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Your Name: Peter Fischer
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E-mail Address: fischer@praxis-f.de
Pro Se Plaintiff

ADR

United States District Court

Northern District of California

Peter Fischer Plaintiff(s), vs. Lumo Bodytech Inc. Defendant(s).	Case Number: CV 15 5319 NC **COMPLAINT** DEMAND FOR JURY TRIAL Yes ☑ No ☐

A. Parties in this Complaint

Plaintiff.

Name: Peter Fischer

Address: Schleifmuehleweg 29, D72070 Tuebingen, Germany

Phone number: 01149 7071 255303

Defendant.

Name: Lumo Bodytech Inc.

Address: 425 Sherman Ave, Suite #300

Palo Alto, CA 94306

B. Jurisdiction

☑ My case belongs in federal court under federal question jurisdiction because it is about federal law or right. The law involved is patent law

C. Venue

Venue is appropriate in this Court because the defendants address is in Palo Alto.

D. Intradistrict Assignment

This lawsuit should be assigned to the San Jose Division of this Court, because the defendants address is in Palo Alto.

E. Statement of Facts and Claims

1. I believe that the products "Lumo Lift" (Link1 – see reference to this and all following links on page 6 of 9) and "Lumo Back" (Link2), which are manufactured and sold in the US by Lumo Bodytech in Palo Alto, California, USA (Link3), infringe on claim 4 of my US-Patent 6673027 (Link4).

2. *"Claim 4: A method for posture feedback to a user of a common telecommunication device comprising the steps of: (a) connecting an output of a posture sensing means to said telecommunication device of said user, and (b) installing software on said telecommunication device which allows said telecommunication device to store a posture threshold value and generate a feedback signal when said output reaches or exceeds said threshold, whereby inconspicuous and cost efficient posture measurement and feedback means become available to the user of said telecommunication device."*

3. This claim contains the following two elements:

(a) *Connecting an output of a posture sensing means to a telecommunication device.*

(b) *Installing software on said telecommunication device which allows said telecommunication device to store a posture threshold value and generate a feedback signal when said output reaches or exceeds said threshold.*

4. The following description shows how both elements of the claim ("a" and "b" above) are featured as central keys to Lumo Lifts and Lumo Backs function.

(a) Connecting an output of a posture sensing means to a telecommunication device.

Both products show and explain how to connect the posture sensor to a smart phone.

Lumo Bodytechs homepage lists a *"Wireless Connection Compatible with iOS devices, select Android devices ..."* (Link1) and shows images of the smart phones (i.e. telecommunication devices) the posture sensor is connected to. (Exhibit 1 and Exhibit 2):

(b) Installing software on said telecommunication device which allows said telecommunication device to store a posture threshold value and generate a feedback signal when said output reaches or exceeds said threshold.

The Lumo Bodytech homepage instructs users to download the free smart phone **app that can be downloaded** for use with the Lumo Lift (Link5):

"Setting up your Lumo Lift is quick and easy. First, make sure that you download the Lumo Lift app from the Apple App Store. Search for "Lumo Lift" and you'll find us!"

The same (download instruction for app) applies to the Lumo Back (Link6):

"How do I get started?

Once you have purchased and received your sensor, plug it into a power source to wake it up.

Be sure you have a compatible device. Lumo Back is currently compatible with the following iOS hardware: iPhone 4S or later, iPad Air and iPad Mini.

Apple users: Download the Lumo Back App from iOS here: www.lumoback.com/app. You can also find this by going to the Apple App Store and searching for "Lumo Back."

Open the Lumo Back App and follow the instructions. The app will take you through a short series of movements to do the initial calibration (e.g. walking, sitting, slouching, etc.). This setup

takes about 5 minutes. Through this process you will begin to get to know Lumo Back and what it can do."

