

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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YEOSHUA SORIAS and	:	
JUICE WATCH, INC.	:	
	:	15 Civ. _____
Plaintiffs,	:	
	:	
-against-	:	
	:	
ENERGYBIONICS, LLC and	:	<b>JURY TRIAL DEMANDED</b>
SEAN EBERSOLD,	:	
	:	
Defendants.	:	
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COMPLAINT

Yeoshua Sorias (“Sorias”) and Juice Watch, Inc. (“JWI”) (collectively, the “Plaintiffs”), by and through their undersigned counsel, Coleman & Coleman and Sam P. Israel, P.C., as and for their Complaint against EnergyBionics, LLC (“EnergyBionics”) and Sean Ebersold (“Ebersold”) (together, the “Defendants”) allege as follows:

THE NATURE OF THE ACTION

1. This is an action for patent infringement and unjust enrichment.
2. The Plaintiffs seek to arrest, and recover damages in connection with, the Defendants’ unlawful manufacturing, marketing, offering to sell, and selling of products in violation of the Plaintiffs’ rights in a patent granted to and owned by Sorias.

THE PARTIES

3. Plaintiff Sorias is an individual residing in Kings County, New York.

4. Plaintiff Juice Watch, Inc. is a New York limited liability company, with a principal place of business located at 1421 East 2<sup>nd</sup> Street, Brooklyn, New York, 11230 in which Sorias is a principal and officer.

5. Upon information and belief, defendant EnergyBionics, LLC, is a Florida corporation, with its principal place of business located at 12686 Kingsway Road, Wellington, Florida 33414.

6. Upon information and belief, defendant Sean Ebersold is the founder and principal of EnergyBionics and is a resident of the State of Florida.

#### JURISDICTION AND VENUE

7. This Court has personal jurisdiction over each of the Defendants by reason of their residence in this District, their transaction of business in this District, and their commission of infringing or injurious acts within this District.

8. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338(a) (any Act of Congress relating to patents or trademarks), and 28 U.S.C. § 1367 (supplemental jurisdiction). Alternatively, this Court has diversity jurisdiction under 28 U.S.C. § 1332(a) because the Plaintiffs are resident in New York, the Defendants are resident in Florida, and the amount in controversy is greater than \$75,000.00.

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400 because the Defendants transact business within this district and offer for sale and/or sell in this district products that infringe Sorias' patents. Additionally, venue is proper because Ebersold resides in this district, and because EnergyBionics' principal place of business is in this district.

## FACTS

### THE PLAINTIFFS' PATENT RIGHTS

10. Sorias is an inventor and has been granted patents for various electronic devices and accessories. Many of Sorias' inventions include technical elements associated with mobile electronic devices, including the integration of batteries and chargers for mobile devices in other devices and accessories such as mobile phone cases and wristwatches. Sorias has protected his innovative designs and technologies by legally securing his intellectual property rights, including by applying for and being awarded a number of U.S. patents.

11. On July 22, 2014 (the "Issue Date"), the United States Patent and Trademark Office (the "USPTO") issued United States Patent No. 8,787,119 (the "'119 Patent"), for a *Watch Assembly With a Spare Battery for Readily Powering an External Mobile Electronic Device*.

12. Sorias is the named inventor on the '119 Patent and owns all rights, title, and interest in and to the '119 Patent.

13. The '119 Patent issued from U.S. Patent Application No. 13/915,231 (the "'231 Application"), which Sorias filed through his patent counsel on June 11, 2013 (the "Filing Date"). The '231 Application was first published by the USPTO on December 12, 2013 (the "Publication Date").

14. The '119 Patent derives from, and claims priority to, a provisional patent application, No. 61/658,124, filed by Sorias on June 11, 2012.

15. Sorias is a founder, principal, and officer of JWI, a company established to develop, manufacture, and sell Sorias' invention as protected by the '119 Patent. JWI currently holds an exclusive license to manufacture and distribute products containing the technology described in the '119 Patent.

