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10 *Attorneys for Plaintiff Woodway USA,*
Inc.

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**
13

14 Woodway USA, Inc.,
15
16 Plaintiff,
17
18 vs.
19 LifeCORE Fitness, Inc. d/b/a Assault
Fitness,
20 Defendant.
21

Case No. 3:22-cv-00492-JO-BLM

**FIRST AMENDED AND
SUPPLEMENTAL COMPLAINT**

Action Filed April 11, 2022

1 Woodway USA, Inc. (“Woodway”), by and for its First Amended and
2 Supplemental Complaint against Defendant LifeCORE Fitness, Inc. (“LifeCORE”) d/b/a
3 Assault Fitness (collectively, “Defendant”), alleges to the Court as follows:

4 THE PARTIES

5 1. Woodway is a company organized and existing under the laws of the State
6 of Wisconsin, with a principal place of business located at W229 N591 Foster Court,
7 Waukesha, Wisconsin 53186. Woodway is a family-owned company that has been a
8 market leader in manufacturing and selling fitness, health, and rehabilitation equipment for
9 more than 30 years.

10 2. Woodway is informed and believes that Defendant is a corporation organized
11 and existing under the laws of the State of California, with a principal place of business
12 located at 5803 Newton Drive, Suite B, Carlsbad, California 92008. Upon information and
13 belief, Assault Fitness is a division of LifeCORE. Defendant is a competitor of Woodway.

14 JURISDICTION AND VENUE

15 3. This is an action for patent infringement arising out of Defendant’s
16 unauthorized importing, manufacturing, using, offering for sale, and selling of certain
17 manual treadmills, including the AssaultRunner Elite, AssaultRunner Pro, Assault
18 AirRunner, and AssaultRunner (collectively, “the Accused Infringing Treadmills”), in
19 violation of Woodway’s patent rights. Because this is an action for infringement under the
20 patent laws of the United States, 35 U.S.C. § 271, *et seq.*, this Court has subject matter
21 jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

22 4. This Court has personal jurisdiction over Defendant in that, at all times
23 pertinent hereto, upon information and belief, Defendant resides in this District, is doing
24 business and has systematic activities in this District, and is committing infringing acts in
25 California and this District. Upon information and belief, Defendant also induces direct
26 infringement in this District.

27 5. Venue properly lies in this District pursuant to 28 U.S.C. §§ 1391(b) and (c)
28 and 1400(b) because, at a minimum, Defendant resides in this District, has a regular and

1 established place of business in this District, and has committed acts of infringement in this
2 District.

3 THE PATENTS-IN-SUIT

4 6. Woodway is the assignee and owner of U.S. Patent No. 9,039,580 (“the ’580
5 patent”). The ’580 patent, entitled “Manual Treadmill and Methods of Operating the
6 Same,” was duly and legally issued by the U.S. Patent and Trademark Office on May 26,
7 2015. A true and correct copy of the ’580 patent is attached hereto as **Exhibit A**.

8 7. Woodway is the assignee and owner of U.S. Patent No. 10,561,884 (“the ’884
9 patent”). The ’884 patent, entitled “Manual Treadmill and Methods of Operating the
10 Same,” was duly and legally issued by the U.S. Patent and Trademark Office on February
11 18, 2020. A true and correct copy of the ’884 patent is attached hereto as **Exhibit B**.

12 8. Woodway is the assignee and owner of U.S. Patent No. 10,799,745 (“the ’745
13 patent”). The ’745 patent, entitled “Manual Treadmill and Methods of Operating the
14 Same,” was duly and legally issued by the U.S. Patent and Trademark Office on October
15 13, 2020. A true and correct copy of the ’745 patent is attached hereto as **Exhibit C**.

16 9. Woodway is the assignee and owner of U.S. Patent No. 11,465,005 (“the ’005
17 patent”). The ’005 patent, entitled “Manually Powered Treadmill” was duly and legally
18 issued by the U.S. Patent and Trademark Office on October 11, 2022. A true and correct
19 copy of the ’005 patent is attached hereto as **Exhibit D**.

20 10. Certain of the inventions claimed in the ’580, ’884, ’745, and ’005 patents are
21 practiced by Woodway’s revolutionary line of CURVE treadmills, which are manual
22 treadmills that are self-propelled and allow a runner or walker to control his/her/their speed
23 without the use of any motor. The CURVE treadmill was the first of its kind when it was
24 introduced in 2009, and since its launch, has enjoyed significant commercial success.
25 Since the introduction of the original CURVE treadmill more than a decade ago, Woodway
26 has introduced and continues to offer various models and sizes of the CURVE treadmill,
27 including, for example, the CURVE Trainer and CURVE FTG, which complement
28 Woodway’s other lines of treadmill and fitness products.

COUNT I

INFRINGEMENT OF THE '580 PATENT

11. Woodway repeats and realleges each and every allegation contained in paragraphs 1-10, inclusive, as though fully set forth herein.

