

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

BOOTTIQUE IP, LLC

Case No. _____

Plaintiff,

v.

FOREVER 21, INC.,
FOREVER 21 RETAIL, INC. and
FOREVER 21 LOGISTICS, LLC,

Defendant.

COMPLAINT AND JURY DEMAND

TO: Defendants Forever 21, Inc., Forever 21 Retail, Inc., and Forever 21 Logistics, LLC, 2001 S Alameda Street, Los Angeles, California 90058.

Plaintiff Boottique IP, LLC (“Boottique IP”) for its Complaint against Defendants Forever 21, Inc., Forever 21 Retail, Inc., and Forever 21 Logistics, LLC (“Forever 21”), alleges and complains as follows:

NATURE OF ACTION

This is an action for damages and injunctive relief based on Forever 21’s infringement of U.S. Patent No. 7,775,410 B2 (“the ‘410” patent”). Consistent with its reputation, Forever 21, one of the largest clothing retail chains in the United States, has used another’s intellectual property without authorization.

In this case, the victim is Boottique IP, an affiliate of Boottique, Inc., a small Minnesota company founded by Lindsay Sokolowski, a locally-based attorney and

inventor. Boottique, Inc.'s signature product is The Boot HangerTM, a device covered by the '410 patent and designed to hang footwear in a space-efficient and safe manner.

Forever 21 has been displaying its wares using a boot-hanging device that infringes one or more claims of the '410 patent and is therefore liable to Boottique IP for patent infringement.

THE PARTIES

1. Boottique IP is a Minnesota limited liability company with its principal place of business at 4950 Malibu Drive, Edina, MN 55436.

2. Upon information and belief, Forever 21 is a California corporation with its principal place of business at 2001 S Alameda Street, Los Angeles, California 90058.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, including 35 U.S.C. §§ 271 and 281-285.

4. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331; 1332 (a) and 1338(a).

5. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1400(b) because Forever 21 is subject to personal jurisdiction in this judicial district and, on information and belief, has committed acts of infringement in this district.

THE HISTORY OF BOOTTIQUE, INC. AND THE BOOT HANGERTM

6. Lindsay Sokolowski is an attorney by day. She is a shareholder at the law firm of Fredrikson & Byron, where she advises and litigates on behalf of a wide variety

of corporate clients with the firm's Employment/Labor and Trade Secret/Non-compete Groups.

7. By night, Ms. Sokolowski is an inventor. An avid shoe collector, Ms. Sokolowski grew frustrated when she was unable to find a product on the market that could store and organize her growing boot collection. Determined to create a better solution, in 2007 she invented what is now known as The Boot Hanger™, pictured below.

8. Using clips that are set one in front of the other and slightly apart, The Boot Hanger™ allows boots to hang “cradling” one another, creating double the space for storage. The clips are lined with a special plastic/rubber blend that won't damage, deteriorate, or leave a permanent impression, making The Boot Hanger™ a safe, as well as efficient, footwear storage solution.



9. When others learned of her invention, Ms. Sokolowski was inundated with requests from friends and family wishing to purchase The Boot Hanger™ for their own

use. Fielding these requests, Ms. Sokolowski realized that her invention presented a promising business opportunity that could fulfill an unaddressed consumer need. With plans to begin retail sales of The Boot Hanger™, Ms. Sokolowski set out to obtain a patent to protect her invention, which would serve as the intellectual property anchor to her soon-to-launch business.

10. The process was time-consuming, as is often the case in acquiring patent rights. After filing her original application in November of 2007; supplementing the application's drawings multiple times; amending and canceling certain of the application's claims in response to two Non-Final Rejections made by United States' Patent Office; and an interview with the patent examiner; the '410 patent finally issued nearly three years later, in August of 2010. A copy of the '410 patent is attached as Exhibit A.

11. Thereafter Ms. Sokolowski incorporated Boottique, Inc., to which she assigned her rights in the '410 patent, which in turn assigned those rights to Boottique IP.

12. Boottique, Inc. sells The Boot Hanger™ product over the internet. The company has been quite successful, and since its formation, has expanded its product offerings each year to include sophisticated and elegant organization products, boot accessories, and shoe care products for both men and women.

13. Boottique, Inc. and The Boot Hanger™ have been lauded by countless consumer product and lifestyle websites, and also featured in both regional and national publications, including *The Washington Post*, *Better Homes & Gardens*, *Real Simple*, *InStyle Magazine*, and *Mpls St Paul Magazine*.