16. The Plaintiffs are currently undertaking efforts to bring to the consumer retail market the *Watch Assembly With a Spare Battery for Readily Powering an External*

*Mobile Electronic Device* described in the '119 Patent.

#### THE DEFENDANTS' INFRINGEMENT

17. In April of 2014, Sorias became aware of a product purporting to consist of a watch assembly containing a spare battery for powering an external mobile electronic device (the "Carbon Watch") being marketed on the website [www.kickstarter.com](http://www.kickstarter.com) ("Kickstarter"). The title of the Kickstarter page advertising this product is "Carbon – The only watch that can charge your smartphone!"<sup>1</sup>.

18. Upon information and belief, the Kickstarter campaign to market the Carbon Watch began on April 10, 2014, well after the Publication Date of the '119 Patent.

19. The Kickstarter page for the Carbon Watch listed EnergyBionics as the manufacturer of the Carbon Watch and Ebersold as the creator of the Carbon Watch and the principal of EnergyBionics.<sup>2</sup>

20. Certain information for a Kickstarter project is available only to those who monetarily "back" the project by sending funds through Kickstarter, receiving in return one of the products being advertised.

21. Because the Carbon Watch described technology depicted by Sorias' then-pending '231 Application, Sorias ordered one Carbon Watch and sent money through Kickstarter to effectuate his purchase, in part so that he could access the additional information available to project "backers."

22. After sending money to order a Carbon Watch, Sorias sent a direct

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<sup>1</sup> See <https://www.kickstarter.com/projects/875790568/carbon-the-only-watch-that-can-charge-your-smartph/description>.

<sup>2</sup> See [https://www.kickstarter.com/projects/875790568/carbon-the-only-watch-that-can-charge-your-smartph/creator\\_bio](https://www.kickstarter.com/projects/875790568/carbon-the-only-watch-that-can-charge-your-smartph/creator_bio) ("Sean Ebersold is the project creator. He founded EnergyBionics . . .").

message through Kickstarter to the project administrator, requesting additional information regarding whether any patents were associated with the Carbon Watch. The Defendants' response suggested that patents were pending, but no specific application or publication information was available.

23. The Defendants continue to market and offer for sale the Carbon Watch through at least two websites—the aforementioned Kickstarter page and [www.energybionics.com](http://www.energybionics.com).

24. Upon information and belief, the Defendants have received at least \$42,481.00 in revenue from Kickstarter orders for the Carbon Watch.

25. The Carbon Watch infringes upon one or more claims of the '119 Patent.

26. In a good-faith effort to resolve this issue without resort to litigation, Sorias, through his counsel, sent a letter to the Defendants (i) putting the Defendants on notice of the '119 Patent and their infringement thereof, and (ii) demanding that the Defendants cease and desist from future infringing activities.

27. In furtherance of the license negotiations that arose from the notice letter, Sorias travelled to Florida to meet with Ebersold during June of 2015.

28. Unfortunately, Ebersold ultimately rejected Sorias' proposals for a negotiated resolution and refused to cease his infringing activities in connection with the Carbon Watch, leaving the Plaintiffs no choice but to bring this Action in order to vindicate their rights in the '119 Patent.

29. The Defendants have infringed, and continue to infringe, upon the '119 Patent by making, using, selling, or offering to sell a watch with spare battery that embodies the invention protected by the '119 Patent, and the Defendants will continue to do so unless enjoined by this Court.

COUNT I

(Against the Defendants for Patent Infringement)

30. The Plaintiffs re-allege and incorporate by reference the above allegations of this Complaint, as though fully set forth herein.

31. The Plaintiffs own and have the rights, title, and interest in and to the '119 Patent, the underlying invention of which is primarily directed to a watch assembly containing an integrated spare battery for the purpose of charging mobile electronic devices.

32. The Defendants have been fully aware of the '119 Patent, and the Plaintiffs' ownership thereof, since at least June of 2015.

