

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRENT SMITH,

Plaintiff,

v.

**COULTER VENTURES, LLC dba
ROGUE FITNESS,**

Defendant.

Civil Action No.: 2:24-cv-00499

TRIAL BY JURY DEMANDED

COMPLAINT FOR INFRINGEMENT OF PATENT

Now comes Plaintiff, Brent Smith (“Plaintiff”), by and through undersigned counsel, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin Defendant Coulter Ventures, LLC dba Rogue Fitness (hereinafter “Defendant”), from infringing and profiting, in an illegal and unauthorized manner, and without authorization and/or consent from Plaintiff, from U.S. Patent No. 10,058,727 (“the ‘727 Patent”) and U.S. Patent No. 10,335,629 (“the ‘629 Patent”) (the “Patents-in-Suit”), attached hereto as Exhibit A and Exhibit B, respectively, and incorporated herein by reference, and pursuant to 35 U.S.C. §271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff is an individual with an address of 925 North Curson Avenue #5, West Hollywood, California 90046.

3. Upon information and belief, Defendant is a limited liability company organized under the laws of Ohio, doing business as Rogue Fitness, and having a principal place of business at 1080 Steelwood Road, Columbus, Ohio 43212. Upon information and belief, Defendant may be served with process c/o Kevin M. Mueller, its Registered Agent, 545 East 5th Avenue, Columbus, Ohio 43201.

4. Plaintiff is further informed and believes, and on that basis alleges, that Defendant operates the website www.roguefitness.com, which is in the business of manufacturing and selling fitness equipment, among other things. Defendant derives a portion of its revenue from sales and distribution via electronic transactions conducted on and using at least, but not limited to, its Internet website located at www.roguefitness.com, and its incorporated and/or related systems (collectively the “Rogue Website”). Plaintiff is informed and believes, and on that basis alleges, that, at all times relevant hereto, Defendant has done and continues to do business in this judicial district, including, but not limited to, providing products/services to customers located in this judicial district by way of the Rogue Website.

JURISDICTION AND VENUE

5. This is an action for patent infringement in violation of the Patent Act of the United States, 35 U.S.C. §§1 *et seq.*

6. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a).

7. This Court has personal jurisdiction over Defendant by virtue of (a) its systematic and continuous contacts with this jurisdiction; (b) its residence in this District; (c) the injury to Plaintiff and the cause of action has arisen in this District, as alleged herein.

8. Defendant is subject to this Court’s specific and general personal jurisdiction pursuant to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in this forum state and in this judicial District; and (iii) being formed in this District.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §1400(b) because Defendant resides in this District under the Supreme Court’s opinion in *TC Heartland v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017) through its formation, and regular and established place of business in this District.

FACTUAL ALLEGATIONS

10. On August 28, 2018, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ‘727 Patent, entitled “EXERCISE APPARATUS AND METHODS” after a full and fair examination.

11. Plaintiff is presently the owner of the ‘727 Patent and possesses all rights of recovery under the ‘727 Patent, including the exclusive right to recover for past infringement.

12. To the extent required, Plaintiff has complied with all marking requirements under 35 U.S.C. §287.

13. The invention claimed in the ‘727 Patent comprises an exercise device and methods for using the exercise device. The exercise device is a spherical structure having a rigid surface and an opening therein for the user’s hand to grasp a handle affixed in the center of the spherical structure. A series of exercises may be performed with the exercise device, including push-ups, rows and swings.

14. Claim 1 of the '727 Patent states:

“1. An exercise device, comprising:
a solid metal spherical structure having a rigid surface, a hand-opening in the surface, a cavity in the approximate center of the spherical structure, and a passageway coupling the hand-opening and the cavity, wherein the hand-opening is relatively small and sized to accommodate insertion of a hand and forearm to permit only limited movement thereof during exercises, wherein the passageway increases in size toward the cavity, and wherein the cavity is relatively larger and sized to more freely accommodate the hand; and
a rigid handle laterally positioned in the cavity and affixed in the approximate center of the spherical structure.”

