

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

VICTORY GRIPS LLC,

Plaintiff,

v.

**PHILLIPE BULICICH, and
BULICHIC, INC.,**

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiff Victory Grips LLC (“Victory Grips”) files this Original Complaint for Patent Infringement against Phillipe Bulicich and Bulichic, Inc. (collectively, “Bulicich” or “Defendants”) and alleges as follows:

NATURE OF ACTION

2. Founded in 2015, Victory Grips is an innovator in the field of hand-worn exercise grips commonly used in gymnastics, weightlifting, cross-functional training, and other athletics. Exercise grips improve an athlete’s grip while protecting his or her hands against injury.

3. In or shortly before 2011, Mr. Victor Pellegrino, founder of Victory Grips, began developing a new kind of exercise grip (“grip”) that would provide a type of hand and wrist protection never before provided by other grips. Mr. Pellegrino’s background as a gymnast and his experience as a CrossFit® athlete and gym owner helped him recognize the shortcomings of traditional grips. Mr. Pellegrino spent a tremendous amount of time and resources studying how hands function and the injuries that athletes were experiencing during various gymnastics movements that are a part of CrossFit®. Mr. Pellegrino used the findings of his research to develop a new exercise grip that solved the problems of traditional grips. Mr. Pellegrino’s

innovative grip solved the problems of traditional grips by including a protective portion that covers a portion of the wearer's palm as well as a portion of the front and side of the wearer's lower hand and wrist, while leaving the back of the hand exposed. This design provided protection to the areas of the wearer's hand/wrist most vulnerable to friction-based injury during various gymnastics movements, while affording excellent grip and dexterity. For example, Mr. Pellegrino's innovative grip allows the user to move their hand and wrist in a full range of motion so that the wearer can quickly transition from gymnastics movements to other exercises, such as weightlifting, while wearing the grips.

4. Mr. Pellegrino filed for a patent on his innovative grips and was granted U.S. Patent No. 9,643,073 (the "'073 Patent") on May 9, 2017, which Mr. Pellegrino assigned to Victory Grips.

5. Bulicich is using Victory Grips' patented technology without a license.

6. In particular, Bulicich, under the trade name "DeadlyGrip," manufactures, uses, sells, and offers for sale various sizes of exercise grips marketed as DG-DeadlyGrip 3-Hole Carbon Fiber Grips that infringe Victory Grips' patented technology (collectively, the "Infringing Products").

7. The Infringing Products copy Victory Grips' innovative technology. As seen in the following images taken from Bulicich's website deadlygrip.com and Instagram account, the Infringing Products incorporate Victory Grips' technology to cover a portion of the wearer's palm as well as a portion of the front and side of the wearer's lower hand and wrist, while leaving the back of the hand exposed.



