DECLARATION OF ERIC A. WEBER

I, Eric A. Weber, declare and state as follows:

1. I am over the age of twenty-one (21) and have personal knowledge of the facts stated herein.

2. I am the Director of Sales and Marketing for Woodway USA, Inc. ("Woodway"). Woodway is the largest specialized treadmill manufacturer in the world and has been a market leader in manufacturing and selling fitness, health, and rehabilitation equipment for more than 30 years from its location in Waukesha, Wisconsin. Woodway has been manufacturing and selling treadmills since 1988.

3. Prior to my role as Director of Sales and Marketing, I was Woodway's Sales Manager. This was the position I was hired into in 2004 when I joined the company.

4. In my current position and throughout my tenure with Woodway, I am involved in or have oversight over all decisions pertaining to Woodway's product pricing and strategy. In addition, I oversee Woodway's direct sales force and am involved in Woodway's dealer and distributor relationships. I also have responsibility for, among other things, identifying and securing customers, managing customer relationships, as well as marketing strategy decisions about Woodway's tradeshow participation and advertising, including media spend as well as print, electronic, and social media efforts. It is also my responsibility to be aware of and knowledgeable about Woodway competitors, their marking and sales

channels, and their successes/failures in the market. I regularly attend trade shows where I can speak with customers and users and see what Woodway competitors are selling. I also review the literature in the health and fitness industry, talk to customers, dealers, and distributors, speak with representatives of competitors, and evaluate the websites, press releases, and other promotional literature of competitors. Additionally, I routinely obtain treadmills manufactured, imported, and sold by Woodway's competitors so that my team and I can test them and evaluate their performance capabilities and functions while also comparing these competitive products with those of Woodway.

5. In my role, it is also my responsibility to assist with the development of new products to meet market need as well as help identify feature sets demanded by customers and the various industries Woodway serves, including commercial fitness, sports performance, medical, and rehabilitation, among others. In this capacity, I work closely with Woodway engineers to bring to fruition sales and customer requirements. As I am familiar with the features that are important to customers, it is my and my team's responsibility to let the engineers know what features motivate customers to buy and what features customers expect and request. I do this in an effort to keep Woodway treadmills competitive in the market.

6. Given my roles within Woodway and the twenty plus years I have had principal responsibility for Woodway's sales and marketing of its products, I have a

robust working knowledge of the health and fitness industry and familiarity with treadmills in particular. My roles have made it necessary for me to understand the features of Woodway products, the features of Woodway's competitor's products, and most significantly, what features are important to customers and are required by the channels in which Woodway markets and sells its products.

WOODWAY AND ITS INTRODUCTION OF ITS INNOVATIVE CURVED, MANUAL TREADMILL

7. Woodway's innovative CURVE® treadmill, first introduced in 2009 at the International Health, Racquet & Sportsclub Association ("IHRSA") tradeshow,[1] is a treadmill with a curved running surface that is self-propelled, allowing a runner or walker to control his or her speed without the use of any motor. The speed at which the user walks or runs is dependent entirely on the user.

8. Following IHRSA 2009 and the provision of multiple demonstration units, Woodway's first sale of its curved, manual treadmill was to [redacted]

[1] At the time of introduction, the working name for Woodway's curved, manual treadmill was the Woodway Speedboard. Exhibit 2031, which is a true and correct copy of Woodway's 2009 press release regarding the IHRSA trade show. In or around October 2009, the Woodway Speedboard was renamed the CURVE® treadmill. As this 2009 model has undergone certain design changes, Woodway now refers to the original 2009 model as the CURVE® Legacy.

[redacted]. Thereafter, Woodway began manufacturing and selling world-wide its curved, manual treadmill in various models and sizes under model names including CURVE® 3.0, CURVE® Trainer, CURVE® XL, CURVE® LTG, CURVE® FTG, and EcoMill (collectively, the "CURVE® Line"). Today, Woodway continues to manufacture and sell its line of curved, manual treadmills world-wide. From introduction in March 2009 through December 2023, my team and I have been responsible for the sale and placement of nearly [redacted] curved, manual treadmills, which have a sales value of nearly [redacted] for Woodway, which is family owned. Exhibits 2032, 2033, and 2034 are true and correct copies of summaries of Woodway's confidential sales and cost data for its CURVE® Line from Woodway's fiscal years 2009 through 2024.[2]

