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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PACIFIC BIOSCIENCE
LABORATORIES, INC., a Washington
corporation,

Plaintiff,

v.

HOME SKINOVATIONS INC., a
Canadian corporation; HOME
SKINOVATIONS LTD., an Israeli
corporation,

Defendant.

No.

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMAND

Plaintiff Pacific Bioscience Laboratories, Inc. (“PBL”), for its Complaint for Patent Infringement against Defendants Home Skinovations Inc. and Home Skinovations Ltd., (collectively, “Home Skinovations”), 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 and smooth skin.
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4 2. Prior to the introduction of the Clarisonic System, there were no sonic facial
5 cleansing devices on the market. PBL created today's market for such products.
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7 3. The Clarisonic System has been an enormous success and has achieved national
8 recognition and awards. In 2010, PBL was named one of Inc. 500's Fastest Growing Private
9 Companies.
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11 4. PBL received broad protection for its innovations, including utility and design
12 patents. However, PBL's innovations have been the subject of widespread imitation by others,
13 who have attempted to capitalize on PBL's success.
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15 5. Defendant Home Skinovations is one such imitator. After seeing PBL's success,
16 Home Skinovations introduced its Silk'n Sonic facial cleansing system ("Silk'n Sonic"). Home
17 Skinovations has made the Silk'n Sonic work like PBL's products, thereby infringing PBL's
18 patent.
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20 6. Home Skinovations sells or has sold the Silk'n Sonic throughout the United States
21 at least through the Silk'n Sonic website, <https://www.silkn.com/sonic-clean-plus/>, and
22 Amazon.com, [http://www.amazon.com/Silkn-SonicCleanPlus-Cleansing-Sensitive-
23 Silicone/dp/B00O84208Y/](http://www.amazon.com/Silkn-SonicCleanPlus-Cleansing-Sensitive-Silicone/dp/B00O84208Y/).
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25 7. PBL seeks to stop Home Skinovations' infringing conduct and obtain
26 compensation for the violations that have occurred thus far.
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28 II. PARTIES

29 8. Plaintiff PBL is a Washington corporation incorporated in January 2001, with its
30 principal place of business at 17275 NE 67th Court, Redmond, WA 98052.
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32 9. In December 2011, PBL was acquired by L'Oréal S.A., a French société anonyme
33 ("L'Oréal"). L'Oréal is the owner, and PBL is the exclusive U.S. licensee with the right, inter
34 alia, to bring suit, of protectable patent rights as described herein.
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1 10. On information and belief, Home Skinovations Inc. is a corporation organized and
2 existing under the laws of Canada with its principal place of business at 100 Leek Crescent Unit
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4 15, Richmond Hill, ON L4B 3E6, Canada.
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6 11. On information and belief, Home Skinovations Ltd. is a corporation organized
7 and existing under the laws of Israel with its principal place of business at Tavor Building, Shaar
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9 Yokneam, Yokneam 20692 Israel.
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11 12. On information and belief, Home Skinovations manufactures, markets, and sells
12 electric skin care devices under the name Silk'n Sonic.
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17 **III. JURISDICTION AND VENUE**
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19 13. This case arises under the patent laws of the United States, 35 U.S.C. § 101 et seq.
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21 14. The Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.
22 §§ 1331, 1332, and 1338.
23

24 15. PBL has its principal place of business in this District, and makes its Clarisonic
25 devices available for sale in this District.
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28 16. This Court has personal jurisdiction over Home Skinovations because, on
29 information and belief, Home Skinovations has committed and continues to commit the acts
30 violating PBL's intellectual property described herein within the State of Washington, including
31 in this District, and places infringing products into the stream of commerce, with the knowledge
32 or understanding that such products are sold in the State of Washington, including in this
33 District.
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40 17. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), (c), and 28
41 U.S.C. § 1400(b) because, *inter alia*, PBL's principal place of business is within this District and
42 PBL suffered harm in this District, because a substantial part of the events giving rise to the
43 claims against Home Skinovations occurred and are occurring in this District, and because Home
44 Skinovations transacts business within this District and offers for sale in this District products
45 that infringe PBL's intellectual property.
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IV. BACKGROUND

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3 18. 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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28 19. The Clarisonic System was developed by PBL over many years at great expense
29 and effort and represents a breakthrough in devices and methods for treatment of early stage acne
30 and for effective cleansing of skin. Those devices and methods employ motion and forces at
31 sonic frequencies to cleanse, soften, and smooth skin. They alleviate clogged pores and remove
32 debris from skin more gently and effectively than alternative devices or methods, such as manual
33 cleansing.
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40 20. The innovations embodied in the Clarisonic System are protected by numerous
41 United States and foreign intellectual property rights, including rights deriving from patents.
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44 21. Prior to the introduction of the Clarisonic System, there were no sonic facial
45 cleansing devices on the market. Indeed, before development of the Clarisonic System, no
46 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
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3 its sonic facial cleansing devices.

