

ORIGINAL

FILED

1 Larry R. Laycock (Utah State Bar No. 4868; *Pro Hac Vice*)
 2 *llaycock@mabr.com*
 3 David R. Wright (Utah State Bar No. 5164; *Pro Hac Vice*)
 4 *dwright@mabr.com*
 5 Tyson K. Hottinger (California State Bar No. 253221)
 6 *thottinger@mabr.com*
 7 Taylor J. Wright (California State Bar No. 288609)
 8 *twright@mabr.com*

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 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 SANTA ANA
 BY LAW

BY FAX

6 MASCHOFF BRENNAN
 7 20 Pacifica, Suite 1130 & 201 South Main Street, Suite 600
 8 Irvine, California 92618 Salt Lake City, Utah 84111
 9 Telephone: (949) 202-1900 Telephone: (435) 252-1360
 Facsimile: (949) 453-1104 Facsimile: (435) 252-1361

10 Attorneys for Plaintiff ICON Health & Fitness, Inc.

11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

13 ICON HEALTH & FITNESS, INC., a
 14 Delaware corporation,

Case No.: 8:13-cv-01069-AG-RNB

15 Plaintiff,

16 v.

**FIRST AMENDED COMPLAINT
 FOR PATENT INFRINGEMENT**

18 SUUNTO OY, a Finland limited liability
 19 company; and AMER SPORTS WINTER
 20 & OUTDOOR COMPANY d/b/a
 SUUNTO USA, a Delaware corporation.

21 Defendants.

[Demand For Jury Trial]

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1 Plaintiff ICON Health & Fitness, Inc. (“ICON” or “Plaintiff”) hereby complains
2 against Suunto OY, Amer Sports Winter & Outdoor Company d/b/a Suunto USA
3 (collectively “Suunto” or “Defendants”) for the causes of action alleged as follows:

4 **THE PARTIES**

5 1. ICON is a corporation duly organized and existing under the laws of
6 Delaware with its principal place of business located at 1500 South 1000 West, Logan,
7 Utah, 84321.

8 2. Suunto OY is a Finnish company with its principle place of business located
9 at Valimotie 7, FI-01510, Vantaa, Finland.

10 3. Amer Sports Winter & Outdoor Company d/b/a Suunto USA is a Delaware
11 corporation having a principal place of business at 2030 Lincoln Ave, Ogden, Utah
12 84401.

13 **JURISDICTION AND VENUE**

14 4. This is a civil action by ICON for patent infringement arising under the
15 patent laws of the United States, including 35 U.S.C. § 271, which gives rise to the
16 remedies specified under 35 U.S.C. §§ 281, 283, 284, and 285.

17 5. This court has original jurisdiction over the subject matter of this action
18 pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

19 6. ICON further alleges on information and belief that Defendants sold or
20 contracted for the sale of infringing goods to consumers within the State of California,
21 including throughout the Central District of California. These actions by Defendants
22 relate to and, in part, give rise to the claims asserted herein by ICON, and have resulted in
23 injury to ICON.

24 7. This Court’s exercise of personal jurisdiction over the Defendants is
25 consistent with the Constitutions of the United States and the State of California.

26 8. ICON alleges on information and belief that Defendants advertise, market,
27 and sell their products through their active website, which is available to persons within
28 the State of California and this judicial district.

1 9. ICON maintains a place of business located in the Central District of
2 California.

3 10. Venue is proper in this judicial district pursuant to, at least, 28 U.S.C. §
4 1391(b) and 28 U.S.C. § 1400(b).

5 **FACTUAL BACKGROUND**

6 11. Kenneth and Greg Anderson (the “Andersons”) are life-long fitness and
7 running enthusiasts with knowledge and expertise in designing running footwear and
8 devices for measuring and tracking athletic performance parameters.

9 12. The Andersons filed a patent application on January 6, 1995 for a foot
10 mounted apparatus and method to measure locomotive performance parameters of a
11 person during physical exercise, in particular jogging or running. A patent was issued
12 upon that application on February 24, 1998 as U.S. Patent No. 5,720,200 (the “Anderson
13 Patent”).

14 13. ICON is a global leader in the field of exercise and fitness equipment,
15 selling products under numerous well-recognized brands, one of which is the shoe brand
16 Altra Footwear. Altra Footwear is an innovative shoe brand dedicated to running shoes
17 and attire, fitness, and health. Altra Footwear products are distributed from ICON’s place
18 of business located within the Central District of California.

19 14. ICON also is an innovator in fitness monitoring technology, as evidenced by
20 its iFit website and compatible devices and machines. This technology allows users to
21 measure and monitor key exercise parameters and customize workouts based on these
22 parameters.