9. Part of Woodway's innovative technology in the CURVE® Line, and what makes it commercially viable due to safety and hazard considerations associated with falling, is the incorporation of a safety device wherein the curved running surface is substantially prevented from being capable of moving in two directions – the intended direction and the reverse direction. This improvement,

[2] Woodway's fiscal year runs from July 1 through June 30. For example, fiscal year 2010, runs from July 1, 2009 through June 30, 2010. The data for fiscal year 2024 reflects shipments through December 2023 only.

which is enabled by a one-way bearing assembly, prevents a user from stepping on the curved running surface and injuring oneself from the undesired (and unexpected) backward movement of the running belt. *Compare* EX2035 (with safety device) *with* EX2036 (without safety device). Before Woodway, no one had introduced to the market a curved, manual treadmill that allowed a user to safely mount, use, and dismount without concern that the running belt would move in an undesired direction. Since 2009, every single CURVE® treadmill manufactured and sold by Woodway has incorporated the one-way bearing assembly safety device.

10. It is my understanding that Woodway's CURVE® Line practices various aspects of certain Woodway patents, including U.S. Patent No. 9,039,580 ("the '580 Patent"), U.S. Patent No. 10,561,884 ("the '884 Patent"), U.S. Patent No. 10,799,745 ("the '745 Patent"), and U.S. Patent No. 11,465,005 ("the '005 Patent"). EX2025; EX2026; EX2027. I understand that Woodway notifies its competitors, customers, and potential customers of this fact. *See* https://www.woodway.com/support/patents/. EX2037.

11. Woodway's treadmills in its CURVE® Line have list prices that begin at $3,995 for the CURVE® LTG treadmill, which was recently added to the line-up to combat the abundance of deeply discounted imitations in the market. Unlike the rest of the CURVE® Line, which is manufactured in Waukesha, Wisconsin, the CURVE® LTG treadmill is manufactured overseas. The CURVE® Trainer lists for

$4,995, the CURVE® lists for $5,950 and can range in prices up to $24,950 for a unit that contains sophisticated training tools and accessories. *See* EX2038. Also attached is a true and correct copy of a page from Woodway's current website, which identifies the list prices for certain of CURVE® Line treadmills now being offered. EX2039.

12. Following Woodway's creation of the market for curved, manual treadmills, copycats have attempted to replicate the CURVE® treadmill with less expensive knockoffs. Most recently, Assault has introduced certain curved, manual treadmills, which are manufactured in and imported from China. Assault's allegedly infringing treadmills are listed for sale on its website at $2,999 for the Assault Runner Pro and $3,999 for the Assault Runner Elite. EX2040. As I understand it, the Assault Runner Pro and Assault Runner Elite are names for Assault's original AirRunner and AssaultRunner, which were offered for sale for under $3,000. With this pricing by Assault, Woodway's CURVE® Line treadmills are, on average, twice as expensive as Assault's copies, with Woodway's higher end models being nearly ten times as expensive.

13. Woodway sells its CURVE® Line directly through its own sales team and through approved dealers and distributors and in all cases is committed to ensuring that its prices are marketed at the manufacturer's suggested retail price ("MSRP"). Woodway is able to command a pricing premium because of its durable,

commercial-grade parts, reputation, service, history, and quality. Assault's curved, manual treadmills, on the other hand, are available through multiple retail channels online, and a simple Google search shows that they are often available for much lower than the MSRP of $2,999 and $3,999. *E.g.,* EX2041. As a result, I am aware of numerous instances where Woodway has lost sales to Assault when a customer is basing its purchasing decision exclusively on price, for example, [redacted].

COMMERCIAL SUCCESS OF WOODWAY'S CURVE® LINE OF TREADMILLS

14. As part of my duties as Director of Sales and Marketing, it is my responsibility to be familiar with the prices and sales volumes of Woodway's products, including its CURVE® Line of treadmills.

15. I also regularly monitor the information that Woodway collects from various points of sale in the marketplace. It is also my responsibility to review distributor and customer feedback. I routinely rely on this data to conduct my duties as the Director of Sales and Marketing. I also routinely rely on our own sales data from orders of the CURVE® Line treadmills that are ordered directly through the Woodway sales team and its approved distributors. The sales data that I cite herein was extrapolated using Woodway's sales records which were made near in time to the sales of each unit sold, were made with information transmitted by persons involved in the sales department, have been kept by Woodway in the ordinary course

of its regularly conducted business, and it has been Woodway's regular practice to keep all sales records.

