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ATTORNEYS AT LAW

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Dyson Technology Limited; Dyson,
Inc.,

Plaintiffs,

vs.

Cornucopia Products, LLC,

Defendant.

**COMPLAINT FOR PATENT
INFRINGEMENT**

Demand for Jury Trial

Plaintiffs Dyson Technology Limited and Dyson, Inc. (collectively, “Dyson”) hereby demand a jury trial and allege as follows for its complaint against Defendant Cornucopia Products, LLC (“Cornucopia”):

1 **PARTIES**

2 1. Plaintiff Dyson Technology Limited is a Private Limited Company
3 organized and existing under the laws of England and Wales, with its principal place of
4 business in Malmesbury, United Kingdom.

5 2. Plaintiff Dyson, Inc. is an Illinois corporation with its principal place of
6 business in Chicago, Illinois.

7 3. Upon information and belief, Cornucopia is an Arizona limited liability
8 company with its principal place of business in Maricopa County, Arizona. Cornucopia
9 may be served with process by serving its registered agent, Alpha Legal Forms &
10 Moreinc, 4500 E Speedway Blvd #31, Tucson, AZ 85712-5325.

11 4. Dyson is a leading innovator and provider of bladeless fan products
12 throughout the world.

13 **JURISDICTION AND VENUE**

14 5. This is an action for patent infringement of U.S. Patents Nos. D602,143 (the
15 “143 Patent,” Exhibit A), D605,748 (the “748 Patent,” Exhibit B), 8,052,379 (the “379
16 Patent,” Exhibit C), 8,092,166 (the “166 Patent,” Exhibit D), under the patent laws of the
17 United States, Title 35 of the United States Code, including (but not limited to) 35 U.S.C.
18 § 271.

19 6. This Court has subject matter jurisdiction over Dyson’s claims pursuant to
20 28 U.S.C. §§ 1331 and 1338(a).



21 7. This Court has personal jurisdiction over Cornucopia. Cornucopia is
22 incorporated in and resident of this district and has consented and submitted to this
23 Court’s personal jurisdiction by suing Dyson, Inc. and Dyson Ltd. in this judicial district
24 on February 2, 2012 (Case 2:12-cv-00234-NVW) (“Related Action”).

25 8. Venue is proper in this Court under 28 U.S.C §§ 1391 and 1400(b) because
26 Cornucopia is a resident of this district, has its principal place of business in this district,
27 and is subject to personal jurisdiction in this judicial district.
28

1 **BACKGROUND**

2 9. Cornucopia is willfully infringing Dyson’s intellectual property by selling
3 blatant copies of Dyson’s innovative bladeless fans. A visual comparison of Cornucopia’s
4 fan and Dyson’s fan, as shown below, demonstrates the degree of copying.

5

Dyson 12 Inch Table Fan	Cornucopia 12 Inch Bladeless Fan
 A photograph of a silver Dyson bladeless fan with a black circular air multiplier, sitting on a wooden surface. The base has the 'dyson' logo and three control buttons.	 A photograph of a silver Cornucopia bladeless fan with a silver circular air multiplier, sitting on a wooden surface. The base has the 'Cornucopia' logo and three control buttons.

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19 10. The copying of Dyson’s fan is so pervasive that many parts of Cornucopia’s
20 fan are interchangeable with the corresponding parts of Dyson’s fan. For example,
21 Cornucopia’s cylindrical air nozzle fits perfectly and locks into Dyson’s base. And
22 Dyson’s cylindrical air nozzle fits perfectly and locks into Cornucopia’s base.

23 11. Cornucopia’s copying of Dyson’s fan even extends to the number and
24 position of screws for various parts, and the precise shapes of intricate internal
25 components, which were designed by Dyson engineers.

