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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92073255
Party	Defendant SG Trademark Holding Co.
Correspondence Address	SG TRADEMARK HOLDING CO 5421 NEW UTRECHT AVE BROOKLYN, NY 11219 UNITED STATES no email provided no phone number provided
Submission	Motion to Suspend for Civil Action
Filer's Name	Mark Berkowitz
Filer's email	ptodocket@arelaw.com
Signature	/Mark Berkowitz/
Date	02/03/2020
Attachments	Motion to Suspend Pending Civil Action.pdf(17312 bytes ) Ex. A - Registrant's Answer to First Amended Complaint, Affirmative Defenses and Counterclaims - Federal Civil Action.pdf(1574733 bytes ) Ex. B (Part 1 of 6) - Petitioner's Second Amended Complaint - Federal Civil Action.pdf(1379052 bytes ) Ex. B (Part 2 of 6) - Petitioner's Second Amended Complaint - Federal Civil Action.pdf(697992 bytes ) Ex. B (Part 3 of 6) - Petitioner's Second Amended Complaint - Federal Civil Action.pdf(1647466 bytes ) Ex. B (Part 4 of 6) - Petitioner's Second Amended Complaint - Federal Civil Action.pdf(1733775 bytes ) Ex. B (Part 5 of 6) - Petitioner's Second Amended Complaint - Federal Civil Action.pdf(5008767 bytes ) Ex. B (Part 6 of 6) - Petitioner's Second Amended Complaint - Federal Civil Action.pdf(5205231 bytes ) Ex. C - Petitioner's Complaint - California Civil Action.pdf(96017 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PADO, INC.,

Petitioner,

v.

SG TRADEMARK HOLDING CO.,

Registrant.

Cancellation No. 92073255

Mark: PURWAVE

Serial No.: 86518535

Reg. No.: 4925190

Filed: January 29, 2015

Registered: March 29, 2016

**MOTION TO SUSPEND PROCEEDING PENDING OUTCOME OF CIVIL ACTIONS**

Registrant SG Trademark Holding Co. (“Registrant”), by and through its undersigned counsel, hereby moves to suspend this proceeding pursuant to 37 C.F.R. § 2.117(a) and TBMP § 510.02(a).

**I. The Parties Are Involved in Civil Actions Involving the Same Issues as Here**

**A. The Present Proceeding**

On January 9, 2020, Petitioner Pado, Inc. (“Petitioner”) filed its petition in this proceeding, seeking to cancel U.S. Registration No. 4,925,190 for the trademark PURWAVE (“the PURWAVE Registration”). 1 TTABVue (“Petition”). The PURWAVE Registration was registered on March 29, 2016 to Sigma Instruments, Inc. (“Sigma Instruments”). On December 30, 2019, Sigma Instruments assigned the PURWAVE Registration to Registrant, who recorded such assignment with the U.S. Patent and Trademark Office that same day.

In its Petition, Petitioner asserts three grounds for cancellation: (I) “Abandonment by Failure to Use”; (II) “Abandonment by Failure to Police”; and (III) “Not Rightful Owner and/or Illegal Transfer.”

**B. The Federal Civil Action**

Months prior to filing its Petition, Petitioner filed a complaint on November 22, 2019 against Registrant (along with other defendants) in the United States District Court for the Eastern District of New York, alleging, *inter alia*, false designation of origin and unfair competition under 15 U.S.C. § 1125(a), trademark infringement and unfair competition under New York common law, and other related state law claims concerning Registrant's alleged use of the term "Pure Wave." (See Petition ¶¶ 23.) That case is captioned as follows: *Pado, Inc. v. SG Trademark Holding Co LLC et al.*, Case No. 1:19-cv-06614-KAM-RER (E.D.N.Y. filed Nov. 22, 2019) (the "Federal Civil Action").

On December 17, 2019, Petitioner filed an amended complaint in the Federal Civil Action asserting the same claims as its original complaint.

On January 16, 2020, Registrant filed its answer to the amended complaint and counterclaims alleging, *inter alia*, trademark infringement pursuant to 15 U.S.C. § 1114 based on the PURWAVE Registration at issue in this proceeding. Registrant's counterclaims also allege false designation of origin and unfair competition under 15 U.S.C. § 1125(a), and unfair competition under New York common law, also concerning Registrant's PURWAVE mark. A true and correct copy of Registrant's Answer to the Amended Complaint, Affirmative Defenses, and Counterclaims filed in the Federal Civil Action is attached hereto as **Exhibit A**.

On January 21, 2020, the federal court held a conference to discuss various motions filed by the parties. During that conference, the court directed Petitioner to file a second amended complaint. On January 24, 2020, Petitioner filed its second amended complaint, asserting the same trademark infringement and other claims as its original complaint, and adding, *inter alia*, a claim seeking cancellation of the PURWAVE Registration—the identical issue to be decided in

this proceeding. A true and correct copy of the Second Amended Complaint filed in the Federal Civil Action is attached hereto as **Exhibit B**.

To support its cancellation claim, Petitioner makes the same arguments and allegations as asserted here in its Petition, including allegations that “Sigma Instruments stopped using the PURWAVE trademark in connection with any goods or services in commerce at least 3 years ago and never intended to resume using the mark” (Ex. B ¶¶ 194, 108; *compare with, e.g.*, Petition ¶¶ 11–12, 36–37); “Sigma Instruments abandoned the PURWAVE mark . . . at least by failure to police the mark” (Ex. B ¶ 197, 112; *compare with, e.g.*, Petition ¶¶ 13–14, 41); and that the assignment of the PURWAVE Registration was “an invalid assignment-in-gross” (Ex. B ¶ 113; *compare with, e.g.*, Petition ¶¶ 39, 43–44).<sup>1</sup>

### C. The California Civil Action

On January 15, 2020, Petitioner filed a complaint in the Superior Court of the State of California for the County of Los Angeles against Registrant (along with other defendants) alleging unfair competition and false advertising under California statutes concerning, *inter alia*, Registrant’s alleged use of the term “Pure Wave” on its website. That case is captioned as follows: *Pado, Inc. v. SG Trademark Holding Co LLC et al.*, Case No. 20STCV01970 (Cal. Super. Ct., L.A. Cty., filed Jan. 15, 2020) (the “California Civil Action”). A true and correct copy of the Complaint filed in the California Civil Action is attached hereto as **Exhibit C**.<sup>2</sup>

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<sup>1</sup> As Registrant will show in the Federal Civil Action, these allegations are not true. For example, a simple Internet search confirms that the PURWAVE mark was in use by Sigma Instruments until 2019. *See, e.g.*, <https://web.archive.org/web/20190124111507/http://purwave.com/> (showing the PURWAVE-branded massager being advertised on [www.purwave.com](http://www.purwave.com) at least up until January 24, 2019).

<sup>2</sup> Registrant intends to seek to remove the California Civil Action to federal court and consolidate with the Federal Civil Action.

## **II. This Proceeding Should Be Suspended Pending Termination of the Civil Actions**

Because both the Federal Civil Action and the California Civil Action are very likely to have a bearing on the present proceeding, this proceeding should be suspended until final determination of those civil actions.

The federal Trademark Rules provide that:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding.

37 C.F.R. § 2.117(a).

Indeed, it is the policy of the Board to suspend proceedings when the parties are involved in a civil action which may be dispositive of or have a bearing on the Board case. TBMP § 510.02(a) (“Unless there are unusual circumstances, the Board will suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board.”); *see also New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 U.S.P.Q.2d 1550, 1552 (TTAB 2011) (“[T]he civil action does not have to be dispositive of the Board proceeding to warrant suspension, it need only have a bearing on the issues before the Board.”).

“A civil action may involve other matters outside Board jurisdiction and may consider broader issues beyond right to registration and, therefore, judicial economy is usually served by suspension.” TBMP § 510.02(a). Further, “[w]hen a district court, as part of its judgment, decides an issue that overlaps with part of the TTAB’s analysis, the TTAB gives preclusive effect to the court’s judgment.” *B&B Hardware, Inc. v. Hargis Indus.*, 575 U.S. 138, 152 (2015).

Accordingly, because the Federal Civil Action and the California Civil Action involve the same parties, the same PURWAVE Registration, and the same issues regarding use and assignment of the PURWAVE mark, they both will have a bearing on this proceeding. The Federal Civil Action even involves the *identical* issue to be decided in this proceeding—namely, whether the PURWAVE Registration should be cancelled for alleged abandonment. (*Compare* Ex. B ¶¶ 100–119, 191–199, *with* Petition ¶¶ 11–16, 24–30, 36–44.) This proceeding should be suspended until final determination of both of those civil actions. *See* TBMP § 510.02(a).

\* \* \*

For the above reasons, Registrant respectfully requests that the Board suspend this proceeding pending final determinations of the Federal Civil Action and California Civil Action.

Respectfully submitted,

Dated: New York, New York  
February 3, 2020

By:           / Mark Berkowitz /            
Mark Berkowitz

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New York, New York 10016  
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Attorneys for Registrant

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **MOTION TO SUSPEND PROCEEDING PENDING OUTCOME OF CIVIL ACTIONS**, together with supporting **EXHIBITS A–C**, has been served on Registrant by forwarding said copy on February 3, 2020, via email to the following counsel of record for Petitioner:

Joel D. Voelzke  
INTELLECTUAL PROPERTY LAW OFFICES  
OF JOEL VOELZKE, APC  
24772 W. Saddle Peak Road  
Malibu, CA 90265-3042  
E-mail: joel@voelzke.com

*/Mark Berkowitz/*  
\_\_\_\_\_  
Mark Berkowitz

# **Exhibit A**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

PADO, INC.,

Plaintiff,

v.

SG TRADEMARK HOLDING CO LLC,  
COY WEST, HERSCHEL FRIEDMAN,  
ABC CORPORATIONS 1-10, and  
JOHN DOES 1-10,

Defendants.

Civ. Action No. 1:19-cv-06614-KAM-RER

**ANSWER TO FIRST AMENDED  
COMPLAINT, AFFIRMATIVE  
DEFENSES, AND COUNTERCLAIMS**

**JURY TRIAL DEMANDED**

SG TRADEMARK HOLDING CO LLC  
and WIEDER AND FRIEDMAN  
ENTERPRISES INC,

Counterclaimants,

v.

PADO, INC., STEVEN LEE,  
ABC CORPORATIONS 1-10, and  
JOHN DOES 1-10,

Counterclaim-Defendants.

**ANSWER**

Defendant SG Trademark Holding Co LLC (“SG Trademark”), by and through its counsel, answers and responds to the First Amended Complaint (ECF No. 15) filed by Plaintiff Pado, Inc. (“Plaintiff” or “Pado”) on December 17, 2019 as set forth below. In response to all paragraphs of the First Amended Complaint, SG Trademark denies each and every allegation except as expressly admitted herein. SG Trademark responds specifically to Pado’s averments as follows:

**NATURE OF THE ACTION**

1. SG Trademark ADMITS that this is a civil action purporting to allege patent infringement, copyright infringement, unfair competition, deceptive trade practices, trademark dilution, and other claims under federal and New York State law related to the promotion, distribution, offer for sale, and sale of a handheld massager product: the MIGHTY BLISS Cordless Massager (the “MIGHTY BLISS Massager”). SG Trademark DENIES the remaining allegations of paragraph “1” of the First Amended Complaint.

2. SG Trademark ADMITS that Pado purports to bring this action under the United States Patent Act, 35 U.S.C. § 1 *et seq.*, the United States Copyright Act, 17 U.S.C. § 101 *et seq.*, United States Trademark Act (Lanham Act of 1946), 15 U.S.C. § 1051 *et seq.*, and New York State statutory and common law. SG Trademark further ADMITS that Pado purports to seek permanent and preliminary injunctive relief and the recovery of actual damages, SG Trademark’s profits, damages, attorney fees, and other relief more fully set forth in the First Amended Complaint. SG Trademark DENIES the remaining allegations of paragraph “2” of the First Amended Complaint.

**JURISDICTION AND VENUE**

3. SG Trademark DENIES the allegations of paragraph “3” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

4. SG Trademark ADMITS that it is subject to personal jurisdiction of this Court for purposes of this action.

5. SG Trademark ADMITS that venue is proper in this judicial district for purposes of this action.

**PARTIES**

6. SG Trademark DENIES that Pado “is the owner of all trademark rights in the PUREWAVE handheld massagers.” SG Trademark DENIES the remaining allegations of paragraph “6” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

7. SG Trademark ADMITS that it is a New York limited liability company having a place of business at 5421 New Utrecht Avenue, Brooklyn, New York 11219. SG Trademark DENIES the remaining allegations of paragraph “7” of the First Amended Complaint.

8. SG Trademark ADMITS that Moshe Friedman a/k/a Coy West (“West”), is an individual and owner of SG Trademark, and resident of the State of New York, with an address of 1651 55th Street, Brooklyn, New York 11204. SG Trademark DENIES the remaining allegations of paragraph “8” of the First Amended Complaint.

9. SG Trademark ADMITS that Herschel Friedman (“Friedman”) is an individual who is listed with the New York Department of State as a certified public accountant with an address of 5421 New Utrecht Avenue, Brooklyn, NY 11219, to which address DOS will mail process if accepted on behalf of SG Trademark. SG Trademark DENIES the remaining allegations of paragraph “9” of the First Amended Complaint.

10. No response is required to the allegations of paragraph “10” of the First Amended Complaint.

11. SG Trademark DENIES the allegations of paragraph “11” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

12. SG Trademark DENIES the allegations of paragraph “12” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

13. SG Trademark ADMITS that a copy of U.S. Design Patent No. D855,197 entitled “RECHARGEABLE DUAL MASSAGE APPARATUS” (“the ’197 Patent”) is attached as Exhibit 2 to the First Amended Complaint. SG Trademark further ADMITS that the face of the ’197 Patent identifies July 30, 2019 as the issue date, Geon Woo Park as the named inventor, and HomElec Korea Co., Ltd. (“HomElec”) as the applicant of the ’197 Patent. SG Trademark DENIES the remaining allegations of paragraph “13” of the First Amended Complaint.

14. SG Trademark DENIES the allegations of paragraph “14” of the First Amended Complaint. The ’197 Patent claims “the ornamental design for a rechargeable dual massage apparatus, as shown and described.”

15. SG Trademark ADMITS that Exhibit 3 to the First Amended Complaint purports to be an assignment of the ’197 Patent from Mr. Geon Woo Park to HomElec. SG Trademark DENIES the remaining allegations of paragraph “15” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

16. SG Trademark ADMITS that Exhibit 4 to the First Amended Complaint is a document entitled “Exclusive Patent License” that purports to grant certain rights concerning, *inter alia*, the ’197 Patent from HomElec to Pado. SG Trademark further ADMITS that the document attached as Exhibit 4 to the First Amended Complaint was recorded with the United States Patent and Trademark Office (“PTO”) on October 29, 2019 at Reel 050859, Frame 0706.

SG Trademark DENIES the remaining allegations of paragraph “16” of the First Amended Complaint.

17. SG Trademark ADMITS that Pado has been offering handheld massage products under the mark PUREWAVE. SG Trademark DENIES the remaining allegations of paragraph “17” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

18. SG Trademark DENIES the allegations of paragraph “18” of the First Amended Complaint.

19. SG Trademark DENIES the allegations of paragraph “19” of the First Amended Complaint.

20. SG Trademark ADMITS that Pado advertises, promotes, markets, and offers for sale products under the mark PUREWAVE through the online marketplace Amazon.com and Pado’s website at [www.padousa.com](http://www.padousa.com). SG Trademark DENIES the remaining allegations of paragraph “20” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

21. SG Trademark DENIES the allegations of paragraph “21” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

22. SG Trademark DENIES the allegations of paragraph “22” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

23. SG Trademark DENIES the allegations of paragraph “23” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

24. SG Trademark DENIES the allegations of paragraph “24” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

25. SG Trademark DENIES the allegations of paragraph “25” of the First Amended Complaint.

26. SG Trademark ADMITS that Exhibit 7 to the First Amended Complaint includes a document entitled “Cordless Massager CM-07 USER MANUAL,” which includes text, two-dimensional figures, and photographs. SG Trademark DENIES the remaining allegations of paragraph “26” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

27. SG Trademark ADMITS that Exhibit 8 to the First Amended Complaint includes a document entitled “Cordless Massager CM-07 USER MANUAL,” which includes text and two-dimensional figures. SG Trademark DENIES the remaining allegations of paragraph “27” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

28. SG Trademark ADMITS that At Battery Company, Inc. is the listed claimant for U.S. Copyright Registration Nos. TX-8-796-486 and TX-8-796-570, which were both registered on or about November 5, 2019 and entitled “Cordless Massager CM-07 User Manual.” SG Trademark DENIES the remaining allegations of paragraph “28” of the First Amended

Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

29. SG Trademark ADMITS that Exhibit 9 to the First Amended Complaint includes a document entitled “Confirmatory *Nunc Pro Tunc* Assignment of Copyrights” that purports to assign certain rights concerning, *inter alia*, United States Copyright Registration Nos. TX-8796-570 and TX-8-796-486 from AT Battery, Inc. to Pado. SG Trademark DENIES the remaining allegations of paragraph “29” of the First Amended Complaint.

30. SG Trademark DENIES the allegations of paragraph “30” of the First Amended Complaint.

31. SG Trademark ADMITS that Exhibit 10 and paragraph “31” of the First Amended Complaint appear to show images of the MIGHTY BLISS Massager. SG Trademark DENIES the remaining allegations of paragraph “31” of the First Amended Complaint.

32. SG Trademark ADMITS that paragraph “32” of the First Amended Complaint appears to show images of the MIGHTY BLISS Massager and low-quality reproductions of certain figures of the ’197 Patent. SG Trademark DENIES the remaining allegations of paragraph “32” of the First Amended Complaint.

33. SG Trademark DENIES the allegations of paragraph “33” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

34. SG Trademark ADMITS that the summons and original complaint in this action, which alleged infringement of the ’197 Patent, were served on SG Trademark on November 26, 2019. SG Trademark DENIES the remaining allegations of paragraph “34” of the First Amended Complaint.

35. SG Trademark ADMITS that, on or around November 26, 2019, the website at [www.mightybliss.com](http://www.mightybliss.com) included a link to a page on the online marketplace Amazon.com where the MIGHTY BLISS Massager could be purchased. SG Trademark DENIES the remaining allegations of paragraph “35” of the First Amended Complaint.

36. SG Trademark ADMITS that, on December 6, 2019, Wieder and Friedman Enterprises Inc received an e-mail from Amazon.com stating that Amazon.com received a complaint (i.e., Complaint ID 6636170191) alleging that the MIGHTY BLISS Massager infringes the ’197 Patent and listing Pado’s counsel, Joel Voelzke, as the contact for the purported “rights owner” who submitted the complaint. SG Trademark DENIES the remaining allegations of paragraph “36” of the First Amended Complaint in that it presently lacks sufficient knowledge or information upon which to form a belief as to the truth thereof.

37. SG Trademark ADMITS that, on or about December 6, 2019, Amazon.com took down the listing for the MIGHTY BLISS Massager after receiving Complaint ID 6636170191. SG Trademark DENIES the remaining allegations of paragraph “37” of the First Amended Complaint.

38. SG Trademark ADMITS that consumers may purchase the MIGHTY BLISS Massager directly through the website [www.mightybliss.com](http://www.mightybliss.com). SG Trademark DENIES the remaining allegations of paragraph “38” of the First Amended Complaint.

39. SG Trademark DENIES the allegations of paragraph “39” of the First Amended Complaint.

40. SG Trademark ADMITS that Exhibit 11 of the First Amended Complaint appears to include a copy of a user manual for the MIGHTY BLISS Massager. SG Trademark DENIES the remaining allegations of paragraph “40” of the First Amended Complaint.



41. SG Trademark DENIES the allegations of paragraph “41” of the First Amended Complaint.

42. SG Trademark DENIES the allegations of paragraph “42” of the First Amended Complaint.

43. SG Trademark DENIES the allegations of paragraph “43” of the First Amended Complaint.

44. SG Trademark DENIES the allegations of paragraph “44” of the First Amended Complaint.

45. SG Trademark DENIES the allegations of paragraph “45” of the First Amended Complaint.

46. SG Trademark DENIES the allegations of paragraph “46” of the First Amended Complaint.

47. SG Trademark DENIES the allegations of paragraph “47” of the First Amended Complaint.

48. SG Trademark DENIES the allegations of paragraph “48” of the First Amended Complaint.

49. SG Trademark DENIES the allegations of paragraph “49” of the First Amended Complaint.

50. SG Trademark DENIES the allegations of paragraph “50” of the First Amended Complaint.

51. SG Trademark DENIES the allegations of paragraph “51” of the First Amended Complaint.

52. SG Trademark DENIES the allegations of paragraph “52” of the First Amended Complaint.

53. SG Trademark DENIES the allegations of paragraph “53” of the First Amended Complaint.

54. SG Trademark DENIES the allegations of paragraph “54” of the First Amended Complaint.

55. SG Trademark DENIES the allegations of paragraph “55” of the First Amended Complaint.

56. SG Trademark DENIES the allegations of paragraph “56” of the First Amended Complaint.

57. SG Trademark DENIES the allegations of paragraph “57” of the First Amended Complaint.

58. SG Trademark DENIES the allegations of paragraph “58” of the First Amended Complaint.

**COUNT I**

59. SG Trademark repeats and reiterates each of every one of the foregoing answers in response to the allegations made in paragraph “59” of the First Amended Complaint herein with the same force and effect as though set forth at length.

60. SG Trademark DENIES the allegations of paragraph “60” of the First Amended Complaint.

61. SG Trademark DENIES the allegations of paragraph “61” of the First Amended Complaint.

62. SG Trademark DENIES the allegations of paragraph “62” of the First Amended Complaint.

63. SG Trademark DENIES the allegations of paragraph “63” of the First Amended Complaint.

64. SG Trademark DENIES the allegations of paragraph “64” of the First Amended Complaint.

**COUNT II**

65. SG Trademark repeats and reiterates each of every one of the foregoing answers in response to the allegations made in paragraph “65” of the First Amended Complaint herein with the same force and effect as though set forth at length.

66. SG Trademark DENIES the allegations of paragraph “66” of the First Amended Complaint.

67. SG Trademark DENIES the allegations of paragraph “67” of the First Amended Complaint.

68. SG Trademark DENIES the allegations of paragraph “68” of the First Amended Complaint.

69. SG Trademark DENIES the allegations of paragraph “69” of the First Amended Complaint.

70. SG Trademark DENIES the allegations of paragraph “70” of the First Amended Complaint.

**COUNT III**

71. SG Trademark repeats and reiterates each of every one of the foregoing answers in response to the allegations made in paragraph “71” of the First Amended Complaint herein with the same force and effect as though set forth at length.

72. SG Trademark DENIES the allegations of paragraph “72” of the First Amended Complaint.

73. SG Trademark DENIES the allegations of paragraph “73” of the First Amended Complaint.

74. SG Trademark DENIES the allegations of paragraph “74” of the First Amended Complaint.

75. SG Trademark DENIES the allegations of paragraph “75” of the First Amended Complaint.

76. SG Trademark DENIES the allegations of paragraph “76” of the First Amended Complaint.

77. SG Trademark DENIES the allegations of paragraph “77” of the First Amended Complaint.

**COUNT IV**

78. SG Trademark repeats and reiterates each of every one of the foregoing answers in response to the allegations made in paragraph “78” of the First Amended Complaint herein with the same force and effect as though set forth at length.

79. SG Trademark DENIES the allegations of paragraph “79” of the First Amended Complaint.

80. SG Trademark DENIES the allegations of paragraph “80” of the First Amended Complaint.

81. SG Trademark DENIES the allegations of paragraph “81” of the First Amended Complaint.

82. SG Trademark DENIES the allegations of paragraph “82” of the First Amended Complaint.

83. SG Trademark DENIES the allegations of paragraph “83” of the First Amended Complaint.

84. SG Trademark DENIES the allegations of paragraph “84” of the First Amended Complaint.

**COUNT V**

85. SG Trademark repeats and reiterates each of every one of the foregoing answers in response to the allegations made in paragraph “85” of the First Amended Complaint herein with the same force and effect as though set forth at length.

86. SG Trademark DENIES the allegations of paragraph “86” of the First Amended Complaint.

87. SG Trademark DENIES the allegations of paragraph “87” of the First Amended Complaint.

88. SG Trademark DENIES the allegations of paragraph “88” of the First Amended Complaint.

89. SG Trademark DENIES the allegations of paragraph “89” of the First Amended Complaint.

**COUNT VI**

90. SG Trademark repeats and reiterates each of every one of the foregoing answers in response to the allegations made in paragraph “90” of the First Amended Complaint herein with the same force and effect as though set forth at length.

91. SG Trademark DENIES the allegations of paragraph “91” of the First Amended Complaint.

92. SG Trademark DENIES the allegations of paragraph “92” of the First Amended Complaint.

93. SG Trademark DENIES the allegations of paragraph “93” of the First Amended Complaint.

94. SG Trademark DENIES the allegations of paragraph “94” of the First Amended Complaint.

**COUNT VII**

95. SG Trademark repeats and reiterates each of every one of the foregoing answers in response to the allegations made in paragraph “95” of the First Amended Complaint herein with the same force and effect as though set forth at length.

96. SG Trademark DENIES the allegations of paragraph “96” of the First Amended Complaint.

97. SG Trademark DENIES the allegations of paragraph “97” of the First Amended Complaint.

98. SG Trademark DENIES the allegations of paragraph “98” of the First Amended Complaint.

**PRAYER FOR RELIEF**

SG Trademark denies that Pado is entitled to the relief requested. To the extent that any statement in the prayer for relief is deemed factual, it is denied.

\* \* \*

**AFFIRMATIVE DEFENSES**

SG Trademark incorporates by reference the foregoing paragraphs in their entirety and asserts the following affirmative defenses to the claims set forth in the First Amended Complaint. SG Trademark reserves the right to allege additional Affirmative Defenses as they become known, and accordingly to amend this Answer.

**FIRST AFFIRMATIVE DEFENSE**

The First Amended Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

SG Trademark has not infringed, nor is it infringing, the '197 Patent directly, indirectly, literally or under the doctrine of equivalents. A more detailed basis for this defense is set forth in SG Trademark's Counterclaim, which is included below and incorporated by reference herein.

**THIRD AFFIRMATIVE DEFENSE**

The '197 Patent is invalid for failing to satisfy at least one of the requirements of patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112. A more detailed basis for this defense is set forth in SG Trademark's Counterclaim, which is included below and incorporated by reference herein.

**FOURTH AFFIRMATIVE DEFENSE**

Pado's claims for damages and costs are limited by 35 U.S.C. §§ 286, 287, and/or 288.

**FIFTH AFFIRMATIVE DEFENSE**

Pado's action is barred, in whole or in part, by patent misuse. In particular, Pado improperly asserted the '197 Patent to submit false and defamatory statements to Amazon. The purpose of Pado's patent misuse is to stifle legitimate competition and maintain pricing for its handheld massager products on Amazon.

**SIXTH AFFIRMATIVE DEFENSE**

Pado's action is barred, in whole or in part, under the doctrine of unclean hands. In particular, Pado's claims are barred by its own unlawful conduct.

**SEVENTH AFFIRMATIVE DEFENSE**

Pado's action is barred, in whole or in part, because Pado lacks standing to sue and/or has failed to join a required party.

On information and belief, Pado does not hold "all substantial rights" in the '197 Patent. Pursuant to 35 U.S.C. § 281, only a "patentee" may bring a civil action for patent infringement.

Despite Pado's allegations that it is the "exclusive licensee" to the '197 Patent, Pado would only have a right to sue under § 281 if the license transferred "all substantial rights" such that the license is, in effect, an assignment. *See Lone Star Silicon Innovations LLC v. Nanya Tech. Corp.*, 925 F.3d 1225, 1229 (Fed. Cir. 2019). The "Exclusive Patent License" attached as Exhibit 4 (ECF No. 15-4) to Pado's First Amended Complaint confirms that Pado does not hold "all substantial rights" in the '197 Patent. For example, under the agreement, if Pado does not decide to bring suit, HomElec Korea Co., Ltd. ("HomElec")—the owner of the '197 Patent—is permitted to make the decision to bring a lawsuit and thereby profit from any such enforcement efforts. In addition, HomElec retained the right to terminate the agreement at any time "upon 30 days notice." In short, HomElec has retained substantial rights in the '197 Patent. Since HomElec is not a party to this action, Pado's patent infringement claims must fail.

In addition, on information and belief, Pado also does not hold rights to the alleged copyrights and PUREWAVE Marks asserted in the First Amended Complaint. For example, Pado asserts that it was assigned rights in United States Copyright Registration Nos. TX-8-796-486 and TX-8-796-570 ("the Asserted Copyrights") by the claimant of these registration—AT Battery Company, Inc. However, the document entitled "Confirmatory *Nunc Pro Tunc* Assignment of Copyrights" attached as Exhibit 9 (ECF No. 15-9) to Pado's First Amended Complaint purports to assign certain rights concerning the Asserted Copyrights to Pado from AT Battery, Inc., not AT Battery Company, Inc.

#### **EIGHTH AFFIRMATIVE DEFENSE**

SG Trademark has not infringed, nor is it infringing, Pado's alleged PUREWAVE Marks.

#### **NINTH AFFIRMATIVE DEFENSE**

Pado's claims are barred, in whole or in part, because SG Trademark's rights in and to the trademark PURWAVE, including U.S. Trademark Registration No. 4,925,190 for "device for



non-surgical cosmetic treatments, namely, an electric massage apparatus,” predate, and are superior to, any alleged rights of Pado in and to its alleged PUREWAVE mark for electric massage apparatus. A more detailed basis for this defense is set forth in SG Trademark’s Counterclaim, which is included below and incorporated by reference herein.

**TENTH AFFIRMATIVE DEFENSE**

SG Trademark has not infringed, nor is it infringing, U.S. Copyright Registration Nos. TX-8-796-486 and TX-8-796-570.

**ELEVENTH AFFIRMATIVE DEFENSE**

U.S. Copyright Registration Nos. TX-8-796-486 and TX-8-796-570 are invalid or unenforceable.

**TWELFTH AFFIRMATIVE DEFENSE**

Any damage alleged by Pado was the result of their own conduct, for which the SG Trademark bears no legal responsibility.

## **COUNTERCLAIMS**

Counterclaimants SG Trademark Holding Co LLC (“SG Trademark”) and Wieder and Friedman Enterprises Inc. (“Wieder”) (individually and collectively, “Counterclaimants”) hereby counterclaim against Counterclaim Defendants Pado, Inc. (“Pado”), Steven Lee (“Lee”), ABC Corporations 1–10, and John Does 1–10 (collectively, “Counterclaim-Defendants”) as follows:

### **THE PARTIES**

1. Counterclaimant SG Trademark is a New York limited liability company having a place of business at 5421 New Utrecht Avenue, Brooklyn, New York 11219.
2. SG Trademark owns all rights in the trademark PURWAVE for electric massage apparatus, including U.S. Trademark Registration No. 4,925,190 for “device for non-surgical cosmetic treatments, namely, an electric massage apparatus” (“the PURWAVE Mark”).
3. Counterclaimant Wieder is a New York corporation having a place of business at 1730 58th Street, Brooklyn, New York 11204.
4. Wieder is the exclusive licensee of the PURWAVE Mark.
5. Wieder sells products through various channels, including through an Amazon storefront named “Sleepingo.”
6. Wieder sells the MIGHTY BLISS Cordless Massager accused by Pado in this action (“the MIGHTY BLISS Massager”) through various channels, including on its Amazon storefront and through its website at [www.mightybliss.com](http://www.mightybliss.com).
7. On information and belief, Counterclaim-Defendant Pado is a corporation organized and existing under the laws of California, with a principal place of business at 28340 Avenue Crocker #100, Valencia, California 91355.

8. On information and belief, Counterclaim-Defendant Lee is a natural person and the President, CEO, Secretary, and CFO of Pado, with an address of 28340 Avenue Croker #100, Valencia, CA 91355.

9. On information and belief, Lee directs, controls, ratifies, participates in, and is the moving, active, and conscious force behind the unlawful activity alleged herein.

10. On information and belief, Lee is in control of, principal of, and is primarily responsible for the actions of Pado.

11. On information and belief, Lee is the CFO of Pado's predecessor, AT Battery Company, Inc. ("AT Battery") and an agent of AT Battery.

12. On information and belief, Lee is in control of, principal of, and is primarily responsible for the actions of AT Battery.

13. The true names, involvement and capacities, whether individual, corporate, associated or otherwise, of ABC Corporations 1–10 and John Does 1–10 are unknown to Counterclaimants. Therefore, Counterclaimants sue these ABC Corporations 1–10 and John Does 1–10 by a fictitious name. Counterclaimants are informed and believe, and on that basis allege, that each of the ABC Corporations 1–10 and John Does 1–10 sued herein is responsible in some manner for the events and occurrences referred to herein. When the true names, involvement and capacities of these parties are ascertained, Counterclaimants will seek leave to amend these Counterclaims accordingly.

#### **JURISDICTION AND VENUE**

14. These Counterclaims arise under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, the patent laws of the United States, 35 U.S.C. § 101 *et seq.*, the trademark laws of the United States, 15 U.S.C. § 1051 *et seq.*, and the copyright laws of the United States, 17 U.S.C. § 101 *et seq.* With respect to the declaratory judgments sought by Counterclaimants in

these Counterclaims, the actual case or controversy between the parties is evidenced by Pado's assertions in the First Amended Complaint—including the allegations that the MIGHTY BLISS Massager infringes U.S. Design Patent No. D855,197 (“the '197 Patent”)—and also by Pado's actual litigation against SG Trademark in this case involving the alleged infringement, validity and enforceability of those alleged intellectual property rights.

15. This Court has original jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 1331, 1338, and 1367.

16. This Court has personal jurisdiction over Pado because Pado has subjected itself to the jurisdiction of this Court for purposes of these Counterclaims.

17. This Court also has personal jurisdiction over Pado pursuant to New York CPLR § 302(a)(1). On information and belief, Pado transacts business within New York.

18. This Court has personal jurisdiction over Counterclaim-Defendants pursuant to New York CPLR § 302(a)(2). On information and belief, Counterclaim-Defendants have committed tortious acts within the State of New York, including trademark infringement, by advertising, marketing, offering to sell, and selling infringing products in New York and to New York residents. Counterclaimants' claims against Counterclaim-Defendants arise out of the foregoing tortious actions.

19. This Court also has personal jurisdiction over Counterclaim-Defendants pursuant to New York CPLR § 302(a)(3). Counterclaim-Defendants have committed tortious acts outside of the State of New York causing injury to Counterclaimants within the State of New York. On information and belief, Counterclaim-Defendants tortiously interfered with Wieder's advantageous and contractual relationship with Amazon by complaining, in writing, to Amazon, that Wieder was selling a product that infringes the '197 Patent. Pado's claims against

Counterclaim-Defendants arise out of the foregoing tortious actions. On information and belief, Counterclaim-Defendants regularly do business in New York and derive substantial revenue from goods used or consumed in New York. On information and belief, Counterclaim-Defendants also derives substantial revenue from interstate or international commerce and expect or should reasonably have expected the tortious acts described herein to have consequences in the New York, at least because Counterclaimants are located within the State of New York;

20. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

### **FACTUAL BACKGROUND**

#### ***The Parties' Competing Massager Products***

21. Wieder is in the business of developing and selling consumer products, including electric massager products.

22. Wieder sells products through various channels, including through an Amazon storefront named "Sleepingo."

23. Since its formation, Wieder has served thousands of customers through its Amazon storefront.

24. One of the products that Wieder sells on its Amazon storefront is the MIGHTY BLISS Massager, sold under Amazon Standard Identification Number ("ASIN") B07GJY3J5B.

25. Wieder independently designed the MIGHTY BLISS Massager.

26. A representative photograph of the MIGHTY BLISS Massager is shown below:



27. Pado is also in the business of selling electric massager products.

28. Pado sells several electric massager products marketed and sold under the trademark PUREWAVE (“the PUREWAVE Mark”).

29. On information and belief, the electric massager products that Pado sells are manufactured by HomElec Korea Co. Ltd. (“HomElec”) and imported into the United States.

30. Photographs of one of Pado’s electric massager products (“the Pado CM-07 Product”) are included in Exhibit 1 of the First Amended Complaint (ECF No. 15-1)

31. An image of the Pado CM-07 Product is reproduced below:



32. Pado sells its electric massager products, including the Pado CM-07 Product, through various channels, including through an Amazon storefront named “PadoUSA.”

33. For example, Pado has been selling the Pado CM-07 Product under ASIN B014U1C1P6 since at least 2015.

34. Pado's listing under ASIN B014U1C1P6 is located at <https://www.amazon.com/PUREWAVE™-Percussion-Vibration-fasciitis-tendinitis/dp/B014U1C1P6> and describes the Pado CM-07 Product as the "Purewave CM-07 Dual Motor Percussion + Vibration Therapy Massager."

35. An image of the Pado CM-07 Product as listed under ASIN B014U1C1P6 is shown below:



36. Pado also sells its electric massager products, including the Pado CM-07 Product, through its website at <https://www.padousa.com>.

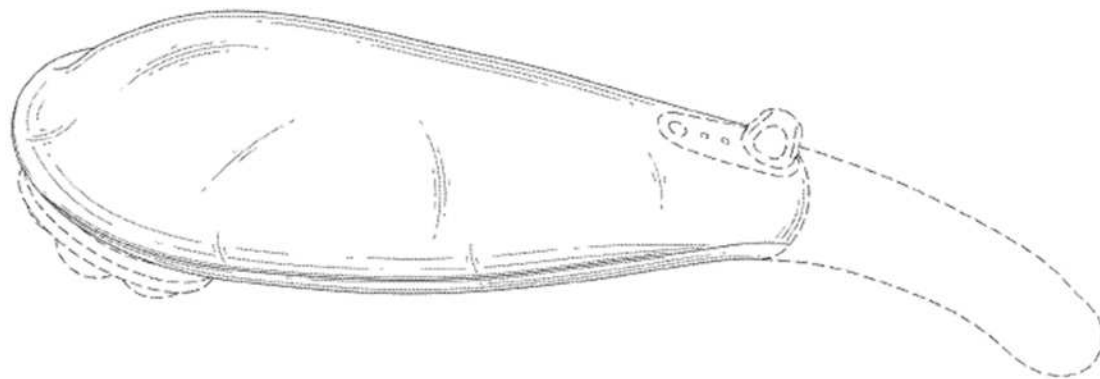
#### **The '197 Patent**

37. On or about May 1, 2018, HomeElec filed U.S. Design Patent Application No. 29/638,898 ("the '898 Application"), entitled "Rechargeable Dual Massage Apparatus," listing Geon Woo Park as the named inventor.