The fact that the apps cause the smart phones to *"store a posture threshold value and* ***generate a feedback signal*** *when said output reaches or exceeds said threshold"* as stated in claim4 of my patent, becomes evident in the exhibit of Lumo Lift and Lumo Back images that are attached to the end of this complaint. They show how the respective app distinguishes between "good / straight" (Exhibits 3a and 4a) versus "slouchy" posture (Exhibits 3b and 4b).

So clearly, in both cases (Lumo Lift and Lumo Back), the respective app does *"store a posture threshold value and generate a feedback signal when said output reaches or exceeds said threshold".*

The *threshold value* is the value that determines if the posture falls in the categories "good / straight" or "slouched". The *feedback signal* is what appears visually on the screen of the smart phones. In both cases (Lumo Lift and Lumo Back) it is a term ("good / straight" versus "slouched posture"). In case of the Lumo Back it is also the stick figure that changes its shape, colour and facial expression when going from a straight to a slouched posture or vice versa.

5. Claim: Therefore it can be seen that all crucial elements of claim4 of US-Patent 6673027 can be found in the products Lumo Lift and Lumo Back in combination with their integral apps. Therefore Lumo Bodytechs sales of Lumo Lift and Lumo Back in the US infringe on claim4 of US-Patent 6673027.

I am currently in the prototype stage for a combination of posture trainer and smart phone, which I plan to market in the US next year. Lumo Bodytechs sales of their Lumo Lift and Lumo Back serve and thereby diminish that same market ever since they started in 2011 (Link3).

6. Internet-Links (*These internet links were operable on July 24th, September 16th, and November 3rd, 2015)*

Link1:

http://www.lumobodytech.com/lumo-lift/

Link2:

http://www.lumobodytech.com/lumo-back/

Link3:

http://www.lumobodytech.com/about/

Link4:

http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=%2Fnetahtml%2FPTO%2Fsrchnum.htm&r=1&f=G&l=50&s1=6673027.PN.&OS=PN/6673027&RS=PN/6673027

Link5:

http://www.lumobodytech.com/setting-up-your-lift/

Link6:

http://www.lumobodytech.com/support/using-lumo-back/

Link7:

http://www.amazon.com/Lumo-Lift-Posture-Activity-Tracker/dp/B00N9P8GMW/ref

Link8:

https://itunes.apple.com/de/app/lumo-back-real-time-posture/id575786694?mt=8

F. Demand for Relief

I respectfully ask the court to order the defendant to enter into a license agreement with me regarding claim4 of US-Patent 6673027. This agreement should require the defendant to pay me a **5%** royalty on all the past and future net Lumo Lift and Lumo Back sales. It should also contain provisions on how I may audit the defendant's net sales figures.

G. Demand for Jury Trial

☑ Plaintiff demands a jury trial on all issues.

