

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFECORE FITNESS, LLC
d/b/a ASSAULT FITNESS
Petitioner,

v.

WOODWAY USA, INC.
Patent Owner.

U.S. Patent No. 11,465,005 to Bayerlein et al.

Case No.: IPR2024-00083

PETITIONER'S MOTION TO FILE UNDER SEAL

Pursuant to 37 C.F.R. §42.54, LifeCore Fitness, LLC, formerly LifeCore Fitness, Inc., d/b/a Assault Fitness (“Petitioner”) hereby submits this Motion to Seal Exhibit 2084 which was produced in the related litigation as LCF035149 and marked as Deposition Exhibit 109.

I. Good Cause Exists for Sealing Certain Confidential Information

The Patent Office Trial Practice Guide provides that “the rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). These rules “identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54).

Here, good cause exists to support the sealing of Ex. 2084 as detailed below.

A. Ex. 2084 – Document Containing Confidential Business and Financial Information of Petitioner

Exhibit 2084 is a document that describes confidential, sensitive, and/or proprietary business and financial information. Petitioner asserts that the entirety of this document comprises confidential information, and as such, redacted public versions have not been submitted.

Ex. 2084 is sales data for Petitioner's accused product.

II. Proposed Protective Order

Patent Owner submitted a Proposed Protective Order as Exhibit 2073 on August 13, 2024. The Proposed Protective Order includes modifications to the Default Protective Order from the Trial Practice Guide. A version of the Proposed Protective Order showing redline changes as compared to the Board default protective order was submitted as Exhibit 2074. Petitioner consented to Patent Owner's Proposed Protective Order.

III. Certification of Conference with Opposing Party Pursuant to 37 C.F.R. § 42.54

Petitioner conferred with Patent Owner, and Petitioner agreed to entry of the Proposed Protective Order submitted as Exhibit 2073 and Patent Owner does not oppose this motion to seal.

IV. Conclusion

For the foregoing reasons, Petitioner respectfully requests that Exhibit 2084 remains under seal.

Respectfully submitted,

Dated: September 5, 2024

/ Andrew B. Turner /
Andrew B. Turner (Reg. No. 63,121)
John M. Halan (Reg. No. 35,534)
Rebecca J. Cantor (Reg. No. 57,748)
Kyle G. Konz (Reg. No. 68,910)

Seyed Reza Roghani Esfahani (Pro Hac
Vice Admission conditionally granted)

Brooks Kushman P.C.

150 W. Second St., Suite 400N

Royal Oak, MI 48067-3846

(248) 358-4400

Attorneys for Petitioner

Certificate of Service

The undersigned hereby certifies that on September 5, 2024, a complete and entire copy of **PETITIONER'S MOTION TO SEAL**, was served via electronic mail to the attorneys listed below:

LEAD COUNSEL	BACK-UP COUNSEL
Richard J. McKenna Foley & Lardner LLP 777 East Wisconsin Avenue Milwaukee, WI 53202 Direct Line: 414-297-5723 Fax: 414-297-4900 Email: rmckenna@foley.com USPTO Reg. No. 35,610	Kadie M. Jelenchick Sarah E. Rieger Foley & Lardner LLP 777 East Wisconsin Avenue Milwaukee, WI 53202 Direct Line: 414-319-7324 Fax: 414-297-4900 Email: kjelenchick@foley.com Srieger@foley.com

Respectfully submitted,

/ Andrew B. Turner /
Andrew B. Turner (Reg. No. 63,121)
John M. Halan (Reg. No. 35,534)
Rebecca J. Cantor (Reg. No. 57,748)
Kyle G. Konz (Reg. No. 68,910)
Seyed Reza Roghani Esfahani (Pro Hac
Vice Admission conditionally granted)
Brooks Kushman P.C.
150 W. Second St., Suite 400N
Royal Oak, MI 48067-3846
(248) 358-4400

Attorneys for Petitioner