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Attorneys for Plaintiff Purple Innovation, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PURPLE INNOVATION, LLC,

Plaintiff,

v.

DIAMOND MATTRESS
COMPANY, INC.,

Defendant.

CASE NO. 2:22-CV-08396

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Purple Innovation, LLC (“Purple”), for its Complaint against
2 Defendant Diamond Mattress Company, Inc. (“Diamond”), alleges as follows:

3 **NATURE OF THE ACTION**

4 1. This Complaint asserts claims arising under the patent laws of the
5 United States, including 35 U.S.C. § 271, based on Diamond’s infringement of
6 U.S. Patent No. 11,317,733 (the ’733 patent).

7 **PARTIES**

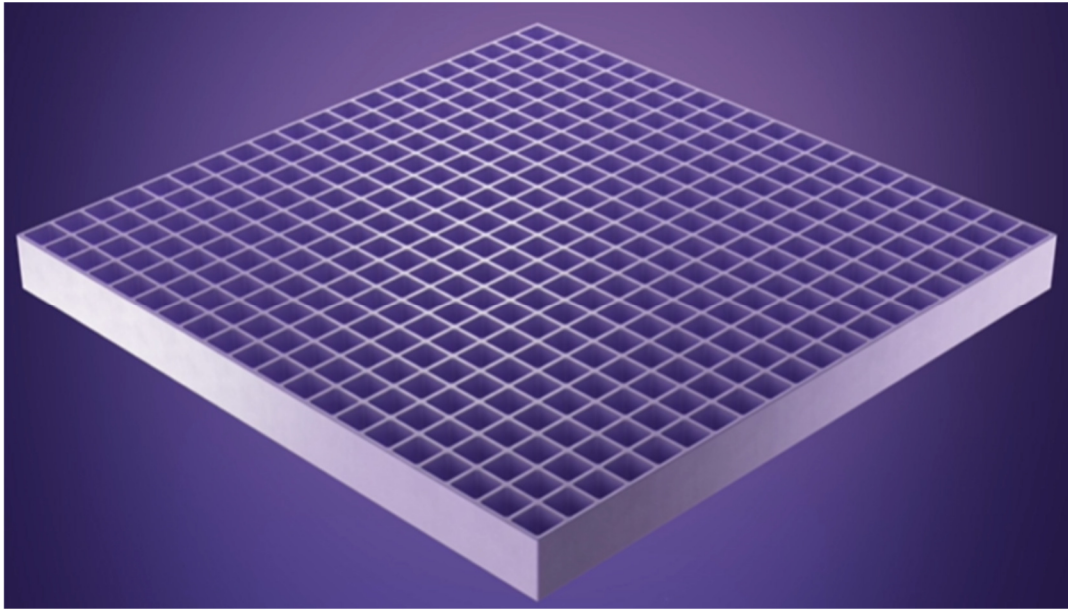
8 2. Purple is a Delaware limited liability company with a place of
9 business at 123 East 200 North, Alpine, UT 84004.

10 3. Purple manufactures and sells mattresses that utilize Purple’s GelFlex
11 Grid.

12 4. The GelFlex Grid uses a repeating geometric structure to create
13 cushioned comfort while maintaining support. Its unique design creates hundreds
14 of columns that work together to support broad surfaces (like the back) but that
15 give way under concentrated weight to gently cradle areas like the shoulders and
16 hips. The GelFlex Grid instantly adapts to movement, reconfiguring itself to
17 support any position a body takes.