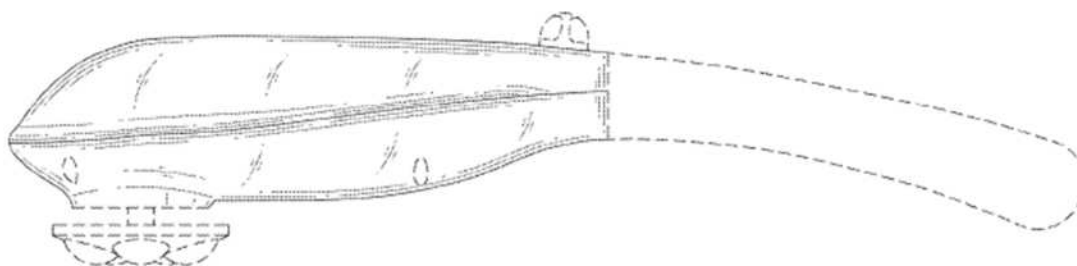
38. The '197 Patent was issued by the United States Patent and Trademark Office ("PTO") on July 30, 2019.

39. The '197 Patent claims “the ornamental design for a rechargeable dual massage apparatus, as shown and described.”

40. Figures 1, 2, and 4 of the '197 Patent are shown below:



**FIG. 1**



**FIG. 2**



**FIG. 4**



*The Designs of the '197 Patent and the MIGHTY BLISS Massager  
Are Not Substantially Similar*

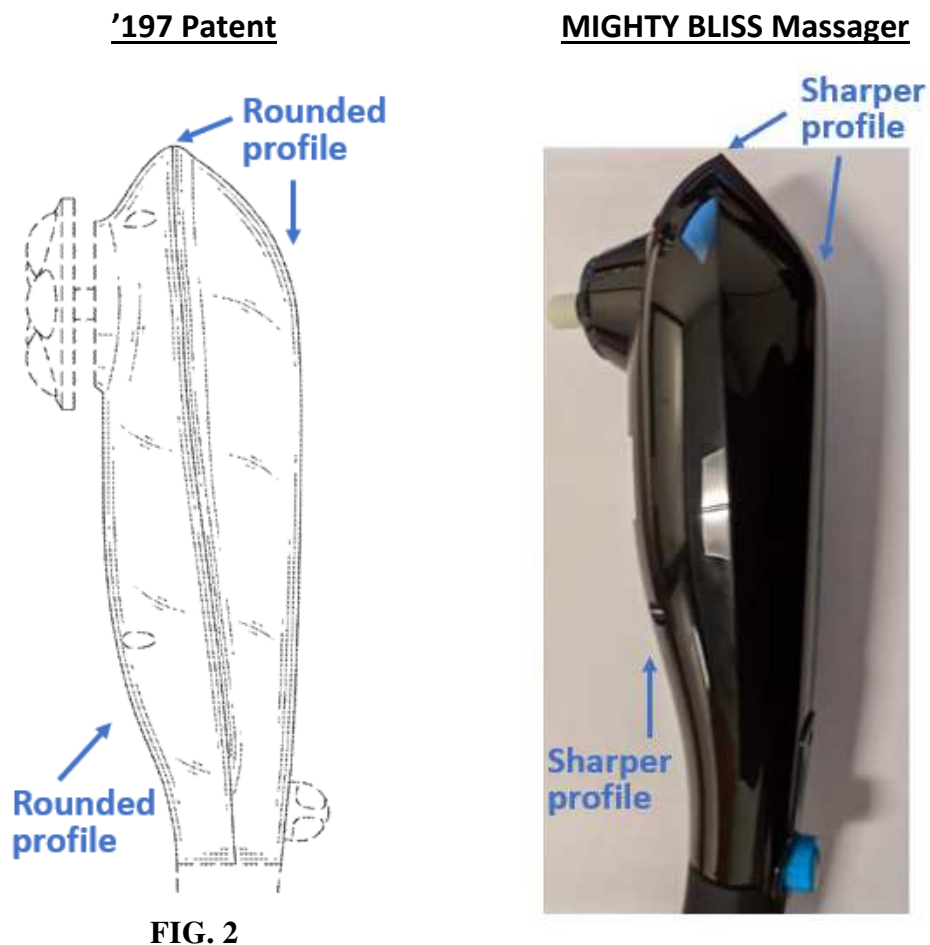
41. On November 22, 2019, Pado filed the Complaint (ECF No. 1) in this action alleging that the MIGHTY BLISS Massager infringes the '197 Patent.

42. However, a comparison of the MIGHTY BLISS Massager with the '197 Patent reveals that the designs are *not substantially similar*.

43. For example, as shown below, the MIGHTY BLISS Massager has a spherical straight seam at its terminal end, whereas the '197 Patent shows a specific, “dolphin-shaped” extending lip.



44. Another example of the differences between the MIGHTY BLISS Massager and the '197 Patent is that the top of the MIGHTY BLISS Massager is sharper in profile, as shown below:



45. Yet another example of the differences between the MIGHTY BLISS Massager and the '197 Patent is that the upper and lower segments are differently shaped, as shown below:



46. The differences between the MIGHTY BLISS Massager and the '197 Patent would be even more apparent to an ordinary observer taking into account the prior art.

47. For example, the Pado CM-07 Product, is prior art to the '197 Patent.

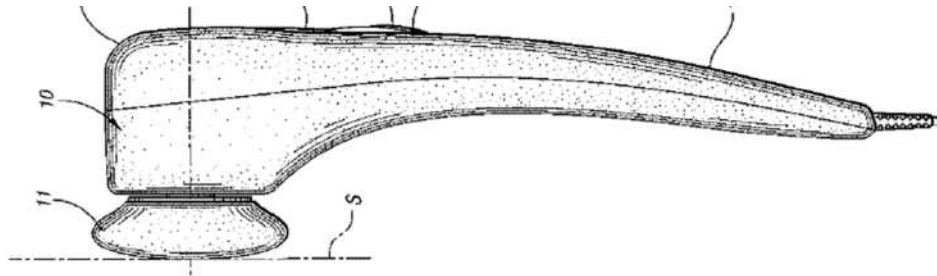
48. Indeed, the Pado CM-07 Product is listed on the face of the '197 Patent as prior art to the '197 Patent.

49. The Pado CM-07 Product is shown below:



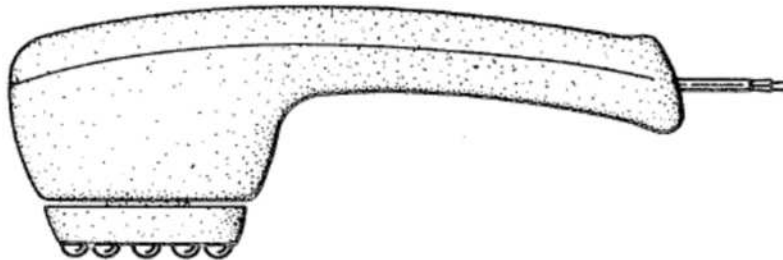
50. U.S. Patent No. 6,730,050, entitled “Handheld Massager with Circulatory Contact Motion,” and issued May 4, 2004 is also prior art to the ’197 Patent.

51. An excerpt of one of the figures disclosed in U.S. Patent No. 6,730,050 is shown below:



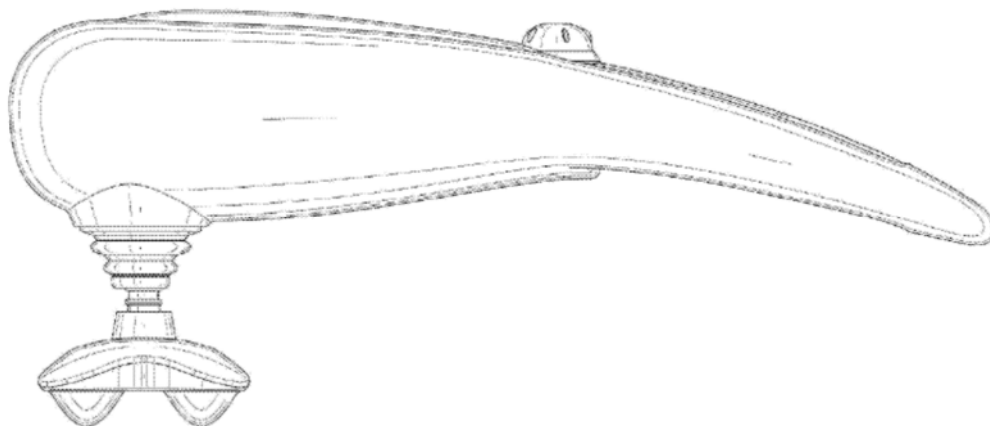
52. U.S. Design Patent No. D281,625, entitled “Electrically Powered Body Massager,” and issued December 3, 1985 is also prior art to the ’197 Patent.

53. An excerpt of one of the figures disclosed in U.S. Design Patent No. D281,625 is shown below:



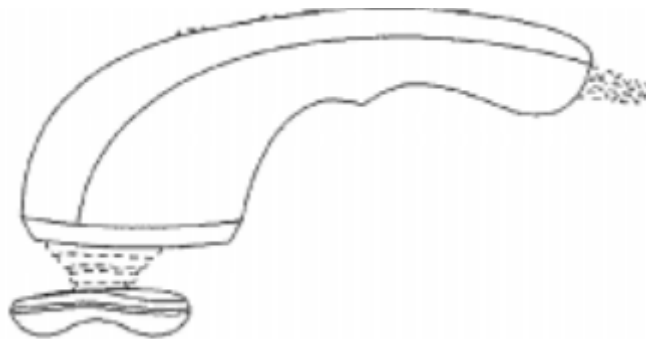
54. U.S. Design Patent No. D649,657, entitled “Hand-Held Massager with a Plurality of Attachable Node Assemblies,” and issued November 29, 2011 is also prior art to the ’197 Patent.

55. An excerpt of one of the figures disclosed in U.S. Design Patent No. D649,657 is shown below:



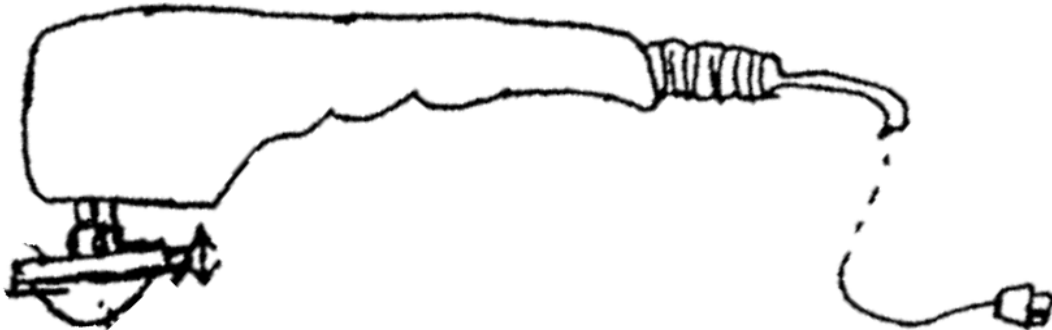
56. U.S. Design Patent No. D628,304, entitled “Massager,” and issued November 30, 2010 is also prior art to the ’197 Patent.

57. An excerpt of one of the figures disclosed in U.S. Design Patent No. D628,304 is shown below:



58. U.S. Patent Publication No. 2009/0069728, entitled “Randomic Vibration for Treatment of Blood Flow Disorders,” and published March 12, 2009 is also prior art to the ’197 Patent.

59. An excerpt of one of the figures disclosed in U.S. Patent Publication No. 2009/0069728 is shown below:



60. In view of this and other prior art, an ordinary observer, giving such attention as a purchaser usually gives, would not consider the two designs to be substantially the same.

61. In addition, the '197 Patent claims “the ornamental design for a rechargeable *dual massage* apparatus.”

62. The MIGHTY BLISS Massager, however, is *not* a dual massage apparatus, and thus cannot infringe for that reason.

63. Accordingly, Counterclaimants seek a declaration that the MIGHTY BLISS Massager does not infringe the '197 Patent.

**The '197 Patent Is Invalid**

64. As discussed above, the Pado CM-07 Product, is listed on the face of the '197 Patent as prior art to the '197 Patent.

65. Pado asserts that the Pado CM-07 Product is covered by the '197 Patent.

66. Indeed, Pado's listing on [www.amazon.com](http://www.amazon.com) for the Pado CM-07 Product, under ASIN B014U1C1P6, states that the product is “patented.”

67. The Pado CM-07 Product has been on sale since at least 2015.

68. The CM-07 Product has been in public use since at least as early as June 16, 2014, when HomeElec published a video on YouTube.com, entitled “Homelec Cordless Massager (CM-07 Main).” See <https://www.youtube.com/watch?v=gs9z0YAQckU>.

69. An image from this “Homelec Cordless Massager (CM-07 Main)” video is reproduced below:



See *id.* at 0:10/3:17.

70. At least in view of the prior disclosure of the design claimed by the '197 Patent more than one year before the filing date of the application for the '197 Patent, the '197 Patent is invalid as anticipated under 35 U.S.C. § 102.

71. Accordingly, Counterclaimants seek a declaration that the '197 Patent is invalid.

#### **Online Marketplaces**

72. On information and belief, Amazon is the world's largest online retailer.

73. According to published reports, Amazon is worth more than the next eight largest retailers located in the United States combined. See JP Mangalindan, *Amazon is now worth more than America's 8 largest retailers combined*, Yahoo Finance (Jan. 25, 2017),

74. Amazon's online e-commerce platform allows for third-parties, like Wieder, to sell products on its e-commerce platform.

75. The privilege of selling on Amazon is highly advantageous, as Amazon provides third-parties with exposure to the world marketplace on a scale that no other online retailer can currently provide.

76. Since at least 2018, Wieder has had a contractual and business relationship with Amazon, such that Wieder was and is permitted to sell products on Amazon's e-commerce platform.

77. Sellers, like Wieder, create an online storefront on Amazon. When a customer buys a product on Amazon, the customer can see the online store from which the customer is purchasing a product. Thus, Wieder has the online equivalent of a brick-and-mortar store.

78. A significant portion of Wieder's business is derived from the sale of products on Amazon and, in particular, through its Amazon storefront "Sleepingo".

79. Wieder has invested significant efforts into building a successful and reputable Amazon storefront.

80. Wieder's Amazon storefront has amassed thousands of reviews and a holds a near perfect customer rating.



81. A small sample of Wieder’s recent reviews are shown below:

## Sleepingo

Sleepingo storefront

★★★★★ | 99% positive in the last 12 months (2571 ratings)

Sleepingo is committed to providing each customer with the highest standard of customer service.

Have a question for Sleepingo?

Ask a question

**Feedback** | Returns & Refunds | Shipping | Policies | Help | Gift Wrap | Products

★★★★★ *"Five star review submitted (title "Perfect". Thanks for the letter Coy."*  
By Uncas Slattery on January 7, 2020.

★★★★★ *"Item arrived as promised and as expected."*  
By Donna L Reese on January 7, 2020.

★★★★★ *"excellent - just what I needed. lightweight and easy to blow up, easy (small) to store, and comfortable for sleeping on."*  
By Dianne on January 7, 2020.

★★★★★ *"The sleepingo pad I ordered was perfect. It arrived in two days, just in time for a camping trip I had been looking forward to."*  
By Lauren A. Martin on January 7, 2020.

★★★★★ *"Thank you for the product!"*  
By Amazon Customer on January 7, 2020.

[Previous](#) [Next](#)

	30 days	90 days	12 months	Lifetime
Positive	100%	98%	99%	99%
Neutral	0%	0%	0%	0%
Negative	0%	1%	1%	1%
Count	288	907	2,571	3,568

## Sleepingo

Sleepingo storefront

★★★★★ | 99% positive in the last 12 months (2571 ratings)

Sleepingo is committed to providing each customer with the highest standard of customer service.

Have a question for Sleepingo?

Ask a question

**Feedback** | Returns & Refunds | Shipping | Policies | Help | Gift Wrap | Products

★★★★★ *"Great product and service."*  
By firebird92 on January 6, 2020.

★★★★★ *"I like all the different attachments and different settings. Works s described. Relieves muscle stiffness."*  
By L. A. Cisneros on January 6, 2020.

★★★★★ *"excellent product. Nice controls and heats fast. Very reliable"*  
By Jerome Lim on January 6, 2020.

★★★★★ *"Item as described and received on time."*  
By Brenda Lou on January 6, 2020.

★★★★★ *"Very good packaging; arrived in perfect condition."*  
By JoRod on January 6, 2020.

[Previous](#) [Next](#)

	30 days	90 days	12 months	Lifetime
Positive	100%	98%	99%	99%
Neutral	0%	0%	0%	0%
Negative	0%	1%	1%	1%
Count	288	907	2,571	3,568

82. Any harm that comes to the relationship between Wieder and Amazon creates a potential for serious and irreparable injury to Wieder.

**The Counterclaim-Defendants' Attempts to Circumvent the Court by Filing False Complaints with Amazon**

83. On information and belief, Counterclaim-Defendants seek to increase Pado's profits by controlling the distribution and pricing of their products, including the Pado CM-07 Product, through unlawful means.

84. Specifically, after Pado filed this action, on information and belief, Counterclaim-Defendants caused a complaint to be filed with Amazon alleging infringement of the '197 Patent.

85. In this regard, on or about December 6, 2019, Wieder received a notice from Amazon stating as follows:

Hello,

We removed some of your listings because we received a report from a rights owner that they infringe the following patent(s):

-- D855197

The listings we removed are at the bottom of this message.

Why did this happen?

One or more of your listings may be infringing the intellectual property rights of others.

We're here to help.

If you need help better understanding what is causing this, please search for "Intellectual Property Violations" in Seller Central Help (<https://sellercentral.amazon.com/gp/help/external/201361070>).

How do I reactivate my listing?

To reactivate your listing you may provide the following:

-- A letter of authorization or a licensing agreement from the manufacturer or Rights Owner demonstrating that your product sales are lawful to [notice-dispute@amazon.com](mailto:notice-dispute@amazon.com). External links are not accepted. For security reasons, we only accept attachments in the following file formats: .jpeg, .jpg, .jpeg, .gif, .png, .tiff.

Have your listings been removed in error?

If you have never sold or listed the product, please reach out to us and tell us.

If you think that the rights owner has made an error in sending the notice, please reach out to the rights owner and ask for a retraction of the notice. To retract the complaint, the rights owner must send the retraction to us at [notice-dispute@amazon.com](mailto:notice-dispute@amazon.com) or use the retraction function in Brand Registry.

These are the rights owner's contact details:

- Joel Voelzke
- [joel@voelzke.com](mailto:joel@voelzke.com)

We can only accept retractions if the rights owner clearly states that they made an error. For any other reason, please explain to us why you were warned in error so that we can investigate the case.

What happens if I do not provide the requested information?

If we do not receive the requested information, your listings will remain inactive.

If you do not provide the information within 90 days, you will receive a request to remove the inventory associated with these listing per our removal policy (<https://sellercentral.amazon.com/gp/help/202000820>). Failure to address this request can lead to destruction of your inventory.

ASIN: B07GJY3J5B

Title: MIGHTY BLISS™ Deep Tissue Back and Body Massager {Cordless}  
Electric Handheld Percussion Muscle Hand Massager - Full Body Pain Relief  
Vibrating Therapy Massage Machine, Neck, Shoulder, Leg, Foot

Infringement type: D855197

Complaint ID: 6636170191

86. The above report (“the December Amazon Complaint”) relates to the MIGHTY BLISS Massager, which is referenced by its ASIN, B07GJY3J5B.

87. The December Amazon Complaint lists Pado’s counsel, Joel Voelzke, as the contact for the purported “rights owner” who submitted the December Amazon Complaint.

88. On information and belief, the Counterclaim-Defendants directed Mr. Volzke to file the December Amazon Complaint.

89. As discussed herein, because the MIGHTY BLISS Massager does not infringe the ‘197 Patent, the December Amazon Complaint was baseless.

90. On information and belief, the purpose of this false December Amazon Complaint was to prevent Wieder from selling the MIGHTY BLISS Massager on Amazon during the critical holiday season.

91. On information and belief, the December Amazon Complaint was submitted on or about December 2, 2019.

92. December 2, 2019 was the Monday following the 2019 Thanksgiving holiday.

93. The Monday after the Thanksgiving holiday is colloquially called “Cyber Monday” in the United States.

94. “Cyber Monday,” is one of the most important marketing events of the holiday season for businesses that sell their products online, such as on Amazon.

95. Indeed, Cyber Monday has surpassed Black Friday in importance and many consumers plan their shopping around Cyber Monday. *See, e.g.*, 2019 Holiday Survey of Consumers, [https://www2.deloitte.com/content/dam/insights/us/articles/6382\\_2019-holiday-survey/DEL\\_Holiday19\\_ConsumerSurveyFindings.pdf?nc=1](https://www2.deloitte.com/content/dam/insights/us/articles/6382_2019-holiday-survey/DEL_Holiday19_ConsumerSurveyFindings.pdf?nc=1); 2019 Holiday Survey of Consumers, <https://www2.deloitte.com/content/dam/Deloitte/ec/Documents/consumer-business/2019-holiday-survey.pdf>.

96. In addition, December is the most important month for retail sales. Justin Lahart, *A Really Bad Retail Sales Report*, Wall Street Journal (Mar. 11, 2019), *available at* [www.wsj.com/articles/a-really-bad-retail-sales-report-11552321112](http://www.wsj.com/articles/a-really-bad-retail-sales-report-11552321112).

97. Moreover, on information and belief, Counterclaim-Defendants know that the month of December is the most important time of the year for ecommerce retailers, such as Wieder.

98. On or about December 8, 2019, counsel for Wieder sent an appeal of the December Amazon Complaint to Amazon, explaining that the MIGHTY BLISS Massager does not infringe the '197 Patent.

99. After receiving Wieder's appeal of Pado's complaint, Amazon reinstated Wieder's listing for the MIGHTY BLISS Massager.

100. Thereafter, on information and belief, Counterclaim-Defendants caused another complaint to be filed with Amazon alleging infringement of the '197 Patent.

101. In this regard, on or about January 16, 2020, Wieder received a notice from Amazon stating as follows:

Hello,

We removed some of your listings because we received a report from a rights owner that they infringe the following patent(s):

-- USD855197

The listings we removed are at the bottom of this message.

Why did this happen?

One or more of your listings may be infringing the intellectual property rights of others.

We're here to help.

If you need help better understanding what is causing this, please search for "Intellectual Property Violations" in Seller Central Help (<https://sellercentral.amazon.com/gp/help/external/201361070>).

How do I reactivate my listing?

To reactivate your listing you may provide the following:

-- A letter of authorization or a licensing agreement from the manufacturer or Rights Owner demonstrating that your product sales are lawful to notice-dispute@amazon.com. External links are not accepted. For security reasons, we only accept attachments in the following file formats: .jpeg, .jpg, .jpeg, .gif, .png, .tiff.

Have your listings been removed in error?

If you have never sold or listed the product, please reach out to us and tell us.

If you think that the rights owner has made an error in sending the notice, please reach out to the rights owner and ask for a retraction of the notice. To retract the complaint, the rights owner must send the retraction to us at [notice-dispute@amazon.com](mailto:notice-dispute@amazon.com) or use the retraction function in Brand Registry.

These are the rights owner's contact details:

-- Joel Voelzke  
-- [joel@voelzke.com](mailto:joel@voelzke.com)

We can only accept retractions if the rights owner clearly states that they made an error. For any other reason, please explain to us why you were warned in error so that we can investigate the case.

What happens if I do not provide the requested information?  
If we do not receive the requested information, your listings will remain inactive.

ASIN: B07GJY3J5B  
Title: MIGHTY BLISS™ Deep Tissue Back and Body Massager {Cordless}  
Electric Handheld Percussion Muscle Hand Massager - Full Body Pain Relief  
Vibrating Therapy Massage Machine, Neck, Shoulder, Leg, Foot  
Infringement type: USD855197  
Complaint ID: 6748924021

102. The above report (“the January Amazon Complaint”) relates to the MIGHTY BLISS Massager, which is referenced by its ASIN, B07GJY3J5B.

103. The January Amazon Complaint lists Pado’s counsel, Joel Voelzke, as the contact for the purported “rights owner” who submitted the January Amazon Complaint.

104. On information and belief, the Counterclaim-Defendants directed Mr. Volzke to file the January Amazon Complaint.

105. As discussed herein, because the MIGHTY BLISS Massager does not infringe the ‘197 Patent, the January Amazon Complaint was baseless.

106. On information and belief, the purpose of these false December and January Amazon Complaints was also to damage Wieder’s reputation and goodwill, such that Amazon would suspend or terminate its relationship with Wieder.

107. It is well-known among brand owners that Amazon has a policy of acting on virtually any notice of intellectual property infringement, whether legitimate or not.

108. As one Amazon expert explained:

In order to meet a minimum liability standard, Amazon will act upon properly submitted and completed notice claims of infringement. They will notify specified marketplace sellers which party reported them, on what listing, and how to reach that would-be rights owner via email. The rest though, is up to you. And, unless you (and possibly your legal team) can prove that the Notice claim is false, Amazon considers it valid and actionable.

*Unfortunately, word is out among potential Notice claim abusers that anyone can submit a form.* Amazon [is] not worried about additional vetting or verification processes. Investigators merely check the form for completed content in all the right spaces, kill the listings and send off the notifications.

They don't independently verify that any of the information is actually correct, or valid. The rights owner makes a legally-binding declaration in the form, and signs it.

See Chris McCabe, *False Infringement Claims are Rife on Amazon*, WebRetailer (Apr. 11, 2018), <https://www.webretailer.com/lean-commerce/false-infringement-claims-amazon/> (emphasis added).

109. On information and belief, Counterclaim-Defendants were, at all relevant times, aware of the foregoing Amazon policy with respect to reports of intellectual property infringement.

110. On information and belief, Counterclaim-Defendants were, at all relevant times, aware that Amazon will act on reports that a product is infringing a design patent, regardless of the truth of the report.

111. Counterclaim-Defendants filed their December and January Amazon Complaints alleging that the MIGHTY BLISS Massager sold by Wieder infringes the '197 Patent, even though they knew, or should have known, that such allegations were false.

112. The December and January Amazon Complaints were signed under penalty of perjury by an employee or agent of Pado.

113. For example, when submitting an infringement report to Amazon, an intellectual property rights owner must read and accept the following statements:

"I have a good faith belief that the content(s) described above violate(s) my rights described above or those held by the rights owner, and that the use of such content(s) is contrary to law."

"I declare, under penalty of perjury, that the information contained in this notification is correct and accurate and that I am the owner or agent of the owner of the rights described above."

Report Infringement, <https://www.amazon.com/report/infringement> (last visited January 16, 2020).

114. On information and belief, Counterclaim-Defendants' allegations that the MIGHTY BLISS Massager infringed the '197 Patent was knowingly false and made in bad faith.

**Harm to Wieder from Counterclaim-Defendant's Amazon Complaints**

115. As a result of the above false December and January Amazon Complaints, Wieder's listing relating to the MIGHTY BLISS Massager was suspended, resulting in an immediate loss of revenue.

116. It is well-known that complaints to Amazon put Amazon sellers in jeopardy of a full selling suspension, meaning that Wieder's ability to sell any and all products on Amazon would be lost.

117. On information and belief, Counterclaim-Defendants were aware that complaints to Amazon result in selling suspensions.

118. The MIGHTY BLISS Massager sold by Wieder does not infringe the '197 Patent.

119. Counterclaim-Defendants knowingly made a false intellectual property rights complaint against Wieder.



120. Pado asserts in the First Amended Complaint that it sent Amazon the December Amazon Complaint on December 2, 2019, i.e., “Cyber Monday.”

121. On information and belief, the true purpose of Counterclaim-Defendants’ December Amazon Complaint was to ensure the suspension of Wieder’s marketplace listings, control pricing and eliminate fair competition during the 2019 holiday shopping season.

122. On information and belief, Counterclaim-Defendants submitted the January Amazon Complaint after Amazon reinstated Wieder’s listing for the MIGHTY BLISS Massager and after Pado filed its motion in this action requesting leave to file a motion for a preliminary injunction (ECF No. 17).

123. On information and belief, the true purpose of Counterclaim-Defendants’ January Amazon Complaint was to ensure the suspension of Wieder’s marketplace listings, control pricing and eliminate fair competition, thereby essentially obtaining the injunctive relief they are seeking from this Court, while knowing that they are not entitled to such relief in this action.

124. As result of Counterclaim-Defendants’ December and January Amazon Complaints, Wieder’s performance metrics were irreparably damaged.

125. As a result of Counterclaim-Defendants’ December and January Amazon Complaints, Wieder also lost significant revenue.

**Counterclaimants’ PURWAVE Mark Is Superior to Pado’s PUREWAVE Mark**

126. SG Trademark owns all rights in the trademark PURWAVE for electric massage apparatus, including U.S. Trademark Registration No. 4,925,190 for “device for non-surgical cosmetic treatments, namely, an electric massage apparatus” (“the PURWAVE Mark”).

127. SG Trademark exclusively licenses the PURWAVE Mark to Wieder.

128. The registered PURWAVE Mark has been used in commerce since at least as early as 2013.

129. Counterclaimants' rights in the PURWAVE Mark predate, and are superior to, any alleged rights of Pado in and to its alleged mark PUREWAVE for electric massage apparatus.

130. On information and belief, Counterclaim-Defendants used the mark PUREWAVE no earlier than 2015.

131. Counterclaim-Defendants have used the PUREWAVE Mark in connection with its advertising, offer for sale and sale of electric massage apparatus, including the Pado CM-07 Product.

132. Counterclaim-Defendants' use of the mark PUREWAVE infringes the PURWAVE Mark.

133. Counterclaim-Defendants' use of the mark PUREWAVE to advertise and sell competing products is likely to cause and has caused consumer confusion, mistake, and deception to the detriment of consumers and the reputation and goodwill attached to the PURWAVE Mark.

134. Counterclaim-Defendants' mark PUREWAVE is confusingly similar to the PURWAVE Mark because the marks share the phonetically-identical suggestive conjoined term "PURE WAVE", presented as one word for each mark, with the PURWAVE Mark dropping the silent letter "E" between the letters "R" and "W" in the mark. The marks are thus visually highly similar, are phonetically identical, and have the same meaning and commercial impression.


135. Counterclaim-Defendants use the mark PUREWAVE on identical goods as the goods subject to SG Trademark's PURWAVE Mark, namely, electric massage apparatus.

136. Given that the mark PUREWAVE is so similar in sound and appearance to the PURWAVE Mark, and that the two marks are used on the same products, consumers are likely to be confused, irrespective of the sophistication of the purchasers.

137. Indeed, on multiple occasions, Counterclaim-Defendants and Pado's predecessor AT Battery attempted to obtain federal registrations for the PUREWAVE mark or variations thereof. These attempts were rejected every time—multiple United States Patent and Trademark Office (“USPTO”) examiners found a likelihood of confusion with the registered PURWAVE Mark.

138. For example, on or about October 1, 2015, AT Battery, through Pado's counsel, Joel Voelzke, filed trademark application Serial No. 86/775,548 for the mark PURE-WAVE for “[e]lectric massage appliances, namely, electric vibrating massager” and “[m]assage apparatus for massaging the body, neck, feet, face, head, back, shoulders, arms, and legs” (“the '548 Application”).

139. On or about September 6, 2016, the USPTO rejected the '548 Application based on the examiner's conclusion that the applied for PURE-WAVE mark is confusingly similar to the registered PURWAVE Mark.

140. As another example, on or about November 20, 2015, AT Battery, through Pado's counsel, Joel Voelzke, filed trademark application Serial No. 86/827,205, for the mark  for “[e]lectric massage appliances, namely, electric vibrating massager” and “[m]assage apparatus for massaging body, neck, feet, face, head, back, shoulders, arms, and legs” (“the '205 Application”).

141. On or about September 6, 2016, the USPTO rejected the '205 Application based on the examiner's conclusion that the applied for PURE WAVE mark is confusingly similar to the registered PURWAVE Mark.

142. As yet another example, on or about January 13, 2016, AT Battery, through Pado's counsel, Joel Voelzke, filed trademark application Serial No. 86/874,014 for the mark PURE WAVE, for "[e]lectric massage appliances, namely, electric vibrating massager" and "[m]assage apparatus for massaging the body, neck, feet, face, head, back, shoulders, arms, and legs." ("the '014 Application").


143. On or about September 6, 2016, the USPTO rejected the '014 Application based on the examiner's conclusion that the applied for PURE WAVE mark is confusingly similar to the registered PURWAVE Mark.

144. On or about June 12, 2019, Counterclaim-Defendants, through Pado's counsel, Joel Voelzke, filed trademark application Serial No. 88/470,482 for the mark PUREWAVE, for "[h]and-held electric massage apparatus for therapeutic purposes, namely, hand-held electric massagers for massaging the back, neck, feet, arms, and legs." ("the '482 Application")

145. On or about September 4, 2019, The USPTO rejected the '482 Application based on the examiner's conclusion that the applied for PUREWAVE mark is confusingly similar to the registered PURWAVE Mark.

146. On information and belief, Counterclaim-Defendants were made aware of each of the above findings of a likelihood of confusion by the USPTO between the applied for PURE-WAVE mark and the registered PURWAVE Mark.

147. In response to the USPTO's rejections for each of the '548, '205, '014, and '482 Applications, Counterclaim-Defendants and/or AT Battery argued that PUREWAVE (or the

PURE WAVE, PURE-WAVE, or  variations thereof) is different from the registered PURWAVE Mark because a prospective purchaser might believe that the “PUR” in PURWAVE is pronounced “PURR” rather than “PURE” like in PUREWAVE.

148. In response to the USPTO’s rejections for each of the ’548, ’205, ’014, and ’482 Applications, Counterclaim-Defendants and/or AT Battery also argued that the goods listed in the registration for PURWAVE (i.e., “device for non-surgical cosmetic treatments, namely, an electric massage apparatus”) are different than the goods sold by Counterclaim-Defendants and/or AT Battery under the mark PUREWAVE or variations thereof.

149. For example, in connection with the ’482 Application, Counterclaim-Defendant Lee argued that there is no overlap between the “cosmetic” massagers recited in the registration for PURWAVE and “therapeutic” massagers sold by Pado.

150. The USPTO rejected the above arguments by Counterclaim-Defendants and/or AT Battery in each of the ’548, ’205, ’014, and ’482 Applications.

151. With respect to Counterclaim-Defendants and/or AT Battery’s pronunciation arguments, the USPTO explained that “[t]here is no correct pronunciation of a mark because it is impossible to predict how the public will pronounce a particular mark” and that, since “[t]he marks in question could clearly be pronounced the same; such similarity in sound alone may be sufficient to support a finding that the marks are confusingly similar.” (*See, e.g.*, ’482 Application, November 26, 2019 Office Action.)

152. Indeed, on information and belief, a majority of consumers pronounce the “PUR” in PURWAVE like “PURE” as in the words “purity” or “purification.”

153. With respect to Counterclaim-Defendants and/or AT Battery’s arguments that “cosmetic” massagers are distinct from its electric massagers, the USPTO provided numerous

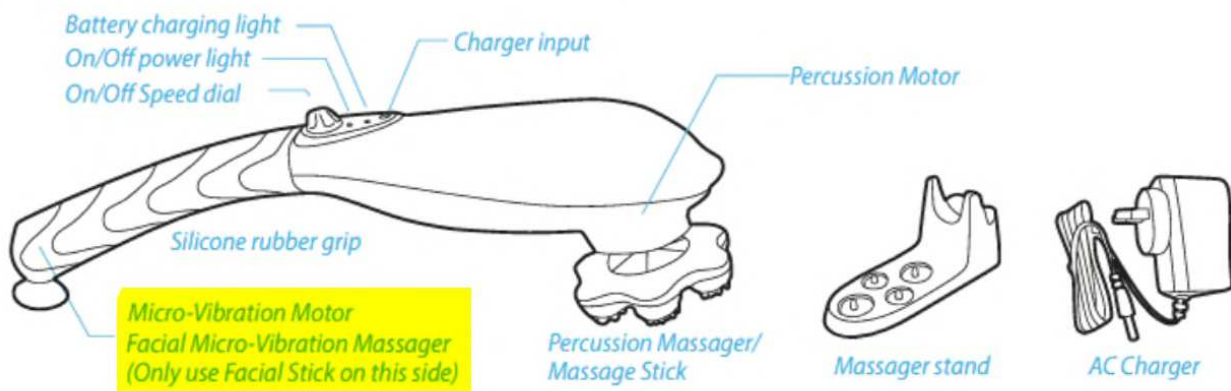
examples of website evidence showing (i) that electric massagers for cosmetic use are also commonly intended for use in massaging other parts of the user's body; (ii) that massage apparatuses commonly are used for providing both cosmetic and therapeutic benefits to the user; and (iii) that massagers for cosmetic/face purposes and therapeutic/body use are commonly offered under the same mark and/or through the same channels of trade. (*See, e.g.*, '482 Application, November 26, 2019 Office Action.)

154. The USPTO cited one of Pado's webpages for the Pado CM-07 Product (<https://www.padousa.com/purewave-cm7-body-facial-massager-black/>) as support for its for its conclusion, explaining that the webpage shows a face and body massager in a single unit offering both muscle (therapeutic) and "microvibration" for the face (cosmetic) uses. (*See* '482 Application, November 26, 2019 Office Action.)

155. Indeed, Pado's own marketing materials show, the electric massage apparatus advertised and sold by Pado, including the Pado CM-07 Product, can be used for cosmetic purposes.

156. For example, Pado's User manual instructs users to use the Pado CM-07 Product "with facial cream, oil or gel" on the "Facial Massage Stick" attachment for a facial massage. (*See* Am. Compl., Ex. 15-8 at 4).

What's included with Pure-Wave Cordless Massager CM-07:



	<b>Air-Cushion Stick</b>		<b>Point Stick</b>		<b>6-Head Stick</b>		<b>Scalp Massage Stick</b>		<b>Body Massage Oil Stick</b>		<b>Facial Massage Stick</b>
Soft general massage. Great for soft tissue around joints.		Reflexology & Acupressure. Great for targeted massage.		Waist, back or thigh. (Deep Tissue & Sports Massage)		Scalp Massage. (Slip snugly over threaded side)		Body Massage Use with lotions, creams, oils, gels. (Slip over threads)		Facial Massage Use with facial cream, oil or gel.	

157. Likewise, other instructional material published by Pado instruct users to use the Pado CM-07 Product along with the “Facial Stick” attachment for “revitalizing and tightening facial skin.” (See <https://www.padouusa.com/content/Pure-Wave-Percussion-Massager-How-To-Use.pdf>).

## STICKS

The CM7 comes with six massage attachments for targeting specific parts of the body.

**SIX HEAD STICK**  
Improves circulation and relieves stiffness in major muscle groups.

**POINT STICK**  
Breaks up muscle knots and adhesions, for lasting pain relief at specific trigger points.

**AIR-CUSHION STICK**  
The patented air-cushion stick provides a softer contact surface for sensitive joints and tendons.

**SCALP STICK**  
Great for relieving the headaches and tensions of everyday life.

**OIL STICK**  
Ideal for massaging essential oils and pain creams into hard-to-reach spots like the middle and lower back.