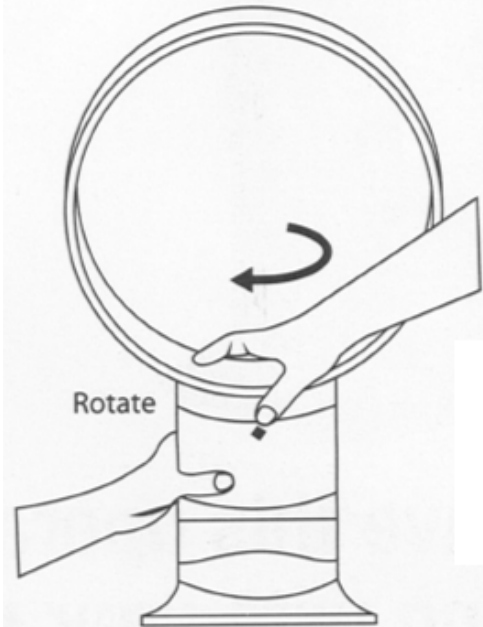
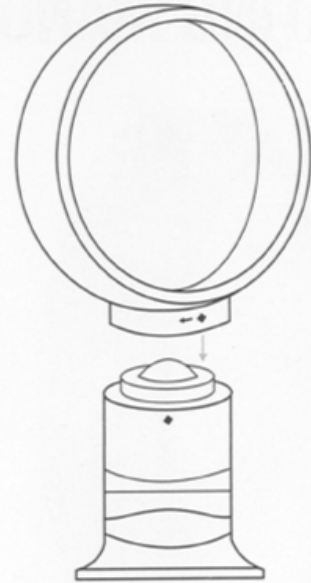
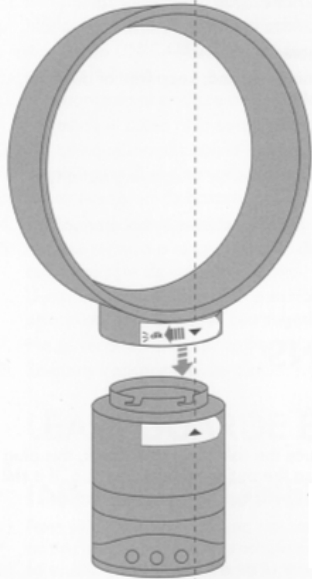
26 12. Cornucopia’s copying of Dyson further extends to the figures of Dyson’s
27 operating manual and assembly guide, as shown below.

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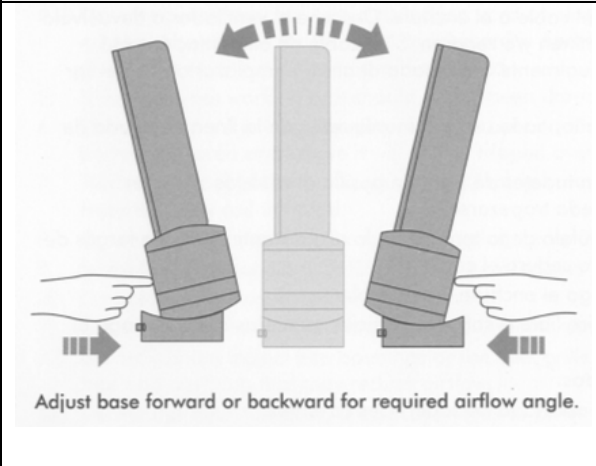
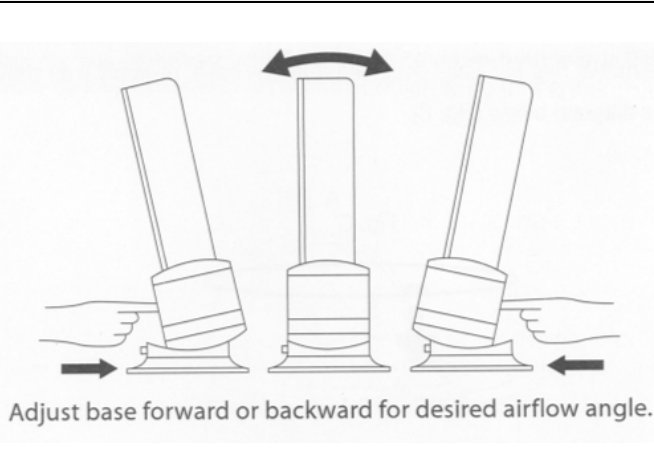


Figures from Dyson and Cornucopia Operating Manuals

Dyson

Cornucopia



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Figures from Dyson and Cornucopia Operating Manuals	
Dyson	Cornucopia
 <p>Adjust base forward or backward for required airflow angle.</p>	 <p>Adjust base forward or backward for desired airflow angle.</p>
 <p>To clean, wipe with a dry or damp cloth. Do not use detergents or polishes to clean the fan.</p>	 <p>Wipe with a dry or damp cloth. Do not use detergents or polishes to clean fan.</p>

13. In the Related Action, Cornucopia attempts to justify its willful infringement of Dyson’s intellectual property by baselessly alleging antitrust violations and tortious interference with business expectancy. The Related Action also seeks a declaratory judgment of non-infringement and invalidity of four Dyson Technology Limited utility patents: U.S. Patent No. 7,931,449 (the “449 Patent”); U.S. Patent No. 7,972,111 (the “111 Patent”); the '379 Patent; and the '166 Patent.

