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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY LC DEPUTY

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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11 **BETTER LIFE TECHNOLOGIES GROUP,**
12 **INC.**

13 **Plaintiff,**

14
15 **vs.**

16 **KAISER PERMANENTE, INC., and**
17 **DOES 1 through 10**

18
19 **Defendant**

20 **'17CV2322 WQHBS**

21 **COMPLAINT FOR**

- 22 **1) PATENT INFRINGEMENT,**
23 **2) MISAPPROPRIATION OF**
24 **TRADE SECRETS**
25 **3) BREACH OF CONTRACT**

JURY TRIAL DEMANDED

Plaintiff Better Life Technologies Group, Inc. ("Plaintiff") hereby alleges as follows:

1. This is a civil action for patent infringement, breach of contract, and misappropriation of trade secrets. Plaintiff secured a patent for technology for a

COMPLAINT

1 wireless wearable device designed for patients suffering from diabetes, heart
2 conditions, and other medical conditions which require monitoring. Plaintiff's
3 technology is stored and transmitted via a wristband or other wearable devices
4 worn by patients. The wristband or other wearable devices allow patients to
5 communicate back and forth with their doctors to report and monitor their medical
6 conditions. This technology is a unique and lucrative trade secret which Plaintiff
7 shared with Defendant Kaiser Permanente, Inc. ("Defendant") signed a contract in
8 which Defendant agreed not to disclose this trade secret. Defendant breached the
9 contract, misappropriated Plaintiff's trade secrets, and infringed on Plaintiff's
10 patent by sharing Plaintiff's patented technology and trade secrets with Plaintiff's
11 competitors, and helping Plaintiff's competitors develop wireless wearable devices
12 based on Plaintiff's trade secrets and patented technology. Plaintiff suffered
13 millions of dollars in damages from Defendant's patent infringement, breach of
14 contract, and misappropriation of Plaintiff's trade secrets.

15 **PARTIES**

- 16 2. Plaintiff Better Technologies Group, Inc. has its principal place of business in San
17 Diego, California.
- 18 3. On information and belief, Defendant Kaiser Permanente, Inc. has its principal
19 place of business in Oakland, California.
- 20 4. The true names and capacities of the Defendants, DOES 1 through 10, inclusive,
21 whether individual, corporate, associate or otherwise, are unknown to Plaintiff at
22 the time of filing this Complaint and Plaintiff, therefore, sues said Defendants by
23 such fictitious names and will ask leave of court to amend this Complaint to show
24 their true names or capacities when the same have been ascertained. Plaintiff is

25 **COMPLAINT**

1 informed and believes, and thereon alleges, that each of the DOE Defendants is, in
2 some manner, responsible for the events and happenings herein set forth and
3 proximately caused injury and damages to the Plaintiff as herein alleged.

4
5 5. At all times herein mentioned, each of the Defendants was the agent, servant and
6 employee of each of the remaining Defendants, and was, at all times herein
7 mentioned, acting within the scope of said agency and employment.

8 **JURISDICTION AND VENUE**

9
10 6. This is a civil action for patent infringement arising under the patent laws of the United
11 States of America, 35 U.S.C. Section 1, et. Seq.

12 7. This Court has jurisdiction over the subject matter of the Complaint pursuant to 28
13 U.S.C. Sections 1331 and 1338.

14 8. This Court has pendent jurisdiction over the California Causes of action alleged in this
15 complaint.

16 9. This Court has personal jurisdiction over Defendant because Defendant has a continuous,
17 systematic, and substantial presence in the State of California.

18 10. Venue is proper under 28 U.S.C. Sections 1391(b)(3) and 1400.

19 **FACTUAL ALLEGATIONS**

20
21 11. Plaintiff invented a unique technology and device which detect and monitor heart
22 rate. Plaintiff's technology may be implemented in wristbands and other wearable
23 devices. Plaintiff's technology has functions, features, detection, and other
24 capabilities which were not available before Plaintiff shared its trade secrets with

25 **COMPLAINT**

1 Defendant. Plaintiff is the inventor of this proprietary technology. Plaintiff shared
2 its proprietary information and trade secrets with Defendant pursuant to a contract,
3 a non-disclosure agreement, which was entered into by Plaintiff and Defendant,
4 the effective date of which was on or about June 2012 (“the contract”). Defendant
5 misappropriated the trade secrets which were disclosed by Plaintiff to Defendant
6 pursuant to the contract. Defendant used Plaintiff’s trade secret technology to enter
7 into business relationships with Plaintiff’s competitors, and to earn income from
8 those business relationships. Defendant helped developed wireless wearable
9 devices based on the patented intellectual property and trade secrets of Plaintiff.

10 12. In March 2012, Plaintiff and Defendant met to discuss a strategic partnership
11 between Plaintiff and Defendant. After the meeting, Plaintiff requested the
12 contract to protect its patented technology and other trade secrets which it intended
13 to share with Defendant Kaiser, after the contract was signed by Defendant.