**FACIAL STICK**  
The perfect accessory for revitalizing and tightening facial skin.

158. In addition, Pado promotes the Pado CM-07 Product as helping to “revitalize” user’s faces “to feel young and healthy,” (See <https://pure-wave.zendesk.com/hc/en-us/articles/215350328-How-To-Use-The-Facial-Stick>)

PURE WAVE BY PADO > General > FAQ

## How To Use The Facial Stick

**Facial Massage Stick (Available with CM7 Only)** - Want to revitalize your face to feel young and healthy? You may already spend time taking care of your face with various cleansers, toners, creams and moisturizers. With Pure-Wave CM7 you have the ability to work in a facial massage to your evening moisturizing treatments. The facial massage stick will promote deeper penetration of facial moisturizers. Simply attach the facial massage stick to the vibration massage tip at the end of the handle and turn on the vibration mode. Massage with smooth motions to work moisturizer into your skin with the massage stick. In short time, your face will feel more refreshed and relaxed.

159. Even HomElec’s 2014 video disclosing the same design as the Pado CM-07 Product states that the facial massage stick feature can “remove swelling on the face and help clear your skin.” (See <https://www.youtube.com/watch?v=gs9z0YAQckU> at 2:27–39/3:17.)

160. At least in view of the multiple findings by the USPTO that the mark PUREWAVE as used in connection with Pado’s electric massager products is confusingly similar to the registered PURWAVE Mark, Counterclaim-Defendants knew or should have known that their use of the mark PUREWAVE violated Counterclaimants’ superior rights in its PURWAVE Mark.

161. Accordingly, Counterclaimants seek remedies for Counterclaim-Defendants’ willful infringement of the PURWAVE Mark.

### **COUNT I** **(Declaratory Judgment of Non-Infringement of the ’197 Patent)**

162. Counterclaimants repeat and incorporate by reference the allegations set forth in Paragraphs 1–161, inclusive.

163. In its First Amended Complaint, Pado asserts that the MIGHTY BLISS Massager infringes the ’197 Patent. (See, e.g., First Amended Complaint, “Am. Compl.,” ¶ 32.)

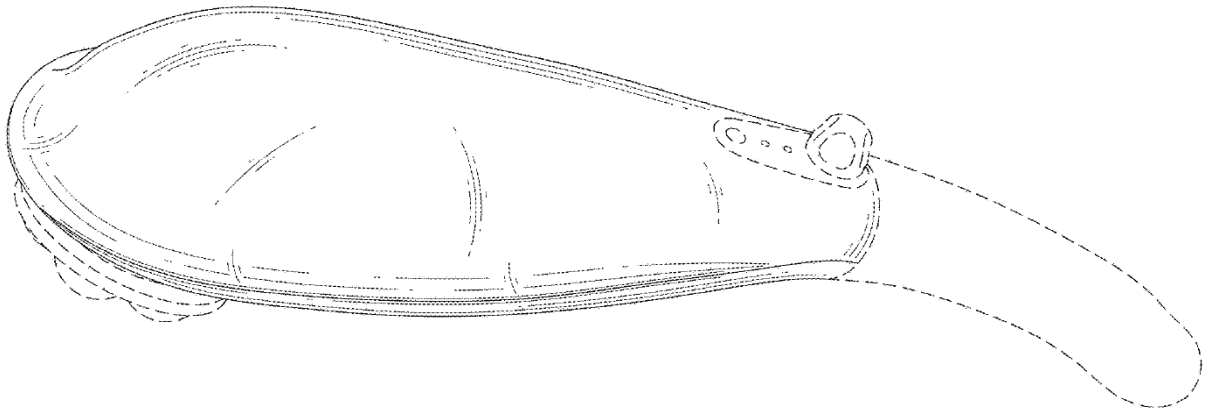


164. A copy of the '197 Patent is attached to the First Amended Complaint as Exhibit 2 (ECF No. 15-2).

165. Pado's assertion that the MIGHTY BLISS Massager infringes the '197 Patent is entirely baseless. The '197 Patent does not cover the MIGHTY BLISS Massager.

166. The '197 Patent claims "the ornamental design for a rechargeable dual massage apparatus, as shown and described."

167. Figure 1 of the '197 Patent shows the following "perspective view" of the claimed design:

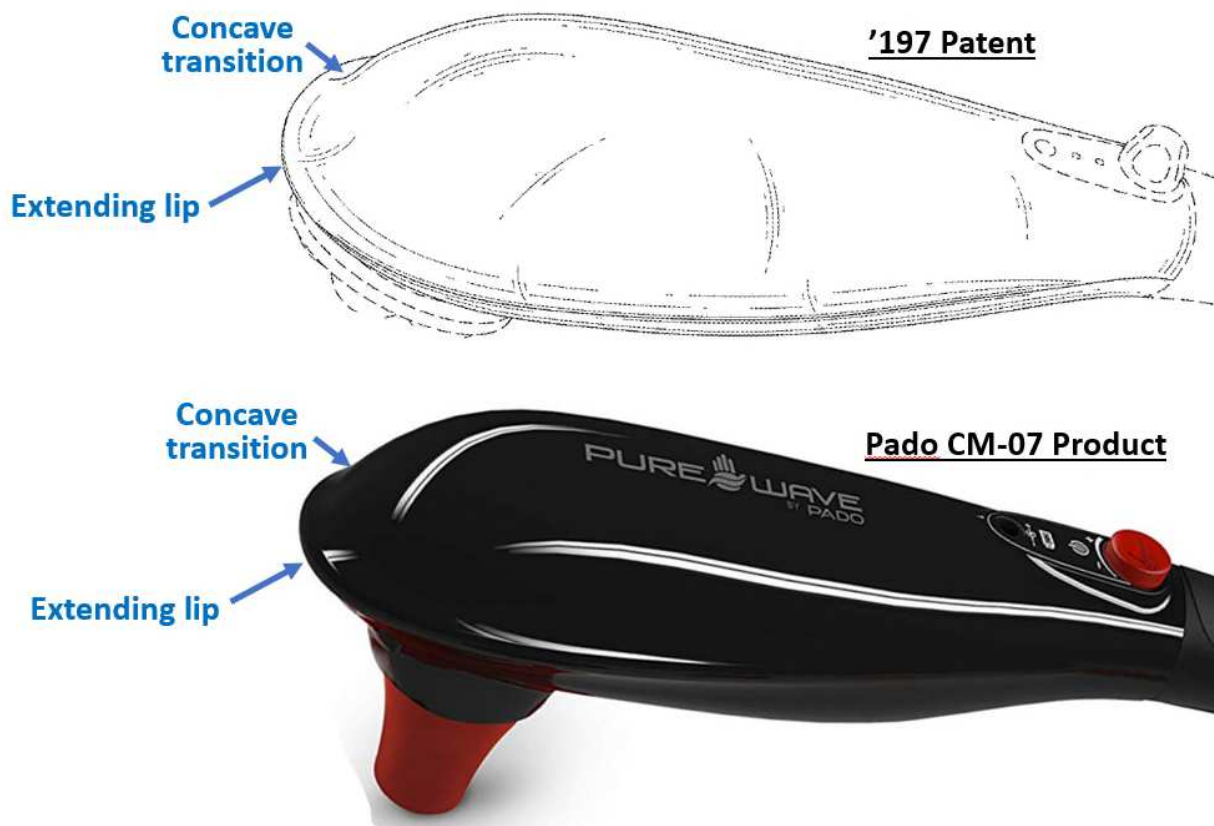


**FIG. 1**

168. Pado asserts that its Pado CM-07 Product is covered by the '197 Patent (Am. Compl. ¶ 1).

169. The design of both the '197 Patent and the Pado CM-07 Product include a specific, extending lip with a concave transition between the body of the massager and the lip.

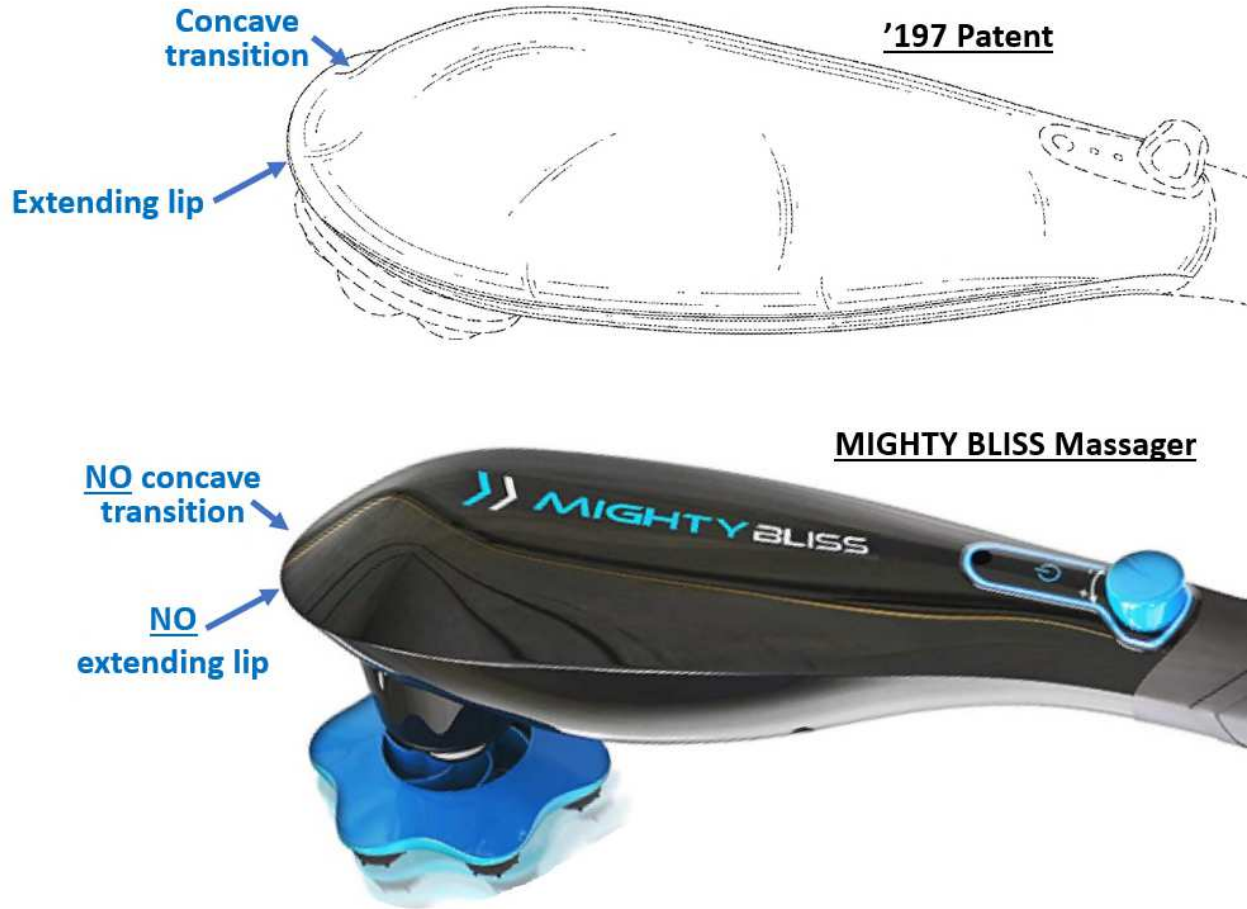
170. Annotated copies of Figure 1 of the '197 Patent and an image of the Pado CM-07 Product are included below to show such extending lip.



171. This extending lip feature gives the design of both the '197 Patent and the Pado CM-07 Product an appearance similar to the shape of a dolphin.

172. The MIGHTY BLISS Massager *does not* include the extending lip feature that the design of the '197 Patent has.

173. This significant difference between the '197 Patent and the MIGHTY BLISS Massager is shown below:

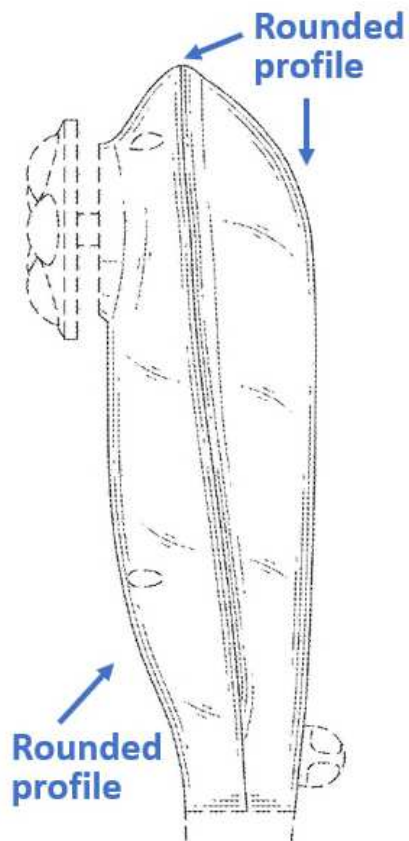


(Compare Am. Compl., Ex. 2, with Am. Compl., Ex. 10.)

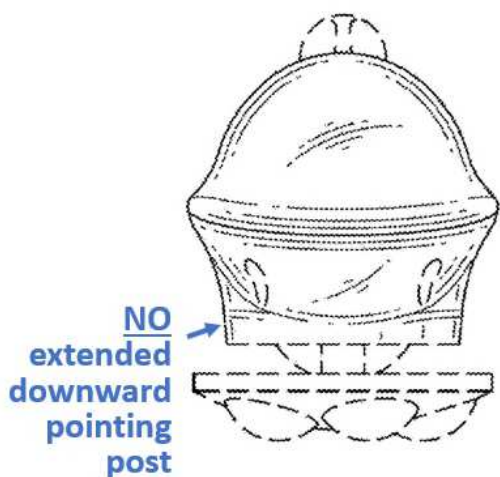
174. In addition, the respective bodies of the massager set forth in the '197 Patent and that of the MIGHTY BLISS Massager are *completely different*.

175. For example, as shown in the annotated images below, the top of the MIGHTY BLISS Massager is sharper in profile, than the that of '197 Patent, and the upper and lower segments are differently shaped. Significantly, the MIGHTY BLISS Massager has a prominent downward pointing post that is absent in the '197 Patent:

**'197 Patent**



**MIGHTY BLISS Massager**



**FIG. 4**

176. As shown above, even a cursory view of the respective products leads to the conclusion that the MIGHTY BLISS Massager is substantially different from the design shown in the '197 Patent.

177. The appearance of the MIGHTY BLISS Massager is substantially different than the design claimed in the '197 Patent. The differences are such that an ordinary observer, with knowledge of the prior art and giving such attention as a purchaser usually gives, would not consider the design of the MIGHTY BLISS Massager to be substantially the same as the design of the '197 Patent since the resemblance between the design of the MIGHTY BLISS Massager and the design of the '197 Patent would not deceive the ordinary observer, inducing him to purchase one supposing it to be the other.

178. In addition, the '197 Patent claims “the ornamental design for a rechargeable *dual* massage apparatus, as shown and described.” The MIGHTY BLISS Massager, however, is *not* a dual massage apparatus, and thus cannot infringe for that reason.

179. Pado has created an actual and justiciable controversy between the parties concerning whether the importation, use, sale, or offer for sale of the MIGHTY BLISS Massager infringes any valid and enforceable claim of the '197 Patent. Counterclaimants are entitled to a declaratory judgment that the MIGHTY BLISS Massager does not infringe any claim of the '197 Patent, either literally or under the doctrine of equivalents.

180. This case is exceptional under 35 U.S.C. § 285 due to, *inter alia*, the baselessness of Pado's infringement assertions, and Counterclaimants are entitled to receive its reasonable costs and attorney fees incurred in connection with this action.

**COUNT II**  
**(Declaratory Judgment of Invalidity of the '197 Patent)**

181. Counterclaimants repeat and incorporate by reference the allegations set forth in Paragraphs 1–180, inclusive.

182. The claim of the '197 Patent is invalid, at least under 35 U.S.C. §§ 102 and/or 103 as being unpatentable over the prior art, including, but not limited to the art cited in the '197 Patent.

183. For example, the face of the '197 Patent lists the Pado CM-07 Product as prior art to the patent. (*See* ECF No. 15-2, '197 Patent, Front Page (“Amazon, ‘Purewave CM-07 Dual Motor Percussion+Vibration Therapy Massager . . . ‘, Sep. 16, 2015. [https://www.amazon.com/PUREWAVETM-Percussion-Vibration-fasciitis-tendinitis/dp/B014U1C1P6/ref=cm\\_cr\\_arp\\_d\\_pdt\\_img\\_top?ie=UTF8](https://www.amazon.com/PUREWAVETM-Percussion-Vibration-fasciitis-tendinitis/dp/B014U1C1P6/ref=cm_cr_arp_d_pdt_img_top?ie=UTF8). Shown on p. 1. (Year: 2015).”.)

184. Pado asserts that the Pado CM-07 Product is covered by the '197 Patent.

185. At least in view of the prior disclosure of the prior art CM-07 Product more than one year before the filing date of the application for the '197 Patent, the '197 Patent is invalid as anticipated under 35 U.S.C. § 102.

186. The '197 Patent is also anticipated and/or obvious in view of other prior art listed herein and otherwise existing.

187. Pado has created an actual and justiciable controversy between the parties concerning whether the importation, use, sale, or offer for sale of the MIGHTY BLISS Massager infringes any valid and enforceable claim of the '197 Patent. Counterclaimants are entitled to a declaratory judgment that the '197 Patent is invalid.

**COUNT III**  
**(Trademark Infringement Pursuant to 15 U.S.C. § 1114)**

188. SG Trademark repeats and incorporates by reference the allegations set forth in Paragraphs 1–187, inclusive.

189. This claim is for the infringement of SG Trademark’s registered PURWAVE Mark, pursuant to Section 32(1) of the Lanham Act, 15 U.S.C. § 1114, as amended.

190. SG Trademark owns valid, protectable rights in the PURWAVE Mark as a registered trademark, which are superior to any rights Counterclaim-Defendants may claim to have in the mark PUREWAVE for electric massage apparatus.

191. Counterclaim-Defendants’ unauthorized use of the PUREWAVE mark is likely to cause confusion and mistake with SG Trademark’s PURWAVE Mark, and is likely to deceive the public as to the approval, sponsorship, affiliation, connection, license, source, origin, or association of Counterclaim-Defendants’ products and commercial activities with SG Trademark.

192. Upon information and belief, Counterclaim-Defendants’ infringement of SG Trademark’s PURWAVE Mark has been willful, intentional and deliberate, and designed to trade on the goodwill associated with SG Trademark’s PURWAVE Mark, and Counterclaim-Defendants have profited and been unjustly enriched, and will continue to profit and be unjustly enriched, by sales and publicity that Counterclaim-Defendants would not otherwise have obtained but for its unlawful conduct.

193. Counterclaim-Defendants’ deceptive acts have injured or are likely to injure SG Trademark’s business and reputation with consumers in this judicial district and elsewhere in the United States by creating confusion about the source of the PURWAVE Mark.

194. As a proximate result of Counterclaim-Defendants' infringement of the PURWAVE mark, SG Trademark has suffered and will continue to suffer substantial and irreparable injury and damage to the goodwill associated with the PURWAVE mark.

195. SG Trademark is entitled to injunctive relief and damages in an amount to be determined at trial.

196. The knowing, intentional and willful nature of the acts set forth herein renders this an exceptional case under 15 U.S.C. § 1117(a).

**COUNT IV**  
**(False Designation of Origin and Unfair Competition Pursuant to 15 U.S.C. § 1125)**

197. Counterclaimants repeat and incorporate by reference the allegations set forth in Paragraphs 1–196, inclusive.

198. This claim is for false designation of origin, false endorsement and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), as amended.

199. By its infringement of SG Trademark's PURWAVE Mark without the consent or authorization of Counterclaimants as described above, Counterclaim-Defendants have falsely designated the origin of Counterclaim-Defendants' products, and Counterclaim-Defendants have thereby competed unfairly with Counterclaimants and engaged in acts of false designation of origin and false sponsorship, in violation of 15 U.S.C. § 1125(a), as amended.

200. Counterclaim-Defendant's acts described above have caused and will continue to cause injury and damages to Counterclaimants, and have caused and will cause irreparable injury to Counterclaimants' goodwill and reputation and, unless enjoined, will cause further irreparable injury, whereby Counterclaimants has no adequate remedy at law.

201. As a direct result of Counterclaim-Defendants' infringement, Counterclaimants have suffered and will continue to suffer damages, irreparable harm and impairment of the value



of its trademark and trade dress rights, great detriment to its business, goodwill, reputation and profits.

202. Counterclaimants are entitled to injunctive relief and damages in an amount to be determined at trial.

203. The knowing, intentional and willful nature of the acts set forth herein renders this an exceptional case under 15 U.S.C. § 1117(a).

#### **COUNT V**

#### **(False or Misleading Representation and Unfair Competition Pursuant to 15 U.S.C. § 1125)**

204. Wieder repeats and incorporates by reference the allegations set forth in Paragraphs 1–203, inclusive.

205. This is a claim for false or misleading representation of fact and unfair competition under 15 U.S.C. § 1125(a).

206. Wieder and Counterclaim-Defendants compete for sales of electric massage apparatus.

207. Wieder has a commercial interest in its commercial and business reputation.

208. Wieder has established a business reputation as a popular and trusted seller of consumer products on Amazon’s marketplace.

209. Counterclaim-Defendants have knowingly made false, misleading, and defamatory statements in commerce through Amazon’s infringement reporting tools relating to the MIGHTY BLISS Massager product associated with Wieder. These statements actually deceived Amazon and are likely to deceive and confuse the public (i.e., Amazon’s marketplace users) into believing that Wieder’s MIGHTY BLISS Massager infringes the ’197 Patent, thereby materially affecting their decision and ability to purchase Wieder’s products.

210. Counterclaim-Defendants' reports to Amazon were designed to advance their business interests by removing Wieder's MIGHTY BLISS Massager listing from the Amazon marketplace thereby increasing Counterclaim-Defendants' market share.

211. Counterclaim-Defendants' false and misleading representations were sufficiently disseminated to actual and prospective customers by way of the reports to Amazon so as to constitute advertising.

212. Counterclaim-Defendants' false and misleading representation of Wieder's alleged infringement has misled, confused and deceived customers and prospective customers as to Wieder's reputation. Further, these misrepresentations have the capacity to continue misleading, confusing, and deceiving Wieder's customers and prospective customers.

213. The false and misleading representations had a material effect on Wieder's customers' and prospective customers' decisions to do business with Wieder.

214. Counterclaim-Defendants have made these false and misleading representations in interstate commerce and these false and misleading representations affect interstate commerce.

215. On information and belief, Counterclaim-Defendants had actual knowledge that Counterclaim-Defendants had no support for the complaints that Counterclaim-Defendants submitted to Amazon in connection with Wieder's MIGHTY BLISS Massager product, and Counterclaim-Defendants acted with the intent that Wieder's ability to sell the MIGHTY BLISS Massager be removed thereby forcing consumers to purchase the Pado CM-07 Product.

216. Wieder's injuries fall within the zone of interest protected by the Lanham Act because Counterclaim-Defendants' false advertising and disparaging misrepresentations have caused Wieder to suffer a loss of goodwill, a loss of sales, and damage to its commercial and business reputation.

217. Counterclaim-Defendants' wrongful acts as alleged in this Amended Complaint constitute false or misleading representation of fact and unfair competition under 15 U.S.C. § 1125(a).

218. The damage to Wieder's economic and reputational injuries were directly caused by Counterclaim-Defendants' false and misleading representations.

219. As a direct and proximate result of Counterclaim-Defendants' actions, constituting false or misleading representation of fact and unfair competition, Wieder has been damaged and is entitled to monetary relief in an amount to be determined at trial.

220. As a direct and proximate result of Counterclaim-Defendants' actions, constituting false or misleading representation of fact and unfair competition, Wieder has suffered and continues to suffer great and irreparable injury, for which Wieder has no adequate remedy at law.

221. Counterclaim-Defendants will continue their actions, constituting false or misleading representation of fact and unfair competition, unless enjoined by this Court.

**COUNT VI**  
**(Unfair Competition Pursuant to New York Common Law)**

222. Counterclaimants repeat and incorporate by reference the allegations set forth in Paragraphs 1–221, inclusive.

223. This is a claim for unfair competition, arising under the common law of the State of New York.

224. Counterclaim-Defendants' infringement of SG Trademark's PURWAVE Mark, as described above, constitutes common law trademark infringement, passing off and unfair competition in violation of common law.

225. Counterclaim-Defendants' acts of common law trademark infringement, passing off and unfair competition, as described above, have caused and will continue to cause injury and damages to Counterclaimants, and have caused and will continue to cause irreparable injury and loss to Counterclaimants' goodwill and reputation and, unless enjoined, will cause further irreparable injury, whereby Counterclaimants have no adequate remedy at law.

226. Counterclaim-Defendants acted in bad faith, with full knowledge of Counterclaimants' rights to the PURWAVE Mark and without regard to the likelihood of confusion of the public created by Counterclaim-Defendants' activities.

227. Counterclaim-Defendants' actions demonstrate an intentional, willful, and malicious intent to misappropriate Counterclaimants' trademark rights and trade on the goodwill associated with the PURWAVE Mark to the great and irreparable injury of Counterclaimants.

228. In addition, by reason of all of the foregoing, including Counterclaim-Defendants' December and January Amazon Complaints, Counterclaim-Defendants, as a market competitor of Wieder, engaged in deceptive conduct by disseminating false and misleading representations that Wieder sold a product that infringes the '197 Patent.

229. Counterclaim-Defendants' conduct caused consumer confusion because it had a material effect on Wieder's customers' and prospective customers' decisions and ability to purchase Wieder's products or do business with Wieder.

230. As a result of Counterclaim-Defendants' unfair competition, Wieder's customers and prospective customers were actually deceived or are likely to be deceived and confused into believing that Wieder's product infringes the '197 Patent.

231. As a direct and proximate result of Counterclaim-Defendants' actions, constituting common law trademark infringement, passing off, false or misleading representation

of fact and unfair competition, Counterclaimants have been damaged and is entitled to monetary relief in an amount to be determined at trial.

232. As a direct and proximate result of Counterclaim-Defendants' actions, constituting common law trademark infringement, passing off, false or misleading representation of fact and unfair competition, Counterclaimants have suffered and continues to suffer great and irreparable injury, for which Counterclaimants have no adequate remedy at law.

233. Counterclaim-Defendants will continue their actions, constituting false or misleading representation of fact and unfair competition, unless enjoined by this Court.

**COUNT VII**  
**(Tortious Interference with Contract and Business Relations)**

234. Wieder repeats and incorporates by reference the allegations set forth in Paragraphs 1–233, inclusive.

235. Wieder has had an advantageous business relationship with Amazon, which allows Wieder to sell on Amazon's e-commerce platform.

236. Wieder is also in a contractual relationship with Amazon.

237. At all relevant times, Counterclaim-Defendants were aware of Wieder's business relationship with Amazon, as well as Wieder's contractual relationship with Amazon.

238. At all relevant times, Counterclaim-Defendants were aware of the terms and conditions of Amazon, as well as the advantageous business relationship that comes with being an Amazon seller.

239. Counterclaim-Defendants intentionally and improperly interfered with Wieder's advantageous and contractual relationship with Amazon by complaining, in writing, to Amazon, that Wieder was selling a product that infringes the '197 Patent.

240. Counterclaim-Defendants' conduct directly and proximately caused disruption of Wieder's relationship and contract with Amazon.

241. Counterclaim-Defendants intended to cause Amazon to suspend Wieder's ability to sell the MIGHTY BLISS Massager on Amazon and therefore interfere with the business relationship Amazon had with Wieder.

242. Counterclaim-Defendants had actual knowledge that their actions would cause Amazon to suspend Wieder's ability to sell the MIGHTY BLISS Massager on Amazon.

243. Counterclaim-Defendants' accusations of infringement, made directly to Amazon, were for the improper purpose of suppressing competition.

244. Counterclaim-Defendants' actions interfered with Wieder's business relationship with Amazon and proximately caused Wieder's listing of the MIGHTY BLISS Massager to be suspended.

245. The intentions of Counterclaim-Defendants are demonstrated by, *inter alia*, the timing of Counterclaim-Defendants' complaints to Amazon during the holiday season and again after Amazon reinstated Wieder's listing of the MIGHTY BLISS Massager.

246. Counterclaim-Defendants' accusations were false and were made maliciously and with ill will.


247. Wieder has been damaged by suspension of these listings by losing revenue related to the MIGHTY BLISS Massager.

248. Wieder is entitled to damages, costs and attorneys' fees as allowed by law.

249. Wieder has suffered injury and, unless Counterclaim-Defendants are enjoined from such activity, will continue to suffer injury.

**PRAYER FOR RELIEF**

**WHEREFORE**, Counterclaimants pray for this Court to grant the following relief:

- A. Entry of a judgment that the MIGHTY BLISS Massager does not infringe the '197 Patent, either literally or under the doctrine of equivalents;
- B. Entry of a judgment that all claims of the '197 Patent are invalid;
- C. Entry of a judgment that Counterclaim-Defendants have violated Sections 32, 43(a) of the Lanham Act, 15 U.S.C. §§ 1114, 1125(a), have committed acts of unfair competition in violation of New York common law, and have committed acts of tortious interference with contract and business relations;
- D. Injunctive relief restraining Counterclaim-Defendants, their agents, servants, employees, successors and assigns, and all others in concert and privity with them:
  - a. From bringing any lawsuit, assertion or threat against Counterclaimants for patent infringement in connection with the '197 Patent, including, but not limited to, any action or complaint with Amazon.com concerning Wieder's advertisement, offer for sale, or sale of the MIGHTY BLISS Massager;
  - b. From using orally, in writing or in any media the name, word or mark PURWAVE or any other name, word or mark confusingly similar to SG Trademark's PURWAVE Mark (including, without limitation, PUREWAVE, PURE WAVE, PURE-WAVE or **PURE  WAVE**) on or in connection with the advertisement, promotion, marketing, offering, distribution, provision or sale of any goods, services or business; and
  - c. From otherwise competing unfairly with Counterclaimants; and

d. From tortiously interfering with Wieder's contracts and business relationships, including with Amazon;

E. Ordering Counterclaim-Defendants to recall from all channels of trade, distribution, exhibition and display all infringing products, advertising displays, signs, labels, goods, product packaging, promotional materials, advertisements, commercials, web sites, and other items, the dissemination or display by Defendant of which would violate the injunction requested herein;

F. Ordering Counterclaim-Defendants to remove listings for infringing product from all websites and deliver up for destruction any and all goods, product packaging, promotion materials, advertisements, commercials and other items in the possession, custody or control of Counterclaim-Defendants, their related companies, and affiliates which, if sold, displayed or used, would violate the injunction requested herein;

G. Ordering that, pursuant to Section 34(a) of the Lanham Act, 15 U.S.C. § 1116(a), Counterclaim-Defendants shall serve upon Counterclaimants within thirty (30) days after service on Counterclaim-Defendants of an injunction, or such extended period as the Court may direct, a report in writing under oath setting forth in detail the manner and form in which Counterclaim-Defendants have complied with the injunction;

H. Ordering an accounting of all gains, profits, savings and advantages realized by Counterclaim-Defendants from their aforesaid trademark infringement, false designation of origin, false or misleading representations, unfair competition, and tortious interference;

I. Awarding such damages as Counterclaimants shall establish in consequence of Counterclaim-Defendants' aforesaid acts of trademark infringement, false designation of origin, false or misleading representations, unfair competition, and tortious interference including three



times the amount found as actual damages by the trier of fact to properly compensate Counterclaimants for its damages pursuant to 15 U.S.C. § 1117(a);

J. Ordering Counterclaim-Defendants to pay to Counterclaimants punitive damages in connection with Counterclaimants' common law unfair competition claim;

K. Declaring that this is an exceptional case, pursuant to 15 U.S.C. § 1117, 35 U.S.C. § 285, or otherwise as allowed by law, because of the willful and deliberate nature of Counterclaim-Defendant's acts of trademark infringement, false designation of origin, false or misleading representations, unfair competition, and tortious interference;

L. Awarding Counterclaimants their attorneys' fees pursuant to 15 U.S.C. § 1117, 35 U.S.C. § 285, or otherwise as allowed by law;

M. Awarding Counterclaimants their costs and expenses of this action; and

N. Such other and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

In accordance with Rule 38 of the Federal Rules of Civil Procedure, Counterclaimants respectfully demand a jury trial of all issues triable to a jury in this action.

Dated: January 16, 2020

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP

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***Attorneys for Defendant/Counterclaimant  
SG Trademark Holding Co LLC, Defendants  
Moshe Friedman a/k/a Coy West and Herschel  
Friedman, and Counterclaimant Wieder and  
Friedman Enterprises Inc***

# **Exhibit B**

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

PADO, INC. and HOMELEC KOREA CO., LTD.,

Plaintiffs,

v.

SG TRADEMARK HOLDING CO LLC, WIEDER  
AND FRIEDMAN ENTERPRISES INC, MOSHE  
FRIEDMAN A/K/A COY WEST, HERSCHEL  
FRIEDMAN, ABC CORPORATIONS 1-10, and  
JOHN DOES 1-10,

Defendants.

Case No. 1:19-cv-06614-KAM-RER

**SECOND AMENDED COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiffs Pado, Inc. and Homelec Korea Co., Ltd. (collectively, “Plaintiffs”), by their attorneys, for their Second Amended Complaint against defendants SG Trademark Holding Co LLC, Wieder and Friedman Enterprises Inc, Moshe Friedman a/k/a Coy West, Herschel Friedman, ABC Corporations 1-10, and John Does 1-10 (collectively, “Defendants”), allege as follows:

**NATURE OF THE ACTION**

1. This is a civil action for patent infringement, copyright infringement, unfair competition, deceptive trade practices, trademark dilution, and related claims under federal and New York State law arising from Defendants’ production, promotion, distribution, offer for sale, and sale of handheld massagers. On information and belief, when Defendants entered the handheld massager market in 2018, rather than develop their own products, user manuals, and marketing materials, Defendants took the shortcut of copying Plaintiffs’ patented product, Plaintiffs’ copyright-protected user manuals, and using Plaintiffs’ marketing materials and Plaintiffs’ PUREWAVE trademark, thereby passing-off their own copycat massager as a genuine

PUREWAVE massager. Thus, Defendants avoided the cost of developing their own product and marketing materials by copying Plaintiffs' products and marketing materials, and by misappropriating Plaintiffs' PUREWAVE brand, thereby undercutting the sale of Plaintiffs' genuine products in the marketplace.

2. Plaintiffs bring this action under the United States Patent Act, 35 U.S.C. § 1 *et seq.*, the United States Copyright Act, 17 U.S.C. § 101 *et seq.*, United States Trademark Act (Lanham Act of 1946), 15 U.S.C. § 1051 *et seq.*, and New York State statutory and common law to stop the copying of Plaintiffs' patented design, user manuals and marketing materials, to protect the reputation and integrity of their products and trademark, and to ensure that the public is not deceived into buying Defendants' infringing handheld massager products (the "Infringing Products") thinking that those spurious products originate with Plaintiffs. Plaintiffs also seek a declaratory judgment, pursuant to 28 U.S.C. § 2201, that Plaintiffs have not infringed any valid trademark of defendant SG Trademark Holding Co LLC or engaged in any unfair competition or deceptive trade practices in connection with any valid trademark owned by defendant SG Trademark Holding Co LLC. Plaintiffs seek permanent and preliminary injunctive relief and the recovery of actual damages, Defendants' profits, damages, attorney fees, and other relief more fully set forth herein.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over the subject matter of this action pursuant to the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, Section 39 of the Lanham Act, 15 U.S.C. § 1121, the copyright laws of the United States, 17 U.S.C. § 101 *et seq.*, and 28 U.S.C. §§ 1331, 1332, 1338, 2201 and 2202, and has supplemental jurisdiction pursuant to 28 U.S.C. §§ 1338(b) and 1367(a).

4. On information and belief, Defendants are subject to personal jurisdiction of this Court because they, *inter alia*, reside in this District, promote and sell handheld massager products throughout this District, transact business within this District, contract to supply goods within this District, engage in a persistent course of conduct in New York and its environs, and expect, or should expect, their acts to have legal consequences within New York and this District.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b), in that Defendants reside in this District, and the events and omissions giving rise to Plaintiffs' claims occurred, and continue to occur, in this District as well as elsewhere in the United States.

### **PARTIES**

6. Plaintiff Pado, Inc. ("Pado") is a corporation organized and existing under the laws of California, with a principal place of business at 28340 Avenue Crocker #100, Valencia, California 91355. Pado is the exclusive licensee of United States Patent No. D855,197, owns United States Copyright Registration Nos. TX-8-796-486 and TX-8-796-570, and is the owner of all trademark rights in the PUREWAVE handheld massagers.

7. Plaintiff Homelec Korea Co., Ltd. ("Homelec") is a limited company organized and existing under the laws of the Republic of Korea, with a principal place of business at A-521/522 Tera Tower, 167, Songpa-daero, Songpa-gu, Seoul, Republic of Korea. Homelec is the owner of United States Patent No. D855,197, and designs and manufactures electronic massagers, which are distributed, advertised and sold in the United States by its exclusive licensee Pado.

8. On information and belief, Defendant SG Trademark Holding Co LLC ("SG Trademark") is a New York limited liability company having a place of business at 5421 New

Utrecht Avenue, Brooklyn, New York 11219. On further information and belief, SG Trademark is the owner of the MIGHTY BLISS trademark, is the current record owner of U.S. Trademark Registration No. 4925190 PURWAVE, and manufacturers, imports, promotes, distributes, advertises, offers to sell, and sells Infringing Products in the United States.

9. On information and belief, Defendant Wieder and Friedman Enterprises Inc (“Wieder and Friedman”) is a New York corporation having a principal place of business at 1730 58th Street, Brooklyn, New York 11204. On further information and belief, Wieder and Friedman is the exclusive licensee of the MIGHTY BLISS and PURWAVE trademarks, and promotes, distributes, advertises, offers to sell, and sells Infringing Products in the United States. SG Trademark and Wieder and Friedman are collectively referred to as the “Corporate Defendants.”

10. On information and belief, Defendant Moshe Friedman a/k/a Coy West (“Moshe Friedman”), is an individual and owner of SG Trademark, and resident of the State of New York, with an address of 1651 55th Street, Brooklyn, New York 11204. On further information and belief, Moshe Friedman has personally participated in and has willfully and knowingly directed the wrongful acts of the Corporate Defendants complained of herein, and such wrongful conduct has been for the benefit of the Corporate Defendants and for his own individual benefit and gain.

11. On information and belief, Defendant Herschel Friedman (“Herschel Friedman”), is an individual and an agent of defendant SG Trademark and owner of defendant Wieder and Friedman, and resident of the State of New York, with an address of 1730 58th Street, Brooklyn, New York 11204. On further information and belief, Herschel Friedman has personally participated in and has willfully and knowingly directed the wrongful acts of the

Corporate Defendants complained of herein, and such wrongful conduct has been for the benefit of the Corporate Defendants and for his own individual benefit and gain.