14. Dyson Technology Limited is not a party to the Related Action. When the Related Action complaint was filed, Dyson Technology Limited was unaware of

1 Cornucopia and no Dyson entity had possession of Cornucopia’s fan with which to
2 conduct an infringement analysis. Dyson did not locate a distributor of Cornucopia’s fan
3 until late March when it learned they were being sold by Bed Bath & Beyond. Dyson
4 acquired sample Cornucopia fans shortly thereafter.

5 15. The Related Action complaint contends that Dyson’s patents are invalid
6 over a prior art reference, Japanese Application No. S56-167897 (“JP '897,” attached
7 hereto as Ex. E). Cornucopia makes this allegation despite the fact that JP '897 was
8 disclosed to the United States Patent and Trademark Office (“U.S. PTO”) in each of
9 Dyson’s patent applications that issued as the '449, '111, '379, and '166 Patents.
10 Significantly, the U.S. PTO issued Dyson’s patents in view of that reference.

11 16. Cornucopia further alleges in paragraphs 20 and 21 of the Related Action
12 complaint that its fan is based on JP '897, stating:

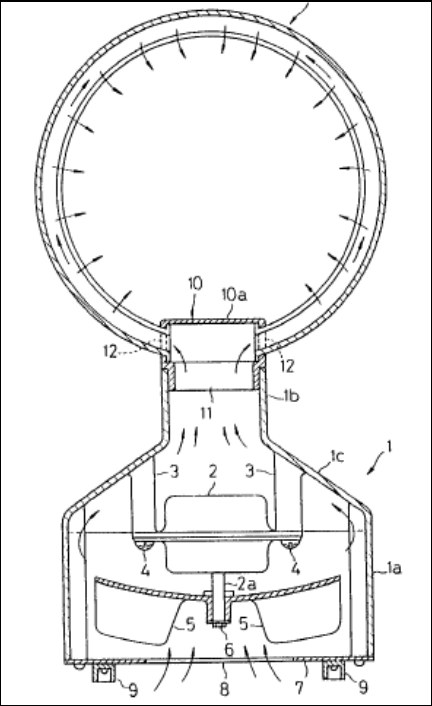


13 Cornucopia developed its own bladeless fan inspired by the Japanese
14 invention.

15 Cornucopia spent significant time and money analyzing the Japanese patent
and creating its own bladeless fan.

16 This allegation is completely rebutted by the fact that Cornucopia’s fan is so closely
17 copied from Dyson’s fan that its parts are interchangeable. By comparison, as illustrated
18 below, Cornucopia’s product bears little resemblance to the fan disclosed in JP '897.

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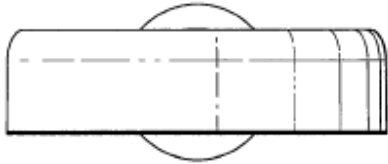
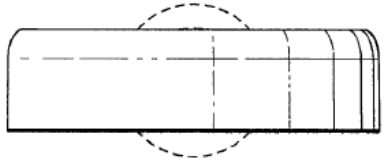
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JP '897, Fig. 1	Dyson's 12 Inch Table Fan	Cornucopia 12 Inch Bladeless Fan
		

17. In the Related Action, Cornucopia fails to address the full scope of Dyson's intellectual property rights with respect to bladeless fans. Cornucopia makes no allegations against the valid and enforceable design patents (the '143 Patent and the '748 Patent) that it infringes.