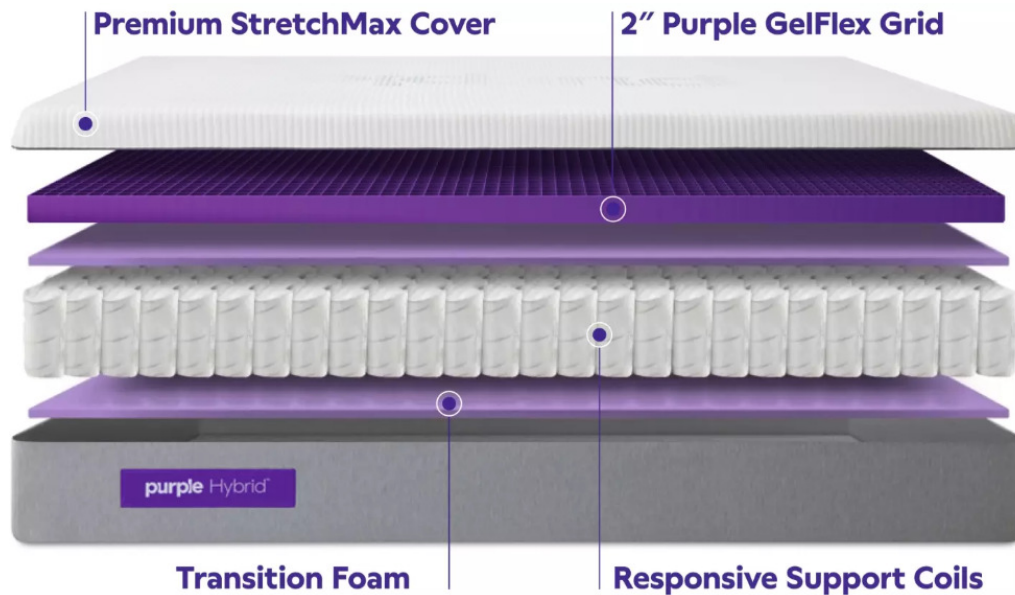
18 5. Unlike memory foam, the GelFlex Grid does not trap body heat. As a
19 result, Purple’s mattresses maintain a comfortable temperature all night long.

1 6. An example image of the GelFlex Grid is shown below:
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20 7. Among other products, Purple sells hybrid mattresses that pair the
21 comfort and instantly adaptive support of the GelFlex Grid with the buoyancy and
22 air flow of individually wrapped coils.
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8. Below is an example image showing the contents of one of Purple’s hybrid mattresses:



9. Diamond is a California corporation with its principal place of business at 3112 E. Las Hermanas Street, Compton, CA 90221.

10. Diamond manufactures, markets, offers for sale, and sells mattresses in the United States.

JURISDICTION AND VENUE

11. This court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338(a).

12. Personal jurisdiction over Diamond is proper in this District because Diamond’s principal place of business is located in this District. Furthermore, Diamond has engaged in infringing activities in this District, including making infringing products in this District.

13. Venue is proper in this district under 28 U.S.C. § 1400(b). Diamond is incorporated in California and has its principal place of business in this District.

Moreover, Diamond has committed acts of infringement in this District and has a regular and established place of business in this District.

FACTS

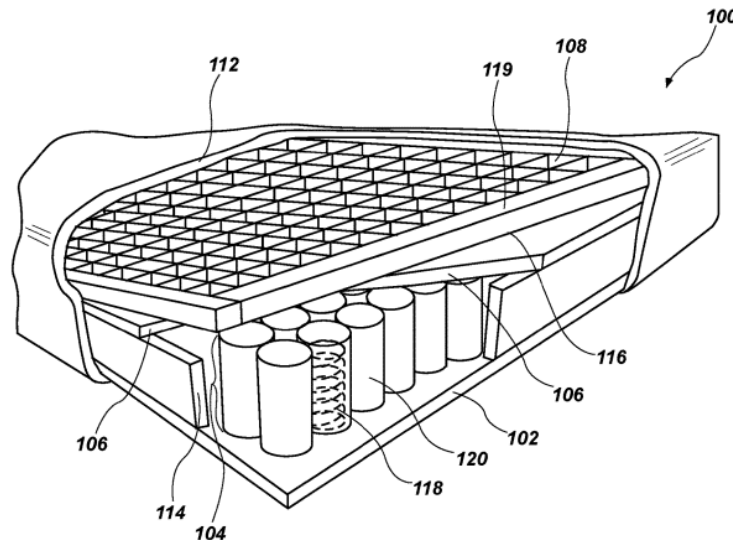
The '733 Patent

14. The '733 patent, titled "Mattresses Including an Elastomeric Cushioning Element and a Pocketed Coil Layer and Related Methods," issued on May 3, 2022. A true and correct copy of the '733 patent is attached as **Exhibit A**.

15. Purple is the sole owner of the '733 patent.

16. The '733 patent concerns, among other subject matter, "cushioning elements such as mattresses including a pocketed coil layer." Exhibit A, 1:8-10.

17. Figure 2 (reproduced below) of the '733 patent illustrates a "mattress assembly 100" that "may include a base layer 102, a coil layer 104, an upper layer 106, [and] an elastomeric cushioning element 108." *Id.*, 4:15-17.