15. Claim 2 of the '727 Patent states:

“2. The exercise device of claim 1, wherein the spherical structure is formed of a molded material.”

16. Claim 3 of the '727 Patent states:

“3. The exercise device of claim 2, wherein the handle is integrally molded with the spherical structure.”

17. Claim 4 of the '727 Patent states:

“4. The exercise device of claim 1, wherein the spherical structure is coated with a surface material.”

18. Claim 5 of the '727 Patent states:

“5. The exercise device of claim 4, wherein the handle is coated with a surface material.”

19. Claim 7 of the '727 Patent states:

“7. The exercise device of claim 1, wherein the spherical structure has a weight ranging from 5 to 150 pounds.”

20. Defendant commercializes fitness equipment products that include the elements recited in at least one claim of the '727 Patent. More particularly, Defendant commercializes fitness equipment products recited in Claims 1, 2, 3, 4, 5 and 7 of the '727 Patent. Specifically,

Defendant makes, uses, sells, offers for sale, or imports fitness equipment that encompasses that which is covered by Claims 1, 2, 3, 4, 5 and 7 of the '727 Patent.

21. On July 2, 2019, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '629 Patent, entitled "EXERCISE APPARATUS AND METHODS" after a full and fair examination.

22. Plaintiff is presently the owner of the '629 Patent and possesses all rights of recovery under the '629 Patent, including the exclusive right to recover for past infringement.

23. To the extent required, Plaintiff has complied with all marking requirements under 35 U.S.C. §287.

24. The invention claimed in the '629 Patent comprises an exercise device and methods for using the exercise device. The exercise device is a spherical structure having a rigid surface and an opening therein for the user's hand to grasp a handle affixed in the center of the spherical structure. A series of exercises may be performed with the exercise device, including push-ups, rows and swings.

25. Claim 1 of the '629 Patent states:

"1. An exercise device, comprising:
a rigid spherical structure having a hand-opening in the surface, a cavity in the approximate center of the spherical structure, and a passageway coupling the hand-opening and the cavity, wherein the hand-opening is relatively small and sized to accommodate insertion of a hand and forearm to permit only limited movement thereof during exercises, wherein the passageway increases in size toward the cavity, and wherein the cavity is relatively larger and sized to more freely accommodate the hand; and
a rigid handle laterally positioned in the cavity and affixed in the approximate center of the spherical structure."

26. Claim 2 of the '629 Patent states:

“The exercise device of claim 1, wherein the spherical structure is formed of a molded material.”

27. Claim 3 of the '629 Patent states:

“3. The exercise device of claim 2, wherein the handle is integrally molded with the spherical structure.”

28. Claim 4 of '629 Patent states:

“4. The exercise device of claim 1, wherein the spherical structure is coated with a surface material.”

29. Claim 5 of the '629 Patent states:

“5. The exercise device of claim 4, wherein the handle is coated with a surface material.”

30. Claim 7 of the '629 Patent states:

“7. The exercise device of claim 1, wherein the spherical structure has a weight ranging from 5 to 150 pounds.”

31. Claim 8 of the '629 Patent states:

“8. The exercise device of claim 1, wherein the spherical structure is solid.”

32. Defendant commercializes fitness equipment products that include the elements recited in at least one claim of the '629 Patent. More particularly, Defendant commercializes fitness equipment products recited in Claims 1, 2, 3, 4, 5, 7 and 8 of the '629 Patent. Specifically, Defendant makes, uses, sells, offers for sale, or imports fitness equipment that encompasses that which is covered by Claims 1, 2, 3, 4, 5, 7 and 8 of the '629 Patent.

