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Attorneys for Plaintiff
ICON HEALTH & FITNESS, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

<p>ICON HEALTH & FITNESS, INC., a Delaware corporation,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>POLAR ELECTRO OY, a Finnish company; and POLAR ELECTRO INC., a Delaware corporation,</p> <p style="text-align: right;">Defendants.</p>	<p style="text-align: center;">FIRST AMENDED COMPLAINT</p> <p style="text-align: center;">Civil Action No. 1:11-CV-00167-PMW</p> <p style="text-align: center;">Judge Paul M. Warner</p> <p style="text-align: center;">(Jury Demanded)</p>
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Plaintiff ICON HEALTH & FITNESS, INC. (“ICON” or “Plaintiff”) hereby complains against defendants POLAR ELECTRO OY and POLAR ELECTRO INC. (collectively “Polar” or “Defendants”) for the causes of action alleged as follow:

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. Polar Electro Oy is a company organized and existing under the laws of Finland with its principal place of business Professorintie 5, 90440 Kempele, Finland, and its United States headquarters at 1111 Marcus Avenue, Lake Success, NY 11042.

3. Polar Electro Inc. is a corporation duly organized and existing under the laws of the State of New York, with its principal place of business located at 1111 Marcus Avenue, Lake Success, NY 11042.

JURISDICTION AND VENUE

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

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

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

7. ICON alleges on information and belief that Polar has sold or contracted for the sale of infringing goods within the State of Utah, to ICON's injury, which relate to the claims asserted by ICON, and out of which ICON's claims, in part, arise.

8. On information and belief, Polar is the owner of the web site located at www.polarusa.com, which is available to persons within the State of Utah.

9. On information and belief, Polar advertises, markets, sells, and offers its products through its web site, www.polarusa.com, which advertising, marketing, selling, and offering are available to the purchasing public in the State of Utah.

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

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

FACTUAL BACKGROUND

ICON's Patents

12. ICON is an award-winning innovator in the field of exercise equipment and it markets and sells a variety of consumer products.

13. ICON came to its position of technological leadership through innovation and substantial investment in research, development and acquisition of cutting edge technologies. As a result of its endeavors, many of the technological innovations created and owned by ICON are protected by a valuable and diverse intellectual property portfolio that includes patents, trademarks, trade dress, and copyrights.

14. Many of ICON's technological innovations and acquisitions are protected, *inter alia*, by a portfolio of utility and design patents, including United States Patent Nos. 7,789,800 (the "800 Patent"); 6,701,271 (the "271 Patent"); and 6,921,351 (the "351 Patent"), (collectively the "Asserted Patents").

15. The '800 Patent issued on September 7, 2010, with a filing date of December 21, 2005.

16. ICON is the owner by assignment of the '800 Patent.

17. ICON has not licensed Polar to practice the '800 Patent, and Polar does not have any right or authority to license others to practice the '800 Patent.

18. The '271 Patent issued on March 2, 2004, with a filing date of May 17, 2001.

19. ICON is the owner by assignment of the '271 Patent.

20. ICON has not licensed Polar to practice the '271 Patent, and Polar does not have any right or authority to license others to practice the '271 Patent.

21. The '351 Patent issued on July 26, 2005, with a filing date of October 19, 2001.

22. ICON is the owner by assignment of the '351 Patent.

23. ICON has not licensed Polar to practice the '351 Patent, and Polar does not have any right or authority to license others to practice the '351 Patent.

24. On information Polar has and has had knowledge of the existence of the '800 Patent and '271 Patent at all times relevant hereto.

Polar's Infringement of the Asserted Patents

25. Polar is in the business of manufacturing and selling heart rate monitors and related devices and systems for use in fitness related activities.

26. Polar makes, imports, or sells in the United States a wide variety of heart rate and related monitoring devices and systems. These monitoring devices and systems include, but are not limited to, training devices (e.g., wrist-worn devices, bicycle computers), sensors, such as

heart rate sensors (e.g., heart rate straps), and motion sensors (e.g., accelerometers, speed sensors, power sensors, etc.) for sensing biological parameters.

27. Some of Polar's training devices also include memory for storing data associated with sensed biological parameters and physical activity. The stored data can be uploaded from the training computers to a user's personal computer or to a website for review and analysis.

28. Polar operates and maintains a website with the domain name www.polarpersonaltrainer.com ("the Polar Website") for use by users of Polar's monitoring devices and systems.

29. Polar allows and induces users to upload data from their Polar monitoring devices and systems to the Polar Website, access data uploaded to the Polar Website, share data with other users of the Polar Website, generate reports associated with the data, or otherwise evaluate and interact with the data.

30. Polar also provides monitoring devices and systems for group, club, or team use. These systems include a number of individual heart rate monitor devices (e.g., training computers or sensors) and a base station for receiving, analyzing, accessing, or evaluating data received from the heart rate monitor devices.

31. ICON alleges upon information and belief that Polar imports, makes, uses, sells, or offers for sale within the United States and within the State of Utah, either directly or through established distribution channels, fitness-related devices, including wrist-worn devices designated as, *inter alia*, FT80, and cycling computers designated as, *inter alia*, CS600.

32. On information and belief, Polar has sold products that infringe the Asserted Patents including, but not limited to, the wrist-worn device designated as FT80 or the cycling computer designated as CS600.

**FIRST CLAIM FOR RELIEF
(Infringement of the '800 patent)**

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

34. Polar has infringed and continues to infringe one or more claims of the '800 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 Polar FT80 device, related devices, or the Polar Website, which embody one or more of the claims of the '800 Patent, or by contributing to the infringement, inducing others to infringe, or carrying out acts constituting infringement of the '800 Patent under 35 U.S.C. § 271.

