

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

NANOBEBE US INC.,

*Plaintiff and
Counterclaim Defendant*

v.

MAYBORN (UK) LIMITED,
MAYBORN USA, INC.,
MAYBORN GROUP LIMITED.

*Defendants and
Counterclaim Plaintiffs*

Civ. A. No. 1:21-cv-08444-GHW

JURY TRIAL DEMANDED

**DEFENDANTS' AND COUNTERCLAIM PLAINTIFFS' ANSWER,
AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS TO PLAINTIFF
NANOBEBE US INC.'S COMPLAINT FOR DECLARATORY JUDGMENT**

Defendants and Counterclaim Plaintiffs Mayborn (UK) Limited, Mayborn USA, Inc., and Mayborn Group Limited (collectively, “Mayborn” or “Defendants” or “Counterclaim Plaintiffs”) file this Answer, Affirmative Defenses, and Counterclaims to Plaintiff Nanobebe US Inc.’s (“Nanobebe” or “Plaintiff” or “Counterclaim Defendant”) Complaint for Declaratory Judgment. Mayborn denies the allegations and characterizations in Plaintiff’s Complaint unless expressly admitted in the following paragraphs.

NATURE OF THE ACTION

1. Mayborn admits that Nanobebe’s Complaint purports to be an action for declaratory judgment of noninfringement as to U.S. Patent No. 10,952,930 and is therefore an action arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

2. Mayborn admits that Exhibit 1 to the Complaint appears to be a copy of U.S. Patent No. 10,952,930 (“the ’930 patent”).

PARTIES

3. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Complaint and, on that basis, denies all such allegations.

4. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Complaint and, on that basis, denies all such allegations.

5. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of the Complaint and, on that basis, denies all such allegations.

6. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Complaint and, on that basis, denies all such allegations.

7. Mayborn admits that Nanobebe products are sold on Amazon.com. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 7 of the Complaint and, on that basis, denies all such allegations.

8. Mayborn (UK) Limited is a corporation organized under the laws of England with a principal place of business at Balliol Business Park, Benton Lane, Newcastle upon Tyne, United Kingdom, NE12 8EW. The remaining allegations contained in this paragraph of the Complaint are denied.

9. On October 2, 2018, Jackel International, Ltd. changed its name to Mayborn (UK) Limited. Exhibit 2 to the Complaint appears to be a copy of the Certificate of Incorporation on Change of Name. The remaining allegations contained in this paragraph of the Complaint are denied.

10. Mayborn (UK) Limited is the assignee and owner of the '930 Patent.

11. Mayborn USA, Inc. is a corporation organized under the laws of the State of New York with a principal place of business at 1010 Washington Boulevard, Stamford, Connecticut 06901.

12. Mayborn Group Limited is a corporation organized under the laws of England with a principal place of business at Balliol Business Park, Benton Lane, Newcastle upon Tyne, United Kingdom, NE12 8EW. The remaining allegations contained in this paragraph of the Complaint are denied.

JURISDICTION AND VENUE

13. Mayborn admits that Nanobebe's Complaint purports to be an action that arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202. Mayborn admits that this Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. 1331 and 1338(a).

14. Mayborn admits that an actual and justiciable controversy exists between Nanobebe and Mayborn as to Nanobebe's infringement of the '930 patent.

15. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15 of the Complaint and, on that basis, denies all such allegations.

16. Mayborn admits that Ms. Jane Du works as IP Counsel for Mayborn. The remaining allegations contained in this paragraph of the Complaint are denied.

17. Mayborn admits that Exhibit 4 to the Complaint appears to be a letter dated August 30, 2021, from Mr. Ayal Lanternari to Mayborn. The remaining allegations contained in this paragraph of the Complaint are denied.

18. Mayborn admits that Exhibit 5 to the Complaint appears to be a copy of an email from Ms. Du to Mr. Lanternari dated August 31, 2021, and denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

19. Mayborn admits that Exhibit 6 to the Complaint appears to be a copy of an email from Mr. Lanternari to Ms. Du dated September 15, 2021, and denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

20. Mayborn admits that prior to filing this action, Nanobebe did not make any further contact with Mayborn despite being on notice of infringement of the '930 Patent since August 11, 2021. Mayborn further admits that it sought Amazon's help to remedy, in part, Nanobebe's infringement. The remaining allegations contained in this paragraph of the Complaint are denied.