DEFENDANT’S PRODUCT(S)

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 10,058,727

33. Defendant offers a product, such as the “Rogue Thompson Fatbell” (the “Accused Product”)¹, which is an exercise device. A non-limiting and exemplary claim chart comparing the Accused Product to Claims 1, 2, 3, 4, 5 and 7 of the ‘727 Patent is attached hereto as Exhibit C and incorporated herein as if fully rewritten.

34. As recited in Claim 1, the Accused Product is an exercise device exhibiting a solid metal, spherical structure with a rigid surface. The spherical structure is a globular body (i.e., globe shaped). The exterior convex surface of the spherical structure has points that are equidistance to the center. *See* Exhibit C.

35. As recited in element of Claim 1, the Accused Product has a hand opening in the surface of the exercise device. *See* Exhibit C.

36. As recited in another element of Claim 1, the Accused Product has a cavity in the approximate center of the spherical structure of the exercise device. *See* Exhibit C.

37. As recited in another element of Claim 1, the Accused Product has a cavity and hand opening in the exercise device which is connected by a passageway. *See* Exhibit C.

38. As recited in another element of Claim 1, the Accused Product has a relatively small hand opening that accommodates insertion of a hand and forearm. Consequently, since the hand opening is relatively small, movement of the hand and forearm is limited when using the exercise device. *See* Exhibit C.

¹ The Accused Product is just one of the products provided by Defendant, and Plaintiff’s investigation is on-going to additional products to be included as an Accused Product that may be added at a later date.

39. As recited in another element of Claim 1, the Accused Product has a cavity in the exercise device. The passageway increases in size towards the cavity. *See Exhibit C.*

40. As recited in another element of Claim 1, the Accused Product possesses a cavity that is relatively larger than the hand opening. This gives the user some space so that their hand is more freely accommodated when holding onto the exercise device. The inner portion of the cavity is larger to accommodate a user holding onto the handle of the exercise device in a fist-like manner. *See Exhibit C.*

41. As recited in another element of Claim 1, the Accused Product has a rigid handle that is laterally positioned in the cavity. The handle is affixed to the approximate center of the spherical structure of the exercise device. *See Exhibit C.*

42. As recited in Claim 2, the Accused Product is an exercise device exhibiting a spherical structure that is formed out of a molded material. *See Exhibit C.*

43. As recited in Claim 3, the Accused Product is an exercise device with a spherical structure where the handle is integrally molded with the spherical structure. *See Exhibit C.*

44. As recited in Claim 4, the Accused Product is an exercise device with a spherical structure that is coated with a surface material. *See Exhibit C.*

45. As recited in Claim 5, the Accused Product is an exercise device with a handle that is coated with a surface material. *See Exhibit C.*

46. As recited in Claim 7, the Accused Product ranges in weight from 9 to 150 pounds, which is within the 5-to-150-pound range set by the claim. *See Exhibit C.*

47. The elements described in the preceding paragraphs are covered by at least Claims 1, 2, 3, 4, 5 and/or 7 of the '727 Patent. Thus, Defendant's manufacture, use, or sale of the Accused Product is enabled by the elements described in the '727 Patent.

48. In violation of 35 U.S.C. §271, Defendant is now and has been directly infringing, either literally or through the doctrine of equivalents, the '727 Patent.

49. Defendant has had knowledge of infringement of the '727 Patent at least as early as July 31, 2023.

50. Defendant has directly infringed and continues to directly infringe at least one claim of the '727 Patent by using, at least through internal testing or otherwise, the Accused Product without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '727 Patent, Plaintiff has been and continues to be damaged.

51. Defendant has induced others to infringe the '727 Patent by encouraging infringement, knowing that the acts Defendant induced constituted patent infringement, and its encouraging acts resulted in direct patent infringement.

52. By engaging in the conduct described herein, Defendant has injured Plaintiff and is thus liable for infringement of the '727 Patent, pursuant to 35 U.S.C. §271.

