

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

EVANS DESIGN DYNAMICS, LLC,

Plaintiff,

v.

NIKE, INC.; and UMBRO CORP.,

Defendants.

Civil Action No. 8:12-CV-493-JDW-TBM

JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Evans Design Dynamics, LLC (“Evans”), for its Amended Complaint against Nike, Inc., and Umbro Corp., upon knowledge as to its own acts, and upon information and belief as to all other matters, alleges, as follows:

THE PARTIES

1. Plaintiff Evans is limited liability company, organized under the laws of the State of Florida, having its principal place of business at 1814 North 15th Street, Suite #5, Tampa, Florida 33605.

2. On information and belief, Defendant Nike, Inc. (“Nike”) is a corporation duly organized and existing under the laws of the State of Oregon, having its principal place of business at One Bowerman Drive, Beaverton, OR 97005-6453. Upon information and belief, Nike does substantial business in this judicial district, including selling infringing articles within the State of Florida and this judicial district.

3. On information and belief, Defendant Umbro Corp. (“Umbro”) is a corporation duly organized and existing under the laws of the State of Oregon, having its

principal place of business at One Bowerman Drive, Beaverton, OR 97005-6453. On information and belief, Umbro is wholly-owned by Nike International Holding Inc., which is wholly-owned by Nike, Inc. Upon information and belief, Umbro does substantial business in this judicial district, including selling infringing articles within the State of Florida and this judicial district.

4. On information and belief, Umbro International Limited and Umbro International Holdings Limited are all wholly-owned by Nike, Inc.

5. Nike and Umbro are collectively referred to herein as “Defendants.”

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the Patent Act, 35 U.S.C. §§101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§1331 and 1338(a).

7. This Court has specific and general personal jurisdiction over Defendants because they have committed acts giving rise to this action within this judicial district and have established minimum contacts within Florida and within this judicial district such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) because each Defendant has conducted business in this district and continues to conduct business in this district, and has committed acts of patent infringement within this district giving rise to this action.

BACKGROUND

9. On August 12, 2000, U.S. Patent No. 6,101,746 (the '746 Patent), entitled "FOOTWEAR" issued to Anthony Evans. A true and correct copy of the '746 Patent is attached hereto as **Exhibit 1**. Anthony Evans is sole owner and shareholder of Plaintiff, Evans Design, LLC. Anthony Evans has assigned all interest in the '746 patent to Evans Design Dynamics, LLC.

10. On April 16, 1997, Anthony Evans entered into a licensing agreement with Defendant Umbro for inventions described in the patent applications that led to the issuance of the '746 patent.

11. On information and belief, Umbro made, used, sold, offered for sale, and/or imported shoes that practiced Evan's invention during the license period.

12. In 2003, Umbro ceased making payments under the license agreement. But, on information and belief, after the termination of the licensing agreement, Umbro has continued to make, use, sell, offer to sell, and/or import shoes that practice Evans invention without Evans' permission. Thus, Umbro has willfully infringed the '746 patent by continuing to make, use, import, offer to sell, and/or sell products that embody the inventions claimed in the patent, without authorization.

13. On information and belief, on October 22, 2007, Nike purchased all or substantially all of the ownership of Umbro and since that date, Umbro has operated as a wholly owned subsidiary of Nike. On information and belief, owing to its acquisition of Umbro, Nike knows or should have known of Umbro's infringement of Evan's patent rights. On information and belief, despite this fact, Nike has profited by Umbro's

infringement and Nike has, moreover, itself willfully infringed Evan's rights by making, using selling, offering to sell and/or importing shoes that it knows or should know practice at least one claim of the '746 patent.

COUNT ONE
INFRINGEMENT OF U.S. PATENT 6,101,746 BY DEFENDANT NIKE

14. Evans re-alleges and incorporates by reference the above allegations as if fully set forth herein.

15. On August 15, 2000, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 6,101,746 ("the '746 patent") entitled "FOOTWEAR." A true and correct copy of the '746 patent is attached hereto as Exhibit 1, and is incorporated herein by reference.

16. Evans is the owner and assignee of all right, title, and interest in and to the '746 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

17. On information and belief, Defendant Nike has been and now is infringing the '746 patent in the State of Florida, in this judicial district, and elsewhere in the United States by making, using, importing, offering to sell, and/or selling in the United States infringing products that embody the inventions claimed in the '746 patent, including but not limited to the Nike CTR360 Trequrtista 2 FG, the Nike CTR360 Maestri II FG, and the Nike Mercurial.

18. Evans has been injured by Nike's infringing activities, and is entitled to recover money damages from Nike adequate to compensate it for such infringement, but

in no event less than a reasonable royalty together with interest and costs as fixed by the Court.

19. Upon information and belief, Nike will continue to infringe the '746 patent unless enjoined by this Court.

20. Upon information and belief, Nike's infringement of the '746 patent is willful and thus entitles Evans to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

21. Unless a permanent injunction is issued enjoining Nike and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '746 patent, Evans will be greatly and irreparably harmed.

COUNT TWO
INFRINGEMENT OF U.S. PATENT 6,101,746 BY DEFENDANT UMBRO

22. On information and belief, Defendant Umbro has been and now is infringing the '746 patent in the State of Florida, in this judicial district, and elsewhere in the United States by making, using, importing, offering to sell, and/or selling in the United States infringing products that embody the inventions claimed in the '746 patent, including but not limited to the Umbro Geometra line of soccer shoes.

23. Evans has been injured by Umbro's infringing activities, and is entitled to recover money damages from Umbro adequate to compensate it for such infringement, but in no event less than a reasonable royalty together with interest and costs as fixed by the Court.

24. Upon information and belief, Umbro will continue to infringe the '746 patent unless enjoined by this Court.

25. Upon information and belief, Umbro's infringement of the '746 patent is willful and thus entitles Evans to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

26. Unless a permanent injunction is issued enjoining Umbro and its respective agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '746 patent, Evans will be greatly and irreparably harmed.

PRAYER FOR RELIEF

27. Wherefore, Evans respectfully requests judgment in its favor and against Defendants, and each of them, as follows:

- a. For judgment that each Defendant has infringed the '746 Patent;
- b. For a permanent injunction against each Defendant and its respective directors, officers, employees, agents, subsidiaries, affiliates, parents, attorneys, and all others acting in concert, on behalf of, in joint venture, or in partnership therewith, enjoining any further acts of infringement;
- c. For an accounting of all damages caused by each Defendant's acts of infringement;

- d. For damages to be paid by each Defendant adequate to compensate Evans for its infringement, plus pre- and post-judgment interest, costs, expenses, and disbursement under 35 U.S.C. § 284;
- e. For treble damages under 35 U.S.C. § 284;
- f. For judgment finding this to be an exceptional case, and awarding Evans attorney fees under 35 U.S.C. § 285; and
- g. For such other relief at law and in equity as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Evans demands a trial by jury of all issues triable by a jury.

Dated: May 9, 2012

Respectfully submitted,

/s/ Christopher D. Banys

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