

**IN THE UNITED STATE DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 15-1287

CROCS, INC., a Delaware corporation;  
Plaintiff,

v.

DREAM PRODUCTS, INC., a California corporation;  
Defendants.

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**COMPLAINT FOR PATENT INFRINGEMENT**

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Plaintiff Crocs, Inc. (“Crocs”), for its Complaint against Dream Products, Inc. (“DPI”), states as follows:

**NATURE OF THE ACTION**

1. This is an action at law and in equity for patent infringement, arising under the Patent Act, 35 U.S.C. §§ 1, *et seq.*
2. DPI manufactures, uses, offers for sale, sells, and/or imports molded footwear throughout the United States that infringe Crocs’s rights in U.S. Patent No. 6,993,858 B2 for “Breathable Footwear Pieces” (“the ’858 Patent). DPI’s products are not manufactured or authorized by Crocs, nor is DPI connected to or affiliated with Crocs in any way. This action seeks injunctive relief and monetary damages to remedy the harm to Crocs caused by DPI’s infringement of Crocs’s patent rights.

**PARTIES, JURISDICTION AND VENUE**

3. Plaintiff Crocs, Inc. (“Crocs”) is a Delaware corporation with a principal place of business at 7477 E. Dry Creek Parkway, Niwot, Colorado 80503.

4. On information and belief, Dream Products, Inc. (“DPI”) is a California corporation having a principal place of business at 412 Dream Lane, Van Nuys, CA 91496.

5. The Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331, 1332 and 1338(a) because the case presents well-pleaded federal questions arising under the Patent Act, 35 U.S.C. §§ 1, *et seq.*

6. The exercise of *in personam* jurisdiction over DPI comports with the laws of the State of Colorado and the constitutional requirements of due process because DPI and/or its agents transact business and/or offer to transact business within Colorado.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 28 U.S.C. § 1400(b) because DPI resides in Colorado.

### **GENERAL ALLEGATIONS**

#### **CROCS, INC.**

8. Crocs is a designer, manufacturer, and market of Crocs<sup>TM</sup>-branded footwear for men, women, and children, which incorporate Crocs’s patented designs and technology.

9. Crocs’s footwear is sold through a wide range of distribution channels, including department stores, specialty footwear stores, sporting goods retailers, and outdoor retailers. Crocs’s footwear is also sold through a variety of specialty channels, including gift shops, uniform suppliers, independent bicycle dealers, specialty food retailers, and health and beauty stores. Crocs distributes its products in over 125 countries worldwide. In addition, Crocs sells its footwear through its websites, including but not limited to [www.crocs.com](http://www.crocs.com), and in kiosks in shopping malls throughout the country.

#### **THE ‘858 PATENT**

10. On February 7, 2006, the U.S. Patent and Trademark Office duly, properly, and legally issued U.S. Patent No. 6,993,858 B2, entitled “Breathable Footwear Pieces,” with Crocs as the assignee. A copy of the ‘858 Patent is submitted with this Complaint as Exhibit A.

### **DPI'S SALES OF INFRINGING FOOTWEAR**

11. On information and belief, DPI operates a direct-to-consumer catalog and ecommerce site for a wide ranging of products, including apparel, accessories, lawn and garden products, housewares, health and beauty products, automotive products, and footwear. DPI sells its products through a catalog mail-order service and also operates an online storefront at [www.dreamproducts.com](http://www.dreamproducts.com). The domain name [dreamproducts.com](http://www.dreamproducts.com) is registered to DPI.

12. On information and belief, DPI manufactures, uses, offers for sale, sells, and/or imports molded footwear called the “Therapeutic Air-Acu Clogs” (pictured below). The “Therapeutic Air-Acu Clog” is sold across the United States through DPI’s catalog and on its website at [www.dreamproducts.com](http://www.dreamproducts.com). According to the website, the “Therapeutic Air-Acu Clog” has a “ventilated design” and contains “sure-grip soles and convertible heel straps that can be flipped forward for slip on convenience or back for a secure fit.”

13. DPI’s “Therapeutic Air-Acu Clog” infringes at least Claim 1 of the ’858 Patent.



The “Therapeutic Air-Acu Clog,” available on Defendants’ website at <http://www.dreamproducts.com/acu-air-clogs.html>.

14. The infringing footwear products that DPI manufactures, uses, offers for sale, sells, and/or imports throughout the United States are not manufactured by Crocs, nor has Crocs licensed, authorized, sponsored, endorsed, or approved of DPI’s actions in any way. Crocs has never provided any authorization, license, assignment, or other permission to DPI to use the ’858 patent. DPI is not associated with Crocs in any way.

15. DPI's continued sale, offering for sale, importation, and distribution of molded footwear, including, without limitation, the "Therapeutic Air-Acu Clog" infringes the '858 Patent. These infringing actions have resulted in irreparable harm to Crocs for which Crocs has no adequate remedy at law.

**CLAIM FOR RELIEF**

Infringement of the '858 Patent -- 35 U.S.C. § 1, *et seq.*

16. Crocs hereby incorporates each of the preceding paragraphs as if fully set forth herein.

17. DPI has manufactured, used, offered for sale, sold, and/or imported, and continues to manufacture, use, offer to sell, sell, and/or import footwear products, including but not limited to the "Therapeutic Air-Acu Clog," that infringe the '858 Patent, in violation of 35 U.S.C. § 271(a).

18. As a result of DPI's infringement of Crocs's rights in the '858 Patent, Crocs has suffered and will continue to suffer damages in an amount to be proved at trial. In addition, Crocs is entitled to recovery of DPI's profits pursuant to 35 U.S.C. § 289.

19. DPI's continued infringement with full knowledge of the '858 Patent and Crocs's rights therein, at least as of the filing of this lawsuit, is willful.

20. DPI's willful infringement of Crocs's rights in the '858 Patent warrants an award of treble damages under 35 U.S.C. § 284, and makes this an exceptional case warranting an award of Crocs's reasonable attorney's fees and costs under 35 U.S.C. § 285.

21. DPI's infringement of the '858 Patent has caused irreparable harm to Crocs, and will continue to do so unless enjoined. As a result, Crocs is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

**PRAYER FOR RELIEF**

WHEREFORE, Crocs prays for entry of judgment granting:

A. A preliminary and/or permanent injunction restraining DPI, its officers, agents, servants, employees, directors, representatives, successors-in-interest, parent corporations, subsidiary corporations, affiliated companies, and all other persons, firms or entities acting in concert or participating with them, directly or indirectly, who receive actual notice of this judgment, from manufacturing, using, marketing, distributing, selling, offering to sell, and importing any molded footwear that infringes the '858 Patent;

B. An award to Crocs of its actual damages based on its claims in an amount according to proof;

C. A declaration that DPI's infringement and other wrongful acts herein alleged be determined deliberate, willful, and in conscious disregard of Crocs's rights pursuant to 35 U.S.C. § 284;

D. A declaration that this case is exceptional, and, in conjunction therewith, an award of reasonable attorney's fees and costs pursuant to 35 U.S.C. § 285;

E. An award of treble damages against DPI pursuant to 35 U.S.C. § 284 as a result of DPI's deliberate and willful infringement in conscious disregard of Crocs's rights;

F. Compensatory damages;

G. Pre-judgment and post-judgment interest as allowed by law; and

H. Such other and further equitable and legal relief as this Court deems just and proper.

**JURY DEMAND**

Crocs hereby demands a trial by jury on all issues so triable.

Respectfully submitted this 17th day of June, 2015.

s/ Michael A. Berta

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