16. My review of Woodway's sales data and my familiarity with Woodway's history shows that, prior to the introduction of its curved, manual treadmill in March of 2009, Woodway sold flat, motorized treadmills, and at various points in time, certain nonmotorized treadmills—none of which had a curved running surface.[3]

17. In Woodway's fiscal year 2009, the year Woodway introduced the first CURVE® Line treadmill, Woodway provided ■ demonstration units and sold ■ units between its launch at IHRSA in March 2009 through June 30, 2009. EX2033. Because Woodway was the first company to sell curved, manual treadmills in the fitness industry, there were no other competitors in the market at this time, and Woodway enjoyed 100% of the market share.

18. Woodway's sales of the CURVE® Line treadmills steadily increased year after year until 2017-2018, as shown in Figure 1 below, which is a chart that is based on information I obtained from Woodway's sales records. For example, during Woodway's fiscal year 2010, Woodway shipped ■ units, some of which were

[3] For example, Woodway previously manufactured and sold the Tramp, the Odyssey, the Speedboard 1.0, and the original EcoMill.

provided free of charge as demonstration units. EX2032; EX2034. It is my understanding that Woodway remained the sole player in the curved, manual treadmill market in 2010.

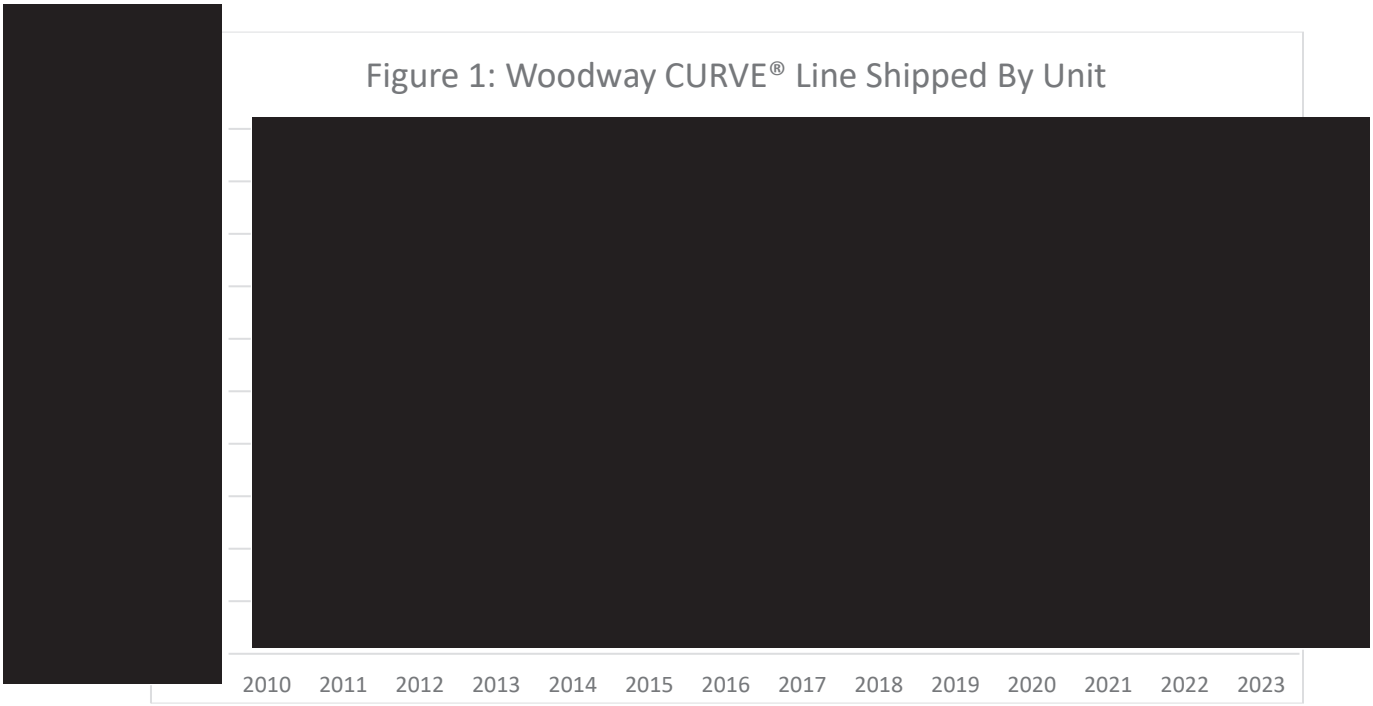

Figure 1 (citing EX2032; EX2034)

19. In fiscal year 2011, Woodway's sales continued to increase to [redacted] units of the CURVE® Legacy. EX2032.

20. In fiscal year 2012, Woodway's sales nearly doubled again when it sold [redacted] units of the CURVE® Legacy. EX2032.

