

SCHWIE_{LLC}LAW

January 20, 2020

Mito Red Light, Inc. (“Mito Red”)
14795 N 78th Way, #300
Scottsdale, Arizona 85260

Denton Peterson, P.C.
1930 N. Arboleda Road, Suite 200
Mesa, Arizona 85213

Dear Mito Red legal department,

I represent Joovv, Inc. (“Joovv”) as its Intellectual Property Litigation Attorney. As you are aware, Joovv is the maker of a number of light therapy devices.

Joovv Patents

Joovv has made considerable investments to protect its intellectual property rights. For example, Joovv is the owner of **U.S. Patent No. 10,478,635** (the ‘635 patent), which **issued November 19, 2019**. Generally, the ‘635 patent protects the intellectual property rights of connecting a first light therapy device with a second light therapy. (A copy of the ‘635 patent is enclosed for your reference as Exhibit A.)

Mito Red’s Illegal Acts

It has come to our attention that Mito Red Light is illegally using Joovv’s intellectual property by selling one or more products that infringe the ‘635 patent. Furthermore, Mito Red does not have a licensing agreement on file with Joovv to license any of its intellectual property. The infringing actions include, amongst others, selling a modular based light therapy system (“Product”). (A copy of the Mito Red modular product is enclosed for your reference as Exhibit B. The items included in Exhibit B may not be inclusive of all of Mito Red’s infringing actions.)

Additionally, please see the attached infringement analysis showing how the Product infringes the ‘635 patent (see Exhibit C). **Mito Red’s actions are illegal and punishable via the U.S. legal system.**

Projected Damages Owed to Joovv

Pursuant to this Legal Notice, Joovv reserves the rights to pursue recovery of damages, such as a reasonable royalty, under the provisions of 35 U.S.C. § 284 for Mito Red’s acts of practicing the claimed inventions of the ‘635 patent.

Willful Infringement

Based on the provisions of 35 U.S.C. § 284, if Mito Red continues practicing the claims of the

'635 patent, Mito Red may be willfully infringing the '635 patent.

Willful infringement occurs when the infringing party's infringing activities are seen as *objectively* reckless. See *In re Seagate Technology, LLC*, 497 F.3d 1360 (Fed. Cir. 2007). Based on the detailed notice provided in this letter, any of Mito Red's continued infringing behavior would be objectively reckless, thus making Mito Red liable for willful infringement.

Under the guidance of the holding of *Aro Mfg. Co. v. Convertible Top Replacement Co.*, 377 US 476 at 507 (1964), Mito Red's continued infringing behavior would make Mito Red liable for damages equal to the lost profits of Joovv's Duo, Max, Quad, and Elite products (having retail prices from \$2,195 to \$5,995 USD). Joovv calculates that for each sale of the Mito Red product, Joovv may lose on average around \$4,000 USD in profit.

Treble Damages

Under the provisions of 35 U.S.C. § 284, damages for willful infringement may be equal to treble damages. In other words, Mito Red could owe three times \$4,000 USD per unit that Mito Red sells. As a result, Mito Red could owe Joovv **damages of \$12,000 USD per unit sold**.

Attorney Fees

Furthermore, based on the statutory guidance of 35 U.S.C. § 285, Mito Red may also be liable for paying Joovv's attorney fees. Upon receiving this notice, any future infringement of the '635 patent is not accidental, but instead is willful. Willful infringement could lead a court to force Mito Red to pay Joovv's attorneys fees. *Patent litigation attorneys can charge \$1,000 per hour or more*. Attorney fees in patent litigation can cost hundreds of thousands of dollars. In addition to Mito Red having to pay its own attorney fees, Joovv will accept Mito Red's forced reimbursement for any attorney fees incurred due to Mito Red's violation of U.S. patent laws as outlined herein.

Cease and desist

Prior to receiving this Legal Notice, perhaps Mito Red did not understand the role of intellectual property in the light therapy market and that intellectual property infringement is against U.S. law, and thus is punishable via the U.S. legal system. Joovv is willing to give Mito Red the benefit of the doubt by providing until **Monday, February 3, 2020 to permanently cease and desist** from continued infringement of the '635 patent.

