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Of Attorneys for Plaintiffs, Jeff Anliker and Balance Systems Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**JEFF ANLIKER, an Individual; and  
BALANCE SYSTEMS, INC., an Oregon  
corporation**

Plaintiff,

v.

**INSTITUTE OF HEALTH AND  
HUMAN PERFORMANCE, LLC, an  
Illinois Limited Liability Company.**

Defendant.

Case No. CV 06 1468AA

**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

For its First Amended Complaint, plaintiffs Jeff Anliker and Balance Systems, Inc.  
("Plaintiffs") allege as follows:

**NATURE OF THE CASE**

1. Plaintiffs bring this action seeking an injunction and damages as a result of Defendant's infringement of United States Patent No. 5,613,923 (" '923 Patent") entitled "Repetitive Strain Injury Therapy Device", for which Jeff Anliker is the owner and Balance

Systems, Inc. is the exclusive licensee. *See* Exhibit A.

### **THE PARTIES**

2. Jeff Anliker is president and majority owner of Balance Systems, Inc., having a principal place of business at 325 W. Broadway Ave., Milton-Freewater, Oregon.

3. Balance Systems, Inc. is an Oregon corporation having a principal place of business at 325 W. Broadway Ave., Milton-Freewater, Oregon. From its Oregon facilities, Balance Systems designs, manufactures and sells worldwide, among other things, an exercise device for strengthening finger, hand, wrist and forearm muscles to aid in reducing repetitive strain injury under the commercial name Flexextend®.

4. On information and belief, defendant Institute of Health and Human Performance, LLC (“IHHP”) is a limited liability company formed under the laws of the state of Illinois having a business address in Illinois at 1300 W. Belmont Ave., Suite 407, Chicago, Illinois, and is in the business of importing, marketing, distributing and/or selling, among other things, an exercise device for strengthening finger, hand, wrist and forearm muscles to aid in reducing repetitive strain injury under the commercial name The Reset Glove. *See* Exhibit B.

### **JURISDICTION AND VENUE**

5. Plaintiffs’ claim of patent infringement by Defendant arises under the patent laws of the United States, 35 U.S.C. §§ 271 and 281. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 (b) - (c) and 1400 (b). On information and belief, Defendant sells an exercise device for strengthening finger, hand, wrist and forearm muscles to aid in reducing repetitive strain injury under the commercial name The Reset Glove (the “Accused Product”) for distribution and sale in Oregon that infringes

one or more claims of the '923 Patent and have committed acts of infringement within this judicial district. *See* Exhibit C.

### **FIRST CLAIM FOR RELIEF OF PATENT INFRINGEMENT**

7. On March 25, 1997, the United States Patent and Trademark Office issued United States Patent No. 5,136,923 entitled "Repetitive Strain Injury Therapy Device" to the inventor Jeff Anliker. A certified copy of the '923 Patent is attached as Exhibit A.

8. Balance Systems is the exclusive licensee of the entire right, title, and interest in the '923 Patent.

9. Balance Systems has marked its products that are covered by the '923 Patent with the appropriate statutory notice required pursuant to 35 U.S.C. § 287(a).

10. Upon information and belief, Defendant has in the past, and continues to manufacture, import, use, sell and/or offer to sell Accused Products within this judicial district that infringe one or more claims of the '923 Patent. Upon further information and belief, Defendant has induced infringement of the '923 patent under 35 U.S.C. §271 (b) and/or contributed to other's infringement of the '923 Patent under 35 U.S.C. §271 (c), within this judicial district.

11. Plaintiffs have been damaged by Defendant's infringement of the '923 Patent through lost sales, lost profits and/or lost royalties.

12. Plaintiffs have suffered irreparable harm from Defendant's infringement. Because the infringement is continuing, Plaintiffs will suffer additional irreparable harm unless Defendant is enjoined from continuing to infringe the '923 Patent.

13. This case is an exceptional case as Defendant has willfully infringed the '923 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for the following relief:

- A. A judgment declaring that Defendant has and continues to infringe the '923 Patent;
- B. A permanent injunction prohibiting Defendant, its officers, agents, servants, employees and all other persons in active concert or participation with it, from infringing the '923 Patent pursuant to 35 U.S.C. § 283;
- C. An award of damages sufficient to compensate Plaintiffs for Defendant's infringement of the '923 Patent pursuant to 35 U.S.C. § 284 and for an accounting to determine such damages;
- D. An award of enhanced damages pursuant to 35 U.S.C. § 284;
- E. An award of costs, including attorney fees pursuant to 35 U.S.C. § 285; and
- F. Such other relief as this court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b) and LR 38.1, Plaintiffs request a trial by jury of all issues so triable.

Dated this 14<sup>th</sup> day of February, 2006.

Respectfully submitted,

By: /s/ Patchen M. Haggerty  
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Of Attorneys for Plaintiffs, Jeff Anliker and  
Balance Systems, Inc.