Respectfully submitted,

Date: 11-11-15 Sign Name: P. Fischer

Print Name: Peter Fischer

H. Exhibits

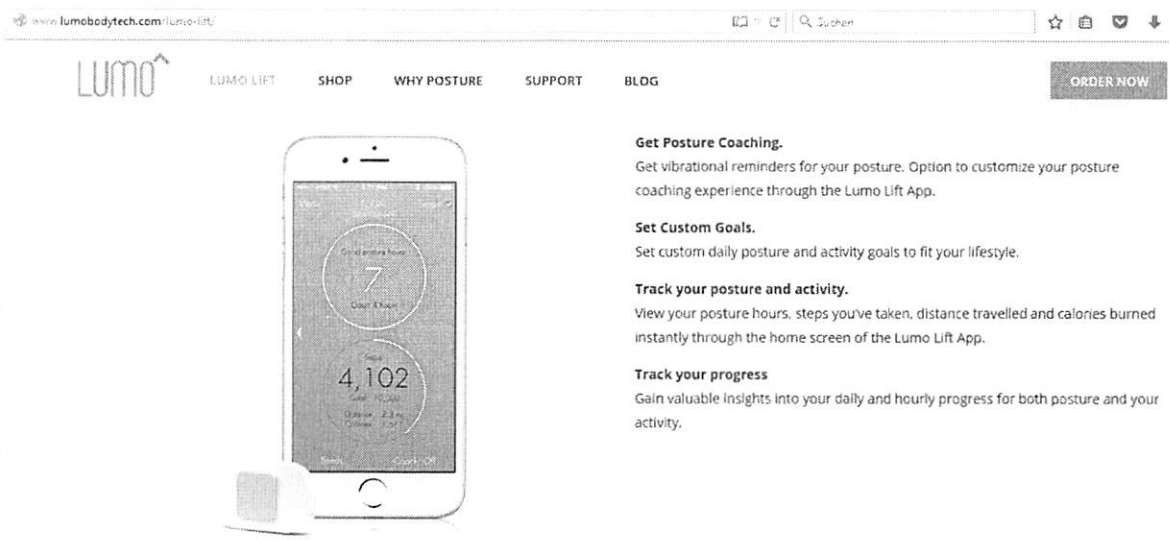


Exhibit 1: screenshot of the Lumo Lift with a smart phone displaying the Lumo Lift app (Link1).

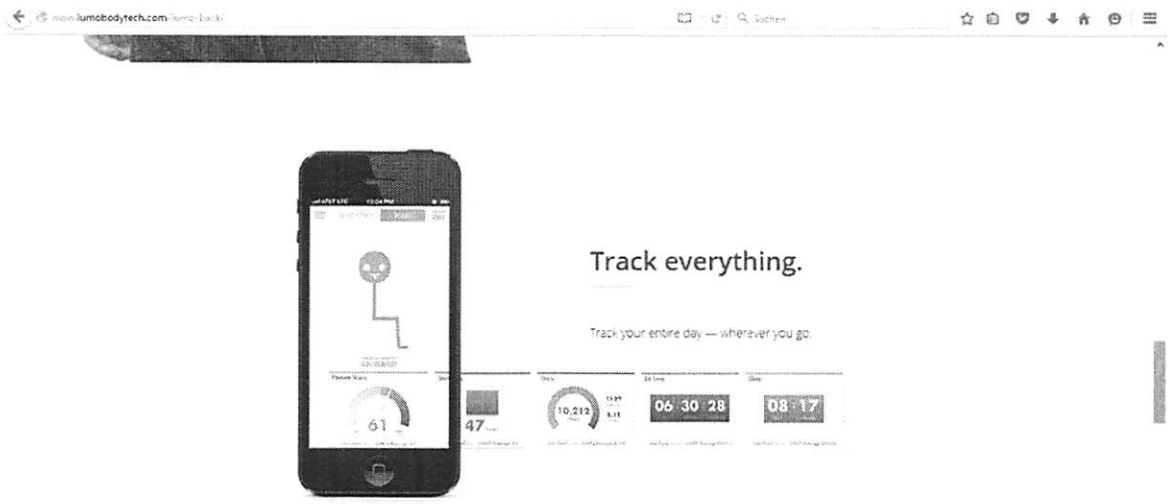


Exhibit 2: screenshot showing the Lumo Back app on a smart phone (Link2)



