

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RAWLINGS SPORTING GOODS)
COMPANY, INC.,)
)
Plaintiff,)
)
vs.)
)
NIKE, INC.,)
)
Defendant.)

FILED
MAY 27 2005
U. S. DISTRICT COURT
E. DIST. OF MO.
ST. LOUIS

4 05 CV 00873 D

JURY TRIAL DEMANDED

COMPLAINT

Rawlings Sporting Goods Company, Inc. ("Rawlings"), for its Complaint against Nike, Inc. ("Nike" or "Defendant"), alleges as follows:

Parties

1. Rawlings is a Delaware corporation with its principal place of business located at 1859 Bowles Avenue, Fenton, Missouri.
2. Nike is an Oregon corporation with its principal place of business located at One Bowerman Drive, Beaverton, Oregon.

Nature of the Action, Jurisdiction, and Venue

3. This cause of action is for patent infringement arising under the Patent Laws of the United States, namely 35 U.S.C. § 1 et seq.
4. This Court has exclusive subject matter jurisdiction in this case under 28 U.S.C. §§ 1331 and 1338(a) in that the claims involve patent infringement under 35 U.S.C. § 271.
5. Nike does business in interstate commerce throughout the United States, including within this judicial district, and is subject to the personal jurisdiction of this Court.

6. On information and belief, Nike has offered the infringing product for sale in this judicial district, has purposely directed activities at residents of this District, and has caused events to occur in this District that are the subject of this litigation.

7. Jurisdiction and venue are predicated upon 28 U.S.C. § § 1338 and 1400, inasmuch as Nike resides in this judicial district and has committed acts of infringement therein.

Facts

8. Rawlings is a well-known developer, manufacturer and distributor of sporting goods products, including various basketballs.

9. At least as early as 2001, Rawlings developed a unique basketball having nine (9) to twelve (12) cover panels.

10. On October 12, 2001, Rawlings filed a patent application entitled "Basketball Having Nine to Twelve Cover Panels" in the United States Patent and Trademark Office directed to this unique basketball. The patent application was assigned Serial No. 09/976,957.

11. On June 22, 2004, the United States Patent and Trademark Office issued U.S. Patent No. 6,752,732 ("the '732 Patent"). A copy of the '732 Patent is appended hereto as Exhibit 1.

12. The '732 Patent is assigned to Rawlings by virtue of an assignment executed in October 2001 and recorded with the United States Patent and Trademark Office on October 12, 2001 under Reel/Frame 012272/0404.

13. Rawlings is and has continuously been the owner of all right, title and interest in and to the invention of the '732 Patent.

14. The '732 Patent remains valid and enforceable.

15. In or around October 2001, Rawlings introduced a basketball having ten (10) panels to the marketplace and thereafter began selling the basketballs throughout the United States.

16. Following Rawlings' successful introduction of a basketball having ten (10) panels into the marketplace, and after issuance of the '732 Patent, the Defendant Nike began manufacturing, promoting, and/or selling a basketball under the name GO PRO or some variation on that name. A copy of Nike's website advertising the GO PRO basketball for sale is appended hereto as Exhibit 2.

COUNT I

PATENT INFRINGEMENT

17. The allegations set forth in paragraphs 1 through 16 are incorporated by reference as if fully set forth herein.

18. Upon information and belief, Nike has manufactured, used, and/or sold, and is continuing to manufacture, use, and/or sell, basketballs which infringe upon one or more claims of the '732 Patent in violation of 35 U.S.C. § 271.

19. Rawlings has not authorized Nike to manufacture, use, import, sell, and/or offer for sale the GO PRO basketball in the United States.

20. Rawlings has been, and continues to be, damaged by Nike's infringing activities.

21. Upon information and belief, Nike will continue to infringe the '732 Patent and damage Rawlings unless enjoined by this Court.

WHEREFORE, Rawlings prays for judgment as follows:

a. That the Court find that Nike has violated 35 U.S.C. § 271 by infringing one or more claims of the '732 Patent, which patent is valid and enforceable;

b. That Nike, its partners, agents, servants, employees, officers, directors, successors, assigns, attorneys and those persons in active concert or participation with Nike or with any of the foregoing be permanently enjoined and restrained from infringing any one or more claims of the '732 Patent in any manner, from inducing others to infringe such patent or from contributing to such infringement, pursuant to 35 U.S.C. § 283;

c. That Nike remove from its United States inventory any basketballs that infringe the '732 Patent, and provide a written affidavit that such removal has been completed;

d. That Nike be required to deliver to Rawlings for destruction all product, displays, advertisements, packaging, brochures, catalogs, order forms, price lists or any other materials, whether in tangible or electronic form (including the Internet), in its possession or control or in the possession or control of its agents which infringe or induce infringement of the '732 Patent;

e. That Nike be required to recall and turn over to Rawlings for destruction all current catalogs that have been distributed to its sales agents and customers offering the infringing basketball products;

f. That Nike be required to account for and pay over to Rawlings all of the profits which Nike has derived from its sales of the infringing products and to pay such damages to Rawlings as this Court shall determine is just and proper to adequately compensate Rawlings for the aforesaid patent infringement including prejudgment and post judgment interest on the same pursuant to 35 U.S.C. § 284;

g. That Nike be required to pay over to Rawlings an increased damages award of three (3) times the amount found or assessed pursuant to 35 U.S.C. § 284;


h. That this case be deemed exceptional under the Patent Laws and that Nike be required to pay to Rawlings the cost incurred herein including all of Rawlings' attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285;

i. That Rawlings have such other and further relief as is warranted by the pleadings and/or the evidence.

DATED this 27th day of May, 2005.

Respectfully submitted,

STINSON MORRISON HECKER LLP

By 

John W. Moticka, #3903
100 South Fourth Street, Suite 700
St. Louis, Missouri 63102
Telephone: (314) 259-4500
Fax: (314) 259-4599

Attorneys for Plaintiff
Rawlings Sporting Goods Company, Inc.