

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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EPB-0778  
NJK-6122

*Attorneys for the Plaintiff:  
Ab Coaster Holdings, Inc.*

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<b>AB COASTER HOLDINGS, INC.</b>	)	
<b>(a Delaware corporation),</b>	)	
	)	
	)	
Plaintiff,	)	
	)	<b>CIVIL ACTION FILE NUMBER:</b>
v.	)	
	)	
<b>ICON HEALTH &amp; FITNESS, INC.</b>	)	
<b>(a Delaware corporation),</b>	)	
	)	
Defendant.	)	
	)	<i>Document filed Electronically</i>

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

Plaintiff, Ab Coaster Holdings, Inc., a Delaware corporation (hereinafter “Ab Coaster Holdings” or “Plaintiff”), by its undersigned attorneys, for its Complaint against Icon Health & Fitness, Inc. a Delaware corporation, (hereinafter “Icon” or “Defendant”), upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters, alleges as follows:

**THE PARTIES**

1. Plaintiff Ab Coaster Holdings, Inc. (“Ab Coaster Holdings”) is a Delaware corporation having a principal place of business at 1007 Orange Street, Suite 1410, Wilmington, Delaware 19801.
2. Upon information and belief, Defendant Icon Health & Fitness, Inc. (“Icon”) is a Delaware corporation having a principal place of business at 1500 South 1000 West, Logan, Utah, 84321.

**JURISDICTION AND VENUE**

3. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. The Court has subject matter jurisdiction over the action pursuant to 28 U.S.C § 1331 and 28 U.S.C. §1338(a), as it involves substantial claims arising under the Patent Laws of the United States together with related claims for patent infringement and unfair competition.
4. Upon information and belief, personal jurisdiction is proper in this Court as Icon solicits business, conducts business, and collects taxes within the State of New Jersey, including but not limited to maintaining a website with access in New Jersey, attending trade shows in the State of New Jersey, marketing to customers in the State of New Jersey, and having commercial and residential sales in the State of New Jersey. A copy of a printout from the website [www.proform.com](http://www.proform.com) (attached as Exhibit A) demonstrates that Icon products are marketed to customers within the state of New Jersey. A copy of a printout from the website [www.walmart.com](http://www.walmart.com) listing current retail product inventory as of December 19, 2010 within the state of New Jersey (attached as Exhibit B) demonstrates that Icon products are distributed and commercially sold within the state of New Jersey. Therefore the Court has personal jurisdiction

over Icon pursuant to N.J. Ct. R. 4:4-4 and venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), 28 U.S.C. §1391(c), and 28 U.S.C. §1400(b).

### **BACKGROUND**

5. On November 25, 2008, U.S. Patent No. 7,455,633 (“the ‘633 patent”) entitled “ABDOMINAL EXERCISE MACHINE” duly and legally issued to Wallace Brown and Robert W. Nelson. The entire right, title, and interest to the ‘633 patent is assigned to and owned by Ab Coaster Holdings. Ab Coaster Holdings maintains the non-exclusive right to make, have made, use, distribute, sell, offer for sale, and import in the United States products covered by the ‘633 patent. A true and correct copy of the ‘633 patent is attached hereto as Exhibit C.

6. Upon information and belief, Icon makes, uses, sells, and/or offers to sell and induces others to make, use, sell, and/or offer to sell, abdominal exercise machines, which embody and/or use the inventions claimed in the ‘633 patent.

7. On February 03, 2009, U.S. Patent No. 7,485,079 (“the ‘079 patent”) entitled “ABDOMINAL EXERCISE MACHINE” duly and legally issued to Wallace Brown and Robert W. Nelson. The entire right, title, and interest to the ‘079 patent is assigned to and owned by Ab Coaster Holdings. Ab Coaster Holdings maintains the right to make, have made, use, distribute, sell, offer for sale, and import in the United States products covered by the ‘079 patent. A true and correct copy of the ‘079 patent is attached hereto as Exhibit D.

8. Upon information and belief, Icon makes, uses, sells, and/or offers to sell and induces others to make, use, sell, and/or offer to sell, abdominal exercise machines, which embody and/or use the inventions claimed in the ‘079 patent.

**COUNT I**

**INFRINGEMENT OF THE '633 PATENT BY ICON**

9. Ab Coaster Holdings realleges and incorporates the allegations set forth in Paragraph 1 through Paragraph 8 herein.

10. Upon information and belief, Icon directly infringes, contributorily infringes, and/or actively induces infringement of one or more claims of the '633 patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, or offer to sell abdominal exercising machines that embody or use the inventions claimed in the '633 patent. Such infringing abdominal exercising machines include at least the "AB GLIDER."