14 13. On or about June 2012, Plaintiff and Defendant entered into the contract to pursue
15 the strategic partnership. Paragraph 8 of the contract states that no rights to use
16 technology are granted. Paragraph 9 of the contract states that neither Plaintiff nor
17 Defendant is relieved of the obligations with respect to proprietary information
18 shared pursuant to the contract, even if either party to the agreement terminates the
19 agreement. Paragraph 11 of the contract states that Plaintiff and Defendant both
20 understand that any misuse or sharing of proprietary information which was
21 disclosed pursuant to the contract constitutes a breach of the contract. The contract
22 specifies that, in the event of any breach of the contract, Plaintiff and Defendant
23 agree that material and irreparable harm is presumed by both Plaintiff and
24 Defendant.

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1 14. After Plaintiff and Defendant signed the contract, Plaintiff provided Defendant
2 with Plaintiff's patented technology and other trade secrets related to its
3 technology for detecting heart rate and monitoring medical conditions. After
4 Plaintiff's trade secrets and patented technology were provided to Defendant,
5 Plaintiff's senior officers met with Defendant's senior officers. During these
6 meetings, on or about June 2012, Plaintiff and Defendant discussed an innovative
7 technological solution for monitoring human bioactivity signals and location
8 information in a medical wristband device.

9 15. On or about late 2016, Plaintiff discovered that Defendant had used Plaintiff's
10 proprietary trade secrets to enter into business relationships with Plaintiff's
11 competitors and had derived income from providing Plaintiff's trade secrets to
12 Plaintiff's competitors and other unauthorized recipients. Defendant publicly
13 announced at least one of those business relationships in late 2016. The public
14 announcement revealed that Defendant used Plaintiff's lucrative trade secrets to
15 enter into Defendant's business relationship with Plaintiff's competitors, and that
16 Defendant had breached the contract.

17 16. On March 21, 2017, Plaintiff sent a cease and desist letter to Defendant
18 demanding that Defendant cease using Plaintiff's proprietary information and
19 trade secrets and account for the profits Defendant has wrongfully obtained.
20 Plaintiff's March 21, 2017 cease and desist letter demanded that Defendant
21 purchase a license before resuming use of any of Plaintiff's proprietary
22 information or trade secrets.

23 17. On June 6, 2017, Plaintiff sent a letter to Defendant outlining, in detail, the
24 discussions between Plaintiff and Defendant, beginning in early 2012, which led

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COMPLAINT

1 to both parties signing the contract. Plaintiff's June 6, 2017 letter identifies the
2 individuals who met with Plaintiff's senior officers and the matters discussed at
3 those meetings, including then pending US Patent No. 8,659,435 and its various
4 applications, applications of Plaintiff's technology in monitoring human vitality
5 and sending data to remote locations and medical professionals, para-professionals
6 and caregivers, integration of Plaintiff's technology in Defendant Kaiser's patient
7 care system, Plaintiff's technology for use in monitoring human bioactivity signals
8 and location information in a medical wristband device, and other trade secrets.

9 18. On June 30, 2017, Plaintiff sent Defendant a cease and desist letter which
10 reiterates the information contained in Plaintiff's June 6, 2017 letter to Defendant.
11 Plaintiff's June 30, 2017 letter demands that Defendant "cease all use of their
12 [Plaintiff's] proprietary information and account for the profits it has wrongfully
13 obtained thereby, demanding further that Kaiser Permanente purchase a license
14 before resuming use" of any of Plaintiff's proprietary information and trade
15 secrets.

16 19. United States Patent No. 8,659,435 was duly and legally issued by the United
17 States Patent and Trademark Office. A copy of United States Patent No. 8,659,435
18 is attached hereto as Exhibit A.

19 20. United States Patent No. 8,659,435 has been in force and effect since the issuance.
20 Plaintiff has been, at all times, and still is, the owner of the entire right, title, and
21 interest in and to United States Patent No. 8,659,435.

22 21. Defendants use, sell, and/or offer to sell information or products throughout the
23 United States which infringe United States Patent No. 8,659,435.

24
25 **COMPLAINT**

1 22. Defendants infringed one or more claims in United States Patent No. 8,659,435
2 in the United States within the meaning of 35 U.S.C. Section 271.

3 **FIRST CAUSE OF ACTION**

4 **(INFRINGEMENT OF UNITED STATES PATENT NO. 8,659,435)**

5 23. Plaintiff realleges and incorporates the previous paragraphs of this Complaint as
6 though fully set forth herein.

7 24. Defendant has used, offered for sale, sold, and/or imported into the United States
8 products, including, at least, the sale of Plaintiff's patented trade secrets to
9 Plaintiff's competitors, and the use of Plaintiff's patented trade secrets and
10 technology to create wireless wristband devices, which literally and under the
11 doctrine of equivalents infringe one or more claims of United States Patent No.
12 8,659,435 in violation of 35 U.S.C. Section 271.

