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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PACIFIC BIOSCIENCE  
LABORATORIES, INC., a Washington  
corporation,

Plaintiff,

v.

ACCORD MEDIA, LLC, d/b/a TRUTH IN  
AGING, a New York limited liability  
company,

Defendant.

No.

COMPLAINT FOR PATENT  
INFRINGEMENT, TRADE DRESS  
INFRINGEMENT, STATE UNFAIR  
COMPETITION AND COMMON LAW  
UNFAIR COMPETITION

**JURY DEMAND**

Plaintiff Pacific Bioscience Laboratories, Inc. (“PBL”), for its Complaint for Patent Infringement, Trade Dress Infringement, State Unfair Competition, and Common Law Unfair Competition against Defendant Accord Media LLC, d/b/a Truth in Aging, (“Accord Media”), hereby alleges, by and through its attorney, on personal knowledge as to its own actions and on information and belief as to the actions of others, as follows:

**I. INTRODUCTION**

1. Plaintiff PBL dramatically changed the market for skin cleansing products when it introduced its innovative Clarisonic Sonic Skin Cleansing System (the “Clarisonic System”) in

1 2004. The Clarisonic System employs motion and forces at sonic frequencies to cleanse, soften,  
2  
3 and smooth skin.

4  
5 2. Prior to the introduction of the Clarisonic System, there were no sonic facial  
6  
7 cleansing devices on the market. PBL created today's market for such products.

8  
9 3. The Clarisonic System has been an enormous success and has achieved national  
10  
11 recognition and awards. In 2010, PBL was named one of Inc. 500's Fastest Growing Private  
12  
13 Companies.

14  
15 4. PBL received broad protection for its innovations, including utility and design  
16  
17 patents and trade dress. However, PBL's innovations have been the subject of widespread  
18  
19 imitation by others, who have attempted to capitalize on PBL's success.

20  
21 5. Defendant Accord Media is one such imitator. After seeing PBL's success,  
22  
23 Accord Media introduced its UltraClear facial cleansing system ("UltraClear"). Accord Media  
24  
25 has made the UltraClear work and look like PBL's products, thereby infringing PBL's patents  
26  
27 and trade dress.

28  
29 6. Accord Media sells or has sold the UltraClear throughout the United States  
30  
31 through, at least, Accord Media's website, [http://www.truthinaging.com/ultra-clear-replacement-](http://www.truthinaging.com/ultra-clear-replacement-brush-heads)  
32  
33 [brush-heads](http://www.amazon.com/Ultra-Clear-Facial-Cleansing-System/dp/B00DMHKG2K/), and at least in the past, through Amazon.com, [http://www.amazon.com/Ultra-Clear-](http://www.amazon.com/Ultra-Clear-Facial-Cleansing-System/dp/B00DMHKG2K/)  
34  
35 [Facial-Cleansing-System/dp/B00DMHKG2K/](http://www.amazon.com/Ultra-Clear-Facial-Cleansing-System/dp/B00DMHKG2K/).

36  
37 7. PBL seeks to stop Accord Media's infringing conduct and obtain compensation  
38  
39 for the violations that have occurred thus far.

## 40 41 II. PARTIES

42  
43 8. Plaintiff PBL is a Washington corporation incorporated in January 2001, with its  
44  
45 principal place of business at 17275 NE 67th Court, Redmond, WA 98052.

46  
47 9. In December 2011, PBL was acquired by L'Oréal S.A., a French société anonyme  
48  
49 ("L'Oréal"). L'Oréal is the owner, and PBL is the exclusive U.S. licensee with the right, *inter*  
50  
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1 *alia*, to bring suit, of protectable patent and trade dress rights in electric skin care brushes as  
2 described herein.  
3

4  
5 10. On information and belief, Accord Media LLC, d/b/a Truth in Aging, is a limited  
6 liability company organized and existing under the laws of New York with its principal place of  
7 business at 241 West 36th Street, Apt. 16, New York, NY, 10018.  
8

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10  
11 11. On information and belief, Accord Media manufactures, markets, and sells  
12 electric skin care devices under the name UltraClear.  
13

### 14 III. JURISDICTION AND VENUE

15  
16 12. This case arises under the patent laws of the United States, 35 U.S.C. § 101 et seq.  
17 and the Lanham Act, 15 U.S.C. §§ 1051, et seq. Supplemental jurisdiction exists over PBL's  
18 state law claims pursuant to 28 U.S.C. § 1367(a).  
19

