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7 Attorneys for Plaintiffs
8 HYPER ICE, INC. and DATAFEEL, INC.

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA SOUTHERN DIVISION**

11 SHENZHEN KELAISIMAN
12 TRADING CO., LTD., et al.,

13 Plaintiffs,

14 v.

15 HYPER ICE, INC. and HYPERICE IP
16 SUBCO, LLC,

17 Defendants.

18 HYPER ICE, INC. and DATAFEEL
19 INC.,

20 Plaintiffs,

21 vs.

22 THERABODY, INC.,

23 Defendant.

**CASE NO. 8:24-CV-01472-JWH-
DFM (Lead)**

**CASE NO. 8:24-CV-02034-JWH-
DFM (Consolidated)**

**SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Trial Date: None Set

24 **THE PARTIES**

25 1. Hyperice is a California corporation with its principal place of business
26 at 525 Technology Drive, Suite 100, Irvine, California 92618. DataFeel is a Delaware
27 corporation with offices located at 1629 K Street NW, Suite 300, Washington, DC
28 20006.

Case No. 8:24-CV-02034-JWH-DFM
SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Therabody EX2012
Hyper Ice v. Therabody
PGR2026-00051

1 2. Plaintiffs are informed and believe, and based thereon allege, that
2 Defendant is a limited liability company organized and existing under the laws of the
3 State of Delaware, with its principal place of business at 1640 S. Sepulveda Blvd.,
4 Suite 300, Los Angeles, CA 90025.

5 3. On information and belief, either itself or through its subsidiaries,
6 parents, or other related companies, Defendant sells infringing products, via its
7 website, Amazon.com and various retail stores, to consumers in this District,
8 throughout the State of California, and throughout the United States.

9 **JURISDICTION AND VENUE**

10 4. This is an action for patent infringement under 35 U.S.C. §§ 271 *et seq.*
11 brought by Plaintiffs against Defendant for Defendant's infringement of U.S. Patent
12 No. 12,036,174 ("the '174 Patent") and U.S. Patent No. 12,097,161 ("the '161 Patent").

13 5. This Court has subject matter jurisdiction over Plaintiffs' claims asserted
14 herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because those claims arise under
15 the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

16 6. This Court has personal jurisdiction over Defendant by virtue of, *inter*
17 *alia*, Defendant's conduct of business in this District; its purposeful availment of the
18 rights and benefits of California law; and its substantial, continuous, and systematic
19 contacts with the State of California and this District. On information and belief,
20 Defendant: (1) intentionally markets and sells its infringing products to residents of
21 this State; (2) enjoys substantial income from this State; and (3) maintains its principal
22 place of business in this State.

23 7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 28
24 U.S.C. § 1400(b) because Defendant has committed acts of infringement in this
25 District and has a regular and established place of business in this District.

26 **GENERAL ALLEGATIONS**

27 8. The '174 Patent is entitled "Communication Devices, Methods, and
28 Systems" and issued on July 16, 2024, claiming priority to Application No.

1 18/526,980, filed on December 1, 2023, and to, *inter alia*, Provisional Application
2 No. 62/575,951, filed on October 23, 2017. A true and correct copy of the '174 Patent
3 is attached hereto as Exhibit 1.

4 9. Matthew Robert Leaper is the named inventor of the inventions disclosed
5 in the '174 Patent. DataFeel Inc. is the assignee of the '174 Patent, and Hyper Ice,
6 Inc. is an exclusive licensee that has been granted the express, irrevocable right to,
7 *inter alia*, sublicense, enforce, and defend the '174 Patent.

8 10. This action arises out of Defendant's direct infringement of the '174
9 Patent.

10 11. Defendant offers for sale and/or sells products that infringe the '174
11 Patent, including but not limited to the TheraFace PRO, The Complete TheraFace
12 Bundle (TheraFace PRO with TheraFace Hot and Cold Rings), the Theragun PRO
13 Plus, and the Theragun Prime Plus (collectively, "the '174 Accused Products").
14 Attached as Exhibits 2-5 are claim charts for the '174 Accused Products.

