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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
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11 Woodway USA, Inc.,
12 Plaintiff,
13 vs.
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15 LifeCORE Fitness, Inc. d/b/a Assault Fitness,
16 Defendant.
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18 LifeCORE Fitness, Inc. d/b/a Assault Fitness,
19 Counterclaim-Plaintiff,
20 vs.
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22 Woodway USA, Inc.,
Counterclaim-Defendant.
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Case No. 3:22-cv-00492-JO-BLM

~~[PROPOSED]~~ STIPULATED
ORDER TO DISMISS CERTAIN
CLAIMS, AFFIRMATIVE
DEFENSES, AND
COUNTERCLAIMS

[PROPOSED] STIPULATED ORDER TO DISMISS CERTAIN CLAIMS, AFFIRMATIVE
DEFENSES, AND COUNTERCLAIMS
Case No. 22-cv-492-JO-BLM

Consistent with the discussion during the November 7, 2024 Conference, and in the interest of streamlining the issues of this case, including summary judgment and trial, Plaintiff and Counterclaim-Defendant Woodway USA, Inc. (“Woodway”) elects to reduce the number of asserted claims from 64 claims across 4 patents to 13 claims across 3 patents as follows:

U.S. Patent No.	Originally Asserted Claims	Elected Asserted Claims
9,039,580	1, 2, 3, 5, 6, 10, 25	25
10,561,884	30, 31, 32, 33, 34, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 57, 59	40, 42, 43, 44, 50, 51, 52, 53, 54
10,799,745	1, 4, 7, 8, 9, 10, 11, 12, 14, 17, 18, 20, 21, 22, 23, 24, 25, 26	18, 20, 26
11,465,005	1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16	None

In view of Woodway’s reduction, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), Woodway and Defendant and Counterclaim-Plaintiff LifeCORE Fitness, Inc. d/b/a Assault Fitness (“LifeCORE”) stipulate and agree to the following:

- Count I of Woodway’s First Amended and Supplemental Complaint directed to allegations that LifeCORE’s current and past commercially existing products as of November 13, 2024 infringe claims 1-3, 5-6, and 10 of U.S. Patent No. 9,039,580 (“the ’580 patent”), (ECF No. 34 at ¶¶ 11-18), is dismissed with prejudice.
- Count II of Woodway’s First Amended and Supplemental Complaint directed to allegations that LifeCORE’s current and past commercially existing products as of November 13, 2024 infringe claims 30-34, 37-

39, 41, 45-49, 57, and 59 of U.S. Patent No. 10,561,884 (“the ’884 patent”), (ECF No. 34 at ¶¶ 19-26), is dismissed with prejudice.

3. Count III of Woodway’s First Amended and Supplemental Complaint directed to allegations that LifeCORE’s current and past commercially existing products as of November 13, 2024 infringe claims 1, 4, 7-12, 14, 17, and 21-25 of U.S. Patent No. 10,799,745 (“the ’745 patent”), (ECF No. 34 at ¶¶ 27-34), is dismissed with prejudice.

4. Count IV of Woodway’s First Amended and Supplemental Complaint directed to allegations that LifeCORE’s current and past commercially existing products as of November 13, 2024 infringe claims 1-4, 6-13, and 15-16 of U.S. Patent No. 11,465,005 (“the ’005 patent”), (ECF No. 34 at ¶¶ 35-42), is dismissed with prejudice.

5. LifeCORE’s First Affirmative Defense (Patent Invalidity) directed to claims 1-3, 5-6, and 10 of the ’580 patent, claims 30-34, 37-39, 41, 45-49, 57, and 59 of the ’884 patent, claims 1, 4, 7-12, 14, 17, and 21-25 of the ’745 patent, and claims 1-4, 6-13, and 15-16 of the ’005 patent, (ECF No. 36), is dismissed with prejudice.

