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13 Attorneys for Plaintiff

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 BigBelly Solar, Inc.,) **Case No.:**
17)
18 Plaintiff,) **COMPLAINT FOR PATENT**
19) **INFRINGEMENT**
20 vs.)
21)
22 Ecube Labs Co., Ltd. and Ecube Labs Co.,) **DEMAND FOR JURY TRIAL**
23)
24 Defendants.)

25 Plaintiff BigBelly Solar, Inc. (“BigBelly”), as and for their complaint against
26 defendants Ecube Labs Co., Ltd. and Ecube Labs Co. (collectively “Ecube”), allege
27 as follows:

28 **THE PARTIES**

1. BigBelly is a Delaware corporation with a principal place of business at
150 A Street, Suite 103, Needham, MA, 02494.

1 9. Upon information and belief, Ecube produces a product known as the
2 Clean CUBE which is a smart solar-powered waste compaction system.

3 10. Upon information and belief, the Clean CUBE product uses photovoltaic
4 panels to convert sunlight into electric power. The photovoltaic panel is positioned
5 atop the enclosure such that it is exposed to sunlight.

6 11. Upon information and belief, the Clean CUBE includes a storage
7 battery that is electrically connected to the photovoltaic panel to receive the converted
8 electric energy from the received sunlight. Further, the Clean CUBE contains a
9 control panel that operates as the controller of the Clean CUBE. The control panel is
10 also electrically connected to the compaction arm within the enclosure of the Clean
11 CUBE. The control panel, by way of receiving data from the various components of
12 the Clean CUBE, monitors and controls compactions performed by the Clean CUBE.

13 12. Upon information and belief, the Clean CUBE's control panel is a Smart
14 microcontroller-based automated system.

15 13. Upon information and belief, the Clean CUBE is configured to skip a
16 compaction cycle (by entering Sleep Mode or Standby Mode) when the control panel
17 detects that the storage battery is below a charge threshold. When the storage battery
18 achieves the charge threshold or beyond, the compaction cycle resumes operation.

19 14. Upon information and belief, the Clean Cube includes a compaction
20 module or compaction ram located within the enclosure that is raised and lowered
21 along a preset path within the enclosure.

22 15. Upon information and belief, the Clean CUBE includes an access door
23 located on the enclosure to allow a user access into the enclosure.

24 16. Upon information and belief, the Clean CUBE includes and/or requires a
25 bin that is removable from the enclosure to receive items introduced through the bin
26 chute. When the compaction cycle is activated, the motor is actuated which uses
27 spiral bevel gears to move a chain which controls the drive shaft to lower and raise
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1 the X-framed compaction module, thereby traveling within at least a part of the
2 removable bin.

3 **COUNT I**

4 (INFRINGEMENT OF U.S. PATENT NO. 7,124,680)

5 17. BigBelly incorporates paragraphs 1-16 above by reference.

6 18. Ecube manufactures, uses, sells, offers for sale and/or imports into the
7 United States a smart solar-powered waste compaction system known as the Clean
8 CUBE that includes the functionality described above.

9 19. Ecube has directly infringed, and continues to directly infringe at least
10 claim 1 of the '680 Patent in the United States during the pendency of the '680 Patent
11 by or through making, using, offering for sale, selling and/or importing the Clean
12 CUBE smart solar-powered waste compaction system in violation of 35 U.S.C.
13 §271(a).

14 20. Ecube has indirectly infringed and continues to indirectly infringe at
15 least claim 1 of the '680 Patent in the United States by, among other things, actively
16 inducing the using, offering for sale, selling and/or importing the Clean CUBE
17 product having the functionality described above. Ecube's customers who use such
18 devices in accordance with Ecube's instructions directly infringe claims at least claim
19 1 of the '680 Patent in violation of 35 U.S.C. §271. Ecube directly and/or indirectly
20 intentionally instructs its customers to infringe through training videos,
21 demonstrations, brochures, installation and/or user guides such as those located at one
22 or more of the following:

- 23 • <http://ecubelabs.com/integrated-waste-management/solar-powered-trash->
24 [compactor/](http://ecubelabs.com/integrated-waste-management/solar-powered-trash-) (last visited 7/26/17).
25 • User Manual. Attached as Exhibit C.

26 Ecube is thereby liable for infringement of the '680 Patent under 35 U.S.C. §271(b).
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1 21. Ecube has indirectly infringed and continues to indirectly infringe at
2 least claim 1 of the '680 Patent in this judicial district and elsewhere in the United
3 States by, among other things, contributing to the direct infringement by others
4 including, without limitation customers using the Clean CUBE product, by making,
5 offering to sell, selling and/or importing into the United States, a component of a
6 patented machine, manufacture or combination, or an apparatus for use in practicing a
7 patented process, constituting a material part of the invention, knowing the same to
8 be especially made or especially adapted for use in infringing the '680 Patent and not
9 a staple article or commodity of commerce suitable for substantial non-infringing use.
10 Ecube is thereby liable for infringement of the '680 Patent under 35 U.S.C §271(c).