21. In fiscal year 2013, Woodway sold [redacted] units of the CURVE® Legacy. EX2032.

22. In fiscal year 2014, Woodway introduced the CURVE® 3.0, now known as the "CURVE® 3.0 Legacy." Woodway also introduced the CURVE® XL

and the EcoMill with a curved running surface, now known as the "EcoMill Legacy." EX2032. Woodway sold [redacted] units of the CURVE® Line of treadmills in 2014, including the CURVE® Legacy, the CURVE® 3.0 Legacy, the CURVE® XL, and the EcoMill Legacy. *Id*. It is my belief that up until 2014 when copycats of the CURVE® Line began to enter the market, Woodway enjoyed 100% of the curved, manual treadmill market.

23. In or around 2014, Samsara Fitness introduced the TrueForm Runner at a discounted price, which infringed Woodway's patents directed to curved, manual treadmills, including the '580 Patent. EX2042 at 13-19. I am aware of multiple instances in which Woodway lost sales to Samsara Fitness, including [redacted]. After nearly three years of litigation, Samsara Fitness accepted paying a per unit royalty license to the '580 Patent. Samara Fitness continues to sell the TrueForm Runner and related models today, paying Woodway a per unit royalty for each unit sold.

24. Also in 2014, Woodway discovered another copycat curved, manual treadmill named the Greenjog, which I understand Woodway alleged infringed its U.S. Patent No. 8,864,627 (the "'627 Patent"). I understand that the '627 Patent is related to the '580 Patent, '884 Patent, '745 Patent, and the '005 Patent, and that, like the above-mentioned patents, their claims cover Woodway's CURVE® Line treadmills. Upon its discovery of the Greenjog, Woodway sent a cease and desist

letter to the only U.S.-based gym known to import and sell the Greenjog treadmill. Upon receipt of the cease and desist letter, this gym ceased all imports and sales of the offending treadmills. Exhibit 2043 is a true and correct copy of Woodway' cease and desist letter relating to the Greenjog.

25. In fiscal year 2015, Woodway sold [redacted] units, including the CURVE® Legacy, the CURVE® 3.0 Legacy, the CURVE® XL, and the Ecomill Legacy. EX2032.

26. In 2016, another copycat, Technogym, introduced a curved, manual treadmill named the SkillMill, which Woodway contends infringes at least the '580 Patent. EX2044 at 18-30. While I cannot quantify the exact effect Technogym's SkillMill has had on Woodway's market share in the curved, manual treadmill market based on the information available to me, I can confirm that the introduction of the Technogym SkillMill has necessarily decreased Woodway's market share because I am aware of specific instances in which Woodway has lost sales to the Technogym SkillMill. For example, I am aware [redacted], that went with Technogym over Woodway and its CURVE® Line of treadmills.

27. In fiscal year 2016, Woodway introduced the CURVE® Trainer, which has a shallower curved, running surface that is easier to control. That same year, Woodway streamlined the belt system in its original 2009 curved, manual treadmill

model, with the new iteration called "the CURVE®" (and the original version now referred to as "CURVE® Legacy.") That year, Woodway's sales increased from the previous year yet again. Woodway sold [redacted] units of CURVE® Line treadmills. EX2032.

28. In fiscal year 2017, Woodway released the CURVE® 3.0 and a new iteration of the EcoMill. That year, Woodway's sales increased to its highest point at [redacted] units of all released CURVE® Line treadmills. EX2032.

29. Also in 2017, another copycat, Assault, released the Assault AirRunner. While I cannot quantify the precise effect the Assault AirRunner has had on Woodway's market share in the curved, manual treadmill market based on the information available to me, I am aware of specific instances where Woodway has lost sales to Assault. For example, there are numerous instances where commercial club customers and universities, as well as governmental bids, among others, went to Assault. Also, I can confirm that Assault's introduction of its copycat treadmill has coincided with Woodway's decrease in year-over-year sales as illustrated in Figure 1, above. For example, in fiscal year 2023, Woodway's sales [redacted] despite similar investments in marketing and promotion. In my view, of all the copycats introduced to date, the introduction of the Assault AirRunner has had the largest impact on Woodway's sales of the CURVE® Line given its deeply discounted pricing and offshore design.