12. Moshe Friedman and Herschel Friedman are collectively referred to herein as the “Individual Defendants.”

13. ABC Corporations 1-10 and John Does 1-10 are corporations and other legal entities and/or individuals whose identities are not presently known to Plaintiffs, and who are also engaged in manufacturing, exporting, promoting, distributing, selling, and/or offering for sale Infringing Products procured from Defendants. The Second Amended Complaint will be amended to include the name or names of these individuals as and when such information becomes available.

**Plaintiffs and Their PUREWAVE Handheld Massagers**

14. Plaintiff Homelec has been designing and manufacturing, and Pado including its predecessor-in-interest has been promoting and selling in the United States, a line of high-quality handheld massagers under the PUREWAVE trademark since 2015. An image of Plaintiffs’ PUREWAVE handheld massager is shown below and additional images are attached as **Exhibit 1**.





15. Plaintiffs' PUREWAVE handheld massagers are designed and manufactured by Homelec and imported into the United States. Homelec invested substantial resources into designing and developing the PUREWAVE handheld massagers. Rigorous quality control standards are exercised over the production of each product and the materials included in each package bearing the PUREWAVE mark.

16. Homelec filed the application that eventually issued as U.S. Patent No. D855,197 (the "'197 Patent") on March 1, 2018, claiming priority from two applications filed in 2014.

17. The '197 Patent is directed to a handheld massager for massaging, e.g., a user's arms, legs, back, and neck.

18. The '197 Patent claims priority from an International (PCT) application filed April 4, 2014, which in turn claims priority from a Korean national application filed January 8, 2014.

19. The '197 Patent has an effective filing date of January 8, 2014.

20. When performing her examination of the application the United States Patent and Trademark Office ("PTO") Patent Examiner noted Pado's PUREWAVE CM-07 massager available on the online marketplace Amazon.com ("Amazon") as of September 16, 2015, and made that product of record as information that she explicitly considered. The information regarding the PUREWAVE CM-07 Product and its offer for sale on Amazon on September 16, 2015 are listed on the face of the '197 Patent in the "Other Publications" section.

21. Pado's PUREWAVE CM-07 massager displayed on Amazon on September 16, 2015 is not prior art to the '197 Patent because the '197 Patent has an effective filing date in 2014.

22. After considering all of the information available to the Patent Examiner including the 2015 PUREWAVE CM-07 massager for sale on Amazon in 2015 and the application's effective filing date in 2014, the Patent Examiner allowed the patent application.

23. On July 30, 2019, the '197 Patent, entitled "RECHARGEABLE DUAL MASSAGE APPARATUS," was duly and legally issued by the PTO to inventor Geon Woo Park of Homelec. A true copy of the '197 Patent is attached as **Exhibit 2**.

24. The '197 Patent is assigned from Mr. Park to Homelec. Mr. Park is an officer of Homelec. A written assignment from him to Homelec was recorded with the PTO on March 1, 2018 at Reel 045081, Frame 0077. A copy of the patent assignment is attached as **Exhibit 3**.

25. Pado is the exclusive licensee with the right to sue for infringement of the '197 Patent by way of an exclusive license from Homelec recorded with the PTO on October 29, 2019 at Reel 050859, Frame 0706. A copy of that license is attached as **Exhibit 4**.

26. Pado including through its predecessor-in-interest has been offering and selling handheld massage products since 2015 under a number of marks with the dominant term PUREWAVE, in stylization and standard character formats (collectively, the "PUREWAVE Marks").

27. Pado owns nationwide common law trademark rights in the PUREWAVE Marks in connection with handheld massagers by virtue of its use of the PUREWAVE Marks throughout the United States. Pado established common law rights in the PUREWAVE Marks prior to any date of first use or priority upon which Defendants can rely in relation to its use of a mark bearing the terms PURE WAVE.

28. Pado has undertaken very successful efforts to build goodwill and brand recognition for the PUREWAVE products. Pado invested millions of dollars in ongoing efforts strategically to market, advertise, and promote the PUREWAVE Marks in the United States and elsewhere.

29. Pado advertises, promotes, markets, offers for sale and sells its PUREWAVE products through the online marketplace Amazon.com and Pado's website at www.padousa.com. Attached as **Exhibit 5** are screenshots from Amazon.com and Pado's website showing advertisements developed by Pado for its PUREWAVE handheld massagers.

30. Pado's social media advertisements have had over 2.4 billion advertising impressions (times that the advertisement has been onscreen for Pado's target audience), and reached over 187 million people (the number of people who viewed the advertisement at least once).

31. Pado's promotional efforts have paid off. It has sold hundreds of thousands of products bearing the PUREWAVE Marks, resulting in over \$70 million in sales.

32. Pado hosts social media accounts on Facebook, Instagram, Twitter, and YouTube, which have hundreds of thousands of followers. Attached as **Exhibit 6** are screenshots of Pado's social media pages showing over 477,000 Facebook followers, 32,000 Instagram followers, and over 2,000 YouTube subscribers and over 3,200,00 customer views.

33. Pado has invested heavily in customer service, addressing product and service issues that customers may have.

34. As a result of the investments by Pado, consumers have come to recognize the name PUREWAVE as signifying high-quality, reliable massage products backed by exceptional customer service

### **Plaintiffs' Copyright-Protected User Manuals**

35. AT Battery Company, Inc. ("AT Battery"), the predecessor of Pado, developed and published a first version of a user manual for the PUREWAVE CM-07 massager (the "2015 User Manual."). The 2015 User Manual contains original text, artwork, and photographs. A copy of the 2015 User Manual is attached as **Exhibit 7**.

36. In 2016, AT Battery developed and published an updated user manual for the PUREWAVE CM-07 massager (the "2016 User Manual."). The 2015 User Manual and the 2016 User Manual are collectively referred to as the "User Manuals." The 2016 User Manual contains text and artwork, including some of the text and artwork from the 2015 User Manual, plus new text and artwork. A copy of the 2016 User Manual is attached as **Exhibit 8**.

37. AT Battery registered the copyright in its User Manuals with the U.S. Copyright Office, Reg. No. TX-8-796-486 and Reg. No. TX-8-796-570, registered Nov. 5, 2019.

38. AT Battery assigned the United States Copyright Registration Nos. TX-8-796-570 and TX-8-796-486 to Pado. Attached as **Exhibit 9** is a copy of the notarized assignment, dated November 21, 2019, which constitutes prima facie evidence of the assignment of the copyright registrations for the User Manuals.

### **Defendants Patent Infringing Conduct**



39. On information and belief, Defendants import, market, advertise, distribute, offer for sale, and sell the Infringing Products throughout the United States.

40. The Infringing Products are copies of Plaintiffs' PUREWAVE massagers. An image showing an Infringing Product is shown below and additional images are attached as **Exhibit 10**.



41. The Infringing Products infringe the '197 Patent. Images showing the Infringing Products next to the patent drawings are presented below.

Design Patent D855, 197	Infringing Products

Design Patent D855, 197	Infringing Products
	

42. Examples of competing handheld massagers in the marketplace which do not infringe the '197 Patent, and which demonstrate that Defendants had many design alternatives available to them for competing without copying Plaintiffs' patented product includes the following:



43. All Defendants became aware of the '197 Patent, and the infringement complained of herein, at least by November 26, 2019 when the summons and original complaint were served on Defendants. Thereafter, the Defendants continued to offer to sell and to sell the Infringing Products.

44. As of the filing of the original Complaint in this action, Defendants' website at [www.mightybliss.com](http://www.mightybliss.com) redirected consumers to the online marketplace Amazon.com in order to purchase the Infringing Products.

45. On or about December 2, 2019, Plaintiffs submitted a complaint to Amazon.com alleging that the Infringing Products infringe the '197 Patent.

46. On or about December 6, 2019, after reviewing Plaintiffs' complaint Amazon.com took down Defendants' offers for sale of the Infringing Products.

47. Defendants then changed their website www.mightybliss.com to sell the Infringing Products directly to consumers without going through Amazon.com.

48. As of at least November 26, 2019, all Defendants had actual knowledge of the '197 Patent.

49. As of at least November 26, 2019, all Defendants had actual knowledge that the MIGHTY BLISS massager infringes the '197 Patent, and/or intentionally avoided knowledge of whether the MIGHTY BLISS massager infringes the '197 Patent.

50. As of at least November 26, 2019, on information and belief, the Individual Defendants encouraged and induced the Corporate Defendants to continue to sell the MIGHTY BLISS massager despite being aware of the '197 Patent.

51. Defendants' infringements were willful at least as of November 26, 2019.

**Unlawful Conduct of Moshe Friedman and Hershel Friedman**

52. On information and belief, defendant Moshe Friedman is the sole owner of defendant SG Trademark, is personally responsible for product development, product design, marketing, and sales at the Corporate Defendants, and is essential to the operations of the Corporate Defendants.

53. On information and belief, defendant Moshe Friedman co-designed and developed the Infringing Products for the Corporate Defendants.

54. Defendant Moshe Friedman is a named co-inventor of U.S. Design Patent No. D872,295, entitled “CORDLESS MASSAGER” (the “’295 Patent”), which depicts a massager and six (6) attachments. Defendant SG Trademark owns the ’295 Patent.

55. The ‘295 Patent issued on January 7, 2020, which was long after Defendants became aware of Pado’s PUREWAVE products and had copied Pado’s User Manuals and promotional materials.

56. The massager and attachments depicted in the ’295 Patent are highly similar in appearance to Pado’s CM-07 PUREWAVE massager and attachments.

57. Pado’s PUREWAVE CM-07 Massager and its attachments are prior art to the ’295 Patent.

58. Despite having actual knowledge of the ’197 Patent and the Plaintiffs’ PUREWAVE massagers, Defendants failed to disclose to the PTO within an Information Disclosure Statement any of Pado’s PUREWAVE products including the PUREWAVE CM-07 massager and its attachments which are prior art to the ’295 Patent.

59. On information and belief, defendant Moshe Friedman developed the Infringing Products that are manufactured and imported by defendant SG Trademark and promoted, distributed, and sold by the Corporate Defendants.

60. Moshe Friedman communicates with Defendants’ customers under the alias “Coy West.”

61. On information and belief, Defendants send a letter from Coy West, “owner of Mighty Bliss,” to all customers who purchase Infringing Products (the “Product Review Letter”), asking customers for a “huge favor,” that is, to write “a nice review” on Amazon.com



and, if the Infringing Products “don’t deserve a nice review” to contact Defendants directly. A copy of the Product Review Letter is attached as **Exhibit 11**.

62. On information and belief, defendants Moshe Friedman and Hershel Friedman personally created and sent the letter for the Corporate Defendants.

63. According to the New York Department of State online database, SG Trademark’s business address is 5421 New Utrecht Avenue, Brooklyn, New York 11291, which is the same as Hershel Friedman’s business address.

64. According to the New York Department of State online database, Hershel Friedman accepts service for defendant SG Trademark.

65. On information and belief, defendant Hershel Friedman is the owner of defendant Wieder and Friedman, is personally responsible for product development, product design, marketing, and sales at the Corporate Defendants, and is essential to the operations of the Corporate Defendants.

66. On information and belief, defendant Hershel Friedman’s home address is the same address as defendant Wieder and Friedman’s business address.

#### **Defendants Copied Pado’s User Manual and Marketing Materials**

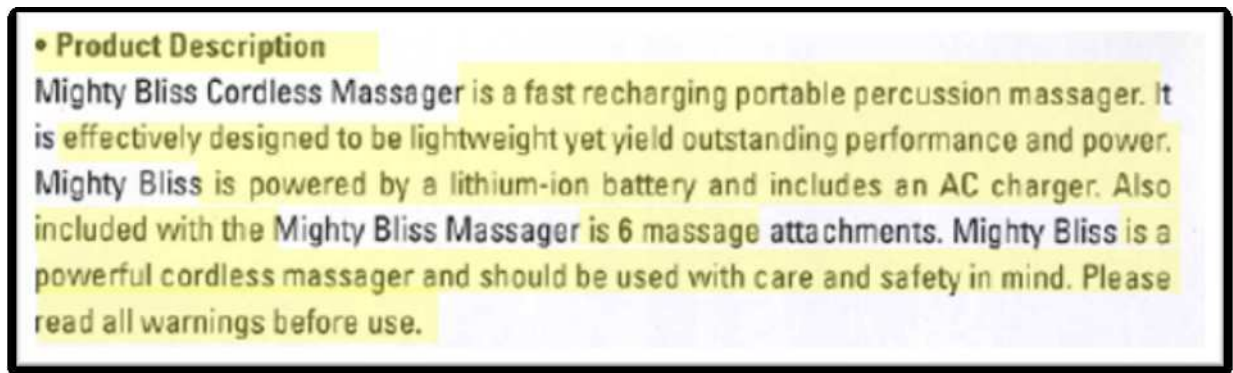
67. The user manuals for Defendants’ Infringing Products (“Defendants’ User Manuals”) is a virtual copy of Pado’s 2016 User Manual, which is the subject of Copyright Registration No. TX-8-796-570. A copy of Defendants’ Infringing Product user manual is attached as **Exhibit 12**.

68. Defendants’ User Manual is identical and or strikingly similar to Pado’s User Manual in at least the following ways:

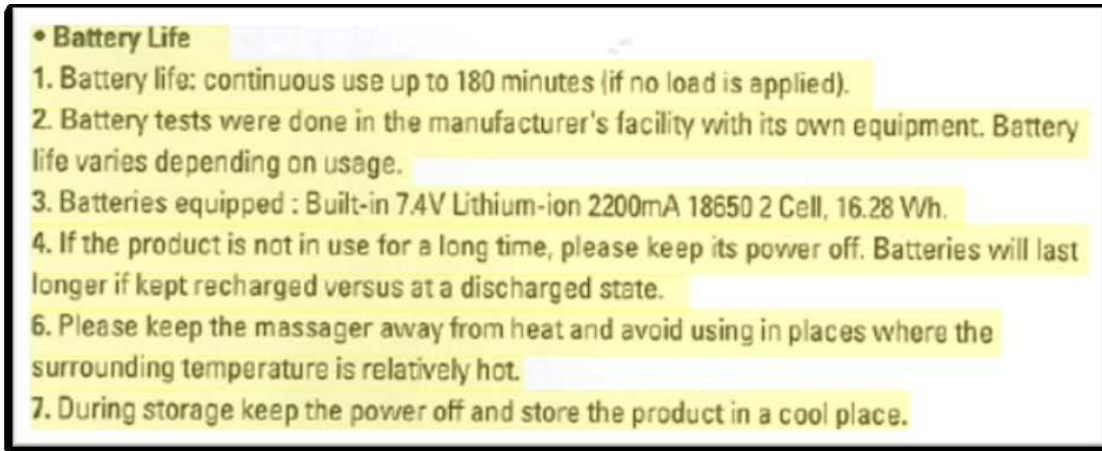
69. Defendants’ User Manual and Pado’s 2016 User Manual follow the same Tables of Contents, namely: Contents and Product Description; Charging and Battery Life;

Using [the] Massager; Warnings, Safety, and Contraindications; Product Care and Maintenance; Specifications; Troubleshooting; and Warranty.

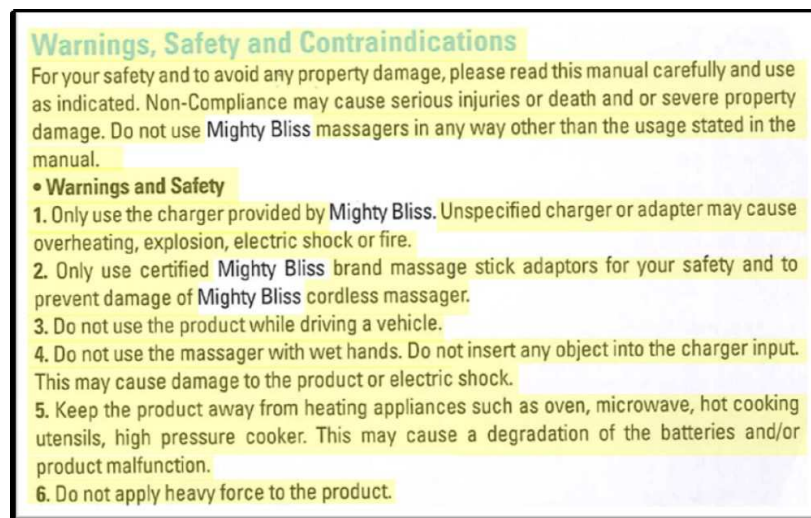
70. As an example of Defendants' blatant copying, both Defendants' User Manual and Pado's 2016 User Manual begin with substantially the same "Product Description" section. The image below shows the "Product Description" paragraph of Defendants' User Manual with the sections that Defendants copied from Pado's 2016 User Manual (**Exhibit 8**) highlighted in yellow.



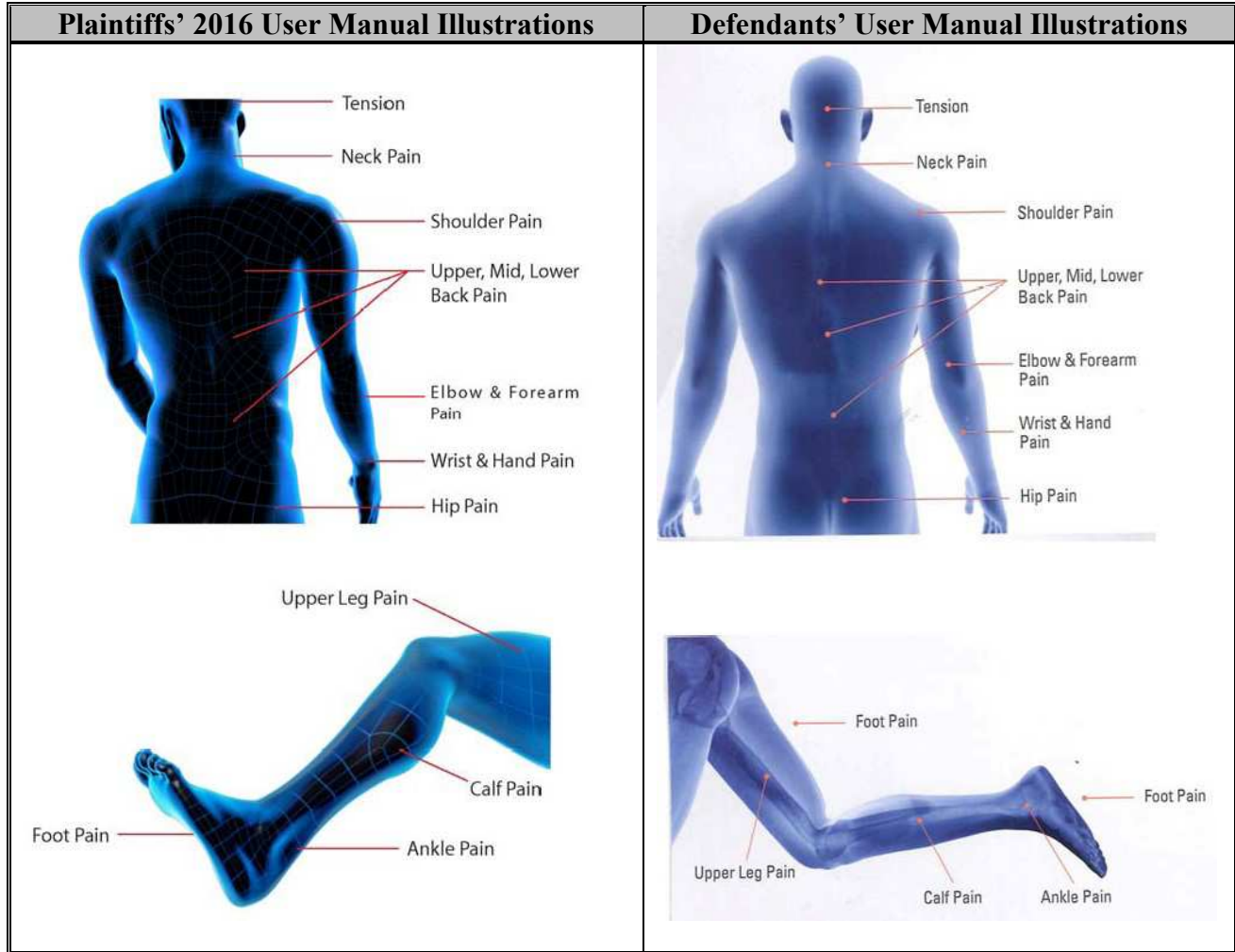
71. The "Battery Life" sections of the parties respective user manuals are word-for-word identical, except that No. 3 in Pado's manual notes that the batteries are replaceable for a fee. In both manuals, No. 5 is missing; that is, Defendants so slavishly and unthinkingly copied Pado's 2016 User Manual that they even copied the omission of No. 5. The image below shows the "Battery Life" paragraph of Defendants' User Manual with the sections that Defendants copied from Pado's 2016 User Manual (**Exhibit 8**) highlighted in yellow.



72. Defendants also copied the entire “Warnings, Safety and Contraindications” sections, including Nos. 1 through 6 under “Warnings and Safety,” which are word-for-word identical, except that Defendants substituted “Mighty Bliss” for “Pure Wave.” The image below shows the “Warning, Safety and Contraindications” introduction paragraph and Nos. 1 through 6 of the “Warnings and Safety” section of Defendants’ User Manual with the sections that Defendants copied from Pado’s 2016 User Manual (**Exhibit 8**) highlighted in yellow. The image highlighted in yellow below shows an excerpt of the “Warning, Safety and Contraindications” introduction paragraph and Nos. 1 through 6 of the “Warnings and Safety” section of Defendants’ user manual that copies Pado’s 2016 User Manual.



73. The parties respective user manuals contain the nearly identical graphics:



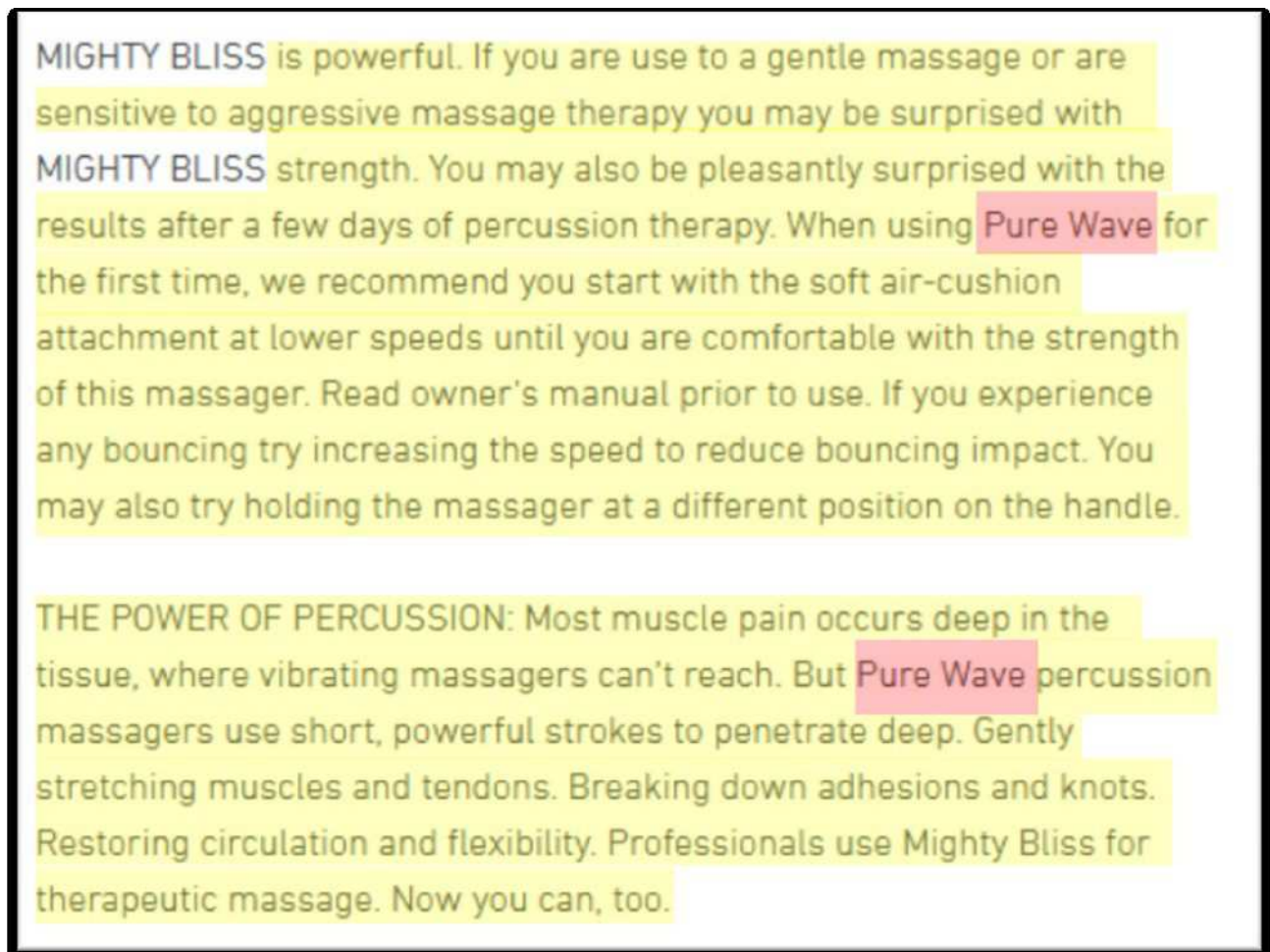
74. The foregoing instances of copying are just a representative example of the striking similarities between the parties' respective user manuals.

75. Defendants' User Manuals are also strikingly similar to portions of, and hence constitutes a copy of, Pado's 2015 User Manual (**Exhibit 7**), which is registered as Copyright Registration TX-8-796-486.

76. On information and belief, defendants Moshe Friedman and Hershel Friedman personally directed the Corporate Defendants to copy Pado's User Manuals.

### Defendants' Copying of Pado's Marketing Materials

77. Defendants copied Pado's promotional text on Amazon.com, and placed that promotional text on their own website describing the Infringing Products. Attached as **Exhibit 12** is a printout of the product description posted by Defendants on their website at [www.mightybliss.com](http://www.mightybliss.com), as of October 31, 2019, showing the use of the mark PURE WAVE. The exhibit is partially reproduced below with the copied marketing language highlighted in yellow. The highlighted language was taken word-for-word from Pado's promotional text (**Exhibit 5**), utilizing Pado's PUREWAVE trademark, which is highlighted in red.



78. On information and belief, Defendants also advertise the Infringing Products on third-party online marketplaces, such as GraceLife MediMart, Keug Reviews, and Vitamin

Notes. Attached as **Exhibit 13** are screenshots showing Defendants' advertisements using the PURE WAVE mark in connection with Infringing Products on the GraceLife MediMart, Keug Reviews, and Vitamin Notes websites.

79. On information and belief, Defendants' copying of Pado's User Manual and promotional text was deliberate and willful, and constituted willful copyright infringement, and was done with an intent by Defendants to unlawfully obtain the benefits of Plaintiffs' industry and efforts, and to harm Plaintiffs.

80. On information and belief, defendants Moshe Friedman and Hershel Friedman personally directed the Corporate Defendants to copy Pado's marketing materials.

#### **Defendants' Passing Off / Trademark Infringement**

81. Defendants have falsely promoted their Infringing Products as being Plaintiffs' "Pure Wave" massager, thus infringing Pado's PUREWAVE trademark and passing off their product as Plaintiffs'.

82. Defendants' use of the term "Pure Wave" has been without Plaintiffs' consent, and is likely to cause confusion and mistake in the minds of the purchasing public and, in particular, creates the false impression that the goods sold by Defendants are authorized, sponsored, or approved by Plaintiffs when, in fact, they are not.

83. On information and belief, Defendants' infringement was perpetrated under the direction of the Individual Defendants, and was deliberate and willful, and done with intent by Defendants to unlawfully obtain the benefits of Plaintiffs' industry and efforts, and to harm Plaintiffs, and to pass off the Infringing Products as being Plaintiffs' PUREWAVE massagers.

#### **Defendants Undercut Plaintiffs**

84. Having avoided the normal costs and expenses associated with developing their own product and marketing materials, Defendants proceeded to undercut Plaintiffs on price.

Plaintiffs' PUREWAVE CM-07 most recently sold on Amazon for \$124.94. By contrast, Defendants sell their Infringing Products on Amazon.com for \$108.17, thereby deliberately undercutting Plaintiffs.

85. On information and belief, Defendants are continuing to infringe the '197 patent, and/or induce others including the Corporate Defendants to infringe the '197 Patent by importing and/or making, using, offering for sale, and selling, products that infringe the '197 Patent including the Infringing Products.

86. On information and belief, Defendants are continuing to infringe Plaintiffs' copyrights by printing, distributing, and/or otherwise reproducing and benefiting from a user manual and promotional text and graphics that constitute copies of Plaintiffs' copyright-protected materials, including, without limitation, distributing Infringing Products together with Defendants' User Manuals that constitute copies of, and thus copyright infringements of, Pado's User Manuals.

87. On information and belief, Defendants are continuing to infringe Plaintiffs' PUREWAVE trademark and passing off their own Infringing Products as being Plaintiffs' PUREWAVE massager, by using Plaintiffs' trademark PUREWAVE and colorable imitations thereof within their advertising and promotional materials.

88. On information and belief, Defendants, as a result of the foregoing acts, intentionally, willfully, and knowingly adopted a design that is virtually identical to the '197 Patent, copied Plaintiffs' promotional materials, and used a trademark that is identical to the PUREWAVE Marks, both in, *inter alia*, an effort to trade on Plaintiffs' goodwill and fame and to undercut the sales of genuine products.

#### **Pado's Amazon Marketplace**

89. On information and belief, Amazon is the world's largest online retailer.

90. Amazon's online e-commerce platform allows for third parties, like Pado, to sell products on its e-commerce platform.

91. The privilege of selling on Amazon is highly advantageous, as Amazon provides third parties with exposure to the world marketplace on a scale that no other online retailer can currently provide.

92. Since at least as early as 2015, Pado, and its predecessor-in-interest, have had a contractual and business relationship with Amazon, such that Pado was permitted to sell products on Amazon's e-commerce platform.

93. Sellers, like Pado, create an online storefront on Amazon. When a customer buys a product on Amazon, the customer can see the online store from which the customer is purchasing a product. Thus, Pado has the online equivalent of a brick-and-mortar store.

94. Pado sells products through various channels, including through an Amazon storefront named "PADO."

95. A significant portion of Pado's business is derived from the sale of products through its Amazon storefront.

96. Pado has invested significant time and money into developing a successful and reputable Amazon storefront.

97. Any harm that comes to the relationship between Pado and Amazon creates the potential for serious and irreparable injury to Pado.

**Pado's PUREWAVE Application is Blocked by Sigma Instruments' Registration**

98. Pado owns United States Trademark Application Serial No. 88470482 PUREWAVE, covering "Hand-held electric massage apparatus for therapeutic non-cosmetic purposes, namely, hand-held electric massagers for massaging the back, neck, feet, arms, and legs" in International Class 10 (the "PUREWAVE Application").



99. On November 26, 2019, the PTO made final the refusal to register the PUREWAVE Application, based on a likelihood of confusion with United States Trademark Registration No. 4925190 PURWAVE, covering “device for non-surgical cosmetic treatments, namely, an electric massage apparatus,” which at the time was owned by Sigma Instruments, Inc. (“Sigma Instruments”).

100. On information and belief, Sigma Instruments had not sold any products under the PURWAVE mark for more than 3 years and had no intention of resuming use of the PURWAVE mark.

101. On information and belief, Sigma Instruments had not used its PURWAVE mark in commerce for a period of more than 3 years, creating a *prima facie* case of abandonment under 15 U.S.C. § 1127.

102. Sigma Instruments knew of Pado’s use of the PUREWAVE trademark in connection with electronic massagers at least as early as March 2017.

103. Despite having actual knowledge of Pado’s use of the PUREWAVE mark, Sigma Instruments took no action against Pado or otherwise enforced its mark.

104. On information and belief, Sigma Instruments never demanded that Pado stop using the PUREWAVE mark because Sigma Instruments had stopped using the PURWAVE mark and decided not to resume using the mark.

105. On November 27, 2019, Pado wrote Sigma Instruments to inquire whether it was interested in an amicable resolution to registering Pado’s PUREWAVE mark, and noted that “it appears that Sigma Instruments has not sold the PURWAVE product for several years.”

#### **Defendants Acquire the Abandoned PURWAVE Registration**

106. A little over a month after Pado filed this action and before defendants SG Trademark, Moshe Friedman and Hershel Friedman responded to Pado’s complaint, on

December 30, 2019, SG Trademark obtained Sigma Instruments' U.S. Registration No. 4925190 PURWAVE (the "Registration"). A copy of the assignment for U.S. Registration No. 4925190 (the "Purported Assignment") filed with the PTO is attached as **Exhibit 15**.

107. The Purported Assignment is from Sigma Instruments to a non-existent company, namely, "SG Trademark Holding Co." In contrast, Defendant SG Trademark is "SG Trademark Holding Co LLC."

108. On information and belief, Sigma Instruments was not, at the time of the Purported Assignment, using the PURWAVE mark in connection with "device for non-surgical cosmetic treatments, namely, an electric massage apparatus," and had not used the mark on those products for at least 3 years.

109. On information and belief, Sigma Instruments was not, at the time of the Purported Assignment, using the PURWAVE mark in connection with any goods or services, and had not used the mark on any products or services for at least 3 years.

110. On information and belief, Sigma Instruments abandoned the PURWAVE mark, pursuant to 15 U.S.C. § 1127, prior to December 30, 2019, the date of the Purported Assignment.

111. On information and belief, the Purported Assignment did not include any genuine goodwill or tangible assets of any business associated with the PURWAVE mark.

112. The Purported Assignment is invalid because Sigma Instruments abandoned the PURWAVE trademark prior to December 30, 2019, the date of the Purported Assignment, including both abandonment through failure to use with no intention to resume using, and abandonment through failure to police the mark.

113. The Purported Assignment is an invalid assignment-in-gross.

114. On information and belief, defendants Moshe Friedman and Hershel Friedman directed SG Trademark to acquire the Registration from Sigma Instruments.

115. On information and belief, Defendants knew that Sigma Instruments had abandoned the PURWAVE mark before the Purported Assignment.

116. On information and belief, Defendants never had plans to use the PURWAVE mark in commerce.

117. On information and belief, Defendants do not currently have plans to use the PURWAVE mark in commerce.

118. On information and belief, Defendants did not care that Sigma Instruments had abandoned the PURWAVE mark because they acquired the Registration in bad faith to multiply these proceedings, to disrupt the sale of Plaintiffs' genuine products, and to frustrate Plaintiffs' attempts to stop Defendants' infringing conduct.

119. On January 9, 2020, soon after it learned of the Purported Assignment, Pado petitioned to cancel the Registration with the Trademark Trial and Appeal Board on the grounds that the mark is abandoned and the assignment to defendant SG Trademark was invalid (the "Cancellation"). The Cancellation is captioned as *Pado, Inc. v. SG Trademark Holding Co*, Cancellation No. 92073255.

**Defendants File Fraudulent Takedown Notices Against Pado's Genuine Products**

120. On or about January 16, 2019, despite knowing that Sigma Instruments abandoned the PURWAVE mark and that the assignment was invalid, Defendants' counsel Tuvia Rotberg submitted a complaint with Amazon claiming that Pado's genuine PUREWAVE products infringe the Registration (the "Amazon Complaint"). A copy of the emails received by Pado from Amazon concerning the Amazon Complaint are attached collectively as **Exhibit 16**.

121. In response to the Amazon Complaint, Amazon removed the product listing for Pado's genuine PUREWAVE product from Pado's online store.

122. On information and belief, Defendants knew that the Amazon Complaint was baseless.

123. To date, Amazon has refused to re-list Pado's removed product listings and has rebuffed Pado's attempts to restore the listings.

124. On information and belief, on or about January 16, 2019, Defendants submitted complaints to remove Pado's PUREWAVE social media accounts, including Instagram, Twitter and Facebook, claiming that Pado's genuine PUREWAVE products infringe the Registration (the "Social Media Complaints").

125. In response to the complaints, Instagram, and Twitter removed Pado's PUREWAVE social media accounts.

126. Facebook is considering whether to remove Pado's PUREWAVE social media account.

127. On information and belief, Defendants knew that the Social Media Complaints were baseless.

128. On information and belief, defendants Moshe Friedman and Hershel Friedman directed Mr. Rotberg to file the Amazon Complaint and the Social Media Complaints.

129. On information and belief, the Corporate Defendants directed Mr. Rotberg to file the Amazon Complaint and the Social Media Complaints.

130. On information and belief, Defendants submitted the Amazon Complaint and the Social Media Complaints to disrupt the sale of Plaintiffs' genuine products and to damage Plaintiffs' reputation and goodwill.

131. Defendants alleged in the now-moot Counterclaims that “it is well-known among brand owners that Amazon has a policy of acting on virtually any notice of intellectual property infringement, whether legitimate or not.” (Dkt. No. 22 at ¶ 107).

132. Defendants further quoted an “Amazon expert” that:

In order to meet a minimum liability standard, Amazon will act upon properly submitted and completed notice claims of infringement. They will notify specified marketplace sellers which party reported them, on what listing, and how to reach that would-be rights owner via email. The rest though, is up to you. And, unless you (and possibly your legal team) can prove that the Notice claim is false, Amazon considers it valid and actionable.

*Unfortunately, word is out among potential Notice claim abusers that anyone can submit a form.* Amazon [is] not worried about additional vetting or verification processes. Investigators merely check the form for completed content in all the right spaces, kill the listings and send off the notifications.

They don’t independently verify that any of the information is actually correct, or valid. The rights owner makes a legally-binding declaration in the form, and signs it.

(*Id.* at ¶ 107) (citing Chris McCabe, *False Infringement Claims are Rife on Amazon*, WebRetailer (Apr. 11, 2018), available at <https://www.webretailer.com/lean-commerce/false-infringement-claims-amazon/> (emphasis in original)).

133. Defendants further alleged in their now-moot Counterclaims that “[i]t is well-known that complaints to Amazon put Amazon sellers in jeopardy of a full selling suspension,” Dkt. No. 22 at ¶ 116. Defendants were therefore aware that any complaint to Amazon may affect Pado’s ability to sell products on Amazon.

134. Accordingly, Defendants were, at all times, aware of the foregoing Amazon policy with regard to reports of intellectual property infringement.

135. Defendants were, at all relevant times, aware that Amazon will act on reports that a product is infringing a trademark, regardless of the truth of the report.

136. Defendants filed the Amazon Complaint and the Social Media Complaints alleging Pado's genuine products infringe the abandoned PURWAVE mark, even though they knew, or should have known, that such allegations were false.

137. Defendants filed the Amazon Complaint and the Social Media Complaints alleging Pado's genuine products infringe the abandoned PURWAVE mark, even though they knew, or should have known, that the Purported Assignment of the PURWAVE mark and Registration was to a non-existent entity, namely, "SG Trademark Holding Co".

