

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Footloose Dancewear, Inc.,

Plaintiff,

v.

Danskin, Inc.

Defendant.

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No.: _____

COMPLAINT

Footloose Dancewear, Inc, a Pennsylvania corporation, by way of Complaint against Danskin, Inc., on knowledge, information and belief, alleges as follows:

Nature of the Action

1. This is a civil action for patent infringement under the patent laws of the United States including 35 U.S.C. sections 271, 281, 283, 284 and 285.

Jurisdiction and Venue

2. Subject matter jurisdiction over this action is proper in this court under 28 U.S.C. sections 1331, 1332 and 1338.

3. Venue is proper in this district under 28 U.S.C. sections 1391 and 1400(b).

The Parties

4. Plaintiff, Footloose Dancewear, Inc. (“Footloose”), is a Pennsylvania corporation having a place of business at 213 Old York Road, Jenkintown, Pennsylvania 19046. David Juniman, an individual, is a shareholder of Footloose.

5. On information and belief, Danskin, Inc. (“Danskin”) is a corporation having places of business at 530 Seventh Avenue, New York, New York 10018 and in York, Pennsylvania.

Factual Background

6. Footloose or a predecessor entity has been in business since about 1984. Footloose has sold dancewear since approximately 1985 and manufactured dancewear since approximately 1991.

7. David Juniman invented a convertible stocking for use by dancers (“Juniman Stocking”).

8. The Juniman Stocking has enjoyed enormous commercial success since its introduction into the market.

9. On April 11, 2000, David Juniman was awarded U.S. Patent No. 6,047,571 (“Juniman Patent”), entitled Convertible Stockings, for his Juniman Stocking invention. A copy of the Juniman Patent is attached to this Complaint as Exhibit “A.”

10. By an Assignment dated January 11, 2001, David Juniman assigned all title, rights and interests in the Juniman Patent to Footloose. Footloose is still the owner of the Juniman Patent.

11. At all relevant times, the Juniman Patent has been, and still is, active and in force.

12. The Juniman Patent is presumed valid under 35 U.S.C. Section 282.

13. Footloose and/or David Juniman have or required placement of the statutory notice on all convertible stockings sold by them, and others authorized by them, under the Juniman Patent.

14. Other business entities have and/or continue to pay royalties to Footloose for the right to manufacture and sell convertible stockings under the Juniman Patent.

15. Danskin sells convertible stockings in direct competition with Footloose.

16. Danskin sells stockings, including Danskin “convertible tights” styles 702 and 708, which infringe one or more claims of the Juniman Patent. A copy of the packaging for Danskin’s style 702 convertible stocking is attached to this Complaint as Exhibit “B.”

17. On June 16, 2000, David Juniman and Footloose sent a certified letter to Danskin informing Danskin of the Juniman Patent. A copy said letter is attached to this Complaint as Exhibit “C.”

18. Danskin learned of the Juniman Patent but did not seek a license from Footloose or David Juniman. Instead, in total disregard of the patent rights of Footloose and David Juniman, Danskin chose to exploit the patented stocking without paying for it. Despite its knowledge of the Juniman Patent, Danskin has manufactured and sold stockings that infringe the Juniman Patent.

19. Footloose has given written notice to Danskin of Danskin's infringement of the Juniman Patent.

20. Danskin has actively induced and currently is actively inducing others to infringe one or more claims of the Juniman Patent through its sale of stockings, including convertible stockings marketed under the Danskin name.

21. Danskin's infringement and inducement of infringement have been and continue to be willful.

22. Danskin has committed acts of infringement in this judicial district.

Count I
Direct Patent Infringement

23. Paragraphs 1-22 are incorporated herein by reference as if stated fully herein.

24. Danskin's actions constitute direct patent infringement in violation of 35 U.S.C. § 271(a).

25. Danskin makes, uses, sells and/or offers to sell products that infringe at least one claim of the Juniman Patent.

26. Danskin's acts of making, using, selling, and/or offering to sell their infringing stockings in the United States, and/or importing their infringing stocking in the United States, directly infringe the Juniman Patent.

27. On information and belief, Danskin has made profits to which it is not entitled in law or in equity.

28. Footloose has sustained irreparable harm to its business, reputation, and goodwill, and unless Danskin is enjoined and restrained by this Court, Danskin will continue in the activities alleged herein and as a result thereof, Footloose will continue to sustain irreparable harm to its business, reputation and goodwill.

29. Danskin's acts have been willful and/or with a wanton and reckless disregard for Footloose's rights.

Count II
Inducement of Patent Infringement

30. Paragraphs 1-29 are incorporated herein by reference as if stated fully herein.

31. Danskin's actions constitute inducement of patent infringement in violation of 35 U.S.C. § 271(b).

32. Danskin's acts of inducing others to use their infringing stocking in a manner described and claimed in the Juniman Patent constitute inducement of infringement of the Juniman Patent.

33. On information and belief, Danskin has made profits to which it is not entitled in law or in equity.

34. Footloose has sustained irreparable harm to its business, reputation, and goodwill, and unless Danskin is enjoined and restrained by this Court, Danskin will continue in the activities alleged herein and as a result thereof, Footloose will continue to sustain irreparable harm to its business, reputation and goodwill.

35. Danskin's acts have been willful and/or with a wanton and reckless disregard for Footloose's rights.

WHEREFORE, Footloose respectfully requests that the Court:

a) Grant a preliminary and final injunction against continued infringement of the Juniman Patent;

b) Award actual damages for said infringement, plus interest;

c) Award treble damages pursuant to 35 U.S.C. § 284;

d) Enter an order declaring this an exceptional case pursuant to 35 U.S.C. § 285 and award Footloose its attorney fees, costs and expenses; and

e) Grant to Footloose such other further relief as the Court may deem just and proper.

Respectfully submitted,

Frank A. Mazzeo, P.C.

Date: May 11, 2005

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