30. Based on my experience in the market, it is my opinion that Woodway's line of curved, manual treadmills is commercially successful. I am of the belief that others in the industry share that sentiment and are attempting to copy Woodway's curved, manual products to capitalize on this success.

31. Further, as shown in Figure 1, evaluation of Woodway's sale trajectory of its CURVE® Line of treadmills underscores the products' commercial success. Since Woodway released the CURVE® Legacy in 2009 until 2017 when Assault began selling the AirRunner, Woodway's sales of CURVE® Line treadmills increased dramatically from [redacted] treadmills during fiscal year 2009 to [redacted] units of CURVE® Line treadmills in 2017. *Compare* EX2033 *with* EX2032. To date, Woodway has sold nearly [redacted] units, totaling nearly [redacted]. EX2032.

32. It is my opinion that Woodway would have sold substantially more curved, manual treadmills had Assault not damaged Woodway's market share by introducing the Assault AirRunner in 2017.

33. None of the above-mentioned sales data includes the sales of Samsara Fitness's TrueForm Runner, which are made pursuant to a license of the '580 Patent. Sales of the Samsara Fitness TrueForm Runner further highlight the commercial success of treadmills practicing the claimed inventions of the '580 Patent.

SAFETY IS CRITICAL TO COMMERCIAL SUCCESS OF WOODWAY'S CURVE® LINE OF TREADMILLS

34. It is further my opinion that one factor that contributes to the commercial success of Woodway's CURVE® Line is the use of a safety mechanism to control the unintended rotation of the running belt which results in unintended movement of the running surface (the running surface moving both toward the front of the unit and toward the back of the unit). Indeed, as explained herein, Woodway's line of curved, manual treadmills would not be commercially successful without such a safety feature.

35. To my knowledge, Woodway's curved, manual treadmill was the first of its kind. Before the CURVE® Legacy treadmill's introduction at IHRSA 2009, there were no other curved, nonmotorized treadmills currently available on the market. It is my belief that Woodway's improvements to a curved, manual treadmill as commercially embodied in the Woodway products brought to market have created, cultivated, and established the current market for curved, manual treadmills.

36. As explained herein, I am very familiar with the pertinent aspects of Woodway's line of curved, manual treadmills, including their operation, technical, performance, and safety features as well as the marketing, promotion, pricing, and sale of these treadmills.

37. I was involved in the development of the original CURVE® treadmill, and my role in that process was to gather the features that Woodway needed to bring this line of treadmills to market. A critical feature of this line of treadmills (and any

treadmill) is ensuring the safety of the treadmill user. Not only is user safety mandated by industry standards, including those promulgated by the International Organization for Standardization, which I review regularly, but user safety should be the utmost concern when introducing any new consumer product to market.

38. Curved, manual treadmills create a unique potential safety hazard for a user. When a curved, manual treadmill is being used as intended, it requires free rolling rotation of the running belt. However, when a user is trying to mount or dismount the curved running surface of the treadmill, the running surface can move in the forward and backward directions. Because it is common for a user to enter the treadmill from the rear of the unit, when a user steps on the rear of the treadmill, the user's weight may cause the running surface to unexpectedly move toward the front of the unit (which is the reverse of the normal operating direction of the running surface). Depending on how quickly and where a user mounts the treadmill, the running belt may rotate such that the running surface moves toward the front of the unit or toward the back of the unit, creating a potential safety hazard. The unpredictable running surface movement may startle the user, create a temporary feeling of loss of control, or even cause the user to fall.

39. In my opinion, a curved, manual treadmill without a safety mechanism to control the rotation of the running belt such that the running surface may both move toward the front of the unit and toward the back of the unit would not be

commercially viable. Without such a safety mechanism, the treadmills are extremely dangerous, and user accidents are inevitable.

40. I would never try to sell or have any of my team members attempt to sell any curved, manual treadmill without a safety mechanism to control the rotation of the running belt. It is my understanding that Woodway's insurance carrier would not allow Woodway to offer such a product, *i.e.*, a curved, manual treadmill without a safety mechanism that restrains the running belt rotation. Indeed, Woodway has never sold such a treadmill.

