

1 RENNER OTTO
MARK C. JOHNSON (Pro Hac Vice)
2 mjohnson@rennerotto.com
KYLE B. FLEMING (BAR NO. 166386)
3 kfleming@rennerotto.com
SARAH L. BOONE (Pro Hac Vice)
4 sboone@rennerotto.com
1621 Euclid Avenue, Floor 19
5 Cleveland, Ohio 44115
T: 216.621.1113
6 F: 216.621.6165

7 Attorneys for Plaintiff
8 Therabody, Inc.

9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 THERABODY, INC.,
13 Plaintiff,
14 v.
15 HYPER ICE, INC.,
16 Defendant.

Case No. 8:26-cv-00003-JWH-KES

**THERABODY, INC.'S PATENT
L.R. 3.1 DISCLOSURE OF
ASSERTED CLAIMS AND
INFRINGEMENT
CONTENTIONS**

17
18
19
20
21
22
23
24
25
26
27 Therabody EX2011
Hyper Ice v. Therabody
28 PGR2026-00051

THERABODY'S PATENT L.R. 3.1
INFRINGEMENT CONTENTIONS

Pursuant to Patent L.R. 3-1 and 3-2, Plaintiff Therabody, Inc. (“Plaintiff”) provides its Disclosure of Asserted Claims and Infringement Contentions, stating as follows:

(a) Each claim of each patent in suit that is allegedly infringed by each opposing party, including for each claim the applicable statutory subsections of 35 U.S.C. § 271 asserted.

Based on publicly available information, and without the benefit of discovery in this action, Plaintiff contends that Defendant Hyper Ice, Inc. (“Defendant” or “Hyperice”) directly infringes, pursuant to 35 U.S.C. § 271(a), numerous claims of U.S. Patent No. 12,396,919 (“the ’919 Patent”). Attached hereto as Exhibits A–D are claim charts detailing the claims of the ’919 Patent that Defendant infringes.

(b) Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus shall be identified by name or model number, if known. Each method or process shall be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process.

Based on publicly available information, and without the benefit of discovery in this action, the claim charts attached hereto as Exhibits A–D detail the claims infringed by each Accused Instrumentality sold by Defendant. The summary table below lists the asserted claims of the ’919 Patent corresponding to each Accused Instrumentality, which Plaintiff alleges are infringed pursuant to 35 U.S.C. § 271(a).

Accused Instrumentalities	Asserted Claims
Hypervolt 3	1-20
Hypervolt Go 3	1-20
Hypervolt 3 Pro	1-20
Hypervolt Go 2	1, 3, 4, and 7–11

1 This list of Accused Instrumentalities is based on Plaintiff's present
2 knowledge of Defendant's products. These Accused Instrumentalities are exemplary
3 and shall be construed to include substantially similar products with respect to the
4 asserted claims of the Asserted Patents.

5 ***(c) A chart identifying specifically where and how each limitation of each***
6 ***asserted claim is found within each Accused Instrumentality, including for each***
7 ***limitation that such party contends is governed by 35 U.S.C. § 112(6), the identity***
8 ***of the structure(s), act(s), or material(s) in the Accused Instrumentality that***
9 ***performs the claimed function.***

10 Based on publicly available information, and without the benefit of discovery
11 in this action, and as described in the claim charts provided as Exhibits A–D,
12 Plaintiff does not presently contend that any element is governed by 35 U.S.C.
13 § 112(6).

14 ***(d) For each claim which is alleged to have been indirectly infringed, an***
15 ***identification of any direct infringement and a description of the acts of the alleged***
16 ***indirect infringer that contribute to or are inducing that direct infringement.***
17 ***Insofar as alleged direct infringement is based on joint acts of multiple parties, the***
18 ***role of each such party in the direct infringement must be described.***

19 Based on publicly available information, and without the benefit of discovery
20 in this action, Plaintiff states that it does not presently contend that Defendant
21 indirectly infringes any claim of the '919 Patent.

22 ***(e) Whether each element of each asserted claim is claimed to be literally***
23 ***present or present under the doctrine of equivalents in the Accused***
24 ***Instrumentality.***

25 Based on publicly available information, and without the benefit of discovery
26 in this action, the claim charts provided as Exhibits A–D detail how the Accused
27 Instrumentalities literally meet each element of each asserted claim. If any of the
28 limitations are not literally met, the Accused Instrumentalities meet the limitations

1 under the doctrine of equivalents, because they perform the same function in
2 substantially the same way to achieve substantially the same result, and/or because
3 the relevant structures and functions of the infringing products are insubstantially
4 different from the claimed limitations.