15 12. By no later than September 19, 2024, Defendant knew of the '174 Patent
16 and knew, or acted with willful, intentional, and conscious disregard of the objectively
17 high likelihood, that its conduct constitutes infringement of the '174 Patent. On or
18 about September 19, 2024, Hyperice filed the instant action.

19 13. The '161 Patent is entitled "Communication Devices, Methods, and
20 Systems" and issued on September 24, 2024, claiming priority to Application No.
21 18/626,317, filed on December 1, 2023, and to, *inter alia*, Provisional Application
22 No. 62/575,951, filed on October 23, 2017. A true and correct copy of the '161 Patent
23 is attached hereto as Exhibit 6.

24 14. Matthew Robert Leaper is the named inventor of the inventions disclosed
25 in the '161 Patent. DataFeel Inc. is the assignee of the '161 Patent, and Hyper Ice,
26 Inc. is an exclusive licensee that has been granted the express, irrevocable right to,
27 *inter alia*, sublicense, enforce, and defend the '161 Patent.
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1 15. This action arises out of Defendant’s direct infringement of the ’161
2 Patent.

3 16. Defendant offers for sale and/or sells products that infringe the ’161
4 Patent, including but not limited to the Therabody SmartGoggles products (“the ’161
5 Accused Products”). Attached as Exhibit 7 is a claim chart for the ‘161 Accused
6 Products.

7 17. By no later than December 11, 2024, Defendant knew of the ’161 Patent
8 and knew, or acted with willful, intentional, and conscious disregard of the objectively
9 high likelihood, that its conduct constitutes infringement of the ’161 Patent. On or
10 about December 11, 2024, Hyperice provided notice of infringement to Defendant,
11 along with a claim chart for an exemplary claim of the ’161 Patent.

12 **COUNT 1 – PATENT INFRINGEMENT**

13 18. Plaintiffs incorporate by reference the allegations in Paragraphs 1-18
14 above.

15 19. Defendant has infringed and continues to infringe the ’174 Patent under
16 the Patent Laws of the United States, 35 U.S.C §§ 271 *et seq.* Defendant offers for
17 sale and/or sells the ’174 Accused Products.

18 20. Defendant infringes at least Claim 17 of the ’174 Patent. The Accused
19 Products are battery-powered devices that include the following claim limitations.
20 Plaintiffs believe that the ’174 Accused Products literally meet the following claim
21 limitations. If any of the limitations are not literally met, the ’174 Accused Products
22 meet the limitations under the doctrine of equivalents, because they perform the same
23 function in substantially the same way to achieve substantially the same result, and/or
24 because the relevant structures and functions of the infringing products are
25 insubstantially different from the claimed limitation:

26 A treatment device, comprising:
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- 1 a. a body provided with a power source and a processing unit
2 configured to receive input data and generate a control signal
3 based on the input data, the body including a skin contacting
4 surface maintainable against skin of a user by a force applied by a
5 hand of the user when gripping the body; and
6 b. a first energy generator element and a second energy generator
7 element coupled to the body, the first and second energy generator
8 elements being independently operable to convert electricity from
9 the power source into a first energy type and a second energy type,
10 respectively, and direct the first and second energy types toward
11 an area of skin, the first energy generator element including an
12 impact generator element having a tissue contact surface that is
13 linearly actuatable along an axis to contact and cause
14 corresponding physical movement of the area of skin;
15 c. wherein the processing unit is operable to output an optical signal
16 on a display that is observable by eyes of the user, the output
17 corresponding to the control signal.

18 21. Defendant's infringement of the '174 Patent has caused, and will
19 continue to cause, significant damage to Plaintiffs. As a result, Plaintiffs are entitled
20 to an award of damages adequate to compensate them for the infringement in an
21 amount that is in no event less than a reasonable royalty pursuant to 35 U.S.C. §284.
22 Plaintiffs are also entitled to recover prejudgment interest, post-judgment interest,
23 and costs.