21. Mayborn admits that Exhibit 7 to the Complaint appears to be a copy of an email dated September 23, 2021, from patentevaluation@amazon.com titled "Notice: Amazon Utility Patent Neutral Evaluation Process – Action Required" with a list of product numbers. Mayborn denies all allegations seeking to modify, characterize, or explain the email or any provision thereof or to take any part or provision out of context. To the extent this paragraph seeks Mayborn's admission concerning the accuracy and completeness of the list of product numbers, Mayborn is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15 of the Complaint and, on that basis, denies all such allegations. The remaining allegations contained in this paragraph of the Complaint are denied.

22. Mayborn admits that Exhibit 8 to the Complaint appears to be a copy of an Amazon Utility Patent Neutral Evaluation Agreement executed by Mr. Timothy Ardizzone as counsel for Mayborn, and denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

23. Mayborn admits that Exhibit 7 to the Complaint appears to be a copy of an email dated September 23, 2021, from patentevaluation@amazon.com titled "Notice: Amazon Utility Patent Neutral Evaluation Process – Action Required" and denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

24. Mayborn admits that Exhibit 9 to the Complaint appears to be a document titled “Amazon Utility Patent Neutral Evaluation Procedure,” and denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

25. Mayborn admits that Exhibit 7 to the Complaint appears to be a copy of an email dated September 23, 2021, from patentevaluation@amazon.com titled “Notice: Amazon Utility Patent Neutral Evaluation Process – Action Required” and denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

26. Mayborn admits there is a dispute between the parties concerning Nanobebe’s infringement of the ’930 Patent. The remaining allegations contained in this paragraph of the Complaint are denied.

27. Mayborn admits that Mayborn USA, Inc. is incorporated in the State of New York and this Court has personal jurisdiction over Mayborn USA, Inc. for purposes of this civil action. The remaining allegations contained in this paragraph of the Complaint are denied.

28. Mayborn admits that this Court has personal jurisdiction over Mayborn (UK) Limited and Mayborn Group Limited for purposes of this civil action to determine Nanobebe’s infringement of the ’930 patent. Mayborn admits that Exhibit 10 to the Complaint appears to be a screen capture of the website www.mayborngroup.com identifying various office locations of Mayborn affiliate companies. Mayborn admits that Exhibit 11 to the Complaint appears to be a screenshot of LinkedIn messages involving Ludovic Galand and Asaf Kehat. Mayborn admits that Exhibit 12 to the Complaint appears to be an email exchange involving Chris Parsons, Ludovic Galand, and Asaf Kehat. Mayborn denies all allegations seeking to modify, characterize, or

explain any provision of these exhibits or to take any part or provision out of context. Mayborn admits that Jane Du, Chris Parsons, and Ludovic Galand have email address ending in “@mayborngroup.com.” The remaining allegations contained in this paragraph of the Complaint are denied.

29. Denied.

30. Mayborn admits that this Court has personal jurisdiction over Mayborn (UK) Limited and Mayborn Group Limited for purposes of this civil action to determine Nanobebe’s infringement of the ’930 patent. The remaining allegations contained in this paragraph of the Complaint are denied.

31. Mayborn admits that venue in this Court is proper for purposes of this civil action to determine Nanoebebe’s infringement of the ’930 patent. The remaining allegations contained in this paragraph of the Complaint are denied.

THE ’930 PATENT

32. Mayborn admits that Exhibit 1 to the Complaint appears to be a copy of U.S. Patent No. 10,952,930 entitled “Baby Bottle with Flexible Nipple Regions,” issued on March 23, 2021, from U.S. Patent Application No. 14/551,783, filed on November 24, 2014, to named inventors Arnold Rees, Ian Webb, Mark Armstrong and Tom Cotton.

33. Admitted.

THE PARTIES’ DISPUTE CONCERNING THE ’930 PATENT

34. Mayborn admits that it is in the business of making and selling baby products all over the world, including bottles and other products under the brand name “Tommee Tippee.”

35. Mayborn admits that it was aware of Nanobebe and its infringing products prior to August 2021 and that Mr. Galand’s title is “General Manager EMEA.” The correspondence

between Mr. Kehat and Mr. Galand are purportedly shown in Exhibit 11, and Mayborn denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

36. Mayborn admits that certain correspondence between Mr. Kehat and Mr. Galand is purportedly shown in Exhibit 11, and Mayborn denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

37. Mayborn admits that certain correspondence between Mr. Kehat and Mr. Galand is purportedly shown in Exhibit 12, and Mayborn denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

38. Mayborn admits that certain correspondence between Mr. Kehat and Mr. Parsons is purportedly shown in Exhibit 12, and Mayborn denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. The remaining allegations contained in this paragraph of the Complaint are denied.