53. Defendant has committed these acts of infringement without license or authorization.

54. As a result of Defendant's infringement of the '727 Patent, Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

55. Plaintiff will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

56. Plaintiff 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 claim charts that it provides with this Complaint. The claim chart depicted in Exhibit C is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure and does not represent Plaintiff's preliminary or final infringement contentions or preliminary or final claim construction positions.

COUNT II – INDUCED INFRINGEMENT OF U.S. PATENT NO. 10,058,727

57. Plaintiff realleges and incorporates by reference all the allegations set forth in the preceding paragraphs.

58. At least since being served with this Complaint, Defendant has induced others to infringe the '727 Patent, literally or by the doctrine of equivalents, by selling the Accused Product to its customers for use in a manner that infringes at least one claim of '727 Patent.

59. Claim 8 of the '727 Patent states as follows:

“8. An exercise method, comprising:
providing at least one exercise apparatus comprising a solid metal spherical structure having a rigid surface, a hand-opening in the surface, a cavity in the approximate center of the spherical structure, and a passageway coupling the hand-opening and the cavity, wherein the hand-opening is relatively small and sized to accommodate insertion of a hand and forearm to permit only limited movement thereof during exercises, wherein the passageway increases in size toward the cavity, and wherein the cavity is relatively larger and sized to more freely accommodate the hand, and a rigid handle laterally positioned in the cavity and affixed in the approximate center of the spherical structure;
grasping the handle of the exercise apparatus with a user's hand; and
the user performing one or more exercises with the exercise apparatus.”

60. Claim 9 of the '727 Patent states as follows:

“9. The method of claim 8, the exercise comprising a series of push-up and rows using the exercise apparatus.”

61. Claim 10 of the '727 Patent states as follows:

“10. The method of claim 9, further comprising the following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. taking a ready position for a push-up by placing the pair of exercise apparatuses on the ground;
- c. dropping down to a push-up lowered position until the chest is even with the top of the exercise apparatuses;
- d. pushing up with a first hand while pulling up with the second hand;
- e. returning to the push-up lowered position of step c;
- f. pushing up with the second hand while pulling up with the first hand; and
- g. repeating as desired.”

62. Claim 11 of the '727 Patent states as follows:

“11. The method of claim 9, further comprising the following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. standing with feet set shoulder width apart and the exercise apparatuses hanging down by the user's sides;
- c. placing the exercise apparatuses straight down in front of the user;
- d. in a single movement, thrusting the legs straight back and out to hold the body and legs straight in a push-up ready position;
- e. in a single movement, moving the legs back to under the user as in step c and then jumping straight up into the air with the exercise apparatuses hanging at the side;
- f. landing then curling the exercise apparatuses up toward the chest; and
- g. returning to step b and repeating as desired.

63. Claim 12 of the '727 Patent states as follows:

“12. The method of claim 9, further comprising the fol-

Following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. placing the exercise apparatuses on the ground at shoulder width apart in front of the user by bending knees and keeping feet set shoulder width apart;
- c. in a single movement, thrusting the legs straight back while simultaneously dropping the upper body down to a position even with the tops of the exercise apparatuses;
- d. in a single movement, moving the legs back to under the user as in step b;
- e. rolling backward on the back toward the shoulders and head with the exercise apparatus following;
- f. utilizing the momentum of the roll, allowing the exercise apparatuses to lightly touch the ground above the head and allowing the hips to roll up off the ground;
- g. utilizing the momentum of the roll to go back the other way, allowing the hips to drive back toward the ground and quickly bringing the exercise apparatuses forward;
- h. returning to step b and repeating as desired.”

64. Claim 13 of ‘727 Patent states as follows:

“13. The method of claim 8, the exercise comprising swinging the exercise apparatus.”

