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August 2, 2005

Mr. David A. Allen
Rackit International, Inc.
4501 N. Pearl Street
Tacoma, Washington 98407

Re: U.S. Patent No. Des. 400,941

Dear Mr. Allen:

A few months ago, George Rondeau forwarded us some information to pass along to Nautilus concerning your claims of patent infringement by a StairMaster product. Nautilus has asked us to respond to this inquiry as their intellectual property counsel.

In short, we believe there is not an issue regarding any actions by Stairmaster that would constitute patent infringement. We also believe you may have significant issues with validity and enforceability of your patent. These topics are discussed in more detail below. In an effort to fully explain these matters to you, we believe it best to have a phone conference to discuss an amicable resolution suitable to both parties.

From our review of your web site, your fundamental complaint appears to be that a certain StairMaster rack configuration infringes U.S. Patent No. Des. 400,941 (the "'941 Patent"). There are a number of other potential allegations concerning fair treatment and business ethics, but these appear to be directed at the pre-bankruptcy StairMaster and at events taking place at least five years ago. To that end, we will limit this response to the patent infringement allegations.

We have compared the patent, including a likely construction of the drawings, to the device depicted in a link on your web site and do not believe that there is an issue with infringement. As you may be aware, a design patent is quite limited and the appropriate test for confusion is whether an ordinary observer would be deceived into believing that the product in question was produced by the owner of the patent, taking into account the similarities and differences between the two designs and focusing on the points of novelty that allowed the design to be patented.

The Stepper console in the link appears to have limited similarities to the drawings in the '941 patent. For example, the drawings in the '941 patent depict a circular cup holder on the left and another rectangular holder on the right. The integrated StairMaster Stepper has only one holder for a water bottle or cassette player. Of course, the most basic and fundamental difference is that the '941 patent clearly discloses the "ornamental design for a ***rack*** for an

exercise apparatus," as opposed to an integrated console for an exercise machine. As your web site indicates, the Steppers have integrated consoles.

To fully address you concerns, however, we have identified one reading rack that StairMaster has sold independently of a Stepper. You should be aware that very few of these reading racks have been sold. The allegations of a multi-million dollar business concerning these racks are simply not true, and we will be happy to provide that information to you.

Regardless of whether these racks appear similar to the drawings of the '941 patent, a review of your web site raises several questions concerning the validity of the '941 patent as it relates to exercise equipment racks. Most importantly, it appears that the invention for which you filed a patent application in 1997 was disclosed and perhaps sold as much as 4 years earlier. Such a public disclosure or sale would invalidate the patent. Because you discuss a number of products on your web site, we would of course need to investigate this further. All of this information, however, would be subject to discovery concerning defenses of prior use or inequitable conduct during any litigation.

Perhaps most importantly, any claims you have against Nautilus or StairMaster may be barred by the doctrine of laches. That is, by not pursuing your alleged claims for at least three years, any claims for past damages may have been lost. Our investigation concerning this question has just begun, but I am sure you will agree that this issue has been outstanding for some time.

Rather than spend considerable sums in legal fees in investigation and potentially litigation, we would like to discuss a more amicable resolution. If you are interested in discussing the matter further, please give me a call at the above-listed phone number. I look forward to hearing from you.

Very truly yours,

Gregory S. Tamkin

GST/lv
cc: Lee R. Osman