

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

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WOLVERINE WORLD WIDE, INC.,

Plaintiff,

v

File No. 1:01CV594 (VA)

SALOMON, S.A.,

Hon. Gordon J. Quist
U.S. District Judge

Defendant.

Douglas A. Dozeman (P35781)
Attorneys for Plaintiff
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COMPLAINT FOR DECLARATORY JUDGMENT

Wolverine World Wide, Inc. ("Wolverine"), by its attorneys, Warner Norcross & Judd LLP, states its Complaint for Declaratory Judgment as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action for declaratory relief regarding the non-infringement and invalidity of a patent pursuant to 28 U.S.C. §§ 1331, 1332, 1338 and the Declaratory Judgment Act, 28 U.S.C. §2201, *et. seq.*
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

PARTIES

3. Wolverine is a Delaware corporation with its principal place of business at 9341 Courtland Drive, Rockford, Michigan.

4. Salomon, S.A. (“Salomon”) is a French corporation with its principal place of business at Chavanod, France. Salomon conducts business throughout the United States, including in this judicial district.

BACKGROUND FACTS

5. Wolverine is in the business of designing, manufacturing, and marketing footwear products. Included in these products are outdoor boots and shoes marketed under Wolverine’s Merrell brand.

6. Salomon is a competitor of Wolverine, and is also in the business of designing, manufacturing, and marketing footwear products. Included in these products are athletic and sport shoes marketed under the Salomon and adidas brands.

7. United States Patent No. 6,079,125 (“the ‘125 Patent”), entitled Multilayer Sole For Sport Shoes, was issued on June 27, 2000, and was apparently assigned to Salomon (Exhibit A).

8. The ‘125 Patent deals with the construction of a sole for a sport shoe. The ‘125 Patent includes claims directed to a construction for a sport shoe having an upper and a multilayer sole in which the sole includes, among other things, a ground contact layer, an upper comfort layer and an intermediate layer that (a) is sandwiched between the ground contact layer and the upper comfort layer and (b) extends over the entire surface of the ground contact layer.

9. Salomon has alleged that certain products manufactured and sold by Wolverine under its Merrell brand infringe the claims of the '125 Patent. Specifically, Salomon alleges that Wolverine's Exotech, Quattro, Attitude, and Ascent models infringe the claims of the '125 Patent.

10. Salomon has threatened to file a legal action against Wolverine unless it agrees to immediately cease and desist the manufacturing and sale of these allegedly infringing products (Exhibit B).

11. Wolverine has carefully examined the '125 Patent, the file history of the '125 Patent and a variety of prior art references and has determined that its products do not infringe the claims of the '125 Patent and/or that these claims are not valid. Wolverine is therefore not willing to comply with Salomon's demands and is continuing to manufacture and sell at least some of the allegedly infringing products. Accordingly, Wolverine is under a reasonable apprehension that Salomon will attempt to enforce its patent rights against Wolverine. There is, therefore, an actual justiciable controversy between Wolverine and Salomon arising out of the patent laws of the United States, 35, U.S.C. §§ 1, *et. seq.*

COUNT I

DECLARATORY JUDGMENT AS TO NON-INFRINGEMENT OF THE '125 PATENT

12. Wolverine realleges the allegations of paragraphs 1 through 11, above.
13. Salomon alleges that Wolverine infringes the '125 Patent.
14. Wolverine does not infringe any valid claim of the '125 Patent.
15. An actual controversy exists between Wolverine and Salomon concerning the '125 Patent which requires a declaration of rights by this Court.

16. Wolverine is entitled to a declaratory judgment that it does not and has not infringed the '125 Patent.

COUNT II

DECLARATORY JUDGMENT AS TO INVALIDITY OF THE '125 PATENT

17. Wolverine realleges the allegations of paragraphs 1 through 16, above.

18. Salomon has asserted the claims of the '125 Patent against Wolverine.

19. The claims of the '125 Patent are invalid under the provisions of 35 U.S.C. §§ 101, *et. seq.*, including without limitation, §§ 102, 103, and 112.

20. An actual controversy exists between Wolverine and Salomon covering the validity of the '125 Patent which requires a declaration of rights by this Court.

21. Wolverine is entitled to a declaratory judgment that the '125 Patent is invalid and unenforceable.

WHEREFORE, Wolverine requests this Court to enter a judgment that:

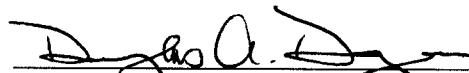
1. The claims of United States Patent No. 6,079,125 are invalid;
2. Salomon, along with its officers, agents, employees, or representatives, be enjoined from threatening or charging infringement of, or instituting any action for infringement of United States Patent No. 6,079,125 against Wolverine, or its suppliers, customers, or any distributor or user of its products;
3. Wolverine is not liable for any infringement, contributory infringement, or for inducing infringement of any claim of United States Patent No. 6,079,125;
4. Wolverine be awarded its costs, including actual attorneys' fees, incurred in bringing this action; and

5. Wolverine be granted such further relief as the Court deems just and proper.

WARNER NORCROSS & JUDD LLP

Dated: September 14, 2001

By:



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