39. Mayborn admits that Exhibit 13 to the Complaint appears to be a thread of email correspondence between Asaf Kehat and Alex Moody, and denies all allegations seeking to modify, characterize, or explain any provision thereof or to take any part or provision out of context. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph of the Complaint and, on that basis, denies all such allegations.

40. Mayborn admits that it did not inform Nanobebe about the '930 patent during the above-referenced communications. The remaining allegations contained in this paragraph of the Complaint are denied.

41. Mayborn admits that it contacted Amazon regarding Nanobebe's infringement of the '930 patent on or around August 11, 2021. Mayborn is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph of the Complaint and, on that basis, denies all such allegations.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the '930 Patent)

42. Mayborn hereby incorporates and re-alleges all paragraphs above as though fully set forth herein.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Admitted.

48. Denied.

GENERAL DENIAL

Except as expressly admitted herein, Mayborn denies each and every allegation contained in the Complaint. With respect to Nanobebe's Request for Relief, Mayborn further denies that Nanobebe is entitled to any of the relief requested.

WHEREFORE, having fully answered Nanobebe's Complaint, Mayborn respectfully requests that this Court enter an order denying the relief Nanobebe seeks, dismissing Nanobebe's

Complaint against Mayborn in its entirety with prejudice, and granting Mayborn any other such relief as this Court deems just and proper.

AFFIRMATIVE DEFENSES

Mayborn's Affirmative Defenses are listed below. Mayborn reserves the right to amend its Answer to add additional defenses or modify existing ones consistent with the facts discovered in this case.

**FIRST AFFIRMATIVE DEFENSE
(Infringement)**

Nanobebe infringed and continues to infringe the '930 patent.

**SECOND AFFIRMATIVE DEFENSE
(Failure to State a Claim)**

Nanobebe's Complaint fails to state a claim upon which relief can be granted because, among other things, Nanobebe has not stated a plausible allegation that the products of Paragraph 21 do not infringe the '930 patent.

**THIRD AFFIRMATIVE DEFENSE
(No Exceptional Case)**

Mayborn has not engaged in any conduct that would render this case exceptional and entitle Nanobebe to an award of its costs, expenses, and/or attorneys' fees.

MAYBORN'S COUNTERCLAIMS

For their Counterclaims in the above-captioned action, the Mayborn Counterclaim Plaintiffs hereby allege as follows:

This is an action for patent infringement. Nanobebe has infringed (literally and/or under the doctrine of equivalents) and continues to infringe, contribute to the infringement of, and/or actively induce others to infringe U.S. Patents Nos. 10,952,930 (“the ’930 patent”) and 11,207,244 (“the ’244 patent”) (collectively, the “Asserted Patents”).

PARTIES

1. Mayborn USA, Inc. is a corporation organized under the laws of the State of New York with a principal place of business at 1010 Washington Boulevard, Stamford, Connecticut 06901.

2. Mayborn (UK) Limited is a corporation organized and existing under the laws of England and having a principal place of business at Balliol Business Park, Benton Lane, Newcastle upon Tyne, United Kingdom, NE12 8EW.

3. Mayborn Group Limited is a corporation organized under the laws of England with a principal place of business at Balliol Business Park, Benton Lane, Newcastle upon Tyne, United Kingdom, NE12 8EW.

4. Upon information and belief, Plaintiff/Counterclaim-Defendant Nanobebe US Inc. is a corporation organized and existing under the laws of Delaware with its principal place of business at 1030 Jenkins Road, Suite A, Charleston, South Carolina 29407.

JURISDICTION

5. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 et seq. Jurisdiction is conferred on this Court pursuant to 28 U.S.C.

1331 and 1338(a). In addition, this Court has jurisdiction over the subject matter of these Counterclaims under, without limitation, 28 U.S.C. §§ 1367, 2201, and 2202.

6. The patents-at-issue in this action are U.S. Patent Nos. 10,952,930 (“the ’930 patent”) and 11,207,244 (“the ’244 patent”) (collectively, the “Asserted Patents”).

7. Venue is appropriate because, *inter alia*, Nanobebe has consented to the propriety of venue in this Court by filing its claims for declaratory judgment in this Court, in response to which these Counterclaims are asserted.

