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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PACIFIC BIOSCIENCE
LABORATORIES, INC., a Washington
corporation,

Plaintiff,

v.

XNOVI ELECTRONIC CO., LTD. a
Chinese corporation,

Defendant.

No.

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMAND

Plaintiff Pacific Bioscience Laboratories, Inc. (“PBL”), for its Complaint for Patent Infringement against Defendant Xnovi Electronic Co., Ltd., (“Xnovi”), 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, Xnovi manufactures, markets, and sells electric skin
2 care devices under the name Lemonsonic.
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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.
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11 14. PBL has its principal place of business in this District, and makes its Clarisonic
12 devices available for sale in this District.
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14 15. This Court has personal jurisdiction over Xnovi because, on information and
15 belief, Xnovi has committed and continues to commit the acts violating PBL’s intellectual
16 property described herein within the State of Washington, including in this District, and places
17 infringing products into the stream of commerce, with the knowledge or understanding that such
18 products are sold in the State of Washington, including in this District.
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20 16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), (c), and 28
21 U.S.C. § 1400(b) because, *inter alia*, PBL’s principal place of business is within this District and
22 PBL suffered harm in this District, because a substantial part of the events giving rise to the
23 claims against Xnovi occurred and are occurring in this District, and because Xnovi transacts
24 business within this District and offers for sale in this District products that infringe PBL’s
25 intellectual property.
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27 **IV. BACKGROUND**

28 17. Since the early 2000s, PBL has designed, developed, manufactured, marketed,
29 and sold in the United States (and worldwide) its innovative Clarisonic System, which is a line of
30 skin care products including a number of Sonic Cleansing Brushes and accessories, the
31 Clarisonic Opal® Sonic Infusion System, and targeted treatment solutions. Examples of
32 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 Winfrey Show, Best of Sephora in 2007 and 2008, and QVC Customer Choice in 2008, 2009, and 2010.

1 22. The success of the Clarisonic System has spurred a large number of imitations,
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3 such as Xnovi's Lemonsonic, pictured below.



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24 **V. PBL'S INTELLECTUAL PROPERTY RIGHTS**

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

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27 23. U.S. Patent No. 7,320,691 (“the '691 patent”) issued on January 22, 2008, and is
28 entitled “Apparatus and Method for Acoustic/Mechanical Treatment of Early Stage Acne.” The
29 inventors are Kenneth A. Pilcher, David Giuliani, and Stephen M. Meginniss.
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33 24. A copy of the '691 patent is attached as Exhibit 1.
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35 25. PBL is the exclusive licensee having all substantial rights in and to the '691
36 patent, with the rights to bring enforcement actions for past, present and future infringement and
37 to collect damages for past infringement.
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40 26. The '691 patent has been reexamined pursuant to Reexamination Request Nos.
41 90/009,797 and 90/011,343. The patentability of all of the originally issued claims 1-52 of the
42 '691 patent was confirmed pursuant to these reexamination requests, and claims 53-64 were
43 added. A reexamination certificate issued on September 20, 2011. *See* Exhibit 1.
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46 27. The '691 patent is valid, enforceable, and currently in full force and effect.
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U.S. Patent No. 7,386,906

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3 28. U.S. Patent No. 7,386,906 (“the ’906 patent”) issued on June 17, 2008, and is
4 entitled “Oscillating Brushhead Attachment System for a Personal Care Appliance.” The
5 inventors are Dane M. Roth, Stephen M. Meginniss, III, Kenneth A. Pilcher, Richard A. Reishus,
6 and David Giuliani.
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11 29. A copy of the ’906 patent is attached as Exhibit 2.