11 22. Ecube Labs Co., Ltd. specifically acknowledged notice of the '680
12 Patent by correspondence on March 28, 2017 promising to look into their
13 infringement of the '680 Patent and respond once an initial investigation was
14 complete.

15 23. Ecube Labs Co. specifically acknowledged notice of the '680 Patent by
16 correspondence on April 23, 2017. BigBelly wrote to Ecube Labs Co. on April 12,
17 2017 stating that Ecube Labs Co. is selling a solar compaction product that violates
18 the '680 Patent and others that are the property of BigBelly. Ecube Labs Co.
19 responded on April 23, 2017 and on May 4, 2017 BigBelly followed up with regards
20 to the April 12, 2017 correspondence. On June 5, 2017 Ecube Labs Co. responded
21 that absent claim charts for each patent, Ecube Labs Co. cannot meaningfully
22 evaluate BigBelly's claims.

23 24. Ecube may have infringed the '680 Patent through other products
24 utilizing functionality that is the same or reasonably similar to the Clean Cube.
25 BigBelly reserves the right to discover and pursue all such additional infringing
26 products.

27 25. BigBelly has been damaged by Ecube's infringement of the '680 Patent.
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COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 7,481,159)

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26. BigBelly incorporates paragraphs 1-25 above by reference.

27. Ecube manufactures, uses, sells, offers for sale and/or imports into the United States a smart solar-powered waste compaction system known as the Clean CUBE that includes the functionality described above.

28. Ecube has directly infringed, and continues to directly infringe one or more claims of the '159 Patent in the United States during the pendency of the '159 Patent, including at least claims 1, and 51 by or through making, using, offering for sale, selling and/or importing the Clean CUBE smart solar-powered waste compaction system in violation of 35 U.S.C. §271(a).

29. Ecube has indirectly infringed and continues to indirectly infringe at least claim 45 of the '159 Patent in the United States by, among other things, actively inducing the using, offering for sale, selling and/or importing the Clean CUBE product having the functionality described above. Ecube's customers who use such devices in accordance with Ecube's instructions directly infringe claim 45 of the '159 Patent in violation of 35 U.S.C. §271. Ecube directly and/or indirectly intentionally instructs its customers to infringe through training videos, demonstrations, brochures, installation and/or user guides such as those located at one or more of the following:

- <http://ecubelabs.com/integrated-waste-management/solar-powered-trash-compactor/> (last visited 7/26/17).
- User Manual. Attached as Exhibit C.

Ecube is thereby liable for infringement of the '159 Patent under 35 U.S.C. §271(b).

30. Ecube has indirectly infringed and continues to indirectly infringe at least claim 45 of the '159 Patent in this judicial district and elsewhere in the United States by, among other things, contributing to the direct infringement by others including, without limitation customers using the Clean CUBE product, by making,

1 offering to sell, selling and/or importing into the United States, a component of a
2 patented machine, manufacture or combination, or an apparatus for use in practicing a
3 patented process, constituting a material part of the invention, knowing the same to
4 be especially made or especially adapted for use in infringing the '159 Patent and not
5 a staple article or commodity of commerce suitable for substantial non-infringing use.
6 Ecube is thereby liable for infringement of the '159 Patent under 35 U.S.C. §271(c).

7 31. Ecube will have been on notice of the '159 Patent since, at the latest, the
8 service of this complaint upon Ecube. By the time of trial, Ecube will have known
9 and intended (since receiving such notice) that its continued actions would actively
10 induce the infringement of, at least, claim 45 of the '159 Patent.

11 32. Ecube may have infringed the '159 Patent through other products
12 utilizing functionality that is the same or reasonably similar to the CleanCube.
13 BigBelly reserves the right to discover and pursue all such additional infringing
14 products.

15 33. BigBelly has been damaged by Ecube's infringement of the '159 Patent

16 **PRAYER FOR RELIEF**

17 BigBelly requests that the Court enter judgment against Ecube as follows:

18 (A) declaring that Ecube has infringed the '680 Patent and the '159 Patent;

19 (B) awarding BigBelly its damages suffered as a result of Ecube's
20 infringement of the '680 Patent and the '159 Patent;

21 (C) awarding BigBelly judgment against Ecube concluding that Ecube has
22 willfully infringed at least the '680 Patent;

23 (D) declaring that Ecube and all those acting under the authority of, or in
24 privity or concert with it, be permanently enjoined from directly or indirectly
25 infringing the '680 or '159 Patents;

26 (E) awarding BigBelly its costs, attorneys' fees, expenses and interest, and
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1 (F) granting BigBelly such further relief as the Court may deem just and
2 proper.

3 **DEMAND FOR JURY TRIAL**

4 BigBelly hereby demands trial by jury on all issues so triable pursuant to Fed.
5 R. Civ. P. 38.

6
7 Dated: July 28, 2017

PRINCE LOBEL TYE LLP

8
9 */s/ Aaron S. Jacobs* _____

10 Aaron S. Jacobs

11 Paul J. Hayes

12 Thomas C. O’Konski

13 Daniel McGonagle

14 Attorneys for Plaintiff
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