41. In my work for Woodway, I meet with many customers and potential customers of treadmills. To the best of my knowledge, at no time has any customer ever requested a curved, manual treadmill ***without*** a safety mechanism to restrict the rotation of the running belt ***after*** my team member or I have advised the customer of the significant safety and liability concerns.

INDUSTRY PRAISE OF THE CURVE®
LINE OF TREADMILLS

42. In my position as Director of Sales and Marketing at Woodway, and even as a fitness enthusiast prior to my position at Woodway, I have routinely monitored fitness industry publications concerning the industry in general and have paid attention to innovative fitness products, fitness trends, blogs, and other relevant news articles. From time to time, I am interviewed and provide information to newspapers, trade journals, and other publications on behalf of Woodway regarding

Woodway's products. I am thus, well versed in the marketing and advertising of fitness equipment, including treadmills, and am familiar with trade journals, newspapers, blogs, and the like that are consumed by other fitness enthusiasts.

43. I have seen and am familiar with numerous publications that have praised Woodway's CURVE® Line of treadmills.

44. For example, Health and Fitness Sports Magazine, which is a go-to trade publication, featured the Woodway CURVE® Legacy in February 2010, stating: "[w]e use it for everyone from professional athletes to weekend warriors.... We have clients who have said they could never run again because of bad knees who are now cruising at brisk paces and having a blast in the process." Exhibit 2045 is a true and correct copy of the February 2010 Health and Fitness Sports Magazine article.

45. In March 2010, Athletic Business, which is a trade magazine and the host for a tradeshow targeted at universities, the government, and other non-profit segments, also featured the Woodway CURVE® Legacy as "the latest in product innovation." Exhibit 2046 is a true and correct copy of the Athletic Business article.

46. During 2011 through 2016, NBC's prime-time television show, "The Biggest Loser" featured Woodway's CURVE® Line treadmills in several of the contestants' weekly challenges during seasons 14-18. Exhibit 2047 is a true and correct copy of Woodway's December 29, 2010 press release regarding the same.

47. Men's Health Magazine is a widely circulated and mainstream publication with a focus on fitness and health for men. Men's Health has written multiple articles that have featured the Woodway CURVE®. Exhibit 2048 is a true and correct copy of a March 4, 2014 Men's Health Magazine article entitled "The Hardest 20-Minute Workout of Your Life," which features the use of a Woodway CURVE® treadmill and includes quotes from renowned fitness trainer, Bruce Mack. Mr. Mack explains that "[u]nlike a motorized treadmill, the Woodway's belt doesn't pull your feet along at a certain pace," and that, on the Woodway CURVE®, "[y]our feet must move it, so the faster you go, the faster it moves."

48. From March through at least May 2017, Men's Health U.K. featured a new video series of workouts, led by celebrated personal fitness trainer, Richard Tidmarsh. The cardio portions of Mr. Tidmarsh's work out videos include a Woodway CURVE®. Exhibit 2049 is a true and correct copy of the May 3, 2017 article published by Men's Health U.K. that shows excerpts of a video series using a Woodway CURVE® treadmill.

49. TreadmillReviews.com is an online publication that rates all treadmills and is a trusted source of information for serious runners. All reviews on the website are conducted by biomechanist, exercise physiologist, and competitive runner, Kaleigh Ray. On August 9, 2012, TreadmillReviews.com reviewed the Woodway CURVE®. Exhibit 2050 is a true and correct copy of TreadmillReviews.com's

review of the Woodway CURVE® treadmill, where it states, "[w]ords don't do this treadmill justice. Below are two videos that fully explain the awesome power of the Woodway Curve. Grab a sandwich, sit back, and marvel."

50. On March 5, 2019, 11Alive, Atlanta's online news station that broadcasts all local news programs in high definition, ran a news segment on SCULPTHOUSE, a gym located in both Atlanta and Dallas that exclusively uses Woodway CURVE® treadmills for its cardio equipment. 11Alive has 1.61 Million subscribers. Exhibit 2051 is a true and correct copy of the March 5, 2019 video news segment.