33. Though the Plaintiffs have never granted the Defendants any rights in connection with the '119 Patent, the Defendants nevertheless knowingly and willfully continue to make, advertise, offer for sale, and sell the Carbon Watch without a license or any justification at law or in equity.

34. As of the filing of this Complaint, the Defendants have made, used, offered to sell and/or sold within this judicial district the Carbon Watch that directly infringes at least one of the claims of the '119 Patent.

35. Between the Publication Date and the issuance of the '119 Patent, the Defendants made significant efforts to make, sell, use, or offer to sell a product containing technology protected by the '119 Patent. These actions infringed upon the Plaintiffs' "provisional" patent rights, according to 35 U.S.C. § 154(d). Under the statute, the Plaintiffs are entitled to recover at least "a reasonable royalty" in an amount to be determined at trial for the Defendants' infringing actions prior to the Issue Date.

36. As a result of the Defendants' knowing and willful infringement, the Plaintiffs have suffered and will continue to suffer financial losses, loss of good will, and erosion of the profit that Plaintiffs could have realized upon introducing their own

product in the market. The Plaintiffs have suffered, and will continue to suffer, irreparable harm as a result.

37. The Plaintiffs are entitled to recover compensatory damages in an amount to be determined at trial, but not less than \$ 1,000,000.00, which should be trebled due to the Defendants' knowing and willful infringement together with applicable attorneys' fees and costs, as well as interest.

## COUNT II

(Against the Defendants for Unjust Enrichment)

38. The Plaintiffs re-allege and incorporate by reference the above allegations of this Complaint, as though fully set forth herein.

39. Upon information and belief, the Defendants have received at least \$42,481.00 in revenue from Kickstarter orders for the Carbon Watch.

40. The Defendants continue to market and offer for sale the Carbon Watch through at least two websites—the aforementioned Kickstarter page and [www.energybionics.com](http://www.energybionics.com).

41. Whereas the Carbon Watch infringes upon one or more claims of the '119 Patent, any revenue gained by the Defendants in connection with the Carbon Watch was gained in violation of the Plaintiffs' rights and constitutes unjust enrichment.

42. As a result of the Defendants' ill-gotten gains, the Plaintiffs are entitled to recover compensatory damages in an amount to be determined at trial, but not less than \$42,481.00.

**PRAYER FOR RELIEF**

Plaintiffs request an entry of judgment in their favor as follows:

- a) A declaration that the Defendants are liable, jointly and severally, for the infringements of one or more claims of the patents-in-suit;
- b) An award of damages adequate to compensate Plaintiffs for the Defendants' infringements of the patents-in-suit, but in no event less than \$1,000,000.00, together with prejudgment and post-judgment interest, attorneys' fees and costs, in an amount according to proof;
- c) An entry of a permanent injunction enjoining the Defendants and their respective officers, agents (including, but not limited to companies hosting EnergyBionics' crowdfunding campaign), employees, and those acting in privity with them, from further infringements of the patents-in-suit, or in the alternative, awarding a royalty for post-judgment infringement;
- d) an order requiring that the Defendants immediately deliver to the Plaintiffs or certifiably destroy all unauthorized infringing devices, including the Carbon Watch;
- e) An award of damages to account for the unjust enrichment of the Defendants, but in no event less than \$42,481.00, together with prejudgment and post-judgment interest, attorneys' fees and costs, in an amount according to proof; and
- f) An award to Plaintiffs of such other costs and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, the Plaintiffs respectfully request a trial by jury.



Dated: July \_\_, 2015  
New York, New York

RESPECTFULLY SUBMITTED:

Coleman & Coleman

By: 

John Charles Coleman

Florida Bar #210234

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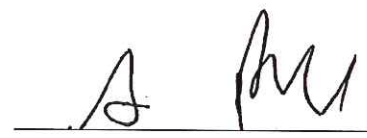
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