65. Claim 14 of the ‘727 Patent states as follows:

“14. The method of claim 13, further comprising the Following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. standing with feet set at shoulder width apart and holding the exercise apparatuses up near the shoulders;
- c. dropping the exercise apparatuses in a small arc down between the legs while dropping down into a squat position;
- d. pushing up with the feet in order to swing the exercise apparatuses back up in a small arc by pulling on the exercise apparatuses with the upper body;
- e. dropping down into a squat position and absorbing the weight of the exercise apparatuses and then holding the exercise apparatuses up over the head;
- f. pushing up with the feet and pushing the exercise apparatuses up over the head;

g. returning to step b and repeating as desired.”

66. Claim 15 of the ‘727 Patent states as follows:

“15. The method of claim 8, further comprising the following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. placing the exercise apparatuses on the ground set a shoulder width apart, and simultaneously placing feet on the ground and together in front of the user, with knees bent and hips raised off the ground;
- c. raising a first leg to where the knee is locked in line with the thigh of the second leg;
- d. while maintaining the first leg in the raised position, dropping the hips toward the ground by bending the elbows, then returning to the position of step b;
- e. raising the second leg to where the knee is locked in line with the thigh of the first leg;
- f. while maintaining the second leg in the raised position, dropping the hips toward the ground by bending the elbows, then returning to the position of step b;
- g. repeating as desired.”

67. Defendant will continue to induce infringement of the ‘727 Patent unless enjoined by the Court.

68. As a result of Defendant’s induced infringement of the ‘727 Patent, Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate Plaintiff for Defendant’s past and continuing induced infringement of the ‘727 Patent, together with interests and costs.

69. Plaintiff reserves the right to modify its induced infringement theories as discovery progresses in this case.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 10,335,629

70. Defendant offers a product, such as the “Rogue Thompson Fatbell” (the “Accused Product”), which is an exercise device. A non-limiting and exemplary claim chart comparing the

Accused Product to Claims 1, 2, 3, 4, 5, 7 and 8 of the '629 Patent is attached hereto as Exhibit D and incorporated herein as if fully rewritten.

71. As recited in Claim 1, the Accused Product is an exercise device exhibiting a rigid spherical structure with a hand opening in the surface. The exterior convex surface of the spherical structure has points that are equidistance to the center. *See Exhibit D.*

72. As recited in one element of Claim 1, the Accused Product has a cavity in the approximate center of the spherical structure of the exercise device. *See Exhibit D.*

73. As recited in another element of Claim 1, the Accused Product has a cavity and hand opening in the exercise device which is connected by a passageway. *See Exhibit D.*

74. As recited in another element of Claim 1, the Accused Product has a relatively small hand opening that accommodates insertion of a hand and forearm. Consequently, since the hand opening is relatively small, movement of the hand and forearm is limited when using the exercise device. *See Exhibit D.*

75. As recited in another element of Claim 1, the Accused Product has a cavity in the exercise device. The passageway increases in size towards the cavity. *See Exhibit D.*

76. As recited in another element of Claim 1, the Accused Product possesses a cavity that is relatively larger than the hand opening. This gives the user some space so that their hand is more freely accommodated when holding onto the exercise device. The inner portion of the cavity is larger to accommodate a user holding onto the handle of the exercise device in a fist-like manner. *See Exhibit D.*

77. As recited in another element of Claim 1, the Accused Product has a rigid handle that is laterally positioned in the cavity. The handle is affixed to the approximate center of the spherical structure of the exercise device. *See Exhibit D.*

78. As recited in Claim 2, the Accused Product is an exercise device exhibiting a spherical structure that is formed out of a molded material. *See* Exhibit D.

79. As recited in Claim 3, the Accused Product is an exercise device with a spherical structure where the handle is integrally molded with the spherical structure. *See* Exhibit D.

80. As recited in Claim 4, the Accused Product is an exercise device with a spherical structure that is coated with a surface material. *See* Exhibit D.

81. As recited in Claim 5, the Accused Product is an exercise device with a handle that is coated with a surface material. *See* Exhibit D.

82. As recited in Claim 7, the Accused Product ranges in weight from 9 to 150 pounds, which is within the 5-to-150-pound range set by the claim. *See* Exhibit D.