20  
21 13. The Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.  
22 §§ 1331, 1332, 1338, and 1367.  
23

24  
25 14. PBL has its principal place of business in this District, and makes its Clarisonic  
26 devices available for sale in this District.  
27

28  
29 15. This Court has personal jurisdiction over Accord Media because, on information  
30 and belief, Accord Media has committed and continues to commit the acts violating PBL's  
31 intellectual property described herein within the State of Washington, including in this District,  
32 and places infringing products into the stream of commerce, with the knowledge or  
33 understanding that such products are sold in the State of Washington, including in this District.  
34

35  
36 16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), (c), and 28  
37 U.S.C. § 1400(b) because, *inter alia*, PBL's principal place of business is within this District and  
38 PBL suffered harm in this District, because a substantial part of the events giving rise to the  
39 claims against Accord Media occurred and are occurring in this District, and because Accord  
40 Media transacts business within this District and offers for sale in this District products that  
41 infringe PBL's intellectual property.  
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#### IV. BACKGROUND

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3 17. Since the early 2000s, PBL has designed, developed, manufactured, marketed,  
4 and sold in the United States (and worldwide) its innovative Clarisonic System, which is a line of  
5 skin care products including a number of Sonic Cleansing Brushes and accessories, the  
6 Clarisonic Opal® Sonic Infusion System, and targeted treatment solutions. Examples of  
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11 Clarisonic products are pictured below:



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27 18. The Clarisonic System was developed by PBL over many years at great expense  
28 and effort and represents a breakthrough in devices and methods for treatment of early stage acne  
29 and for effective cleansing of skin. Those devices and methods employ motion and forces at  
30 sonic frequencies to cleanse, soften, and smooth skin. They alleviate clogged pores and remove  
31 debris from skin more gently and effectively than alternative devices or methods, such as manual  
32 cleansing.  
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39 19. The innovations embodied in the Clarisonic System are protected by numerous  
40 United States and foreign intellectual property rights, including rights deriving from patents,  
41 trademarks, and trade dress.  
42  
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44

45 20. Prior to the introduction of the Clarisonic System, there were no sonic facial  
46 cleansing devices on the market. Indeed, before development of the Clarisonic System, no  
47 market existed for sonic skin care devices. PBL expended considerable resources to create the  
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1 sonic skin care market and to educate the public regarding facial cleansing, as well as to market  
2 its sonic facial cleansing devices.  
3

4 21. Since its introduction, the Clarisonic System has become widely acclaimed by  
5 professionals and consumers, and has garnered many media awards from sources such as  
6 authoritative magazines in the beauty industry, Oprah’s Favorite Things in 2007 on the Oprah  
7 Winfrey Show, Best of Sephora in 2007 and 2008, and QVC Customer Choice in 2008, 2009,  
8 and 2010.  
9

10 22. The success of the Clarisonic System has spurred a large number of imitations,  
11 such as Accord Media’s UltraClear, pictured below.  
12



39  
40 **V. PBL’S INTELLECTUAL PROPERTY RIGHTS**

41 **U.S. Patent No. 7,320,691**

42  
43 23. U.S. Patent No. 7,320,691 (“the ’691 patent”) issued on January 22, 2008, and is  
44 entitled “Apparatus and Method for Acoustic/Mechanical Treatment of Early Stage Acne.” The  
45 inventors are Kenneth A. Pilcher, David Giuliani, and Stephen M. Meginniss.  
46  
47

48 24. A copy of the ’691 patent is attached as Exhibit 1.  
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1 25. PBL is the exclusive licensee having all substantial rights in and to the '691  
2 patent, with the rights to bring enforcement actions for past, present and future infringement and  
3 to collect damages for past infringement.  
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7 26. The '691 patent has been reexamined pursuant to Reexamination Request Nos.  
8 90/009,797 and 90/011,343. The patentability of all of the originally issued claims 1-52 of the  
9 '691 patent was confirmed pursuant to these reexamination requests, and claims 53-64 were  
10 added. A reexamination certificate issued on September 20, 2011. *See* Exhibit 1.  
11  
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13 27. The '691 patent is valid, enforceable, and currently in full force and effect.  
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17 **U.S. Patent No. 7,386,906**

