

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JPT Group, LLC

Plaintiff,

v.

Balenciaga,
Balenciaga America, Inc.

Defendants.

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CASE NO: 4:16-cv-1596

JURY DEMANDED

PLAINTIFF JPT GROUP’S ORIGINAL COMPLAINT

JPT Group, LLC (“JPT”), for its complaint of patent infringement against defendants Balenciaga and Balenciaga America, Inc. (herein after collectively the “Balenciaga Defendants” or “Defendants”), alleges as follows:

NATURE OF THE ACTION

1. JPT owns the Bernardo brand (“Bernardo”). Bernardo is an iconic American fashion brand. Since 1946, the Bernardo brand has inspired the women’s sandal market with its sophisticated designs. Today Bernardo’s sandal designs are distinctive and well-known in the footwear industry. Bernardo’s patented designs are the result of significant investments in the Bernardo brand, innovative design work and product development.

2. Balenciaga has copied the innovative designs of the Bernardo brand and engaged in production and distribution of infringing products through retail and online sales outlets. Rather than undertaking its own independent development, Balenciaga copied Bernardo’s innovative

designs, violating JPT's valuable intellectual property rights embodied by Bernardo branded products.

THE PARTIES

3. Plaintiff JPT is a Delaware limited liability company having a principal place of business in Bend, Oregon.

4. On information and belief, Balenciaga is a corporation organized and existing by virtue of the laws of France with its principal place of business at 15 Rue Cassette, Paris, France 75006.

5. On information and belief, Balenciaga America, Inc. is a Delaware corporation having a registered agent at 1999 Bryan Street, Suite 900 Dallas, Texas 75201.

JURISDICTION & VENUE

6. This action arises under the patent statutes of the United States, 35 U.S.C. § 271 *et seq.* Accordingly, the Court has federal question jurisdiction over this matter under 28 U.S.C. §§ 1331 and 1338(a).

7. The court has personal jurisdiction over Balenciaga because it has conducted and does conduct business within the State of Texas through multiple sales outlets located within the State of Texas.

8. The court has personal jurisdiction over Balenciaga America, Inc. because it is registered to conduct, has conducted and does conduct, business within the State of Texas through multiple sales outlets located within the State of Texas.

9. Upon information and belief, the Balenciaga Defendants have existing business relationships in Texas and have purposefully directed business activities to Texas consumers through multiple sales channels.

10. Upon information and belief, the Balenciaga Defendants have committed and continue to commit acts of infringement in violation of 35 U.S.C. § 271 and have and continue to

purposefully place infringing products into the stream of commerce. Upon information and belief, the Balenciaga Defendants, either directly or through distributors, franchisees and/or others, ship, distribute, offer for sale, sell and market products in the United States, the State of Texas and this District. Upon information and belief, the Balenciaga Defendants expect their actions to have consequences within this District and derive substantial revenue from the sale of infringing products in interstate commerce and this District. The acts by the Balenciaga Defendants have caused and continue to cause injury to JPT within this District.

11. Venue is properly within this District in accordance with 28 U.S.C. § 1391 (b) and (c) and § 1400 (b).

FACTS AND BACKGROUND

The JPT Patents

12. On November 25, 2008, United States Patent No. D581,149 (the “D149 Patent”) entitled Sandal was duly and legally issued. A copy of the ‘D149 Patent is attached as Exhibit A and incorporated herein.

13. On September 23, 2008, United States Patent No. D577,182 (the “D182 Patent”) entitled Sandal was duly and legally issued. A copy of the ‘D182 Patent is attached as Exhibit B and incorporated herein.

