IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

RECEIVED

ZM International, Inc., an Illinois Corporation,) DEC 2 2 2000			
Plaintiff,	MICHAEL W. COLOURS CLERK, U.S. DISTRICT COURT			
v.				
Anywear Shoe Company, Inc. a Washington Corporation,	00C 8073			
Defendant,				
and	THE STATE OF THE S			
John Doe, Inc.	MAGISTRATE WIDOW			
Defendant	MAGISTRATE JUDGE GERALDINE SOAT BROWN			
and				
John Doe an individual)))			
Defendant)			

COMPLAINT

JURISDICTION AND VENUE

- 1. This action arises, under the patent laws of the United States, 35 U.S.C. Section 100 et seq. This court has original and exclusive jurisdiction over these claims pursuant to 15 U.S.C. Section 1121 and 28 U.S.C. Sections 1331 and 1338.
- 2. Venue is proper in this District pursuant to 28 U.S.C. Sections 1391(b) and (c) and 1400(a) and (b).

PARTIES

- 3. PLAINTIFF, ZM International, Inc. (ZM) is, and at all times herein mentioned was, a corporation organized and existing pursuant to the laws of the State of Illinois and having its principal place of business at 807 Greenleaf, Third Floor, Evanston, Illinois 60202.
- 4. On information and belief, DEFENDANT, Anywear Shoe Company, Inc.

 (Anywear Shoe) is, and at all times herein mentioned was, a corporation organized and existing pursuant to the law of the State of Washington and having its principal place of business located at 14 South Idaho Street, Seattle, Washington 98134.
- 5. DEFENDANT, John Doe, Inc. is any company who has acted in concert with DEFENDANT, Anywear Shoe.
- 6. DEFENDANT, John Doe, an individual, is meant to be any alter ego of DEFENDANT, Anywear Shoe.

COUNT I PATENT INFRINGEMENT

- 7. ZM is the owner of United States Patent No. Des. 422,778 ("the '778 patnet") issued on April 18, 2000. A copy of the '778 patent is attached hereto as Exhibit A. The '778 patent is valid and enforceable.
- 8. Upon information and belief, DEFENDANT Anywear Shoe imports, manufactures, offers for sale, or sells in Illinois and in this judicial district, boots that comprise a commercial embodiment of the inventions claimed in the '778 patent.
 - 9. DEFENDANT, Anywear Shoe has infringed the '778 patent without authority or

license from ZM, and will continue to do so unless enjoined by this Court.

10. The acts of DEFENDANT, Anywear Shoe have caused monetary damage to ZM. Further, such acts have caused or will cause, and unless restrained by this Court, will continue to cause serious irreparable injury to ZM.

COUNT II PATENT INFRINGEMENT

- 11. PLAINTIFF, ZM herein realleges and incorporates paragraphs 1-10, inclusive of this complaint as if fully set forth herein.
- 12. ZM is the owner of United States Patent No. Des. 423,197 ("the '197 patent") issued on April 25, 2000. A copy of the '197 patent is attached hereto as Exhibit B. The '197 patent is valid and enforceable.
- 13. Upon information and belief, DEFENDANT Anywear Shoe imports, manufactures, offers for sale, or sells in Illinois and in this judicial district, boots that comprise a commercial embodiment of the invention claimed in the '197 patent.
- 14. Upon information and belief, DEFENDANT, Anywear Shoe has infringed the '197 patent without authority or license from ZM, and will continue to do so unless enjoined by this Court.
- 15. Upon information and belief, the acts of DEFENDANT, Anywear Shoe have caused monetary damage to ZM. Further, such acts have caused or will cause, and unless restrained by this Court, will continue to cause serious and irreparable injury to ZM.
 - 16. This is an exceptional case within meaning of 35 U.S.C. § 285.
 - 17. Upon information and belief, all of the above mentioned acts of DEFENDANT,

Anywear Shoe subject it to both general and specific jurisdiction in the Northern District of Illinois, Eastern Division.

