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FIT BAGS, INC.

8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 Case No.: _____

12 FIT BAGS, INC., a Corporation, dba
13 FITMARK,

14 Plaintiff,

15 v.

16 FIT STYLE, INC., a Corporation; and DOES
17 1-20,

18 Defendants.
19
20

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Fit Bags, Inc. (“Fit Bags”), by and through its attorneys of record, complains
2 against Fit Style, Inc., and Does 1 through 20 (collectively, “Defendants”) as follows:

3 **PARTIES**

4 1. Fit Bags is a corporation organized under the laws of the State of Delaware with a
5 principal place of business at 1350 Bayshore Highway, Suite 665, Burlingame, CA 94010.

6 2. On information and belief, Defendant Fit Style, Inc. (“Fit Style”) is a corporation
7 with its principal place of business in 1582 Kendra St., Charlottesville, VA 22903.

8 **JURISDICTION AND VENUE**

9 3. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. §
10 1338(a).

11 4. This Court has personal jurisdiction over Fit Style because Fit Style has committed
12 and continues to commit acts of infringement in violation of 35 U.S.C. § 271 and places
13 infringing products into the stream of commerce, with the knowledge or understanding that such
14 products are sold in the State of California, including in this District. The acts by Fit Style
15 cause injury to Fit Bags within this District. Upon information and belief, Fit Style derives
16 substantial revenue from the sale of infringing products within this District, expects their actions
17 to have consequences within this District, and derives substantial revenue from interstate and
18 international commerce.

19 **VENUE AND INTRADISTRICT ASSIGNMENT**

20 5. Venue is proper in this Judicial District under 28 U.S.C. § 1391(b) and (c) because
21 Fit Style transacts business within this District and offers for sale in this District products that
22 infringe Fit Bags’ patent. In addition, venue is proper in this District because Fit Style will
23 continue to transact business in this District, and a substantial portion of the events that gave
24 rise to the claim and the injury suffered by Fit Bags occurred in this District.

25 **INTRODUCTION**

26 6. In 2011, Fit Bags was created from the observation that the fitness industry did not
27 offer high quality, functional bags for the fitness and active lifestyle market. After some early
28 success with different style bags, such as backpacks and tote bags, Fit Bags started to design

1 different style, functional, meal prep bags that had a removable insulated meal bag within them.

2 7. In 2015, Fit Bags' customer experience manager received a phone call from Fit
3 Style's owner, Dr. Brandy Segura, inquiring whether Fit Bags owned a patent on their meal
4 prep bags, specifically the bags that had a removable insulated meal bag within them. Fit Bag's
5 customer experience manager informed Dr. Segura that a patent was pending, and also followed
6 up with an email asking her if she had any other questions. Dr. Segura ignored Fit Bag's
7 response and Fit Style began designing and selling products that infringe Fit Bag's patent.

8 8. On October 11, 2016, United States Patent No. 9,462,874 (the '874 patent) (attached
9 as **Exhibit A** hereto) was issued to Fit Bags, for an invention in a fitness bag.

10 9. The following day, on October 12, 2016, Mr. Mark Samuel (the owner of Fit Bags,
11 and the inventor of the '874 patent) sent an email to Dr. Segura of Fit Style advising her of the
12 issued patent. On November 14, 2016, Mr. Samuel received a response from an attorney
13 representing Fit Style stating, "We have determined ways of reconstructing my client's bags to
14 make sure they clearly do not infringe your patent. She has already taken steps to implement
15 these changes in her product line and upon resuming sale, none of the Fit Style bags will
16 infringe your patent."

17 10. Fit Style has infringed and continues to infringe through the design, promotion, and
18 sale of at least the "Brandy Ultimate All-In-One Purse" and the "Ava Classic All-In-One
19 Purse." Fit Style's infringement of Fit Bags' patent provides Fit Style with unique
20 functionality for its products that is the result of Fit Bags' innovation, not Fit Style's. Fit Style
21 has not obtained permission from Fit Bags to use its invention in the identified patent.

22 **FIRST CLAIM FOR RELIEF**

23 **(Infringement of the '874 Patent)**

24 11. Fit Bags incorporates and alleges paragraphs 1 through 10 of this Complaint.

25 12. Fit Style has infringed and continues to infringe, directly and indirectly through
26 contributory and/or induced infringement at least claim 1 of the '874 patent by using, selling
27 and/or offering to sell in the United States and/or importing into the United States, one or more
28 of Fit Style's infringing products in violation of 35 U.S.C. § 271.

1 13. Fit Bags is informed and believes, and on that basis alleges, that Fit Style's
2 infringement of the '874 patent has been and continues to be intentional, willful, and without
3 regard to Fit Bags' rights. Fit Bags is informed and believes, and on that basis alleges, that Fit
4 Style's infringement of the '874 is, and has been, intentional, deliberate, and willful at least
5 because it had knowledge of the '874 patent through direct or indirect communications with Fit
6 Bags and Mr. Samuels and/or as a result of its participation in the fitness industry.

7 14. Fit Bags is informed and believes, and on that basis alleges, that Fit Style has gained
8 profits by virtue of its infringement of the '874 patent.

9 15. Fit Bags has sustained damages as a direct and proximate result of Fit Style's
10 infringement of the '874 patent.

11 16. Fit Bags will suffer and will continue to suffer irreparable harm from Fit Style's
12 infringement of the '874 patent. Fit Bags has no adequate remedy at law and is entitled to an
13 injunction against Fit Style's continuing infringement of the '874 patent. Unless enjoined, Fit
14 Style will continue its infringing conduct.

15 17. As a result of the infringement of the '874 patent, Fit Bags is damaged, has been
16 damaged, will be further damaged, and is entitled to be compensated for such damages,
17 pursuant to 35 U.S.C. § 284, in an amount to be determined at trial.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Fit Bags requests judgment against Fit Style as follows:

- 20 1. A preliminary and final injunction against the continuing infringement;
- 21 2. A judgment that Fit Style has infringed, contributorily infringed, and or induced
22 infringement of one or more claims of Fit Bags' patent;
- 23 3. A judgment awarding Fit Bags all damages adequate to compensate for Fit Style's
24 infringement of Fit Bags' asserted patent, including lost profits, and in no event less than a
25 reasonable royalty for Fit Style's infringement, including all pre-judgment and post-judgment
26 interest at the maximum rate permitted by law.
- 27 4. A judgment awarding Fit Bags all damages, including treble damages, based on any
28 infringement found to be willful, pursuant to 35 U.S.C. § 284, together with prejudgment

1 interest;

2 5. Actual damages suffered by Fit Bags as a result of Fit Style’s unlawful conduct, in
3 an amount to be proven at trial, as well as prejudgment interest as authorized by law;

4 6. A judgment that this is an exceptional case and an award to Fit Bags of its costs and
5 reasonable attorneys’ fees incurred in this action as provided by 35 U.S.C. § 285; and

6 7. For such other and further relief as the Court deems just and proper.

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8 **DEMAND FOR JURY TRIAL**

9 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Fit Bags hereby
10 demands trial by jury on all issues raised by the Complaint.

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14 Dated: December 20, 2016

Respectfully Submitted:

15
16 */s/ David J. Miclean*

17 David J. Miclean
18 Carmen M. Aviles
19 Attorneys for Plaintiff
20 FIT BAGS, INC.
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