

JUDGE PATTERSON

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09 CV 4949

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

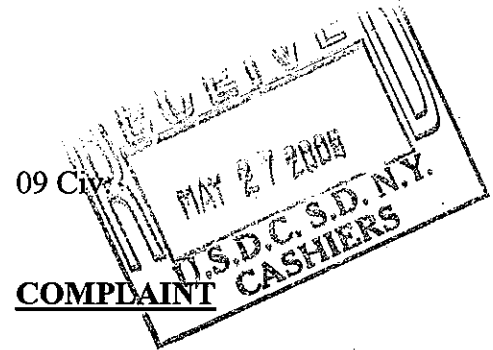
CORPORACION 1466, C.A.,
a Venezuelan corporation,

Plaintiff,

-against-

CHARMING SHOPPES, INC., a Pennsylvania corporation, **CHARMING SHOPPES OUTLET STORES, LLC,** a Pennsylvania corporation, **LANE BRYANT CORPORATION,** a Delaware corporation, **LANE BRYANT, INC.,** a Delaware corporation, and **LANE BRYANT 4536,** a California corporation, **CATHERINES PLUS SIZES, INC.,** a New Hampshire Corporation, **CATHERINE'S STORES CORPORATION,** a Tennessee corporation, and **FASHION BUG RETAIL COMPANIES, INC.,** an Arizona corporation,

Defendants.



Plaintiff Corporacion 1466, C.A. ("Plaintiff" or "Corporacion 1466"), by its attorneys, Pryor Cashman LLP, as and for its Complaint for patent infringement against defendants Charming Shoppes, Inc. and Charming Shoppes Outlet Stores, LLC (collectively "Charming Shoppes"), Lane Bryant Corporation, Lane Bryant, Inc., Lane Bryant 4536, Inc. (collectively "Lane Bryant"), Fashion Bug Retail Companies, Inc. ("Fashion Bug"), Catherines Plus Sizes, Inc. and Catherine's Stores Corporation (collectively "Catherine's")(all together, collectively, "Defendants"), alleges as follows:

NATURE OF ACTION

1. In this action for patent infringement, Corporacion 1466, whose principals, Fortuna Amsel and Simon Amsel, are the inventors of the patent identified hereafter, seeks to restrain and enjoin Defendants from infringing its patent for slenderizing jean pants. Corporacion 1466's patent, for a "pants garment with body profile enhancement features," contains specific and easily identifiable elements designed to "draw in the wearer's stomach and pull on the rear to lift the buttocks" – in other words: tuck in the stomach and lift the buttocks.

2. Defendants have developed, advertised, marketed and sold their jeans, under the trademark "Secret Slimmer®", including, but not limited to, Item Nos. 1655893, 2330694, 1771070, 1130947 and 1944321, which infringe Plaintiff's patent, in Lane Bryant, Fashion Bug and Catherine's stores across the country, including in this District.

3. Accordingly, Corporacion 1466 seeks a judgment that Defendants' jean pants infringe Corporacion 466's patent, entitling Corporacion 1466 to an award of all damages adequate to compensate Plaintiff for Defendants' infringement of the Patent, that such damages be trebled under 35 U.S.C. § 284 and awarded to Plaintiff with prejudgment interest; that this case be adjudged an exceptional case under 35 U.S.C. § 285, and that Plaintiff be awarded its attorney's fees, costs, and expenses incurred in this action.

THE PARTIES

1. Plaintiff Corporacion 1466 C.A. ("Plaintiff" or "Corporacion 1466") is a Venezuelan corporation with its principal place of business located at Av. Beethoven, Torre Financiera, Piso 11, Colinas de Bello Monte, Caracas, Venezuela 1050. Pursuant to assignments from the inventors Simon and Fortuna Amsel to Minelli Modas, Minelli Modas to

Minelli Inc, and Minelli Inc. to Corporacion 1466, all of which were recorded in the U.S. Patent Office, Corporacion 1466 is the owner of US Patent No. 6,543,062.

2. On information and belief, Defendant Charming Shoppes, Inc. is a Pennsylvania corporation with its principal place of business located at 450 Winks Lane, Bensalem, Pennsylvania, 19020. On information and belief, Charming Shoppes, Inc. is a public company listed on the NASDAQ stock exchange. On information and belief, Charming Shoppes, Inc. owns and operates at least five Lane Bryant retail stores, at least three Fashion Bug retail stores, and at least two Catherine's stores in the New York Metropolitan area. On information and belief, Charming Shoppes operates a total of at least 129 retail stores in the state of New York.

3. On information and belief, Defendant Charming Shoppes Outlet Stores, LLC ("CS Outlets") is a Pennsylvania corporation with its principal place of business located at 450 Winks Lane, Bensalem, Pennsylvania, 19020. On information and belief, CS Outlets is a wholly owned subsidiary of Defendant Charming Shoppes, Inc.

4. On information and belief, Lane Bryant Corporation is a Delaware corporation. Upon information and belief, Lane Bryant Corporation is a wholly owned subsidiary of Defendant Charming Shoppes, Inc.

5. On information and belief, Defendant Lane Bryant, Inc. is a Delaware corporation. Upon information and belief, Lane Bryant, Inc. is a wholly owned subsidiary of Defendant Charming Shoppes, Inc.

6. On information and belief, Defendant Lane Bryant 4536, Inc. is a California corporation. Upon information and belief, Lane Bryant 4536, Inc. is a wholly owned subsidiary of Defendant Charming Shoppes, Inc.

