

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ARVEDA, LLC d/b/a Stromgren Supports)
a Kansas corporation,)
))
Plaintiff,)
))
v.)
))
SAFETGARD INC.,)
a Colorado corporation,)
))
Defendant.)
_____)

Case No. 07-2140 KHV

COMPLAINT

COMES NOW plaintiff Arveda, LLC, d/b/a Stromgren Supports (hereinafter “Stromgren”), by and through its attorneys, and sets forth its complaint for design patent infringement against the defendant, Safetgard Inc. (hereinafter “Safetgard”), as follows:

The Parties

1. Plaintiff Stromgren is a Kansas corporation having its principal place of business at 718 Main Street, Hays, Kansas 67601.
2. On information and belief, defendant Safetgard is a Colorado corporation having its principal place of business at 12105 West Cedar Drive, Lakewood, Colorado 80228.

Nature of the Action

3. This is an action for design patent infringement under the Patent Laws of the United States and is brought pursuant to 35 U.S.C. §§ 271 and 281.

Jurisdiction and Venue

3. Jurisdiction over this action and venue are founded upon 28 U.S.C. §§ 1331, 1338 (a), 1391 (b) and (c) and 1400 (b).

Factual Allegations

4. For over twenty-five years, Stromgren has engineered, manufactured, marketed and sold protective athletic apparel and sports medicine products.

5. In 2004, Stromgren introduced low-rise women's compression athletic shorts under the trademark Low Rider.

6. Stromgren is the owner of U. S. Design Patent No. 525,765 ("the design patent") which duly and lawfully issued on August 1, 2006, describes and claims the invention entitled "COMPRESSION SHORTS" and protects the low-rise women's compression athletic shorts sold and marketed by Strongmen under the trademark Low Rider. A correct copy of the design patent is attached as Exhibit A.

7. Defendant Safetgard has begun marketing, using, offering for sale and selling a low-rise women's compression short under the style nos. 369WL and 369GL (the "accused shorts") to various distributors, retailers and retail customers in this judicial district and elsewhere. A photograph showing said compression shorts is attached as Exhibit B.

8. Upon information and belief, defendant Safetgard supplied and continues to supply the accused shorts to various distributors, retailers and retail customers in this judicial district and elsewhere.

Design Patent Infringement

9. The allegations of paragraphs 1 through 9 are re-pled and realleged as though fully set forth herein.

10. Defendant Safetgard is infringing and actively inducing others to infringe the design patent by making, using, offering for sale and selling the accused shorts (and perhaps other shorts yet unknown to Stromgren).

11. Defendant Safetgard has received notice of Stromgren's design patent in that Stromgren has caused the patent number to be placed plainly on the product and/or packaging of its Low Rider™ shorts. Furthermore, Stromgren informed Safetgard of its rights under the design patent by letter dated August 31, 2006. Despite this knowledge, Safetgard has continued to infringe Stromgren's rights. On information and belief, such infringement by Safetgard has been intentional, willful and wanton.

12. Plaintiff Stromgren has suffered damage by reason of Safetgard's infringing acts and will suffer additional irreparable damage unless Safetgard is enjoined by this court from infringing the design patent and inducing infringement thereof.

WHEREFORE, plaintiff Stromgren prays:

(a) for an injunction restraining defendant Safetgard, its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them, from infringing United States Design Patent No. 525,765 and inducing infringement thereof, pursuant to 35 U.S.C. § 283;

(b) for an accounting of all profits and damages for said design patent infringement under 35 U.S.C. §§ 284 and 289;