Image of Infringing Product taken from deadlygrip.com

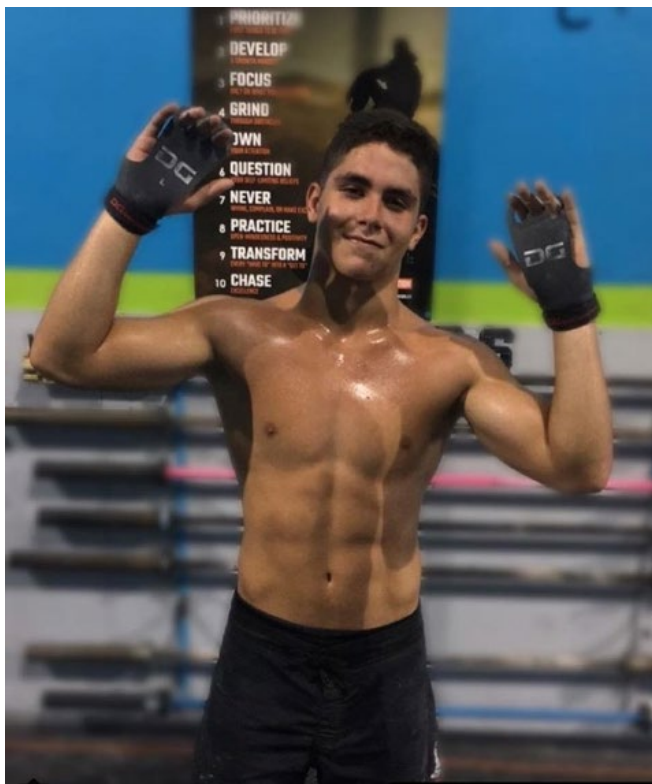


Image of DeadlyGrip Instagram Account Showing Infringing Products

8. When Bulicich began promoting the infringing products, it admitted to copying “aspects of the two top products in the grip market,” including Victory Grips.

