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9 ATTORNEYS FOR PLAINTIFF
10 SAVVIER FITNESS LLC

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA- CENTRAL DISTRICT**

13 SAVVIER FITNESS LLC, A CALIFORNIA LIMITED
14 LIABILITY COMPANY;

15 Plaintiff,

16 v.

17 YANSHAN BAILIHUI CO. LTD.; an entity of un-
18 known origin; YAN SHAN BAI LI HUI SHANG
19 MAO YOU XIAN GONG SI, an entity of unknown
20 origin; YANSHAN BAILIHUI SHANGMAO
21 YOUXIAN G, an entity of unknown origin; YAN
22 SHAN BAI LI HUI SHANG MAO YOU X, an en-
23 tity of unknown origin; UNITED COMMERCE
24 SERVICES, INC., A New York Corporation; DA-
25 VID DAR-YIH WU, an individual; and Does 1-10,

26 Defendants.

Case No.

Complaint for (1) Infringement of Patent;
(2) Unfair Competition (Cal. Bus. & Prof.
Code §17200).

Jury Trial Demanded

27 Plaintiff SAVVIER FITNESS LLC (“SF” or “Plaintiff”) files this complaint against
28 YANSHAN BAILIHUI CO. LTD.; an entity of unknown origin; YAN SHAN BAI LI HUI SHANG
MAO YOU XIAN GONG SI, an entity of unknown origin; YANSHAN BAILIHUI SHANGMAO
YOUXIAN G, an entity of unknown origin; YAN SHAN BAI LI HUI SHANG MAO YOU X, an

1 entity of unknown origin; UNITED COMMERCE SERVICES, INC., A New York Corporation;
2 DAVID DAR-YIH WU, an individual; and Does 1-10 (collectively “Defendants”).

3 **JURISDICTION AND VENUE**

4 1. This Court has subject-matter jurisdiction over the federal claims under 28 U.S.C.
5 §1338 (patent); and 28 U.S.C. §1338(b) (state law claims of unfair competition when joined with a
6 substantial and related claim under the patent laws).

7 2. This Court has personal jurisdiction over Defendants because they ship, distribute, offer
8 for sale, sell, and advertise their infringing products in California and in this district. This Court has
9 personal jurisdiction over Defendants because at all relevant times, Defendants, in part, committed the
10 acts alleged in this Complaint in California and in this district.

11 3. Venue is proper under 28 U.S.C. §1391(b)(c)(2) and 28 U.S.C. §1400(b) against all
12 Defendants because a substantial part of the events or omissions giving rise to the claim occurred in
13 this judicial district.

14 **PARTIES**

15 4. Plaintiff Savvier is a California Limited Liability Company with a place of business at
16 1493 Poinsettia Ave., Suite 139, Vista, CA 92081.

17 5. Upon information and belief, defendant YANSHAN BAILIHUI CO. LTD. is a com-
18 pany of unknown origin that is involved in the manufacture, sale and/or import of the Marfula
19 branded exercise barre that is alleged to infringe upon Plaintiff’s patent rights (the “Infringing Prod-
20 uct”).

21 6. Upon information and belief, defendant YAN SHAN BAI LI HUI SHANG MAO
22 YOU XIAN GONG SI is an entity of unknown origin that is involved in the manufacture, sale and/or
23 import of the Infringing Product and is located at 310 Cornell Dr., Suite B4, Wilmington, DE 19801.

24 7. Upon information and belief, defendant YANSHAN BAILIHUI SHANGMAO
25 YOUXIAN G is an entity of unknown origin that is involved in the manufacture, sale and/or import
26 of the Infringing Product.

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8. Upon information and belief, defendant YAN SHAN BAI LI HUI SHANG MAO YOU X is an entity of unknown origin that is involved in the manufacture, sale and/or import of the Infringing Product. This entities principal place of business is believed to be 2811 210th Pl., Bayside, NY 11360.

9. Upon information and belief, defendant UNITED COMMERCE SERVICES, INC., is a New York Corporation that is involved in the manufacture, sale and/or import of the Infringing Product. This entity has a business location of 305 Northern Blvd., Suite 301, Great Neck, NY 11021.

10. Upon information and belief, defendant David Dar-Yih Wu, is an individual residing at 2811 210th Place, Bayside NY 11360-2430.

SAVVIER’S ASSERTED PATENTS

11. By way of assignment, Plaintiff has all exclusive rights to the patented technology embodied in its “Booty Kicker”, patent (#10,821,313), a portable barre exercise device [the “’313 Patent”], and patent (#11,389.684)[the “’684 Patent”, the ‘313 and ‘684 Patents shall collectively be referred to as the “Patents.”]

12. The Patents relate to an innovative portable barre exercise device.

DEFENDANTS’ ACCUSED PRODUCT AND ACTIONS RELATED THERETO

13. Defendants are infringing upon Plaintiff’s Patents by manufacturing, selling and/or importing their own near identical product as Marfula’s “Exercise Barre”, which they import from China and sell online through Amazon.

