

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

HEATHER M. KNOX

Plaintiff,

vs.

LIMITED BRANDS, INC., INTIMATE BRANDS, INC., VICTORIA'S SECRET STORES, LLC, VICTORIA'S SECRET STORES GC, LLC, VICTORIA'S SECRET DIRECT, LLC, VICTORIA'S SECRET DIRECT GC, LLC, LIMITED BRANDS STORE OPERATIONS, INC., VICTORIA'S SECRET STORES BRAND MANAGEMENT, INC., VICTORIA'S SECRET DIRECT BRAND MANAGEMENT, LLC, PLEASURE STATE PTY LTD and PLEASURE STATE USA, INC.

Defendants.

Civil Action No.: _____

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**

Plaintiff Heather M. Knox, by her undersigned counsel, brings this action against defendants Limited Brands, Inc., Intimate Brands, Inc., Victoria's Secret Stores, LLC, Victoria's Secret Stores GC, LLC, Victoria's Secret Direct, LLC, Victoria's Secret Direct GC, LLC, Limited Brands Store Operations, Inc., Victoria's Secret Stores Brand Management, Inc., Victoria's Secret Direct Brand Management, LLC ("Victoria's Secret"), Pleasure State Pty Ltd. and Pleasure State USA, Inc. ("Pleasure State") and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under 35 U.S.C. § 271.

PARTIES

2. Plaintiff Heather M. Knox is a natural person residing in Monroeville, Pennsylvania.
3. Upon information and belief, defendant Limited Brands, Inc. (“LB”) is a company incorporated under the laws of Delaware, with its principal place of business at Three Limited Parkway, Columbus, Ohio 43216.
4. Upon information and belief, defendant Intimate Brands, Inc. (“IB”) is a company incorporated under the laws of Delaware, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.
5. Upon information and belief, defendant Victoria’s Secret Stores, LLC (“VSS”) is a company incorporated under the laws of Delaware, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.
6. Upon information and belief, defendant Victoria’s Secret Stores GC, LLC (“VSSGC”) is a company incorporated under the laws of Ohio, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.
7. Upon information and belief, defendant Victoria’s Secret Direct, LLC (“VSD”) is a company incorporated under the laws of Delaware, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.
8. Upon information and belief, defendant Victoria’s Secret Direct GC, LLC (“VSDGC”) is a company incorporated under the laws of Ohio, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.

9. Upon information and belief, defendant Victoria's Secret Stores Brand Management, Inc. ("VSSBM") is a company incorporated under the laws of Delaware, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.

10. Upon information and belief, defendant Victoria's Secret Direct Brand Management, LLC. ("VSDBM") is a company incorporated under the laws of Delaware, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.

11. Upon information and belief, defendant Limited Brands Store Operations, LLC ("LBSO") is a company incorporated under the laws of Delaware, with its principal place of business at Three Limited Parkway, Columbus, OH 43216.

12. Upon information and belief, VSS, VSSGC, VSD and VSDGC are wholly owned subsidiaries of LBSO and VSDBM is a wholly owned subsidiary of CSSBM. Both VSSBM and LBSO are wholly owned subsidiaries of IB and IB is a wholly owned subsidiary of LB. Under the Victoria's Secret brand name, defendants are retailers of women's clothing and sells through stores, mail order catalogues and purchases through the Internet.

13. Upon information and belief, defendant Pleasure State Pty Ltd. is an Australian corporation with its principal place of business at 134 Oxford Street, Paddington NSW 2021, Sydney, Australia.

14. Upon information and belief, defendant Pleasure State USA, Inc. is a Delaware corporation with its principal place of business at 134 Oxford Street, Paddington NSW 2021, Sydney, Australia. Upon information and belief, Pleasure State USA, Inc. is a wholly owned subsidiary of defendant Pleasure State Pty Ltd.

JURISDICTION AND VENUE

15. The claim for patent infringement in this action arises under 35 U.S.C. § 271

16. Subject matter jurisdiction exists pursuant to 28 U.S.C. §§ 1331 & 1338(a).

17. This Court has personal jurisdiction over defendants pursuant to 42

Pa.Cons.Stat.Ann § 5322(a) because defendants are selling the infringing goods in this district.

18. Venue exists in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c).

FACTS

The Patent-In-Suit

19. Ms. Knox owns all right, title, and interest in and to United States Patent No. 7,074,108 B2 (“the ‘108 patent”) entitled Multi-Layer Uplift Bra, which was duly and legally issued by the United States Patent and Trademark Office on July 11, 2006. A copy of the '108 patent is attached as Exhibit A.