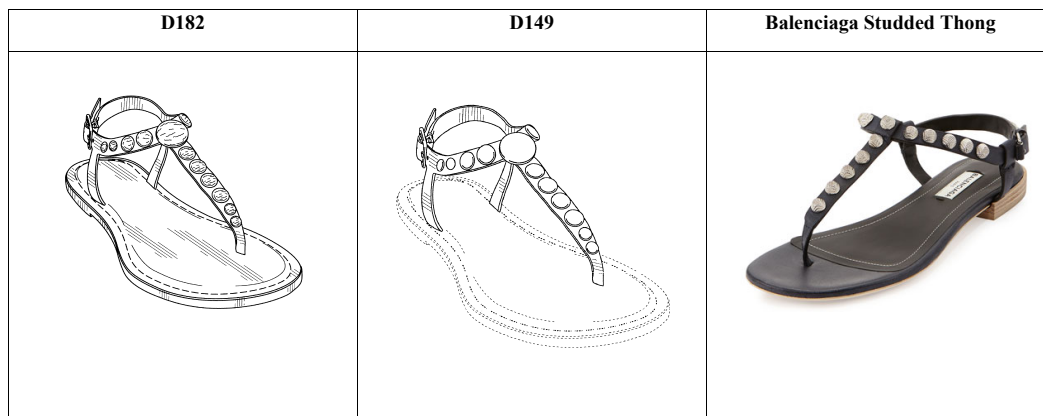
14. The ‘D149 Patent and ‘D182 Patent (collectively the “JPT Patents”) relate to ornamental sandal designs.

15. JPT owns all right, title and interest in and to the JPT Patents by assignment dated February 11, 2014.

16. The ornamental designs of the JPT Patents are embodied in the successful *MOJO* sandal, which is sold by JPT under its Bernardo brand.

Balenciaga Infringement of the JPT Patents

17. As the representative side-by-side comparisons shown below reveal, the Balenciaga Defendants misappropriated JPT's patented ornamental sandal designs in their studded thong sandal line of products (the "Accused Products"), including the model depicted below.



18. On information and belief, the Balenciaga Defendants have imported and continue to import the Accused Products into the U.S., Texas and this District.

19. On information and belief, the Balenciaga Defendants have displayed or caused to be displayed and continue to display the Accused Products in sales outlets and distribution channels throughout the U.S., Texas and this District.

20. On information and belief, the Balenciaga Defendants sold significant numbers of the Accused Products through sales outlets and distribution channels throughout the U.S., Texas and this District.

21. JPT's *MOJO* sandals include a notice that they are covered by the JPT Patents. On information and belief, the Balenciaga Defendants had notice of the JPT Patents through at least JPT's statutory product marking, the filing of this lawsuit and other related lawsuits, and/or their monitoring and/or knowledge of patents relevant to their products.

Patent Infringement

22. JPT incorporates herein the allegations set forth in Paragraphs 1 through 21 above.
23. Under 35 U.S.C. §§ 271 *et seq.*, the Balenciaga Defendants have infringed the JPT Patents by the sale, offer for sale, and importation of the Accused Products or alternatively by contributing or inducing others to sell, offer for sale, or import the Accused Products, literally and/or under the doctrine of equivalents.
24. Upon information and belief, the Balenciaga Defendants have applied the design of the JPT Patents, or a colorable imitation thereof, to the Accused Products for the purpose of sale, and/or selling or exposing for sale the Accused Products.
25. On information and belief, the Balenciaga Defendants will continue to infringe the claims of the JPT Patents unless enjoined by this Court.
26. JPT has been damaged and will continue to be damaged by the Balenciaga Defendants' infringing acts.
27. On information and belief, the Balenciaga Defendants were actually aware of the JPT Patents and willfully committed acts of infringement.

JURY DEMAND

28. JPT demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, JPT prays the Court to:

- (a) grant a permanent injunction against the Balenciaga Defendants' continued infringement;
- (b) award damages for the Balenciaga Defendants' infringement of the JPT Patents under 35 U.S.C. § 284 or § 289;
- (c) in the event JPT elects to collect damages under 35 U.S.C. § 284, find that the Balenciaga Defendants' infringement has been willful and increase such damages to three times the awarded amount;

- (d) award prejudgment and post judgment interest;
- (e) find that this case is an exceptional case under 35 U.S.C. § 285 and award attorneys' fees;
- (f) award costs; and
- (g) grant all other relief to which JPT is entitled.

Date: June 7, 2016

Respectfully submitted,

/s/ J. Reid Bumgarner
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