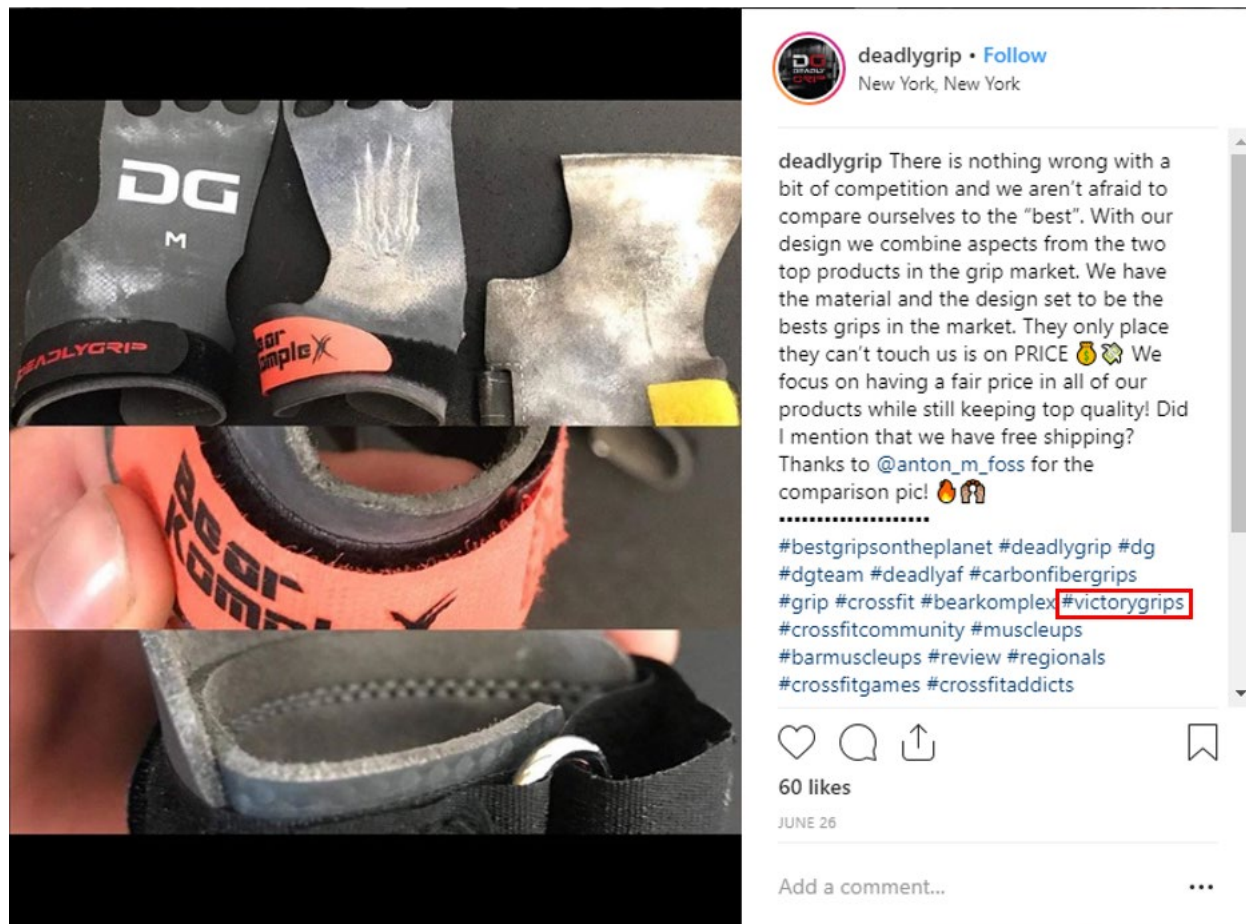


Image of DeadlyGrip Instagram Account (annotated)

9. On or shortly before August 7, 2018, Victory Grips sent a letter to Bulicich that explained that Bulicich’s 3 Hole Carbon Fiber Grips infringed the ’073 Patent. Exhibit A (August 7, 2018 Letter fr. Mr. Hitt to Mr. Bulicich). Bulicich did not respond, but did announce on Instagram that it could no longer sell these products, and listed the products as “sold out” on its website.

10. Bulicich continued to willfully infringe the '073 Patent through continued use and distribution of the Infringing Products by way of promotions, and by continuing to advertise the Infringing Products for sale on its website. *See, e.g.*, Exhibit B (Aug. 21, 2018 Instagram Promotional Post). On August 22, 2018, Victory Grips sent another letter to Bulicich, demanding that Bulicich cease these activities. Exhibit C (Aug. 22, 2018 Letter fr. Mr. Hitt to Mr. Bulicich).

11. After receiving Victory Grips' August 22, 2018 letter, Bulicich assured Victory Grips that it would cease all infringing activity, including all sales and distribution of the Infringing Products. Shortly thereafter, Bulicich removed the 3 Hole Carbon Fiber Grips from the deadlygrip.com website.

12. Despite Bulicich's assurances, Victory Grips discovered that Bulicich continued to distribute, sell, and offer for sale the 3 Hole Carbon Fiber Grips, only by less public means.

13. For example, in September 2018, Bulicich offered its infringing grips to athletes in exchange for social media posts. Exhibit D (Print-Out of Florida GRID League Website).

14. As another example, on October 13, 2018, Bulicich offered for sale and sold the 3 Hole Carbon Fiber Grips at an athletic competition in Pembroke Pines, Florida. Exhibit E (images of the Infringing Products being offered for sale at an October 13, 2018 event hosted at Freakin' CrossFit in Pembroke Pines, Florida); Exhibit F (receipt for purchase of the Infringing Products at an October 13, 2018 event hosted at Freakin' CrossFit in Pembroke Pines, Florida).

15. As a third example, on November 21, 2018, one of Bulicich's customers posted on Instagram that it had received a bulk order of the Infringing Products. Exhibit G (November 21, 2018 Instagram post showing Infringing Products).

16. On information and belief, after receiving Victory Grips' August 7, 2018 letter, Bulicich began working on an alternative design for the 3 Hole Carbon Fiber Grips (an "improved"

design). Despite the changes, these “improved” 3 Hole Carbon Fiber Grips still infringe the ’073 Patent.

17. Bulicich placed the “improved” 3 Hole Carbon Fiber Grips for sale on the deadlygrip.com website on November 16, 2018.

18. When an order was placed for these “improved” grips, Bulicich emailed the buyer stating that the grips could not be sold. Bulicich also posted on Instagram that the new design did not pass quality control. Exhibit H (Nov. 14, 2018 Instagram post re new design). In lieu of the “improved” grips, Bulicich offered to provide the buyer with the original 3 Hole Carbon Fiber Grips.

19. Despite Bulicich’s representations to Victory Grips that it would cease all infringing activity, Bulicich has instead continued to knowingly and willfully infringe the ’073 Patent by making, using, selling, importing, and offering for sale Infringing Products.

