

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

<p>ICON HEALTH & FITNESS, INC., a Delaware corporation,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>TRUE FITNESS TECHNOLOGY, INC., a Missouri corporation,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Civil Action No. 4:18-cv-00439-HEA</p> <p style="text-align: center;">JURY TRIAL DEMANDED</p>
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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ICON Health & Fitness, Inc. (“ICON” or “Plaintiff”) hereby complains against defendant TRUE Fitness Technology, Inc. (“TRUE” or “Defendant”) for the causes of action alleged as follows:

THE PARTIES

1. ICON is a corporation duly organized and existing under the laws of the State of Delaware with its principal place of business located at 1500 South 1000 West, Logan, Utah, 84321.
2. On information and belief, TRUE Fitness Technology, Inc. is a corporation duly organized and existing under the laws of the State of Missouri, with its headquarters and its principle place of business located at 865 Hoff Road, O’Fallon, Missouri 63366.

JURISDICTION AND VENUE

3. This is a civil action arising under the patent laws of the United States, including, but not limited to, 35 U.S.C. § 271.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over TRUE because TRUE has purposely availed itself of the privileges and benefits of the laws of the State of Missouri and has committed acts of patent infringement within this judicial district.

6. ICON alleges that TRUE has sold or contracted for the sale of infringing goods within the State of Missouri, to ICON's injury, which relate to the claims asserted by ICON, and out of which ICON's claims, in part, arise.

7. TRUE sells its infringing goods throughout Missouri via authorized dealer stores.

8. On information and belief, TRUE is the owner of the website located at www.truefitness.com, which is available to persons within the State of Missouri.

9. On information and belief, TRUE advertises, markets, sells, and offers its products through its website, www.truefitness.com, the advertising, marketing, selling, and offerings of which are available to the purchasing public in the State of Missouri.

10. This Court's exercise of personal jurisdiction over TRUE is consistent with the Constitutions of the United States and the State of Missouri.

11. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

FACTUAL BACKGROUND

ICON'S PATENT PORTFOLIO

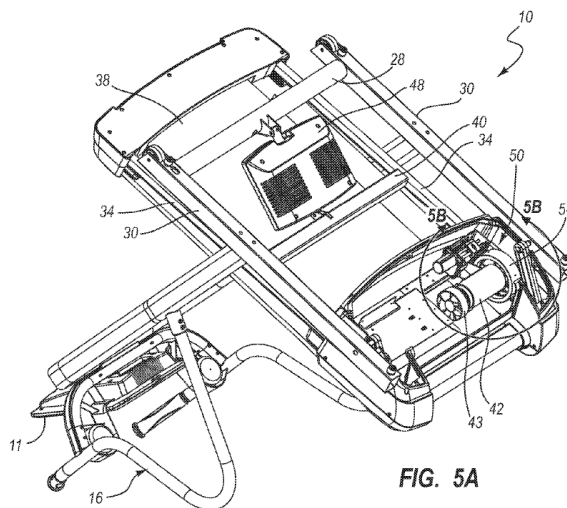
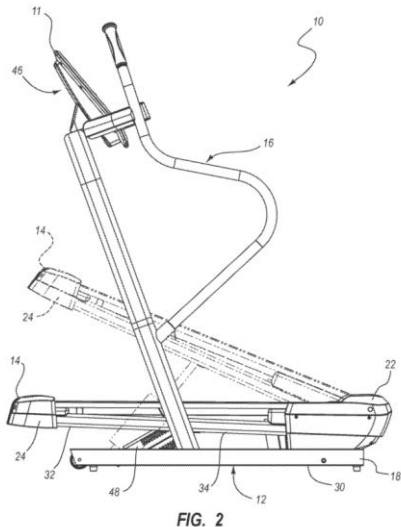
12. ICON is a technological leader in the field of exercise equipment, and it markets and sells a variety of exercise related products, including its revolutionary incline trainers. An example of one of ICON's incline trainers is depicted below:



13. ICON maintains its position as one of the top innovators in the fitness industry by making substantial investments in the research, development and acquisition of cutting-edge technologies. Many of the technological innovations, products, and concepts that ICON markets and sells throughout the United States, including its incline trainers, are protected by ICON's valuable and diverse intellectual property portfolio that includes patents, trademarks, trade dress, and copyrights.