138. The Amazon Complaint and the Social Media Complaints are signed under penalty of perjury by an employee or agent of SG Trademark.

139. On information and belief, Defendants' allegations that Pado's genuine PUREWAVE products infringe the Registration was knowingly false and made in bad faith.

140. Pado's PUREWAVE product listings and advertising materials have been taken down in response to Defendants' Amazon and Social Media Complaints, resulting in immediate loss of revenue and goodwill.

141. Defendants filed the Amazon and Social Media Complaints even though they knew, or should have known, that the PURWAVE mark was abandoned and that the Purported Assignment was invalid.

142. Defendants therefore knowingly made multiple false intellectual property rights complaints against Pado.

143. On information and belief, Defendants submitted the Amazon Complaints and the Social Media Complaints to disrupt Pado's business, to ensure that Amazon and the social media websites permanently suspended Pado's accounts and to obtain an unfair advantage

in this lawsuit, thereby essentially obtaining injunctive relieve without showing any proof, even though they know that they are not entitled to such relief.

144. As a result of Defendants' Amazon Complaints and the Social Media Complaints, Pado's goodwill and online product rankings and other metrics have been, and continue to be, irreparable damaged.

145. As a result of Defendants' Amazon Complaints and the Social Media Complaints, Pado has lost, and continues to lose, significant revenue and marketplace standing.

### **COUNT I**

#### **Patent Infringement (35 U.S.C. § 271)**

146. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

147. In violation of 35 U.S.C. § 271(a), the Corporate Defendants have infringed and are continuing to infringe, literally or under the doctrine of equivalents, the '197 Patent by practicing the '197 Patent in their manufacture, use, offering for sale, sale and/or importation of massagers that incorporate the '197 Patent

148. In violation of 35 U.S.C. § 271(b), the Individual Defendants, after having actual knowledge of the '197 Patent, induced others including the Corporate Defendants to infringe the '197 Patent,

149. On information and belief, Defendants' conduct was and is willful and intentional, and the Individual Defendants personally directed and authorized the manufacture, use, offering for sale, sale and/or importation of the Infringing Products, including by personally directing and supervising the construction and maintenance of websites and online stores from

which the Infringing Products are sold, and by personally directing and supervising the preparing of advertising and marketing material used to sell the Infringing Products.

150. Defendants' wrongful acts will continue unless enjoined by this Court.

151. Plaintiffs have no adequate remedy at law and are suffering irreparable harm and damage as a result of the aforesaid acts of Defendants in an amount thus far not determined.

152. On information and belief, Plaintiffs have lost profits and Defendants have obtained gains, profits and advantages as a result of their wrongful acts in an amount thus far not determined.

## **COUNT II**

### **Copyright Infringement (17 U.S.C. § 501)**

153. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

154. Defendants' conduct as alleged herein constitutes copyright infringement in violation of 17 U.S.C. § 501.

155. On information and belief, Defendants' conduct was and is willful and intentional and that the Individual Defendants personally directed and authorized the creation and distribution of the infringing advertising and promotional material.

156. In addition to being directly liable, on information and belief, the Individual Defendants are vicariously liable because they had the right and ability to supervise the infringing conduct and had a direct financial interest in the exploitation of the copyrighted materials.

157. In addition to being directly liable, on information and belief, the Individual Defendants are vicariously liable because they authorized the infringing activity.



158. In additional to being directly liable, on information and belief, the Individual Defendants are vicariously liable because they were dominant influences in the Corporate Defendants and determined the policies which resulted in the infringements.

159. Defendants' wrongful acts will continue unless enjoined by this Court.

160. Plaintiffs have no adequate remedy at law and are suffering irreparable harm and damage as a result of the aforesaid acts of Defendants in an amount thus far not determined.

161. On information and belief, Defendants have obtained gains, profits and advantages as a result of their wrongful acts in an amount thus far not determined.

### **COUNT III**

#### **False Designation of Origin and Unfair Competition (15 U.S.C. § 1125(a))**

162. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

163. As alleged herein, the PUREWAVE trademark acquired secondary meaning prior to Defendants' misappropriation of that term to designate their Infringing Products and pass them off as being genuine PUREWAVE massagers. Moreover, Defendants' intentional use of the "Pure Wave" name, in concert with pricing below that of PUREWAVE massagers and thereby "passing off" of Defendants' goods as though they were Plaintiffs', is *prima facie* evidence of the secondary meaning of the PUREWAVE trademark.

164. Defendants' conduct as alleged herein constitutes a false designation of origin in violation of 15 U.S.C. § 1125(a).

165. On information and belief, Defendants' conduct was and is willful and intentional, and that the Individual Defendants personally directed and authorized the creation and distribution of the infringing advertising and promotional material.

166. Defendants' wrongful acts will continue unless enjoined by this Court.

167. Plaintiffs have no adequate remedy at law and are suffering irreparable harm and damage as a result of the aforesaid acts of Defendants in an amount thus far not determined.

168. On information and belief, Defendants have obtained gains, profits and advantages as a result of their wrongful acts in an amount thus far not determined.

#### **COUNT IV**

##### **Trademark Infringement Under New York Common Law**

169. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

170. Pado owns all right, title, and interest in and to the PUREWAVE Marks, including all common law rights in such marks.

171. The aforesaid acts of Defendants constitute trademark infringement in violation of the common law of the State of New York.

172. On information and belief, by their acts, Defendants have made and will make substantial profits and gains to which they are not in law or equity entitled.

173. On information and belief, Defendants' conduct was and is willful and intentional and that the Individual Defendants personally directed and authorized the creation, distribution, and use of the infringing materials including the "Pure Wave" Mark.

174. On information and belief, Defendants intend to continue their willfully infringing acts unless restrained by this Court.

175. Defendants' acts have damaged and will continue to damage Plaintiffs, and Plaintiffs have no adequate remedy under law.

**COUNT V**

**Unfair Competition Under New York Common Law**

176. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

177. With knowledge of the fame and distinctiveness of Plaintiffs' PUREWAVE Marks, Defendants intend to and did trade on the goodwill associated with the PUREWAVE Marks by importing, producing, promoting, distributing, offering for sale, and selling products that are identical to the products sold under the PUREWAVE Marks.

178. On information and belief, Defendants' conduct was and is willful and intentional and that the Individual Defendants personally directed and authorized the creation, distribution, and use of the PURE WAVE mark.

179. Defendants' acts as alleged herein are likely to cause confusion, mistake, and deception to consumers as to the affiliation, connection, or association of Defendants with Plaintiffs, and as to the origin, sponsorship, or approval of the Infringing Products by Plaintiffs all to the detriment and damage of Plaintiffs and the unjust enrichment of Defendants.

180. Plaintiffs have no adequate remedy at law. If Defendants' activities are not enjoined, Plaintiffs will suffer immediate and continuing irreparable harm and injury to their reputation and to the goodwill and distinctiveness in the PUREWAVE Marks.

**COUNT VI**

**Injury to Business Reputation and Dilution Under New York Law  
(New York General Business Law § 360-1)**

181. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

182. The aforesaid acts of Defendants have diluted, and will likely continue to dilute, the unique and distinctive quality of the PUREWAVE Marks and are likely to injure Plaintiffs' business reputation, in violation of New York General Business Law § 360-1.

183. Defendants knew and intended their acts to dilute the PUREWAVE Marks and to injure Plaintiffs' business and reputation.

184. The aforesaid acts of Defendants have caused, and will continue to cause, great and irreparable injury to Plaintiffs, and unless said acts are restrained by this Court, Plaintiffs will continue to suffer great and irreparable injury.

185. Defendants' acts have damaged and will continue to damage Plaintiffs, and Plaintiffs have no adequate remedy under law. Plaintiffs are therefore entitled to injunctive relief.

#### **COUNT VII**

#### **Deceptive Trade Practices (New York General Business Law § 349)**

186. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

187. Defendants' aforementioned acts constitute misleading and deceptive trade practices under New York General Business Law § 349.

188. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered and will continue to suffer great damage to their business, goodwill, reputation, and profits while Defendants profit at their expense.

189. Plaintiffs have suffered irreparable harm and have no adequate remedy at law from the harm caused by Defendants' acts as alleged herein. Unless Defendants are permanently enjoined by the Court, Plaintiffs will continue to suffer irreparable harm.

**COUNT VIII**

**Cancellation of U.S. Trademark Registration No. 4925190  
(15 U.S.C. § 1064)**

190. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

191. Defendant SG Trademark is the current record owner of the Registration.

192. The Registration was cited against Pado's U.S. Trademark Application Serial No. 88470482 for the mark PUREWAVE.

193. Defendant SG Trademark acquired the Registration from Sigma Instruments by the Purported Assignment, dated December 30, 2019.

194. On information and belief, Sigma Instruments stopped using the PURWAVE trademark in connection with any goods or services in commerce at least 3 years ago and never intended to resume using the mark.

195. On information and belief, by the date of the Purported Assignment, Sigma Instruments had stopped using the PURWAVE trademark in connection with any goods or services and never intended to resume using the mark.

196. Sigma Instruments abandoned the PURWAVE mark, as defined in Section 45 of the Lanham Act, 15 U.S.C. § 1127, before defendant SG Trademark acquired the mark.

197. Sigma Instruments abandoned the PURWAVE mark, as defined in Section 45 of the Lanham Act, 15 U.S.C. § 1127, before defendant SG Trademark acquired the mark, at least by failure to police the mark.

198. On information and belief, Defendants never had, and currently have no plans to use the PURWAVE mark on any products or services.

199. Pado seeks cancellation of defendant SG Trademark's U.S. Trademark Registration No. 4925190, pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064.

**COUNT IX**

**Tortious Interference with Contractual Relations**

200. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

201. Pado has an advantageous business relationship with Amazon, which allows Pado to sell products on Amazon's online marketplace.

202. Pado has a contractual relationship with Amazon.

203. Pado has an advantageous business relationship with various social media websites, including Instagram, Twitter and Facebook, which allow Pado to advertise its products and direct customers to purchase its products.

204. Pado has a contractual relationship with various social media websites, including Instagram, Twitter and Facebook.

205. At all relevant times, Defendants were aware of Pado's relationship with Amazon and the social media websites, as well as the benefits of those relationships.

206. Defendants knowingly and improperly interfered with Pado's advantageous and contractual relationships with Amazon and the social media websites by submitting the Amazon Complaint and the Social Media Complaints.

207. Defendants conduct disrupted Pado's relationship and contract with Amazon and the social media websites.

208. Defendants intended to cause Amazon to suspend Pado's ability to sell its genuine PUREWAVE products on Amazon and therefore interfere with Pado's business relationship with Amazon.

209. Defendants intended to cause social media websites to suspend Pado's ability to advertise its genuine PUREWAVE products on social media websites and therefore interfere with Pado's business relationship with those social media websites.

210. Defendants had actual knowledge that their actions would cause Amazon to suspend Pado's ability to sell the PUREWAVE products on Amazon's online marketplace.

211. Defendants had actual knowledge that their actions would cause the social media websites to remove Pado's PUREWAVE accounts.

212. Defendants' allegations of infringement made to Amazon and the social media websites were for the improper purpose of suppressing competition.

213. Defendants' allegations of infringement interfered with Pado's business relationship with Amazon and the social media websites and caused the removal of Pado's PUREWAVE product listings and social media accounts.

214. Defendants' representations to Amazon and the social media websites were false and made in bad faith.

215. Defendants' acts complained of herein constitute tortious interference with Pado's agreements with Amazon and the social media companies.

216. Pado has been and continues to be damaged by Defendants' misrepresentations.

217. Pado has suffered, and continues to suffer, injury and unless Defendants are enjoined from such activity, Pado will continue to suffer injury.

**COUNT X**

**False or Misleading Representation and Unfair Competition  
(15 U.S.C. § 1125)**

218. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

219. Pado and Defendants compete for sales of electronic massagers.

220. Pado has a commercial interest in its commercial and business reputation.

221. Pado has established a business reputation as a trusted seller of genuine products on Amazon's marketplace and on social media websites.

222. Defendants knowingly made false, misleading, and defamatory statements in commerce through infringement reporting tools on various website and online marketplaces, including, without limitation, Amazon, Instagram, Twitter, and Facebook, relating to Pado's PUREWAVE products. These statements deceived Amazon, Instagram, Twitter, and Facebook and are likely to deceive users of those websites and marketplaces into believing that Pado's PUREWAVE products infringe the Registration, thereby materially affecting their decision and ability to purchase Pado's products.

223. Defendants' complaints were designed to advance their business interests by removing Pado's genuine PUREWAVE products from online marketplaces and social media accounts, increasing Defendants' market share.

224. Defendants' false and misleading representations constitute advertising and were made to actual and prospective customers by way of the reports to Amazon, Instagram, Twitter, and Facebook.

225. Defendants' false and misleading representation of Pado's alleged infringement has misled, confused, and deceived customers and prospective customers as to



Pado's reputation, and continue to mislead, confuse, and deceive customers and prospective customers as to Pado's reputation.

226. Defendants false and misleading representations had, and continue to have, a material effect on Pado's customers' and prospective customers' decision to do business with Pado.

227. Defendants have made these false and misleading representations in interstate commerce and these false and misleading representations have affected, and continue to affect, interstate commerce.

228. On information and belief, Defendants had actual knowledge that Defendants had no support for the Amazon Complaint and the Social Media Complaint, but submitted the complaints to induce customers to purchase their Infringing Products instead of Pado's genuine products.

229. Defendants' false and misleading representations have directly caused, and continue to cause, Pado to suffer a loss of goodwill, a loss of sales, and damage to its commercial and business reputation.

230. Defendants wrongful acts alleged herein constitute false and misleading representations of fact and unfair competition under 15 U.S.C. § 1125.

231. As a result of Defendants' wrongful acts alleged herein, Pado has suffered, and continues to suffer, irreparable injury, for which Pado has no adequate remedy at law.

232. Defendants will continue their unlawful conduct unless enjoined by this Court.

**COUNT XI**

**Declaratory Judgment of No Trademark Infringement, False Designation of Origin, and Unfair Competition  
(28 U.S.C. § 2201)**

233. Plaintiffs reallege and incorporate here by reference the allegations set forth above.

234. Defendant SG Trademark has accused Plaintiffs of trademark infringement under 25 U.S.C. § 1114 and false designation of origin and unfair competition under 25 U.S.C. § 1125(a), *see* Dkt. No. 22 at ¶¶ 188-203, based on Plaintiffs' use of the mark PUREWAVE in connection with massager products.

235. Defendants have asserted to third parties, including, without limitation, Amazon, Facebook, Twitter and Instagram, that Plaintiffs PUREWAVE products infringe the Registration and the PURWAVE trademark.

236. Plaintiffs deny the allegations of trademark infringement, false designation of origin and unfair competition.

237. Defendant SG Trademark's allegations pose an immediate threat to Plaintiffs' business (including its reputation, relationship and goodwill with customers), and will continue to harm Plaintiffs until such claims are resolved.

238. As a result, there exists an actual case or controversy between the parties regarding their respective rights and legal relations; specifically, whether Plaintiffs have infringed defendant SG Trademark's trademark.

239. Plaintiffs have no adequate remedy at law and therefore request that this Court declare the respective rights and obligations of the parties pursuant to 28 U.S.C. § 2201; specifically, that the final judgment in this action include a declaration by this Court that Plaintiffs have not infringed defendant SG Trademark's asserted trademarks.

240. Plaintiffs also seek any further relief deemed appropriate by this Court pursuant to 28 U.S.C. § 2202.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs demands judgment against Defendants as follows:

1. Finding that: (i) Defendants have infringed U.S. Patent No. D855,197 in violation of 35 U.S.C. § 271; (ii) Defendants have committed copyright infringement in violation of 17 U.S.C. § 501; (iii) Defendants have violated Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); (iv) Defendants have engaged in unfair competition and false advertising under section 43 of the Lanham Act, 15 U.S.C. § 1125; (v) Defendants have engaged in unfair competition, false designation of origin, and dilution under common law of the State of New York; (vi) Defendants have engaged in trademark infringement and unfair competition under the common law of the State of New York; (vii) Defendants have violated N.Y. Gen. Bus. Law §360-1; (viii) Defendants have violated N.Y. Gen. Bus. Law §360-1; (ix) Defendants have been unjustly enriched in violation of the common law of the State of New York; (x) the PURWAVE mark is abandoned; (xi) Defendants have committed acts of tortious interference of contract and business relations; (xii) Defendants' infringements were willful; and (xiii) Plaintiffs have not infringed defendant SG Trademark's asserted trademark, falsely designated the origin of their, or engaged in unfair competition.

2. Granting an injunction preliminarily and permanently restraining and enjoining Defendants, their officers, agents, employees and attorneys, and all those persons or entities in active concert or participation with them, or any of them anywhere, from:

(a) importing, producing, exporting, advertising, marketing, promoting, supplying, distributing, selling, or offering for sale the Infringing Products;

(b) importing, producing, exporting, advertising, marketing, promoting, supplying, distributing, selling, or offering for sale any products which bear the PUREWAVE Marks, or any other mark substantially or confusingly similar thereto, including, without limitation, the Infringing Products, and engaging in any other activity constituting an infringement of any of Plaintiffs' rights in the PUREWAVE Marks or any other trademark owned by Plaintiffs;

(c) making, copying, distributing, or publishing the Defendants' User Manuals;

(d) passing off, inducing, or enabling others to sell or pass off any product as products produced by Plaintiffs, which are not in fact Plaintiffs' products, or not produced under the control and supervision of Plaintiffs and approved by Plaintiffs for sale under the PUREWAVE Marks;

(e) engaging in any other activity constituting unfair competition with Plaintiffs, or acts and practices that deceive the public and/or the trade, including, without limitation, the use of designations and indicia associated with Plaintiffs;

(f) engaging in any activity that will diminish the unique and distinctive quality of the PUREWAVE Marks and harm the reputation and goodwill in the PUREWAVE Marks;

(g) otherwise competing unfairly with Plaintiffs in any manner;

(h) shipping, delivering, transferring, or otherwise disposing of, in any manner, products or inventory which bear Plaintiffs' PUREWAVE Marks or any mark confusingly similar thereto; and

(i) secreting, destroying, altering, removing, or otherwise making unavailable any document or record pertaining to the Infringing Products, or any books or records which contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, or displaying of the Infringing Products.

3. Cancelling defendant SG Trademark's U.S. Trademark Registration No. 4925190 for the mark PURWAVE, pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064.

4. Directing that Defendants shall deliver to Plaintiffs for destruction all infringing user manuals, and all plates, molds, matrices and other means of production of same under 17 U.S.C. § 503.

5. Directing that Defendants remove any simulation, reproduction, counterfeit, copy, or colorable imitation of the PUREWAVE Marks, or any mark confusingly similar thereto, from any and all advertising in any medium and/or websites under their control, including, but not limited to [www.mightybliss.com](http://www.mightybliss.com) and any relevant third party retailer, advertiser, or marketing affiliate.

6. Directing that Defendants deliver to Plaintiffs' counsel for destruction at Defendants' cost all signs, products, packaging, promotional and advertising material, catalogs, and any other items that bear, contain, or incorporate any simulation, reproduction, counterfeit, copy, or colorable imitation of the PUREWAVE Marks.

7. Directing Defendants to affirmatively withdraw, in writing, any and all complaints made by Defendants or anyone acting under Defendants' control, asserting that Pado's PUREWAVE products infringe U.S. Trademark Registration No. 4925190 or the PURWAVE trademark, including the Amazon Complaint and the Social Media Complaints.

8. Directing other such relief as the Court may deem appropriate to prevent the public from receiving any erroneous impression that any product at issue in this case, that has been produced, exported, advertised, marketed, promoted, supplied, distributed, sold, or offered for sale by Defendants, has been authorized by Plaintiffs, or is related to or associated in any way with Plaintiffs or their products.

9. Directing Defendants to file with the Court and serve upon Plaintiffs, within thirty (30) days after service upon Defendants of this Court's final judgment issued in this action, a statement, signed under oath, setting forth the manner and form in which Defendants has complied with the injunction herein.

10. Awarding damages under 35 U.S.C. § 284, and of the Defendants' totals profits but not less than \$250 under 35 U.S.C. § 289, for their infringements of the '197 Patent, together with pre- and post-judgment interest.

11. Awarding treble damages pursuant to 35 U.S.C. § 284 and 15 U.S.C. § 1117.

12. Awarding attorney fees pursuant to 35 U.S.C. § 285, 17 U.S.C. § 505, and 15 U.S.C. § 1117.

13. Awarding damages and Defendants' profits under 17 U.S.C. § 504 for Defendants' acts of copyright infringement.

14. Awarding Plaintiffs damages and Defendants' profits pursuant to 15 U.S.C. § 1117.

15. Awarding punitive damages under New York state law.

16. Awarding the costs of this action.

17. Directing that Defendants account to and pay over to Plaintiffs all profits realized by their wrongful acts and directing that such profits be trebled, as provided by law.

18. Awarding Plaintiffs their actual damages in the amount to be proven at trial and punitive damages in an amount to be proven at trial.

19. Awarding Plaintiffs their costs, attorney fees, and investigatory fees and expenses to the full extent provided for by and relief under 15 U.S.C. §§ 1116-1118 and N.Y. Gen. Bus. Law §§ 349 and 360-1.

20. Awarding Plaintiffs pre- and post-judgment interest on any monetary award made part of the judgment against Defendants.

21. Awarding Plaintiffs such additional and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule 38(d), Plaintiffs hereby demand a jury trial on all issues so triable that are raised by this Complaint.

Dated: January 28, 2020

By: /s/ Alan B. Clement

Alan B. Clement  
H. Straat Tenney  
LOCKE LORD LLP  
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Joel D. Voelzke (admitted *pro hac vice*)  
Intellectual Property Offices of Joel Voelzke, A P.C.  
24772 W. Saddle Peak Road  
Malibu, California 90265  
Tel: (310) 317-4466  
Fax: (310) 317-4499  
Joel@Voelzke.com

*Attorneys for Plaintiffs Pado, Inc. and Homelec  
Korea Co., Ltd.*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 28, 2020, I filed the foregoing via the Court's CM/ECF system which will automatically send electronic notice of such filing to all registered counsel of record.

/s/Alan B. Clement  
Alan B. Clement



# Exhibit 1









# Exhibit 2



(12) **United States Design Patent** (10) **Patent No.:** **US D855,197 S**  
**Park** (45) **Date of Patent:** **\*\* Jul. 30, 2019**

(54) **RECHARGEABLE DUAL MASSAGE APPARATUS**

(71) Applicant: **HOMELEC KOREA CO., LTD.**,  
Seoul (KR)

(72) Inventor: **Geon Woo Park**, Changwon-si (KR)

(73) Assignee: **HOMELEC KOREA CO., LTD.**,  
Seoul (KR)

(\*\*) Term: **15 Years**

(21) Appl. No.: **29/638,898**

(22) Filed: **Mar. 1, 2018**

**Related U.S. Application Data**

(63) Continuation-in-part of application No. 15/110,695,  
filed as application No. PCT/KR2014/002922 on Apr.  
4, 2014.

(30) **Foreign Application Priority Data**

Jan. 8, 2014 (KR) ..... 10-2014-0002382

(51) **LOC (11) Cl.** ..... **28-03**

(52) **U.S. Cl.**  
USPC ..... **D24/214**

(58) **Field of Classification Search**

USPC ..... 601/15, 18, 19, 46, 47, 48, 52, 99, 112,  
601/113, 118, 125, 129, 134, 135, 137,  
601/DIG. 12, DIG. 14, DIG. 15, DIG. 16,  
601/DIG. 17; D24/133, 200, 211, 212,  
D24/213, 214, 215; 600/38, 39, 40, 41  
CPC ..... A61H 2201/0153; A61H 7/003; A61H  
7/007; A61H 2015/0014; A61H 23/00;  
A61H 39/04

See application file for complete search history.

(56) **References Cited**

**U.S. PATENT DOCUMENTS**

D226,583 S \* 3/1973 Welch ..... D24/214  
D281,625 S \* 12/1985 Yuen ..... D24/211

D372,788 S \* 8/1996 Brun ..... D24/215  
D377,394 S \* 1/1997 Tillman ..... D24/215  
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(Continued)

**OTHER PUBLICATIONS**

Amazon, "Purewave CM-07 Dual Motor Percussion+Vibration  
Therapy Massager . . .", Sep. 16, 2015. [https://www.amazon.com/  
PUREWAVETM-Percussion-Vibration-fasciitis-tendinitis/dp/  
B014U1C1P6/ref=cm\\_cr\\_arp\\_d\\_pdt\\_img\\_top?ie=UTF8](https://www.amazon.com/PUREWAVETM-Percussion-Vibration-fasciitis-tendinitis/dp/B014U1C1P6/ref=cm_cr_arp_d_pdt_img_top?ie=UTF8). Shown on  
p. 1. (Year: 2015).\*

*Primary Examiner* — Cynthia Ramirez  
*Assistant Examiner* — Michael A Maharajh  
(74) *Attorney, Agent, or Firm* — Novick, Kim & Lee  
PLLC; Sang Ho Lee

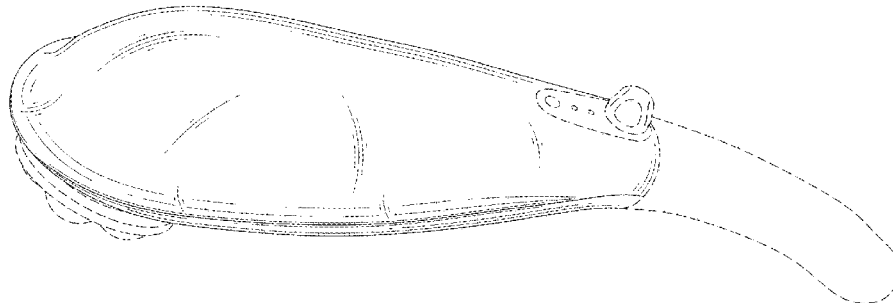
(57) **CLAIM**

I claim the ornamental design for a rechargeable dual  
massage apparatus, as shown and described.

**DESCRIPTION**

FIG. 1 is a perspective view of a rechargeable dual massage  
apparatus showing my new design;  
FIG. 2 is a front elevational view thereof;  
FIG. 3 is a rear elevational view thereof;  
FIG. 4 is a left side elevational view thereof;  
FIG. 5 is a right side elevational view thereof;  
FIG. 6 is a top plan view thereof; and,  
FIG. 7 is a bottom plan view thereof.  
The broken lines in the drawings are for the purpose of  
illustrating portions of the rechargeable dual massage appa-  
ratus, which form no part of the claimed design.

**1 Claim, 6 Drawing Sheets**



US D855,197 S

(56)

References Cited

U.S. PATENT DOCUMENTS

D510,441	S	*	10/2005	Harris, Jr.	.....	D24/214
D523,556	S	*	6/2006	Glucksman	.....	D24/133
D533,943	S	*	12/2006	Chen	.....	D24/146
D569,523	S	*	5/2008	Hsieh	.....	D24/206
D609,817	S	*	2/2010	Piller	.....	D24/215
D649,657	S	*	11/2011	Petersen	.....	D24/215
D671,226	S	*	11/2012	Aulwes	.....	D24/215
D822,843	S	*	7/2018	Lenke	.....	D24/215
D823,478	S	*	7/2018	Park	.....	D24/215
D825,073	S	*	8/2018	Lenke	.....	D24/215
2017/0281457	A1	*	10/2017	Witt	.....	A61H 19/34

\* cited by examiner



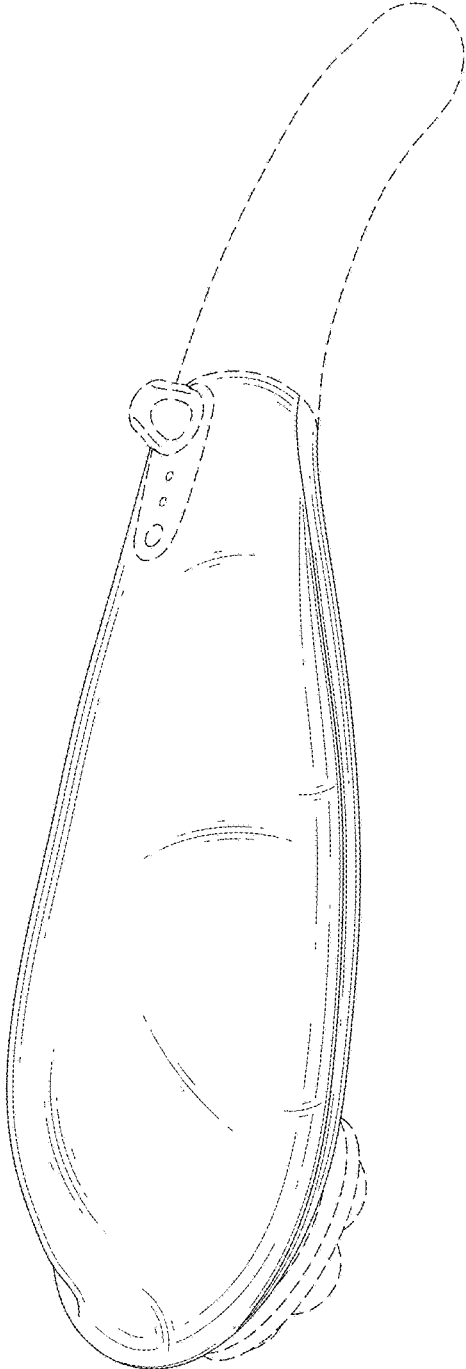


FIG. 1

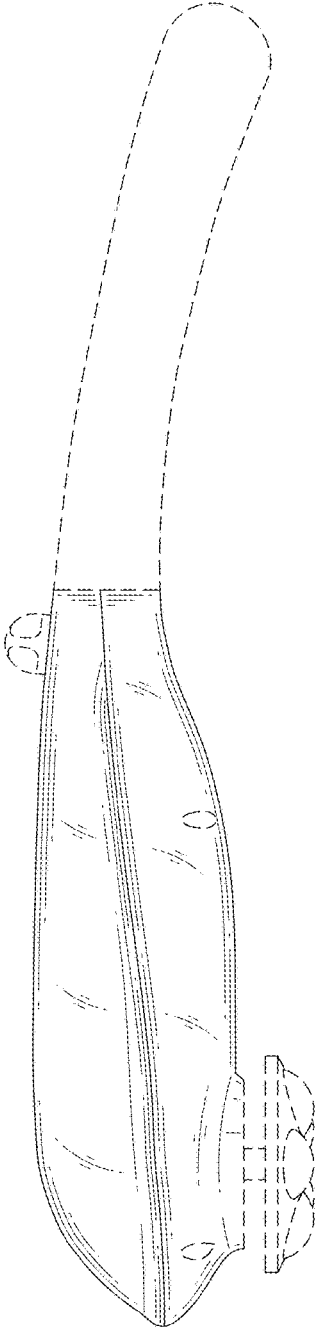


FIG. 2

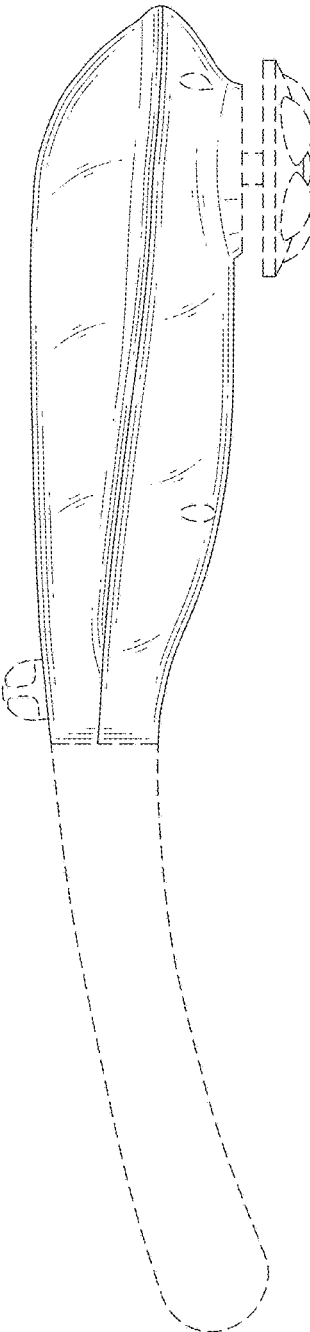


FIG. 3

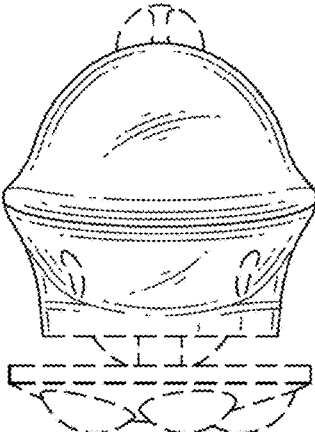


FIG. 4

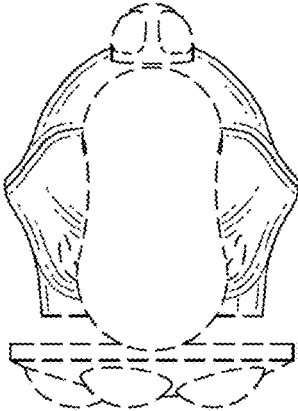


FIG. 5

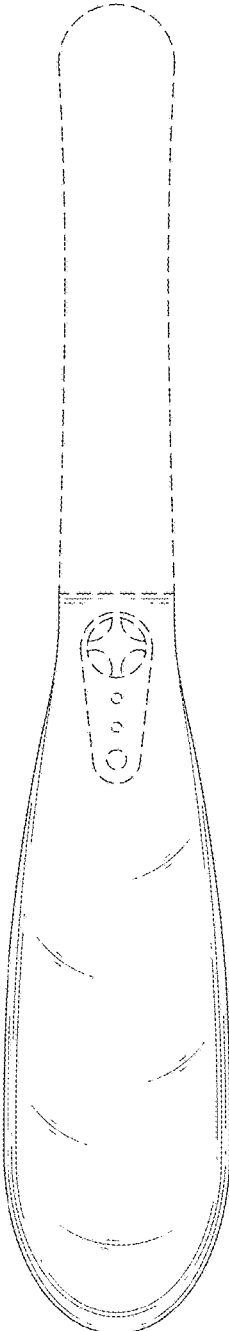


FIG. 6

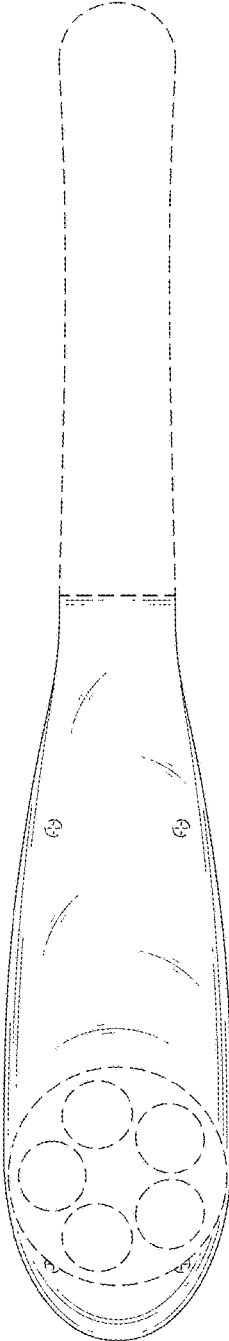


FIG. 7

# Exhibit 3

**ASSIGNMENT OF PATENT APPLICATION**

WHEREAS I/We, the below named inventor(s), (hereinafter referred to as ASSIGNOR), has/have invented a certain improvement relating to a

**RECHARGEABLE DUAL MASSAGE APPARATUS**

for which I/we EXECUTED AN APPLICATION FOR Letters Patent of the United States which was or will be filed in the United States Patent and Trademark Office (hereinafter referred to as said APPLICATION).

AND WHEREAS, **HOMELEC KOREA CO., LTD.**, a corporation organized and existing under the laws of Republic of Korea, whose post office address is A-521, 167, Songpa-daero, Songpa-gu, Seoul 04152, Republic of Korea, (hereinafter referred to as the ASSIGNEE), is desirous of acquiring the entire right, title and interest for the United States to said APPLICATION and the inventions and improvements disclosed therein, all rights of priority under the terms of the International Convention for the Protection of Industrial Property, and in and to any and all divisions, and continuations thereof, and any and all Letters Patent which may be granted thereon, including any and all reexaminations, reissues, renewals, revalidations, prolongations and/or extensions thereof.

NOW THEREFORE, in consideration of the sum of one U.S. dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the ASSIGNOR hereby assigns, sells, transfers and sets over onto the ASSIGNEE, its assigns and legal representatives, the entire right, title and interest for the United States to said APPLICATION and the inventions and improvements disclosed therein, all rights of priority under the terms of the International Convention for the Protection of Industrial Property, and in and to any and all divisions, and continuations thereof, and any and all Letters Patent which may be granted thereon, including any and all reexaminations, reissues, renewals, revalidations, prolongations and/or extensions thereof, with all the rights, powers, privileges, and advantages in any way arising from or pertaining thereto, for and during the term or terms of any and all such Letters Patent when granted, including the terms of any and all divisions, continuations, reexaminations, reissues, renewals, revalidations, prolongations and/or extensions thereof, the ASSIGNEE to have and to hold the interests herein assigned to the full ends of the terms of said Letters Patent, and any and all divisions, continuations, reexaminations, reissues, renewals, revalidations, prolongations and/or extensions thereof, respectively, and including all causes of action that may have accrued with respect to said APPLICATION, any patent damages from infringement, and any royalties that may be owed and due thereon, and all claims for damages by reason of past infringement of said APPLICATION with the right to sue for, and collect the same for the ASSIGNEE's own use, all as fully and entirely as the same would have been held and enjoyed by the ASSIGNOR had this assignment not been made.

If this Assignment is filed after the filing date of said APPLICATION, the undersigned hereby authorize and request any one of the attorneys or agents of record in said APPLICATION, including Sang Ho Lee, Reg. No. 69,723, of the firm of Novick, Kim and Lee, PLLC, whose address is 3251 Old Lee Hwy, Suite 404, Fairfax VA, 22030, United States, to insert here in parenthesis (Application No. 29/638,898), (inserted after signing), filed on



Customer No. 105,857  
 Docket No. DLK0742419CIP

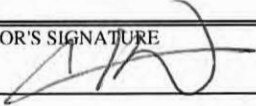
March 1, 2018 (inserted after signing) the filing date and application number of said APPLICATION when known.

And for the same consideration aforesaid, the ASSIGNOR agrees that the ASSIGNOR will, upon request, without expense to ASSIGNEE, testify in any legal proceedings, sign all lawful papers, execute all divisional, continuation, reexamination, reissue, renewal, revalidations and/or extension applications thereof in the United States, make all rightful oaths, and generally do all other and further lawful acts, deemed necessary or expedient by the ASSIGNEE, or any assignee thereof, or by counsel for the ASSIGNEE, to assist or enable the ASSIGNEE to obtain and enforce full benefits from the rights and interests herein assigned.