6. LifeCORE’s Second Affirmative Defense (Patent Noninfringement) directed to claims 1-3, 5-6, and 10 of the ’580 patent, claims 30-34, 37-39, 41, 45-49, 57, and 59 of the ’884 patent, claims 1, 4, 7-12, 14, 17, and 21-25 of the ’745 patent, and claims 1-4, 6-13, and 15-16 of the ’005 patent, (ECF No. 36), is dismissed with prejudice.

7. Count One of LifeCORE’s Counterclaims seeking a declaratory judgment of non-infringement of the ’580 patent as to claims 1-3, 5-6, and 10 of the ’580 patent, (ECF No. 36 at ¶¶ 6-12), is dismissed with prejudice.

8. Count Two of LifeCORE’s Counterclaims seeking a declaratory judgment of invalidity of the ’580 patent as to claims 1-3, 5-6, and 10

1 of the '580 patent, (ECF No. 36 at ¶¶ 13-17), is dismissed with
2 prejudice.

3 9. Count Four of LifeCORE's Counterclaims seeking a declaratory
4 judgment of non-infringement of the '884 patent as to claims 30-34, 37-
5 39, 41, 45-49, 57, and 59 of the '884 patent, (ECF No. 36 at ¶¶ 78-84),
6 is dismissed with prejudice.

7 10. Count Five of LifeCORE's Counterclaims seeking a declaratory
8 judgment of invalidity of the '884 patent as to claims 30-34, 37-39, 41,
9 45-49, 57, and 59 of the '884 patent, (ECF No. 36 at ¶¶ 85-89), is
10 dismissed with prejudice.

11 11. Count Seven of LifeCORE's Counterclaims seeking a declaratory
12 judgment of non-infringement of the '745 patent as to claims 1, 4, 7-
13 12, 14, 17, and 21-25 of the '745 patent, (ECF No. 36 at ¶¶ 93-99), is
14 dismissed with prejudice.

15 12. Count Eight of LifeCORE's Counterclaims seeking a declaratory
16 judgment of invalidity of the '745 patent as to claims 1, 4, 7-12, 14, 17,
17 and 21-25 of the '745 patent, (ECF No. 36 at ¶¶ 100-104), is dismissed
18 with prejudice.

19 13. Count Ten of LifeCORE's Counterclaims seeking a declaratory
20 judgment of non-infringement of the '005 patent as to claims 1-4, 6-13,
21 and 15-16 of the '005 patent, (ECF No. 36 at ¶¶ 108-114), is dismissed
22 with prejudice.

23 14. Count Eleven of LifeCORE's Counterclaims seeking a declaratory
24 judgment of invalidity of the '005 patent as to claims 1-4, 6-13, and 15-
25 16 of the '005 patent, (ECF No. 36 at ¶¶ 115-119), is dismissed with
26 prejudice.
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1 IT IS HEREBY ORDERED that:

- 2 1. Count I of Woodway's First Amended and Supplemental Complaint
3 directed to allegations that LifeCORE's current and past commercially
4 existing products as of November 13, 2024 infringe claims 1-3, 5-6, and
5 10 of U.S. Patent No. 9,039,580 ("the '580 patent"), (ECF No. 34 at ¶¶
6 11-18), is dismissed with prejudice.
- 7 2. Count II of Woodway's First Amended and Supplemental Complaint
8 directed to allegations that LifeCORE's current and past commercially
9 existing products as of November 13, 2024 infringe claims 30-34, 37-
10 39, 41, 45-49, 57, and 59 of U.S. Patent No. 10,561,884 ("the '884
11 patent"), (ECF No. 34 at ¶¶ 19-26), is dismissed with prejudice.
- 12 3. Count III of Woodway's First Amended and Supplemental Complaint
13 directed to allegations that LifeCORE's current and past commercially
14 existing products as of November 13, 2024 infringe claims 1, 4, 7-12,
15 14, 17, and 21-25 of U.S. Patent No. 10,799,745 ("the '745 patent"),
16 (ECF No. 34 at ¶¶ 27-34), is dismissed with prejudice.
- 17 4. Count IV of Woodway's First Amended and Supplemental Complaint
18 directed to allegations that LifeCORE's current and past commercially
19 existing products as of November 13, 2024 infringe claims 1-4, 6-13,
20 and 15-16 of U.S. Patent No. 11,465,005 ("the '005 patent"), (ECF No.
21 34 at ¶¶ 35-42), is dismissed with prejudice.
- 22 5. LifeCORE's First Affirmative Defense (Patent Invalidity) directed to
23 claims 1-3, 5-6, and 10 of the '580 patent, claims 30-34, 37-39, 41, 45-
24 49, 57, and 59 of the '884 patent, claims 1, 4, 7-12, 14, 17, and 21-25
25 of the '745 patent, and claims 1-4, 6-13, and 15-16 of the '005 patent,
26 (ECF No. 36), is dismissed with prejudice.
- 27 6. LifeCORE's Second Affirmative Defense (Patent Noninfringement)
28 directed to claims 1-3, 5-6, and 10 of the '580 patent, claims 30-34, 37-