14. Defendants, either alone or in conjunction with others, have infringed, contributed to infringement, and/or induced infringement of the Patents by manufacturing, selling and/or offering to sell, and/or causing others to manufacture, sell and/or offer to sell, Defendants Infringing Product.

15. Upon information and belief, Defendants are advertising for sale and offering the Infringing Products for sale in the United States and in this district. Upon information and belief, Defendants are infringing the Patents by offering the Products for sale through websites in the United States and within this district. This list is non-exclusive and only reflects the websites which are

1 currently known to Plaintiff. The following offer the Accused Products for sale and delivery to citizens
2 in the United States and in this district: Amazon

3
4 16. Upon information and belief, Defendants have participated in the website advertising
5 for the Infringing Products either alone or in conjunction with others in those website advertising
6 postings and knowingly, willfully, and deliberately participated jointly with the other Defendants to
7 infringe on the Patents in the United States and in this district.

8 17. Plaintiff’s vanguard exercise barre technology described and claimed in the patents-in-
9 suit has been adopted and used by fitness centers, instructors, and consumers worldwide. Moreover,
10 current fitness industry leaders have recognized the value of the Patents resultant from the patents-in-
11 suit.

12 18. The ‘313 patent filed on March 19, 2019. The inventor of the ‘313 patent is Jeff Tuller,
13 Jeff Tuller has assigned all rights in and to the ‘313 Patent to Plaintiff. The ‘313 patent is now, and has
14 been at all times since its date of issue, valid and enforceable. The ‘684 Patent filed on March 20,
15 2020. The inventor of the ‘684 Patent is Jeff Tuller. Jeff Tuller has assigned all rights in and to the
16 ‘684 Patent to Plaintiff.

17 **DEFENDANTS’ INFRINGING ACTIVITIES AND NOTICE THEREOF**

18 19. Defendants have been, currently are and continue to directly and/or indirectly infringe
19 one or more claims of the Patents by making, using, selling, offering to sell and/or importing into the
20 United States one or more products and/or services that infringe the Patents or that are specially
21 adapted for use in infringing products. Such activities include (1) sales and distribution of infringing
22 exercise barres, through online offerings accessible by a search of customers in the district on the
23 Internet, knowingly for use by the customers in this district; (2) direct solicitation of sales and actual
24 sales of infringing exercise barres to customers, including customers in this district, via online websites
25 including but not limited to those listed above; (3) knowingly communicating with customers, includ-
26 ing customers located in this district, through telephone and online contacts for technical support of
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the infringing use of exercise barres and associated services sold by Defendants; (4) conducting marketing, promotion, and advertising activities for infringing exercise barres within this district and elsewhere in the United States, such activities thereby including offers to sell directed at customers in this district; and (5) upon information and belief, providing instructions, support and services to customers who are Purchasing the Infringing Product.

20. Upon information and belief, Defendants indirectly infringe one or more claims of the Patents by knowingly making, using, offering to sell or importing into the United States one or more materials or components of the claimed inventions of the Patents for use in practicing the patents inventions.

21. Upon information and belief, Defendants have continued to infringe the patents-in-suit, despite their knowledge of them and in reckless disregard for Plaintiff's Patent rights.

22. Plaintiff has been irreparably harmed by the Defendants' infringement of its valuable Patent rights. Moreover, Defendants' unauthorized, infringing use of Plaintiff's Patents has threatened the value of this intellectual property because Defendants' conduct results in Plaintiff's loss of its lawful Patent rights to exclude others from making, using, selling, offering to sell and or importing the Patented inventions.

23. Defendants' disregard for Plaintiff's property rights similarly threatens Plaintiff's relationships with current and potential licensees of this intellectual property. Defendants will derive a competitive advantage over any of Plaintiff's existing and future licensees from using Plaintiff's Patented technology without paying compensation for such use. Accordingly, unless and until Defendants are enjoined from continued acts of infringement, Plaintiff will suffer further irreparable harm for which there is no adequate remedy at law.

DEFENDANTS FRAUDLENT ACITIVITY AND UNFAIR COMPETITION

24. Defendants have been, currently are, and continue to engage in fraudulent activity to obtain an unfair benefit over the Plaintiffs.

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25. Upon information and belief, Defendants imported and continue to import the infringing “exercise barre” products from a manufacturer in China to locations in either New York or Delaware.

26. Upon information and belief, Defendants are falsifying manifests required by the United States to allege that the receiver of the infringing products is a different entity than the exporter, however this is believed to be false. Because Defendants have not officially changed custody of goods (i.e. the exporter and receiver are the same entity), Defendants are falsifying records by showing a lower import value on their customs documents. Because of this fraudulent activity, it is believed that the United States customs is only receiving 20%-30% of the duties that Defendants should be paying, and Defendants are marking their infringing products up three to five percent (3-5%).

