IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

RANDI BLACK, Plaintiff, vs. CE SOIR LINGERIE CO., INC., a California corporation; BRAGEL INTERNATIONAL INC., a California corporation; DILLARD'S, INC., a Delaware corporation; FEDERATED DEPARTMENT STORES, INC., an Ohio corporation; GAP, INC., a Delaware corporation; THE NEIMAN MARCUS GROUP, INC., a Delaware corporation; NORDSTROM, INC., a Washington corporation; and VICTORIA'S SECRET STORES, LLC, a Delaware limited liability company, Defendants.	Civil Action No. 2:06-CV-544 (DF/JL) **Jury Demanded**

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Randi Black ("Black") sues Defendants Ce Soir Lingerie Co., Inc.; Bragel International Inc.; Dillard's, Inc.; Federated Department Stores, Inc.; Gap, Inc., The Neiman Marcus Group, Inc.; Nordstrom, Inc.; and Victoria's Secret Stores, LLC (collectively "Defendants") and, on information and belief, alleges as follows:

Introduction

1. Plaintiff Black owns the invention described and claimed in United States Patent No. 7,152,606 entitled "Prosthetic Device" (the "'606 patent"). Defendants (a) have used, and continue to use, Plaintiff's patented technology in products that they make, use, import, sell, and offer to sell, without Plaintiff's permission; and (b) have contributed to or induced, and

continue to contribute to or induce, others to infringe the '606 patent. Plaintiff Black seeks damages for patent infringement and an injunction preventing Defendants from making, using, selling, or offering to sell, and from contributing to and inducing others to make, use, sell, or offer to sell, the technology claimed by the '606 patent without Plaintiff's permission.

Jurisdiction and Venue

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq*. The Court has original jurisdiction over this patent infringement action under 28 U.S.C. § 1338(a).

3. Each of the Defendants has committed acts and continues to commit acts within this judicial district giving rise to this action, including making sales and offering for sale. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400.

Plaintiff Randi Black

4. Plaintiff Randi Black is an individual and was formerly known as Randi Schindler. Ms. Black is the named inventor on patent number 7,152,606.

Defendants

5. Defendant Ce Soir Lingerie Co., Inc. ("Ce Soir") is a corporation organized and existing under the laws of the State of California, with its principal place of business in Ventura, California.

6. Defendant Bragel International Inc. ("Bragel") is a corporation organized and existing under the laws of the State of California, with its principal place of business in Pomona, California.

7. Defendant Dillard's, Inc. ("Dillard's") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Little Rock, AR. Dillard's is registered to do business as a foreign corporation in the state of Texas. Dillard's foreign corporation registration lists CT Corporation System as its registered agent for service of process.

8. Defendant Federated Department Stores, Inc. ("Federated") is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business in Cincinnati, Ohio.

9. Defendant Gap, Inc. ("Gap") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in San Francisco, California.

10. Defendant The Neiman Marcus Group, Inc. ("Neiman Marcus") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Dallas, Texas. Neiman Marcus is registered to do business as a foreign corporation in the state of Texas. Neiman Marcus' foreign corporation registration lists CT Corporation System as its registered agent for service of process.

11. Defendant Nordstrom, Inc. ("Nordstrom") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business in Seattle, WA. Nordstrom is registered to do business as a foreign corporation in the state of Texas. Nordstrom's foreign corporation registration lists CT Corporation System as its registered agent for service of process.

12. Defendant Victoria's Secret Stores, LLC ("Victoria's Secret") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Columbus, Ohio. Victoria's Secret is registered to do business as a foreign corporation in the state of Texas. Victoria's Secret's foreign corporation registration lists CT Corporation System as its registered agent for service of process.

First Claim for Patent Infringement
(infringement of the '606 patent)

13. Plaintiff incorporates by reference each of the allegations in paragraphs 1 - 12 above and further alleges as follows:

14. The United States Patent and Trademark Office issued the '606 patent on December 26, 2006. Attached as Exhibit A is what is believed to be a copy of the text of the

'606 patent. Plaintiff is now, and at all relevant times has been, the owner of all right, title, and interest in the '606 patent, including all rights to pursue and collect damages for past infringements of the patent.

15. Defendants Ce Soir Lingerie Co., Inc.; Bragel International Inc.; Dillard's, Inc.; Federated Department Stores, Inc.; Gap, Inc., The Neiman Marcus Group, Inc.; Nordstrom, Inc.; and Victoria's Secret Stores, LLC, have infringed, contributed to the infringement, and induced others to infringe the '606 patent and, unless enjoined, will continue to do so, by manufacturing, importing, using, selling, or offering for sale products, including the Nubra and other devices that infringe the claims of the '606 patent and by contributing to or inducing others to infringe the claims of the '606 patent without a license or permission from Plaintiff.

16. Plaintiff has been damaged by Defendants' infringement of the '606 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '606 patent.

17. Plaintiff is entitled to recover damages from the Defendants to compensate them for the infringement.

18. Plaintiff demands trial by jury of all issues relating to this claim.

Willfulness – Enhanced Damages

19. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

20. Defendants have known since at least the filing of this lawsuit that the '606 patent was duly issued to Plaintiff. Defendants have no sound or good faith basis to believe they had the right to continue their unlicensed use of the infringing products.

21. As a result of Defendants' willful and deliberate misconduct, Plaintiff seeks an enhancement of her damages pursuant to 35 U.S.C. § 284.

WHEREFORE, Plaintiff prays for judgment as follows:

A. A decree preliminarily and permanently enjoining Defendants, their officers, directors, employees, agents, and all persons in active concert with them, from infringing, and contributing to or inducing others to infringe, the '606 patent;

B. Compensatory damages for Defendants' infringement of the '606 patent;

C. Costs of suit and attorneys' fees on the basis that this patent infringement case is exceptional;

D. For a threefold increase of the damages from Defendants, or some lesser increase as the Court deems appropriate, based upon Defendants' willful infringement;

E. Pre-judgment interest; and

F. For such other relief as justice requires.

Dated: April 13, 2007

Respectfully submitted,

By: /s/Andrew W. Spangler

S. Calvin Capshaw
State Bar No. 03783900
capshaw@mailbmc.com
Elizabeth L. DeRieux
State Bar No. 05770585
ederieux@mailbmc.com
Andrew W. Spangler
State Bar No. 24041960
aspangler@mailbmc.com
Brown McCarroll, L.L.P.
1127 Judson Road, Suite 220
Longview, TX 75601
Telephone: (903) 236-9800
Facsimile: (903) 236-8787

Robert Christopher Bunt
State Bar No. 00787165
rcbunt@pbatyler.com
Robert M. Parker
State Bar No. 15498000
rmparker@pbatyler.com
Charles Ainsworth
State Bar No. 00783521
charley@pbatyler.com
PARKER, BUNT & AINSWORTH, P.C.
100 East Ferguson, Suite 1114
Tyler, Texas 75702
Telephone: (903) 531-3535
Facsimile: (903) 533-9687

Of Counsel:

Gregory S. Dovel
CA State Bar No. 135387
Julien Adams
CA State Bar No. 156135
Dovel & Luner, LLP
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Telephone: 310-656-7066
Facsimile: 310-657-7069

ATTORNEYS FOR PLAINTIFF
RANDI BLACK

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 13th day of April, 2007, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Andrew W. Spangler
Andrew W. Spangler