

1 William E. Thomson, Jr. (SBN 47195)
2 wthomson@brookskushman.com
3 BROOKS KUSHMAN P.C.
4 445 S. Figueroa Street, Suite 3100
5 Los Angeles, CA 90071-1635
6 Tel: (213) 622-3003

7 John M. Halan (*Pro Hac Vice*)
8 Rebecca J. Cantor (*Pro Hac Vice*)
9 BROOKS KUSHMAN P.C.
10 1000 Town Center, 22nd Floor
11 Southfield, MI 48075
12 Tel: (248) 358-4400

13 *Attorneys for Defendant and*
14 *Counterclaim-Plaintiff LifeCore*
15 *Fitness, Inc.*

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Woodway USA, Inc.

Plaintiff,

v.

LifeCORE Fitness, Inc. d/b/a
Assault Fitness,

Defendant.

Case No. 22-cv-492-JO-BLM

**RESPONSIVE CLAIM
CONSTRUCTION BRIEF OF
DEFENDANT, LIFECORE FITNESS,
INC.**

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I. INTRODUCTION

As explained below, Woodway’s principal claim construction brief was either non-responsive to, or supportive of, LifeCore’s construction positions. For the reasons set forth in LifeCore’s principal brief, and in this response, LifeCore submits that its construction positions should be adopted.

II. ANALYSIS

A. Woodway’s Brief Supports Construing The ‘580 Patent “*safety device*” Limitation As A Means-Plus-Function Limitation

Woodway’s brief upholds construing the “*safety device*” claim limitation in the ‘580 Patent as a means-plus-function limitation that requires the structures identified in the specification for carrying out the “*safety*” function. Otherwise, one of ordinary skill in the art would not have any guidance as to the scope of this limitation.

More specifically, Woodway asserts that “[m]any devices take their names from the functions they perform,” and then argues the following:

[M]echanisms can be defined in functional terms without pushing the claim element into interpretation under § 112, para. 6 because “[m]any devices take their names from the functions they perform,” . . . “Safety device” is such a mechanism. The specification of the patents-in-suit identifies that “[f]orward rotation of the running belt can create safety concerns,” and then provides that “[a] number of safety devices may be used with the treadmill 10 to help prevent undesirable forward rotation of the running belt 16.” (Ex. A, ’580 Patent at 26:67–27:9, Ex. pp. 000038–39.) But this, without more, does not transform “safety device” into a means-plus-function claim term.

(ECF46, PageID.1315 (citation omitted).)

Woodway’s reliance on the specification in making this assertion – that the claimed “*safety device*” is a device to “prevent undesirable forward rotation of the running belt” – only serves to reinforce LifeCore’s position. First, the fact that Woodway had to consult the specification emphasizes the fact that “*safety device*” by itself defines no structure. More importantly, like the claim language itself, the

1 specification language quoted by Woodway merely describes a function and not the
 2 structure of the “*safety device*.” To determine what is being claimed by “safety
 3 device,” one of ordinary skill in the art would have to consult and rely on the
 4 structural descriptions described in the specification – which is what the Court must
 5 likewise do. *See, e.g., Northrop Grumman Corp. v. Intel Corp.*, 325 F.3d 1346, 1350
 6 (Fed. Cir. 2003) (“In construing a means-plus-function limitation, a court must
 7 identify both the claimed function and the corresponding structure in the written
 8 description for performing that function.”).

9 The Federal Circuit has repeatedly listed “*device*” as a nonce term that is
 10 construed as a means-plus-function limitation when the claim does not provide any
 11 structure.¹ “*Safety device*” connotes no more structure than did the “*program*
 12 *recognition device*” or “*program loading device*” limitations held by the Federal
 13 Circuit to be mean plus function limitations. *Robert Bosch, LLC v. Snap-On, Inc.*,
 14 769 F.3d 1094, 1099-1102 (Fed. Cir 2014).