14. ICON's incline trainers are protected by, *inter alia*, utility patents, including United States Patent No. 9,623,281 (the "'281 Patent") (collectively the "Asserted Patent"), which is attached as Exhibits 1 to this Complaint.

15. Exemplary figures from the '281 Patent are depicted below:



16. The '281 Patent covers, among other things, a unique and patentable magnetic braking system that prevents the tread belt from rotating at a speed that is faster than a speed selected at a console by a user improving the operation and safety of the treadmill. This situation can occur, among other times, when a user is exercising on the device at a higher degree of incline.

17. The '281 Patent was filed on November 3, 2014 and issued on April 18, 2017. ICON is the owner by assignment of the '281 Patent. ICON has not licensed TRUE to practice the '281 Patent, and TRUE does not have any right or authority to license others to practice the '281 Patent.

TRUE'S INFRINGING PRODUCT

18. On information and belief, TRUE is in the business of manufacturing, distributing, and selling exercise equipment. TRUE manufacturing, distributing, and selling incline trainers that can achieve high-incline ranges during a user's exercise session when compared to standard treadmills available on the market. An example of TRUE's infringing incline trainer, the Alpine Runner, is depicted below:



CLAIM FOR RELIEF
(Infringement of the '281 Patent)

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

20. TRUE has infringed and continues to infringe one or more claims of the '281 Patent by making, using, selling, offering for sale within the United States, or importing into the United States products, systems, or services, including, but not limited to, the Alpine Runner, which embodies one or more of the claims of the '281 Patent under 35 U.S.C. § 271.

21. On information and belief, the Alpine Runner infringes at least claim 1 of the '281 Patent because it incorporates all of the elements of claim 1. The Alpine Runner incorporates structure corresponding to at least the following: (1) an inclining/declining

treadbase with two rollers; (2) a motor adapted to turn an endless belt; (3) a flywheel coupled to the motor; (4) a current monitor; and (5) a magnetic braking system that operates as claimed in the '281 Patent.

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

23. TRUE has sold infringing products, such as the Alpine Runner, despite an objectively high likelihood that its actions constitute infringement.

24. TRUE's acts of infringement have caused damage to ICON, and ICON is entitled to recover the damages sustained as a result of TRUE's wrongful acts in an amount subject to proof at trial.

25. TRUE's infringement of the '281 Patent will continue to damage ICON's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

26. Upon information and belief, TRUE has willfully infringed the '281 Patent, entitling ICON to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

27. By reason of the foregoing, ICON is entitled to relief against TRUE, pursuant to at least 35 U.S.C. §§ 283–85.

PRAYER FOR RELIEF

WHEREFORE, ICON prays for judgment against TRUE as follows:

A. A judgment finding TRUE liable for infringement of one or more of the claims of the Asserted Patent;

B. Orders of this Court temporarily, preliminarily, and permanently enjoining TRUE, its agents, servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner any of the claims of the Asserted Patent, pursuant to at least 35 U.S.C. § 283;

C. An award of damages to ICON for infringement of the Asserted Patent, in an amount to be proved at trial, pursuant to all applicable law, including at least 35 U.S.C. § 284;

D. An award of treble damages to ICON, pursuant to all applicable law, including at least 35 U.S.C. § 284;

E. A declaration that this case is an exceptional case;

F. An award of ICON's costs in bringing this action, pursuant to all applicable law, including at least 35 U.S.C. § 284;

G. An award of ICON's attorneys' fees in this action, pursuant to all applicable law, including at least 35 U.S.C. § 285;

H. Imposition of a constructive trust on, and an order requiring a full accounting of, the sales made by TRUE as a result of its wrongful or infringing acts alleged herein;

I. Pre-judgment interest, pursuant to at least 35 U.S.C. § 284;

J. Post-judgment interest, pursuant to at least 28 U.S.C. § 1961(a); and

K. An award of any other and further relief as the Court deems just and equitable.

DEMAND FOR JURY

ICON demands TRIAL BY JURY of all causes and issues so triable.

DATED: January 10, 2019

MASCHOFF BRENNAN

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10th day of January, 2019, the foregoing was filed via the ECF/CM system with the Clerk of the Court, which serves Notice of Electronic Filing upon all counsel of record via electronic mail.

/s/ Jennifer E. Hoekel