COUNT III PATENT INFRINGEMENT

- 18. PLAINTIFF, ZM herein realleges and incorporates paragraphs 1-17, inclusive of this complaint as if fully set forth herein.
- 19. ZM is the owner of United States Patent No. Des. 422,778 ("the '778 patnet") issued on April 18, 2000. A copy of the '778 patent is attached hereto as Exhibit A. The '778 patent is valid and enforceable.
- Upon information and belief, DEFENDANT John Doe, Inc. imports, manufactures, offers for sale, or sells in Illinois and in this judicial district, boots that comprise a commercial embodiment of the inventions claimed in the '778 patent.
- Upon information and belief, DEFENDANT, John Doe, Inc. has infringed the '778 patent without authority or license from ZM, and will continue to do so unless enjoined by this Court.
- 22. Upon information and belief, the acts of DEFENDANT, John Doe, Inc. have caused monetary damage to ZM. Further, such acts have caused or will cause, and unless restrained by this Court, will continue to cause serious irreparable injury to ZM.

COUNT IV PATENT INFRINGEMENT

- PLAINTIFF, ZM herein realleges and incorporates paragraphs 1-22, inclusive of this complaint as if fully set forth herein.
 - 24. ZM is the owner of United States Patent No. Des. 423,197 ("the '197 patent")

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issued on April 25, 2000. A copy of the '197 patent is attached hereto as Exhibit B. The '197 patent is valid and enforceable.

- 25. Upon information and belief, DEFENDANT John Doe, Inc. imports, manufactures, offers for sale, or sells in Illinois and in this judicial district, boots that comprise a commercial embodiment of the invention claimed in the '197 patent.
- 26. Upon information and belief, DEFENDANT, John Doe, Inc. has infringed the '197 patent without authority or license from ZM, and will continue to do so unless enjoined by this Court.
- 27. Upon information and belief, the acts of DEFENDANT, John Doe, Inc. have caused monetary damage to ZM. Further, such acts have caused or will cause, and unless restrained by this Court, will continue to cause serious and irreparable injury to ZM.
 - 28. This is an exceptional case within meaning of 35 U.S.C. § 285.
- 29. Upon information and belief, all of the above mentioned acts of DEFENDANT, John Doe, Inc. subject it to both general and specific jurisdiction in the Northern District of Illinois, Eastern Division.

COUNT V PATENT INFRINGEMENT

- 30. ZM is the owner of United States Patent No. Des. 422,778 ("the '778 patnet") issued on April 18, 2000. A copy of the '778 patent is attached hereto as Exhibit A. The '778 patent is valid and enforceable.
- 31. Upon information and belief, DEFENDANT John Doe, an individual, imports, manufactures, offers for sale, or sells in Illinois and in this judicial district, boots that comprise a

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commercial embodiment of the inventions claimed in the '778 patent.

32. DEFENDANT, John Doe, an individual, has infringed the '778 patent without authority or license from ZM, and will continue to do so unless enjoined by this Court.

33. The acts of DEFENDANT, John Doe, an individual, have caused monetary damage to ZM. Further, such acts have caused or will cause, and unless restrained by this Court, will continue to cause serious irreparable injury to ZM.

COUNT VI PATENT INFRINGEMENT

- 34. PLAINTIFF, ZM herein realleges and incorporates paragraphs 1-33, inclusive of this complaint as if fully set forth herein.
- 35. ZM is the owner of United States Patent No. Des. 423,197 ("the '197 patent") issued on April 25, 2000. A copy of the '197 patent is attached hereto as Exhibit B. The '197 patent is valid and enforceable.
- 36. Upon information and belief, DEFENDANT John Doe, an individual, imports, manufactures, offers for sale, or sells in Illinois and in this judicial district, boots that comprise a commercial embodiment of the invention claimed in the '197 patent.
- 37. Upon information and belief, DEFENDANT, John Doe, an individual, has infringed the '197 patent without authority or license from ZM, and will continue to do so unless enjoined by this Court.
- 38. Upon information and belief, the acts of DEFENDANT, John Doe, an individual, have caused monetary damage to ZM. Further, such acts have caused or will cause, and unless restrained by this Court, will continue to cause serious and irreparable injury to ZM.