14. Additionally, Boottique, Inc., The Boot HangerTM, and Ms. Sokolowski herself have received many awards within the local community, including “Innovative Business Award” by the National Association of Women Business Owners; “Best of Minneapolis—Storage Bin & Containers” in years 2008 to 2011; and the “2011 Advocacy Award” from the Women’s Business Development Center. Ms. Sokolowski was recognized in 2010 as a “Woman to Watch” by the *Minneapolis St. Paul Business Journal*.

**FOREVER 21’S HISTORY AND
USE OF A SIMILAR BOOT-HANGING DEVICE**

15. Forever 21 began as a 900 square-foot clothing store selling primarily to middle-aged women, founded by Do Won Chang and his wife Jin Sook Chang in 1984 in the Highland Park district of Los Angeles.

16. Since that time, Forever 21 has grown into a “fast fashion” conglomerate, operating a chain of clothing retailers with branches in major cities in North and South America, Europe, Asia and the Middle East. The company offers trendy clothing and accessories for young women, men, and teen girls at low prices. As of January 2011, Forever 21 had 477 stores, 35,000 employees, and nearly \$3 billion in revenue.

17. Forever 21 has had its fair share of legal problems. See Jenna Sauers, How Forever 21 Keeps Getting Away with Designer Knockoffs, *available at <http://jezebel.com/5822762/how-forever-21-keeps-getting-away-with-designer-knockoffs>*, attached as Exhibit B. Multiple allegations of labor violations have been lodged against it, and since 2004, the company has been sued more than 50 times for

allegedly stealing the intellectual property of others. *Id.* So rampant are such claims that many market insiders allege that part of Forever 21's business strategy involves simply taking others' designs and thereafter settling any dispute that arises, rather than negotiating with the owner of the intellectual property upfront, as the latter approach is often more expensive. *Id.*

18. Indeed, Forever 21 has even been reprimanded by U.S. District Court Judge Michael H. Dolinger in an intellectual property infringement case, who admonished, "We note the extraordinary litigating history of this company, which raises the most serious questions as to whether it is a business that is predicated in large measure on the systematic infringement of competitors' intellectual property." *Id.*

19. Upon information and belief, Boottique IP is the next victim of Forever 21's unsavory business strategy. In January of 2013, Boottique IP learned that a Forever 21 branch located in Pennsylvania is displaying its wares using the boot-hanging device pictured below (hereafter "Accused Product").



20. The Accused Products are also prominently displayed at Forever 21's new anchor store in the Mall of America.



COUNT ONE – INFRINGEMENT OF THE '410 PATENT

21. Boottique IP re-alleges the allegations of the preceding paragraphs as though fully set forth herein.

22. Upon information and belief, the Accused Product infringes one or more claims of the '410 patent, including at least claim 1. As a result, Forever 21 has infringed the '410 patent by importing, manufacturing or using the Accused Product in the United States.

23. Forever 21's infringement of the '410 patent has damaged Boottique IP and Boottique IP will continue to be damaged in the future and will suffer irreparable injury, for which Boottique IP has no adequate remedy at law, unless Forever 21 is enjoined from infringing the '410 patent.

24. Upon information and belief, Forever 21's infringement of the '410 patent has been willful, deliberate, and intentional.

25. Boottique IP has been damaged by Forever 21's actions in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Boottique IP prays for judgment that:

- A. The '410 patent is valid and infringed by Forever 21;
- B. Forever 21 and its officers, agents, servants, directors, employees, affiliated entities, and those persons in active concert or participation with any of them, be enjoined from further infringement of the '410 patent, specifically from using or selling the Accused Product;
- C. An accounting be had for the profits and damages arising out of Forever 21's infringement of the '410 patent;
- D. Boottique IP be awarded compensatory and exemplary damages, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest, but no less than a reasonable royalty;
- E. Boottique IP be awarded its attorneys' fees, costs, and expenses in this action pursuant to 35 U.S.C. § 285 and Fed. R. Civ. P. 54;
- F. Boottique IP be awarded pre-judgment and post-judgment interest on its damages, as allowed by law; and

G. Boottique IP be awarded such other relief as this Court may deem just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Boottique respectfully requests a trial by jury.

Dated: March 1, 2013

s/ Lora M. Friedemann

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