12. The '580 patent is valid and enforceable.

13. Without permission or authorization from Woodway and in violation of 35 U.S.C. § 271(a), Defendant has imported, manufactured, used, offered for sale, and sold and continues to import, manufacture, use, offer for sale, and sell – in this District and elsewhere in the United States – the Accused Infringing Treadmills that infringe at least claims 1-3, 5-6, 10, and 25 of the '580 patent.

14. Without permission or authorization from Woodway and in violation of 35 U.S.C. § 271(b), Defendant is inducing the direct infringement of at least claims 1-3, 5-6, 10, and 25 of the '580 patent by aiding, abetting, and encouraging its customers' use of the Accused Infringing Treadmills with knowledge of the infringement of the '580 patent and with the intent to cause such infringement.

15. **Exhibit AA**, attached hereto, describes how a representative Accused Infringing Treadmill meets each and every claim limitation of claim 1 of the '580 patent. Woodway reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for infringement contention or claim construction purposes by the information contained in **Exhibit AA**. The chart provided in **Exhibit AA** is intended only to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rules of Civil Procedure; it does not represent Woodway's preliminary or final infringement contentions or preliminary or final claim construction positions.

16. To the extent that any marking or notice is required by 35 U.S.C. § 287, Woodway has complied with the requirements of that statute by providing actual and/or constructive notice to Defendant of its infringement of the '580 patent.

17. Defendant's infringement of the '580 patent has been and continues to be willful, wanton, and deliberate thus rendering this case "exceptional" within the meaning

1 of U.S.C. § 285 and entitling Woodway to its reasonable attorneys' fees and litigation
2 expenses.

3 18. Defendant's conduct has caused and will continue to cause Woodway
4 substantial damages, including irreparable harm, for which Woodway has no adequate
5 remedy at law, unless and until Defendant is enjoined from infringing the '580 patent.

6 COUNT II

7 INFRINGEMENT OF THE '884 PATENT

8 19. Woodway repeats and realleges each and every allegation contained in
9 paragraphs 1-10, inclusive, as though fully set forth herein.

10 20. The '884 patent is valid and enforceable.

11 21. Without permission or authorization from Woodway and in violation of 35
12 U.S.C. § 271(a), Defendant has imported, manufactured, used, offered for sale, and sold
13 and continues to import, manufacture, use, offer for sale, and sell – in this District and
14 elsewhere in the United States – the Accused Infringing Treadmills that infringe at least
15 claims 30-34, 37-54, 57, and 59 of the '884 patent.

16 22. Without permission or authorization from Woodway and in violation of 35
17 U.S.C. § 271(b), Defendant is inducing the direct infringement of at least claims 30-34, 37-
18 54, 57, and 59 of the '884 patent by aiding, abetting, and encouraging its customers' use
19 of the Accused Infringing Treadmills with knowledge of the infringement of the '884
20 patent and with the intent to cause such infringement.

21 23. **Exhibit BB**, attached hereto, describes how a representative Accused
22 Infringing Treadmill meets each and every claim limitation of claim 50 of the '884 patent.
23 Woodway reserves the right to modify its infringement theories as discovery progresses in
24 this case; it shall not be estopped for infringement contention or claim construction
25 purposes by the information contained in **Exhibit BB**. The chart provided in **Exhibit BB**
26 is intended only to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rules of
27 Civil Procedure; it does not represent Woodway's preliminary or final infringement
28 contentions or preliminary or final claim construction positions.

24. To the extent that any marking or notice is required by 35 U.S.C. § 287, Woodway has complied with the requirements of that statute by providing actual and/or constructive notice to Defendant of its infringement of the '884 patent.

25. Defendant's infringement of the '884 patent has been and continues to be willful, wanton, and deliberate thus rendering this case "exceptional" within the meaning of U.S.C. § 285 and entitling Woodway to its reasonable attorneys' fees and litigation expenses.

26. Defendant's conduct has caused and will continue to cause Woodway substantial damages, including irreparable harm, for which Woodway has no adequate remedy at law, unless and until Defendant is enjoined from infringing the '884 patent.

COUNT III

INFRINGEMENT OF THE '745 PATENT

27. Woodway repeats and realleges each and every allegation contained in paragraphs 1-10, inclusive, as though fully set forth herein.

28. The '745 patent is valid and enforceable.

29. Without permission or authorization from Woodway and in violation of 35 U.S.C. § 271(a), Defendant has imported, manufactured, used, offered for sale, and sold and continues to import, manufacture, use, offer for sale, and sell – in this District and elsewhere in the United States – the Accused Infringing Treadmills that infringe at least claims 1, 4, 7-12, 14, 17, 18, and 20-26 of the '745 patent.

30. Without permission or authorization from Woodway and in violation of 35 U.S.C. § 271(b), Defendant is inducing the direct infringement of at least claims 1, 4, 7-12, 14, 17, 18, and 20-26 of the '745 patent by aiding, abetting, and encouraging its customers' use of the Accused Infringing Treadmills with knowledge of the infringement of the '745 patent and with the intent to cause such infringement.