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39. This is an exceptional case within meaning of 35 U.S.C. § 285.

40. Upon information and belief, all of the above mentioned acts of DEFENDANT, John Doe, an individual, subject it to both general and specific jurisdiction in the Northern District of Illinois, Eastern Division.

PRAYER FOR RELIEF

WHEREFORE, the PLAINTIFF, ZM International, Inc. request that is court:

- a) adjudge that DEFENDANT, Anywear Shoe has infringed the '778 patent;
- b) adjudge that DEFENDANT, Anywear Shoe has infringed the '197 patent;
- enjoin DEFENDANT, Anywear Shoe, its owners, agents, officers, directors, servants, employees, attorneys, successors, companies and assigns, and all those in active concert or participation with DEFENDANT, Anywear Shoe from manufacture, use, offer for sale or sale of any product that infringes the '778 patent or the '197 patent;
- d) adjudge that DEFENDANT, John Doe, Inc. has infringed the '778 patent;
- e) adjudge that DEFENDANT, John Doe, Inc. has infringed the '197 patent;
- enjoin DEFENDANT, John Doe, Inc., its owners, agents, officers, directors, servants, employees, attorneys, successors, companies and assigns, and all those in active concert or participation with DEFENDANT, John Doe, Inc. from manufacture, use, offer for sale or sale of any product that infringes the '778 patent or the '197 patent;
- g) adjudge that DEFENDANT, John Doe, an individual, has infringed the '778 patent;
- h) adjudge that DEFENDANT, John Doe, an individual, has infringed the '197 patent;
- i) enjoin DEFENDANT, John Doe, an individual, its owners, agents, officers, directors,

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servants, employees, attorneys, successors, companies and assigns, and all those in active concert or participation with DEFENDANT, John Doe from manufacture, use, offer for sale or sale of any product that infringes the '778 patent or the '197 patent;

- j) award ZM its costs and attorneys' fees; and
- k) award such other and further relief as the Court may deem just and proper.

Respectfully submitted,

22 December, 2000

Date

David C. Brezina Peter J. Shakula

Attorneys for Plaintiff, ZM International, Inc.

Lee, Mann, Smith, McWilliams, Sweeney & Ohlson 209 South LaSalle Street, Suite 410 Chicago, Illinois 60604

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312.368.0034 Facsimile

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EXHIBIT A

Case: 1:00-cv-08073 Document #:

[45]

United States Patent [19]

Yang

Patent Number: Des. 422,778 [11] Date of Patent: ** Apr. 18, 2000

[54] **BOOT** [75] Inventor: Liping Yang, Evanston, Ill. [73] Assignee: ZM International, Evanston, Ill. 14 Years [**] Term: [21] Appl. No.: 29/106,964 [22] Filed: Jun. 24, 1999 [51] LOC (6) CL ... D2/909 [58] Field of Search D2/896, 897, 899, D2/900, 909, 910, 911, 920; 36/112, 45, 50.1, 54, 50, 7.1 R, 4, 11.5

D. 290.062	6/1987	Valori .			
D. 296,032	6/1988	Valori.			
D. 357.793	5/1995	Loader D2/899			
3.319.360	5/1967	Nadler 36/4			
FOREIGN PATENT DOCUMENTS					
1009642	1/1983	United Kingdom.			

OTHER PUBLICATIONS

Times-Herald, Advertisement for shoes, From the shoes, No page #, Dec. 1949.

