

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

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:

AKADEMA, INC., :

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Plaintiff, :

:

v. :

:

HILLERICH & BRADSBY CO. D/B/A:

LOUISVILLE SLUGGER, :

:

Defendant. :

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Civil Action No. 1:07-cv-00159-NRB

ECF CASE

JURY DEMANDED

COMPLAINT

Plaintiff, Akadema, Inc., by its undersigned attorneys, for its Complaint against the Defendant, alleges:

JURISDICTION AND VENUE

1. This cause of action arises under the Patent Laws of the United States, 35 U.S.C. §101 et. seq.
2. Jurisdiction of the subject matter of this action is conferred on this Court by 28 U.S.C. §§ 1331 and 1338(a).
3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b) and (c).

THE PARTIES

4. Plaintiff, Akadema, Inc. (hereinafter “Akadema” or “Plaintiff”), is a New Jersey corporation having a principal, regular and established place of business at 317 Midland Avenue, Garfield, NJ 07026.

5. Upon information and belief, Defendant Hillerich & Bradsby Co. (hereinafter “H&B” or “Defendant”), is a Kentucky corporation having a principal, regular and established place of

business at 800 West Main Street, Louisville, KY 40202.

6. Upon information and belief, Defendant transacts business within this district, derives substantial revenues from intra-state and inter-state commerce and has committed tortious acts of patent infringement within this district and also without this district having injurious consequences within this district, and Defendant is otherwise within the jurisdiction of this Court.

7. In particular, upon information and belief, Defendant is selling into this district a product that infringes upon Plaintiff's United States Design Patent No. D527,148, as is more thoroughly described below, and/or is actively doing business in this district and thereby is, and has been, regularly availing itself of the benefits of doing business in this district.

COUNT I – PATENT INFRINGEMENT

8. Plaintiff re-alleges all of the foregoing paragraphs, as if fully set forth herein.

9. Plaintiff is the owner of United States Design Patent No. D527,148, for the invention entitled "Baseball Glove," duly issued by the United States Patent and Trademark Office on August 22, 2006 (hereinafter "the '148 patent"). The '148 patent has at all times been valid and subsisting.

10. Defendant is a manufacturer of baseball equipment, including but not limited to, gloves, mitts, bats, helmets, etc. sold under the Louisville Slugger name.

11. Upon information and belief, since long after the October 13, 2004 filing date of Plaintiff's patent application that issued as the '148 patent, Defendant commenced manufacturing, importing into the United States, offering for sale and selling baseball gloves, including but not limited to baseball gloves under the name FLARE, which gloves infringe upon the protected design of the '148 patent.

12. Upon information and belief, Defendant has offered for sale and sold, and now offers

for sale and sells, such infringing gloves in this district and throughout the United States.

13. Upon information and belief, Defendant has had full knowledge of Plaintiff's rights in the '148 patent since its issuance on August 22, 2006.

14. All of the acts of Defendant are without the permission, license or consent of Plaintiff and, if allowed to continue, will continue to cause irreparable injury to Plaintiff, unless enjoined by this Court.

15. Defendant has been unjustly enriched and Plaintiff is entitled to an accounting and award of damages, interest, attorneys' fees and costs.

16. Defendant's acts of infringement have been willful, wanton and exceptional, thereby subjecting Defendant to an award of enhanced damages.

17. Defendant's foregoing activities have damaged Plaintiff in an amount as yet unknown, but if Defendant's foregoing activities continue, Plaintiff believes damages will exceed at least the sum of at least \$250,000, and will likely be far higher.

JURY DEMAND

18. Plaintiff hereby demands trial by jury.

PRAYER

WHEREFORE, Plaintiff prays for a judgment, including:

A. That, at least, Defendant's FLARE gloves infringe Plaintiff's '148 patent, and that such infringement was, and continues to be, willful;

B. An accounting and award for damages, interest, attorneys' fees and costs of this

action;

- C. An award of treble damages for Defendant's willful infringement of the '148 patent;
- D. A permanent injunction against Defendant, prohibiting the continuance of its infringing activities; and
- E. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Dated: January 8, 2007

Michael R. Gilman (MG 7608)