This Assignment shall be binding upon the ASSIGNOR and the heirs, executors, administrators, successors and/or assigns of the ASSIGNOR, and shall inure to the benefit of the ASSIGNEE and the heirs, executors, administrators, successors, beneficiaries, distributees and/or assigns, as the case may be, of the ASSIGNEE.

AND the ASSIGNOR authorizes and requests the Director of the U.S. Patent and Trademark Office to issue Letters Patent on said APPLICATION, and on any divisions and continuations thereof, to the ASSIGNEE, its assigns and legal representatives, in accordance herewith.

IN TESTIMONY WHEREOF, this Assignment is executed by the ASSIGNOR.

I. FULL NAME OF SOLE OR FIRST ASSIGNOR <b>PARK, Geon Woo</b>	ASSIGNOR'S SIGNATURE 	DATE February 21, 2018
ADDRESS 104-1201, 548, Changwon-daero, Uichang-gu, Changwon-si, Gyeongsangnam-do 51405, Republic of Korea		CITIZENSHIP Republic of Korea

# Exhibit 4

EXCLUSIVE PATENT LICENSE

WHEREAS Homelec Korea Co., Ltd (KR) ("HomElec") having a place of business at Level 2, M-Park Bldg. 30, Ogeum-Ro 44Ga-Gil, Songap-Gu, Seoul 183-310, Korea, is the owner of:

1. pending U.S. Design Patent Application No. 29/668,929 filed on November 2, 2018, entitled "Part For a Handheld Massager"
2. pending U.S. Design Patent Application No. 29/668,924 filed on November 2, 2018, entitled "Part For a Handheld Massager"
3. pending U.S. Design Patent Application No. 29/668,896 filed on November 2, 2018, entitled "Part For a Handheld Massager"
4. U.S. Design Patent No. D823,478 issued July 17, 2018, entitled "Portable Massager," and
5. U.S. Design Patent No. D855,197 issued July 30, 2018, entitled "Rechargeable Dual Massage Apparatus"

(collectively, "the Patents");

WHEREAS HomElec has previously granted to Pado, Inc. ("Pado") having a place of business at 28340 Avenue Crocker #100, Valencia, California 91355, United States of America, an exclusive distributorship and license within the territory of the United States for related products and patents;

WHEREAS HomElec and Pado (collectively, "the Parties") desire for Pado to have an exclusive distributorship for products covered by the Patents, and an exclusive license to the Patents, within the territory of the United States, and to have a recordable instrument by which Pado can record within the United States Patent and Trademark Office (PTO) Pado's exclusive license in the Patents and its right to enforce the Patents throughout the United States;

NOW THEREFORE:

For valuable consideration given, the receipt and sufficiency of which are hereby acknowledged, HomElec hereby grants to Pado an exclusive license to the Patents, including any patents which may issue in the future from any divisional, continuation, continuation-in-part, reexamination, and reissue applications thereof and therefrom, throughout the United States, including the right to sue for past infringements.

**Enforcement.** Pado shall have the right but not the obligation to enforce the Patents in its own name.

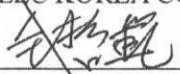
In the event that Pado chooses not to enforce the Patents against an infringer, HomElec shall have the right but not the obligation to pursue such infringer at its own expense. In order to ensure that all necessary parties are joined in an enforcement action brought by HomElec, Pado agrees to be joined in such action(s) as a party plaintiff, at HomElec's sole expense, and to cooperate with HomElec in HomElec's enforcement efforts. HomElec shall reimburse Pado for all of Pado's expenses including attorney fees and out-of-pocket costs associated with any such enforcement actions initiated by HomElec.

**Termination.** This license may be terminated by either Party upon 30 days notice to the other Party. In the event that the license is terminated, Pado may, at its option, continue to seek

damages and any other remedies available to Pado under the patent statutes for any infringements of the Patents that occurred prior to the date of termination.

**Successors.** This license shall inure to the benefit of any successors to substantially all of the businesses of the respective Parties.

HOMELFC KOREA CO., LTD

By:  / Christopher  
CHUN  
(insert typed name and title) CEO

Dated: Oct. 28<sup>th</sup>, 2019

PADO, INC.

By:   
Steven Lee, its President

Dated: Oct 28<sup>th</sup>, 2019

# Exhibit 5

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Amazon.com: Pure Wave CM7 X

https://www.amazon.com/Pure-Wave-Handheld-Massager-black/dp/B06XDCZ9C9

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**Pure Wave CM7 Handheld Back Massager (black)**  
by Pure-Wave

**Currently unavailable.**  
We don't know when or if this item will be back in stock.

[To Malibu 90265](#)

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- **POWERFUL CORDLESS + RECHARGEABLE:** Powerful cordless percussion massager. High speed percussion motor up to 3,700 RPM. Facial micro-vibration motor on handle side operating up to 10,000 RPM. Variable speed dial to adjust intensity of percussion or vibration.
- **BENEFITS:** Repetitive acute percussion therapy relieves muscle tension, knots, spasms, aches and pains. Release trigger points, increase blood flow, gain greater range of motion. Great for use on areas such as neck, back, legs and feet. Five uniquely designed percussion attachments. Plus bonus facial attachment.
- **BENEFITS:** Repetitive acute percussion therapy relieves muscle tension, knots, spasms, aches and pains. Release trigger points, increase blood flow, gain greater range of motion. Great for use on areas such as neck, back, legs and feet. Five uniquely designed percussion attachments. Plus bonus facial attachment.
- **INSTRUCTIONAL VIDEOS:** Watch the "Pure Wave CM7 Cordless Massager Out of the Box" video below for how to properly use attachments and how to turn on the percussion motor vs micro-vibration motor.
- **INNOVATIVE SLIM DESIGN:** Cordless to fit your lifestyle. Great for on-the-go or simply relaxing. Incorporate the Pure Wave into your pre & post workout routines. Powerful enough for professionals but designed for at home therapy and muscle recovery.

[Report incorrect product information.](#)

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Amazon.com: Pure Wave CM7

https://www.amazon.com/Pure-Wave-Handheld-Massager-black/dp/B06XDCZ9C9

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### Product description

Experience the most powerful and soothing cordless massager on the market. The variable speed controller allows you to dial into the perfect intensity whilst 6 different massage heads allows you to select the firmness and style of your massage. Take control of those muscle spasms, stubborn knots, tight joints, stiff muscles and cramping legs with Pure-Wave CM7. This model includes a facial vibration motor built into the end of the handle with specially designed facial massage and scalp massage attachments. Pure-Wave massagers are cordless, ergonomic and lightweight for use whenever and wherever you need it.

**STRENGTH WARNING:** Pure Wave is powerful. If you are use to a gentle massage or are sensitive to aggressive massage therapy you may be surprised with Pure Wave's strength. You may also be pleasantly surprised with the results after a few days of percussion therapy. When using Pure Wave for the first time, we recommend you start with the soft air-cushion attachment at lower speeds until you are comfortable with the strength of this massager. Read owner's manual prior to use. If you experience any bouncing try increasing the speed to reduce bouncing impact. You may also try holding the massager at a different position on the handle.

**THE POWER OF PERCUSSION:** Most muscle pain occurs deep in the tissue, where vibrating massagers can't reach. But Pure Wave percussion massagers use short, powerful strokes to penetrate deep. Gently stretching muscles and tendons. Breaking down adhesions and knots. Restoring circulation and flexibility. Professionals use PureWave for therapeutic massage. Now you can, too.

**FEATURES:** Pure-Wave CM7 features a variable speed dual motor design, percussion and micro-vibration motors. The CM7 model includes 6 different massage sticks to address different areas of the body and unique styles of massage. Soft, Medium or Firm. Cordless rechargeable massager includes charger and attachments.

### Product details

**Product Dimensions:** 16.5 x 3.5 x 2.8 inches ; 1.75 pounds

**Shipping Weight:** 1.8 pounds

**ASIN:** B06XDCZ9C9

**Average Customer Review:** [Be the first to review this item](#)

**Amazon Best Sellers Rank:** #1,442,718 in Health & Household (See [Top 100 in Health & Household](#))  
#5654 in [Electric Back Massagers](#)

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Amazon.com: Pure Wave CM7 X

https://www.amazon.com/Pure-Wave-Handheld-Massager-black/dp/B06XDCZ9C9 120%

Front Page Most Visited Capabilities - Capabilit... Google Getting Started Los Angeles Times #304040 in Health Care PRODUCTS

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DUAL MOTOR INTRODUCTION...  
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PadoUSA

Pure Wave Spa Like Massage  
PadoUSA

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BUY

## One Wave. Many Ripples

Less pain. Better movement. Better health. Better life.  
Discover the Pure Wave ripple effect today.

4.8 ★★★★★



**PureWave CM7**  
MUSCLE, JOINT AND FACIAL MASSAGER  
(DUAL MOTOR) ADJUSTABLE INTENSITY

★★★★★ 1449 Reviews

\$124.95



**PureWave CM7**  
MUSCLE, JOINT AND FACIAL MASSAGER  
(DUAL MOTOR) ADJUSTABLE INTENSITY

★★★★★ 1449 Reviews

\$124.95



**PureWave CM5**  
MUSCLE AND JOINT MASSAGER  
ADJUSTABLE INTENSITY

★★★★★ 285 Reviews

\$99.95

## BEST-IN-CLASS POWER

Go Cordless. Go Painless



### It's Loved for Self-Massage

Laura Jenkins, Licensed Massage Therapist, shares her expert knowledge about using Pure-Wave for self-massage. This quick introduction video also gives you a great overview of our Pure-Wave CM7 attachments and how to use them effectively.

[LEARN MORE](#)

### #1 Professional Recommended

Dr. Robert Gonzalez, D.C., explains why he loves the Pure-Wave cordless massager. He believes it is easy for his patients to use at home to help them stay healthy in between visits. He also shares advice on how he uses it in his practice to speed up the healing process.

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[SHOP NOW >](#)  
**100% Money Back Guarantee.**

## The Healer's Choice



**DR. ROBERT GONZALEZ, D.C.**

I love the Pure Wave. We actually fight over it in the office to see which therapist is going to use it.

[READ MORE...](#)



**LAURA JENKINS, LMT**

What I love about the Pure Wave is the versatility. It's good for at-home maintenance when you're not able to see a massage therapist. This will help.

[READ MORE...](#)



**DR. DENNY PATEL, DPT, CSCS**

I think it's fantastic. [Pure Wave] helps relieve tension in the neck, the back, whatever. I recommend it to everybody.

[READ MORE...](#)



**LENA FUMI, AERIALIST.**

When I'm performing it's a strenuous performance. Being able to recover from that is really important. Pure Wave is making my life so much better.

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- PUREWAVE CM-05
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- PADO OZEN 500
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- BIVI PILLOW MASSAGER
- BIVI VIBRATION BALL
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**PUREWAVE CM7 BODY & FACIAL MASSAGER**  
PUREWAVE™

★★★★★ 1449 Reviews Ask A Question

**\$124.95** USD

Starting at \$11/mo with **affirm**. Prequalify now



Color: \*



Quantity

1

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**BUY IN BULK AND SAVE**

PRODUCT DESCRIPTION

HOW TO VIDEO

FREQUENTLY ASKED QUESTIONS

AR★★★★★

# PUREWAVE CM7

CORDLESS MUSCLE, JOINT AND FACIAL MASSAGER (DUAL MOTOR)

Muscle and tendon pain melt away under the healing touch of the CM7. The powerful percussion head penetrates deep into muscle tissue to relieve pain and speed muscle recovery. The speed dial also lets you dial back the intensity, to treat sore tendons and joints.



The handle of the CM7 houses a second, microvibration massager that pulses at 10,000 vibrations per minute. Ideal for facial massage, and for relieving jaw pain and tension headaches.

Compact and cordless, the CM7 fits easily into a backpack or suitcase. So you can take professional-grade massage wherever life takes you.

- Two massagers in one, for percussion and microvibration therapy
- Best-in-class power for deep tissue massage (3,700 RPM)
- Dissolves painful muscle knots and adhesions
- Improves circulation and speeds muscle recovery
- Soothes inflamed joints and tendons
- Relieves tension in the jaw and temples
- Percussion Therapy Massager
- Best Percussion Massagers for Athletic Recovery
- 1.75 pounds. Approximate dimensions 16.5"L x 2.75"W x 4"H



**PERCUSSION**  
MOTOR - 7.2v, dc 3700 rpm  
SPEED - 1,500 RPM - 3700 RPM

**CHARGER**  
(1) ONE HOUR CHARGING TIME  
180 MIN CONTINUOUS  
1 WEEK @ 20-30 MIN USE/DAY

**BATTERY**  
7.2 V Lithium-ion 2200mA  
18650 x 2 Cell 7.2

**FACIAL**  
MOTOR - 7.2 V, DC  
SPEED - UP TO 11,000 RPM

## INCLUDED WITH CM-07

CORDLESS MASSAGER

**VIBRATION MASSAGER**

**SIX-HEAD STICK**

**BODY MASSAGE OIL STICK**

**AIR-CUSHION STICK**

**SCALP MASSAGE STICK**

**PERCUSSION MASSAGER**

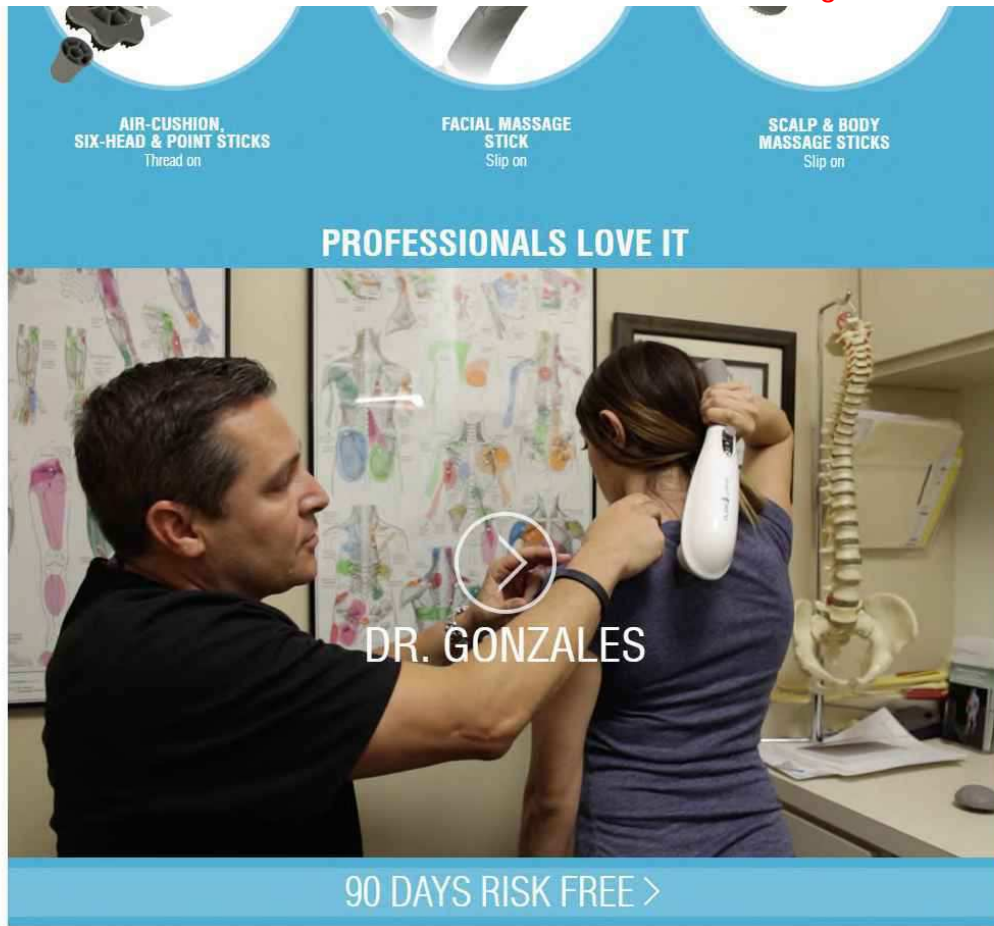
**POINT STICK**

**FACIAL MASSAGE STICK**

**CHARGER**

## HOW THE STICKS ARE ATTACHED

CM-07 MASSAGER



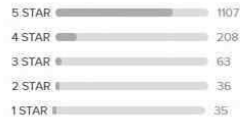
Authentic Reviews By TrustSpot

ASK QUESTION



1449 Reviews

0 Questions, 0 Answers



Product Reviews (1449)

Questions (0)

SORT BY: Most Recent



Debra S

11/22/2019

Love it! Works great!

SHARE

Was this review helpful?



Laura

11/22/2019

This is a great massager! I use it on several areas, and it relieves the tightness and reduces pain. I've seen it advertised for some time, and finally broke down and purchased it to see if it was as good as it seemed. Yes!

SHARE

Was this review helpful?



11/22/2019

This thing is magical

SHARE

Was this review helpful?



Sarah C

11/22/2019

Great,depth,and the percussion gets me knots worked out.

SHARE

Was this review helpful?

★★★★★ **Melissa A** Verified Buyer

11/21/2019

Has been an AMAZING purchase, and has helped my boyfriend tremendously with his back and sciatic nerve issues! Thank you so much and will highly recommend!

SHARE

Was this review helpful?

★★★★★ **Bruce N** Verified Buyer

11/21/2019

Great buy, so glad I tried it.I have been fused from c2 thru t4 and l4 thru s1.I have a neurostimulator In back but have nothing for my neck.This cut my opiod treatment to only 2 tablets a day

SHARE

Was this review helpful?

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# Exhibit 6



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Send Message  
www.padousa.com  
Health/Beauty  
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Team Members

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- Travis Frye

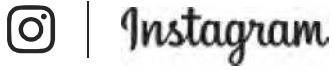
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PUREWAVE™ By PADO

#1 Choice of professionals worldwide. Dual motor design for both powerful percussion therapy and 2nd motor for soothing vibration massage. #purewave [linkin.bio/purewavebypado](https://linkin.bio/purewavebypado)



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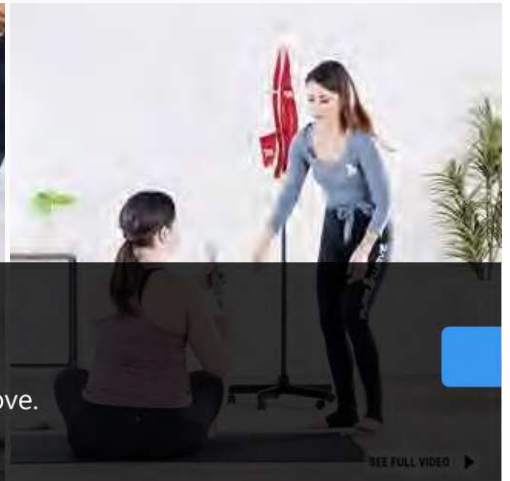
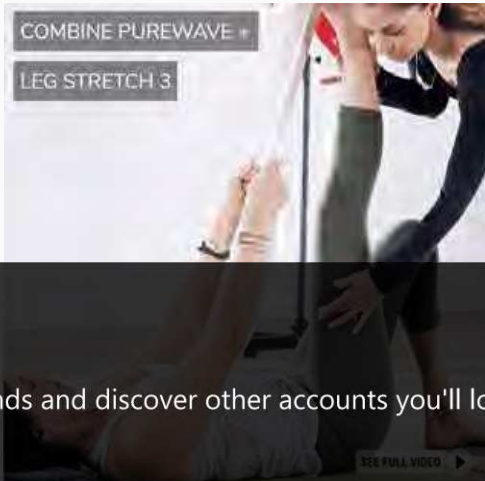
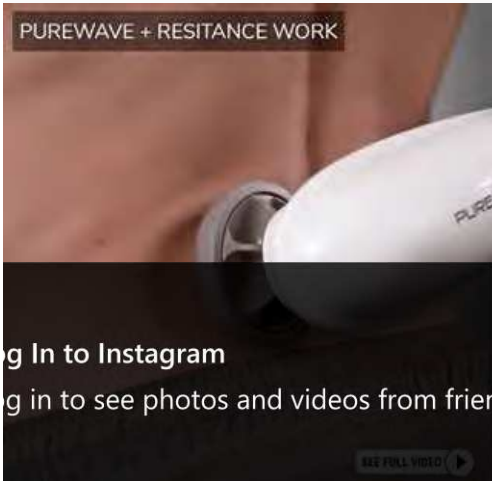
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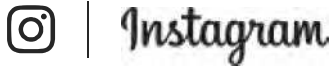
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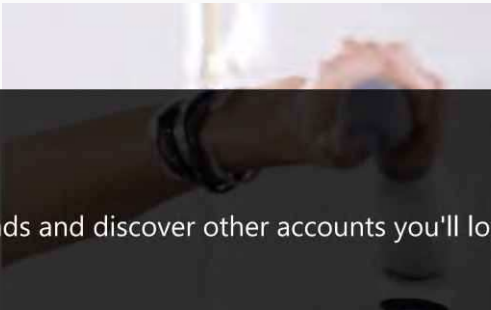
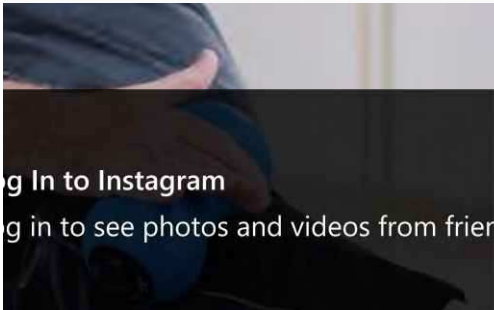
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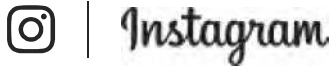
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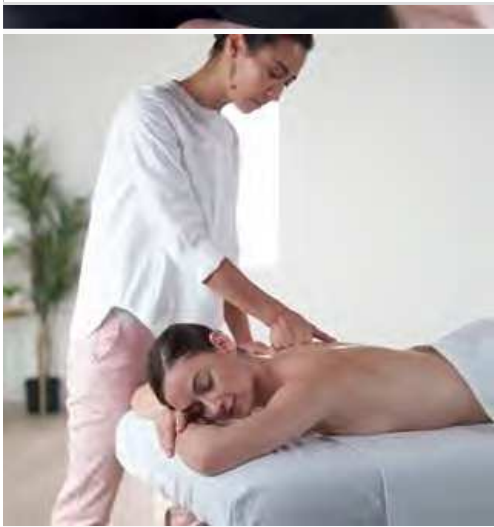
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**Eugenia Wood**  
"5 months been suffering sciatica Periformis syndrome. "MAGIC WAND" is what I call my pure wave.



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**DEBRA YOUNG**  
"This works wonders for relieving the pain that tends to spread to my neck and



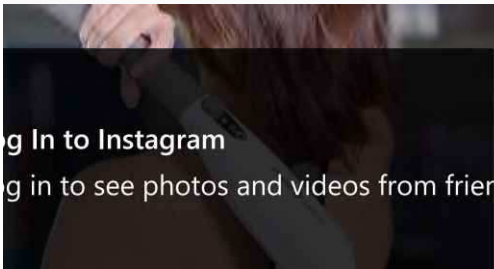
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**URBAN TECH REVIEWS**  
 "I bought this for my wife ... the first time that she used it she was hooked, the **deep tissue** penetrating action is so **RELAXING.**"



"I have purchased 4 of the Pure Wave's and they are



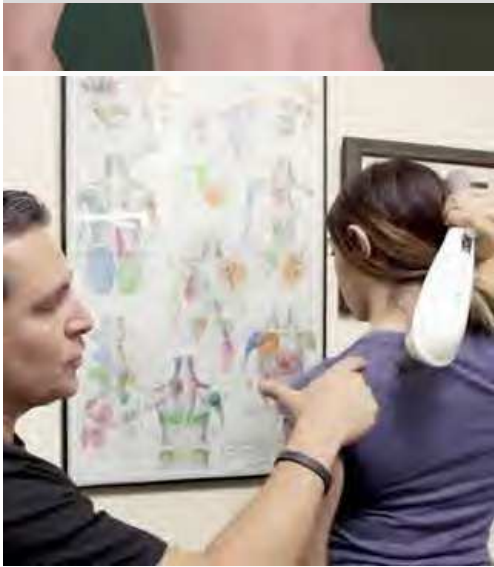
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**GARRETT**  
 "Works really well for my wife and I. She has an office job and it helps to **LOOSEN** her hunched over shoulders."



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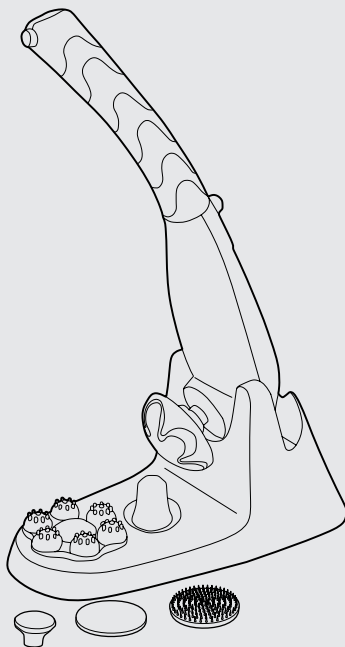
Lower Back Pain Relief Part 3 of 3.

# Exhibit 7





# *Cordless Massager CM-07* **USER MANUAL**



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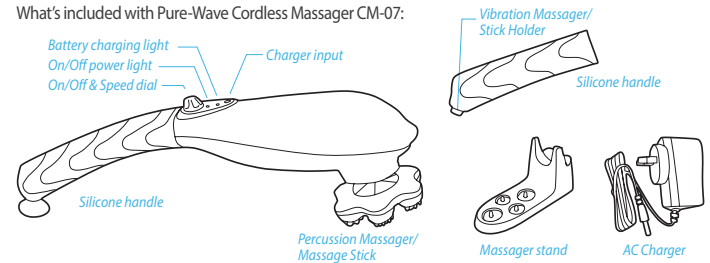
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## Contents and Product Description

### ■ Contents

What's included with Pure-Wave Cordless Massager CM-07:



 Air-Cushion Stick	 Point Stick	 6-Head Stick	 Scalp Massage Stick	 Body Massage Oil Stick	 Facial Massage Stick
Knee, wrist, ankle or other joints (Swedish Massage)	Reflexology & Acupressure	Waist, back or thigh (Deep Tissue & Sports Massage)	Scalp Massage	Body Massage (Use with body oil or gel)	Facial Massage (Use with facial cream, oil or gel)

### ■ Product Description

Pure-Wave CM-07 Cordless Massager is a fast recharging portable percussion massager free of cords, cables, and hassles. Pure-Wave CM-07 is a variable speed percussion massager with a built in vibration facial massager. The facial massager is built into the end of the handle and powered by a separate motor. Pure-Wave is powered by lithium-ion batteries and can generate the same level of massage strength compared to AC outlet-powered massagers. The motors are small and lightweight with outstanding performance and power. Pure-Wave is one of the most powerful cordless massagers of its class and should be used with care and safety in mind.

## Charging and Battery Life

### ■ Charging

For best results charge massager before use.

1. Plug the CHARGER into an electrical outlet.
2. Plug the CHARGER into the Pure-Wave cordless massager. The BATTERY CHARGING LIGHT is red to indicate charging is in process.
3. The BATTERY CHARGING LIGHT displays a green light when charging is complete. When green light appears, remove charger from device.
4. Remove the CHARGER from Pure-Wave cordless massager before use.
5. Pure-Wave is ready for use. See operating instructions.

## ▪ Battery Life

1. Battery life: continuous use up to 180 minutes (if no load is applied).
2. Battery tests were done in the manufacturer's facility with its own equipment. Battery life varies depending on ways of use and/or the surrounding conditions.
3. Batteries equipped : 7.2V Lithium-ion 2200mA 18650 2 Cell
4. Battery life varies by application and/or operating conditions
5. If the product is not in use for a long time, please keep its power off. Batteries will last longer if kept recharged versus a discharged state.
6. Please keep the massager away from heat and avoid using in places where the surrounding temperature is relatively hot.
7. During storage keep the power off and store the product in a cool place.

## Using Pure-Wave Massager

Pure-Wave is a dual motor massager and therefore has two operating modes.

### ▪ CM-07: Percussion massager

1. Remove CHARGER for operation. For safety reasons, product will not turn on when CHARGER is plugged into device.
2. Attach the MESSAGE STICK of your choice.
3. Turn the On/Off & SPEED DIAL on (Clockwise). You will immediately hear ONE BEEP and if fully charged the POWER LIGHT displays a solid green light to indicate product is on.
4. Turn CLOCKWISE immediately to initiate PERCUSSION MODE and set desired speed.
5. For User's safety, the product is designed to automatically power off and stops itself if too much load is applied on the product. In this case, Pure-Wave cordless massager must be reset. Turn power off if it is still on, plug the CHARGER into an outlet, and then plug the charger into the product. Wait about three seconds and then unplug CHARGER from product, and then turn product on and start massaging.

### ▪ Massage Sticks

Based on your preference of firm or soft massage styles, select the appropriate massage stick based on your body part or preference.

1. Air Cushion Stick will offer a softer massage with its patented Air-Cushion technology. It is recommended for sensitive areas where there is more "bone" to muscle area such as joints, shoulder, knee or ankle areas.
2. For a firm deep tissue massage, use the Point Stick or 6-Head Stick. It is recommended in areas where there is more "muscle" to bone area.
3. For a wider area massage select the 6-head stick.

### ▪ CM-07: Vibration Facial Massager

1. Push the facial massage stick tightly onto the stick holder.
2. Turn the power dial (On/Off & SPEED DIAL) on and set it to '0' speed level. You will immediately hear

ONE BEEP and the POWER LIGHT will display green.

3. Keep POWER DIAL in '0' speed position for a few seconds until you see the POWER LIGHT flashing.
4. Turn CLOCKWISE to initiate vibration facial massager and set to desired intensity. Note the Percussion Head will not work in this mode. To initiate percussion mode, turn dial off and then back on turning clockwise until percussion mode engages.



## Warnings and Safety Cautions



For your safety and to avoid any property damage, please read this manual carefully and use as indicated. Non-Compliance may cause serious injuries or death and or severe property damage. Do not use Pure-Wave massagers in any way other than the usage stated in the manual.

### ▪ Warning:

1. Only use the charger provided by Pure-Wave. Unspecified charger or adapter may cause overheating, explosion, electric shock or fire.
2. Only use certified Pure-Wave brand message stick adaptors for your safety and to prevent damage of Pure-Wave cordless massager.
3. Do not use the product while driving a vehicle.
4. Do not use the massager with wet hands. Do not insert any object into the charger input. This may cause damage to the product or electric shock.
5. Keep the product away from heating appliances such as oven, microwave, hot cooking utensils, high pressure cooker. This may cause a degradation of the batteries and/or product malfunction.
6. Do not apply heavy force to the product.
7. Do not disassemble or drill into the product and/or batteries. This may cause product malfunction, electric shock or fire.
8. Do not use product on heat generating material. This may cause the batteries to overheat and cause malfunction or overheating.
9. Keep product out of reach of children or pets.
10. The recommended temperature to use the product in places where the temperature is not too cold nor too hot. 5C (41F) to 35C (95F). Use common sense when using or storing the Pure-Wave. Leaving in overly hot places (such as inside a parked car on hot day or next to a window with direct sun) may cause malfunction or overheating to batteries.
11. Do not drop, apply excessive force or heavy weight over Pure-Wave massager for it can cause malfunction and/or damages.

12. Do not use massager on:
  - a. Sensitive skin, swollen or inflamed areas, in the presence of poor circulation, where skin eruptions are present, or in the presence of unexplained calf or abdominal pain.
  - b. Varicose veins.
  - c. The throat area
  - d. Genital Areas
  - e. Unconscious or sleeping person
13. Do not take apart, modify or change the parts. This may cause electric shock and the product will no longer be covered under manufacturer warranty.
14. Do not use the product other than the usage stated in the manual, for it can cause breakdown.
15. We recommend not to use this as a sexual personal massager. This is a powerful massager and may cause severe bodily injuries.
16. Do not keep or use the product in areas where temperature changes drastically or where humidity is high. This may cause damage to electrical circuits and batteries.
17. If the product is not in use for extended duration, charge the unit once every month. If the batteries remain discharged too long, this may degrade the life cycle and performance of product.
18. Do not keep product near a high magnetic field or where it can be affected by a magnetic field, for it can cause batteries to discharge.
19. This product is intended for consumer home use. Commercial use will cause premature breakdown of the product.

## Product Care and Maintenance

1. Place the massager in a safe, cool and dry place when not in use.
2. Always unplug massager prior to cleaning.
3. After use, wipe massager with a soft, damp cloth using non-abrasive cleaners. If necessary clean with a sterilizer.
4. DO NOT submerge Pure-Wave cordless massager in water or any other liquid.
5. Keep away from all solvents and harsh detergents.
6. DO NOT attempt to repair this massager. There are no user-serviceable parts.
7. DO NOT dispose Pure-Wave cordless unit in a landfill. Pure-wave contains a Li-ion battery and other electrical components which is considered hazardous E-Waste.

## Specifications

1. Battery: 7.2V Lithium-ion 2200mA 18650 x 2 Cell
2. Charge Time/Use Duration: 120 min charge lasting a week (20-30 min use a day)
3. Variable speed change (1,500 rpm - 3,700 rpm)
4. Percussion massager motor: 7.2V, DC, 3700 rpm

5. Facial massager motor: 7.2V, DC, 11,000 rpm
6. Charger Input Voltage: 100V-240V, 50/60Hz, 0.4 A Max
7. Charger Output Voltage: 8.5V, DC, 1A

## Troubleshooting

### ■ Massager does not work

1. Make sure message is fully charged. The POWER LIGHT should be green.
2. Reset the massager by turning power off. Plug the CHARGER into an outlet, then plug the recharger into the product. Wait about three seconds then unplug both sides of CHARGER and then turn product on and start massaging.
3. The Lithium-ion battery life may have reached its cycle limit.

### ■ The massager does not start right away

1. For percussion mode there it takes up to 3 seconds for massager to start. Turn dial to engage and increase speed/intensity. Power light should be solid green.
2. For facial massager you must keep dial in the "0" position for 3 seconds or until green power light is blinking. Turn dial to engage or increase speed/intensity.

\* For more troubleshooting refer to [www.PadoUSA.com/](http://www.PadoUSA.com/) online troubleshooting guide.

## Warranty (1-Year Limited)

For your safety and to avoid any property damage, please read this manual carefully and use as indicated. The manufacturer's warranty is void under the following circumstances but not limited to:

1. Improper or inadequate maintenance or modification
2. Accident, misuse, abuse, contamination or other external causes
3. The use of unspecified adapter and accessories
4. Loss or damage in transit
5. Damages that occurs as a result of one's failure to follow the instructions

This Warranty does not apply to expendable or consumable parts and does not extend to any product from which the serial number has been removed.

Name of product		Warranty terms
Model name	Pure-Wave CM-07	One year
Manufacturing No.		
Date purchased		
Customer signature		

## Save These Instructions

If you need another copy of the owner's manual, you can download them from [www.PadoUSA.com](http://www.PadoUSA.com)

One (1) Year Limited Warranty from date of purchase

PADO® warrants this product against defects in materials and/or workmanship under normal use for a period of ONE (1) YEAR from the date of purchase by the original purchaser ("Warranty Period"). If a defect arises and a valid claim is received within the Warranty Period, at its option, PADO will either 1) repair the defect at no charge, using new or refurbished replacement parts, or 2) replace the product with a new product that is at least functionally equivalent to the original product. A replacement product or part, including a user-installable part installed in accordance with instructions provided by PADO, assumes the remaining warranty of the original product. When a product or part is exchanged, any replacement item becomes your property and the replaced item becomes PADO's property.

**Obtaining Service:** To obtain warranty service, email PADO Limited Warranty Service at [warranty@padousa.com](mailto:warranty@padousa.com). A purchase receipt is required. All repairs and replacements must be authorized in advance. Service options, parts availability and response times will vary. You are responsible for delivery and the cost of delivery of the product or any parts to PADO authorized service center for replacement, per our instructions.

**Limits and Exclusions:** Coverage under this Limited Warranty is limited to the United States of America, including the District of Columbia and the U.S. Territories of Guam, Puerto Rico, and the U.S. Virgin Islands. This Limited Warranty applies only to products manufactured for PADO that can be identified by the "PADO" trademark, trade name, or logo affixed to them or their packaging. The Limited Warranty does not apply to any non-PADO products. Manufacturers or suppliers other than PADO may provide their own warranties to the purchaser, but PADO, in so far as permitted by law, provides these products "as is." This warranty does not apply to: a) damage caused by failure to follow instructions relating to product's use or the installation of components; b) damage caused by accident, abuse, misuse, fire, floods, earthquake or other external causes; c) damage caused by service performed by anyone who is not a representative of PADO; d) accessories used in conjunction with a covered product; e) a product or part that has been modified to alter functionality or capability; f) items intended to be periodically replaced by the purchaser during the normal life of the product including, without limitation, batteries or light bulbs; g) any product sold "as is" including, without limitation, floor demonstration models and refurbished items; or h) a product that is used commercially or for a commercial purpose.

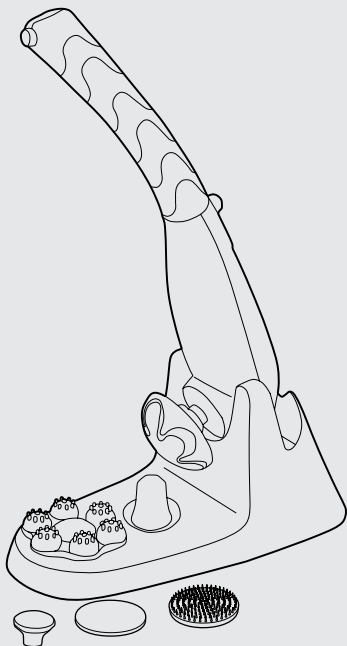
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Some states disallow the exclusion or limitation of incidental or consequential damages or how long an implied warranty lasts, so the above exclusions or limitations may not apply to you. This warranty gives you specific legal rights and you may also have other rights, which vary from state to state.

# Exhibit 8

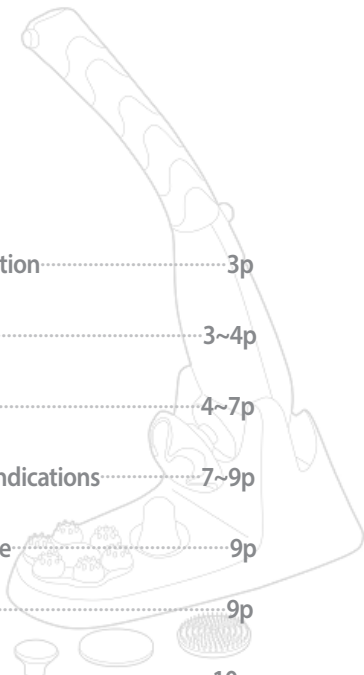


# *Cordless Massager CM-07* **USER MANUAL**



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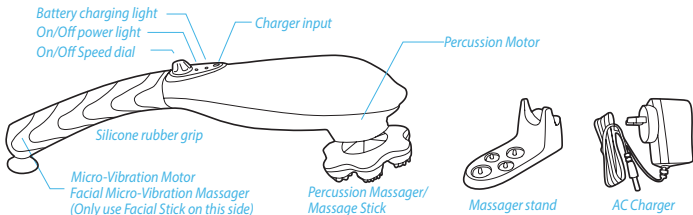










## Contents and Product Description

### ▪ Contents

What's included with Pure-Wave Cordless Massager CM-07:



	<b>Air-Cushion Stick</b>		<b>Point Stick</b>		<b>6-Head Stick</b>		<b>Scalp Massage Stick</b>		<b>Body Massage Oil Stick</b>		<b>Facial Massage Stick</b>
Soft general massage. Great for soft tissue around joints.		Reflexology & Acupressure. Great for targeted massage.		Waist, back or thigh. (Deep Tissue & Sports Massage)		Scalp Massage. (Slip snugly over threaded side)		Body Massage Use with lotions, creams, oils, gels. (Slip over threads)		Facial Massage Use with facial cream, oil or gel.	

