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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PACIFIC BIOSCIENCE  
LABORATORIES, INC., a Washington  
corporation,

Plaintiff,

v.

BEAUTY TECH, INC. d/b/a 5th Avenue  
Buzz, a Florida corporation,

Defendant.

No.

COMPLAINT FOR PATENT  
INFRINGEMENT

**JURY DEMAND**

Plaintiff Pacific Bioscience Laboratories, Inc. (“PBL”), for its Complaint for Patent Infringement against Defendant Beauty Tech, Inc. d/b/a 5th Avenue Buzz, (“5th Avenue Buzz”), 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 2004. The Clarisonic System employs motion and forces at sonic frequencies to cleanse, soften, and smooth skin.



1           11.     On information and belief, 5th Avenue Buzz manufactures, markets, and sells  
2 electric skin care devices under the name NuSonic.  
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5                                   **III.     JURISDICTION AND VENUE**

6           12.     This case arises under the patent laws of the United States, 35 U.S.C. § 101 et seq.  
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8           13.     The Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.  
9 §§ 1331, 1332, and 1338.  
10

11           14.     PBL has its principal place of business in this District, and makes its Clarisonic  
12 devices available for sale in this District.  
13

14           15.     This Court has personal jurisdiction over 5th Avenue Buzz because, on  
15 information and belief, 5th Avenue Buzz has committed and continues to commit the acts  
16 violating PBL’s intellectual property described herein within the State of Washington, including  
17 in this District, and places infringing products into the stream of commerce, with the knowledge  
18 or understanding that such products are sold in the State of Washington, including in this  
19 District.  
20

21           16.     Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), (c), and 28  
22 U.S.C. § 1400(b) because, *inter alia*, PBL’s principal place of business is within this District and  
23 PBL suffered harm in this District, because a substantial part of the events giving rise to the  
24 claims against 5th Avenue Buzz occurred and are occurring in this District, and because 5th  
25 Avenue Buzz transacts business within this District and offers for sale in this District products  
26 that infringe PBL’s intellectual property.  
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29                                   **IV.     BACKGROUND**

30           17.     Since the early 2000s, PBL has designed, developed, manufactured, marketed,  
31 and sold in the United States (and worldwide) its innovative Clarisonic System, which is a line of  
32 skin care products including a number of Sonic Cleansing Brushes and accessories, the  
33 Clarisonic Opal® Sonic Infusion System, and targeted treatment solutions. Examples of  
34 Clarisonic products are pictured below:  
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18. The Clarisonic System was developed by PBL over many years at great expense and effort and represents a breakthrough in devices and methods for treatment of early stage acne and for effective cleansing of skin. Those devices and methods employ motion and forces at sonic frequencies to cleanse, soften, and smooth skin. They alleviate clogged pores and remove debris from skin more gently and effectively than alternative devices or methods, such as manual cleansing.

19. The innovations embodied in the Clarisonic System are protected by numerous United States and foreign intellectual property rights, including rights deriving from patents.

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

21. Since its introduction, the Clarisonic System has become widely acclaimed by professionals and consumers, and has garnered many media awards from sources such as authoritative magazines in the beauty industry, Oprah's Favorite Things in 2007 on the Oprah

1 Winfrey Show, Best of Sephora in 2007 and 2008, and QVC Customer Choice in 2008, 2009,  
2 and 2010.  
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4 22. The success of the Clarisonic System has spurred a large number of imitations,  
5 such as 5th Avenue Buzz's NuSonic, pictured below.  
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28 **V. PBL'S PATENTS**

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

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31 23. U.S. Patent No. 7,320,691 ("the '691 patent") issued on January 22, 2008, and is  
32 entitled "Apparatus and Method for Acoustic/Mechanical Treatment of Early Stage Acne." The  
33 inventors are Kenneth A. Pilcher, David Giuliani, and Stephen M. Meginniss.  
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36 24. A copy of the '691 patent is attached as Exhibit 1.  
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38 25. PBL is the exclusive licensee having all substantial rights in and to the '691  
39 patent, with the rights to bring enforcement actions for past, present and future infringement and  
40 to collect damages for past infringement.  
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45 26. The '691 patent has been reexamined pursuant to Reexamination Request Nos.  
46 90/009,797 and 90/011,343. The patentability of all of the originally issued claims 1-52 of the  
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1 '691 patent was confirmed pursuant to these reexamination requests, and claims 53-64 were  
2 added. A reexamination certificate issued on September 20, 2011. *See* Exhibit 1.  
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4 27. The '691 patent is valid, enforceable, and currently in full force and effect.  
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6 **U.S. Patent No. D523,809**  
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8 28. U.S. Patent No. D523,809 (“the D’809 patent”) issued on June 27, 2006, and is  
9 entitled “Charger for an Electric Skin Brush.” The inventors are Dane M. Roth, Robert E.  
10 Akridge, and Kenneth A. Pilcher.  
11

12 29. A copy of the D’809 patent is attached as Exhibit 2.  
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14 30. PBL is the exclusive licensee having all substantial rights in and to the D’809  
15 patent, with the rights to bring enforcement actions for past, present and future infringement and  
16 to collect damages for past infringement.  
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18 31. The D’809 patent is valid, enforceable, and currently in full force and effect.  
19

20 **CLAIM I – INFRINGEMENT OF THE '691 PATENT**  
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22 32. PBL hereby incorporates and realleges Paragraphs 1 - 31 as if fully set forth  
23 herein.  
24