15 Just like adding “*program recognition*” or “*program loading*” in front of
 16 “*device*,” adding the functional word “*safety*” in front of “*device*” does not inform
 17 one of ordinary skill in the art of what structure is being claimed. *See also, e.g., BNJ*
 18 *Leasing, Inc. v. Portabull Fuel Serv., LLC*, No. 2:19-CV-156-KS-MTP, 2021 WL
 19 1110299, at *5 (S.D. Miss. Mar. 23, 2021) (“*deck access device*” held to be means-

21 ¹*See, e.g., Diebold Nixdorf, Inc. v. Int’l Trade Comm’n*, 899 F.3d 1291, 1302-1303
 22 (Fed. Cir. 2018) (In holding “*cheque standby unit*” to be a means plus function
 23 limitation, Court recognized that “*unit*” is a generic nonce word “akin to
 24 ‘mechanism,’ ‘element,’ ‘device,’ and other nonce words that reflect nothing more
 25 than verbal constructs. . . .” (emphasis added) (quoting *Williamson v. Citrix Online,*
 26 *LLC*, 792 F.3d 1339, 1350 (Fed. Cir. 2015)); *Mass. Inst. Tech. v. Abacus Software*,
 27 462 F.3d 1344, 1354 (Fed. Cir. 2006) (In holding that “*colorant selection*
 28 *mechanism*” should be construed as a means-plus-function limitation, Court
 recognized that “[t]he generic terms ‘mechanism,’ ‘means,’ ‘element,’ and ‘device’
 typically do not connote sufficiently definite structure”) (emphasis added).

plus-function limitation); *SkyHawke Techs., LLC v. DECA Int'l Corp.*, No. CV 18-1234-GW(PLAX), 2020 WL 13311408, at *4 (C.D. Cal. Mar. 27, 2020) (“*processing device*” and “*information processing and viewing device*” held to be means-plus-function limitations); *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, No. 2:14-CV-0911-JRG-RSP, 2015 WL 6746910, at *9 (E.D. Tex. Nov. 4, 2015) (“*formatting device*” held to be means-plus-function limitation); *Aguayo v. Universal Instruments Corp.*, No. CIV.A. H-02-1747, 2003 WL 25787593, at *18 (S.D. Tex. June 9, 2003) (“*disabling device that disables . . . after loading*” and “*disabling device that disables . . . at the beginning of a loading operation*” held to be means-plus-function limitations).

Woodway’s proposed construction for “*safety device*” – “a device that permits movement in substantially only one direction” – is meritless. First, the law is clear that a means-plus-function limitation like “*safety device*” must be limited in scope to the structure described in the specification that corresponds to the claimed function. *See, e.g., Williamson*, 792 F.3d at 1348. Second, Woodway’s proposed construction merely substitutes the functional word “*safety*” with the functional words “permits movement in substantially only one direction.” Woodway’s proposed construction would still not inform one of ordinary skill in the art of the structure being claimed.

Lastly, Woodway asserts that its proposed construction should be adopted so that that same construction is applied consistently across the patents-in-suit. (ECF 46, PageID.1313.) This argument should be rejected for the reasons set forth above and in LifeCore’s principal brief – *i.e.*, because the claim does not provide structure, “*safety device*” must be limited to the structure described in the specification.

Furthermore, Woodway’s construction would leave one of ordinary skill in the dark as to the scope of the claim. The claims in the other related patents arguably provide some structural guidance. For example, claim 1 of the ‘745 Patent recites the following (emphasis added):

1 *a safety device coupled to the running belt . . . , wherein the safety device*
2 *includes a first safety race element and a second safety race element, .*
3 *. . . , and wherein one of the first and second safety race elements*
4 *substantially surrounds the other . . . ;*
5 *wherein one of the first and second safety race elements and the*
6 *running belt freely rotates in a first direction . . . , however, in a second*
7 *direction of rotation, ... the one of the first and second safety race*
8 *elements is substantially prevented from rotation*

9 Contrary to Woodway’s inference, LifeCore’s construction will not mean that
10 “safety device” will mean one thing in the ‘580 Patent claims and another thing in
11 the other Asserted Patent claims. Instead, in all Asserted Patent claims it will still
12 mean that it is a “device” that provides a “safety” function. The only difference is
13 that LifeCore’s construction merely provides the structural guidance that is absent
14 from the ‘580 Patent claims and required by law.