18. Design patents protect the appearance of products as viewed by an ordinary observer. The U.S. PTO found Dyson's designs patentable over the designs shown in the figures of JP '897. A simple visual comparison confirms that JP '897 has a substantially different appearance than Dyson's design patents and products. For example, JP '897 shows a narrow hula-hoop shaped nozzle whereas Dyson's design patents disclose a much deeper cylindrically shaped nozzle:

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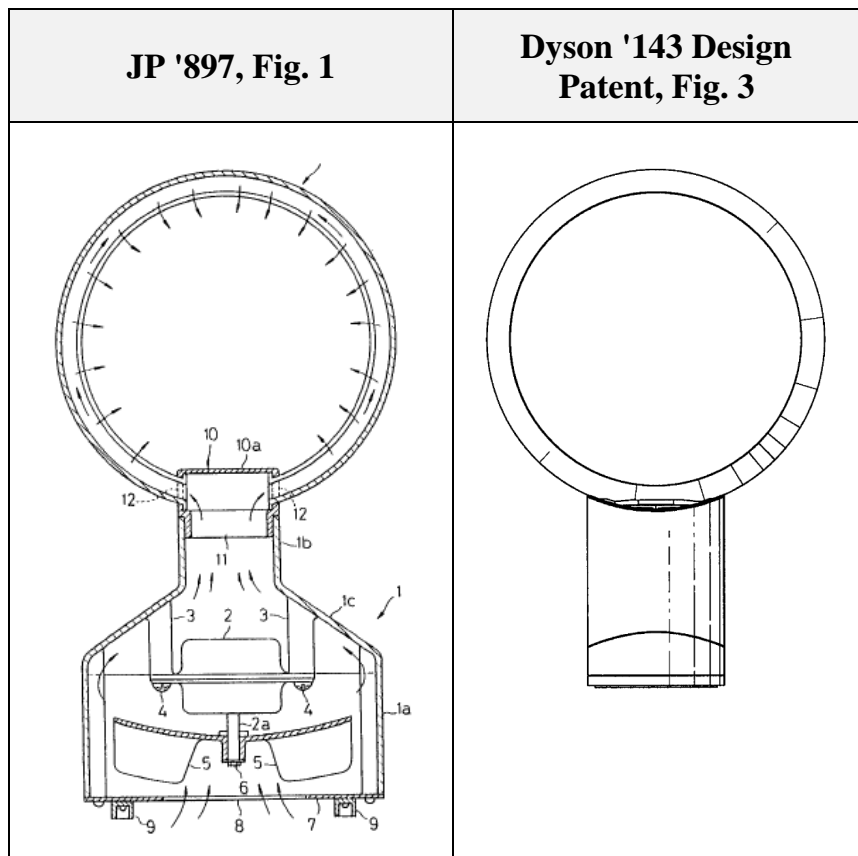
JP '897, Fig. 2	Dyson '143 Design Patent, Fig. 5	Dyson '748 Design Patent, Fig. 5
		

19. Cornucopia's knockoff fan has Dyson's cylindrically shaped nozzle and does not replicate the hula-hoop shaped nozzle of JP '897:

JP '897, Fig. 2	Nozzle of Dyson's 12 Inch Table Fan	Nozzle of Cornucopia's 12 Inch Bladeless Fan
		

20. As a further example, the nozzle of JP '897 connects to a relatively narrow neck, which thereafter flares out half-way down the base into a section that is about as wide as the nozzle, whereas Dyson's '143 design patent claims a fan base that is substantially cylindrical and that does not flare out at the mid-section of the base:

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21. Cornucopia's knockoff fan misappropriates the combination of a cylindrically shaped nozzle on a substantially cylindrical base in the proportions of Dyson's design. Cornucopia's fan does not employ the proportions or shapes of JP '897 with its narrow neck and flared-out base.

22. Since filing the Related Action, Cornucopia has begun selling its knockoffs online and in a number of major retail outlets including Bed Bath & Beyond at less than half the price of a comparably sized Dyson fan.

23. Cornucopia's extensive intellectual property infringement is irreparably harming Dyson and must be stopped.

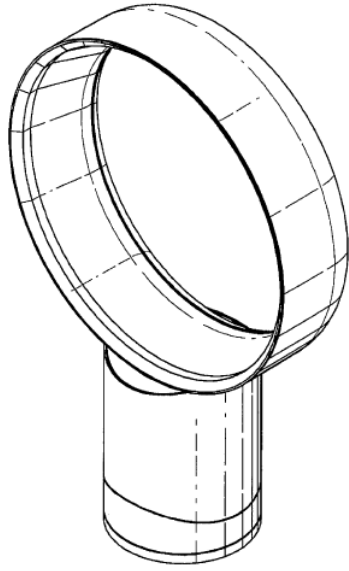


COUNT 1: PATENT INFRINGEMENT BY CORNUCOPIA

24. Dyson incorporates paragraphs 1-23 as if fully set forth herein.

25. United States Patent No. D602,143, entitled "Fan," was duly and legally issued by the United States Patent and Trademark Office on October 13, 2009.