20. Victory Grips brings this action to recover damages for Bulicich’s wrongful use of its patented technology the Infringing Products and to stop Bulicich from making, using, selling, importing, and offering for sale the Infringing Products without a license.

THE PARTIES

21. Victory Grips LLC is a Georgia limited liability company with its principal place of business at 2 White Oak Ln, Tybee Island, GA 31328.

22. On information and belief, Bulichic, Inc. is a privately held corporation organized and existing under the laws of Florida, with its principal place of business at 8000 S Aragon Blvd, Unit 2, Sunrise, FL 33322. On information and belief, Bulichic, Inc. may be served through its registered agent for service, Phillipe Bulicich, 1511 NW 125th Ave. Bldg. 8, Unit 207, Sunrise, FL 33323.

23. On information and belief, Phillipe Bulicich is the founder and president of Bulichic, Inc., and directs Bulichic, Inc.'s activities. On information and belief, Phillipe Bulicich is a Florida resident with a primary address of 1511 NW 125th Ave. Bldg. 8, Unit 207, Sunrise, FL 33323.

JURISDICTION AND VENUE

24. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

25. The Court has personal jurisdiction over Phillipe Bulicich because, on information and belief, Phillipe Bulicich is a resident of Florida and this District. Phillipe Bulicich has purposefully distributed the Infringing Products within this District, and Victory Grips' cause of action for patent infringement arises out of these activities. Phillipe Bulicich, directly or through intermediaries (including distributors, retailers, and others) ships, distributes, offers for sale, sells, and advertises the Infringing Products in the United States, the State of Florida, and this District. For example, Phillipe Bulicich has made the Infringing Products available through the deadlygrip.com website, and has offered for sale and sold the Infringing Products at athletic events in this District. *See* Exhibit I (August 13, 2018 print out of deadlygrip.com page showing the Infringing Products for sale); Exhibit J (August 25, 2018 archive.org capture of deadlygrip.com showing the Infringing Products for sale); Exhibit K (June 18, 2018 Instagram post stating the Infringing Products are available for sale at www.deadlygrip.com and through Amazon prime); Exhibit E (images of the Infringing Products being offered for sale at an October 13, 2018 event hosted at Freakin' CrossFit in Pembroke Pines, Florida); Exhibit F (receipt for purchase of the

Infringing Products at an October 13, 2018 event hosted at Freakin' CrossFit in Pembroke Pines, Florida).

26. The Court has personal jurisdiction over Bulichic, Inc. because, on information and belief, Bulichic, Inc. is a Florida corporation that maintains a principle place of business in this District. Bulichic, Inc. has purposefully distributed the Infringing Products within this District, and Victory Grips' cause of action for patent infringement arises out of these activities. Bulichic, Inc., directly or through intermediaries (including distributors, retailers, and others) ships, distributes, offers for sale, sells, and advertises the Infringing Products in the United States, the State of Florida, and this District. For example, Bulichic, Inc. has made the Infringing Products available through the deadlygrip.com website, and has offered for sale and sold the Infringing Products at athletic events in this District. *See* Exhibit I (August 13, 2018 print out of deadlygrip.com page showing the Infringing Products for sale); Exhibit J (August 25, 2018 archive.org capture of deadlygrip.com showing the Infringing Products for sale); Exhibit K (June 18, 2018 Instagram post stating the Infringing Products are available for sale at www.deadlygrip.com and through Amazon prime); Exhibit E (images of the Infringing Products being offered for sale at an October 13, 2018 event hosted at Freakin' CrossFit in Pembroke Pines, Florida); Exhibit F (receipt for purchase of the Infringing Products at an October 13, 2018 event hosted at Freakin' CrossFit in Pembroke Pines, Florida).

27. Venue is proper in this judicial district under 28 U.S.C. § 1400(b). On information and belief, Bulichic, Inc. is a corporate resident of this District, maintains a principal place of business in this District, regularly conducts business in this District, and has committed acts of infringement in this District. On information and belief, Phillipe Bulichic is a resident of this

District, regularly conducts business in this District, and has committed acts of infringement in this District.

