's infringement may include additional products or
14 carriers that incorporate aspects and/or features of the Boba Carriers, which will be
15 determined through discovery in this matter.

16 16. Boba also has knowingly, intentionally, and actively aided, abetted,
17 and/or induced others to infringe the '757 Patent through its customers, users,
18 business partners, and retail partners in this judicial District and throughout the
19 United States.

20 17. Boba's infringing acts are without license or authorization from
21 Ergobaby.

22 18. Boba's infringing acts, undertaken with knowledge of the '757 Patent,
23 are reckless, without objective basis, and willful.

24 19. As a direct and proximate result of Boba's infringement of the '757
25 Patent, Ergobaby has suffered and will continue to suffer injury for which it is
26 entitled to damages under 35 U.S.C. § 284 adequate to compensate it for such
27 infringement in an amount to be proven at trial, but in no event less than a
28 reasonable royalty.

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