23 15. Defendants are direct competitors to ICON in the market of fitness
24 monitoring and running accessories.

25 16. ICON is the owner by assignment of the Anderson Patent.

26 17. ICON has not licensed Defendants to practice the Anderson Patent, and
27 Defendants have no right or authority to license others to practice the Anderson Patent.
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1 18. ICON alleges upon information and belief that Defendants import, make,
2 use, sell, and/or offer for sale within the United States and within California, either
3 directly or through established distribution channels, products that give rise to
4 infringement of the Anderson Patent, including by way of example and not limitation, the
5 Suunto Foot Pod Mini and compatible devices such as the Suunto Ambit, Quest, M5, t6,
6 t4, t3 and other ANT+ sports watches.

7 19. The Suunto Foot Pod Mini measures and calculates performance parameters,
8 such as speed and distance. The performance parameters are wirelessly communicated
9 and displayed on compatible devices, such as the Suunto Ambit sports watches (the
10 "Accused Products").

11 **FIRST CLAIM FOR RELIEF**

12 **(Infringement of the Anderson Patent Against Defendants)**

13 20. By this reference ICON realleges and incorporates the foregoing paragraphs
14 as though fully set forth herein.

15 21. Defendants have directly infringed and continue to directly infringe the
16 Anderson Patent under 35 U.S.C. § 271 by making, using, selling, offering for sale within
17 the United States, or importing into the United States systems and products that embody
18 one or more of the claims of the Anderson Patent.

19 22. The conduct of Defendants, as set forth hereinabove, gives rise to a cause of
20 action for infringement of the Anderson Patent, pursuant to at least 35 U.S.C. §§ 271 and
21 281.

22 23. ICON alleges on information and belief that Defendants have manufactured,
23 used, sold, and offered for sale Accused Products despite an objectively high likelihood
24 that its actions constitute infringement of the Anderson Patent.

25 24. Defendants' acts of infringement have caused damage to ICON, and ICON
26 is entitled to recover the damages sustained as a result of Defendants' wrongful acts in an
27 amount subject to proof at trial. Defendants' infringement of ICON's rights under the
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1 Anderson Patent will continue to damage ICON's business, causing irreparable harm, for
2 which there is no adequate remedy at law, unless it is enjoined by this Court.

3 25. By reason of the foregoing, ICON is entitled to injunctive and monetary
4 relief against Defendants, pursuant to 35 U.S.C. §§ 283–285.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, ICON prays for judgment against Defendants as follows:

7 A. A judgment finding Defendants liable for infringement of the Anderson
8 Patent;

9 B. An imposition of constructive trust on, and an order requiring a full
10 accounting of, the sales made by Defendants as a result of their wrongful or infringing
11 acts alleged herein;

12 C. An order of this Court pursuant to at least 35 U.S.C. § 283 permanently
13 enjoining Defendants, their agents and servants, and any and all parties acting in concert
14 with them, from: directly or indirectly infringing in any manner the Anderson Patent,
15 whether by making, using, selling, offering to sell, or importing into the United States
16 any product falling within the scope of any of the claims of the Anderson Patent;
17 engaging in acts constituting contributory infringement of any of the claims of the
18 Anderson Patent; or inducing others to engage in any of the aforementioned acts or
19 otherwise;

20 D. An order of this Court pursuant to at least 35 U.S.C. § 283 directing
21 Defendants to destroy their entire stock of infringing products;

22 E. An award of damages to ICON, in an amount to be proven at trial, pursuant
23 to at least 35 U.S.C. § 284;

24 F. An award to ICON of prejudgment interest, pursuant to at least 35 U.S.C.
25 § 284;

26 G. An award to ICON of its costs in bringing this action, pursuant to at least 35
27 U.S.C. § 284, and Rule 54(d)(1) of the Federal Rules of Civil Procedure;

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H. An award of post-judgment interest, pursuant to at least 28 U.S.C. § 1961(a);
and

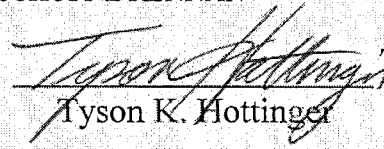
I. For such other and further relief as the Court deems just, proper, and
equitable.

DEMAND FOR JURY

ICON demands TRIAL BY JURY of all causes so triable.

DATED: September 4, 2013

Larry R. Laycock
David R. Wright
Tyson K. Hottinger
Taylor J. Wright
MASCHOFF BRENNAN

By: 
Tyson K. Hottinger

Attorneys for Plaintiff
ICON HEALTH & FITNESS, INC.