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U.S. DISTRICT COURT
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DISTRICT OF UTAH
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**IN UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

<p>SEIRUS INNOVATIVE ACCESSORIES, INC., a Utah corporation, Plaintiff, VOLCOM, INC., a Delaware corporation, Defendant.</p>	<p>COMPLAINT</p> <hr/> <p>Judge Ted Stewart DECK TYPE: Civil DATE STAMP: 04/18/2007 @ 11:55:25 CASE NUMBER: 2:07CV00250 TS</p>
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For a cause of action against Defendant VOLCOM, INC. ("Volcom"), Plaintiff SEIRUS INNOVATIVE ACCESSORIES, INC. ("Seirus") hereby alleges as follows:

1. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §271 *et seq.*

PARTIES

2. Seirus is a Utah corporation having a place of business at 2200 West Alexander Street, Salt Lake City, Utah 84119.

3. Volcom is a publicly held Delaware corporation with its principal place of business located at 1740 Monrovia Ave., Costa Mesa, California, 92627. Volcom had sales in

excess of \$200 million in 2006.

4. Volcom is a designer, marketer and distributor of clothing, accessories and related products for young men and women. The products offered by Volcom include those illustrated in the Winter sports outerwear contained in its 07-08 SNOW catalogue.

JURISDICTION AND VENUE

5. This civil action for patent infringement arises under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.* This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§1331 and 1338(a).

6. Volcom is offering for sale and, on information and belief, is selling in Utah and elsewhere throughout the United States, the DOT MATRIX FACE MASK ("Volcom Mask") which infringes one or more claims of United States Letters Patent 5,214,804. As such, Volcom is committing acts of unlawful patent infringement as defined in 35 U.S.C. § 271 within the state of Utah and elsewhere throughout the United States, and is causing harm to Seirus in the State of Utah. Therefore, this court has personal jurisdiction over Volcom under Utah's long arm statute, Utah Code Annotated §78-27-24 (1) and (3).

7. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b) because the alleged acts of unlawful patent infringement are taking place in this judicial district and Volcom is subject to personal jurisdiction in this district.

BACKGROUND

8. Seirus is the owner of United States Letters Patent No. 5,214,804 (the "'804 Patent") which issued on June 1, 1993 and is titled "PROTECTIVE MASK WITH SCARF". A copy of the '804 Patent is attached as Exhibit A.

9. In its 07-08 SNOW outerwear catalogue, Volcom offers for sale and, on

information and belief, sells the Volcom Mask which is illustrated and described on page 57 of the men's side of its catalogue, identified as item #J675700. A copy of page 57 of the Volcom 07-08 SNOW outerwear catalogue is attached as Exhibit B.

10. The Volcom Mask falls within the scope of one or more claims of the '804 Patent.

COUNT ONE
('804 PATENT INFRINGEMENT)
(U.S. Patent 5,214,804)

11. The allegations of paragraphs 1 through 10 are incorporated by this reference as if each were fully set forth herein.

12. Volcom has been and is now unlawfully infringing, literally or under the doctrine of equivalents, one or more claims of the '804 Patent by offering to sell, advertising for sale and, on information and belief, selling the Volcom Mask in the state of Utah and throughout the United States.

13. Seirus has and continues to appropriately mark its patented product as required by 35 U.S.C. § 287 and, upon information and belief, Volcom has otherwise had knowledge and notice of the '804 Patent and that its activities constitute unlawful patent infringement.

14. Seirus has suffered and continues to suffer lost sales and in turn damages as a direct result of the unlawful infringement of the '804 Patent by Volcom. Under 35 U.S.C. § 284, Seirus is entitled to damages to be established at trial or upon an accounting adequate to compensate for the infringement, including lost profits, but not less than a reasonable royalty.

15. On information and belief, Volcom's infringement of the '804 patent is willful and wanton and with an intent to harm Seirus. Therefore, this is an exceptional case, and Seirus is therefore entitled to enhanced and increased damages under 35 U.S.C. § 284.

16. This is an exceptional case under 35 U.S.C. § 285 entitling Seirus to its reasonable attorneys' fees.

17. Seirus has been and continues to be damaged by the unlawful infringing activities of Volcom and will be irreparably harmed unless the unlawful infringing activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. § 283.

JURY DEMAND

18. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Seirus requests a jury trial of all issues that may be tried to a jury in this action.

REQUESTED RELIEF

Seirus respectfully requests that this Court enter a judgment in favor of Seirus and against Volcom as follows:

A. Jurisdiction

1. The Court has jurisdiction over the cause of action set forth herein and the parties hereto.

2. Seirus is the owner of the '804 Patent and has the right to sue to recover damages for infringement of the patent.

3. Venue is in this court.

B. '804 Patent Infringement

1. The '804 Patent is not invalid in law and is enforceable.

2. Volcom has infringed at least one claim of the '804 Patent.

3. Seirus is entitled to recover damages under 35 U.S.C. § 284 in an amount to be determined at trial or by accounting for the lost profits but no less than a reasonable royalty on all sales of the Volcom Mask plus pre judgment interest and post judgment interest.

4. The damages awarded pursuant to paragraph 3 shall be increased to three times the amount awarded because this is an exceptional case under 35 U.S.C. § 284.

5. Seirus be awarded all the attorneys fees in connection with this matter under 35 USC § 285.

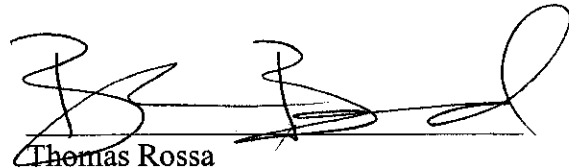
6. Defendants, their officers, agents, servants, employees and those persons in active concert or participation with any of them, be permanently enjoined from further acts of infringement for the remaining life of the '804 Patent under 35 U.S.C. §283.

C. Other

1. To the extent not otherwise awarded, all costs of this action.

2. Such other and further relief as this court may deem just and proper.

DATED: this 18th day of April 2007.



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