18 28. U.S. Patent No. 7,386,906 (“the '906 patent”) issued on June 17, 2008, and is  
19 entitled “Oscillating Brushhead Attachment System for a Personal Care Appliance.” The  
20 inventors are Dane M. Roth, Stephen M. Meginniss, III, Kenneth A. Pilcher, Richard A. Reishus,  
21 and David Giuliani.  
22

23 29. A copy of the '906 patent is attached as Exhibit 2.  
24

25 30. PBL is the exclusive licensee having all substantial rights in and to the '906  
26 patent, with the rights to bring enforcement actions for past, present and future infringement and  
27 to collect damages for past infringement.  
28

29 31. The '906 patent is valid, enforceable, and currently in full force and effect.  
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33 **U.S. Patent No. D523,809**

34 32. U.S. Patent No. D523,809 (“the D'809 patent”) issued on June 27, 2006, and is  
35 entitled “Charger for an Electric Skin Brush.” The inventors are Dane M. Roth, Robert E.  
36 Akridge, and Kenneth A. Pilcher.  
37

38 33. A copy of the D'809 patent is attached as Exhibit 3.  
39

40 34. PBL is the exclusive licensee having all substantial rights in and to the D'809  
41 patent, with the rights to bring enforcement actions for past, present and future infringement and  
42 to collect damages for past infringement.  
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1 35. The D'809 patent is valid, enforceable, and currently in full force and effect.  
2

3 **PBL's Clarisonic Trade Dress**  
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5 36. PBL's Clarisonic products include the Clarisonic Plus model and the Clarisonic  
6 Pro model. The Clarisonic Plus and Clarisonic Pro are substantially identical in appearance.  
7 The products are sold with a distinctive charging station, in which they rest to recharge.  
8

9  
10 37. The Clarisonic Plus, including its current trade dress, has been used in commerce  
11 in the United States since at least as early as 2007. The Clarisonic Pro, including its current trade  
12 dress, has been used in commerce in the United States since at least as early as 2007.  
13

14 38. The Clarisonic Plus and Clarisonic Pro enjoy wide distribution throughout the  
15 United States. The Clarisonic Plus is a three-speed model sold directly to consumers via  
16 department stores, assisted self-service stores, retail.com, e-tailers, professional salons,  
17 professional spas, and dermatologists' offices as well as online at Clarisonic.com. The  
18 Clarisonic Plus sells for approximately \$ 225. The Clarisonic Pro is a four-speed model  
19 available in salons, and sells for approximately \$ 225.  
20

21 39. Since at least as early as 2007, in an effort to set its products apart from others,  
22 PBL has adopted and used a distinctive product configuration for its Clarisonic Plus and  
23 Clarisonic Pro devices and their charging stations that unmistakably identify PBL as the source.  
24

25 40. The elements of the trade dress for the Clarisonic Plus and Clarisonic Pro devices  
26 that create its distinctive overall commercial impression include, but are not limited to, the  
27 following (the "Clarisonic Device Trade Dress"):  
28



- hourglass shape of the product;
- shape of the head unit;
- identical molded arcs on each side of the head unit;
- a droplet or “teardrop” shaped pad of contrasting texture on the front of the device;
- one or more control buttons located towards the top of the droplet, inside its perimeter;
- two round lights or “dots” located just above the droplet on the front of the device;
- four round lights or “dots” centered on the narrowest part of the back of the device;
- location of the product name at the widest part of the back of the device;
- contrasting-color ring of bristles located within the bristles on the brush head;
- the shape and contour of the ring surrounding the brush head, with alternating protrusions and indentations; and
- the brush cap, with six large holes spaced evenly on the face, around the perimeter of the cap.

41. The key elements of the trade dress for the charging stations sold and used in connection with the Clarisonic Plus and Clarisonic Pro devices include, but are not limited to, the following (the “Clarisonic Charging Station Trade Dress”):



**Clarisonic Plus/Pro Charging Station**



- boot-last shape of the product;
- front plane of product extending forward in exaggerated proportion; and
- cradle for product dramatically higher in front than in back.

42. The Clarisonic Device Trade Dress and Clarisonic Charging Station Trade Dress (separately asserted but referred to collectively herein as the “Clarisonic Trade Dress” for convenience) are not functional. Although individual elements may serve a purpose, that purpose does not dictate the appearance of the element or of the trade dress as a whole. There is no functional reason for PBL to have adopted the specific silhouettes, contours and other design elements that comprise the Clarisonic Trade Dress. It did so in order to have a distinctive and memorable product configuration that signals to consumers that other products bearing the Clarisonic Trade Dress also emanate from PBL.