15 Accordingly, as discussed in LifeCore’s principal brief (ECF 45,
16 PageID.1089-1091), “safety device” should be construed to mean one-way bearing
17 assemblies having inner and outer rings and sprags, or cam locking systems, taper
18 locks, user operated pin systems, or a band brake with a lever that prevent forward
19 rotation of the running belt.

20 **B. In The Other Patents “safety device” Should Be Construed To Mean “A
21 Device That Includes The Elements Recited And That Prevents Any
22 Movement After Allowing No Or Minimal Movement”**

23 As explained in LifeCore’s principal brief (ECF 45, PageID.1092), the ‘844,
24 ‘745, and ‘005 Patent claims add structural limitations to “safety device” that
25 confirm the “safety device” is claimed as the one-way bearing assemblies having
26 inner and outer rings and sprags described in the specification. More specifically,
27 the specification describes such one-way bearing assemblies as the structures
28 corresponding to the claimed structural limitations and stresses the importance of
29 such one-way bearing assemblies to the safety of the treadmill. (ECF 34-2, 26:62-
30 29:22.) *See, e.g., Profectus Technology LLC v. Huawei Technologies Co.*, 823 F.3d

1 1375, 1380–81 (Fed. Cir. 2016) (Court construed “*mountable*” to require “having a
 2 feature for mounting” where every disclosed embodiment included such a feature.);
 3 *Poly-America, L.P. v. API Indus., Inc.*, 839 F.3d 1131, 1137 (Fed. Cir. 2016) (Court
 4 construed “*short seal*” to require inward extension where “[e]very embodiment
 5 described in the specification has inwardly extended short seals and every section of
 6 the specification indicates the importance of inwardly extended short seals.”).

7 Woodway’s proposal that “*safety device*” be construed to mean “a device that
 8 permits movement in substantially only one direction” is flawed for several reasons.

9 First, it does not add any structural guidance but merely recites a function, that
 10 being “permits movement in substantially only one direction.”

11 More importantly, Woodway ignores the fact that all of the claims include the
 12 “*substantially prevent[]*” limitation, which, as addressed in LifeCore’s principal
 13 brief (ECF 45, PageID.1082-1088), and further below (at pages 6-7), should be
 14 construed as meaning “prevent any movement after allowing no or minimal
 15 movement.” Woodway’s asserted construction relies on the “*substantially*”
 16 limitation while completely ignoring the “*prevent[]*” requirement.

17 Further, the specification text relied upon and emphasized by Woodway in
 18 making this assertion supports LifeCore’s construction – *i.e.*, that “*substantially*
 19 *prevent[]*” should be construed to mean “prevent any movement after allowing no
 20 or minimal movement”—not Woodway’s. More specifically, at ECF 46,
 21 PageID.1311, Woodway quotes the following text, and emphasizes “**in only one**
 22 **direction**” as shown below.

23 A number of safety devices may be used with the treadmill 10 to help
 24 prevent undesirable forward rotation of the running belt 16. FIG. 36
 25 illustrates a safety device shown as a one-way bearing assembly 1300
 26 according to an exemplary embodiment. The one-way bearing
 27 assembly 1300 is a motion restricting element that is configured to
 28 permit rotation of at least one of the front and rear shaft assemblies 44,
 46 (and hence the running belt 16) **in only one direction**

(quoting Woodway Ex. A, 27:7-15, Ex. p. 000039 (Woodway’s emphasis).)

Accordingly, Woodway’s asserted construction should be rejected and “*safety device*” in the ‘884, ‘745, and ‘005 Patent claims should be construed as “one-way bearing assemblies having inner and outer rings and sprags.”