24 22. As a result of Defendant's infringement of the '174 Patent, Plaintiffs
25 have suffered irreparable harm and impairment of the value of their patent rights, and
26 Plaintiffs will continue to suffer irreparable harm and impairment of the value of their
27 patent rights, unless and until Defendant is permanently enjoined by this Court from
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1 infringing the '174 Patent under 35 U.S.C. §283. Plaintiffs have no adequate remedy
2 at law and are entitled to a permanent injunction against Defendant.

3 23. Defendant's infringement of the '174 Patent has been and continues to
4 be willful. As noted above, Defendant has had knowledge of the '174 Patent and
5 knew, or acted with willful, intentional, and conscious disregard of the objectively
6 high likelihood, that its conduct constitutes infringement of the '174 Patent.
7 Nevertheless, Defendant continues to infringe the '174 Patent—wanton, malicious,
8 and egregious conduct that constitutes willful infringement under 35 U.S.C. §284,
9 entitling Hyperice to enhanced damages.

10 **COUNT 2 – PATENT INFRINGEMENT**

11 24. Plaintiffs incorporate by reference the allegations in Paragraphs 1-18
12 above.

13 25. Defendant has infringed and continues to infringe the '161 Patent under
14 the Patent Laws of the United States, 35 U.S.C §§ 271 *et seq.* Defendant offers for
15 sale and/or sells the '161 Accused Products.

16 26. Defendant infringes at least Claim 1 of the '161 Patent. The Accused
17 Products are battery-powered devices that include the following claim limitations.
18 Plaintiffs believe that the '161 Accused Products literally meet the following claim
19 limitations. If any of the limitations are not literally met, the '161 Accused Products
20 meet the limitations under the doctrine of equivalents, because they perform the same
21 function in substantially the same way to achieve substantially the same result, and/or
22 because the relevant structures and functions of the infringing products are
23 insubstantially different from the claimed limitation:

24 A wearable device, comprising:

- 25 a. a body including a flexible material layer such that the body is
26 conformable about a head of a user, the body having a power
27 source;

- b. an attachment element including a band to maintain the body about the head of the user and a skin facing surface of the body against skin of the user; and
- c. a plurality of energy generators being independently operable to convert electricity from the power source into a plurality of different energy types transmittable towards the skin of the user,
- d. wherein at least one of the plurality of energy generators is disposed at least partially within the flexible material layer.

27. Defendant's infringement of the '161 Patent has caused, and will continue to cause, significant damage to Plaintiffs. As a result, Plaintiffs are entitled to an award of damages adequate to compensate them for the infringement in an amount that is in no event less than a reasonable royalty pursuant to 35 U.S.C. §284. Plaintiffs are also entitled to recover prejudgment interest, post-judgment interest, and costs.

28. As a result of Defendant's infringement of the '161 Patent, Plaintiffs have suffered irreparable harm and impairment of the value of their patent rights, and Plaintiffs will continue to suffer irreparable harm and impairment of the value of their patent rights, unless and until Defendant is permanently enjoined by this Court from infringing the '161 Patent under 35 U.S.C. §283. Plaintiffs have no adequate remedy at law and are entitled to a permanent injunction against Defendant.

29. Defendant's infringement of the '161 Patent has been and continues to be willful. As noted above, Defendant has had knowledge of the '161 Patent and knew, or acted with willful, intentional, and conscious disregard of the objectively high likelihood, that its conduct constitutes infringement of the '161 Patent. Nevertheless, Defendant continues to infringe the '161 Patent—wanton, malicious, and egregious conduct that constitutes willful infringement under 35 U.S.C. §284, entitling Plaintiffs to enhanced damages.

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1 DATED: March 12, 2025

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs
HYPER ICE, INC. and DATAFEEL INC. hereby demand a trial by jury of all issues
triable by jury.

DATED: March 12, 2025

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