43. The Clarisonic Trade Dress has acquired secondary meaning in the minds of consumers through PBL’s substantially continuous and exclusive use for more than seven years, as well as through unsolicited media attention, commercial success, and substantial sales, advertising, and promotion.

44. In the minds of consumers, the Clarisonic Trade Dress stands for and identifies a single source of high quality facial cleansing devices. PBL, through its continuous, exclusive,

1 and prolonged use of its trade dress, has developed substantial goodwill, value, and recognition  
2 in it. Customers, potential customers and the trade recognize and associate the Clarisonic Trade  
3 Dress with high quality facial cleansing devices emanating from a single source.  
4

5  
6 45. PBL's Clarisonic Plus and Clarisonic Pro devices have been widely promoted  
7 through in-store promotions, displays, and advertisements, as well as directly to consumers via  
8 the Internet. The Clarisonic Plus and Clarisonic Pro, including their trade dress, have been  
9 featured in editorial coverage in national, trade, and regional magazines. Those editorial features  
10 have been seen by millions upon millions of consumers since 2007.  
11

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17 **CLAIM I – INFRINGEMENT OF THE '691 PATENT**

18 46. PBL hereby incorporates and realleges Paragraphs 1 - 45 as if fully set forth  
19 herein.  
20

21  
22 47. Accord Media has been and/or is directly infringing one or more claims of the  
23 '691 patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by  
24 making, using, offering to sell, and/or selling in the United States and/or importing into the  
25 United States, products, devices, or systems that are covered by the '691 patent, including the  
26 UltraClear.  
27

28  
29 48. PBL has consistently and continuously marked its products with the '691 patent  
30 number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the '691 patent.  
31 PBL seeks monetary and all other damages permitted by statute.  
32

33 49. Accord Media's infringement of the '691 patent has been and will continue to be  
34 willful and deliberate, by making, using, offering to sell, and/or selling in the United States  
35 and/or importing into the United States, infringing devices despite that such actions constitute  
36 infringement and despite being at least on constructive notice that its actions constitute  
37 infringement.  
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39 50. Accord Media's infringement of the '691 patent has caused and will continue to  
40 cause PBL substantial and irreparable injury, for which PBL is entitled to all of the relief  
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1 provided by 35 U.S.C. §§ 281, 283, 284, and 285, including but not limited to injunctive relief,  
2  
3 compensatory damages not less than the amount of a reasonable royalty, interest, costs, enhanced  
4  
5 damages, and reasonable attorney's fees, as the court deems just and appropriate.  
6

7 **CLAIM II – INFRINGEMENT OF THE '906 PATENT**

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9 51. PBL hereby incorporates and realleges Paragraphs 1 - 50 as if fully set forth  
10 herein.  
11

12  
13 52. Accord Media has been and/or is directly infringing one or more claims of the  
14 '906 patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by  
15 making, using, offering to sell, and/or selling in the United States and/or importing into the  
16 United States, products, devices, or systems that are covered by the '906 patent, including the  
17 UltraClear.  
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23 53. PBL has consistently and continuously marked its products with the '906 patent  
24 number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the '906 patent.  
25 PBL seeks monetary and all other damages permitted by statute.  
26  
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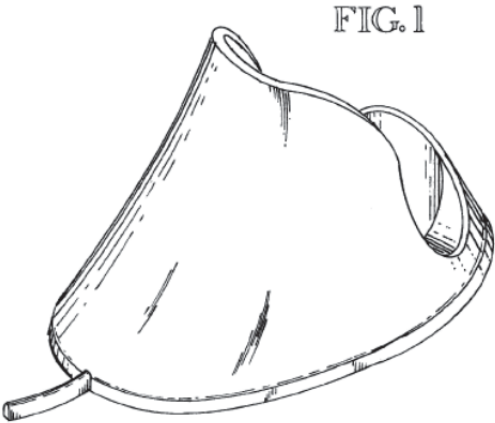

