

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

ICON HEALTH & FITNESS, INC., a)
Delaware Corporation,)
)
Plaintiff,)

v.)

HORIZON FITNESS, INC., a Wisconsin)
Corporation; EPIX, INC., a Wisconsin)
Corporation d/b/a VISION FITNESS;)
MATRIX FITNESS SYSTEMS, CORP., a)
Wisconsin Corporation; JOHNSON HEALTH)
TECH NORTH AMERICA, INC., a Wisconsin)
Limited Liability Company; JOHNSON)
HEALTH TECH CO. LTD., a Taiwan)
Corporation; KEYS FITNESS PRODUCTS)
INC., a Texas Corporation; KEYS FITNESS)
PRODUCTS, L.P., a Texas Limited)
Partnership; SPIRIT MANUFACTURING,)
INC., an Arkansas Corporation; FITNESS)
EQUIPMENT SERVICES, LLC, a Utah)
Limited Liability Company d/b/a SOLE)
FITNESS; DYACO INTERNATIONAL, INC.,)
a Taiwan Corporation; TRUE FITNESS)
TECHNOLOGY, INC., a Missouri)
Corporation; TECHNOGYM USA CORP., a)
Washington Corporation; TECHNOGYM)
INTERNATIONAL, SPA, an Italy)
Corporation,)
)
Defendants.)

Cause No. 5:08-CV-00026

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ICON Health & Fitness, Inc. (“ICON”) hereby alleges and complains as follows:

PARTIES

1. ICON is a Delaware Corporation with a principal place of business at 1500 South 1000 West, Logan, Utah 84321.

2. On information and belief, defendant Horizon Fitness, Inc. (“Horizon”) is a Wisconsin corporation with a principal place of business at 1620 Landmark Dr., Cottage Grove, Wisconsin 53527.

3. On information and belief, defendant Epix, Inc. is a Wisconsin corporation d/b/a Vision Fitness (“Vision”) with a principal place of business at 500 S. CP Ave, Lake Mills, Wisconsin 53551.

4. On information and belief, defendant Matrix Fitness Systems Corp. (“Matrix”) is a Wisconsin corporation with a principal place of business at 1610 Landmark Dr., Cottage Grove, Wisconsin 53527.

5. On information and belief, defendant Johnson Health Tech North America, LLC (“Johnson”) is a Wisconsin limited liability company with a principal place of business at 1600 Landmark Dr., Cottage Grove, Wisconsin 53527.

6. On information and belief, defendant Johnson Health Tech Co. Ltd. (“Johnson Health Tech”) is a corporation organized under the laws of Taiwan R.O.C. with a principal place of business at No. 26, Ching Chuan Rd., Taya Hsiang, Taichung Hsien 428, Taiwan R.O.C.

7. On information and belief, Johnson Health Tech manufactures and imports into the United States exercise machines under brand names including Horizon, Vision, and Matrix.

8. On information and belief, defendant Keys Fitness Products, Inc. (“Keys”) is a Texas corporation with a principal place of business at 4009 Distribution Drive, Suite 250, Garland, TX 75041.

9. On information and belief, defendant Keys Fitness Products, L.P. (“Keys LP”) is a Texas limited partnership with a principal place of business at 4009 Distribution Drive, Suite 250, Garland, TX 75041.

10. On information and belief, defendant Spirit Manufacturing, Inc. (“Spirit”) is an Arkansas corporation with a principal place of business at 2601 Commerce Dr., Jonesboro, Arkansas 72401.

11. On information and belief, defendant Fitness Equipment Services, LLC is a Utah limited liability company d/b/a Sole Fitness (“Sole”) with a principal place of business at 52 Exchange Place, Salt Lake City, Utah 84111.

12. On information and belief, defendant Dyaco International, Inc. (“Dyaco”) is a corporation organized under the laws of Taiwan R.O.C. with a principal place of business at 7F-3, No. 181, Fu-Shin N. Rd., Taipei, Taiwan, R.O.C.

13. On information and belief, Dyaco manufactures and imports into the United States exercise machines under brand names including Spirit and Sole.