Primary Examiner-Louis S. Zarfas Assistant Examiner-G. Andoll Attorney, Agent, or Firm-Lee, Mann, Smith, McWilliams, Sweeney and Ohlson

[57] CLAIM

The ornamental design for a boot, as shown and described.

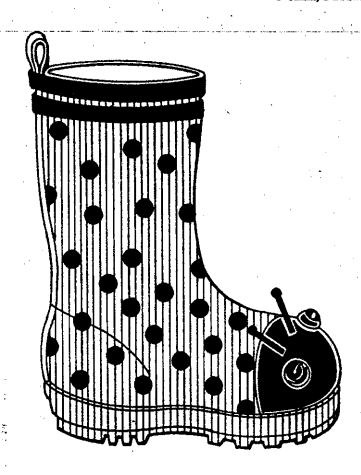
DESCRIPTION

FIG. 1 is a top and front perspective view of the boot. FIG. 2 is a right side elevational view of the boot; and, FIG. 3 is a top plan view of the boot.

The drawings are lined for color. The solid black shading indicates the color black.

The surfaces of the article not shown in the drawing or described in the specification form no part of the claimed

1 Claim, 1 Drawing Sheet



[56]

References Cited

U.S. PATENT DOCUMENTS

D. 116,634	9/1939	Stuart	
D. 181,761	7/1957	Thielen.	
D. 224,183	7/1972	Straub et al	
D. 224,184	7/1972	Straub et al	
D. 259,296	5/1981	Meyer.	
D. 260,447	9/1981	Greenblatt et al.	
D. 282,213	1/1986	Valori.	
D. 282,214	1/1986	Valori .	
D. 282,309	1/1986	Valori .	
D. 282,310	1/1986	Valori.	
D 283 042	5/1086	Valori	

U.S. Patent

Apr. 18, 2000

Des. 422,778

FIG.I

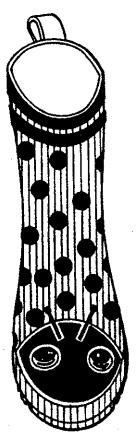


FIG.2

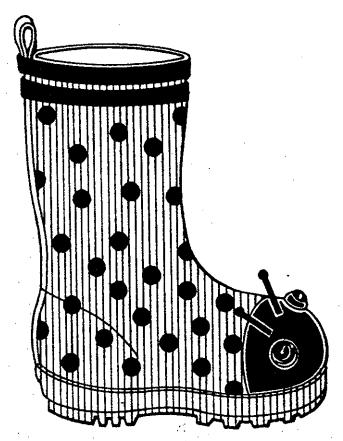


FIG.3

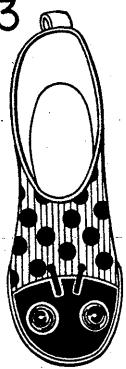


EXHIBIT B

United States Latent [19]	[11] Patentaber: Des. 423,197 [45] Date of Patent: ** Apr. 25, 2000
Yang	[45] Date of Patent: ** Apr. 25, 2000
[54] BOOT [75] Inventor: Liping Yang, Evanston, Ili.	D. 290,062 6/1987 Valori . D. 296,032 6/1988 Valori . D. 357,793 5/1995 Loader
[73] Assignee: ZM International, Evanston, Ill.	FOREIGN PATENT DOCUMENTS
[**] Term: 14 Years	1009642 1/1983 United Kingdom .
[21] Appl. No.: 29/106,962 [22] Filed: Jun. 24, 1999 [51] LOC (6) Cl	OTHER PUBLICATIONS Times-Herald, Advertisement for shoes. From the shoes, No page #, Dec. 1949. Primary Examiner—Louis S. Zarfas
[51] LOC (6) CL	Assistant Examiner—Greg Andoll Attorney, Agent, or Firm—Lee, Mann, Smith, McWilliams, Sweeney and Ohlson [57] CLAIM
[56] References Cited U.S. PATENT DOCUMENTS	The ornamental design for a boot, as shown and described. DESCRIPTION
D. 116.634 9/1939 Stuart	FIG. 1 is a top and front perspective view of the boot. FIG. 2 is a right side elevational view of the boot; and, FIG. 3 is a top plan view of the boot. The drawings are lined for color. The solid black shading indicates the color black. The surfaces of the article not shown in the drawing or described in the specification form no part of the claimed design.
D. 282,310 1/1986 Valori . D. 283,942 5/1986 Valori .	1 Claim, 1 Drawing Sheet