28  
29 54. Accord Media's infringement of the '906 patent has been and will continue to be  
30 willful and deliberate, by making, using, offering to sell, and/or selling in the United States  
31 and/or importing into the United States, infringing devices despite that such actions constitute  
32 infringement and despite being at least on constructive notice that its actions constitute  
33 infringement.  
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39 55. Accord Media's infringement of the '906 patent has caused and will continue to  
40 cause PBL substantial and irreparable injury, for which PBL is entitled to all of the relief  
41 provided by 35 U.S.C. §§ 281, 283, 284, and 285, including but not limited to injunctive relief,  
42 compensatory damages not less than the amount of a reasonable royalty, interest, costs, enhanced  
43 damages, and reasonable attorney's fees, as the court deems just and appropriate.  
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**CLAIM III – INFRINGEMENT OF THE D’809 PATENT**

56. PBL hereby incorporates and realleges Paragraphs 1 - 55 as if fully set forth herein.

57. Accord Media has been and/or is directly infringing the D’809 patent pursuant to 35 U.S.C. § 271(a), by making, using, offering to sell, and/or selling in the United States and/or importing into the United States, products, devices, or systems that embody the design covered by the D’809 patent, including the UltraClear.

D’809 Patent	UltraClear Charging Station
	

58. PBL has consistently and continuously marked its products with the D’809 patent number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the D’809 patent. PBL seeks monetary and all other damages permitted by statute.

59. Accord Media’s infringement of the D’809 patent has been and will continue to be willful and deliberate, by making, using, offering to sell, and/or selling in the United States and/or importing into the United States, infringing devices despite that such actions constitute infringement and despite being at least on constructive notice that its actions constitute infringement.

60. Accord Media’s infringement of the D’809 patent has caused and will continue to cause PBL substantial and irreparable injury, for which PBL is entitled to all of the relief

1 provided by 35 U.S.C. §§ 281, 283, 284, 285, and 289, including but not limited to injunctive  
2 relief, compensatory damages not less than the amount of a reasonable royalty, interest, costs,  
3 enhanced damages, Accord Media's profits, and reasonable attorney's fees, as the court deems  
4 just and appropriate.  
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9 **CLAIM IV – INFRINGEMENT OF THE CLARISONIC TRADE DRESS**

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11 61. PBL hereby incorporates and realleges Paragraphs 1 - 60 as if fully set forth  
12 herein.  
13

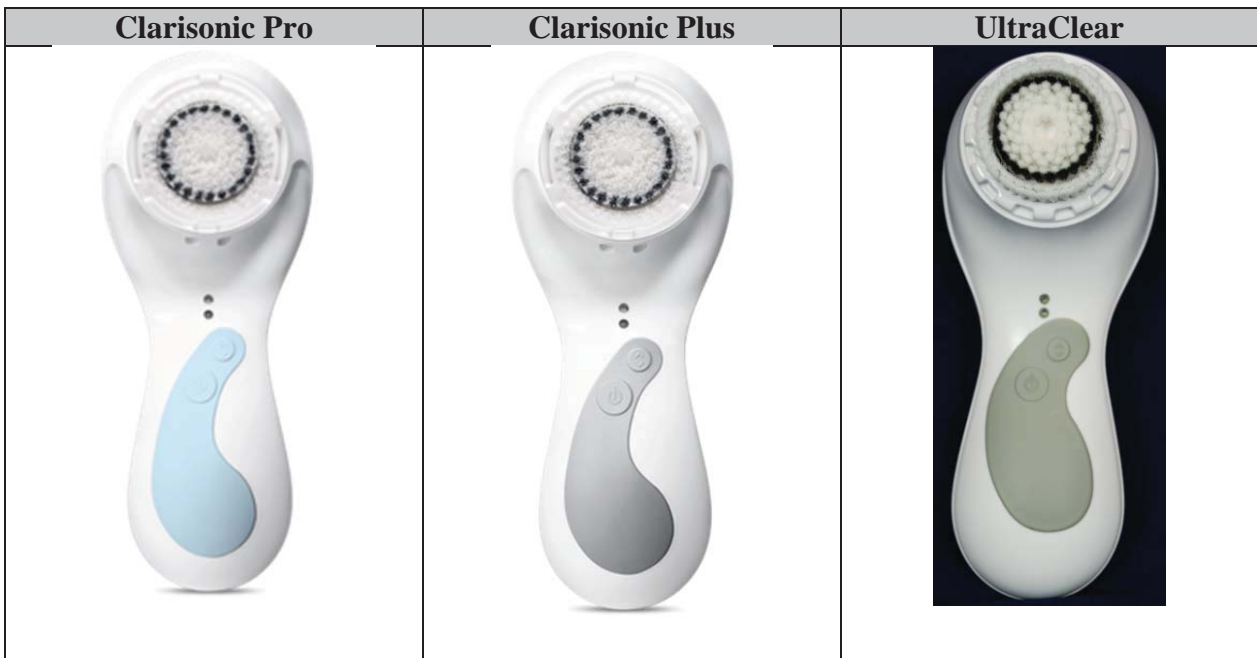
14  
15 62. PBL owns and is the senior user of the Clarisonic Device Trade Dress for its  
16 facial cleansing brush and the Clarisonic Charging Station Trade Dress for its charging station,  
17 which are entitled to protection under 15 U.S.C. § 1125(a).  
18  
19