C. Woodway’s Argument That Other Claim Limitations At Issue Should Be Given Their Ordinary Meaning Is Without Support And Contrary To Claim Construction Law

As to the other claim terms at issue, Woodway asserts they should be given their ordinary meaning and argues in conclusory fashion: “Assault is wrong, and its positions should be rejected as they ignore the relevant intrinsic evidence which should guide the Court’s claim construction analysis.” (ECF 46, PageID.1307.) This conclusory argument is belied by the fact that Woodway relies on extrinsic evidence for the “*shaft*,” “*first element and a second element*,” “*element*,” “*race element*” and the “*interference between the safety device and at least one of the first and second rotatable elements*” limitations. (ECF 43, PageID.1040-1041, 1045-1048, 1050.) This conclusory argument is further belied by the fact that Woodway proffers both constructions and extrinsic evidence – evidence that, as explained in LifeCore’s principal brief (ECF 45, PageID.1093-1094), supports LifeCore—for the claim terms “*shaft*” and “*race element*.” (ECF 43, PageID. 1040-1041, 1048).

In any event, more importantly and conclusively, Woodway’s ordinary meaning assertions should be rejected for the reasons set forth in LifeCore’s principal brief, and for the additional reason set forth below.

1. In Its Brief, Woodway Provided Another Instance Where Woodway Disavowed The Construction It Is Asserting; In Other Words, “*substantially prevent[]*” Should Be Construed To Mean “Prevent Any Movement After Allowing No Or Minimal Movement”

As discussed in LifeCore’s principal brief (ECF 45, PageID.1084-1086), Woodway asserted during prosecution of the ‘884 Patent that a treadmill that “*substantially prevents*” rotation of the belt in one direction does not encompass

treadmills that resist, but still allow, movement of the belt in that one direction. As a result, Woodway disclaimed its proposed construction that “*substantially prevent[]*” can encompass treadmills that “largely/mostly/generally though not necessarily entirely” prevent movement of the belt in that one direction.

In Woodway’s brief, Woodway quotes another portion of that same prosecution history during which Woodway asserted that a prior art publication (referred to as “Savettiere”) “does not disclose, teach, or suggest the ‘safety device’ that ‘substantially prevents rotation of the running belt’ . . .” (ECF 46-1, PageID.1539, Woodway Ex. F, p. 000219 (emphasis added).) To distinguish Savettiere, Woodway argued during prosecution, as quoted in Woodway’s Brief, the following:

Moreover, the one-way clutch device of Savettiere does not teach enabling or allowing **only one rotational direction of movement**. Rather, the one-way clutch device 372 discloses enabling relative movement between the rollers 354 and the belt 270 in one rotational direction and transmitting frictional force from the rollers 354 to the belt 270 in an opposite rotational direction. At no point are the rollers 354 used to restrict rotation of the treadmill belt 270 to move in only one rotational direction.

(ECF 46-1, PageID.1540, Woodway Ex. F, p. 000220; Woodway’s Brief (ECF 46, PageID.1312) (emphasis added).)

In other words, Woodway argued that Savettiere does not disclose a device that “*substantially prevents*” rotation in one direction because the Savettiere device merely resists movement of the belt 270 through friction; it does not “restrict rotation of the treadmill belt 270 to move in only one rotational direction.” This is yet another instance where Woodway disclaimed its proposed construction, *i.e.*, that “*substantially prevents*” should mean “largely/mostly/generally though not necessarily entirely.”

“*Substantially prevent[]*” should be construed to mean “prevent any movement after allowing no or minimal movement” as proposed by LifeCore.

III. CONCLUSION

For the reasons set forth in LifeCore's principal brief, and in this response, LifeCore submits that its construction positions should be adopted.

Dated: March 14, 2023

Respectfully Submitted,

/s/ John M. Halan

John M. Halan (*Pro Hac Vice*)
Rebecca J. Cantor (*Pro Hac Vice*)
BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Tel: (248) 358-4400

William E. Thomson, Jr. (SBN 47195)
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*Attorneys for Defendant and
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