Exhibit 3a (Link7): „Good Posture Hours“

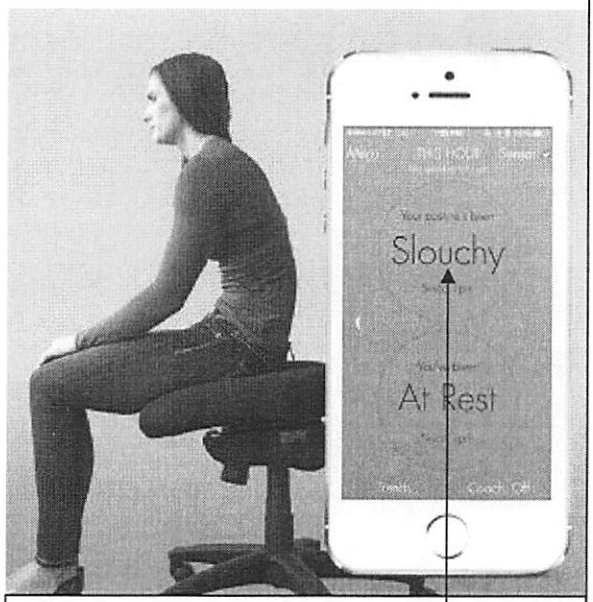


Exhibit 3b (Link7): „Your posture's been slouchy“

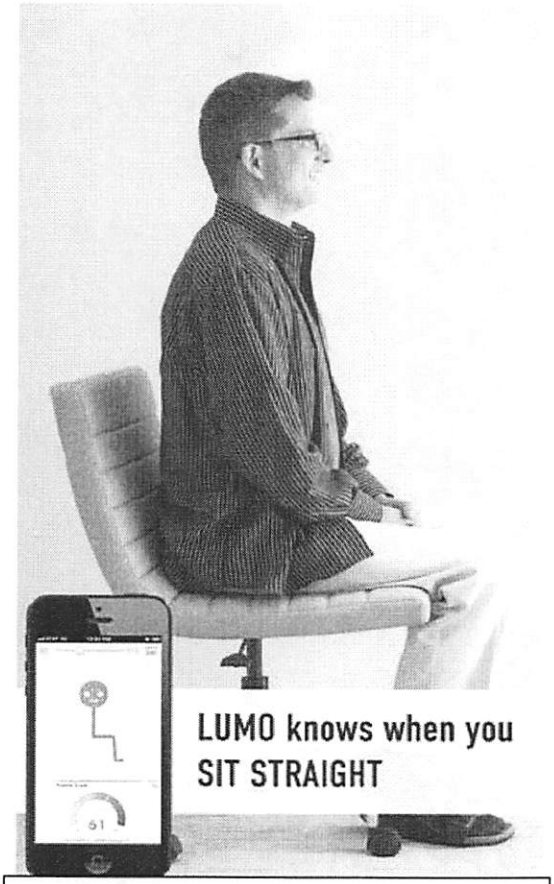


Exhibit 4a (Link8) showing a green straight figure with smiley face

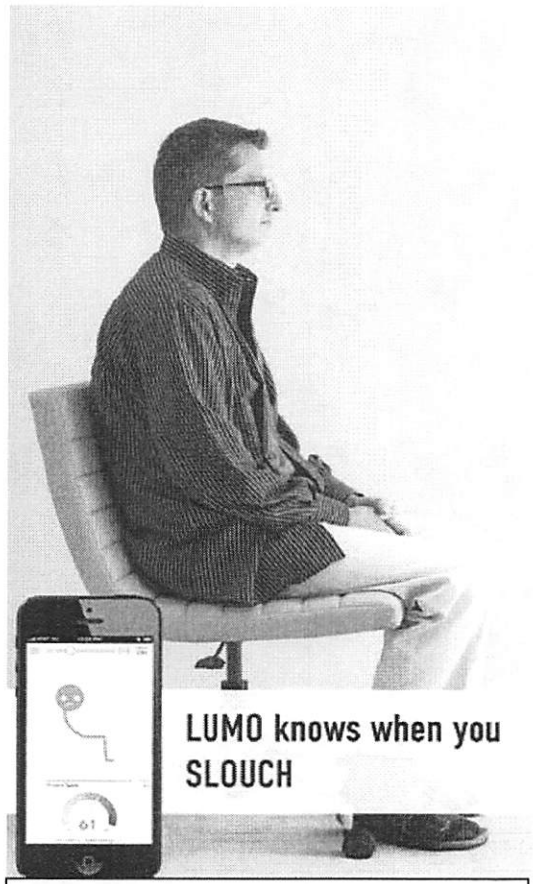


Exhibit 4b (Link8) showing a slouched orange figure with sad face