1 26. Dyson Technology Limited is the owner by valid assignment of the entire
2 right, title, and interest in and to the '143 Patent and possesses all rights of recovery under
3 the '143 Patent, including the right to recover damages for past infringement.

4 27. Cornucopia has been and is now making, using, selling, and offering for sale
5 within the United States, or importing into the United States, bladeless fans, including the
6 Cornucopia 12 Inch Bladeless Fan, that infringes the '143 Patent.

'143 Patent, Fig. 1	Dyson 12 Inch Table Fan	Cornucopia 12 Inch Bladeless Fan
		

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18 28. Cornucopia has been contributing to the infringement of and/or actively
19 inducing the infringement of the '143 Patent by others by, among other things, distributing
20 or offering for sale products, including the Cornucopia 12 Inch Bladeless Fan, that teaches
21 third parties to assemble and use said products in a manner that directly infringes the '143
22 Patent.

23
24 29. Dyson has no adequate remedy at law against Cornucopia's acts of
25 infringement and Dyson will suffer irreparable harm unless Cornucopia is preliminarily
26 and permanently enjoined from its infringement of the '143 Patent.

1 30. On information and belief, Cornucopia has had knowledge of the '143 Patent
2 since at least February 2, 2012 and has not ceased its infringing activity. Cornucopia's
3 infringement of the '143 Patent has been and continues to be willful and deliberate.

4 31. Cornucopia, by way of its infringing activity, has caused and continues to
5 cause Dyson to suffer damages in an amount to be determined at trial.

6 **COUNT 2: PATENT INFRINGEMENT BY CORNUCOPIA**

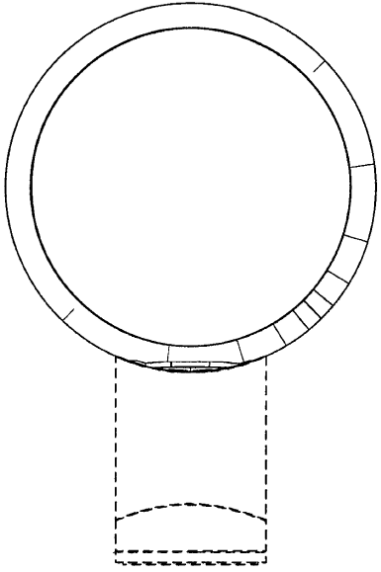


7 32. Dyson incorporates paragraphs 1-31 as if fully set forth herein.

8 33. United States Patent No. D605,748, entitled "Fan," was duly and legally
9 issued by the United States Patent and Trademark Office on December 8, 2009.

10 34. Dyson Technology Limited is the owner by valid assignment of the entire
11 right, title, and interest in and to the '748 Patent and possesses all rights of recovery under
12 the '748 Patent, including the right to recover damages for past infringement.

13 35. Cornucopia has been and is now making, using, selling, and offering for sale
14 within the United States, or importing into the United States, products, including the
15 Cornucopia 12 Inch Bladeless Fan, that infringes the '748 Patent.

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'748 Patent, Fig. 3.	Nozzle from Dyson's 12 Inch Table Fan	Nozzle from Cornucopia's 12 Inch Bladeless Fan
		

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1 36. Cornucopia has been contributing to the infringement of and/or actively
2 inducing the infringement of the '748 Patent by others by, among other things, distributing
3 or offering for sale products, including the Cornucopia 12 Inch Bladeless Fan, that teaches
4 third parties to assemble and use said products in a manner that directly infringes the '748
5 Patent.

6 37. Dyson has no adequate remedy at law against Cornucopia's acts of
7 infringement and Dyson will suffer irreparable harm unless Cornucopia is preliminarily
8 and permanently enjoined from its infringement of the '748 Patent.

9 38. On information and belief, Cornucopia has had knowledge of the '748 Patent
10 since at least February 2, 2012 and has not ceased its infringing activity. Cornucopia's
11 infringement of the '748 Patent has been and continues to be willful and deliberate.