13 25. Plaintiff has been damaged and has suffered irreparable injury due to acts of
14 infringement by Defendant and will continue to suffer irreparable injury unless
15 Defendant's activities are enjoined.

16 26. Plaintiff has suffered and will continue to suffer substantial damages by reason of
17 Defendant's acts of patent infringement alleged above, and Plaintiff is entitled to
18 recover from Defendant the damages sustained as a result of Defendant's acts.

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20 **SECOND CAUSE OF ACTION**

21 **(BREACH OF CONTRACT)**

22 27. Plaintiff realleges and incorporates the previous paragraphs of this Complaint as
23 though fully set forth herein.

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25 **COMPLAINT**

1 28. Plaintiff and Defendant entered into a non-disclosure contract which protects
2 Plaintiff's trade secrets and which created a confidential relationship between
3 Plaintiff and Defendant, the entity to whom Plaintiff's trade secrets were
4 disclosed. The contract identifies Plaintiff's confidential trade secrets which
5 Defendant agreed not to divulge. All information exchanged between Plaintiff
6 and Defendant was considered confidential, including, without limitation, all
7 information concerning Plaintiff's formulas, patterns, devices, techniques,
8 technology, and plans for use of that technology.
9

10 29. Defendant breached the contract by divulging Plaintiff's trade secrets and
11 profiting from the disclosure of Plaintiff's trade secrets. Defendant's
12 breach of the contract caused harm to Plaintiff. Plaintiff seeks damages from
13 Defendant for Defendant's breach of the contract.
14

15 30. Plaintiff performed all obligations required of it under the contract.

16 31. Defendant failed to perform its obligations and duties under the contract, without
17 justification or excuse.

18 32. Plaintiff suffered millions of dollars in damages as a result of Defendant's
19 breach of contract. Plaintiff's damages were caused by Defendant's breach of
20 contract.
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COMPLAINT

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THIRD CAUSE OF ACTION

(MISAPPROPRIATION OF TRADE SECRETS)

33. Plaintiff realleges and incorporates the previous paragraphs of this Complaint as though fully set forth herein.

34. Defendant misappropriated Plaintiff's trade secrets described in United States Patent No. 8,659,435, Plaintiff's trade secrets described in the contract, and trade secrets shared by Plaintiff in the meetings held between Plaintiff and Defendant after the contract was effective, after June 2012. Plaintiff's trade secrets derive independent economic value from not being publicly known. Plaintiff employed reasonable measures to protect the secrecy of its trade secrets by requiring Defendant to sign a non-disclosure agreement before Plaintiff disclosed its trade secrets to Defendant.

35. Plaintiff shared the trade secrets described in United States Patent No. 8,659,435 as well as techniques for using those trade secrets in a wearable medical device with Defendant, pursuant to the contract. Plaintiff shared additional trade secrets that are not described in United States Patent No. 8,659,435 with Defendant during meetings with Defendant's senior officers, after the contract was signed.

36. Plaintiff invented and owned unique technology and data which is capable of protection as a trade secret. The trade secrets were disclosed to Defendant

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1 pursuant to a non-disclosure contract which prohibited Defendant's use or
2 disclosure of Plaintiff's trade secrets, to the detriment of Plaintiff.

3 37. Plaintiff suffered damages as a result of Defendant's misappropriation of
4 Plaintiff's trade secrets. Defendant's misappropriation of Plaintiff's trade secrets
5 caused Plaintiff's money damages.

6 **PRAYER FOR RELIEF**

7
8 WHEREFORE, Plaintiff prays that judgment be entered by this Court in its favor
9 and against Defendants as follows:

- 10 A. That Defendant has infringed the United States Patent No. 8,659,435 patent.
- 11 B. Permanently enjoining and restraining Defendant, its agents, affiliates,
12 subsidiaries, servants, employees, officers, directors, attorneys and those
13 persons in active concert with or controlled by Defendant from infringing
14 United States Patent No. 8,659,435;
- 15 C. For an award of damages adequate to compensate Plaintiff for the damages it
16 has suffered as a result of Defendant's conduct, including pre-judgment
17 interest;
- 18 D. For an award of damages in the amount of \$50,000,000.00.
- 19 E. That Defendant be directed to withdraw from distribution of all infringing
20 technology and products, whether in the possession of Defendant or its
21 distribution or resellers, and that all infringing products or materials be
22 impounded or destroyed.
- 23 F. For additional monetary damages for patent infringement, breach of contract,
24 and misappropriation of trade secrets, in an amount according to proof.

25 **COMPLAINT**

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G. For interest on said damages at the legal rate from and after the date such damages were incurred;

H. That this is an exceptional case and for an award of Plaintiff's attorney's fees and costs;

I. For such other relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as to all issues that are so triable.

Respectfully Submitted

DATED: November 9, 2017

By: /s/Sallie A. Blackman

Sallie A. Blackman
Attorney for Plaintiff