14. On information and belief, defendant True Fitness Technology, Inc. (“True Fitness”) is a Missouri corporation with a principal place of business at 865 Hoff Rd., O’Fallon, Missouri 63366.

15. On information and belief, defendant TechnoGym USA Corp. (“TechnoGym”) is a Washington corporation with a principal place of business at 830 4th Ave. S., Suite 300, Seattle, Washington 98134.

16. On information and belief, defendant TechnoGym International, SpA (“TechnoGym International”) is a corporation organized under the laws of Italy with a principal place of business at Via G. Perticari 20, 47035 Gambettola (FC), Italy.

17. On information and belief, TechnoGym International manufactures and imports into the United States exercise machines under the TechnoGym brand name.

18. Horizon, Vision, Matrix, Johnson, Johnson Health Tech, Keys, Keys LP, Spirit, Sole, Dyaco, True Fitness, TechnoGym, and TechnoGym International are hereafter referred to collectively as “the Defendants.”

JURISDICTION AND VENUE

19. This is a civil action brought by ICON for patent infringement committed by the Defendants and arising under the patent laws of the United States, specifically, Title 35 of the United States Code. Jurisdiction of this Court is founded upon 28 U.S.C. §§ 1331 and 1338(a).

20. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b), in that a substantial part of the events giving rise to ICON’s claims occurred in this district, the Defendants may be found and/or reside in this district by virtue of their activities in this district, and the Defendants have committed acts of patent infringement in this district.

BACKGROUND

21. United States Patent No. 5,104,120 (“the ’120 patent”) issued on April 14, 1992, bearing the title “Exercise Machine Control System.”

22. United States Patent No. 5,062,632 (“the ’632 patent”) issued on November 5, 1991, bearing the title “User Programmable Exercise Machine.”

23. United States Patent No. 5,512,025 (“the ’025 patent”) issued on April 30, 1996, bearing the title “User-Programmable Computerized Console for Exercise Machines.”

24. ICON is the owner by assignment of the ’120, ’632, and ’025 patents with full and exclusive right to bring suit and enforce the ’120, ’632, and ’025 patents.

25. On information and belief, the Defendants make, use, sell, offer to sell, import, and/or otherwise provide fitness equipment which falls within the scope of one or more of the claims of the ’120, ’632, and/or ’025 patents.

FIRST CLAIM FOR RELIEF
Infringement of United States Patent No. 5,104,120 by
Horizon, Vision, Matrix, Johnson, Johnson Health Tech, Spirit, Sole, Dyaco, True Fitness,
TechnoGym, and TechnoGym International

26. ICON hereby incorporates, as though fully set forth herein, the allegations of paragraphs 1 through 25 of this Complaint.

27. Horizon, Vision, Matrix, Johnson, Johnson Health Tech, Spirit, Sole, Dyaco, True Fitness, TechnoGym, and TechnoGym International (“the ’120 patent Defendants”) have infringed and continue to infringe the ’120 patent by making, using, selling, offering for sale within the United States or importing into the United States systems and/or methods that embody one or more of the claims of the ’120 patent, or by contributing to infringement, inducing others to infringe the ’120 patent, or carrying out acts constituting infringement under 35 U.S.C. § 271(f).

28. On information and belief, the ’120 patent Defendants had full knowledge of the ’120 patent before initiation of the present action and therefore their actions have been both willful and deliberate.

29. The ’120 patent Defendants will continue to willfully infringe the ’120 patent unless enjoined by this Court, which has resulted and will continue to result in irreparable harm to ICON.

30. As a direct and proximate result of the infringement by the ’120 patent Defendants of the ’120 patent, ICON has been and continues to be damaged in an amount yet to be determined.

SECOND CLAIM FOR RELIEF

**Infringement of United States Patent Nos. 5,062,632 and 5,512,025
by Horizon, Vision, Johnson, Johnson Health Tech, Keys, Keys LP, Spirit, Sole, Dyaco,
True Fitness, TechnoGym, and TechnoGym International**

31. ICON hereby incorporates, as though fully set forth herein, the allegations of paragraphs 1 through 30 of this Complaint.