31. **Exhibit CC**, attached hereto, describes how a representative Accused Infringing Treadmill meets each and every claim limitation of claim 1 of the '745 patent. Woodway reserves the right to modify its infringement theories as discovery progresses in

1 this case; it shall not be estopped for infringement contention or claim construction
2 purposes by the information contained in **Exhibit CC**. The chart provided in **Exhibit CC**
3 is intended only to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rules of
4 Civil Procedure; it does not represent Woodway's preliminary or final infringement
5 contentions or preliminary or final claim construction positions.

6 32. To the extent that any marking or notice is required by 35 U.S.C. § 287,
7 Woodway has complied with the requirements of that statute by providing actual and/or
8 constructive notice to Defendant of its infringement of the '745 patent.

9 33. Defendant's infringement of the '745 patent has been and continues to be
10 willful, wanton, and deliberate thus rendering this case "exceptional" within the meaning
11 of U.S.C. § 285 and entitling Woodway to its reasonable attorneys' fees and litigation
12 expenses.

13 34. Defendant's conduct has caused and will continue to cause Woodway
14 substantial damages, including irreparable harm, for which Woodway has no adequate
15 remedy at law, unless and until Defendant is enjoined from infringing the '745 patent.

16 **COUNT IV**

17 **INFRINGEMENT OF THE '005 PATENT**

18 35. Woodway repeats and realleges each and every allegation contained in
19 paragraphs 1-10, inclusive, as though fully set forth herein.

20 36. The '005 patent is valid and enforceable.

21 37. Without permission or authorization from Woodway and in violation of 35
22 U.S.C. § 271(a), Defendant has imported, manufactured, used, offered for sale, and sold
23 and continues to import, manufacture, use, offer for sale, and sell – in this District and
24 elsewhere in the United States – the Accused Infringing Treadmills that infringe at least
25 claims 1-4, 6-13, and 15-16 of the '005 patent.

26 38. Without permission or authorization from Woodway and in violation of 35
27 U.S.C. § 271(b), Defendant is inducing the direct infringement of at least claims 1-4, 6-13,
28 and 15-16 of the '005 patent by aiding, abetting, and encouraging its customers' use of the

1 Accused Infringing Treadmills with knowledge of the '005 patent and
2 with the intent to cause such infringement.

3 39. **Exhibit DD**, attached hereto, describes how a representative Accused
4 Infringing Treadmill meets each and every claim limitation of claim 1 of the '005 patent.
5 Woodway reserves the right to modify its infringement theories as discovery progresses in
6 this case; it shall not be estopped for infringement contention or claim construction
7 purposes by the information contained in **Exhibit DD**. The chart provided in **Exhibit DD**
8 is intended only to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rules of
9 Civil Procedure; it does not represent Woodway's preliminary or final infringement
10 contentions or preliminary or final claim construction positions.

11 40. To the extent that any marking or notice is required by 35 U.S.C. § 287,
12 Woodway has complied with the requirements of that statute by providing actual and/or
13 constructive notice to Defendant of its infringement of the '005 patent.

14 41. Defendant's infringement of the '005 patent has been and continues to be
15 willful, wanton, and deliberate thus rendering this case "exceptional" within the meaning
16 of U.S.C. § 285 and entitling Woodway to its reasonable attorneys' fees and litigation
17 expenses.

18 42. Defendant's conduct has caused and will continue to cause Woodway
19 substantial damages, including irreparable harm, for which Woodway has no adequate
20 remedy at law, unless and until Defendant is enjoined from infringing the '005 patent.

21 **PRAYER FOR RELIEF**

22 Wherefore, Woodway respectfully prays for entry of a judgment that:

- 23 A. Defendant has infringed one or more claims of the '580, '884, '745, and '005
- 24 patents;
- 25 B. Defendant and its respective agents, servants, officers, directors, employees
- 26 and all persons in privity or active concert or participation with Defendant,
- 27 directly or indirectly, are preliminarily and permanently enjoined from
- 28 infringing, inducing others to infringe, or contributing to the infringement of

1 the '580, '884, '745, and '005 patents;

- 2 C. Orders Defendant to account for and pay to Woodway damages adequate to
3 compensate for Defendant's infringement of the '580, '884, '745, and '005
4 patents, including lost profits but in no event less than a reasonable royalty,
5 together with interest and costs as fixed by the Court, and trebled for willful
6 infringement as provided by 35 U.S.C. § 284;
- 7 D. Orders a post-judgment equitable accounting of damages for the period of
8 infringement of the '580, '884, '745, and '005 patents following the period of
9 damages established by Woodway at trial;
- 10 E. Orders this case to be an exceptional case under 35 U.S.C. § 285, and that
11 Woodway be awarded its costs, expenses, and disbursements incurred in this
12 action, including reasonable attorneys' fees as available by law to be paid by
13 Defendant;
- 14 F. Orders an award of pre-judgment interest, post-judgment interest, and costs in
15 this action; and
- 16 G. Provides for such other relief to Woodway as this Court deems just and proper.

17 **JURY DEMAND**

18 Pursuant to Federal Rule of Civil Procedure 38, Woodway demands a trial by
19 jury on all issues so triable.

1 Dated: October 24, 2022

FOLEY & LARDNER LLP

2
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