35. Polar has induced and continues to induce others to infringe one or more claims of the '800 Patent by the manufacture, use, sale, offer for sale, importation, and instruction provided in connection with the Polar FT80 monitoring device, related devices, or the Polar Website.

36. On information and belief, Polar has, and has had, the specific intent to induce others to infringe one or more claims of the '800 Patent by the aforesaid conduct.

37. Polar has contributed and continues to contribute to the infringement of one or more claims of the '800 Patent by the manufacture, use, sale, offer for sale and importation of the Polar FT80 monitoring device, related devices, or the Polar Website. Such devices and systems constitute a material part of the invention and are not staple articles or commodities of commerce

suitable for substantial noninfringing uses. Polar knows that such devices and systems constitute a material part of the invention.

38. The conduct of Polar as set forth hereinabove gives rise to a cause of action for infringement of the '800 Patent, pursuant to at least 35 U.S.C. §§ 271 and 281.

39. On information and belief, Polar has sold infringing products despite an objectively high likelihood that its actions constitute infringement.

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

41. Polar's infringement the '800 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.

42. Upon information and belief, Polar has willfully infringed the '800 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.

43. By reason of the foregoing, ICON is entitled to relief against Polar, pursuant to at least 35 U.S.C. §§ 283–85, as more fully set forth herein below.

**SECOND CLAIM FOR RELIEF
(Infringement of the '271 patent)**

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

45. Polar has infringed and continues to infringe one or more claims of the '271 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 Polar FT80 device, related devices, or the Polar Website, which embody one or more of the claims of the '271 Patent, or by contributing to the infringement, inducing others to infringe, or carrying out acts constituting infringement of the '271 Patent under 35 U.S.C. § 271.

46. Polar has induced and continues to induce others to infringe one or more claims of the '271 Patent by the manufacture, use, sale, offer for sale, importation, and instruction provided in connection with the Polar FT80 monitoring device, related devices, or the Polar Website.

47. On information and belief, Polar has, and has had, the specific intent to induce others to infringe one or more claims of the '271 Patent by the aforesaid conduct.

48. Polar has contributed and continues to contribute to the infringement of one or more claims of the '271 Patent by the manufacture, use, sale, offer for sale and importation of the Polar FT80 monitoring device, related devices, or the Polar Website. Such devices and systems constitute a material part of the invention and are not staple articles or commodities of commerce suitable for substantial noninfringing uses. Polar knows that such devices and systems constitute a material part of the invention.

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

50. On information and belief, Polar has sold infringing products despite an objectively high likelihood that its actions constitute infringement.

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

52. Polar's infringement of the '271 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.

53. Upon information and belief, Polar has willfully infringed the '271 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.

54. By reason of the foregoing, ICON is entitled to relief against Polar, pursuant to at least 35 U.S.C. §§ 283–85, as more fully set forth herein below.

**THIRD CLAIM FOR RELIEF
(Infringement of the '351 Patent)**

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

56. Polar has infringed and continues to infringe one or more claims of the '351 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 CS600 device, related devices, or Polar Website, which embody one or more of the claims of the '351 Patent, or by contributing to the infringement, inducing others to infringe, or carrying out acts constituting infringement of the '351 Patent under 35 U.S.C. § 271.

57. Polar has induced and continues to induce others to infringe one or more claims of the '351 Patent by the manufacture, use, sale, offer for sale, importation, and instruction provided in connection with the CS600 device, related devices, or Polar Website.

58. To the extent that Polar has sold or used infringing products, including, for example, the CS600 device, related devices, or Polar Website subsequent to receiving notice of the initiation of this action, Polar has, and has had, the specific intent to induce others to infringe one or more claims of the '351 Patent by the aforesaid conduct.

59. Polar has contributed and continues to contribute to the infringement of one or more claims of the '351 Patent by the manufacture, use, sale, offer for sale and importation of the CS600 device, related devices, or Polar Website. Such devices and systems constitute a material part of the invention and are not staple articles or commodities of commerce suitable for substantial noninfringing uses. To the extent that Polar has sold or used infringing products, including, for example, the CS600 device, related devices, or Polar Website subsequent to receiving notice of the initiation of this action, Polar has done so with knowledge that such devices and systems constitute a material part of the invention.

60. The conduct of Polar as set forth hereinabove gives rise to a cause of action for infringement of the '351 Patent, pursuant to at least 35 U.S.C. §§ 271 and 281.

61. On information and belief, Polar has sold infringing products despite an objectively high likelihood that its actions constitute infringement.

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

63. Polar's infringement of the '351 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.

64. To the extent that Polar has sold or used infringing products, including, for example, the CS600 device, related devices, or Polar Website subsequent to receiving notice of the initiation of this action, despite an objectively high likelihood that its actions constitute infringement, Polar has willfully and deliberately infringed the '351 Patent.

65. By reason of the foregoing, ICON is entitled to relief against Polar, pursuant to at least 35 U.S.C. §§ 283–85, as more fully set forth herein below.

PRAYER FOR RELIEF

WHEREFORE, ICON prays for judgment as follows:

A. A judgment finding Polar liable for infringement of one or more of the claims of the Asserted Patents

B. Orders of this Court temporarily, preliminarily, and permanently enjoining Polar, 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 Patents, pursuant to at least 35 U.S.C. § 283;

C. An award of damages to ICON for infringement of the Asserted Patents, in an amount to be proved at trial, pursuant to all applicable law, including at least 35 U.S.C. § 283;

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. § 384;

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 Polar 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 TRIAL

ICON demands trial by jury on all claims and issues so triable.

DATED: June 8, 2012.

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