27. This fraudulent activity results in unfair competition to Plaintiff. Because of the falsifying of customs documents, Defendants are paying less in customs duties than Plaintiff, and thereby obtaining an unfair competitive advantage over the Plaintiff.

FIRST CAUSE OF ACTION

(Infringement of U.S. Patent Nos. 10,821,313, and 11,389,684 against all Defendants)

28. Plaintiff incorporates paragraphs 1 through 27 by reference as if fully stated within this paragraph.

29. Defendants either make, use, sell and offer to sell, and/or import into the United States for subsequent use and sale exercise barre products that infringe, directly and/or indirectly, or which employ components, and or steps that make use of products that infringe, directly and/or indirectly, claims of the Patents. These infringements include, but are not limited to the Infringing Products Infringement of Claims 1, 5,6, 7, 8, 9, 10, 11, 13 and 14 of Plaintiff’s ‘313 Patent and all of the Claims of the ‘684 Patent.

30. The designs of the Infringing Product exercise barre products made, used, sold and offered for sale, and/or imported into the United States for subsequent use and sale by Defendants are

1 so similar to the claimed design of the Patents that a purchaser familiar with the prior art would be
2 deceived by the similarity between the claimed design and the designs of the infringing exercise barre
3 products of Defendants, “inducing him to purchase one supposing it to be the other”.

4 31. Defendants continuing acts of infringement constitute willful infringement of the Pa-
5 tents.

6 32. Defendants’ activities infringing the Patents have damaged Plaintiff and will continue
7 to cause Plaintiff irreparable harm unless such infringing activities are enjoined by this Court.

8 **SECOND CAUSE OF ACTION**

9 **(Unfair Competition (Cal. Bus. & Prof. Code § 17200), Against All Defendants)**

10 33. Plaintiff hereby incorporates by reference each of the allegations set forth in paragraphs
11 1 through 27 of this Complaint as though fully set forth in this cause of action.

12 34. Plaintiff hereby alleges Defendants have committed unlawful and/or fraudulent acts
13 and/or conduct by engaging in the practice of falsifying customs documents to reduce their tax duties
14 and to obtain an unfair competitive advantage over the Plaintiff and its near identical Booty Kicker
15 product.

16 35. Defendants' California unfair competition violation is willful under California Business
17 and Professions Code sections 17200 - 17209 (“UCL”) and affected consumers are entitled to an order
18 from this Court designed to restore through an appropriate disgorgement of profits Defendants’ ill-
19 gotten gains and or injunctive relief prohibiting Plaintiff from engaging in the prohibited fraudulent
20 practice.

21
22 **REQUEST FOR RELIEF**

23 WHEREFORE, Plaintiff hereby respectfully requests the following relief against Defendants,
24 jointly and severally, inclusive and against each of them as follows:

25 a. That this Court adjudge and decree that the Patents are infringed by Defendants, that
26 Defendants have induced infringement, and that Defendants have contributed to infringement.

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b. That infringement, inducement of infringement, and contributing to infringement by Defendants has been willful.

c. That this Court permanently enjoin Defendants and their officers, directors, agents, servants, employees, attorneys, successors, licensees, assigns, and all others in active concert or participation with Defendants, from engaging in any acts that constitute infringement, inducement of infringement, or contributory infringement of the Patents.

d. That this Court order an accounting, including a post-verdict accounting, to determine the damages to be awarded to Plaintiff as a result of Defendants' infringement.

e. Plaintiff be awarded all damages caused by the acts forming the basis of this Complaint, except where such damages are not otherwise available under California Business & Professions Codes §17200. As to this section, Plaintiff seeks a disgorgement of all profits and restoration to consumers of those monies received through Defendants' unfair competition;

f. Defendants be required to pay to Plaintiff the costs and reasonable attorneys' fees incurred by Plaintiff in this action pursuant to 35 U.S.C. § 285 and pursuant to other applicable law and the state statutes cited in this Complaint;

g. This Court find that Defendants' infringement and actions render this case an exceptional case within the meaning of 35 U.S.C. § 285 and that Plaintiffs be awarded attorneys' fees;

h. Plaintiff be awarded prejudgment and post-judgment interest on all monetary awards;

i. Plaintiff be awarded a declaration of Judgment under 28 U.S.C. §2201.

j. Plaintiff be awarded costs of suit; and

k. Plaintiff be granted such other and further relief as the Court deems just and proper.

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JURY DEMAND

Plaintiff hereby demands that all issues be tried by a jury under FED. R. CIV. P. 38(b).

Dated: May 25, 2022

COSTALAW

By: /s/ Joseph P. Costa
Joseph P. Costa
**ATTORNEY FOR PLAINTIFF SAVVIER FITNESS
LLC**