**COUNT ONE: INFRINGEMENT OF
U.S. PATENT NO. 9,643,073**

28. Victory Grips re-alleges and incorporates by reference Paragraphs 1-27 above, as if fully set forth herein.

29. The United States Patent and Trademark office duly and properly issued the '073 Patent, entitled "EXERCISE GRIP," on May 9, 2017. The '073 Patent was duly assigned to Victory Grips, which is the assignee of all right, title, and interest in and to the '073 Patent and possesses the exclusive right of recovery for past, present, and future infringement. Each and every claim of the '073 Patent is valid and enforceable. A true and correct copy of the '073 Patent is attached hereto as Exhibit L.

30. In violation of 35 U.S.C. § 271, Bulicich has infringed, contributed to the infringement of, and/or induced others to infringe the '073 Patent by, among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed products in a manner that infringes one or more of at least claims 1-8 of the '073 Patent. Such unlicensed products include, by way of example and without limitation, DG-DeadlyGrip Carbon Fiber Grips, including but not limited to the original DG-DeadlyGrip Carbon Fiber Grips and the "improved" DG-DeadlyGrip Carbon Fiber Grips. In addition, on information and belief, customers of Bulicich directly infringe the '073 Patent by using the Infringing Products.

31. For example, Bulicich has directly infringed by making, using, offering for sale, and selling its Infringing Products in violation of 35 U.S.C. § 271(a).

32. More specifically, the original and “improved” DG-DeadlyGrip Carbon Fiber Grips made, used, imported, offered for sale, and sold by Bulicich practice every element of at least claim 1 of the ’073 Patent. Claim 1 recites:

1. An exercise grip, comprising:
a wrist strap; and
a protective portion connected to the wrist strap at a wrist end of the protective portion, a finger end of the protective portion having three finger holes defined therein, the protective portion having a length that extends from the finger end to the wrist end and a width that varies along the length of the protective portion, wherein a portion of the wrist end that is between the wrist strap and the finger end has a first width that is larger than a second width of the finger end, wherein a width of the protective portion that is between the finger end and the portion of the wrist end has a third width that is smaller than the second width, wherein the protective portion is formed to cover a portion of a palm while exposing a portion of an ulnar side of the palm and leave a backside portion of a hand exposed when the wrist strap is fastened around a wrist, wherein a first side of the protective portion that extends from the finger end to the wrist end has a concave shape relative to an opposite side of the protective portion that extends from the finger end to the wrist end, and wherein the first side is shorter than the opposite side.

33. As recited in claim 1 of the ’073 Patent, the Infringing Products are exercise grips that include a wrist strap and a protective portion connected to the wrist strap. The protective portion has a finger end with three finger holes. The protective portion has a length extending from the finger end to the wrist end, and, also has a width that varies along the length of the protective portion. The wrist end of the protective portion has a width (labeled “1”) that is larger than a width (labeled “2”) of the finger end. In addition, the part of the protective portion between the finger end and the wrist end has a width (labeled “3”) that is smaller than the width of the finger end. As further recited by claim 1, the protective portion of the Infringing Products is formed so that, when worn, it covers part of the palm while exposing a portion of the ulnar (pinky) side of the palm while leaving the back of the hand exposed. The protective portion of

the Infringing Products also has one side shorter than the other, and this shorter side has a concave shape relative to the other side.



The Infringing Product – Original Design



The Infringing Product – “Improved” Design



The Infringing Product as Worn (Showing Ulnar Portion of Palm Exposed)

34. On information and belief, Bulicich takes active steps to induce infringement by others of one or more of at least claims 1-8 of the '073 Patent in violation of 35 U.S.C. § 271(b), including customers that purchase the Infringing Products. Such active steps include but are not limited to encouraging, advertising (including through deadlygrip.com and Instagram), promoting, and instructing others to use and/or how to use the Infringing Products. For example, the

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DeadlyGrip Instagram page encourages the use of the Infringing Products by promoting those products and showing the Infringing Products in use.

