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8	UNITED STATES DISTRICT COURT		
9	CENTRAL DISTRICT OF CALIFORNIA		
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11	NANO-SECOND TECHNOLOGY CO.,) LTD., a Taiwanese)	CV 10-9176 RSWL (MANx)	
12	Corporation,	dtatamant of	
13)) Dloimtiff) Statement of) Uncontroverted Facts and) Conclusions of Law Re:	
14	Plaintiff,)	Defendants' Motion for	
15	v.)	Partial Summary Judgment of Tort Claims, § 292(A)	
16	DYNAFLEX INTERNATIONAL, a California Corporation., and GFORCE Corp. d/b/a DFX SPORTS & FITNESS, a Nevada Corporation,		
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18			
19	Defendants.)		
20	After consideration of the papers and arguments in		
21	support of and in opposition to Defendants Dynaflex		
22	International and GForce Corporation's ("Defendants")		
23	Motion for Partial Summary Judgment of Tort Claims, §		
24	292(A) False Marking Claim, and To Limit Patent Damages		
25	Period [235], this Court makes the following findings		
26	of fact and conclusions of law.		
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UNCONTROVERTED FACTS

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2 1. U.S. Patent No. 5,800,311 ("'311 patent"), entitled "Wrist Exerciser," issued on September 1, 1998 3 to Pei-Sung Chuang ("Chuang"). Defendants' Statement 4 5 of Uncontroverted Facts and Conclusions of Law ("SUF") 6 ¶ 8. 7 2. Based upon an executed assignment dated 8 September 10, 2010, Chuang assigned the '311 Patent to Plaintiff. Id. ¶ 9. 9 The assignment states, in relevant part, 10 3. 11 [Chuang has] sold, assigned, transferred, and . 12 . . unto [Nano-Second Technology Co., Ltd.], 13 its successors or assigns, the entire right, 14 title and interest for all countries in and to all inventions and improvements disclosed in 15 the ['311 Patent] 16 [Chuang] will testify in all legal proceedings 17 18 and generally do all things which may be 19 necessary or desirable more effectually to 20 secure to and vest in [Plaintiff] the entire 21 right, title and interest in and to the 22 improvements, inventions, applications . . . 23 hereby sold. 24 Id. 25 CONCLUSIONS OF LAW 26 "The general rule is that one seeking to 1. 27 recover money damages for infringement of a United 28 States patent . . . must have held the legal title to

the patent during the time of the infringement." 1 2 Arachnid, Inc. v. Merit Indus., Inc., 939 F.2d 1574, 1579 (Fed. Cir. 1991). A party may sue for 3 infringement occurring before it obtained legal title 4 5 if a written assignment *expressly* grants the party a right to do so. Id. at 1579 n.7. (citing, inter alia, 6 7 Moore v. Marsh, 74 U.S. (7 Wall.) 515 (1868) ("It is a 8 great mistake to suppose that the assignment of a 9 patent carries with it a transfer of the right to 10 damages for an infringement committed before such assignment.") (emphasis added); see also Abraxis 11 12 Bioscience, Inc. v. Navinta LLC, 625 F.3d 1359, 1367 13 (Fed. Cir. 2010). 14 2. Plaintiff did not obtain legal title to the '311 Patent until September 10, 2010, and thus cannot 15 16 claim damages for patent infringement that occurred prior to that date. Plaintiff's assignment from Chuang 17 18 did not grant Plaintiff the right to sue for 19 infringement occurring before September 10, 2010. 20 IT IS SO ORDERED. 21 22 DATED: May 1, 2013 RONALD S.W. LEW 23 HONORABLE RONALD S.W. LEW Senior, U.S. District Court Judge 24 25 26 27 28

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