51. On November 16, 2019, the Los Angeles Times featured Woodway's CURVE® Legacy as "[t]he planet's first gym-quality non-motorized treadmill" and highlighted how it "forces you to run with correct form, with a forefoot landing and no heel striking." The article was authored by Roy M. Wallack, a fitness columnist at the Los Angeles Times and nationally recognized fitness journalist who has also contributed to numerous other publications. He is an endurance athlete who is trusted by fitness and endurance athletes alike. His statements represent accurate observations about the Woodway CURVE® Legacy at the time. Exhibit 2052 is a true and correct copy of the Los Angeles Times article.

52. The Post and Courier, South Carolina's oldest newspaper, on July 23, 2009, published an article on Woodway's CURVE® Legacy. It was authored by

David Quick, the Post and Courier's health and fitness columnist. Exhibit 2053 is a true and correct copy of the Post and Courier article.

53. Government Recreation & Fitness is a publication that provides a forum for the military on fitness and recreation. During May of 2010, it published an update on the fitness facilities for the Marine Corps and highlighted its use of the Woodway Force, one of Woodway's CURVE® Line treadmills as part of the new facility that enables the Marine Corps to train for specialized missions. Exhibit 2054 is a true and correct copy of the May 2010 Government Recreation & Fitness article.

54. The Wall Street Journal discussed Woodway's innovative CURVE® Line treadmill, praising the intensity of the workout obtained from it. The May 2015 article was authored by Rachel Bachman, the Wall Street Journal's senior sports reporter. Exhibit 2055 is a true and correct copy of the May 2015 Wall Street Journal article.

55. Club Solutions Magazine is one of the top online magazines in the health and fitness industry, which also produces a monthly publication. On December 11, 2014, Club Solutions published an article about a new treadmill running studio and featured quotes from the studio's founder, Debora Warner. Ms. Warner notes that her treadmill of choice is the Woodway treadmill because it "really mimics the feeling of running on a trail." Exhibit 2056 is a true and correct copy of the December 2014 Club Solutions Magazine article.

56. It is no surprise that the Woodway CURVE® Legacy has received such favorable press as well as numerous awards, including the 2010 FIBO Innovation Award. The award from FIBO is particularly meaningful as FIBO is one of the largest fitness, wellness, and health tradeshows in the world. Exhibit 2057 is a true and correct copy of an article discussing the FIBO Innovation Award nomination.

COPYING OF THE CURVE®
LINE OF TREADMILLS

57. As part of my duties at Woodway, I monitor and am aware of competitors in the marketplace. In my view, Samsara Fitness, Technogym, Greenjog, Speedfit, Assault, In10ct, Xebex, NOHrD, Cascade, and Tru Grit (along with other no-name Chinese companies) each copied every aspect of the Woodway CURVE® Line treadmills and look nearly identical to certain of the drawings of the ’580 Patent, ’884 Patent, ’745 Patent, and ’005 Patent (and operate as claimed therein). Attached hereto as Exhibits 2058 through 2065 are true and correct copies of photographs that accurately depict the Samsara Fitness TrueForm Runner, the Technogym SkillMill, the Speedfit Speedboard, the In10ct Health Runner, the Xebex Runner, the NOHrD Sprintbok, the Cascade Ultra Runner Plus, and the Tru Grit Runner, respectively. The Assault AirRunner can be viewed at Exhibit 2040.

58. With respect to Samsara Fitness, in 2014, I became aware that Samsara Fitness was selling the TrueForm Runner, a knockoff of the CURVE® Legacy. Woodway purchased a TrueForm Runner, and Woodway’s engineers analyzed it,

concluding it was infringing Woodway's patents—a conclusion that the United States District Court for the District of Connecticut agreed with. EX. 2066; EX2042 at 13-19.

59. As I previously noted, Woodway and Samsara Fitness entered into a royalty bearing license agreement whereby Samsara agreed to pay—and does in fact pay—a per unit royalty to Woodway to practice the '580 Patent.

60. With respect to Technogym, I discovered sometime in 2016 that Technogym released a product called the SkillMill which also knocks off the CURVE® Line treadmills. Exhibit 2044 is a true and correct copy of an infringement analysis conducted by Dr. Kim Blair, Woodway's technical expert, which includes analysis with photographs that show how the SkillMill is a nearly identical copy of the CURVE® Line treadmills and likely infringes Woodway's patented technology. EX2044 at 25-30. As I understand it, the Technogym is not considered a non-infringing alternative.