39, 41, 45-49, 57, and 59 of the '884 patent, claims 1, 4, 7-12, 14, 17, and 21-25 of the '745 patent, and claims 1-4, 6-13, and 15-16 of the '005 patent, (ECF No. 36), is dismissed with prejudice.

7. Count One of LifeCORE's Counterclaims seeking a declaratory judgment of non-infringement of the '580 patent as to claims 1-3, 5-6, and 10 of the '580 patent, (ECF No. 36 at ¶¶ 6-12), is dismissed with prejudice.

8. Count Two of LifeCORE's Counterclaims seeking a declaratory judgment of invalidity of the '580 patent as to claims 1-3, 5-6, and 10 of the '580 patent, (ECF No. 36 at ¶¶ 13-17), is dismissed with prejudice.

9. Count Four of LifeCORE's Counterclaims seeking a declaratory judgment of non-infringement of the '884 patent as to claims 30-34, 37-39, 41, 45-49, 57, and 59 of the '884 patent, (ECF No. 36 at ¶¶ 78-84), is dismissed with prejudice.

10. Count Five of LifeCORE's Counterclaims seeking a declaratory judgment of invalidity of the '884 patent as to claims 30-34, 37-39, 41, 45-49, 57, and 59 of the '884 patent, (ECF No. 36 at ¶¶ 85-89), is dismissed with prejudice.

11. Count Seven of LifeCORE's Counterclaims seeking a declaratory judgment of non-infringement of the '745 patent as to claims 1, 4, 7-12, 14, 17, and 21-25 of the '745 patent, (ECF No. 36 at ¶¶ 93-99), is dismissed with prejudice.

12. Count Eight of LifeCORE's Counterclaims seeking a declaratory judgment of invalidity of the '745 patent as to claims 1, 4, 7-12, 14, 17, and 21-25 of the '745 patent, (ECF No. 36 at ¶¶ 100-104), is dismissed with prejudice.

1 13. Count Ten of LifeCORE's Counterclaims seeking a declaratory
2 judgment of non-infringement of the '005 patent as to claims 1-4, 6-13,
3 and 15-16 of the '005 patent, (ECF No. 36 at ¶¶ 108-114), is dismissed
4 with prejudice.

5 14. Count Eleven of LifeCORE's Counterclaims seeking a declaratory
6 judgment of invalidity of the '005 patent as to claims 1-4, 6-13, and 15-
7 16 of the '005 patent, (ECF No. 36 at ¶¶ 115-119), is dismissed with
8 prejudice.

9 No party shall claim to be a "prevailing party" with respect to any dismissed
10 claim, affirmative defense, and counterclaims as a result of this Stipulation.

11 The parties are to bear their own costs arising from or related to all claims,
12 affirmative defenses, and counterclaims dismissed pursuant to this Stipulation.

13 IT IS SO ORDERED.

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15 Dated: 4/22/24



Honorable Jinsook Ohta
United States District Judge

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5 Date: November 13, 2024

Date: November 13, 2024

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7 *I attest that the other signatory listed, and on whose behalf this filing is submitted,
8 concurs in the filing content and has authorized this filing.

9 /s/ Kadie M. Jelenchick