20  
21 63. PBL owns common law trademark rights in the Clarisonic Device Trade Dress  
22 and the Clarisonic Charging Station Trade Dress (separately asserted but referred to collectively  
23 herein as the "Clarisonic Trade Dress" for convenience). These rights are superior to any rights  
24 that Accord Media may claim with respect to its infringing products. The Clarisonic Trade Dress  
25 is nonfunctional and has acquired secondary meaning among the relevant public in that it  
26 identifies products emanating from a single source.  
27  
28

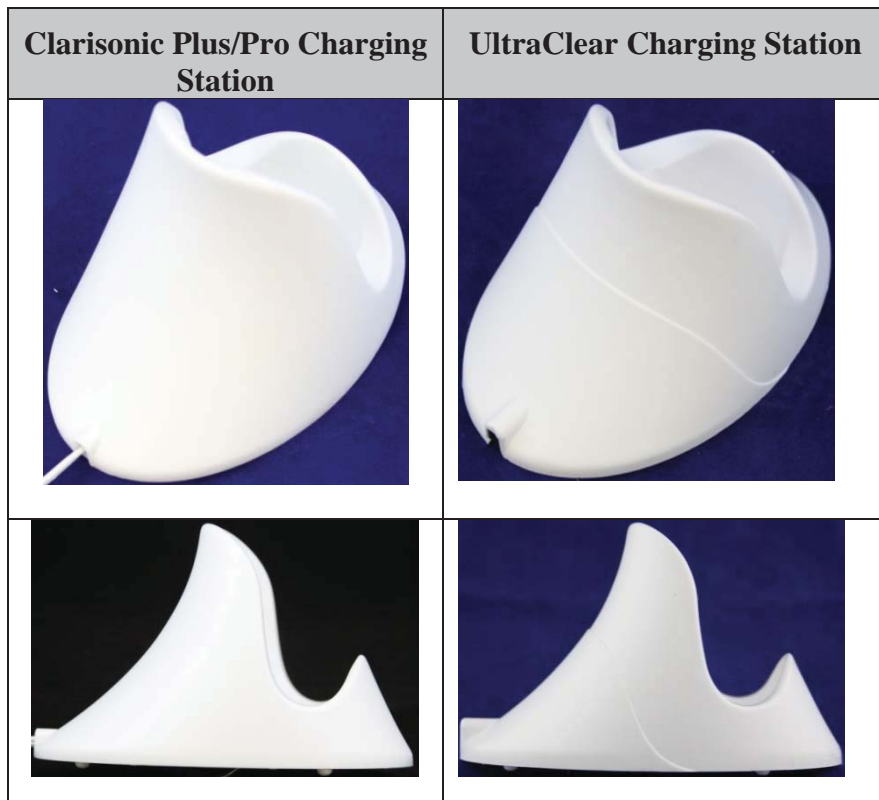
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31  
32 64. Accord Media is promoting, offering for sale, and selling products that  
33 intentionally copy and imitate the Clarisonic Trade Dress.  
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36  
37 65. Accord Media's UltraClear brush and brushhead embody a combination of  
38 several elements of the Clarisonic Device Trade Dress identified above in Paragraph 40.  
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66. Accord Media’s UltraClear charging station embodies a combination of several elements of the Clarisonic Charging Station Trade Dress identified above in Paragraph 41.