### ▪ Product Description

Pure-Wave CM-07 Cordless Massager is a fast recharging portable percussion massager with an additional built-in facial micro-vibration massager. Both percussion and micro-vibration motors are efficiently designed to be lightweight yet yield outstanding performance and power. Pure-Wave is powered by a lithium-ion battery and includes an AC charger. Also included with Pure Wave CM-07 is a stand and six massage sticks. Pure-Wave is a powerful cordless massager and should be used with care and safety in mind. Please read all warnings before use.

## Charging and Battery Life

### ▪ Charging

For best results charge massager before use.

1. Plug the CHARGER into an electrical outlet.
2. Plug the CHARGER into the Pure-Wave cordless massager.
3. The charger has an LED light which will display red, orange or green to indicate charge state of massager. A green light on the charger indicates 100% charge.
4. The massager will also show a red, orange or green LED charging light but will not always correspond with the color on the charger. The massager charging light turns green at 90% charge.

- Remove the CHARGER from Pure-Wave before use.
- Pure-Wave is ready for use. See operating instructions.

### ▪ Battery Life

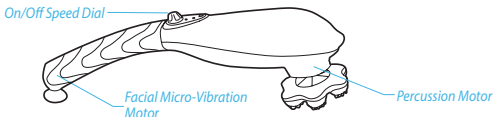
- Battery life: continuous use up to 180 minutes (if no load is applied).
- Battery tests were done in the manufacturer's facility with its own equipment. Battery life varies depending on usage.
- Batteries equipped : Built-in 7.2V Lithium-ion 2200mA 18650 2 Cell, 16.28 Wh. Replaceable by manufacturer for a fee.
- If the product is not in use for a long time, please keep its power off. Batteries will last longer if kept recharged versus at a discharged state.
- Please keep the massager away from heat and avoid using in places where the surrounding temperature is relatively hot.
- During storage keep the power off and store the product in a cool place.



Pure Wave will not operate while plugged into wall outlet.

## Using Pure-Wave Massager

Pure-Wave is a dual motor massager and therefore has two operating modes activated by the On/Off Speed Dial. Only one mode will operate at a time.



### ▪ Percussion Mode:

- Remove CHARGER for operation.
- Turn the On/Off SPEED DIAL clockwise 180 degrees or until percussion motor engages. The percussion side will generate a hammering motion which indicates it is working. The LED power light will be solid. Set desired speed.



If the dial is not turned quickly to the right you may hear a 2nd beep which means you have activated the facial micro-vibration mode.

- For user's safety, the product may power off if too much load is applied. In this case, Pure-Wave may need to be reset by plugging it into the charger for 3 seconds (see troubleshooting reset procedure).

### ▪ Facial Micro-Vibration Mode:

- Turn the On/Off SPEED DIAL just slightly until you hear a beep. A second beep will sound and the LED power light will start blinking. This indicates the micro-vibration mode is on. Set desired speed.
- To re-initiate percussion mode, turn dial off and then back on turning clockwise until percussion mode engages.

▪ Massage Sticks

Threaded Attachments



**A** Point Stick



**B** Six-Head Stick



**C** Air-Cushion Stick

Slip Over Thread Attachments



**D** Scalp Stick



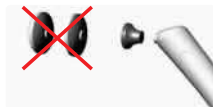
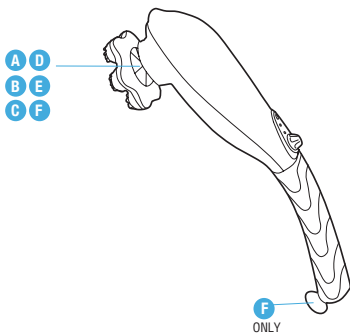
**E** Massage Oil Stick

Slip On Facial Thread Attachment

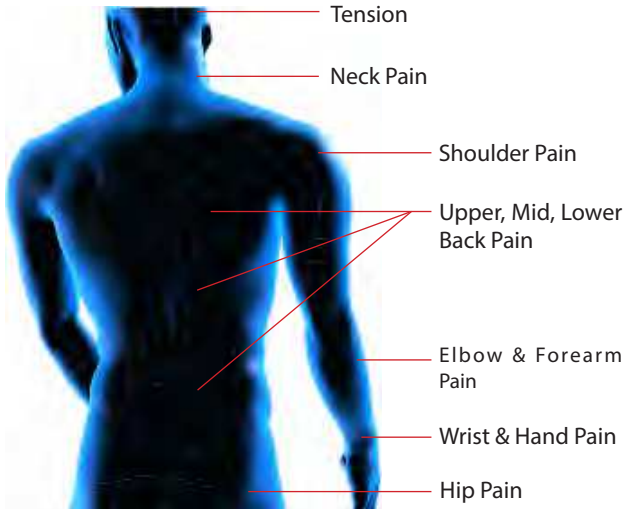


**F** Facial Stick

Attachment Compatibility



Pure Wave comes with a threaded attachment installed. To remove it, simply turn the attachment counter-clockwise.



1. The 3 threaded attachments (air cushion, point stick, 6-head stick) screw on clockwise to the percussion side. They should be screwed on hand tight. Do not forcefully over tighten.
2. The 3 slip on attachments (scalp massage stick, body massage oil stick, facial massage stick) slip over the PERCUSSION MOTOR threaded tip. Push these on snug.



The facial massage stick is the only attachment designed to go on the facial micro-vibration motor tip. The other attachments will fall off and we do not recommend using them on the facial micro-vibration side.

3. The air-cushion stick will offer a softer massage with its patented Air-Cushion technology. It can be used on most areas and is recommended for sensitive areas where there is more "bone" to muscle area such as joints, shoulder, knee or ankle areas.
4. For a firm deep tissue massage, use the Point Stick or 6-Head Stick. It is recommended in areas where there is more "muscle" to bone area.
5. For a wider area massage select the 6-head stick. If it hurts your skin, you can use it over clothing.
6. Enjoy the scalp stick for a soothing scalp massage. If you experience bounce, try changing to a higher speed setting or adjusting your hand position on the grip.
7. The massage oil stick is a great way to apply medicated creams or to use with a partner for a deeper more relaxing massage with massage lotions, oils or creams.
8. Pure-Wave CM-07 includes a unique micro-vibration motor. Use the facial stick to experience a relaxing facial massage with your favorite facial creams or lotions.

## Warnings, Safety and Contraindications

For your safety and to avoid any property damage, please read this manual carefully and use as indicated. Non-Compliance may cause serious injuries or death and or severe property damage. Do not use Pure-Wave massagers in any way other than the usage stated in the manual.

### ▪ Warnings and Safety

1. Only use the charger provided by Pure-Wave. Unspecified charger or adapter may cause overheating, explosion, electric shock or fire.
2. Only use certified Pure-Wave brand massage stick adaptors for your safety and to prevent damage of Pure-Wave cordless massager.
3. Do not use the product while driving a vehicle.
4. Do not use the massager with wet hands. Do not insert any object into the charger input. This may cause damage to the product or electric shock.
5. Keep the product away from heating appliances such as oven, microwave, hot cooking utensils, high pressure cooker. This may cause a degradation of the batteries and/or product malfunction.
6. Do not apply heavy force to the product.



If massager stops working from too much load applied. Turn off immediately. Let it cool down for 5 minutes and then reset massager by plugging it into the charger for 3 seconds. Charger must be plugged into an electrical outlet.

7. Do not disassemble or drill into the product and/or batteries. This may cause product malfunction, electric shock or fire.
8. Do not use product on heat generating material. This may cause the batteries to overheat and cause malfunction or overheating.
9. Keep product out of reach of children or pets.
10. The recommended temperature to use the product in places where the temperature is not too cold nor too hot. 5C (41F) to 35C (95F). Use common sense when using or storing the Pure-Wave. Leaving in overly hot places (such as inside a parked car on hot day or next to a window with direct sun) may cause malfunction or overheating to batteries.
11. Do not drop, apply excessive force or heavy weight over Pure-Wave massager for it can cause malfunction and/or damages.
12. Do not take apart, modify or change the parts. This may cause electric shock and the product will no longer be covered under manufacturer warranty.
13. Do not use the product other than the usage stated in the manual, for it can cause breakdown.
14. We recommend not to use this as a sexual personal massager. This is a powerful massager and may cause severe bodily injuries.
15. Do not keep or use the product in areas where temperature changes drastically or where humidity is high. This may cause damage to electrical circuits and batteries.
16. If the product is not in use for extended duration, charge the unit once every month. If the batteries remain discharged too long, this may degrade the life cycle and performance of product.
17. Do not keep product near a high magnetic field or where it can be affected by a magnetic field, for it can cause batteries to discharge.
18. This product is intended for consumer home use. Commercial use will cause premature breakdown of the product.

## ▪ Contraindications

1. General list of medical conditions that you should avoid using the Pure-Wave for:
  - a. Sensitive skin, swollen or inflamed areas, in the presence of poor circulation, where skin eruptions are present, or in the presence of unexplained calf or abdominal pain.
  - b. Varicose veins.
  - c. The throat area
  - d. Genital Areas
  - e. Unconscious or sleeping person
  - f. Frostbite
  - g. Irritable skin conditions
  - h. Deep vein thrombosis
  - i. Recent burn
  - j. Recent surgery
  - k. Acute conditions requiring first aid or medical attention

- l. Severe unstable hypertension
  - m. Acute flare-up of inflammatory conditions such as rheumatoid arthritis
2. Do not use during pregnancy. Pregnant women should consult their health care provider before using a massage tool.
  3. If you have a pre-existing medical condition including implants or pacemakers, consult with your physician prior to use.
  4. Do not use if you have blood clotting or are subject to blood clotting.
  5. Avoid use if you have bleeding disorders, low blood platelet counts and by people taking blood-thinning medications such as Warfarin. Consult with a physician prior to use.
  6. Do not use on areas of the body with blood clots, fractures, open or healing wounds, skin infections, weakened bones (such as from osteoporosis or cancer) or where there has been a recent surgery.
  7. Any direct pressure over a tumor usually is discouraged. Cancer patients should discuss any concerns about massage therapy with their oncologist.
  8. The Pure-Wave does not constitute medical treatment and is not a substitute for a medical examination or diagnosis. If you are dealing with a serious health condition check with your health care provider before using.

## Product Care and Maintenance

1. Place the massager in a safe, cool and dry place when not in use.
2. Always unplug massager prior to cleaning.
3. After use, wipe massager with a soft, damp cloth using non-abrasive cleaners. If necessary clean with a sterilizer.
4. DO NOT submerge Pure-Wave cordless massager in water or any other liquid.
5. Keep away from all solvents and harsh detergents.
6. DO NOT attempt to repair this massager. There are no user-serviceable parts.
7. DO NOT dispose Pure-Wave cordless unit in a landfill. Pure-wave contains a Li-ion battery and other electrical components which is considered hazardous E-Waste.

## Specifications

1. Battery: 7.2V Lithium-ion 2200mA 18650 x 2 Cell
2. Charge Time/Use Duration: 120 min charge lasting a week (20-30 min use a day)
3. Variable speed change (1,500 rpm - 3,700 rpm)
4. Percussion massager motor: 7.2V, DC, 3700 rpm
5. Facial massager motor: 7.2V, DC, 11,000 rpm
6. Charger Input Voltage: 100V-240V, 50/60Hz, 0.4 A Max
7. Charger Output Voltage: 8.5V, DC, 1A

## Troubleshooting

### ▪ Massager does not work

1. Make sure massage is fully charged. The POWER LIGHT should be green.
2. RESET PROCEDURE: Reset the massager by turning power off. Plug the CHARGER into an outlet, then plug the CHARGER into the product. Wait about three seconds then unplug both sides of CHARGER and then turn product on and start massaging.
3. The Lithium-ion battery life may have reached its cycle limit.

### ▪ The massager does not start right away

1. For percussion mode there it takes up to 3 seconds for massager to start. Turn dial to engage and increase speed/intensity. Power light should be solid green.
2. For facial massager you must keep dial in the "0" position for 3 seconds or until green power light is blinking. Turn dial to engage or increase speed/intensity.

\* For more troubleshooting refer to [www.PadoUSA.com/](http://www.PadoUSA.com/) online troubleshooting guide.

## Warranty (1-Year Limited)

For your safety and to avoid any property damage, please read this manual carefully and use as indicated. The manufacturer's warranty is void under the following circumstances but not limited to:

1. Improper or inadequate maintenance or modification
2. Accident, misuse, abuse, contamination or other external causes
3. The use of unspecified adapter and accessories
4. Loss or damage in transit
5. Damages that occurs as a result of one's failure to follow the instructions

This Warranty does not apply to expendable or consumable parts and does not extend to any product from which the serial number has been removed.

## Save These Instructions

If you need another copy of the owner's manual, you can download them from [www.PadoUSA.com](http://www.PadoUSA.com)

One (1) Year Limited Warranty from date of purchase

Name of product		Warranty terms
Model name	Pure-Wave CM-07	One year
Manufacturing No.		
Date purchased		
Customer signature		



PADO® warrants this product against defects in materials and/or workmanship under normal use for a period of ONE (1) YEAR from the date of purchase by the original purchaser ("Warranty Period"). If a defect arises and a valid claim is received within the Warranty Period, at its option, PADO will either 1) repair the defect at no charge, using new or refurbished replacement parts, or 2) replace the product with a new product that is at least functionally equivalent to the original product. A replacement product or part, including a user-installable part installed in accordance with instructions provided by PADO, assumes the remaining warranty of the original product. When a product or part is exchanged, any replacement item becomes your property and the replaced item becomes PADO's property.

**Obtaining Service:** To obtain warranty service, email PADO Limited Warranty Service at [warranty@padousa.com](mailto:warranty@padousa.com). A purchase receipt is required. All repairs and replacements must be authorized in advance. Service options, parts availability and response times will vary. You are responsible for delivery and the cost of delivery of the product or any parts to PADO authorized service center for replacement, per our instructions.

**Limits and Exclusions:** Coverage under this Limited Warranty is limited to the United States of America, including the District of Columbia and the U.S. Territories of Guam, Puerto Rico, and the U.S. Virgin Islands. This Limited Warranty applies only to products manufactured for PADO that can be identified by the "PADO" trademark, trade name, or logo affixed to them or their packaging. The Limited Warranty does not apply to any non-PADO products. Manufacturers or suppliers other than PADO may provide their own warranties to the purchaser, but PADO, in so far as permitted by law, provides these products "as is." This warranty does not apply to: a) damage caused by failure to follow instructions relating to product's use or the installation of components; b) damage caused by accident, abuse, misuse, fire, floods, earthquake or other external causes; c) damage caused by service performed by anyone who is not a representative of PADO; d) accessories used in conjunction with a covered product; e) a product or part that has been modified to alter functionality or capability; f) items intended to be periodically replaced by the purchaser during the normal life of the product including, without limitation, batteries or light bulbs; g) any product sold "as is" including, without limitation, floor demonstration models and refurbished items; or h) a product that is used commercially or for a commercial purpose.

PADO SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF THIS PRODUCT, OR ARISING OUT OF ANY BREACH OF THIS WARRANTY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, PADO DISCLAIMS ANY AND ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS. IF PADO CANNOT LAWFULLY DISCLAIM STATUTORY OR IMPLIED WARRANTIES, THEN TO THE EXTENT PERMITTED BY LAW, ALL SUCH WARRANTIES SHALL BE LIMITED IN DURATION TO THE DURATION OF THIS EXPRESS WARRANTY.

Some states disallow the exclusion or limitation of incidental or consequential damages or how long an implied warranty lasts, so the above exclusions or limitations may not apply to you. This warranty gives you specific legal rights and you may also have other rights, which vary from state to state.

# Exhibit 9

**Confirmatory *Nunc Pro Tunc* Assignment of Copyrights**

WHEREAS: AT BATTERY, INC. (“AT BATTERY”) a California corporation having a place of business at 28340 Avenue Crocker, Suite 200, Valencia, CA 91355 in or about 2016 transferred its business relating to certain massager products to PADO, INC. (“PADO”) a California corporation having a place of business at 28340 Avenue Crocker, Suite 100, Valencia, CA 91355 (collectively, the “Parties”);

WHEREAS: the Parties at all times contemplated that all intellectual property owned by AT BATTERY relating to the massager products, and all rights to sue and recover all damages for past, present and future infringements would accompany the business being transferred to PADO; and

WHEREAS the Parties are memorializing the transfer of said intellectual property to PADO in this Confirmatory *Nunc Pro Tunc* Assignment;

NOW THEREFORE:

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, AT BATTERY hereby confirms the irrevocable transfer and assignment, *nunc pro tunc*, to PADO, its successors and assigns, in perpetuity, of the copyright in all works of authorship created by AT BATTERY relating to the massager business, including the following copyright registrations pertaining to the massage products, as well as any renewals and extensions of said copyrights, with the right to sue and recover all damages for past, present and future infringements of the copyrights:

**Copyright Registrations**

<b>Copyright Reg. No.</b>	<b>Registration Date</b>	<b>Title</b>
VA 2-110-228	01/10/2018	Picture 1
VA 2-110-318	01/10/2018	Picture 3
VA 2-110-319	01/10/2018	Picture 4
VA 2-128-902	01/10/2018	Picture 2
VA 2-128-903	01/10/2018	Picture 5
VA 2-128-904	01/10/2018	Picture 6
VA 2-128-905	01/10/2018	Picture 7
VA 2-128-901	01/10/2018	Picture 8
TX-8-796-486	11/05/2019	Cordless Massager CM-07 User Manual
TX-8-796-570	11/05/2019	Cordless Massager CM-07 User Manual

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AT BATTERY further confirms that PADO shall have the right to apply in the future in its own name for all copyrights covering works of authorship created by AT BATTERY relating to the massager business during the time that AT BATTERY was carrying on the massager business, including without limitation all photographs, artwork, and textual material.

IN WITNESS THEREOF, AT BATTERY has duly executed this Confirmatory *Nunc Pro Tunc* Assignment of Copyrights.

AT BATTERY, INC.

  
\_\_\_\_\_  
Steven Lee  
President SECRETARY (e)

11/20/2019  
Date

STATE OF California )

) SS.:

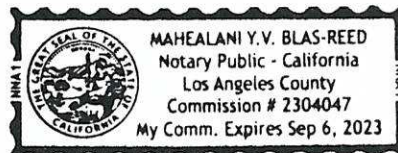
COUNTY OF Los Angeles )

On 11/20/2019 before me, M. Blas-Reed, Notary Public in and for said State, personally appeared Steven Lee, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

M. Blas-Reed

SIGNATURE OF NOTARY PUBLIC



# Exhibit 10





# Exhibit 11



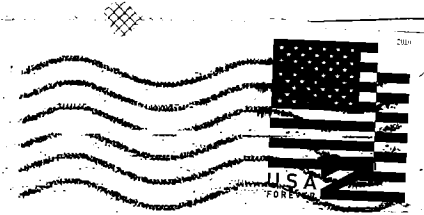
Cog West

1651 55th St

Brooklyn, NY, 11204

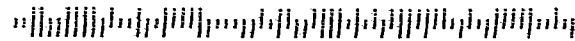
NEW YORK NY 100

07 NOV 2019 PM 7 L



Joel Voelzke  
24772 W Saddle Peak Rd,  
Malibu, CA, 90265-3042

90265-304272



Dear, Joel

My name is Coy, I am the owner of Mighty Bliss.  
I would like to thank you for purchasing xl heating pad  
and supporting my small business.

In the same time I would like to ask you for a huge favor, my  
Product is struggling from getting new product reviews and  
if there isn't a nice amount of reviews it is very hard to  
continue selling this product while the competition have  
thousands of reviews.

It's very sad if it will get to that point after I had invested  
here over \$50,000 and I am a father of 3, trying  
to make a living out of it, so please if it's possible to do me  
this favor and take 2 minutes to write me a nice review it  
will literally rescue my business.

If for any reason why you don't think that I deserve a nice  
review please contact me at [coy@mightybliss.com](mailto:coy@mightybliss.com) and I will  
make sure to make things right for you.

Thank you so much from the bottom of my heart and I am  
looking forward for your wonderful review.

Coy,

Owner of Mighty Bliss

# Exhibit 12

**MIGHTY BLISS™**  
More power means more pleasure



MANUAL  
GUIDE

**MIGHTY BLISS™**  
More power means more pleasure

Contents and Product Description ..... 3

Charging and Battery Life ..... 4  
Using Mighty Bliss Massager

Attachments ..... 5

Warnings, Safety and  
Contraindications ..... 7-8

Product Care and Maintenance ..... 9  
Specifications

Troubleshooting ..... 10

Warranty (Lifetime Limited)

## Contents and Product Description

### • Contents

What's included with Mighty Bliss Cordless Massager



#### Cushion Stick



Soft general massage.  
Great for soft tissue  
around joints

#### Point Stick



Reflexology & Acupressure.  
Great for targeted  
massage

#### Six Head Stick



Waist, back or thigh.  
(Deep Tissue &  
Sports Massage)

#### Scalp Stick



Scalp Massage.  
(Slip snugly over  
threaded side)

#### Massage Oil Stick



Body Massage  
Use with lotions, creams,  
oils, gels (Slip over threads)

#### Four Head Stick



Waist, back, thigh, or spine.  
(Deep Tissue &  
Sports Massage)

### • Product Description

Mighty Bliss Cordless Massager is a fast recharging portable percussion massager. It is effectively designed to be lightweight yet yield outstanding performance and power. Mighty Bliss is powered by a lithium-ion battery and includes an AC charger. Also included with the Mighty Bliss Massager is 6 massage attachments. Mighty Bliss is a powerful cordless massager and should be used with care and safety in mind. Please read all warnings before use.

## Charging and Battery Life

### • Charging

For best results charge massager before use.

1. Plug the CHARGER into an electrical outlet.
2. Plug the CHARGER into the Mighty Bliss cordless massager.
3. The charger has an LED light which will display solid blue, blinking blue, solid red and blinking red to indicate the state of the massager.
4. Solid Blue LED light indicates that the massger is fully charged or massager is in motion with a full battery.
5. Solid red LED light indicates low battery (battery charge is under 15%)
6. Blinking red LED light indicates massager is plugged in and being charged and has not yet reached a 90% charge
7. Blinking blue LED light indicates massager is plugged in and being charged and has over a 90% charge

### • Battery Life

1. Battery life: continuous use up to 180 minutes (if no load is applied).
2. Battery tests were done in the manufacturer's facility with its own equipment. Battery life varies depending on usage.
3. Batteries equipped : Built-in 7.4V Lithium-ion 2200mA 18650 2 Cell, 16.28 Wh.
4. If the product is not in use for a long time, please keep its power off. Batteries will last longer if kept recharged versus at a discharged state.
6. Please keep the massager away from heat and avoid using in places where the surrounding temperature is relatively hot.
7. During storage keep the power off and store the product in a cool place.

## Using Mighty Bliss Massager

1. Turn the On/Off SPEED DIAL clockwise 180 degrees or until percussion motor engages. The percussion motor will generate a hammering motion which indicates it is working. The LED power light will be solid. Set desired speed.
2. For user's safety, the product may power off if too much load is applied. In this case, Mighty Bliss may need to be reset by plugging it into the charger for 3 seconds (see troubleshooting reset procedure).

## Threaded Attachments



1 Point Stick



2 Six Head Stick



3 Cushion Stick

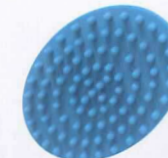


4 Four Head Stick

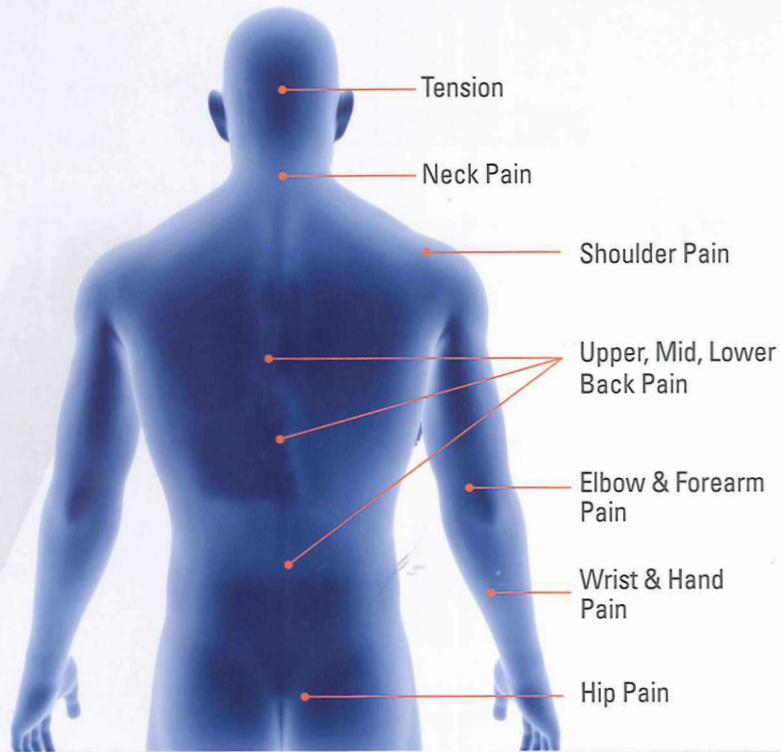
## Slip Over Thread Attachments



5 Massage Oil Stick



6 Scalp Stick



1. The 4 threaded attachments (cushion, point stick, 4-head back stick, 6-head stick) screw on clockwise. They should be screwed on hand tight. Do not forcefully over tighten.
2. The 2 slip on attachments (scalp massage stick, body massage oil stick, ) slip over the PERCUSSION MOTOR threaded tip. Push these on snug.
3. The cushion stick will offer a softer massage with its cushion absorbing mechanization. It can be used on most areas and is recommended for sensitive areas where there is more "bone" to muscle area such as joints, shoulder, knee or ankle areas.
4. For a firm deep tissue massage, use the Point Stick or 6-Head Stick. It is recommended in areas where there is more"musclelo bone area.
5. For a wider area massage select the 6-head stick. If it hurts your skin, you can use it over clothing.
6. Enjoy the scalp stick for a soothing scalp massage. If you experience bounce, try changing to a higher speed setting or adjusting your hand position on the grip.
7. The massage oil stick is a great way to apply medicated creams or to use with a partner for a deeper more relaxing massage with massage lotions, oils or creams.

### Warnings, Safety and Contraindications

For your safety and to avoid any property damage, please read this manual carefully and use as indicated. Non-Compliance may cause serious injuries or death and or severe property damage. Do not use Mighty Bliss massagers in any way other than the usage stated in the manual.

#### • Warnings and Safety

1. Only use the charger provided by Mighty Bliss. Unspecified charger or adapter may cause overheating, explosion, electric shock or fire.
2. Only use certified Mighty Bliss brand massage stick adaptors for your safety and to prevent damage of Mighty Bliss cordless massager.
3. Do not use the product while driving a vehicle.
4. Do not use the massager with wet hands. Do not insert any object into the charger input. This may cause damage to the product or electric shock.
5. Keep the product away from heating appliances such as oven, microwave, hot cooking utensils, high pressure cooker. This may cause a degradation of the batteries and/or product malfunction.
6. Do not apply heavy force to the product.



If massager stops working from too much load applied. Turn off immediately. Let it cool down for 5 minutes and then reset massager by plugging it into the charger for 3 seconds. Charger must be plugged into an electrical outlet.

7. Do not disassemble or drill into the product and/or batteries. This may cause product malfunction, electric shock or fire.
8. Do not use product on heat generating material. This may cause the batteries to overheat and cause malfunction or overheating.
9. Keep product out of reach of children or pets.
10. The recommended temperature to use the product in places where the temperature is not too cold nor too hot. 5C (41 F) to 35C (95F). Use common sense when using or storing the Mighty Bliss. Leaving in overly hot places (such as inside a parked car on hot day or next to a window with direct sun) may cause malfunction or overheating to batteries.
11. Do not drop, apply excessive force or heavy weight over Mighty Bliss massager for it can cause malfunction and/or damages.
12. Do not take apart, modify or change the parts. This may cause electric shock and the product will no longer be covered under manufacturer warranty.
13. Do not use the product other than the usage stated in the manual, for it can cause breakdown.
14. We recommend not to use this as a sexual personal massager. This is a powerful massager and may cause severe bodily injuries.
15. Do not keep or use the product in areas where temperature changes drastically or where humidity is high. This may cause damage to electrical circuits and batteries.
16. If the product is not in use for extended duration, charge the unit once every month. If the batteries remain discharged too long, this may degrade the life cycle and performance of product.
17. Do not keep product near a high magnetic field or where it can be affected by a magnetic field, for it can cause batteries to discharge.
18. This product is intended for consumer home use. Commercial use will cause premature breakdown of the product.

#### • Contraindications

1. General list of medical conditions that you should avoid using the Mighty Bliss for:
  - a. Sensitive skin, swollen or inflamed areas, in the presence of poor circulation, where skin eruptions are present, or in the presence of unexplained calf or abdominal pain.
  - b. Varicose veins.
  - c. The throat area
  - d. Genital Areas
  - e. Unconscious or sleeping person
  - f. Frostbite
  - g. Irritable skin conditions
  - h. Deep vein thrombosis
  - i. Recent burn
  - j. Recent surgery
  - k. Acute conditions requiring first aid or medical attention

- l. Severe unstable hypertension
- m. Acute flare-up of inflammatory conditions such as rheumatoid arthritis
2. Do not use during pregnancy. Pregnant women should consult their health care provider before using a massage tool.
3. If you have a pre-existing medical condition including implants or pacemakers, consult with your physician prior to use.
4. Do not use if you have blood clotting or are subject to blood clotting.
5. Avoid use if you have bleeding disorders, low blood platelet counts and by people taking blood-thinning medications such as Warfarin. Consult with a physician prior to use.
6. Do not use on areas of the body with blood clots, fractures, open or healing wounds, skin infections, weakened bones (such as from osteoporosis or cancer) or where there has been a recent surgery.
7. Any direct pressure over a tumor usually is discouraged. Cancer patients should discuss any concerns about massage therapy with their oncologist.
8. The Mighty Bliss Massager does not constitute medical treatment and is not a substitute for a medical examination or diagnosis. If you are dealing with a serious health condition check with your health care provider before using.

#### Product Care and Maintenance

1. Place the massager in a safe, cool and dry place when not in use.
2. Always unplug massager prior to cleaning.
3. After use, wipe massager with a soft, damp cloth using non-abrasive cleaners. If necessary clean with a sterilizer.
4. DO NOT submerge Mighty Bliss cordless massager in water or any other liquid.
5. Keep away from all solvents and harsh detergents.
6. DO NOT attempt to repair this massager. There are no user-serviceable parts.
7. DO NOT dispose Mighty Bliss cordless unit in a landfill. Mighty Bliss contains a Li-ion battery and other electrical components which is considered hazardous E-Waste.

#### Specifications

1. Battery: 7.4V Lithium-ion 2200mA 18650 x 2 Cell
2. Charge Time/Use Duration: 180 min charge lasting a week (20-30 min use a day)
3. Variable speed change (1,500 rpm - 3,700 rpm)
4. Percussion massager motor: 7.4V, DC, 3700 rpm
5. Charger Input Voltage: 100V-240V, 50/60Hz, 0.5 A Max
6. Charger Output Voltage: 9V, DC, 1A



## Troubleshooting

### Massager does not work

1. Make sure massager is fully charged. The POWER LIGHT should be solid blue.
2. RESET PROCEDURE: Reset the massager by turning power off. Plug the CHARGER into an outlet, then plug the CHARGER into the product. Wait about three seconds then unplug both sides of CHARGER and then turn product on and start massaging.
3. The Lithium-ion battery life may have reached its cycle limit.

### • The massager does not start right away

1. It takes up to 3 seconds for the massager to start.
2. Turn dial to engage and decrease speed/intensity.
3. Power light should be solid blue.

## Warranty (Lifetime Limited)

For your safety and to avoid any property damage, please read this manual carefully and use as indicated.

The manufacturer's warranty is void under the following circumstances but not limited to:

1. Improper or inadequate maintenance or modification
2. Accident, misuse, abuse, contamination or other external causes
3. The use of unspecified adapter and accessories
4. Loss or damage in transit
5. Damages that occurs as a result of one's failure to follow the instructions This Warranty does not apply to expendable or consumable parts and does not extend to any product from which the serial number has been removed.

## Save These Instructions

If you need another copy of the owner's manual, you can download them from [www.MightyBliss.com](http://www.MightyBliss.com)

# Exhibit 13

The screenshot shows a web browser window displaying the product page for the Mighty Bliss Deep Tissue Back and Body Massager. The browser's address bar shows the URL <https://www.mightybliss.com/product-page/mighty-bliss-deep-tissue-back-and-body-massager>. The website's navigation bar includes the logo, links for HOME, SHOP, and CONTACT, and a shopping cart icon with a '0' count. The breadcrumb trail reads 'Home / MIGHTY BLISS™ Deep Tissue Back and Body Massager'. The product image shows the black massager, its retail box, and six interchangeable massage heads. The product title is 'MIGHTY BLISS™ Deep Tissue Back and Body Massager' with an SKU of 0001. The price is listed as \$118.94. A quantity selector is set to 1, and a blue 'ADD TO CART' button is visible. Below the main image is a row of six small thumbnail images. The descriptive text begins with 'Experience the most powerful and soothing cordless massager on the market. The variable speed controller allows you to dial into the perfect intensity whilst 6 different massage heads allows you to select the...'

File Edit View History Bookmarks Tools Help

MIGHTY BLISS™ Deep Tissue B X

https://www.mightybliss.com/product-page/mighty-bliss-deep-tissue-back-and-body-massager

Front Page Most Visited Capabilities - Capabilit... Google Getting Started Los Angeles Times

MIGHTY BLISS

HOME SHOP CONTACT

0

Home / MIGHTY BLISS™ Deep Tissue Back and Body Massager < Prev | Next >

MIGHTY BLISS™ Deep Tissue Back and Body Massager

SKU: 0001

\$118.94

Quantity

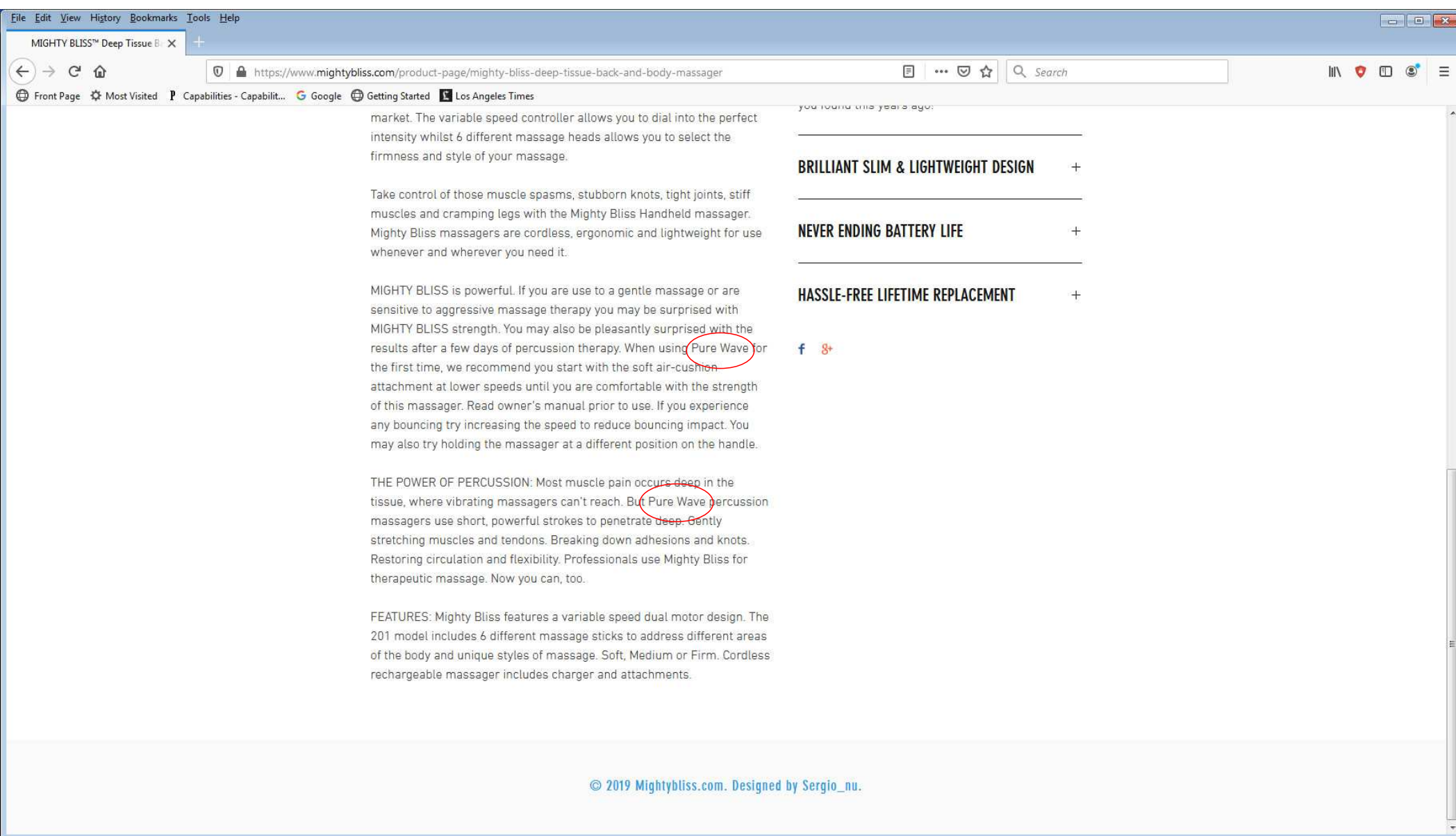
1

ADD TO CART

**SUPER POWERFUL 3,700 RPM PERCUSSION MOTOR**

RELAXES HURTING MUSCLES AND CRAMPS IN SECONDS! Imagine a BMW motor knocking the hell out of your stiff knotty muscles. This Might Bliss percussion massager will knock 3,700 pulses of bliss into your muscles every minute. You'll wish you found this years ago!