8. This Court has personal jurisdiction over Nanobebe because Nanobebe has subjected itself to the same by filing its Complaint for declaratory judgment.

STATEMENT OF FACTS

9. Mayborn has been in the business of creating, making, and selling baby products and delighting parents for nearly 60 years, starting with the original Tommee Tippee no-spill cup in the mid-sixties. Since then, Mayborn’s push for innovation to solve real issues faced by real parents the world over has made Tommee Tippee the #1 baby brand in the United Kingdom and Australia, and in the decade since the brand was launched in the United States, Tommee Tippee became a major player and continues to be a growing baby brand in the United States.

10. A shining example of Mayborn’s innovation is the Closer to Nature (“CTN”) line of baby bottles. The CTN bottles revolutionized the baby industry by being the first to have a real breast-like shape.

11. Prior to Mayborn’s invention of the most-breast-like bottle, baby bottles had a step-like design where the nipple connected with the collar in a traditional shape that did not in any way resemble a breast. Mayborn’s invention reimagined the traditional baby bottle into a bottle that more closely resembles a human breast. The wide breast-like nipple and collar design with an

ultrasensitive built-in air vent makes switching between breast and bottle feeding simpler than with traditional bottles. The overall breast-like shape is easy for babies to latch on to, feels more like skin, and mimics the natural flex and movement of a mom's breast for a comfortable feed.

Traditional bottles	Mayborn's breast-like bottle
	

12. The CTN bottle is loved by parents and babies alike, winning multiple awards and quickly becoming the gold standard for baby bottle designs. Since the CTN bottle design was launched, the baby bottle industry has moved away from the traditional bottle shape to copy Mayborn's more breast-like design.

13. The Asserted Patents are a reflection of the breadth of Mayborn's dedication and investment in the technology and development of innovative products that support and delight parents in the rollercoaster ride of raising a baby.

14. The Asserted Patents are continuations of a patent family that claims priority to June 29, 2004.

15. On March 3, 2021, the '930 patent was duly and legally issued for an invention titled "Baby Bottle With Flexible Nipple Regions." A true and correct copy of the '930 patent is attached hereto as Exhibit A.

16. On December 28, 2021, the '244 patent, which is a continuation of the '930 patent, was duly and legally issued. A true and correct copy of the '244 patent is attached hereto as Exhibit B.

17. Mayborn (UK) Limited owns the entire right, title, and interest to the Asserted Patents.

18. Pursuant to 35 U.S. Code § 287, Mayborn marks its products to provide notice of Mayborn's patent rights to the public.

19. On information and belief, without license or permission from Mayborn, Nanobebe has infringed, literally and/or under the doctrine of equivalents, and continues to infringe, the Asserted Patents by engaging in acts constituting infringement under 35 U.S.C. § 271, including but not necessarily limited to one or more of making, using, selling and offering to sell, in the United States, and importing into the United States, baby bottles having Mayborn's breast-like shape, design, and functionality. In particular, Nanobebe's Plastic Breastmilk Baby Bottle, Flexy Silicone Baby Bottle, and substantially similar products and components thereof (the "Accused Products") infringe at least claim 14 of the '930 patent and at least claim 21 of the '244 patent (collectively, the "Asserted Claims").

20. On information and belief, Nanobebe induces infringement of the Asserted Patents by others. For example, Nanobebe takes active steps to promote and encourage the sale of the Accused Products by third parties.

21. Nanobebe takes specific steps to actively induce others—such as, for example, retailers and customers—to use the Accused Products. For example, and without limitation, on information and belief, Nanobebe actively induces direct infringement of the Asserted Claims of the Asserted Patents by others by promoting, instructing, offering, and encouraging others to use the Accused Products. Furthermore, Nanobebe also actively promotes the breast-like nature of the Accused Products including, for example and without limitation, by way of authorized retailers, customer service and sales representatives, and/or its internet sales websites. Such active promotion includes advertising that the Accused Products feature a “natural mom-like feel” and “smooth transitions between breast and bottle” and promoting that “[b]aby instinctively connects to the bottle’s breast shape.” And, on information and belief, Nanobebe knows or should know that such sales and promotions actively induce others to directly infringe the Asserted Claims of the Asserted Patents, including for example, by prompting them to sell or use the Accused Products in an infringing manner.