1           67.     Accord Media's sale and advertising of the UltraClear is likely to cause  
2  
3     confusion, or to cause mistake, or to deceive as to an affiliation, connection, or association of  
4  
5     Accord Media with PBL that does not exist, or as to the origin, sponsorship, or approval of the  
6  
7     UltraClear product by PBL in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

8  
9           68.     Accord Media copied the Clarisonic Trade Dress with the intent to trade on the  
10  
11     goodwill developed by PBL in the Clarisonic Trade Dress. Accord Media's intentional copying  
12  
13     is evidenced by the high degree of similarity between the UltraClear and the Clarisonic Trade  
14  
15     Dress.

16  
17           69.     Accord Media has willfully taken these actions with the intent to confuse or  
18  
19     deceive consumers and unfairly profit from the goodwill PBL has developed in the Clarisonic  
20  
21     Trade Dress.

22  
23           70.     Accord Media's intentional and willful actions have infringed PBL's common law  
24  
25     rights in the Clarisonic Trade Dress in violation of 15 U.S.C. § 1125(a).

26  
27           71.     As a result of Accord Media's actions, Accord Media has been and will continue  
28  
29     to be unjustly enriched by profits made through the sale of its infringing products.

30  
31           72.     Accord Media's infringement of the Clarisonic Trade Dress has caused and will  
32  
33     continue to cause PBL substantial and irreparable injury, for which PBL is entitled to all of the  
34  
35     relief provided by 15 U.S.C. §§ 1116 and 1117, including but not limited to injunctive relief,  
36  
37     compensatory damages, enhanced damages, and Accord Media's profits.

38  
39           73.     Accord Media's intentional and willful violations entitle PBL to recover three  
40  
41     times its actual damages, pursuant to 15 U.S.C. § 1117.

42  
43           74.     This is an exceptional case under 15 U.S.C. § 1117(a), thus entitling PBL to an  
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45     award of reasonable attorney's fees.

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47           75.     PBL has no adequate remedy at law for Accord Media's continued infringement.  
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**CLAIM V – VIOLATION OF WASHINGTON STATE’S CONSUMER PROTECTION ACT – RCW § 19.86.020 (UNFAIR COMPETITION)**

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4 76. PBL hereby incorporates and realleges Paragraphs 1 - 75 as if fully set forth  
5 herein.  
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7  
8 77. The State of Washington has an important interest in ensuring that companies  
9 doing business with Washington residents fully comply with Washington laws.  
10

11  
12 78. Accord Media’s unauthorized use of the Clarisonic Trade Dress is an unfair or  
13 deceptive act or practice that has the capacity to and does in fact deceive consumers into  
14 believing that Accord Media is affiliated, connected, or associated with PBL, or that Accord  
15 Media’s product comes from or is sponsored or approved by PBL.  
16  
17

18  
19 79. Accord Media’s conduct occurred in the conduct of trade or commerce or the sale  
20 of products in the State of Washington.  
21

22  
23 80. Accord Media’s unfair and deceptive acts and practices implicate the public  
24 interest because of the widespread deception they are causing on the consuming public.  
25

26  
27 81. All the conduct alleged herein occurs and continues to occur in the course of  
28 Accord Media’s business. The conduct is part of a pattern or generalized course of conduct  
29 repeated on numerous occasions daily.  
30  
31

32  
33 82. Accord Media has engaged and continues to engage in these activities knowingly,  
34 willfully, and deliberately.  
35

36  
37 83. PBL has been directly and proximately injured in its business and property by  
38 Accord Media’s conduct complained of herein, in violation of PBL’s rights under RCW  
39 § 19.86.020.  
40  
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43 84. Accord Media’s violations of RCW § 19.86.020 have caused and will continue to  
44 cause PBL to sustain damage, loss, and injury in an amount that cannot be fully measured or  
45 compensated in economic terms.  
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1 85. Pursuant to RCW § 19.86.090, PBL is entitled to actual and trebled damages,  
2 reasonable attorney's fees and costs of suit.  
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4 86. PBL has no adequate remedy at law, unless the acts of Accord Media are enjoined  
5 during the pendency of this action and thereafter.  
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9 **CLAIM VI – COMMON LAW UNFAIR COMPETITION**

10 87. PBL hereby incorporates and realleges Paragraphs 1 - 86 as if fully set forth  
11 herein.  
12

