

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

<p>BERN UNLIMITED, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>AMER SPORTS WINTER & OUTDOOR CO.,</p> <p style="text-align: center;">Defendant.</p>

Civil Action No. _____

COMPLAINT

Plaintiff Bern Unlimited, Inc. for its complaint against defendant Amer Sports Winter & Outdoor Co., states as follows:

PARTIES

- 1. Plaintiff Bern Unlimited, Inc. (“Bern”) is a Massachusetts corporation with its principal place of business in Kingston, Massachusetts.
- 2. Upon information and belief, defendant Amer Sports Winter & Outdoor Co. (“Amer Sports”) is a Delaware corporation with its principal place of business in Ogden, Utah.

JURISDICTION AND VENUE

- 3. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a).
- 4. Venue is proper in this court pursuant to 28 U.S.C. §§1391(b) and 1400(b).

FACTS

- 5. Bern is the owner by assignment of United States Design Patent No. D572,865, issued on July 8, 2008 (the “’865 Patent”), which is directed to an ornamental design for a helmet. A copy of the ’865 Patent is attached as Exhibit A.

6. Bern makes and sells a line of helmets for biking, skating and snow sports that incorporate the design of the '865 Patent. Copies of pages from Bern's website, which show examples of these helmets, are attached as Exhibit B.

7. Amer Sports has made, used, offered for sale and/or sold helmets known as the Ghost and Brigade Audio as part of its Salomon product line, and is continuing to do so. Copies of pages from the Amer Sports website, which show photographs of the Ghost and Brigade Audio, are attached as Exhibit C.

8. By making, using, offering for sale and/or selling the Ghost and Brigade Audio, Amer Sports has infringed, and is continuing to infringe, the '865 Patent.

9. Upon information and belief, Amer Sports' infringement is willful.

COUNT I

(Infringement of '865 Patent – 35 U.S.C. §281)

10. Bern repeats and realleges paragraphs 1 through 9 as if fully set forth herein.

11. Amer Sports has infringed, and is continuing to infringe, the '865 Patent.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Bern Unlimited, Inc. requests judgment as follows:

1. Enjoining Amer Sports from further infringement of the '865 Patent;
2. Awarding Bern damages in an amount to be proven at trial;
3. Awarding Bern multiple damages, costs and attorneys' fees pursuant to 35 U.S.C. §285; and
4. Granting such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff Bern Unlimited, Inc. demands a trial by jury of all issues so triable.

Dated: December 20, 2011

Respectfully submitted,

BERN UNLIMITED, INC.,

By its attorneys,

/s/ David S. Godkin

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