20. The multi-layer feature of the invention is described in claim 1 of the ‘108 patent. Claim 1 describes “(a) a first layer positioned adjacent to the breast for lifting the breasts and creating cleavage[.]” Claim 1 also describes “(b) a second layer for supporting and holding said breasts in place positioned over said first layer and extending over substantially an entire top edge of said first layer, said second layer extending in a vertical direction towards the straps parallel to a surface of the wearer’s breast to hold the upper portion of the breast extending above the first layer in place to reduce unsightly bulges and produce a smooth line to the breast[.]”

The Accused Product

21. Defendants manufacture, use, sell, offer for sale or import one or more bras, including but not limited to those that are marketed with the name Biofit 7-Way bra. The Biofit 7-Way bra in “D” and “DD” cup sizes incorporates an infringing two-layer feature. The first layer is a mesh sling marketed by defendants, upon information and belief, as the “Power Mesh”

layer. The second layer is formed by the foam cup. Copies of marketing material for the Biofit 7-Way bra are attached as Exhibit B.

22. On or about April 23, 2009, defendants began to sell the Biofit 7-Way bra through the Victoria's Secret website. Upon information and belief, the Biofit 7-Way bra has been offered for sale through Victoria's Secret stores for approximately the last three weeks. The Biofit 7-Way bra is being offered for sale by defendants throughout the United States, including within this district.

23. Upon information and belief, Pleasure State sells the BioFit 7-Way bra to Victoria's Secret.

Prior Contact With Victoria's Secret

24. Since the '108 patent issued, Ms. Knox has contacted a number of intimate apparel companies to propose that they license her patent. In late January 2007, Ms. Knox called the headquarters of Victoria's Secret and spoke to Ms. Kristen Kramer, chief bra designer for Victoria's Secret. Ms. Knox spoke briefly to Ms. Kramer by telephone about her invention, and Ms. Kramer asked Ms. Knox to send her some additional materials. Shortly thereafter, on January 29, 2007, plaintiff sent Ms. Kramer marketing materials illustrating the patented bra design. A copy of Ms. Knox's email to Ms. Kramer, including the attachment, is attached as Exhibit C. The email makes repeated reference to the fact that Ms. Knox's design was patented.

25. Upon information and belief, Ms. Kramer was intimately involved in developing the BioFit 7 Way bra with Pleasure State.

CAUSE OF ACTION

(Infringement of the '108 Patent)

26. The allegations in Paragraphs 1 through 25 above are incorporated by reference as if fully restated herein.

27. The defendants are liable under 35 U.S.C. § 271 because they have infringed and continue to infringe directly, indirectly, contributorily, or by inducement, the claims of the '108 patent by making, using, offering for sell, selling, or importing bras, including but not limited to the Biofit 7-Way bra, throughout the United States.

28. The defendants' acts of infringement will continue unless enjoined by this Court.

29. The defendants' acts of infringement have caused and will continue to cause plaintiff substantial and irreparable injury for which plaintiff is entitled to receive injunctive relief, in addition to monetary damages.

30. Upon information and belief, defendants have been on notice of the '108 patent since at least as early as the January 2007 email correspondence between plaintiff and Kristen Kramer.

31. Despite knowledge of the '108 patent, defendants have continued to engage in their infringing activity.

32. The defendants' acts of infringement have been willful and deliberate rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

WHEREFORE, Ms. Knox requests this Court to enter judgment in her favor and against each defendant awarding it the following relief:

1. Preliminarily and permanently enjoining defendants, and their respective officers, agents, servants, employees, and any others acting in concert with defendants from infringing the '108 patent;

2. Awarding Ms. Knox damages resulting from the defendants' acts of infringement and ordering defendants to account for and pay to Ms. Knox damages adequate to compensate her for the infringement of her patent rights;

3. Awarding Ms. Knox treble damages pursuant to 35 U.S.C. § 284 as a result of the defendants' willful acts of infringement;

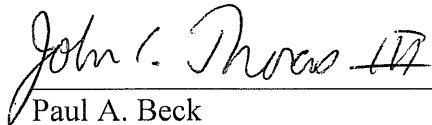
4. Declaring this case exceptional pursuant to 35 U.S.C. § 285 and awarding Ms. Knox interest, costs, expenses and attorneys' fees; and

5. Granting Ms. Knox such other relief as the Court deems just and proper.

A JURY TRIAL IS DEMANDED ON ALL ISSUES SO TRIABLE

Dated: Pittsburgh, Pennsylvania
June 3, 2009

s/John C. Thomas III



6-3-09

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