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Attorneys for Plaintiff,
Bragel International, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRAGEL INTERNATIONAL, INC., a
California corporation,

Plaintiff,

vs.

CHARLOTTE RUSSE, INC., a
California corporation, and PPI
APPAREL GROUP, INC., a New
York corporation,

Defendants.

Case No. 2:15-cv-08364-R-FFM

Hon. Manuel L. Real

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

For its complaint against Defendants Charlotte Russe, Inc. ("Charlotte Russe"), and PPI Apparel Group Inc. ("PPI") (collectively, "Defendants"), Plaintiff Bragel International, Inc. ("Plaintiff") alleges as follows:

JURISDICTION

1. This is an action for patent infringement pursuant to 35 U.S.C. Section 271. This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper under 28 U.S.C. Sections 1391(b)(2) and/or (b)(3).

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PARTIES

3. Plaintiff is a corporation organized and existing under the laws of the State of California, having a principal place of business at 3833 Pomona Blvd, Pomona, California.

4. Plaintiff is informed and believes, and thereon alleges that Defendant Charlotte Russe is a California corporation having a principal place of business at 575 Florida Street, San Francisco, CA 94110.

5. Plaintiff is informed and believes, and thereon alleges that Defendant PPI is a corporation organized and existing under the laws of the State of New York, having a principal place of business at 320 5th Ave., Floor 2, New York, NY 10001.

6. This court has personal jurisdiction over Defendant Charlotte Russe because Defendant Charlotte Russe has conducted systematic and continuous business within California and within this district and has directed its unlawful business activities towards California and this district.

7. This court has personal jurisdiction over Defendant PPI because Defendant PPI has sold products which Defendant PPI knew would be sold within California and within this district and that such activities would damage a California company.

FACTUAL BACKGROUND

8. Plaintiff has been engaged and is presently engaged in the design and distribution of strapless bras and attachable breast forms. Plaintiff's products are sold throughout the United States and in many foreign countries including the People's Republic of China, Hong Kong, Europe, and Canada.

9. On February 7, 2005, Plaintiff filed a U.S. patent application directed to its attachable breast form enhancement system. It issued as U.S. Patent 7,144,296 B2 (the "'296 Patent") on December 5, 2006 and is titled "Attachable Breast Form Enhancement System." A copy of the '296 Patent is attached as

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1 Exhibit A.

2 10. Defendants have sold and offered for sale in this District and
3 elsewhere, and continue to sell and offer for sale in this District and elsewhere,
4 without the consent or authorization of Plaintiff, "Oh Baby . . . Strapless,
5 Backless, Self-Adhesive Silicone Bra" and "Silicone Fashion Bra" products that
6 are covered by at least claims 1, 2, and 5 of the '296 Patent (the "Infringing
7 Products"). A claim chart corresponding to the '296 Patent and the "Oh Baby . . .
8 Strapless, Backless, Self-Adhesive Silicone Bra" is attached as Exhibit B. A
9 claim chart corresponding to the '296 Patent and the "Silicone Fashion Bra" is
10 attached as Exhibit C.

11 11. Plaintiff notified Defendant Charlotte Russe by means of a Cease
12 and Desist Letter informing Defendant of the '296 Patent and that the Infringing
13 Products were believed to infringe upon one or more claims of the '296 Patent.
14 Defendant Charlotte Russe has continued to sell and offer for sale in this District
15 and elsewhere, without the consent or authorization of Plaintiff, the Infringing
16 Products, despite Plaintiff's express notice of the '296 Patent and the relationship
17 to the Infringing Products. A copy of the Cease and Desist Letter is attached as
18 Exhibit D.

19 12. On information and belief, Defendant Charlotte Russe informed
20 Defendant PPI of the Cease and Desist Letter and the '296 Patent and that the
21 Infringing Products were believed to infringe upon one or more claims of the '296
22 Patent. Defendant PPI has continued to sell and offer for sale in this District and
23 elsewhere, without the consent or authorization of Plaintiff, the Infringing
24 Products, despite Plaintiff's express notice of the '296 Patent and the relationship
25 to the Infringing Products.

26 **FIRST CLAIM FOR RELIEF**

27 **(Patent Infringement)**

28 13. Plaintiff hereby repeats and realleges paragraphs 1 through 12 as

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1 though fully set forth herein.

2 14. Defendants, by themselves or in concert with others, have made,
3 used, sold or offered to sell, and continue to make, use, sell or offer to sell, in this
4 District and elsewhere in the United States, the Infringing Products which
5 infringe at least claims 1, 2, and 5 of the '296 Patent. The Infringing Products are
6 not staple articles of commerce. The Infringing Products have no substantial,
7 noninfringing use.

8 15. The alleged infringing acts of Defendants are performed without
9 right, license, or authorization from Plaintiff.

10 16. By their aforesaid acts, Defendants have infringed the '296 Patent
11 entitling Plaintiff to relief pursuant to 35 U.S.C. Section 271.

12 17. Defendants have had actual or constructive notice of the existence of
13 the '296 Patent and despite such notice have continued to engage in acts of
14 infringement.

15 18. As a direct result of Defendants' acts complained of herein, Plaintiff
16 has been actually damaged and irreparably harmed and Defendants have been
17 unjustly enriched, to an extent not presently ascertained, which damage, harm and
18 enrichment will continue until enjoined by order of this Court.

19 19. Defendants' infringement is and has been willful and Plaintiff is
20 entitled to enhanced damages against Defendants.

21 20. This is an exceptional case and Plaintiff is entitled to an award of its
22 attorneys' fees.

23 **PRAYER**

24 Plaintiff demands judgment against Defendants as follows:

25 1. Adjudging and decreeing that Defendants have committed acts of
26 patent infringement by their manufacture, use, sale, and offer for sale of the
27 infringing products;

1 2. For a temporary and permanent injunction prohibiting Defendants
2 and their officers, agents, servants, employees and attorneys, and other persons in
3 active concert or participation with them, from further infringing the '296 Patent
4 and requiring Defendants to deliver up to Plaintiff for destruction any and all
5 Infringing Products in any Defendant's possession, custody or control, along with
6 any items of manufacture, the sole purpose of which is to manufacture such
7 Infringing Products, as well as any promotional literature and packaging which
8 displays or promotes such Infringing Products;

9 3. For patent infringement damages in an amount not less than a
10 reasonable royalty, and for those damages to be trebled, pursuant to 35 U.S.C.
11 Section 284 and/or lost profits;

12 4. For prejudgment interest;

13 5. For all of Plaintiff's costs of this Action, including attorneys' fees;
14 and

15 6. For such other or further relief as the Court may deem just and
16 proper.

17
18
19 DATED: January 25, 2016

Respectfully submitted,

LEWIS ROCA ROTHGERBER
CHRISTIE LLP

20
21
22 By


Thomas J. Daly

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24 Attorneys for Plaintiff,
BRAGEL INTERNATIONAL, INC.

DEMAND FOR JURY TRIAL

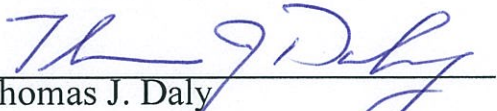
Plaintiff Bragel International, Inc., pursuant to Federal Rule of Civil Procedure 38, hereby demands a trial by jury of all issues so triable.

DATED: January 25, 2016

Respectfully submitted,

LEWIS ROCA ROTHGERBER
CHRISTIE LLP

By


Thomas J. Daly

Attorneys for Plaintiff,
BRAGEL INTERNATIONAL, INC.

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