22. As another example, Nanobebe provides and/or authorizes the providing of instruction manuals, product manuals, and other materials (*e.g.*, with the sale of a product and/or offered on its website) for customers and other users of the Accused Products that show how to assemble the Accused Products. On information and belief, Nanobebe knows or should know that such materials and instructions actively induce others to directly infringe the Asserted Claims of the Asserted Patents including by instructing them to use the Accused Products.

23. Furthermore, Nanobebe and/or its authorized retailers operate stores throughout the United States, including stores in this District, such as Walmart and Target in New York City, that upon information and belief, sell, promote, and instruct the use of the Accused Products.

24. On information and belief, Nanobebe is aware of the '930 patent either by constructive notice as a competitor in the baby products industry, due to Mayborn's marking of its patents to the public, or at least as of the date Nanobebe received notice from Amazon of its infringement. On information and belief, Nanobebe is also aware of the '244 patent because it tracked the prosecution of U.S. Application No. 17/208,932.

COUNT ONE
(Infringement of U.S. Patent No. 10,952,930)

25. Mayborn incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

26. In violation of 35 U.S.C. § 271, Nanobebe has infringed, induced others to infringe, and/or contributed to the infringement of one or more claims of the '930 patent, including but not limited to claim 14, literally and/or under the doctrine of equivalents, by among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed products in a manner that infringes the '930 patent. Such unlicensed products include the Accused Products.

27. On information and belief, Nanobebe has had knowledge of the '930 patent and that its activities infringe the '930 patent long before the filing of this action. For example, Nanobebe has had knowledge of the '930 patent and has known of the '930 patent and its infringement thereof since at least August 11, 2021, when it received an infringement notice from Amazon and August 31, 2021, when it received claim charts from Mayborn detailing its infringement of the '930 patent.

28. On information and belief, Nanobebe takes active steps to induce infringement of the '930 patent by others, including its retailers, distributors, and customers, and Nanobebe takes such active steps knowing that those steps will induce, encourage and facilitate direct infringement

by others. Such active steps include, but are not limited to, encouraging, advertising (including by internet websites, YouTube videos, print advertisements, etc.), promoting, and instructing others to use and/or how to use the Accused Products.

29. On information and belief, Nanobebe knows or should know that such activities induce others to directly infringe the '930 patent, including for example, by prompting them to assemble the Accused Products in an infringing manner. As such, Nanobebe has knowingly induced and continues to induce direct infringement of the '930 patent by its retailers, distributors, and consumers.

30. On information and belief, Nanobebe contributes to the infringement of the '930 patent by others, including its customers. Acts by Nanobebe that contribute to the infringement of others include, but are not limited to, the sale, offer for sale, and/or import by Nanobebe of the components of Accused Products, including but not limited to, replacement nipples. The components are not suitable for substantial noninfringing use. On information and belief, Nanobebe knows such components to be especially adapted to infringe by use with other components to assemble the Accused Products.

31. Nanobebe knew of the '930 patent prior to filing its Complaint for Declaratory Judgment. For example, by way of the Amazon notice on August 11, 2021, Nanobebe knew of the '930 patent and performed acts that it knows, or should know, induces and/or contributes to the direct infringement of the '930 patent by third parties.

32. Nanobebe undertook and continues to undertake its egregious infringing actions with knowledge of the '940 patent and despite an objectively high likelihood that such activities infringe the '930 patent, which has been duly issued by the USPTO and is presumed valid. For example, since the date it received notice of infringement from Amazon, Nanobebe has been aware

of an objectively high likelihood that its actions constituted and continue to constitute infringement of the '930 patent and that the '930 patent is valid. Nanobebe could not reasonably, subjectively believe that its actions do not constitute infringement of the '930 patent, nor could it reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that its actions constitute infringement, Nanobebe has continued its infringing activities. As such, Nanobebe willfully infringes the '930 patent.

33. Nanobebe's infringement of the '930 patent has caused and continues to cause damage to Mayborn and Mayborn is entitled to recover from Nanobebe compensation as a result of Nanobebe's wrongful acts including but not limited to a reasonable royalty and/or lost profits, and such other relief as may be appropriate.

34. Nanobebe's infringement of the '930 patent is exceptional and entitles Mayborn to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

COUNT TWO
(Infringement of U.S. Patent No. 11,207,244)

35. Mayborn incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth herein.

36. In violation of 35 U.S.C. § 271, Nanobebe has infringed, induced others to infringe, and/or contributed to the infringement of one or more claims of the '244 patent, including but not limited to claim 21, literally and/or under the doctrine of equivalents, by among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed products in a manner that infringes the '244 patent. Such unlicensed products include the Accused Products.

