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CV 02-1038 #1

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

BY

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CV 02-1038

VECTRA FITNESS, INC ,
a Washington corporation,

Plaintiff,

v

BODY-SOLID, INC ,
an Illinois corporation,

Defendant

Civil Action No.

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**

Plaintiff, Vectra Fitness, Inc. ("Vectra"), for its complaint herein, alleges as follows:

I. NATURE OF ACTION

1 This action is based on the Patent Laws of the United States, 35 U S C. § 100 *et*
2 *seq.*

II. THE PARTIES

2 Vectra is a Washington corporation with its principal place of business at 7901 S
3 190th Street, Kent, Washington 98032.

3 Upon information and belief, defendant Body-Solid, Inc ("Body-Solid") is an
4 Illinois corporation, with a place of business at 1900 South Des Plaines Avenue, Forrest Park,
5 Illinois 60130.

ORIGINAL

III. JURISDICTION AND VENUE

4. This action arises under the Patent Act, 35 U.S.C. § 271 et seq. The Court has original jurisdiction of such claims pursuant to 28 U.S.C. §§ 1331 and 1338(a)

5. Personal jurisdiction over the defendant is proper in this Court. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

IV. FACTS

6. On March 29, 1994, United States Reissue Patent No. Re. 34,572 entitled *Exercise Machine With Multiple Exercise Stations*, was lawfully issued to Vectra. Reissue Patent No. 34,572 is a reissue of United States Patent No. 4,809,972 (hereinafter "the '972 patent"), issued March 7, 1989. Reissue Patent No. 34,572 was reexamined and a Reexamination Certificate issued on July 7, 1998. Vectra is the assignee and sole owner of the '972 patent and Reissue Patent No. 34,572. A copy of Reissue Patent No. 34,572 and the Reexamination Certificate is attached hereto as Exhibit A. The reexamined patent, with the Reexamination Certificate is hereinafter referred to as the "'572 patent."

7. Vectra is in the business of designing, manufacturing, marketing and selling various exercise machines including exercise machines covered by one or more claims of the '572 patent.

8. Body-Solid has been, and is, infringing one or more claims of the '572 patent by manufacturing, using, selling, offering to sell, causing to be manufactured, used, sold and/or offered for sale, exercise machines with multiple exercise stations covered by the '572 patent in the United States and in this judicial district.

9. On information and belief, Body-Solid has actual and constructive notice of Vectra's rights respecting the '572 patent.

V. CLAIM -- PATENT INFRINGEMENT

10 Vectra repeats and realleges each of the allegations contained in paragraphs 1 through 9 of this Complaint

11 Defendant's actions constitute patent infringement, in violation of the Patent Act, 12 35 U.S.C. § 271 *et seq*

12 Defendant's infringement has been willful.

13 13. Vectra has been, and will continue to be, damaged by such infringement in an amount to be proven at trial, and in a manner and amount that cannot be fully measured or 14 compensated in economic terms and for which there is no adequate remedy at law Defendant's 15 actions have damaged, and will continue to damage, Vectra's business, profits, market share, 16 reputation, and goodwill unless Defendant's acts complained of herein are enjoined

VI. PRAYER FOR RELIEF

17 WHEREFORE, Vectra respectfully demands judgment that

18 1. Defendant and its officers, directors, agents, servants, employees, attorneys, 19 confederates, and all persons acting for, with, by, through, or under them or any of them, be 20 permanently enjoined:

21 (a) From infringing any claim of the '572 patent, either directly or 22 contributorily, and

23 (b) From inducing others to infringe any claim of the '572 patent.

24 2 Defendant be required to deliver up to the Court the following items in 25 Defendant's possession, custody or control any and all exercise machines which infringe any claim of the '572 patent in suit and parts thereof and all machinery, tooling, and dies and any other equipment used in the manufacture, finishing or refinement of any of the above items or products

1 3. Defendant be required to prepare and deliver to the Plaintiff a complete list of
2 entities from whom Defendant purchased, and to whom it distributed or sold, products which
3 infringe any claim of the '572 patent.

4 4 Defendant, within thirty days after service of judgment, with notice of entry
5 thereof upon it, be required to file with the Court and serve upon Vectra's counsel a written
6 report under oath setting forth in detail the manner in which Defendant has complied with
7 Paragraphs 1 through 3 hereof

8 5 Defendant account for and pay over to Vectra the damages sustained by Vectra by
9 reason of Defendant's patent infringement

10 6. Defendant's infringement of Vectra's patent be found willful and that treble
11 damages, together with interest and costs, be awarded under 35 U.S.C. § 284

12 7 The present case be found exceptional and that attorney fees be awarded to Vectra
13 under 35 U.S.C. § 285 or as otherwise permitted by law

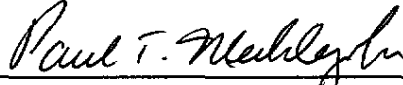
14 8 Vectra has such other and further relief as the Court may deem just and proper

15
16 **DEMAND FOR JURY TRIAL**

17 Plaintiff demands a trial by jury as to all issues so triable

18
19 DATED this 8th day of May, 2002

1 Respectfully submitted,
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**EXHIBITS
NOT
SCANNED**