U.S. Patent

Apr. 25, 2000

Des. 423,197

FIG.I

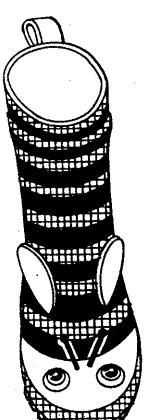
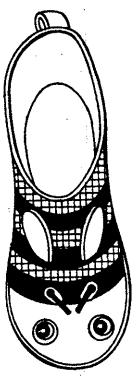


FIG.2



FIG.3



JS 44 (Rev. 07/89)

UNITED STATES DISTRICT COURT

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket

sheet. (SEE INSTRUCTIONS ON 1	THE REVERSE OF THE FORM	A.)			•
I (a) PLAINTIFFS ZM Internation Corporation)OC 8	n Illinois 3073	Washingto John Doe	Shoe Company, I on Corporation; , Inc.; and , an individual	
(b) COUNTY OF RESIDENC	E OF FIRST LISTED PLAIN PT IN U.S. PLAINTIFF CASE	TIFF Cook	COUNTY OF RESIDE	ICE OF FIRST LISTED DEFENDA (IN U.S. PLAINTIFF CASES OF DEMNATION CASES, USE THE L	NLY) OCATION OF THE
	na th, McWilliams alle Street, Su	, Sweeney &	ATTORNEYS (IF KNO	EX 2.6 2000	
II. BASIS OF JURIS	SDICTION (PLACE	AN x IN ONE BOX ONLY)	III. CITIZENSHIP O	F PRINCIPAL PARTIE	
☐ 1 U.S. Government Plaintiff ☐ 2 U.S. Government Defendant	Xo 3 Federal Quest	ent Not a Party)	Citizen of This State Citizen of Another State	TF DEF 1	This State Principal Place
N/ CALICE OF ACT	101		UNG AND WRITE A BRIEF STATEMENT OF	CAUSE JUDGE	TAUUN
Patent Infring	gement				RATE JUDGE E SOAT BROWN
V. NATURE OF SU			COMMISSION OF HAIRY		OTHER STATUTES
CONTRACT 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veterans Benefits 150 Stockholders' Suits 190 Other Contract 195 Contract Product Liability REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Loase & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	PERSONAL INJURY 310 Airplane Product Liability 320 Assaul, Libel & Stander 330 Federal Employers' Liability 340 Marine Product Liability 350 Motor Vehicle Product Liability 360 Other Personal Injury CIVIL RIGHTS 441 Voting 442 Employment 443 Housing/ Accommodations 444 Weffare 440 Other Civil Rights	PERSONAL INJURY 362 Personal Injury— Med Misipractice 365 Personal Injury— Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERT 370 Other Fraud 371 Truth in Lending 380 Other Personal 70 The Personal 70 Step Personal 71 Step Personal 71 Step Personal 72 Step Personal 73 Step Personal 73 Step Personal 74 Step Personal 75 Step Personal 76 Step	G90 Occupational Safety/Health G90 Other LABOR 710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 730 Labor/Mgmt. Reporting 8. Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act	BANKRUPTCY 422 Appeal 28 USC 158 28 USC 158 28 USC 157 PROPERTY RIGHTS 830 Patent 840 Trademark SOCIAL SECURITY 961 HIA (13958) 862 Btack Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Tride XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 1871 1RS—Third Parry 26 USC 7809	United State 400 State 400 State 410 Antitrust 430 Banks and Banking 450 Commerce/ICC Rates // 460 Deportation 470 Recketer Influenced ar Compt Organizations 810 Selective Service 650 Securities/Commodities Exchange 12 USC 3410 12 USC 3410 18 91 Agricultural Acts 692 Economic Stabilization Act 893 Environmental Matters 894 Energy Affocation Act 900 Appeal of Fee Determina Under Equal Access to Justice 950 Constitutionality of State Statutes 890 Other Statutory Actions Appeal to District
VI. ORIGIN by 1 Original Proceeding VII. REQUESTED	State Court		☐ 4 Reinstated or ☐ 5 ar Reopened (s	ensferred from other district Decify) 6 Multidist Litigation Check YES only	☐ 7 Judge from inct Magistrate
VIII. REMARK	UNDER F.R.C.P. 23	to 🗵 is not		JURY DEM	ion
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Case: 1:00-cv-08073 Document #: 1 Filed: 12/22/00 Page 16 of 16 PageID #:16