18. The '733 patent states that "[i]n some embodiments, the mattress assembly 100 may include a stabilization material 116 between the elastomeric cushioning element 108 and the upper layer 106." *Id.*, 4:38-40.

19. By way of example, claim 1 of the '733 patent recites:

1 A mattress assembly, comprising:
2 a base layer;
3 a coil layer disposed over the base layer, the coil layer comprising a plurality
4 of pocketed coils;
5 an upper layer disposed over the coil layer;
6 a stabilization layer comprising a scrim fabric;
7 an elastomeric cushioning element disposed over the stabilization layer, an
8 elastomeric material of the elastomeric cushioning element seeping through the
9 stabilization layer to secure an upper surface of the stabilization layer to the
10 elastomeric cushioning element, the elastomeric material exposed and defining a
11 reduced slip surface or a non-slip surface on a lower surface of the stabilization
12 layer, the reduced slip surface or the non-slip surface positioned against an upper
13 surface of the upper layer; and
14 an outer covering encasing the base layer, the coil layer, the upper layer, the
15 stabilization layer, and the elastomeric cushioning element.

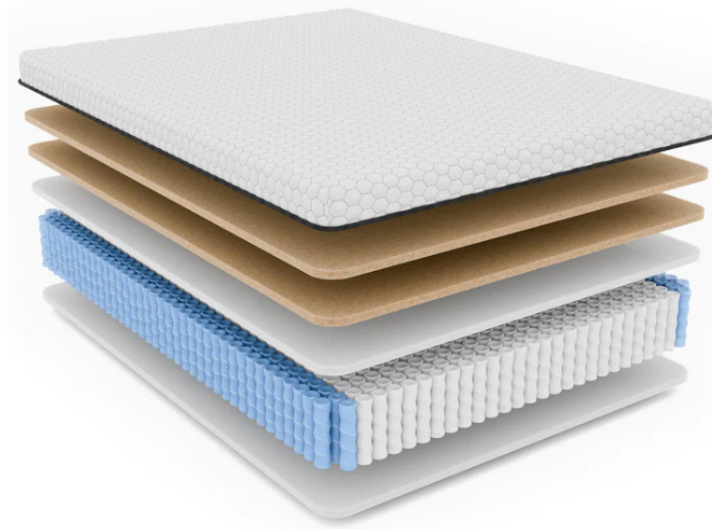
16 20. By way of example, claim 16 of the '733 patent recites:
17 A method of forming a mattress assembly, comprising:
18 disposing a coil layer over a base layer;
19 disposing an upper layer over the coil layer;
20 disposing an elastomeric cushioning element over the upper layer including
21 positioning a stabilization layer and a non-slip surface or a reduced slip surface
22 formed by elastomeric material on a lower surface of the stabilization layer against
23 the upper layer, the stabilization layer being located on a bottom surface of the
24 elastomeric cushioning element, the elastomeric material of the elastomeric
25 cushioning element securing the elastomeric cushioning element to an upper
26 surface of the stabilization layer; and
27 encasing the base layer, the coil layer, the upper layer, the stabilization layer,
28 and the elastomeric cushioning element in an outer casing.

Diamond's Infringing Activities and Products

21. Diamond is making, using, selling, and/or offering for sale a mattress that infringes at least claims 1 and 16 of the '733 patent.

22. Diamond sells and offers to sell hybrid mattresses that include a layer of individually wrapped coils and a separate cushioning layer.

23. One example of a Diamond mattress (the Response Cool Hybrid Mattress) that includes a cushioning layer, a layer of individually wrapped coils, a layer above the individually wrapped coils, and a layer below the individually wrapped coils is shown on Diamond's website as follows:



24. On information and belief, Diamond is modifying mattresses like the Response Cool Hybrid Mattress to incorporate gel technology similar to Purple's GelFlex Grid, and the resulting hybrid mattresses are infringing Purple's '733 patent.

25. Diamond announced in or around July 2022 that it was launching new mattresses at the Las Vegas Market trade show.

1 26. Diamond represented that these new mattresses included a new
2 feature that Diamond referred to as “Gel Grid by Diamond.”

3 27. The Gel Grid by Diamond acts as a cushioning layer in Diamond’s
4 new hybrid mattresses.