Experience the most powerful and soothing cordless massager on the market. The variable speed controller allows you to dial into the perfect intensity whilst 6 different massage heads allows you to select the



market. The variable speed controller allows you to dial into the perfect intensity whilst 6 different massage heads allows you to select the firmness and style of your massage.

Take control of those muscle spasms, stubborn knots, tight joints, stiff muscles and cramping legs with the Mighty Bliss Handheld massager. Mighty Bliss massagers are cordless, ergonomic and lightweight for use whenever and wherever you need it.

MIGHTY BLISS is powerful. If you are use to a gentle massage or are sensitive to aggressive massage therapy you may be surprised with MIGHTY BLISS strength. You may also be pleasantly surprised with the results after a few days of percussion therapy. When using Pure Wave for the first time, we recommend you start with the soft air-cushion attachment at lower speeds until you are comfortable with the strength of this massager. Read owner's manual prior to use. If you experience any bouncing try increasing the speed to reduce bouncing impact. You may also try holding the massager at a different position on the handle.

THE POWER OF PERCUSSION: Most muscle pain occurs deep in the tissue, where vibrating massagers can't reach. But Pure Wave percussion massagers use short, powerful strokes to penetrate deep. Gently stretching muscles and tendons. Breaking down adhesions and knots. Restoring circulation and flexibility. Professionals use Mighty Bliss for therapeutic massage. Now you can, too.

FEATURES: Mighty Bliss features a variable speed dual motor design. The 201 model includes 6 different massage sticks to address different areas of the body and unique styles of massage. Soft, Medium or Firm. Cordless rechargeable massager includes charger and attachments.

BRILLIANT SLIM & LIGHTWEIGHT DESIGN +

NEVER ENDING BATTERY LIFE +

HASSLE-FREE LIFETIME REPLACEMENT +

f 8+

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# Exhibit 14



Home / Sports



# Mighty Bliss Handheld Massager Sports Health Life 6 Massage Sticks CORDLESS

\$107.19

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# Mighty Bliss Handheld Massager

## SLIM FULL BODY RELIEF 6 Massage Sticks CORDLESS

About the product

- FULL BODY RELIEF: 6 different massage sticks to address different areas of the body

- POWERFUL CORDLESS + RECHARGEABLE: Powerful cordless percussion massager. High speed percussion motor up to 3,700 RPM

- INNOVATIVE SLIM DESIGN: Cordless to fit your lifestyle. Great for on-the-go or simply relaxing. Incorporate the Pure Wave into your pre & post workout routines. Powerful enough for professionals but designed for at home therapy and muscle recovery.

### Product description

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ACCEPT



use whenever and wherever you need it. MIGHTY BLISS is powerful. If you are use to a gentle massage or are sensitive to aggressive massage therapy you may be surprised with MIGHTY BLISS strength. You may also be pleasantly surprised with the results after a few days of percussion therapy. When using Pure Wave for the first time, we recommend you start with the soft air-cushion attachment at lower speeds until you are comfortable with the strength of this massager. Read owner's manual prior to use. If you experience any bouncing try increasing the speed to reduce bouncing impact. You may also try holding the massager at a different position on the handle. THE POWER OF PERCUSSION: Most muscle pain occurs deep in the tissue, where vibrating massagers can't reach. But Pure Wave percussion massagers use short, powerful strokes to penetrate deep. Gently stretching muscles and tendons. Breaking down adhesions and knots. Restoring circulation and flexibility. Professionals use Mighty Bliss for therapeutic massage. Now you can, too. FEATURES: Mighty Bliss features a variable speed dual motor design. The 201 model includes 6 different massage sticks to address different areas of the body and unique styles of massage. Soft, Medium or Firm. Cordless rechargeable massager includes charger and attachments.

**[Click on my Door and Welcome!! Browse my Store](#)**

## Return Policy

After delivery of the package, you have 14 days to inspect and check the item, if there is any problem we will gladly

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packaging, including an accessories, manual, etc. If any of the  
are found  
missing, it won't be accepted. Make sure not to throw anything  
away before you  
are satisfied with the item.

Once your returned item is delivered back to  
us, please allow several business days for us to process your return  
and  
refunds.

## Satisfaction Guarantee

Happy customers are our first priority.  
Fortunately, we manage to make almost all of our customers, happy  
customers. However, erring is only human, and a problem can always  
arise. When this happens, please contact us as soon as possible, and we  
will do whatever it takes to make things right!

---

Since we  
will always try to fix whatever problem occurs, we would also appreciate  
it if you don't leave a negative feedback before  
giving us a chance to solve your  
problem.

Thank you so much, we  
appreciate your business!!!!

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# Top 10 Best Deep Tissue Massager Handheld Purewave For 2019

BY KRISTI KELLY - FEBRUARY 23, 2019

Finding the best deep tissue massager handheld purewave suitable for your needs isnt easy. With hundreds of choices can distract you. Knowing whats bad and whats good can be something of a minefield. In this article, weve done the hard work for you.

## Best deep tissue massager handheld purewave

Product	Features	Editor's score	Go to site
	MIGHTY BLISS Deep Tissue Back and Body Massager (Cordless) Electric Handheld Percussion Muscle Hand Massager - Full Body Pain Relief Vibrating Therapy Massage Machine, Neck, Shoulder, Leg, Foot	★★★★★	<a href="#">Go to amazon.com</a>
	PUREWAVE CM-07 Dual Motor Percussion + Vibration Therapy Massager (Black)   Official Patented CM-07   Treat pain for back, sciatica, neck, leg, foot, plantar fasciitis, tendinitis, arthritis, sports.	★★★★★	<a href="#">Go to amazon.com</a>
	[Upgrade Version] Inteliotopia Massage Gun, Powerful Cordless Handheld Deep Tissue Muscle Massager, Pure Wave Massager to Massage Different Parts of The Body Through The Most Comfortable Percussion	★★★★★	<a href="#">Go to amazon.com</a>
	Back Massager - Massager Handheld with Heat, Sinterchangeable Nodes, 5 Speeds x 3 Modes Cordless Percussion Back Massage, Electric Deep Tissue Pain Relief for Neck and Back Shoulder Muscles Leg Foot	★★★★★	<a href="#">Go to amazon.com</a>
	Wahl Lithium Ion Deep Tissue Cordless Percussion Therapeutic Handheld Massager for Muscle, Back, Neck, Shoulder, Full Body Pain Relief, Perfect Gifts, by Brand Used by Professionals #4282	★★★★★	<a href="#">Go to amazon.com</a>
	PUREWAVE CM-07 Dual Motor Percussion + Vibration Therapy Massager (White)   Official Patented CM-07   Treat pain for back, sciatica, neck, leg, foot, plantar fasciitis, tendinitis, arthritis, sports	★★★★★	<a href="#">Go to amazon.com</a>
	Pure-Wave CM5 Extreme Cordless Percussion Massager (White)	★★★★★	<a href="#">Go to amazon.com</a>
	TYMO Cordless Percussion Massager - Handheld Dual Motor Heat Massager HM101, 5 Interchangeable Nodes, 5 Speeds x 3 Modes, Deep Tissue Massage for Face, Back, Foot, Neck, Shoulder, Leg Pain Relief	★★★★★	<a href="#">Go to amazon.com</a>
	Handheld Percussion Back Massager for Deep Tissue Massage - Electric Massager for Neck, Shoulder, Leg & Foot Muscle Circulation Pain Relief - Full Body Massage Wand - Portable for Home & Office Gift	★★★★★	<a href="#">Go to amazon.com</a>
	Handheld Percussion Massager   Corded Deep Tissue Massager for Back and Body   Multi-Intensity Settings with 3 Massage Node Options   Black	★★★★★	<a href="#">Go to amazon.com</a>

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## 1. MIGHTY BLISS Deep Tissue Back and Body Massager {Cordless} Electric Handheld Percussion Muscle Hand Massager - Full Body Pain Relief Vibrating Therapy Massage Machine, Neck, Shoulder, Leg, Foot



[Go to amazon.com](https://www.amazon.com)

### Feature

**KNOTTY MUSCLE & SPASMS RELIEF!** YOU WILL LOVE THIS DEEP TISSUE MASSAGER! Want to get rid of your back pain or unbearable knots in your back? No need to suffer with a weak powerless flimsy wobbly muscle massager. This Mighty Bliss hand held massager is perfect. Super powerful to increase blood circulation & relax your muscles effectively - Relieves pain in seconds.

**SUPER POWERFUL 3,700 RPM PERCUSSION MOTOR - RELAXES HURTING MUSCLES AND CRAMPS IN SECONDS!** Imagine a BMW motor knocking the hell out of your stiff knotty muscles. This Might Bliss percussion massager will knock 3,700 pulses of bliss into your muscles every minute. You'll wish you found this years ago!

**BRILLIANT SLIM & LIGHTWEIGHT DESIGN - 6 DIFFERENT MASSAGE HEADS - FEATURES A LIFETIME WARRANTY!** Economically and practically efficient - Cordless & lightweight so that you can SCHLEP it along anywhere, to fit your lifestyle need. Powerful enough for professionals but designed for at home therapy and muscle recovery.

**NEVER ENDING BATTERY LIFE - SUPER SPEEDY RECHARGE!** Built with a mighty Lithium-ion rechargeable battery used in electric cars, the battery will blast away for over 120 minutes on a single charge! Recharge time = a speedy record of 60 minutes!

**HASSLE-FREE LIFETIME REPLACEMENT - NO NEED TO RETURN!** We take pride in our perfect customer service record on Amazon, and we promise to treat you like family - even for gifts! In addition to our lifetime replacement, if you aren't happy with your purchase, we will simply refund your money - no questions asked - just let the reviews speak for themselves!

### Description

Experience the most powerful and soothing cordless massager on the market. The variable speed controller allows you to dial into the perfect intensity whilst 6 different massage heads allows you to select the firmness and style of your massage. Take control of those muscle spasms, stubborn knots, tight joints, stiff muscles and cramping legs with the Mighty Bliss Handheld massager. Mighty Bliss massagers are cordless, ergonomic and lightweight for use whenever and wherever you need it. MIGHTY BLISS is powerful. If you are use to a gentle massage or are sensitive to aggressive massage therapy you may be surprised with MIGHTY BLISS strength. You may also be pleasantly surprised with the results after a few days of percussion therapy. When using Pure Wave for the first time, we recommend you start with the soft air-cushion attachment at lower speeds until you are comfortable with the strength of this massager. Read owner's manual prior to use. If you experience any bouncing try increasing the speed to reduce bouncing impact. You may also try holding the massager at a different position on the handle. **THE POWER OF PERCUSSION:** Most muscle pain occurs deep in the tissue, where vibrating massagers can't reach. But Pure Wave percussion massagers use short, powerful strokes to penetrate deep. Gently stretching muscles and tendons. Breaking down adhesions and knots. Restoring circulation and flexibility. Professionals use Mighty Bliss for therapeutic massage. Now you can, too. **FEATURES:** Mighty Bliss features a variable speed dual motor design. The 201 model includes 6 different massage sticks to address different areas of the body and unique styles of massage. Soft, Medium or Firm. Cordless rechargeable massager includes charger and attachments.

## 2. PUREWAVE CM-07 Dual Motor Percussion + Vibration Therapy Massager (Black) | Official Patented CM-07 | Treat pain for back, sciatica, neck, leg, foot, plantar fasciitis, tendinitis, arthritis, sports





[Go to amazon.com](#)

**Feature**

RECOMMENDED BY CHIROPRACTORS, PHYSICAL THERAPISTS & SPORTS TRAINERS  
 DUAL MOTOR DESIGN: Powerful Percussion & Micro-vibration Massage Therapy  
 PATENTED | MADE IN KOREA | FDA REGISTERED #2349002  
 PROFESSIONAL GRADE & SAFE FOR HOME USE  
 90 DAYS SATISFACTION GUARANTEE + FREE RETURNS

**Description**

Experience why Chiropractors and Physical Therapists love the PUREWAVE for their patients and recommend it for self use at home. Our patented dual motor design offers both powerful percussive therapy and soothing micro-vibration. Thousands of testimonials and clinician reports show PUREWAVE helps breaks down scar tissue, increase circulation, relax muscles and speed recovery.  
 PUREWAVE is lightweight and cordless. The slight curve design makes it easy to massage your back and legs. Each individual attachment is geared toward a different part of your body and pain type. Enjoy stress relief, deep tissue massage, acupuncture and myofascial release. PUREWAVE is the right tool for anyone who wants to recover faster or live an active life. Make massage part of your daily routine.

90 Days Free Returns. Total satisfaction guarantee. Live healthier and happier.

**3. [Upgrade Version] Intelitopia Massage Gun, Powerful Cordless Handheld Deep Tissue Muscle Massager, Pure Wave Massager to Massage Different Parts of The Body Through The Most Comfortable Percussion**



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**Feature**

MULTIFUNCTIONAL MASSAGE GUN: Intelitopia massage gun can help the user relieve muscle stiffness and soreness, increase blood pressure, improve the overall health of the body's soft tissues, moreover, it can prevent fasciitis which is a kind of painful and difficult to heal inflammation caused by adhesion between the fascia and muscles  
 UPGRADED VERSION: Intelitopia 5.2 massager adopts high-quality motor, has ultra-strong heat dissipation function, no crash, it can run for a long time and would not stop working because the movement is overheated; At the same time, the high-precision mold makes the machine head and the body tightly connected, the noise in the process of running can be effectively reduced by smooth sliding, Intelitopia 5.2 achieved 35-40 decibels compared with 60 decibels from other suppliers  
 4 REPLACEABLE MASSAGE HEADS & 3 AJUSTABLE SPEED LEVEL Intelitopia massager is equipped with four different shaped massage heads to help the user to relax different body parts. The fork massage head is designed for the spine; flat one, for any part of the body; bullet one, for joints; round one, for large muscle group; The user can change the massage gun's speed as needed. The massage head can rotate 1800 times per minute when it is in level one; 2400, in level two; 3200, in level three  
 LONG WORKING TIME: The Intelitopia cordless massager is equipped with 15000mAh high-quality lithium battery, so it can keep working about 4 to 6 hours after per charge. The body massager has an LED battery indicator so you don't have to worry about power outages  
 RATIONAL DESIGN: intelitopia handheld massager only weighs one kilogram(2.2lbs), the ergonomic designed grip minimizes external vibrations and the durable anti-slip silicone grip makes the massager easier and comfortable to hold for your enjoyment

**Description**

Product Description:

# GOOD HEALTH

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## RELAX SLIM REVIEWS

Before we take care of anything, first priority should be ourselves – health & personal care. Healthy body is like as a blooming flower in the sunshine. In order to have a healthy life, you should have your own regulations to take care of yourself. One of them are using healthcare products. These **relax slim reviews** are some of the best recommendations for you in this field.

### You are in RIGHT PLACE.

This page reaches your expectation. Which we list out some of best products relax slim reviews with good feedback & comments from users and they are also sold a lot in e-commerce channels.

Top Products	Brand Name & Model	Check Price
	<p>MIGHTY BLISS™ Deep Tissue Back and Body Massager {Cordless} Electric Handheld Percussion Muscle Hand Massager – Full Body Pain Relief Vibrating Therapy Massage Machine, Neck, Shoulder, Leg, Foot by Mighty Bliss</p>	<a href="#">Check Price</a>
	<p>Best Lavender Oatmeal – Bath Sea Salt Mix – Relax &amp; Soothe Infusion – Balances and Relaxes the Body and Spirit – 16 Oz by Harmony Bath and Body Products</p>	<a href="#">Check Price</a>

1. relax slim reviews Review – MIGHTY BLISS™ Deep Tissue Back and Body Massager {Cordless} Electric Handheld Percussion Muscle Hand Massager – Full Body Pain Relief Vibrating Therapy Massage Machine, Neck, Shoulder, Leg, Foot



RELAX SLIM REVIEWS REVIEW – IMAGE SOURCE AMAZON

- **KNOTTY MUSCLE & SPASMS RELIEF! YOU WILL LOVE THIS DEEP TISSUE MASSAGER!**  
Want to get rid of your back pain or unbearable knots in your back? No need to suffer with a weak powerless flimsy wobbly muscle massager. This Mighty Bliss hand held massager is perfect. Super powerful to increase blood circulation & relax your muscles effectively – Relives pain in seconds.
- **SUPER POWERFUL 3,700 RPM PERCUSSION MOTOR – RELAXES HURTING MUSCLES AND CRAMPS IN SECONDS!** Imagine a BMW motor knocking the hell out of your stiff knotty muscles. This Might Bliss percussion massager will knock 3,700 pulses of bliss into your muscles every minute. You'll wish you found this years ago!
- **BRILLIANT SLIM & LIGHTWEIGHT DESIGN – 6 DIFFERENT MASSAGE HEADS – FEATURES A LIFETIME WARRANTY!** Economically and practically efficient – Cordless &

- SUPER POWERFUL 3,700 RPM PERCUSSION MOTOR – RELAXES HURTING MUSCLES AND CRAMPS IN SECONDS! Imagine a BMW motor knocking the hell out of your stiff knotty muscles. This Might Bliss percussion massager will knock 3,700 pulses of bliss into your muscles every minute. You'll wish you found this years ago!
- BRILLIANT SLIM & LIGHTWEIGHT DESIGN – 6 DIFFERENT MASSAGE HEADS – FEATURES A LIFETIME WARRANTY! Economically and practically efficient – Cordless & lightweight so that you can SCHLEP it along anywhere, to fit your lifestyle need. Powerful enough for professionals but designed for at home therapy and muscle recovery.
- NEVER ENDING BATTERY LIFE – SUPER SPEEDY RECHARGE! Built with a mighty Lithium-ion rechargeable battery used in electric cars, the battery will blast away for over 120 minutes on a single charge! Recharge time = a speedy record of 60 minutes!
- HASSLE-FREE LIFETIME REPLACEMENT – NO NEED TO RETURN! We take pride in our perfect customer service record on Amazon, and we promise to treat you like family – even for gifts! In addition to our lifetime replacement, if you aren't happy with your purchase, we will simply refund your money – no questions asked – just let the reviews speak for themselves!

Experience the most powerful and soothing cordless massager on the market. The variable speed controller allows you to dial into the perfect intensity whilst 6 different massage heads allows you to select the firmness and style of your massage. Take control of those muscle spasms, stubborn knots, tight joints, stiff muscles and cramping legs with the Mighty Bliss Handheld massager. Mighty Bliss massagers are cordless, ergonomic and lightweight for use whenever and wherever you need it. MIGHTY BLISS is powerful. If you are use to a gentle massage or are sensitive to aggressive massage therapy you may be surprised with MIGHTY BLISS strength. You may also be pleasantly surprised with the results after a few days of percussion therapy. When using **Pure Wave** for the first time, we recommend you start with the soft air-cushion attachment at lower speeds until you are comfortable with the strength of this massager. Read owner's manual prior to use. If you experience any bouncing try increasing the speed to reduce bouncing impact. You may also try holding the massager at a different position on the handle. THE POWER OF PERCUSSION: Most muscle pain occurs deep in the tissue, where vibrating massagers can't reach. But **Pure Wave** percussion massagers use short, powerful strokes to penetrate deep. Gently stretching muscles and tendons. Breaking down adhesions and knots. Restoring circulation and flexibility. Professionals use Mighty Bliss for therapeutic massage. Now you can, too. FEATURES: Mighty Bliss features a variable speed dual motor design. The 201 model includes 6 different massage sticks to address different areas of the body and unique styles of massage. Soft, Medium or Firm. Cordless rechargeable massager includes charger and attachments.

[Check Price](#)

2 relax slim reviews Review – Best Lavender Oatmeal – Bath Sea Salt

# Exhibit 15



**TRADEMARK ASSIGNMENT**

THIS TRADEMARK ASSIGNMENT is made and entered into effective as of the signature date below (the "Effective Date").

WHEREAS, **Sigma Instruments, Inc.**, a Corporation of Pennsylvania, having an address of 506 Thomson Park Drive, Cranberry Twp., Pennsylvania 16066 ("Assignor"), is the owner of all right, title, and interest in and to the following registered trademark:

PURWAVE Reg. No. 4,925,190 ("the PURWAVE Mark"); and

WHEREAS, **SG Trademark Holding Co** a limited liability company of New York having an address at 5421 New Utrecht Ave., Brooklyn, New York 11219 ("Assignee"), is desirous of acquiring the PURWAVE Mark and all the goodwill associated therewith;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby assigns and transfers to Assignee, all of Assignor's right, title and interest in and to the PURWAVE Mark, together with the goodwill of the business symbolized thereby and/or associated therewith.

IN WITNESS WHEREOF, Assignor has caused this Trademark Assignment to be executed by its duly authorized officer as of the Effective Date first written above.

**SIGMA INSTRUMENTS, INC.,**

By: 

John Crumick, CEO

Date: 12/30/19

# Exhibit 16

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Date: Thu, Jan 16, 2020 at 10:24 AM  
Subject: Notice: Policy Warning  
To: <[boatreview.com@gmail.com](mailto:boatreview.com@gmail.com)>

Hello,

We received a report from a rights owner that the products listed at the end of this email are inauthentic.

The rights owner is asserting that the products infringe the following trademark:

-- Trademark number 4925190

Why did this happen?

One or more of your listings may be infringing the intellectual property rights of others.

We're here to help.

If you need help understanding why your listings may infringe the intellectual property rights of others, please search for "Intellectual Property Policy" in Seller Central Help (<https://sellercentral.amazon.com/gp/help/external/201361070>).

How do I reactivate my listing?

Please provide the following to reactivate your listings:

-- An invoice, letter of authorization or a licensing agreement from the manufacturer or Rights Owner demonstrating that your products are lawful to [notice-dispute@amazon.com](mailto:notice-dispute@amazon.com). External links are not accepted. For security reasons, we only accept attachments in the following file formats: .jpeg, .jpg, .png, .gif, .tiff.

Have your listings been removed in error?

If you have never sold or listed the product, please reach out to us and tell us.

If you think that the rights owner has made an error in sending the notice, please reach out to the rights owner and ask for a retraction of the notice. To retract the complaint, the rights owner must send the retraction to us at [notice-dispute@amazon.com](mailto:notice-dispute@amazon.com) or use the retraction function in Brand Registry.

These are the rights owner's contact details:

-- Tuvia Rotberg  
-- [trotberg@arelaw.com](mailto:trotberg@arelaw.com)

We can only accept retractions if the rights owner clearly states that they made an error. For any other reason, please explain to us why you were warned in error so that we can investigate the case.

1/27/2020

What happens if I do not provide the requested information?

Your listings will remain inactive. We reserve the right to destroy the inventory associated with this violation if proof of authenticity is not provided within 90 days.

ASIN: B019UFT420

B014U1C1P6

Infringement type: Counterfeit

Trademark asserted: 4925190

Complaint ID: 6751447841

You can view your account performance ([https://sellercentral.amazon.com/performance/dashboard?refstag=email\\_warn](https://sellercentral.amazon.com/performance/dashboard?refstag=email_warn)) or select Account Health on the home screen of the Amazon Seller app on your iOS or Android device. The Account Health dashboard shows how well your account is performing against the performance metrics and policies required to sell on Amazon.

-- iOS: <https://itunes.apple.com/us/app/amazon-Seller/id794141485>

-- Android: <https://play.google.com/store/apps/details?id=com.amazon.sellermobile.android&hl...>

From: [notice-dispute@amazon.com](mailto:notice-dispute@amazon.com) <[notice-dispute@amazon.com](mailto:notice-dispute@amazon.com)>  
Date: Mon, Jan 20, 2020 at 2:10 PM  
Subject: Notice: Policy Warning  
To: <[boatreview.com@gmail.com](mailto:boatreview.com@gmail.com)>

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These are the rights owner's contact details:

PURWAVE

[trotberg@arelaw.com](mailto:trotberg@arelaw.com)

We can only accept retractions if the rights owner clearly states that they made an error. For any other reason, please explain to us why you were warned in error so that we can investigate the case.

What happens if I do not provide the requested information?

Your listings will remain inactive. We reserve the right to destroy the inventory associated with this violation if proof of authenticity is not provided within 90 days.

ASIN: B018ALXQCY

B018ALXQF6

B07ZRZ52RZ

Infringement type: Counterfeit

Trademark asserted: 4925190

Complaint ID: 6759620371

You can view your account performance ([https://sellercentral.amazon.com/performance/dashboard?refstag=email\\_warn](https://sellercentral.amazon.com/performance/dashboard?refstag=email_warn)) or select Account Health on the home screen of the Amazon Seller app on your iOS or Android device. The Account Health dashboard shows how well your account is performing against the performance metrics and policies required to sell on Amazon.

-- iOS: <https://itunes.apple.com/us/app/amazon-Seller/id794141485>

-- Android: <https://play.google.com/store/apps/details?id=com.amazon.sellermobile.android&hl..>

# **Exhibit C**

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Michael Stern

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6 OF JOEL VOELZKE, A.P.C.  
24772 W. SADDLE PEAK ROAD  
7 MALIBU, CA 90265  
Telephone: (310) 317-4466  
8 Facsimile: (310) 317-4499

9 Attorneys for Plaintiff  
PADO, INC.

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF LOS ANGELES

13 PADO, INC.;

14 Plaintiff,

15 vs.

16  
17 SG TRADEMARK HOLDING CO LLC, a  
18 New York Limited Liability Company;  
HERSCHEL FRIEDMAN, an individual;  
19 MOSHE FRIEDMAN a/k/a COY WEST, an  
20 individual; and DOES 1 through 10, inclusive;

21 Defendants.

) CASE NO.:

)  
) COMPLAINT FOR DAMAGES AND  
) INJUNCTIVE RELIEF FOR:

- ) 1) UNLAWFUL, UNFAIR, AND  
) FRAUDULENT COMPETITION  
) UNDER CALIFORNIA BUSINESS &  
) PROFESSIONS CODE §17200, ET  
) SEQ.  
) 2) FALSE ADVERTISING UNDER  
) CALIFORNIA BUSINESS &  
) PROFESSIONS CODE §17500, ET  
) SEQ.

) Unlimited – Over \$25,000

) DEMAND FOR JURY TRIAL  
)  
)



1 Plaintiff PADO, INC. (“Plaintiff” or “PADO”) hereby alleges as follows against  
2 Defendants SG TRADEMARK HOLDING CO LLC (“SG”), HERSCHEL FRIEDMAN,  
3 MOSHE FRIEDMAN a/k/a COY WEST, and DOES 1 through 10 (collectively,  
4 “Defendants”):

### 5 **INTRODUCTION**

6 1. Defendants own and operate a business named Mighty Bliss that primarily  
7 sells two products – a handheld cordless massager and an electric heating pad. Both items  
8 are sold on Amazon.com (“Amazon”).

9 2. As any retailer that sells products on Amazon is keenly aware, the number of  
10 positive reviews and the lack of negative reviews greatly influences consumers spending  
11 habits on Amazon. The average consumer will be more apt to purchase a product on  
12 Amazon that has more positive reviews, which is why it is crucial for the user reviews posted  
13 on Amazon to be genuine and non-influenced.

14 3. In fact, Amazon has established a policy prohibiting the manipulation of  
15 reviews on Amazon in order to ensure the integrity of its review platform and prevent the  
16 erosion of its customers’ trust. Sellers on Amazon are prohibited from a variety of actions,  
17 including but not limited to offering refunds or reimbursements after a buyer posts a negative  
18 review, diverting negative reviews so that they are not posted on Amazon while only positive  
19 reviews are posted, or asking a reviewer to change or remove their review whether or not  
20 compensation is offered.

21 4. The Federal Trade Commission (“FTC”) also prohibits unfair, deceptive, and  
22 misleading advertising. Beginning in 2019, the FTC began filing lawsuits against companies  
23 that mislead consumers through the use of deceptive reviews posted on online review  
24 platforms such as Amazon.



1           12. Defendant HERSCHEL FRIEDMAN, was at all times relevant to this  
2 Complaint, an individual residing in Brooklyn, New York, and having a place of business at  
3 5421 New Utrecht Ave., Brooklyn, NY 11219.

4           13. Defendant MOSHE FRIEDMAN a/k/a COY WEST, was at all  
5 relevant times to this Complaint, an individual residing in Brooklyn, New York. He claims  
6 as Coy West to be the “owner” of Defendant SG.

7           14. The true names and capacities of Defendants DOES 1 through 10, inclusive,  
8 are currently unknown to Plaintiff who therefore sues such defendants by fictitious names.  
9 Leave of this Court will be sought to amend this Complaint to insert the true names and  
10 capacities of such defendants when their true identities are ascertained. Plaintiff is informed  
11 and believes, and thereon alleges, that each of the fictitiously names defendants are in some  
12 manner responsive for the acts and omissions herein alleged, and that the damages suffered  
13 by Plaintiff was proximately caused by his, her, or its conduct.

14           15. Defendants SG and those DOES 1 through 10, inclusive, that are entities are  
15 sometimes hereinafter referred to collectively as the “Entity Defendants,” and Defendants  
16 HERSCHEL FRIEDMAN, MOSHE FRIEDMAN, and those DOES 1 through 10, inclusive,  
17 who are individuals are sometimes hereinafter referred to collectively as the “Individual  
18 Defendants.”

19           16. Plaintiff is informed and believes and based thereon alleges that each  
20 Defendant conspired with, aided and abetted, ratified the conduct of, knowingly acquiesced  
21 in, acted with the consent and permission of, acted as an agent of, acted within the court and  
22 scope of employment for, and accepted the benefits of each other Defendant with respect to  
23 the matters alleged herein.

24           17. Plaintiff is informed and believes that, except as otherwise alleged herein,  
25 each Defendant is, and at all times relevant to this Complaint was, the agent, partner, joint  
26 venture, alter ego, affiliate, and/or co-conspirator with or of each of the other Defendants  
27  
28

1 and/or otherwise acted on the behalf of each other Defendant and/or are otherwise legally  
2 responsible for the actions of each other Defendant

3 **JURISDICTION AND VENUE**

4 18. This Court has jurisdiction over this Complaint and venue is proper in this  
5 Court as Defendants conduct commerce in and have sufficient contact with the state of  
6 California and County of Los Angeles, and the events, circumstances, and transactions that  
7 are the subject of this action arose and/or took place in the County of Los Angeles, and the  
8 amount demanded by Plaintiff exceeds \$25,000.00.

9 **ALTER EGO LIABILITY**

10 19. Plaintiff is informed and believes and based thereon alleges that all of the  
11 Entity Defendants are closely held limited liability companies with few members; that at all  
12 times mentioned herein and continuing to the present the Individual Defendants have  
13 exercised complete control over the Entity Defendants; that the Individual Defendants  
14 comprise wholly of the members of each of the Entity Defendants; and that the Individual  
15 Defendants were the majority or sole owners of the Entity Defendants. There exists, and at  
16 all times mentioned herein has existed, a unity of interest and ownership between the  
17 Individual Defendants and the Entity Defendants.

18 20. Plaintiff is informed and believes and based thereon alleges that the Individual  
19 Defendants have completely controlled, dominated, managed, and operated the Entity  
20 Defendants for their sole and exclusive benefit; the Individual Defendants have commingled  
21 the assets of the Entity Defendants; the Individual Defendants have commingled their own  
22 assets with those of the Entity Defendants to suit their needs and convenience; and the  
23 Individual Defendants have inadequately capitalized the Entity Defendants. Defendants  
24 admit to the inadequate capitalization of SG in their letters to customers and that Defendants'  
25 business is struggling and needs to be rescued.



1 directly contact Defendants to resolve any problems. In this way the Defendants divert any  
2 negative reviews from being posted on Amazon in direct violation of Amazon's policy  
3 prohibiting such review manipulation.

4           26. Defendants will also send buyers who post negative reviews on Amazon an  
5 Amazon gift card and request that the buyer delete their negative review or update the review  
6 into a positive one. Defendants will also send a letter to the buyer claiming that they are a  
7 small family run company and the negative review is really hurting Defendants and their  
8 ability to support their three children.

9           27. Plaintiff is informed and believe and based thereon allege that the signatory of  
10 these letters in which Defendants seek to manipulate reviews, a Mr. Coy West, is not a real  
11 person but is instead MOSHE FRIEDMAN who is actively defrauding customers into  
12 believing a fake sob story that, as Coy West the "owner of Mighty Bliss," he is a father of  
13 three children who needs positive reviews for his product to "literally rescue my business."

14           28. Defendants' manipulative actions have allowed them to limit the number of  
15 negative reviews of their product on Amazon while artificially increasing the number of  
16 positive reviews. Defendants' actions are designed to deceive, mislead, and defraud  
17 consumers into continuing to purchase Defendants' products.

18           29. Defendants' actions are also designed to destroy competition. Defendants'  
19 solicitation letters for positive reviews specifically mentions its competitors that have  
20 "thousands of reviews" and attempts to curry favors from its buyers by portraying a  
21 struggling business trying to stay afloat to feed three children.

22           30. In reality, Defendants' actions have allowed them to thrive and steal a  
23 significant amount of business from Plaintiff.

24           31. Defendants' actions are clearly unlawful. The FTC has previously filed  
25 lawsuits against businesses for fake reviews under Section 5(a) of the FTC Act, 15 U.S.C.  
26 §45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The  
27  
28

1 FTC also enforces Section 12 of the FTC Act, 15 U.S.C. §52, which prohibits false  
2 advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.  
3 Section 43 of the Lanham Act, 15 U.S.C. §1125(a)(1) also prohibits false or misleading  
4 description of fact, or false or misleading representation of fact.

5 32. Defendants' actions are also clearly unfair. Defendants' actions are designed  
6 to defraud consumers into believing that Defendants' product is better than it actually is by  
7 manipulating the reviews for Defendants' product. The manipulation of the reviews in  
8 violation of Amazon's policies allows Defendants to unfairly steal customers away from  
9 Plaintiff while also defrauding and harming customers who purchase Defendants' product  
10 thinking that it is a superior product based on the false and misleading reviews, or omission  
11 of accurate reviews.

12 33. Unsuspecting consumers who read the reviews of Defendants' product on  
13 Amazon are likely to be deceived and harmed because Defendants' manipulation of reviews  
14 does not allow consumers to be accurately informed of any issues or problems with  
15 Defendants' product.

16 34. Plaintiff is informed and believes and based thereon alleges that Defendants'  
17 manipulation of reviews is ongoing and Defendants will continue to falsely advertise their  
18 products unless they are enjoined from continuing such false advertising and required to  
19 remove all past instances of false advertising that continue to deceive consumers.

20 35. Defendants' conduct also constitutes deceptive and/or unfair practices under  
21 at least 15 U.S.C. §45(a), 15 U.S.C. §52, and Section 43(a) of the Lanham Act, 15 U.S.C.  
22 §1125(a)(1), and irreparably harms consumers, Amazon, and Plaintiff.

23 **FIRST CAUSE OF ACTION**

24 **UNLAWFUL, UNFAIR, AND FRAUDULENT COMPETITION UNDER CALIFORNIA**

25 **BUSINESS & PROFESSIONS CODE §17200, ET SEQ.**

26 **(Against All Defendants)**

1           36. Plaintiff refers to, realleges, and incorporates by reference the allegations of  
2 paragraphs 1 through 35, inclusive, as though fully set forth herein.

3           37. The acts and conduct of Defendants as alleged above in this Complaint  
4 constitute unlawful, unfair, and/or fraudulent business acts or practices as defined by Cal.  
5 Bus. & Prof. Code §17200, et seq.

6           38. Defendants' acts of unlawful, unfair, and fraudulent competition have caused  
7 harm to competition, to consumers, and to their competitors. Defendants' acts of unlawful,  
8 unfair, and fraudulent competition have proximately caused Plaintiff to suffer injury in fact  
9 and loss of money and/or property, in an amount to be proven at trial. Defendants' acts of  
10 unlawful, unfair, and fraudulent competition have also caused irreparable and incalculable  
11 injury to Plaintiff, and unless enjoined, could cause further irreparable and incalculable  
12 injury, whereby Plaintiff has no adequate remedy at law.

13           39. Plaintiff is entitled to a temporary and permanent injunction against  
14 Defendants, their officers, agents, servants, employees, attorneys, and all other persons who  
15 are in active concert or participation with them, including but not limited to Amazon and its  
16 employees, and who have actual notice of this order, to take down, remove, and unpublish  
17 any and all reviews of Defendants' product on Amazon's website.

18           40. Defendants' acts were engaged in with a deliberate, cold, callous, fraudulent,  
19 and intentional manner in order to injure and damage Plaintiff and to deceive the general  
20 public to whom Defendants' products were sold. Such acts were despicable and constitute  
21 malice, fraud, and/or oppression within the meaning of Civil Code section 3294. An award of  
22 punitive and exemplary damages is warranted here to punish Defendants for their conduct, to  
23 make an example of them, and to deter such conduct in the future.

24 //



1 **SECOND CAUSE OF ACTION**  
2 **FALSE ADVERTISING UNDER CALIFORNIA BUSINESS & PROFESSIONS CODE**  
3 **§17500, ET SEQ.**

4 **(Against All Defendants)**

5 41. Plaintiff refers to, realleges, and incorporates by reference the allegations of  
6 paragraphs 1 through 40, inclusive, as though set forth fully herein.

7 42. The acts and conduct of Defendants as alleged above in this Complaint  
8 constitute false advertising as defined by Cal. Bus. & Prof. Code §17500, et seq.

9 43. Plaintiff is bringing this action as a private person acting for the interests of  
10 itself and the general public. Defendants' actions as stated herein have allowed them to sell a  
11 significant number of their knock-off products and deprived Plaintiff of substantial profits in  
12 the sales of Plaintiff's own products. Defendants' false advertising also continues to harm  
13 the general public as consumers are being deprived of the truth about Defendants' products.

14 44. Defendants' acts of false advertising have caused harm to competition, to  
15 consumers, and to their competitors. Defendants' acts of false advertising have proximately  
16 caused Plaintiff to suffer injury in fact and loss of money and/or property, in an amount to be  
17 proven at trial and for which Plaintiff seeks restitutionary disgorgement of Defendants'  
18 falsely obtained profits. Defendants' acts of false advertising have also caused irreparable  
19 and incalculable injury to Plaintiff, and unless enjoined, could cause further irreparable and  
20 incalculable injury, whereby Plaintiff has no adequate remedy at law.

21 45. Plaintiff is entitled to a temporary and permanent injunction against  
22 Defendants, their officers, agents, servants, employees, attorneys, and all other persons who  
23 are in active concert or participation with them, including but not limited to Amazon and its  
24 employees, and who have actual notice of this order, to take down, remove, and unpublish  
25 any and all reviews of Defendants' product on Amazon's website, and to prevent further  
26 false publications and advertising.



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- 4. For punitive and exemplary damages in an amount sufficient to punish and deter defendants;
- 5. For reasonable attorneys' fees;
- 6. For costs of suit; and
- 7. For such further relief as the Court may deem appropriate.

DATED: January 14, 2020

SUH LAW GROUP, APC



By: \_\_\_\_\_

Edward W. Suh, Esq.  
Attorneys for Plaintiff  
PADO, INC.