11. Icon's acts of infringement of the '633 patent have caused and will continue to cause Ab Coaster Holdings damages for which Ab Coaster Holdings is entitled to compensation pursuant to 35 U.S.C. § 284.

12. Icon's acts of infringement of the '633 patent have caused and will continue to cause Ab Coaster Holdings irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

13. This case is exceptional and, therefore Ab Coaster Holdings is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285.

14. Upon information and belief, Icon's commercial activities relating to the making, using, offering for sale, selling, and/or importing into the United States abdominal exercising machines have continued and are continuing with knowledge of the '633 Patent, in spite of the fact that Icon's actions constitute infringement of the '633 Patent. These commercial activities are, at a minimum, in reckless disregard of Ab Coaster Holdings' rights under the '633 Patent. Such acts of infringement have therefore been intentional, deliberate and willful.

**COUNT II**

**INFRINGEMENT OF THE '079 PATENT BY ICON**

15. Ab Coaster and Ab Coaster Holdings reallege and incorporate the allegations set forth in Paragraph 1 through Paragraph 14 herein.

16. Upon information and belief, Icon directly infringes, contributorily infringes, and/or actively induces infringement of one or more claims of the '079 patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, or offer to sell abdominal exercising machines that embody or use the inventions claimed in the '079 patent. Such infringing abdominal exercising machines include at least the "AB GLIDER."

17. Icon's acts of infringement of the '079 patent have caused and will continue to cause Ab Coaster Holdings damages for which Ab Coaster Holdings is entitled to compensation pursuant to 35 U.S.C. § 284.

18. Icon's acts of infringement of the '079 patent have caused and will continue to cause Ab Coaster Holdings irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

19. This case is exceptional and, therefore Ab Coaster Holdings is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285.

20. Upon information and belief, Icon's commercial activities relating to the making, using, offering for sale, selling, and/or importing into the United States abdominal exercising machines have continued and are continuing with knowledge of the '079 Patent, in spite of the fact that Icon's actions constitute infringement of the '079 Patent. These commercial activities are, at a minimum, in reckless disregard of Ab Coaster Holdings' rights under the '079 Patent. Such acts of infringement have therefore been intentional, deliberate and willful.

**PRAYER FOR RELIEF**

WHEREFORE, Ab Coaster Holdings prays that the Court enter judgment against Defendant, Icon as follows:

- A. That Defendant has infringed and is infringing the '633 Patent and the '079 Patent;
- B. That Defendant and its officers, directors, agents, employees, attorneys, and those persons in active concert or participation with any of them, be preliminarily and permanently enjoined from further acts of infringement of the '633 Patent and the '079 Patent;
- C. That Defendant be ordered to pay Ab Coaster Holdings damages sufficient to compensate for said Defendant's infringement of the '633 Patent and the '079 Patent, with pre-judgment and post-judgment interest, including profits lost as a result of infringement of the '633 Patent and the '079 Patent, and enhancing such damages due to the willfulness of the infringement, in accordance with 35 U.S.C. §284;
- D. That this action be declared as exceptional under 35 U.S.C. § 285 and that Ab Coaster Holdings be awarded their attorneys' fees, costs, and expenses; and
- E. That Ab Coaster Holdings be awarded such other and further relief as this Court deems proper and just.

**DEMAND FOR JURY TRIAL**

Ab Coaster Holdings demands a trial by jury of all issues properly triable to a jury in this case.

Respectfully submitted this 23<sup>rd</sup> day of DECEMBER 2010,

**Bakos & Kritzer**

*Attorneys for the Plaintiff:  
Ab Coaster Holdings, Inc.*



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**CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2**

Ab Coaster Holdings, by its undersigned counsel, hereby certifies pursuant to Local Civil Rule 11.2 that the matters in controversy are not the subject of any other action pending in any other court or of any other pending arbitration or administrative proceeding.

Respectfully submitted this 23<sup>rd</sup> day of DECEMBER 2010,

*Attorneys for the Plaintiff:  
Ab Coaster Holdings, Inc.*



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**CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 201.1**

Ab Coaster Holdings, by its undersigned counsel, hereby certifies pursuant to Local Civil Rule 201.1 that, in addition to monetary damages greater than \$150,000, Plaintiff seeks injunctive relief, and therefore this action is not appropriate for compulsory arbitration.

Respectfully submitted this 23<sup>rd</sup> day of DECEMBER 2010,

*Attorneys for the Plaintiff:  
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