13 88. Accord Media has used and continues to use in advertising and commerce false  
14 and misleading descriptions of fact, and/or false and misleading representations of fact,  
15 concerning its merchandise. Accord Media has further displayed, distributed, sold, and used  
16 merchandise that infringes the Clarisonic Trade Dress, thereby unfairly taking advantage of the  
17 goodwill and business reputation of PBL. These activities constitute unfair competition.  
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20 89. Accord Media has engaged in unfair competition willfully and with a bad faith  
21 intent to confuse consumers and injure PBL.  
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24 90. PBL has sustained, and will continue to sustain, substantial injuries, loss, and  
25 damage to its business by reason of the unfair competition of Accord Media.  
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28 91. On information and belief, unless restrained and enjoined, Accord Media will  
29 continue to engage in unfair competition that injures PBL and thereby causes irreparable damage  
30 to PBL, as it would be unreasonably difficult to ascertain the amount of compensation that could  
31 afford PBL adequate relief for such continuing infringement. PBL has no adequate remedy at  
32 law.  
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43 **VI. DEMAND FOR JURY TRIAL**

44 92. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, PBL respectfully  
45 requests a trial by jury of all issues properly triable by jury.  
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49 **VII. PRAYER FOR RELIEF**

50 WHEREFORE, PBL prays for relief, as follows:  
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1 A. A judgment that Accord Media has infringed one or more claims of the '691  
2 patent;  
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4 B. A judgment that Accord Media has infringed one or more claims of the '906  
5 patent;  
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7 C. A judgment that Accord Media has infringed the D'809 patent;  
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9 D. An order and judgment preliminarily and permanently enjoining Accord Media  
10 and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting  
11 in privity or in concert with them, and their investors, partners, parents, subsidiaries, divisions,  
12 successors, and assigns, from further acts of infringement of PBL's asserted patents;  
13

14 E. A judgment awarding PBL all damages adequate to compensate for Accord  
15 Media's infringement of PBL's asserted patents and/or Accord Media's total profits pursuant to  
16 35 U.S.C. § 289, and in no event less than a reasonable royalty for Accord Media's acts of  
17 infringement, including all pre-judgment and post-judgment interest at the maximum rate  
18 permitted by law;  
19

20 F. A judgment declaring that Accord Media's infringement of the asserted patents  
21 has been willful and deliberate;  
22

23 G. A judgment awarding PBL all damages, including treble damages, as a result of  
24 Accord Media's willful and deliberate infringement of the asserted patents, pursuant to 35 U.S.C.  
25 § 284, together with pre-judgment and post-judgment interest;  
26

27 H. A judgment declaring that this case is exceptional;  
28

29 I. A judgment awarding PBL its expenses, costs, and attorney's fees in accordance  
30 with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;  
31

32 J. An order preliminarily and permanently enjoining Accord Media and its officers,  
33 directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in  
34 concert with them, and their investors, partners, parents, subsidiaries, divisions, successors, and  
35 assigns, from directly or indirectly infringing the Clarisonic Trade Dress or using any other  
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1 product or packaging design or designations constituting a colorable imitation of or likely to  
2 cause confusion with the Clarisonic Trade Dress; from passing off Accord Media's products as  
3 being associated with and/or sponsored or affiliated with PBL; from committing any other unfair  
4 business practices directed toward obtaining for themselves the business and customers of PBL;  
5 and from committing any other unfair acts or practices directed toward devaluing or diminishing  
6 the goodwill, brand, or business of PBL;  
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12 K. Actual damages suffered by PBL as a result of Accord Media's unlawful conduct,  
13 in an amount to be proven at trial, as well as pre-judgment and post-judgment interest as  
14 authorized by law;  
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18 L. A recall of all infringing products and destruction thereof;  
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20 M. An accounting of Accord Media's profits pursuant to 15 U.S.C. § 1117;  
21

22 N. A judgment trebling any profits and/or damages award pursuant to 15 U.S.C.  
23 § 1117;  
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26 O. The filing of a declaration with this Court in accordance with 15 U.S.C. § 1116  
27 within 30 days of any injunction that issues;  
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30 P. An award of PBL's actual and trebled damages and costs of suit, including  
31 attorney's fees, in an amount to be proved at trial and as provided under RCW § 19.86.090;  
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34 Q. Costs of suit and reasonable attorney's fees; and  
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36 R. Such other and further relief as the Court deems just and proper.  
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2 DATED: May 1, 2015.  
3

Respectfully submitted,

4 By: s/ Ramsey M. Al-Salam

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