5 ***(f) For any patent that claims priority to an earlier application, the priority***
6 ***date to which each asserted claim allegedly is entitled.***

7 All asserted claims of the '919 Patent are entitled to a priority date of no later
8 than May 7, 2019.

9 ***(g) If a party claiming patent infringement wishes to preserve the right to***
10 ***rely, for any purpose, on the assertion that its own apparatus, product, device,***
11 ***process, method, act or other instrumentality practices the claimed invention, the***
12 ***party must identify, separately for each asserted claim, each such apparatus,***
13 ***product, device, process, method, act, or other instrumentality that incorporates or***
14 ***reflects that particular claim.***

15 Based on its current analysis and without the benefit of claim construction,
16 Therabody identifies Therabody's Theragun PRO as practicing the inventions of at
17 least claims 1, 3–9, and 11, and Therabody identifies each of Theragun PRO Plus,
18 Theragun Prime, Theragun Prime Plus, Theragun Sense, and Theragun Relief as
19 practicing the inventions of at least claims 1, 3, 4, 7–9, and 11.

20 ***(h) Identify the timing of the point of first infringement, the start of claimed***
21 ***damages, and the end of claimed damages.***

22 Plaintiff contends that the first infringement of the '919 Patent occurred on the
23 later of the date of first sale of the Accused Instrumentalities or August 26, 2025—
24 the issue date of the '919 Patent. Plaintiff contends that the damages period began no
25 later than December 10, 2025—the date that Defendant was placed on notice of its
26 infringement of the '919 Patent—and the damages period continues to run.

1 ***(i) If a party claiming patent infringement alleges willful infringement, the***
2 ***basis for such allegation.***

3 Plaintiff contends that Defendant willfully infringes the '919 Patent. By no
4 later than December 10, 2025, Defendant knew of the '919 Patent, knew that its
5 Hypervolt Go 2 infringed the '919 Patent, and knew, or acted with willful,
6 intentional, and conscious disregard of the objectively high likelihood, that its
7 conduct constituted infringement of the '919 Patent. On December 10, 2025,
8 Therabody sent John Howell, General Counsel of Hyperice, a notice letter by email
9 informing Hyperice that Hyperice is infringing the '919 Patent. The notice letter
10 included a copy of the '919 Patent and claim chart comparing claim 1 of the '919
11 Patent to the Defendant's Hypervolt Go 2 product.

12 Further, despite knowing of its willful infringement of the '919 Patent since at
13 least December 10, 2025, Hyperice developed and released, on or about March 10,
14 2026, its Hypervolt 3 line, including the Hypervolt 3, Hypervolt Go 3, and Hypervolt
15 3 Pro, with full knowledge and awareness that these products infringed the '919
16 Patent.

17 Hyperice's continued sales of the Hypervolt Go 2, and subsequent
18 introduction and sales of the Hypervolt 3, Hypervolt Go 3, and Hypervolt 3 Pro, have
19 been willful, intentional, and have been made with conscious disregard for the '919
20 Patent.

21
22 Plaintiff reserves the right to amend and/or supplement these disclosures as
23 discovery progresses, and/or to the extent that discovery reveals additional model
24 numbers of the Accused Instrumentalities, additional infringing products, or
25 additional infringing aspects of the Accused Instrumentalities, in response to the
26 Court's claim construction, or otherwise in accordance with the Patent Local Rules,
27 Local Rules, and/or any Court Order.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: May 22, 2026

RENNER OTTO

By: /s/ Mark C. Johnson

Mark C. Johnson (Pro Hac Vice)

Sarah L. Boone (Pro Hac Vice)

Attorney for Plaintiff

THERABODY, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2026, a true and correct copy of
THERABODY, INC.’S PATENT L.R. 3.1 DISCLOSURE OF ASSERTED CLAIMS
AND INFRINGEMENT CONTENTIONS was served by transmission via electronic
mail to the following counsel of record for Defendant.

Benjamin A. Herbert
E-mail: benjamin.herbert@procopio.com
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
200 Spectrum Center Drive
Suite 1650
Irvine, CA 92618

/s/ Sarah L. Boone
Sarah L. Boone

Attorney for Plaintiff
THERABODY, INC.