32. Horizon, Vision, Johnson, Johnson Health Tech, Keys, Keys LP, Spirit, Sole, Dyaco, True Fitness, TechnoGym, and TechnoGym International (“the ’632 and ’025 patent Defendants”) have infringed and continue to infringe the ’632 and/or ’025 patents by making, using, selling, offering for sale within the United States or importing into the United States systems and/or methods that embody one or more of the claims of the ’632 and/or ’025 patents, or by contributing to infringement, inducing others to infringe the ’632 and/or ’025 patents, or carrying out acts constituting infringement under 35 U.S.C. § 271(f).

33. On information and belief, the ’632 and ’025 patent Defendants had full knowledge of the ’632 and ’025 patents before initiation of the present action and therefore their actions have been both willful and deliberate.

34. The ’632 and ’025 patent Defendants will continue to infringe the ’632 and/or ’025 patents unless enjoined by this Court, which has resulted and will continue to result in irreparable harm to ICON.

35. As a direct and proximate result of the infringement by the ’632 and ’025 patent Defendants of the ’632 and/or ’025 patents, ICON has been and continues to be damaged in an amount yet to be determined.

PRAYER FOR RELIEF

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

A. For a judgment holding the '120 patent Defendants liable for infringement of the '120 patent;

B. For a judgment holding the '632 and '025 patent Defendants liable for infringement of the '632 and '025 patents;

C. For an award of damages adequate to compensate ICON for the '120 patent Defendants' infringement of the '120 patent and the '632 and '025 patent Defendants' infringement of the '632 and '025 patents, including treble damages and other damages allowed by 35 U.S.C. § 284;

D. For injunctive relief enjoining the '120 patent Defendants, their officers, agents, servants, employees and attorneys and all other persons in active concert or participation with them as follows:

(i) from manufacturing any products or providing any services falling within the scope of the claims of the '120 patent;

(ii) from using any product, method or providing services falling within the scope of any of the claims of the '120 patent;

(iii) from selling, offering to sell, licensing or purporting to license any product, method or offering services falling within the scope of any of the claims of the '120 patent;

(iv) from importing any product into the United States which falls within the scope of the '120 patent;

(v) from actively inducing others to infringe any of the claims of the '120 patent;

(vi) from engaging in acts constituting contributory infringement of any of the claims of the '120 patent; and

(vii) from all other acts of infringement of any of the claims of the '120 patent;

E. For injunctive relief enjoining the '632 and '025 patent Defendants, their officers, agents, servants, employees and attorneys and all other persons in active concert or participation with them as follows:

(i) from manufacturing any products or providing any services falling within the scope of the claims of the '632 and '025 patents;

(ii) from using any product, method or providing services falling within the scope of any of the claims of the '632 and '025 patents;

(iii) from selling, offering to sell, licensing or purporting to license any product, method or offering services falling within the scope of any of the claims of the '632 and '025 patents;

(iv) from importing any product into the United States which falls within the scope of the '632 and '025 patents;

(v) from actively inducing others to infringe any of the claims of the '632 and '025 patents;

(vi) from engaging in acts constituting contributory infringement of any of the claims of the '632 and '025 patents; and

(vii) from all other acts of infringement of any of the claims of the '632 and '025 patents;

F. That the Defendants be ordered to deliver up for destruction all infringing products in their possession;

G. That this be declared an exceptional case and that ICON be awarded its attorneys fees against the Defendants pursuant to 35 U.S.C. § 285;

H. For an award of ICON's costs of this action; and

I. For such further relief as this Court deems ICON may be entitled to in law and in equity.

JURY DEMAND

ICON hereby demands a trial by jury of those issues triable to a jury.

DATED this 20th day of March, 2008.

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Attorneys for Plaintiff ICON Health & Fitness, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2008, I electronically filed the foregoing **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:
jdbest@michaelbest.com; mldama@michaelbest.com; jcscheller@michaelbest.com;
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