

AO 120 (Rev. 08/10)

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of Florida on the following

Trademarks or  Patents. (  the patent action involves 35 U.S.C. § 292.)

DOCKET NO. <b>11-20920-CV-AJ</b>	DATE FILED <b>3/16/2011</b>	U.S. DISTRICT COURT Southern District of Florida	
PLAINTIFF <b>Icon Health &amp; Fitness, Inc.</b>		DEFENDANT <b>YF Holdings, Inc et al</b>	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1 <del>65,008, 249</del>			
2 <b>3, 683, 711</b>			
3 <b>2, 618, 509</b>			
4 <b>2, 466, 474</b>			
5			

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY		
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK <b>Steven M. Larimore</b>	(BY) DEPUTY CLERK <b>J. Conway</b>	DATE <b>3/21/2011</b>
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Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

<p>ICON HEALTH &amp; FITNESS, INC., a Delaware corporation,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>YF HOLDINGS, INC., a Florida corporation; YOU FIT, INC., a Florida corporation,</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No. _____</p> <p style="text-align: center;"><b>COMPLAINT</b></p> <p style="text-align: center;">Jury Demanded Injunctive Relief Sought</p>
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Plaintiff ICON HEALTH & FITNESS, INC. (“ICON” or “Plaintiff”) hereby complains against defendants YF HOLDINGS, INC. (“YF Holdings”) and YOU FIT, INC. (“You Fit”) [collectively, “Defendants”] for the causes of action alleged as follows:

**THE PARTIES**

1. ICON is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business located at 1500 South 1000 West, Logan, Utah 84321.

2. ICON alleges on information and belief that defendant YF Holdings is a Florida Corporation with its principal place of business located at 5210 1<sup>st</sup> Avenue North, St. Petersburg, Florida 33710.

3. ICON alleges on information and belief that Defendant You Fit is a Florida Corporation with its principal place of business located at 6161 9<sup>th</sup> Avenue North, St. Petersburg, Florida 33710.

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### JURISDICTION AND VENUE

4. This is a civil action for trademark infringement under Sections 32 and 43 of the Lanham Act, Title 15 U.S.C. §§1114 and 1125(a).

5. This is also a civil action for cancellation of an existing trademark under Section 37 of the Lanham Act, Title 15 U.S.C. §1119.

6. This is also a civil action for denial of a pending trademark application under Section 37 of the Lanham Act, Title 15 U.S.C. §1119.

7. This is also a civil action for state deceptive and unfair trade practices under Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. §501.201, *et seq.* ("FDUTPA").

8. This court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331, 28 U.S.C. §1338(a), and 15 U.S.C. §1121. This Court has related claim jurisdiction over state law claims pursuant to 28 U.S.C. §1338(b) and 28 U.S.C. §1367.

9. ICON further alleges on information and belief that Defendants have offered for sale their infringing services within the State of Florida, to ICON's injury, which relates to the claims asserted by ICON, and out of which ICON's claims, in part, arise.

10. On information and belief, Defendants have marketed, advertised, and made their infringing services available through [www.youfithehealthclubs.com](http://www.youfithehealthclubs.com) which is available nationally including in the State of Florida.

11. This Court's exercise of personal jurisdiction over Defendants is consistent with the Constitutions of the United States and the State of Florida. Moreover, this Court has personal jurisdiction over Defendants at least pursuant to Fla. Stat. §48.193(1) and (2), inasmuch as

Defendants conduct business within the State of Florida and are engaged in substantial and not isolated activity within the State of Florida.

12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b)(1)-(3).

#### **FACTUAL BACKGROUND**

13. ICON is an award-winning innovator in the field of exercise equipment and markets and sells a variety of consumer products.

14. ICON came to its position of technological leadership through hard work and substantial investment in research and development. As a result of its endeavors, many of the technological innovations created and owned by ICON are protected by a valuable and diverse intellectual property portfolio that includes patents, trademarks, trade dress, and copyrights.

15. Several of ICON's successful innovations have been in the design and development of treadmills, elliptical machines, exercise bikes, strength training equipment, and other fitness-related equipment, devices, and associated exercise and personal training services that ICON markets in connection with the trademarks I FIT and/or IFIT.COM.

16. ICON owns several federally registered trademarks including: United States Trademark Registration No. 2,618,509 ("509 Registration"), for the mark I FIT, and United States Trademark Registration No. 2,466,474 ("474 Registration"), for the mark IFIT.COM. These trademarks are hereafter referred to collectively as the "IFIT Trademarks."

17. The IFIT Trademarks are incontestable; which incontestability is conclusive evidence of the validity of the marks and registrations and of ICON's ownership of and exclusive

right to use the marks in connection with the services set forth. The registrations also provide constructive notice of ICON's ownership of the marks.

18. ICON has developed recognition and goodwill for the products and services sold under the IFIT Trademarks, among both ICON's immediate customers and the consuming public, generally.

19. As a result of, *inter alia*, ICON's substantial investment in the IFIT Trademarks and the products and services marketed under those trademarks, the consuming public recognizes the IFIT Trademarks and associates products with those marks with a single source, namely ICON.

20. On information and belief, Defendants sell, offer for sale, advertise, and market exercise and personal training services under the marks "YOUFIT," "YF YouFit HEALTH CLUBS," and "YouFit HEALTH CLUBS" (collectively "offending marks").

21. On information and belief, Defendants sell and offer for sale within the United States exercise and personal training services that compete with ICON, including at least through their Youfit Health Clubs and its website, [www.youfithealthclubs.com](http://www.youfithealthclubs.com).

22. Upon information and belief, Defendants have used the offending marks to promote and sell their exercise and personal training services throughout the United States including within Florida and Arizona.

23. ICON offers exercise and personal training services in connection with ICON's IFIT Trademarks.

24. The offending marks, as used by Defendants, are confusingly similar to the IFIT Trademarks.

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