

IN THE UNITES STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

West Coast Trends, Inc.,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 6:10-CV-00688-LED
)	
)	JURY TRIAL DEMANDED
Ogio International, Inc.,)	
Dynamic Brands, LLC,)	
Sun Mountain Sports, Inc.,)	
Defendants)	

PLAINTIFF'S FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff West Coast Trends, Inc. ("West Coast Trends") alleges the following:

I. PARTIES

1. West Coast Trends is a corporation having a place of business at 17811 Jamestown Lane, Huntington Beach, California 92647.
2. Defendant Ogio International, Inc. ("Ogio") is a corporation organized and existing under the laws of the State of Utah, with its principal place of business located at 14926 Pony Express Road, Bluffdale, Utah. 84065. Ogio may be served with process by serving its registered agent, Michael J. Pratt, 14926 Pony Express Road, Bluffdale, Utah. 84065.
3. Defendant Dynamic Brands, LLC ("Dynamic Brands") is a limited liability company organized and existing under the laws of the State of Virginia, with its principal place of business located at 2042 Westmoreland St., Richmond, Virginia 23230. Dynamic Brands may be served with process by serving its registered agent, Malia O'Connell Flatt, 901 E. Cary St., Suite 1500, Richmond, Virginia 23219.

4. Defendant Sun Mountain Sports, Inc. ("Sun Mountain") is a corporation organized and existing under the laws of the State of Montana, with its principal place of business located at 301 N 1st St W, Missoula, Montana 59802. Sun Mountain may be served with process by serving its registered agent, David H. Bjornson, 2809 Great Northern Loop #100, Missoula, Montana 59808.

II. JURISDICTION AND VENUE

5. This is an action for patent infringement arising under Title 35 of the United States Code. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

6. Defendant Ogio is subject to personal jurisdiction in Texas and this district.

7. Ogio has sold infringing products in the Eastern District of Texas or has sold such products under circumstances in which it was reasonably foreseeable that such products would be shipped into the Eastern District. Ogio infringed Plaintiff's patent in the Eastern District. Venue in the Eastern District is proper under 28 U.S.C. §§ 1391 and 1400.

8. Defendant Dynamic Brands is subject to personal jurisdiction in Texas and this district.

9. Dynamic Brands has sold infringing products in the Eastern District of Texas or has sold such products under circumstances in which it was reasonably foreseeable that such products would be shipped into the Eastern District. Dynamic Brands infringed Plaintiff's patent in the Eastern District. Venue in the Eastern District is proper under 28 U.S.C. §§ 1391 and 1400.

10. Defendant Sun Mountain is subject to personal jurisdiction in Texas and this district.

11. Sun Mountain has sold infringing products in the Eastern District of Texas or has sold such products under circumstances in which it was reasonably foreseeable that such products would be shipped into the Eastern District. Sun Mountain infringed Plaintiff's patent in the Eastern District. Venue in the Eastern District is proper under 28 U.S.C. §§ 1391 and 1400.

III. FACTUAL BACKGROUND

12. West Coast Trends, Inc. was founded in 1990 by Jeffrey Herold, an avid golfer. After introducing travel bag designs that were similar to others then on the market, Herold was dissatisfied with the design and durability of those products. He set out to create his own travel bag, spending nearly a year designing the company's first Club Glove travel cover. He named it the "Last Bag", as in the last travel bag a golfer will have to buy. The Club Glove Last Bag is currently used by a majority of the professional golfers on U.S. Tours.

IV. PATENT INFRINGEMENT

13. On May 22, 2007, United States Patent No. 7,219,902 (the "'902 Patent"), attached as Exhibit A, was duly and legally issued by the United States Patent and Trademark Office.

14. West Coast Trends is the owner of all rights in the '902 Patent by assignment.

15. On November 1, 2005, United States Design Patent No. D511,043 (the "'043 Design Patent"), attached as Exhibit B, was duly and legally issued by the United States Patent and Trademark Office.

16. West Coast Trends is the owner of all rights in the '043 Design Patent by assignment.

17. Ogio, without permission of West Coast Trends, has been and still is infringing the '902 Patent under 35 U.S.C. § 271 because it makes, uses or sells the following infringing products: Mammoth and Monster. West Coast Trends requests an award of its actual damages caused by such infringement pursuant to 35 U.S.C. § 284.

18. Upon information and belief, Ogio has continued or does continue its infringing activities after receiving notice of the '902 Patent, such infringement is willful, entitling West Coast Trends to the recovery of treble damages pursuant to 35 U.S.C. § 284. In addition, this is an "exceptional case" justifying an award of attorneys' fees and costs to West Coast Trends pursuant to 35 U.S.C. § 285.

19. Dynamic Brands, without permission of West Coast Trends, has infringed the '902 Patent under 35 U.S.C. § 271 because it made, used, or sold, the following infringing products: BagBoy T1000. West Coast Trends requests an award of its actual damages caused by such infringement pursuant to 35 U.S.C. § 284. In addition, this is an "exceptional case" justifying an award of attorneys' fees and costs to West Coast Trends pursuant to 35 U.S.C. § 285.

20. Upon information and belief, Dynamic Brands, without permission of West Coast Trends, has infringed the '043 Design Patent under 35 U.S.C. § 271 because it made, used, or sold, the following infringing products: BagBoy T1000. West Coast Trends requests an award of its actual damages caused by such infringement pursuant to 35 U.S.C. § 284, or an award of Dynamic Brand's profits from its infringements pursuant to 35 U.S.C. § 289, whichever is greater.

21. Sun Mountain, without permission of West Coast Trends, has been and still is infringing the '902 Patent under 35 U.S.C. § 271 because it makes, uses or sells the following infringing products: Club Glider. West Coast Trends requests an award of its actual damages caused by such infringement pursuant to 35 U.S.C. § 284.

22. Upon information and belief, Sun Mountain has continued or does continue its infringing activities after receiving notice of the '902 Patent, such infringement is willful, entitling West Coast Trends to the recovery of treble damages pursuant to 35 U.S.C. § 284. In addition, this is an "exceptional case" justifying an award of attorneys' fees and costs to West Coast Trends pursuant to 35 U.S.C. § 285.

23. Defendants' actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continued to do so unless and until Defendants are enjoined and restrained by this Court.

V. PRAYER FOR RELIEF

24. West Coast Trends, therefore, prays that the Court enter Judgment in its favor against all the Defendants granting the following relief:

- a) for infringement of the '902 Patent, an award of West Coast Trends' actual damages, including costs, prejudgment interest, and post-judgment interest;
- b) for infringement of the '902 Patent, a trebling of damages for willful infringement under 35 U.S.C. §284;
- c) for Dynamic Brand's infringement of the '043 Design Patent, an award of West Coast Trends' actual damages and a trebling of damages for willful infringement under 35 U.S.C. §284, or an award of Dynamic Brand's profits from its

infringement pursuant to 35 U.S.C. §289, whichever is greater, together with pre-judgment interest, post-judgment interest, and costs;

- d) a finding that this is an exceptional case and an award of attorneys' fees, expenses, and costs 35 U.S.C. §285;
- e) a permanent injunction prohibiting further infringement by all Defendants and all of their officers, agents, affiliates, servants, and employees, and all other persons in active concert or participation with them;
- f) a preliminary injunction prohibiting further infringement by all Defendants and all of their officers, agents, affiliates, servants, and employees, and all other persons in active concert or participation with them;
- g) such other and further relief as the Court deems just.

VI. JURY DEMAND

- 25. West Coast Trends demands a trial by jury.

Respectfully Submitted,

s/Edward J. Marshall

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