61. With respect to Speedfit, while attending the 2017 IHRSA tradeshow with members of the Woodway sales and engineering teams, I observed a Speedfit Speedboard treadmill.[4] Nick Oblamski, who was an Engineering Manager with

[4] This Speedboard unit is not to be confused with Speedboard 1.0 which was a flat, nonmotorized treadmill, or the Woodway Speedboard that was first debuted at

Woodway at that time, reported to me that, based on his inspection and use of the Speedboard unit, it was likely infringing Woodway's patented technology, including the '580 Patent.

62. During the IHRSA tradeshow, my sales team made inquiries regarding the commercial availability of the Speedfit Speedboard. Based on our investigation, it was not apparent that either product was available for purchase. After making an attempt to purchase it from Amazon, the order was cancelled and Woodway was refunded. To date, it is my understanding that the Speedfit Speedboard is unlikely available for purchase in the United States (or anywhere else for that matter). And, in any event, after nearly ten years of litigation between Speedfit and Woodway relating to certain Speedfit patents, Woodway and Speedfit agreed to a mutual covenant not to sue regarding certain of Woodway's patents, including the '580 Patent, and certain of Speedway's patents.

63. With respect to Greenjog, after Woodway sent a cease and desist letter to the only known gym in the United States who was importing the Greenjog product from China, the gym – Gym Store, Inc. – ceased import of the Greenjog. I am not aware of any other store or gym in the United States or elsewhere that imports,

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IHRSA 2009. This Speedfit Speedboard is a product that Woodway has no connection to or involvement with, but instead a product promoted by Alex Astilean.

manufactures, or sells the Greenjog unit, which is a knockoff of the EcoMill. Exhibit 2043 is a true and correct copy of Woodway's cease and desist letter sent to the gym that imported the Greenjog. Since Woodway sent its letter, I understand that the gym has not imported any other Greenjog units. I also am not aware of any other gym or company that has imported and/or sold the Greenjog unit.

64. With respect to Assault, while attending IHRSA in 2017, I observed that Assault had an Assault AirRunner on display. Mr. Oblamski again reported to me that based on his limited inspection and use of the LifeCORE Assault AirRunner units, they were likely infringing Woodway's patented technology. Thereafter, Woodway sued Assault for patent infringement of the '580 Patent, the '884 Patent, the '745 Patent, and the '005 Patent. Exhibits 2067 through EX2070 are a true and correct copies of Woodway's infringement contentions from the related case, *Woodway USA, Inc. v. LifeCORE Fitness, Inc. d/b/a Assault*, Case No. 3:22-cv-00492-JP (BLM) in the United States District Court for the Southern District of California, which illustrate how the LifeCORE Assault AirRunner is a direct copy of the Woodway CURVE® Line treadmills.

65. Additionally, the Assault AirRunner Owner's Manual provides further evidence of direct copying by Assault. Exhibit 2068 is a true and correct copy of the relevant Assault AirRunner Owner's Manual. This manual contained provisions that were copied verbatim from Woodway's CURVE® owner manuals, including

express references to "WOODWAY Customer Service" and instructions to "[c]ontact a WOODWAY Customer Service technician" in the event of certain technical problems. EX2071 at 20. In other Assault sales collateral, Assault has also touted the AirRunner's abilities to "[b]urn[] up to 30% more calories than a motorized treadmill," which is a claim that originated from Woodway based on Woodway's testing of Woodway's CURVE® treadmill. EX2072. I am unaware of any such testing by Assault.

66. Further, we hear from our dealers, and I have personally seen at various tradeshows over the years, other copycats, including the In10ct Health Runner, the Xebex Runner, the NOHrD Sprintbok, the Cascade Ultra Runner Plus, the Tru Grit Runner, and other no-name Chinese knockoffs. These units all intend to copy Woodway's CURVE® Line of treadmills at retail prices that are a deep discount from Woodway's MSRP.

67. All of the foregoing companies have had access to Woodway's CURVE® Line treadmills. The copycats started to release these knockoffs in 2014, approximately five years after Woodway first exhibited the CURVE® Legacy at the IHRSA trade show in 2009, which has since been available for purchase through Woodway's website or through an authorized dealer or distributor. In addition, since at least the issuance of the '580 Patent, Woodway has been marking its curved, manual treadmills with the relevant patent marking language.

68. Additionally, as discussed above in the Industry Praise section, Woodway's CURVE® Line have been featured in widely disseminated trade publications and newspapers.

69. I declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: 1/31/2024

DocuSigned by:
CC3FC770D7D84E8...
Eric A. Weber