83. As recited in Claim 8, the Accused Product is an exercise device with a solid, spherical structure. *See* Exhibit D.

84. The elements described in the preceding paragraphs are covered by at least Claims 1, 2, 3, 4, 5, 7 and/or 8 of the '629 Patent. Thus, Defendant's manufacture, use, or sale of the Accused Product is enabled by the method described in the '629 Patent.

85. In violation of 35 U.S.C. §271, Defendant is now and has been directly infringing, either literally or through the doctrine of equivalents, the '629 Patent.

86. Defendant has had knowledge of infringement of the '629 Patent at least as early as July 31, 2023.

87. Defendant has directly infringed and continues to directly infringe at least one claim of the '629 Patent by using, at least through internal testing or otherwise, the Accused Product without authority in the United States, and will continue to do so unless enjoined by this

Court. As a direct and proximate result of Defendant's direct infringement of the '629 Patent, Plaintiff has been and continues to be damaged.

88. Defendant has induced others to infringe the '629 Patent by encouraging infringement, knowing that the acts Defendant induced constituted patent infringement, and its encouraging acts resulted in direct patent infringement.

89. By engaging in the conduct described herein, Defendant has injured Plaintiff and is thus liable for infringement of the '629 Patent, pursuant to 35 U.S.C. §271.

90. Defendant has committed these acts of infringement without license or authorization.

91. As a result of Defendant's infringement of the '629 Patent, Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

92. Plaintiff will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

93. Plaintiff 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 claim charts that it provides with this Complaint. The claim chart depicted in Exhibit D is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure and does not represent Plaintiff's preliminary or final infringement contentions or preliminary or final claim construction positions.

COUNT IV – INDUCED INFRINGEMENT OF U.S. PATENT NO. 10,335,629

94. Plaintiff realleges and incorporates by reference all the allegations set forth in the preceding paragraphs.

95. At least since being served with this Complaint, Defendant has induced others to infringe the '629 Patent, literally or by the doctrine of equivalents, by selling the Accused Product to its customers for use in a manner that infringes at least one claim of '629 Patent.

96. Claim 9 of the '629 Patent states as follows:

“9. An exercise method, comprising:
providing at least one exercise apparatus comprising a rigid spherical structure having a hand-opening in the surface, a cavity in the approximate center of the spherical structure, and a passageway coupling the hand-opening and the cavity, wherein the hand-opening is relatively small and sized to accommodate insertion of a hand and forearm to permit only limited movement thereof during exercises, wherein the passageway increases in size toward the cavity, and wherein the cavity is relatively larger and sized to more freely accommodate the hand, and a rigid handle laterally positioned in the cavity and affixed in the approximate center of the spherical structure;
grasping the handle of the exercise apparatus with a user's hand; and
the user performing one or more exercises with the exercise apparatus.”

97. Claim 10 of the '629 Patent states as follows:

“10. The method of claim 9, the exercise comprising a series of push-up and rows using the exercise apparatus.”

98. Claim 11 of the '629 Patent states as follows:

“11. The method of claim 9, the exercise comprising Swinging the exercise apparatus.”

99. Claim 12 of the '629 Patent states as follows:

“12. The method of claim 10, further comprising the

following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. taking a ready position for a push-up by placing the pair of exercise apparatuses on the ground;
- c. dropping down to a push-up lowered position until the chest is even with the top of the exercise apparatuses;
- d. pushing up with a first hand while pulling up with the second hand;
- e. returning to the push-up lowered position of step c;
- f. pushing up with the second hand while pulling up with the first hand; and
- g. repeating as desired.