UNI D STATES DISTRICT COUL NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

MORTHERN DISTRICT OF	IEEH OIG - EASTEKN DIVIS	ION				
In the Matter of						
ZM International, Inc.	00-					
v.	8073 _{Number:}	2 422	က္လ	\mathcal{G}_{i}	:	
Anywear Shoe Company, Inc.; John Doe, Inc.; and John Doe, an individual.			22 PM 4:	X.ERK TRICT COL		
APPEARANCES ARE HEREBY FILED BY THE UNDE	ERSIGNED AS ATTORNEY(S) FO	OR:	DEC	DISC		
Plaintiff, ZM International, Inc.	MAG		8	U.S.		
	GERALDINE SOLUTION	New	CTER	3		
	GERALDINE SOAT BHOWN DE	C 2 /		,		
(A)	(B)	- 4, t	, 2000	Ì		
SIGNATURE DOVIDE Greens	SIGNATURE			<u></u>		
NAME David C. Brezina	NAME Peter J. Shakula				3 .	
FIRM Lee, Mann, Smith, McWilliams, Sweeney & Ohlson	FIRM Lee, Mann, Smith, McWilliams, Sweeney & Ohlson					
STREET ADDRESS 209 S. LaSalle Street, Suite 209	STREET ADDRESS 209 South LaSalle Str	eet, S	uite 4	10		
CITY/STATE/ZIP Chicago, Illinois 60604	CITY/STATE/ZIP Chicago, Illinois 60604	}				
TELEPHONE NUMBER (312) 368-1300	TELEPHONE NUMBER (312) 368-1300					
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 03121581	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	62043	370			
MEMBER OF TRIAL BAR? YES NO	MEMBER OF TRIAL BAR?	YES	X	NO		
TRIAL ATTORNEY? YES NO	TRIAL ATTORNEY?	YES	×	NO		
	DESIGNATED AS LOCAL COUNSEL?	YES		NO	Ø	
(C)	(D)					
SIGNATURE Jane (Jones)	SIGNATURE					
NAME James B. Conte	NAME					
FIRM Lee, Mann, Smith, McWilliams, Sweeney & Ohlson	FIRM		·-/···	 	* * *** * ***	
STREET ADDRESS 209 S. LaSalle Street, Suite 209	STREET ADDRESS					
CITY/STATE/ZIP Chicago, Illinois 60604	CITY/STATE/ZIP					
TELEPHONE NUMBER (312) 368-1300	TELEPHONE NUMBER					
IDENTIFICATION NUMBER (SEE ITEM.4 ON REVERSE) 06226681	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)					
MEMBER OF TRIAL BAR? YES NO	MEMBER OF TRIAL BAR?	YES		NO		

X

TRIAL ATTORNEY?

DESIGNATED AS LOCAL COUNSEL?

YES

YES

YES

TRIAL ATTORNEY?

DESIGNATED AS LOCAL COUNSEL?