Joovv hopes that Mito Red will make the ethically and financially sound decision to stop stealing Joovv's intellectual property. If Mito Red ceases and desists its illegal activities by Monday, February 3, 2020, then Mito Red and its employees, directors, and owners will not be subject to the penalties for the Intellectual Property theft outlined herein.

Sincerely,

/s/ Wesley E. Schwie

Wesley E. Schwie, Esq.

Schwie Law, LLC

wes@schwielaw.com

651.428.9828

CC:

Justin Strahan

Enclosures:

Exhibit A – '635 patent

Exhibit B – Mito Red sales offer

Exhibit C – Infringement analysis



Wes Schwie <wes@schwielaw.com>

Mito Red Light, Inc.

2 messages

Donald Hertz <dona1d@valuablepatents.com>
To: wes@schwielaw.com
Cc: "Louis J. Hoffman" <louis@valuablepatents.com>

Thu, Jan 30, 2020 at 2:33 PM

Dear Mr. Schwie:

Please see the attached letter from Louis Hoffman.

Regards,

Donald L. Hertz

Assistant to Louis Hoffman

HOFFMAN PATENT FIRM

Louis J. Hoffman, P.C.

[7689 East Paradise Lane](#)

[Suite 2](#)

[Scottsdale, Arizona 85260](#)

[Ph.: \(480\) 948-3295](#)

 **20-01-30-Mito-LJH ltr to SchwieLaw re represent Mito.pdf**
116K

Wes Schwie <wes@schwielaw.com>
To: Donald Hertz <dona1d@valuablepatents.com>
Cc: "Louis J. Hoffman" <louis@valuablepatents.com>

Thu, Jan 30, 2020 at 2:49 PM

Hello Donald,

I confirm receipt of your email.

Best regards,

Wes Schwie, Esq.
IP Attorney, Schwie Law, LLC

651-428-9828 | [linkedin.com/in/schwie](https://www.linkedin.com/in/schwie)

445 Minnesota St, Suite 1500 St. Paul, MN 55101

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HOFFMAN
PATENT FIRM
PROMOTING THE POWER OF VALUABLE PATENTS

LOUIS J. HOFFMAN

Louis J. Hoffman, P. C.
7689 East Paradise Lane, Suite 2
Scottsdale, Arizona 85260
(480) 948-3295
Louis@valuablepatents.com

Registered Patent Attorney

January 30, 2020

VIA E-MAIL (.pdf attachment) - wes@schwielaw.com

Wesley E. Schwie, Esq.
SCHWIE LAW, LLC
122 New Street, #3A
Philadelphia, Pennsylvania 19106

Re: Mito Red Light, Inc.

Dear Wesley,

My law firm has agreed to represent Mito Red Light, Inc. in connection with the patent-infringement claim described in your January 20, 2020, letter based on U.S. Patent 10,478,635 allegedly owned by your client, Joovv, Inc. Please direct any further communication on this matter to me.

I will be looking into the allegations closely.

Very truly yours,



Louis J. Hoffman



April 5, 2021

MITO RED LIGHT, INC. (“Mito Red Light”)

ATTN: Denton Peterson P C

1930 N Arboleda Rd. STE 200

Mesa, AZ 85213

1-480-597-4649

info@mitoredlight.com

Dear Mito Red Light legal department,

I represent Joovv, Inc. (“Joovv”) as its Intellectual Property Litigation Attorney. As you are aware, Joovv is the maker of a number of light therapy devices.

Joovv Patents

Joovv has made considerable investments to protect its intellectual property rights. For example, Joovv is the owner of **U.S. Patent No. 10,639,495** (the ‘495 patent), which issued May 5, 2020 as well as **U.S. Patent No. 10,828,505** (the ‘505 patent), which issued November 10, 2020 (collectively “**the Joovv patents**”). Generally, the Joovv patents protect the intellectual property rights of connecting a first light therapy device with a second light therapy. (A copy of the ‘495 patent is enclosed for your reference as Exhibit A, and a copy of the ‘505 patent is enclosed for your reference as Exhibit B.)

