

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

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MYRLAND SPORTS TRAINING, LLC,  
8233 Forsythia Street, Suite 120  
Middleton, WI 53562,

Plaintiff,

v.

Case No. 13-CV-93

PRISM FITNESS GROUP, LLC  
8233 Forsythia Street, Suite 118  
Middleton, WI 53562,

Defendant.

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**COMPLAINT FOR PATENT INFRINGEMENT**

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Plaintiff, Myrland Sports Training, LLC, by its attorneys Quarles & Brady LLP, for its Complaint against Prism Fitness Group, LLC, alleges as follows:

**PARTIES**

1. Plaintiff Myrland Sports Training, LLC (“Myrland Sports”), is a Wisconsin limited liability company with its principal place of business at 8233 Forsythia Street, Suite 120, Middleton, WI. Myrland Sports is engaged in performance coaching services, education and consulting. Myrland Sports has also designed several pieces of performance training equipment and has made, sold and licensed these products for sale.

2. Defendant, Prism Fitness Group, LLC (“Prism”), is a Wisconsin limited liability company with its principal place of business at 8233 Forsythia Street, Suite 118, Middleton, WI. Prism manufactures and sells functional fitness equipment and accessories.

## **JURISDICTION AND VENUE**

3. This is an action for patent infringement brought under the patent laws of the United States, 35 U.S.C. § 1, *et seq.* Myrland Sports seeks injunctive relief and damages arising from Prism's infringement of U.S. Patent No. 6,447,427 (the '427 Patent).

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Prism under 28 U.S.C. § 1400(b) and Wis. Stat. § 801.05. Prism resides in, maintains its principal place of business in, and regularly conducts business in, this District. Prism promotes, distributes, sells and offers to sell products in this District.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

## **THE PATENT-IN-SUIT**

7. On September 10, 2002, U.S. Patent No. 6,447,427 entitled "Agility Training Ladder" was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '427 Patent is attached as Exhibit A.

8. Myrland Sports is the owner by assignment of the entire right, title and interest in the '427 Patent.

9. The '427 Patent relates to an agility ladder used for fitness training and exercise. The claimed invention assists in the improvement of athletic agility, balance, coordination, foot speed, and functional movement mechanics.

## **FACTUAL BACKGROUND**

10. Myrland Sports realleges and incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 9.

11. Myrland Sports was founded by Steven Myrland in October of 1997. Myrland Sports has been designing, manufacturing and selling functional fitness equipment since its founding. Myrland Sports also provides coaching services and education for athletes, physical education and corporate wellness programs.

12. On October 23, 1998, Steven and James Myrland filed a provisional patent application for an agility ladder they designed. The resulting patent (the '427 Patent) properly issued on September 10, 2002.

13. Myrland Sports has manufactured and sold its ABC Ladder consistently since at least 1999, and, subsequently, two related products: The GO! Ladder and the Double-Ladder. After the '427 Patent issued, Myrland Sports properly marked its products pursuant to United States Patent Law.

14. Prism is a limited liability company formed in October, 2010, by William J. Sotis and Michael S. Hoesly.

15. Since January, 2011, Prism has promoted, marketed and sold functional fitness equipment and accessories, including its Smart Agility Ladder.

16. In June of 2011, Myrland Sports provided Prism with a limited license to sell 1,800 agility ladders covered by the '427 Patent in return for the payment of a specified royalty. Myrland Sports also agreed to discuss further licensing opportunities with Prism.

17. In February, 2012, Myrland Sports and Prism discussed further licensing opportunities for the '427 Patent. In the course of those discussions, Myrland Sports learned that Prism had engaged in unlicensed sales of products covered by the '427 Patent.

18. In March of 2012, Myrland Sports and Prism entered into a written License and Royalty Agreement (the "March 2012 Agreement").

19. Pursuant to the March 2012 Agreement, Prism acknowledged the existence and validity of the '427 Patent.

20. The March 2012 Agreement granted Prism a limited license to sell products covered by the '427 Patent that remained in its landed inventory in exchange for the payment of a specified royalty.

21. The March 2012 Agreement contained a Schedule 1 which identified the products in inventory covered by the '427 Patent for which a royalty would be paid. Those products include the Smart Agility Ladder, Smart Acceleration Ladder and Smart Double Agility Ladder. Prism paid Myrland Sports a royalty for the inventory identified in Schedule 1.

22. In the March 2012 Agreement, Prism promised to cease all manufacture and sale of products under the '427 Patent once the identified inventory was sold.

23. Prism has infringed the '427 Patent by making, using, selling, offering to sell or importing, covered products outside the scope of the March 2012 Agreement.

**COUNT I**  
**PATENT INFRINGEMENT**

24. Myrland Sports realleges and incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 23.

25. Prism has directly infringed and continues to directly infringe, one or more claims of the '427 Patent, by making, using, selling or offering for sale in the United States, or

importing into the United States, agility ladders that infringe one or more of the claims of the '427 Patent.

26. Prism has made, used, offered for sale, sold or imported into the United States products sold under the trade name Smart Agility Ladder.

27. Prism's Smart Agility Ladders infringe, either literally or through the doctrine of equivalents, claims 1-3, 5, 8-13, 15-24 and 26-31, 33 of the '427 Patent.

28. Prism has had actual knowledge of the '427 Patent since October, 2010.

29. Despite its knowledge of the '427 Patent, Prism has infringed and continues to infringe the '427 Patent.

30. Prism has manufactured, used, sold, offered for sale, or imported its Smart Agility Ladders despite an objectively high likelihood that its actions constitute infringement of the '427 Patent.

31. Prism's manufacture, use, sale, offers to sell or importation have been both willful and deliberate.

32. Myrland Sports has been damaged by Defendants' infringement of the '427 Patent in an amount to be determined at trial.

33. Myrland Sports has been and continues to be irreparably injured by Prism's continuing infringement of the '427 Patent, and Prism's infringing activities will continue unless enjoined by this Court pursuant to 35 U.S.C. § 283.

### **REQUEST FOR RELIEF**

WHEREFORE, Myrland Sports respectfully requests a Judgment:

A. Declaring that Prism has infringed the '427 Patent;

- B. Permanently enjoining Prism, and all those in active concert or participation with Prism, from directly or indirectly infringing the '427 Patent, pursuant to 35 U.S.C. § 283;
- C. Awarding Myrland Sports damages adequate to compensate it for Prism's infringement of the '427 Patent pursuant to 35 U.S.C. § 284;
- D. Awarding prejudgment interest and costs pursuant to 35 U.S.C. § 284;
- E. Awarding treble damages in view of the willful infringement by Prism pursuant to 35 U.S.C. § 284;
- F. Awarding costs pursuant to 35 U.S.C. § 284, and Rule 54(d)(1) of the Federal Rules of Civil Procedure;
- G. Declaring this case exceptional and awarding Myrland Sports its attorney's fees and expenses pursuant to 35 U.S.C. § 285;
- H. Awarding post-judgment interest, pursuant to 28 U.S.C. § 1961(a); and
- I. Granting such other and further relief as the Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

The Plaintiff hereby demands a trial by jury in this action on all claims and issues triable before a jury.

Dated this 7th day of February, 2013.

/s/ Matthew J. Duchemin  
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