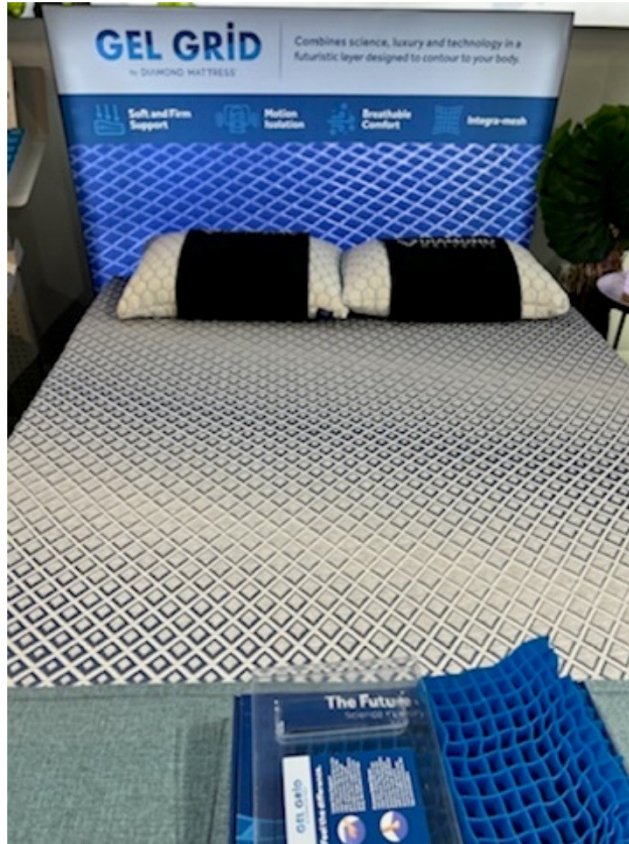
5 28. According to an article regarding Diamond’s new mattresses, “Gel
6 Grid by Diamond solves two of the most common issues that disrupt sleep —
7 sleeping hot and pressure points that cause tossing and turning. The combination of
8 cooling gel material and grid design provide key benefits to promote all-night
9 comfort for rejuvenating rest.” ([https://bedtimesmagazine.com/2022/07/diamond-](https://bedtimesmagazine.com/2022/07/diamond-mattress-highlights-gel-technology-for-sleep-comfort-luxury/)
10 [mattress-highlights-gel-technology-for-sleep-comfort-luxury/](https://bedtimesmagazine.com/2022/07/diamond-mattress-highlights-gel-technology-for-sleep-comfort-luxury/).)

11 29. That same article states that “[t]he gel grid design offers soft and firm
12 support and allows for multi-directional movement. That means it adjusts to the
13 sleeper to provide more or less support where needed as the sleeper moves during
14 the night. The bed consists of hundreds of grids that can shift in different
15 directions, a design that enables excellent motion isolation. Gel Grid by Diamond
16 also features an open cell design for airflow to prevent hot spots during sleep and
17 aids in maintaining an even temperature throughout the night.” (*Id.*)

18 30. On information and belief, Diamond displayed these new hybrid
19 mattresses at the Las Vegas Market.

20 31. Marketing for the Gel Grid by Diamond displayed at the Las Vegas
21 Market (and/or another trade show) stated that Gel Grid by Diamond “[c]ombines
22 science, luxury and technology in a futuristic layer designed to contour to your
23 body.”
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1 32. On information and belief, the image below shows a display of
2 Diamond's new hybrid mattress and marketing for the Gel Grid by Diamond.



18 33. On information and belief, at least one of Diamond's new mattresses
19 that includes a Gel Grid layer also includes a layer of individually wrapped coils
20 (the "Infringing Product").

21 34. The Gel Grid layer in the Infringing Product corresponds to the
22 elastomeric cushioning element of claim 1 of Purple's '733 patent, and the layer of
23 individually wrapped coils corresponds to the coil layer of claim 1.

24 35. On information and belief, as with other mattresses sold by Diamond,
25 the layer of individually wrapped coils of the Infringing Product is disposed over
26 another layer. The layer over which the layer of individually wrapped coils is
27 disposed corresponds to the base layer of claim 1.

28 36. On information and belief, as with other mattresses sold by Diamond,
the Infringing Product includes a layer disposed over the layer of individually

1 wrapped coils. The layer disposed over the layer of individually wrapped coils
2 corresponds to the upper layer of claim 1.

3 37. Diamond's display at the Las Vegas Market or another trade show
4 showed the Gel Grid by Diamond as having the following appearance:



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18 38. On information and belief, the white fabric shown in the above image
19 is included in the Infringing Product below the Gel Grid. The fabric included
20 below the Gel Grid corresponds to the stabilization layer of claim 1.