Additionally, Joovv is the owner of **U.S. Patent Publication No. 2020/0121944** (the ‘944 publication), which published on April 23, 2020. We have enclosed a copy of the ‘944 publication (see Exhibit C1), as well as the currently pending claims as of April 3, 2021 (see Exhibit C2) for your review. The claims of the ‘944 publication are directed to a light therapy system. Accordingly, this letter also serves as a Legal Notice, pursuant to provisional rights statute 35 U.S.C. § 154(d), of the ‘944 publication.

Mito Red Light’s Infringing Acts – Patent infringement

It has come to our attention that **Mito Red Light is making, using and selling one or more products that infringe the Joovv patents**. For example, Mito Red Light is selling a product entitled “Mito Red Light MitoPRO 300” (“the Mito Red Light Product”) on mitoredlight.com. (A copy of the Mito Red Light Products and the Mito Red Light User Manual are enclosed for your reference as Exhibit D1, D2, D3, D4 and D5.) Furthermore, Mito Red Light does not have a licensing agreement on file with Joovv to license any of its intellectual property. Intellectual property infringement is against U.S. law and is punishable via the U.S. legal system.

Pursuant to this Legal Notice, Joovv reserves the rights to pursue recovery of damages, such as a reasonable royalty, under the provisions of 35 U.S.C. § 284 for Mito Red Light’s acts of practicing



the claimed inventions of the Joovv patents.

Willful Infringement

Based on the provisions of 35 U.S.C. § 284, if Mito Red Light continues practicing the claims of the Joovv patents, Mito Red Light may be willfully infringing the Joovv patents.

Willful infringement occurs when the infringing party's infringing activities are seen as *objectively* reckless. See *In re Seagate Technology, LLC*, 497 F.3d 1360 (Fed. Cir. 2007). Based on the detailed notice provided in this letter, any of Mito Red Light's continued infringing behavior would be objectively reckless, thus making Mito Red Light liable for willful infringement.

Under the guidance of the holding of *Aro Mfg. Co. v. Convertible Top Replacement Co.*, 377 US 476 at 507 (1964), Mito Red Light's continued infringing behavior would make Mito Red Light liable for damages equal to the lost profits of Joovv's patented modular products. **Moreover, under the provisions of 35 U.S.C. § 284, damages for willful infringement may be equal to treble damages.**

Additionally, based on the statutory guidance of 35 U.S.C. § 285, willful infringement could further lead a court to force Mito Red Light to pay Joovv's attorneys fees. In addition to Mito Red Light having to pay its own attorney fees, Joovv will accept Mito Red Light's forced reimbursement for any attorney fees incurred due to Mito Red Light's violation of U.S. patent laws as outlined herein.

Prior to receiving this Legal Notice, perhaps Mito Red Light did not understand the role of intellectual property in the light therapy market and that intellectual property infringement is against U.S. law, and thus is punishable via the U.S. legal system.

Joovv prefers to resolve matters such as these without the need to take legal action, but it is prepared to take any action it deems necessary to protect its intellectual property rights.

Sincerely,

Wesley Schwie, Esq.
wes@schwielaw.com
(651) 256-9480





CC:

Justin Strahan

Enclosures:

- Exhibit A – '495 patent
- Exhibit B – '505 patent
- Exhibit C1 – '944 publication
- Exhibit C2 – Pending claims of the '944 publication
- Exhibit D1 – Mito Red Light product main page
- Exhibit D2 – Mito Red Light Original Series product page
- Exhibit D3 – Mito Red Light MitoMOD Series product page
- Exhibit D4 – Mito Red Light MitoPRO Series product page
- Exhibit D5 – Mito Red Light Original, MitoMOD, and MitoPRO Series User Manual