37. On information and belief, Nanobebe has known of the '244 patent and its infringement thereof since the '244 patent issued on December 28, 2021. For example, Nanobebe

has had knowledge of the '244 patent because, on information and belief, it has been tracking the prosecution of U.S. Application No. 17/208,932 since receiving the notice of infringement of the '930 patent from Amazon.

38. On information and belief, Nanobebe takes active steps to induce infringement of the '244 patent by others, including its retailers, distributors, and customers, and Nanobebe takes such active steps knowing that those steps will induce, encourage and facilitate direct infringement by others. Such active steps include, but are not limited to, encouraging, advertising (including by internet websites, YouTube videos, print advertisements, etc.), promoting, and instructing others to use and/or how to use the Accused Products.

39. On information and belief, Nanobebe knows or should know that such activities induce others to directly infringe the '244 patent, including for example, by prompting them to assemble the Accused Products in an infringing manner. As such, Nanobebe has knowingly induced and continues to induce direct infringement of the '244 patent by its retailers, distributors, and consumers.

40. On information and belief, Nanobebe contributes to the infringement of the '244 patent by others, including its customers. Acts by Nanobebe that contribute to the infringement of others include, but are not limited to, the sale, offer for sale, and/or import by Nanobebe of the components of Accused Products, including but not limited to, replacement nipples. The components are not suitable for substantial noninfringing use. On information and belief, Nanobebe knows such components to be especially adapted to infringe by use with other components to assemble the Accused Products.

41. By way of the Amazon notice on August 11, 2021, Nanobebe knew of the '930 patent family and the then-pending U.S. Application No. 17/208,932 which issued as the '244

patent and performs acts that it knows, or should know, induces and/or contributes to the direct infringement of the '244 patent by third parties.

42. Nanobebe undertook and continues to undertake its infringing actions with knowledge of the '244 patent and despite an objectively high likelihood that such activities infringe the '244 patent, which has been duly issued by the USPTO and is presumed valid. For example, since the date it received notice of infringement from Amazon, Nanobebe has been aware of an objectively high likelihood that its actions constituted and continue to constitute infringement of then-pending U.S. Application No. 17/208,932 which issued as the '244 patent and that the '244 patent is valid. Nanobebe could not have reasonably, subjectively believe that its actions do not constitute infringement of the '244 patent, nor could it reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that its actions constitute infringement, Nanobebe has continued its infringing activities. As such, Nanobebe willfully infringes the '244 patent.

43. Nanobebe's infringement of the '244 patent has caused and continues to cause damage to Mayborn and Mayborn is entitled to recover from Nanobebe compensation as a result of Nanobebe's wrongful acts including but not limited to a reasonable royalty and/or lost profits, and such other relief as may be appropriate.

44. Nanobebe's infringement of the '244 patent is exceptional and entitles Mayborn to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Mayborn asks this Court to enter judgment in Mayborn's favor and against Nanobebe by granting the following relief:

- a) That each of the Asserted Claims of the Asserted Patents have been and continue to be infringed by Nanobebe;
- b) That Nanobebe's infringement of the Asserted Patents has been willful;
- c) That each of the Asserted Patents is enforceable, eligible for patent protection, and not invalid;
- d) An award of damages adequate to compensate Mayborn for the patent infringement that has occurred, together with pre-judgment interest and costs;
- e) An award of ongoing royalty for Nanobebe's post-verdict infringement, payable on each product offered by Nanobebe that is found to infringe one or more of the Asserted Patents, and on all future products that are not colorably different from those found to infringe;
- f) In the alternative if no prospective royalty is granted, a permanent injunction preventing further infringement;
- g) An award of all other damages permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found;
- e) Dismissal of Nanobebe's Complaint with prejudice;
- f) A finding that this action is an exceptional case under 35 U.S.C. § 285 and an award to Mayborn of its costs and attorneys' fees incurred in this action; and
- g) Further relief as the Court may deem just and proper.

JURY DEMAND

Mayborn hereby demands trial by jury on all issues.

Dated: January 13, 2022

Respectfully submitted,

FISH & RICHARDSON P.C.

By:


/s/

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**COUNSEL FOR DEFENDANTS
MAYBORN (UK) LIMITED,
MAYBORN USA, INC., AND
MAYBORN GROUP LIMITED**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 13, 2022, a true and correct copy of the foregoing document was filed with the Clerk of the Court using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/John S. Goetz
John S. Goetz