35. On information and belief, Bulicich knows or is willfully blind to the fact that such activities induce others to directly infringe one or more of at least claims 1-8 of the '073 Patent. For example, Bulicich knew or was willfully blind to the fact that its actions induced others to directly infringe as of August 7, 2018, when Victory Grips sent a letter to Bulicich notifying Bulicich that its products were infringing.

36. By way of at least the August 7, 2018 letter, Bulicich has known of the '073 Patent and performs acts that it knows or is willfully blind to the fact that such actions induce the direct infringement of at least claims 1-8 of the '073 Patent by others.

37. Bulicich has engaged in egregious infringement behavior with knowledge of the '073 Patent, which has been duly issued by the USPTO, and is presumed valid. On information and belief, Bulicich has known or should have known that its actions constituted and continue to constitute infringement of the '073 Patent and that the '073 Patent is valid at least as of August 7, 2018, when it was informed of these facts by letter, and/or the date Bulicich was served with or otherwise notified of this Complaint. Bulicich could not reasonably, subjectively believe that its actions do not constitute infringement of the '073 Patent, nor could it reasonably, subjectively believe that the patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that its actions constitute infringement, Bulicich has continued its infringing activities. As such, Bulicich willfully infringes the '073 Patent.

38. By its actions, Bulicich has injured Victory Grips and is liable to Victory Grips for infringement of the '073 Patent pursuant to 35 U.S.C. § 271.

39. By its actions, Bulicich's infringement of the '073 Patent has irreparably injured Victory Grips. Unless such infringing acts are enjoined by this Court, Victory Grips will continue to suffer additional irreparable injury.

40. By its actions, Bulicich's infringement of the '073 Patent has damaged, and continues to damage, Victory Grips in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that Victory Grips would have made but for Bulicich's infringing acts.

DEMAND FOR JURY TRIAL

41. Victory Grips hereby demands trial by jury on all claims and issues so triable.

PRAYER FOR RELIEF

42. Wherefore, Victory Grips respectfully requests that this Court enter judgment against Bulicich as follows:

- A. That the '073 Patent has been infringed by Bulicich;
- B. That Bulicich's infringement of the '073 Patent has been willful;
- C. An award of damages adequate to compensate Victory Grips for the patent infringement that has occurred, together with pre-judgment interest and costs;
- D. An accounting for acts of infringement not presented at trial and/or up to the judgment and an award by the Court of additional damage for any such acts of infringement;
- E. A permanent injunction against Bulicich from further infringement, or alternatively, award an ongoing royalty for Bulicich's post-verdict infringement, payable on each product or service offered by Bulicich that is found to infringe the '073 Patent, and on all future products and services that are not colorably different from those found to infringe;

- F. An award of all other damages permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found;
- G. A finding that this is an exceptional case and an award to Victory Grips of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285; and
- H. Such other relief, including other monetary and equitable relief, as this Court deems just and proper.

Dated: January 10, 2019.

Respectfully submitted,

By: /s/ Eleanor T. Barnett

Eleanor T. Barnett, Esq.
Fla. Bar No. 0355630
WALDMAN BARNETT, P.L.
3250 Mary Street, Suite 102
Coconut Grove, Florida 33133
Telephone No: 305-371-8809
Facsimile: 305-448-4155
ebarnett@waldmanbarnett.com
litservice@waldmanbarnett.com

Of Counsel:

Noah C. Graubart, GA Bar No. 141862
Charles N. Reese, GA Bar No. 455637
FISH & RICHARDSON, P.C.
1180 Peachtree Street, N.E., 21st Floor
Atlanta, GA 30309
Telephone No: 404-892-5005
Facsimile: 404-892-5003

COUNSEL FOR VICTORY GRIPS LLC