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13 30. PBL is the exclusive licensee having all substantial rights in and to the ’906
14 patent, with the rights to bring enforcement actions for past, present and future infringement and
15 to collect damages for past infringement.
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19 31. The ’906 patent is valid, enforceable, and currently in full force and effect.
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21 **CLAIM I – INFRINGEMENT OF THE ’691 PATENT**

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23 32. PBL hereby incorporates and realleges Paragraphs 1 - 31 as if fully set forth
24 herein.
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27 33. Xnovi has been and/or is directly infringing one or more claims of the ’691 patent
28 pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using,
29 offering to sell, and/or selling in the United States and/or importing into the United States,
30 products, devices, or systems that are covered by the ’691 patent, including the Lemonsonic.
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34 34. PBL has consistently and continuously marked its products with the ’691 patent
35 number pursuant to 35 U.S.C. § 287 and has provided constructive notice of the ’691 patent.
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37 PBL seeks monetary and all other damages permitted by statute.
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40 35. Xnovi’s infringement of the ’691 patent has been and will continue to be willful
41 and deliberate, by making, using, offering to sell, and/or selling in the United States and/or
42 importing into the United States, infringing devices despite that such actions constitute
43 infringement and despite being at least on constructive notice that its actions constitute
44 infringement.
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1 36. Xnovi's infringement of the '691 patent has caused and will continue to cause
2 PBL substantial and irreparable injury, for which PBL is entitled to all of the relief provided by
3 35 U.S.C. §§ 281, 283, 284, and 285, including but not limited to injunctive relief, compensatory
4 damages not less than the amount of a reasonable royalty, interest, costs, enhanced damages, and
5 reasonable attorney's fees, as the court deems just and appropriate.
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10 **CLAIM II – INFRINGEMENT OF THE '906 PATENT**

11 37. PBL hereby incorporates and realleges Paragraphs 1 - 36 as if fully set forth
12 herein.
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15 38. Xnovi has been and/or is directly infringing one or more claims of the '906 patent
16 pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using,
17 offering to sell, and/or selling in the United States and/or importing into the United States,
18 products, devices, or systems that are covered by the '906 patent, including the Lemonsonic.
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23 39. 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.
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29 40. Xnovi's infringement of the '906 patent has been and will continue to cause PBL
30 substantial and irreparable injury, for which PBL is entitled to all of the relief provided by 35
31 U.S.C. §§ 281, 283, 284, and 285, including but not limited to injunctive relief, compensatory
32 damages not less than the amount of a reasonable royalty, interest, costs, enhanced damages, and
33 reasonable attorney's fees, as the court deems just and appropriate.
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40 41. Xnovi's infringement of the '906 patent has caused and will continue to cause
41 PBL substantial and irreparable injury, for which PBL is entitled to all of the relief provided by
42 35 U.S.C. §§ 281, 283, 284, and 285, including but not limited to injunctive relief, compensatory
43 damages not less than the amount of a reasonable royalty, interest, costs, enhanced damages, and
44 reasonable attorney's fees, as the court deems just and appropriate.
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VI. DEMAND FOR JURY TRIAL

42. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, PBL respectfully requests a trial by jury of all issues properly triable by jury.

VII. PRAYER FOR RELIEF

WHEREFORE, PBL prays for relief, as follows:

- A. A judgment that Xnovi has infringed one or more claims of the '691 patent;
- B. A judgment that Xnovi has infringed one or more claims of the '906 patent;
- C. An order and judgment preliminarily and permanently enjoining Xnovi and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their investors, partners, parents, subsidiaries, divisions, successors, and assigns, from further acts of infringement of PBL's asserted patents;
- D. A judgment awarding PBL all damages adequate to compensate for Xnovi's infringement of PBL's asserted patents, and in no event less than a reasonable royalty for Xnovi's acts of infringement, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
- E. A judgment declaring that Xnovi's infringement of the asserted patents has been willful and deliberate;
- F. A judgment awarding PBL all damages, including treble damages, as a result of Xnovi's willful and deliberate infringement of the asserted patents, pursuant to 35 U.S.C. § 284, together with pre-judgment and post-judgment interest;
- G. A judgment declaring that this case is exceptional and awarding PBL its expenses, costs, and attorney's fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
- H. Such other and further relief as the Court deems just and proper.

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2 DATED: May 1, 2015
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Respectfully submitted,

4 By: s/ Ramsey M. Al-Salam

5 Ramsey M. Al-Salam WSBA #18822

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