

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.

FRED FREY,

Plaintiff,

vs.

ADIDAS AMERICA, INC.

Defendant.

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Fred Frey (“Mr. Frey”), by and through his undersigned counsel, hereby sues Defendant Adidas America, Inc. (“Adidas”) for patent infringement, and for his Complaint alleges as follows:

**THE PARTIES**

1. Mr. Frey is an individual who resides in Broward County, Florida.
2. Adidas is a corporation organized and existing under the laws of the state of Oregon with its principal place of business in Portland, Oregon.

**JURISDICTION AND VENUE**

3. This Court has federal question jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a) because Mr. Frey seeks relief under the Patent Act, 35 U.S.C. § 271 *et seq.*, including remedies for infringement of a United States Patent owned by Mr. Frey.
4. Adidas is subject to personal jurisdiction in this state under Florida Statutes § 48.193 because it has transacted and continues to transact business in this state,

has contracted to supply services or products in this state and/or has caused tortious injury in this state.

5. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b) because a substantial part of the events giving rise to these claims occurred in this judicial district, because Mr. Frey has suffered injury in this district, and because Adidas resides in this district under the patent venue statute by having committed acts of alleged patent infringement in this district.

### **COUNT I – PATENT INFRINGEMENT**

6. Mr. Frey repeats and realleges each and all of the allegations contained in paragraphs 1-5 above as though fully set forth herein.

7. Mr. Frey is the inventor and owner of United States Design Patent No. 393,138 (“the ‘138 Patent”), which was duly and lawfully issued on April 7, 1998 by the United States Patent and Trademark Office. The ‘138 Patent issued from an application filed with the United States Patent and Trademark Office on March 23, 1994. The ‘138 Patent expired on April 7, 2012 but remained valid and enforceable from issuance until expiration, and at all times relevant to this Complaint. A true and correct copy of the ‘138 Patent is attached hereto as Exhibit “A.”

8. Adidas directly infringes the ‘138 Patent by making, having made, using, offering to sell, selling and/or importing into the United States products having a design that infringes the ‘138 Patent. Adidas indirectly infringes the ‘138 Patent by inducing or contributing to the direct infringement by others, without Mr. Frey’s authorization or consent.

9. Upon information and belief, Adidas' acts of infringement have been willful, intentional, and with full knowledge and in conscious disregard of Mr. Frey's rights under the '138 Patent, making this an exceptional case.

10. Mr. Frey has been damaged by Adidas' infringement of the '138 Patent in an amount to be proven at trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Mr. Frey prays for the following relief:

A. That the Court finds Adidas liable for infringement of United States Design Patent No. 393,138.

B. That the Court awards Mr. Frey compensatory damages due to Adidas' infringement, in accordance with 35 U.S.C. § 284.

C. That, based on the willful nature of Adidas' infringement, the Court increase the damages due Mr. Frey up to three times such compensatory amount pursuant to 35 U.S.C. § 284.

D. That the Court find this case exceptional within the meaning of 35 U.S.C. § 285 and awards Mr. Frey his reasonable attorneys' fees incurred in this action.

E. That the Court awards Mr. Frey all of the profits generated by Adidas' infringement pursuant to 35 U.S.C. § 289.

F. That the Court awards Mr. Frey his taxable costs, expenses, and pre-judgment and post-judgment interest.

G. That the Court grant such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Mr. Frey demands trial by jury on all issues so triable.

Dated: July 1, 2015

Respectfully submitted,

*/s Ernesto M. Rubi*

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