7. On information and belief, Defendant Fashion Bug Retail Companies is an Arizona corporation. Upon information and belief, Fashion Bug Retail Companies is a wholly owned subsidiary of Defendant Charming Shoppes, Inc.

8. On information and belief, Defendant Catherines Stores Corporation is a Tennessee corporation. Upon information and belief, Catherines Stores Corporation is a wholly owned subsidiary of Defendant Charming Shoppes, Inc.

9. On information and belief, Defendant Catherines Plus Sizes, Inc. is a New Hampshire corporation. Upon information and belief, Catherines Plus Sizes, Inc. is a wholly owned subsidiary of Defendant Charming Shoppes, Inc.

10. On information and belief, Defendants make, sell, offer for sale in the United States, and/or import into the United States, jean pants that utilize the teachings, and infringe upon one or more of the claims of, US Patent No. 6,543,062.

JURISDICTION AND VENUE

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

12. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because, among other reasons, Defendants have regularly conducted business in this judicial district, including maintaining regular and established places of business, advertising, offering for sale and selling the infringing products to their customers in this district, and Defendants have committed acts of willful infringement in this judicial district giving rise to this action.

13. On information and belief, Defendants have placed infringing products into the stream of commerce by offering, selling and/or shipping those products into this judicial district or knowing that the infringing pants would be offered, sold, and/or shipped into this judicial district, and such products have been offered, sold and/or shipped in this judicial district.

THE PATENT

14. On April 8, 2003, United States Patent No. 6,543,062 entitled "Pants Garment with Body Profile Enhancement Features" (the "'062 Patent") was duly and legally issued to Simon and Fortuna Amsel, who assigned the Patent to Minelli Modas, C.A. A true and correct copy of the '062 Patent is attached hereto as Exhibit 1 and incorporated herein. Following the issuance of the '062 Patent, Minelli Modas assigned the '062 Patent to Minelli Inc, and Minelli Inc. assigned the same to Corporacion 1466. A true and correct copy of the recorded assignments are attached hereto as Exhibit 2 and incorporated herein.

FIRST CAUSE OF ACTION

(Infringement of U.S. Patent No. 6,543,062)

15. Paragraphs 1 through 14 are incorporated by reference as if fully stated herein.

16. The '062 Patent is valid and enforceable.

17. Defendants have infringed, and are currently infringing, the '062 Patent, in violation of 35 U.S.C. § 271 et seq. (including Sections (a), (b), (c) and (f)), directly, indirectly, contributorily, and by inducement of and action with others, regarding making, using, selling, offering to sell in the United States, and/or importing into the United States products that embody the patented invention, including, without limitation, the "Secret Slimmer," "Secret Slimmer Tummy Control Technology," "Slenderizer," "Gloria Vanderbilt," "Tummy-Control,"

“Tummy Control Technology,” “Tummy tamer,” “Tamara” and “Tummy Tuck” products offered under the LANE BRYANT, CATHERINE PLUS SIZES, FASHION BUG, FASHION BUG PLUS and CROSSTOWN TRADERS, INC. brands, websites and stores (collectively “Infringing Products”). Defendants had and have actual notice and knowledge of the ‘062 Patent.

18. Defendants induce infringement of the ‘062 Patent by actively inducing the manufacture and sale in the U.S. of products the Infringing Products in direct infringement of the ‘062 Patent. Defendants engage in these acts despite their actual notice and knowledge of the ‘062 Patent.

19. The Infringing Products offered and/or sold by Defendants utilize slimming technology in ways that infringe one or more of the claims of the ‘062 Patent. The Infringing Products are not staple articles of commerce, and Defendants know or should know that these products have no substantial non-infringing uses. Defendants engage in these acts despite their actual notice and knowledge of the ‘062 Patent.

20. Defendants’ infringement of the ‘062 Patent has been and is willful and intentional. This is an exceptional case pursuant to 35 U.S.C. § 285.

21. Plaintiff has been injured and damaged by Defendants’ infringement of the ‘061 Patent. Defendants’ infringement has caused and will continue to cause, irreparable harm to Plaintiff, for which Plaintiff has no adequate remedy at law, unless and until such infringement is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Corporacion 1466, C.A. prays for a judgment as follows:

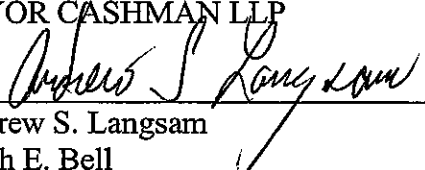
- A. That Defendants have infringed the '062 Patent;
- B. That Defendants' infringement of the '062 Patent is willful;
- C. That Defendants, their officers, agents, servants, employees, directors, attorneys, and all persons in active concert or participation with any of them, and their successors and assigns be enjoined from infringement of the '062 Patent under 35 U.S.C. § 283;
- D. That Plaintiff be awarded all damages adequate to compensate Plaintiff for Defendants' infringement of the '062 Patent, and that such damages be trebled under 35 U.S.C. § 284 and awarded to Plaintiff with prejudgment interest;
- E. That this case be adjudged an exceptional case under 35 U.S.C. § 285, and that Plaintiff be awarded its attorneys' fees, costs, and expenses incurred in this action; and
- F. That Plaintiff be awarded such other and further relief as the Court deems just and proper.

Dated: May 26, 2009

Respectfully submitted,

PRYOR CASHMAN LLP

By:



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Attorneys for Plaintiff Corporacion 1466, C.A.

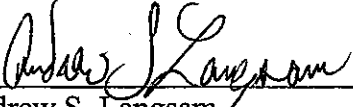
DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Corporacion 1466, CA demands a jury trial on all issues so triable.

Dated: May 26, 2009

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