25 33. 5th Avenue Buzz has been and/or is directly infringing one or more claims of the  
26 '691 patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by  
27 making, using, offering to sell, and/or selling in the United States and/or importing into the  
28 United States, products, devices, or systems that are covered by the '691 patent, including the  
29 NuSonic.  
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31 34. PBL has consistently and continuously marked its products with the '691 patent  
32 number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the '691 patent.  
33 PBL seeks monetary and all other damages permitted by statute.  
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35 35. 5th Avenue Buzz’s infringement of the '691 patent has been and will continue to  
36 be willful and deliberate, by making, using, offering to sell, and/or selling in the United States  
37 and/or importing into the United States, infringing devices despite that such actions constitute  
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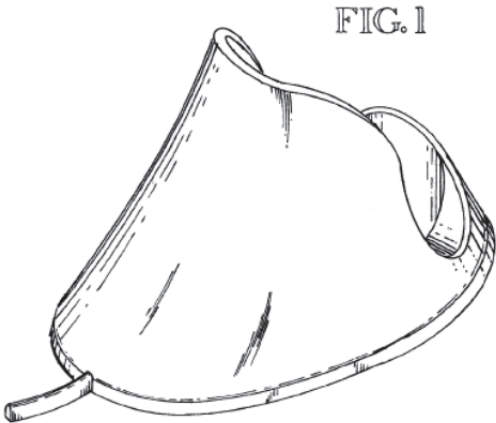

1 infringement and despite being at least on constructive notice that its actions constitute  
 2 infringement.  
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4  
 5 36. 5th Avenue Buzz’s infringement of the ’691 patent has caused and will continue  
 6 to cause PBL substantial and irreparable injury, for which PBL is entitled to all of the relief  
 7 provided by 35 U.S.C. §§ 281, 283, 284, and 285, including but not limited to injunctive relief,  
 8 compensatory damages not less than the amount of a reasonable royalty, interest, costs, enhanced  
 9 damages, and reasonable attorney’s fees, as the court deems just and appropriate.  
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 14 **CLAIM II – INFRINGEMENT OF THE D’809 PATENT**

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 16 37. PBL hereby incorporates and realleges Paragraphs 1 - 36 as if fully set forth  
 17 herein.  
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19  
 20 38. 5th Avenue Buzz has been and/or is directly infringing the D’809 patent pursuant  
 21 to 35 U.S.C. § 271(a), by making, using, offering to sell, and/or selling in the United States  
 22 and/or importing into the United States, products, devices, or systems that embody the design  
 23 and/or importing into the United States, products, devices, or systems that embody the design  
 24 covered by the D’809 patent, including the NuSonic.  
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<b>D’809 Patent</b>	<b>NuSonic Charging Station</b>
<p>28                      29                      30                      31                      32                      33                      34                      35                      36                      37                      38                      39                      40                      41                      42                      43                      44                      45                      46</p> 	<p>47                      48                      49                      50                      51</p> 

1 39. PBL has consistently and continuously marked its products with the D'809 patent  
2 number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the D'809 patent.  
3  
4 PBL seeks monetary and all other damages permitted by statute.  
5

6  
7 40. 5th Avenue Buzz's infringement of the D'809 patent has been and will continue  
8 to be willful and deliberate, by making, using, offering to sell, and/or selling in the United States  
9 and/or importing into the United States, infringing devices despite that such actions constitute  
10 infringement and despite being at least on constructive notice that its actions constitute  
11 infringement.  
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14 41. 5th Avenue Buzz's infringement of the D'809 patent has caused and will continue  
15 to cause PBL substantial and irreparable injury, for which PBL is entitled to all of the relief  
16 provided by 35 U.S.C. §§ 281, 283, 284, 285, and 289, including but not limited to injunctive  
17 relief, compensatory damages not less than the amount of a reasonable royalty, interest, costs,  
18 enhanced damages, 5th Avenue Buzz's profits, and reasonable attorney's fees, as the court  
19 deems just and appropriate.  
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## 28 VI. DEMAND FOR JURY TRIAL

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30 42. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, PBL respectfully  
31 requests a trial by jury of all issues properly triable by jury.  
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## 34 VII. PRAYER FOR RELIEF

35 WHEREFORE, PBL prays for relief, as follows:  
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38 A. A judgment that 5th Avenue Buzz has infringed one or more claims of the '691  
39 patent;  
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42 B. A judgment that 5th Avenue Buzz has infringed the D'809 patent;  
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44 C. An order and judgment preliminarily and permanently enjoining 5th Avenue Buzz  
45 and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting  
46 in privity or in concert with them, and their investors, partners, parents, subsidiaries, divisions,  
47 successors, and assigns, from further acts of infringement of PBL's asserted patents;  
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1 D. A judgment awarding PBL all damages adequate to compensate for 5th Avenue  
2 Buzz's infringement of PBL's asserted patents and/or 5th Avenue Buzz's total profits pursuant to  
3 35 U.S.C. § 289, and in no event less than a reasonable royalty for 5th Avenue Buzz's acts of  
4 infringement, including all pre-judgment and post-judgment interest at the maximum rate  
5 permitted by law;  
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11 E. A judgment declaring that 5th Avenue Buzz's infringement of the asserted patents  
12 has been willful and deliberate;  
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15 F. A judgment awarding PBL all damages, including treble damages, as a result of  
16 5th Avenue Buzz's willful and deliberate infringement of the asserted patents, pursuant to 35  
17 U.S.C. § 284, together with pre-judgment and post-judgment interest;  
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21 G. A judgment declaring that this case is exceptional and awarding PBL its expenses,  
22 costs, and attorney's fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the  
23 Federal Rules of Civil Procedure; and  
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27 H. Such other and further relief as the Court deems just and proper.  
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30 DATED: May 1, 2015.

Respectfully submitted,

31  
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33 By: s/ Ramsey M. Al-Salam

Ramsey M. Al-Salam WSBA #18822

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42 Attorneys for Plaintiff

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2 COUNSEL:

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