100. Claim 13 of the '629 Patent states as follows:

“13. The method of claim 10, further comprising the following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. standing with feet set shoulder width apart and the exercise apparatuses hanging down by the user's sides;
- c. placing the exercise apparatuses straight down in front of the user;
- d. in a single movement, thrusting the legs straight back and out to hold the body and legs straight in a push-up ready position;
- e. in a single movement, moving the legs back to under the user as in step c and then jumping straight up into the air with the exercise apparatuses hanging at the side;
- f. landing then curling the exercise apparatuses up toward the chest; and
- g. returning to step b and repeating as desired.”

101. Claim 14 of the '629 Patent states as follows:

“14. The method of claim 10, further comprising the following sequence of steps:

- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
- b. placing the exercise apparatuses on the ground at shoulder width apart in front of the user by bending knees and keeping feet set shoulder width apart;
- c. in a single movement, thrusting the legs straight back while simultaneously dropping the upper body down to

- a position even with the tops of the exercise apparatuses;
- d. in a single movement, moving the legs back to under the user as in step b;
- e. rolling backward on the back toward the shoulders and head with the exercise apparatus following;
- f. utilizing the momentum of the roll, allowing the exercise apparatuses to lightly touch the ground above the head and allowing the hips to roll up off the ground;
- g. utilizing the momentum of the roll to go back the other way, allowing the hips to drive back toward the ground and quickly bringing the exercise apparatuses forward; and
- h. returning to step b and repeating as desired.”

102. Claim 15 of the ‘629 Patent states as follows:

- “15. The method of claim 11, further comprising the following sequence of steps:
- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
 - b. standing with feet set at shoulder width apart and holding the exercise apparatuses up near the shoulders;
 - c. dropping the exercise apparatuses in a small arc down between the legs while dropping down into a squat position;
 - d. pushing up with the feet in order to swing the exercise apparatuses back up in a small arc by pulling on the exercise apparatuses with the upper body;
 - e. dropping down into a squat position and absorbing the weight of the exercise apparatuses and then holding the exercise apparatuses even with the shoulders;
 - f. pushing up with the feet and pushing the exercise apparatuses up over the head;
 - g. returning to step b and repeating as desired.”

103. Claim 16 of the ‘629 Patent states as follows:

- “16. The method of claim 9, further comprising the following sequence of steps:
- a. grasping each handle of a pair of exercise apparatuses with a respective hand of the user;
 - b. placing the exercise apparatuses on the ground set a shoulder width apart, and simultaneously placing feet on the ground and together in front of the user, with knees bent and hips raised off the ground;

- c. raising a first leg to where the knee is locked in line with the thigh of the second leg;
- d. while maintaining the first leg in raised position, dropping the hips toward the ground by bending the elbows, then returning to the position of step b;
- e. raising the second leg to where the knee is locked in line with the thigh of the first leg;
- f. while maintaining the second leg in the raised position, dropping the hips toward the ground by bending the elbows, then returning to the position of step b;
- g. repeating as desired.”

104. Defendant will continue to induce infringement of the ‘629 Patent unless enjoined by the Court.

105. As a result of Defendant’s induced infringement of the ‘629 Patent, Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate Plaintiff for Defendant’s past and continuing induced infringement of the ‘629 Patent, together with interests and costs.

106. Plaintiff reserves the right to modify its induced infringement theories as discovery progresses in this case.

DEMAND FOR JURY TRIAL

107. Plaintiff demands a trial by jury of all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

a. That Defendant be adjudged to have directly infringed the ‘727 Patent and the ‘629 Patent either literally or under the doctrine of equivalents;

b. An accounting of all infringing sales and damages including, but not limited to, those sales and damages not presented at trial;

c. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the '727 Patent and the '629 Patent;

d. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Plaintiff for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

e. An award of damages sufficient to compensate Plaintiff for the Defendant's willful infringement, including treble damages;

f. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

g. That Defendant be directed to pay enhanced damages, including Plaintiff's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

h. That Plaintiff be granted such other and further relief as this Court may deem just and proper.

Dated: February 7, 2024

Respectfully submitted,

SAND, SEBOLT & WERNOW CO., LPA

/s/ Howard L. Wernow

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