

# EXHIBIT 3

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**BlephEx, LLC,**

*Plaintiff,*

v.

**Myco Industries, Inc. and John R.  
Choate**

*Defendants.*

**Civil Action No. 2:19-cv-13089**

**Honorable Gershwin A. Drain  
and Magistrate Judge Elizabeth  
A. Stafford**

**JURY TRIAL DEMANDED**

**BLEPHEX, LLC'S MOTION FOR A  
PRELIMINARY INJUNCTION  
AND BRIEF IN SUPPORT**

**MOTION**

Pursuant to 35 U.S.C. § 283, Plaintiff BlephEx, LLC (“BlephEx”) hereby moves for a preliminary injunction to enjoin Defendants Myco Industries, Inc. (“Myco”) and John R. Choate (collectively, “Defendants”) from directly or indirectly infringing BlephEx’s United States Patent No. 10,449,087 (“the ‘087 Patent”), which was issued by the United States Patent and Trademark Office (“USPTO”) on October 22, 2019. As detailed in the accompanying Brief below, Defendants’ AB Max device, when used as instructed by Defendants, infringes at least Claim 16 of the ‘087 Patent. BlephEx respectfully requests that the Court preliminarily enjoin Defendants, and their officers, agents, and those in active concert with any of them, from selling or offering for sale the AB Max device until a final judgment is entered in this action.

Pursuant to Rule 7.1(a), BlephEx sought to ascertain whether this motion would be opposed by Defendants. On November 6, 2019, Defendants indicated they oppose this motion.

**BRIEF**

**CONCISE STATEMENT OF ISSUES PRESENTED**

Should the Court issue a preliminary injunction prohibiting sales of the AB Max device where BlephEx has made a strong showing that the AB Max device, when used as instructed by Myco, infringes Claim 16 of BlephEx's '087 Patent; BlephEx has been and will continue to be irreparably harmed absent an injunction; the balance of the hardships tips in BlephEx's favor; and the public interest would be served by an injunction?

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