21 39. On information and belief, a portion of the Gel Grid included in the
22 Infringing Product pushes (or otherwise seeps) through the fabric.

23 40. On information and belief, the Gel Grid material that pushes through
24 the fabric creates a reduced slip surface or a non-slip surface on a lower surface of
25 the fabric that is positioned against the layer in the Infringing Product that is
26 disposed over the layer of individually wrapped coils.

27 41. On information and belief, as with other mattresses that Diamond sells
28 and consistent with the products Diamond displayed at the Las Vegas Market, the

1 layers included in the Infringing Product are encased by a cover. The cover
2 corresponds to the outer covering of claim 1.

3 42. Accordingly, the Infringing Product includes all the elements of at
4 least claim 1 of the '733 patent.

5 43. On information and belief, Diamond is making, using, offering for
6 sale, and/or selling the Infringing Product.

7 44. On information and belief, Diamond also infringes at least claim 16 of
8 the '733 patent by making and/or manufacturing the Infringing Product.

9 45. Diamond's infringing activity is damaging Purple.

10 46. Purple notified Diamond of the '733 patent and of this Complaint
11 upon filing the Complaint. Any continued infringement by Diamond beyond the
12 date of the filing of this Complaint constitutes willful infringement.

13 **COUNT I – INFRINGEMENT OF THE '733 PATENT**

14 47. Purple incorporates by reference the previous paragraphs of the
15 Complaint.

16 48. In violation of 35 U.S.C. § 271, Diamond has been and is literally
17 infringing (or infringing through the doctrine of equivalents) one or more claims of
18 the '733 patent, including (without limitation) claims 1 and 16, by making, using,
19 selling, or offering for sale in the United States, or importing into the United
20 States, including within this judicial district, the Infringing Product.

21 49. Any continued infringement by Diamond after the date of the filing of
22 this Complaint is knowing, intentional, and willful.

23 50. Diamond's acts of infringement of the '733 patent have caused and
24 will continue to cause Purple damages for which Purple is entitled to compensation
25 under 35 U.S.C. § 284 in an amount to be determined at trial.

26 51. Purple is further entitled to an increase of its damages three times in
27 accordance with 35 U.S.C. § 284.
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52. Diamond's acts of infringement of the '733 patent have caused and will continue to cause Purple immediate and irreparable harm unless such infringing activities are enjoined by this Court under 35 U.S.C. § 283. Purple has no adequate remedy at law.

53. This case is exceptional and, therefore, Purple is entitled to an award of attorney fees under 35 U.S.C. § 285.

REQUEST FOR RELIEF

WHEREFORE, Purple requests judgment against Diamond as follows:

1. Declaring that Diamond has infringed the '733 patent, in violation of 35 U.S.C. § 271;

2. Permanently enjoining Diamond, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all of those in active concert and participation with any of the foregoing persons or entities from infringing, contributing to the infringement of, or inducing infringement of the '733 patent;

3. Ordering Diamond to account for and pay damages adequate to compensate Purple for Diamond's infringement of the '733 patent, with pre-judgment and post-judgment interest and costs, in accordance with 35 U.S.C. § 284;

4. Ordering that the damages award be increased up to three times the actual amount in accordance with 35 U.S.C. § 284;

5. Declaring this case exceptional and awarding Purple its reasonable attorney fees under 35 U.S.C. § 285; and

6. Awarding such other and further relief as this Court deems just and proper.

1 Dated: November 17, 2022

2 KNOBBE, MARTENS, OLSON & BEAR, LLP

3 /s/ Nicholas M. Zovko

4 Nicholas M. Zovko

5 Raymond S. Lu

6 Michael K. Erickson

7 Adam K. Richards

8 **RAY QUINNEY & NEBEKER P.C.**

9 *Attorneys for Plaintiff*

10 *Purple Innovation, LLC*

1 **DEMAND FOR JURY TRIAL**

2 Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Local Rule
3 38-1, Diamond demands a jury trial on all issues so triable.
4

5 Dated: November 17, 2022

6 KNOBBE, MARTENS, OLSON & BEAR, LLP

7 /s/ Nicholas M. Zovko

8 Nicholas M. Zovko

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12 **RAY QUINNEY & NEBEKER P.C.**

13 *Attorneys for Plaintiff*

14 *Purple Innovation, LLC*
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