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

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15 23. The success of the Clarisonic System has spurred a large number of imitations,
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17 such as Home Skinovations’ Silk’n Sonic, pictured below.



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37 **V. PBL’S PATENT**

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

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

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47 25. A copy of the ’691 patent is attached as Exhibit 1.
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1 26. 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 27. 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.
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13 28. The '691 patent is valid, enforceable, and currently in full force and effect.
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15 **VI. CLAIM I – INFRINGEMENT OF THE '691 PATENT**
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17 29. PBL hereby incorporates and realleges Paragraphs 1 - 28 as if fully set forth
18 herein.
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21 30. Home Skinovations has been and/or is directly infringing one or more claims of
22 the '691 patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by
23 making, using, offering to sell, and/or selling in the United States and/or importing into the
24 United States, products, devices, or systems that are covered by the '691 patent, including the
25 Silk'n Sonic.
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28 31. PBL has consistently and continuously marked its products with the '691 patent
29 number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the '691 patent.
30 PBL seeks monetary and all other damages permitted by statute.
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33 32. Home Skinovations' infringement of the '691 patent has been and will continue to
34 be 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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40 33. Home Skinovations' infringement of the '691 patent has caused and will continue
41 to 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 compensatory damages not less than the amount of a reasonable royalty, interest, costs, enhanced
3 damages, and reasonable attorney's fees, as the court deems just and appropriate.
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7 **VII. DEMAND FOR JURY TRIAL**

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9 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, PBL respectfully requests a
10 trial by jury of all issues properly triable by jury.
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13 **VIII. PRAYER FOR RELIEF**

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15 WHEREFORE, PBL prays for relief, as follows:

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17 A. A judgment that Home Skinovations has infringed one or more claims of the '691
18 patent;
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21 B. An order and judgment preliminarily and permanently enjoining Home
22 Skinovations and its officers, directors, agents, servants, employees, affiliates, attorneys, and all
23 others acting in privity or in concert with them, and their investors, partners, parents,
24 subsidiaries, divisions, successors, and assigns, from further acts of infringement of PBL's
25 asserted patent;
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29 C. A judgment awarding PBL all damages adequate to compensate for Home
30 Skinovations' infringement of PBL's asserted patent, and in no event less than a reasonable
31 royalty for Home Skinovations' acts of infringement, including all pre-judgment and post-
32 judgment interest at the maximum rate permitted by law;
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36 D. A judgment declaring that Home Skinovations' infringement of the asserted
37 patent has been willful and deliberate;
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40 E. A judgment awarding PBL all damages, including treble damages, as a result of
41 Home Skinovations' willful and deliberate infringement of the asserted patent, pursuant to 35
42 U.S.C. § 284, together with pre-judgment and post-judgment interest;
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1 F. A judgment declaring that this case is exceptional and awarding PBL its expenses,
2 costs, and attorney's fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the
3 Federal Rules of Civil Procedure; and
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7 G. Such other and further relief as the Court deems just and proper.
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9 DATED: May 1, 2015.

Respectfully submitted,

10
11 By: s/ Ramsey M. Al-Salam

12 Ramsey M. Al-Salam WSBA #18822

13 **Perkins Coie LLP**

14 1201 Third Avenue, Suite 4900

15 Seattle, WA 98101-3099

16 Tel: (206) 359-8000

17 Fax: (206) 359-9000

18 Email: RAlsalam@perkinscoie.com
19
20

21 Attorneys for Plaintiff

22 Pacific Bioscience Laboratories, Inc.
23

24 COUNSEL:

25
26 Robert M. Masters (*pro hac to be submitted*)

27 Timothy P. Cremen (*pro hac to be submitted*)

28 Lisa Y. Leung (WSBA No. 43015)

29 PAUL HASTINGS LLP

30 875 15th St. NW

31 Washington, D.C. 20005

32 Tel: (202) 551-1700

33 Fax: (202) 551-1705

34 robertmasters@paulhastings.com

35 timothy cremen@paulhastings.com

36 lisaleung@paulhastings.com
37

38 Robert L. Sherman (*pro hac to be submitted*)

39 Natalie G. Furman (*pro hac to be submitted*)

40 PAUL HASTINGS LLP

41 75 East 55th Street

42 New York, NY 10022

43 Tel: (212) 318-6000

44 Fax: (212) 230-7841

45 robertsherman@paulhastings.com

46 nataliefurman@paulhastngs.com
47
48
49
50
51