12 39. Cornucopia, by way of its infringing activity, has caused and continues to
13 cause Dyson to suffer damages in an amount to be determined at trial.

14 **COUNT 3: PATENT INFRINGEMENT BY CORNUCOPIA**

15 40. Dyson incorporates paragraphs 1-39 as if fully set forth herein.

16 41. United States Patent No. 8,052,379, entitled "Fan Assembly," was duly and
17 legally issued by the United States Patent and Trademark Office on November 8, 2011.

18 42. Dyson Technology Limited is the owner by valid assignment of the entire
19 right, title, and interest in and to the '379 Patent and possesses all rights of recovery under
20 the '379 Patent, including the right to recover damages for past infringement.

21 43. Cornucopia has been and is now making, using, selling, and offering for sale
22 within the United States, or importing into the United States, products, including the
23 Cornucopia 12 Inch Bladeless Fan, that infringe claims of the '379 Patent. In particular,
24 the Cornucopia 12 Inch Bladeless Fan has a base, a body tiltable relative to the base. It
25 emits air flow from a nozzle, which comprises a Coanda surface.

26 44. Cornucopia has been contributing to the infringement of and/or actively
27 inducing the infringement of the '379 Patent by others by, among other things, distributing
28 or offering for sale products, including the Cornucopia 12 Inch Bladeless Fan, that teaches

1 third parties to assemble and use said products in a manner that directly infringes the '379
2 Patent.

3 45. Dyson has no adequate remedy at law against Cornucopia's acts of
4 infringement and Dyson will suffer irreparable harm unless Cornucopia is preliminarily
5 and permanently enjoined from its infringement of the '379 Patent.

6 46. Cornucopia has had knowledge of the '379 Patent since at least February 2,
7 2012 and has not ceased its infringing activity. Cornucopia's infringement of the '379
8 Patent has been and continues to be willful and deliberate.

9 47. Cornucopia, by way of its infringing activity, has caused and continues to
10 cause Dyson to suffer damages in an amount to be determined at trial.

11 **COUNT 4: PATENT INFRINGEMENT BY CORNUCOPIA**

12 48. Dyson incorporates paragraphs 1-47 as if fully set forth herein.

13 49. United States Patent No. 8,092,166, entitled "Fan," was duly and legally
14 issued by the United States Patent and Trademark Office on January 10, 2012.

15 50. Dyson Technology Limited is the owner by valid assignment of the entire
16 right, title, and interest in and to the '166 Patent and possesses all rights of recovery under
17 the '166 Patent, including the right to recover damages for past infringement.

18 51. Cornucopia has been and is now making, using, selling, and offering for sale
19 within the United States, or importing into the United States, products, including the
20 Cornucopia 12 Inch Bladeless Fan, that infringe claims of the '166 Patent. In particular,
21 the Cornucopia 12 Inch Bladeless Fan has a nozzle with two facing surfaces, with one
22 biased towards the other, and spacers that space apart the facing surfaces.

23 52. Cornucopia has been contributing to the infringement of and/or actively
24 inducing the infringement of the '166 Patent by others by, among other things, distributing
25 or offering for sale products, including the Cornucopia 12 Inch Bladeless Fan, that teaches
26 third parties to assemble and use said products in a manner that directly infringes the '166
27 Patent.

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- 1 F. An award to Dyson of the damages to which it is entitled
2 under 35 U.S.C. § 284 for Cornucopia’s past infringement and
3 any continuing or future infringement up until the date
4 Cornucopia is finally and permanently enjoined from further
5 infringement, including both compensatory damages and
6 treble damages for willful infringement;
- 7 G. A declaration that this is an “exceptional” case within the
8 meaning of 35 U.S.C. § 285, entitling Dyson to an award of its
9 attorney’s fees, expenses, and costs;
- 10 H. A judgment and order requiring Cornucopia to pay Dyson the
11 costs incurred in bringing this action (including all
12 disbursements), as well as attorney’s fees as provided by 35
13 U.S.C. § 285;
- 14 I. An award to Dyson of pre-judgment and post-judgment
15 interest on damages; and
- 16 J. Such other and further relief in law or in equity to which
17 Dyson may be justly entitled.

18 **JURY TRIAL DEMAND**

19 Dyson respectfully demands a trial by jury of any and all issues triable of right
20 before a jury.

21 DATED this 2nd day of May, 2012.

22 OSBORN MALEDON, P.A.

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