

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

PuttStrong LLC, a Texas limited liability company; and)	
Trevor Armstrong, an individual)	
)	Case No.
Plaintiffs,)	
)	JURY TRIAL DEMANDED
v.)	
)	
THE PILL LLC, a New Jersey limited liability company;)	
)	
Defendant.)	
)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs PuttStrong LLC and Trevor Armstrong (“Plaintiffs”) for their complaint against defendant The Pill LLC hereby state as follows:

THE PARTIES

1. Plaintiff PuttStrong LLC (“PuttStrong”) is a limited liability company organized and existing under the laws of the State of Texas, with its principal office located in Fort Worth, Texas.
2. Plaintiff Trevor Armstrong (“Armstrong”) is an individual residing in Fort Worth, Texas.
3. Upon information and belief, defendant The Pill LLC (hereinafter “Defendant”), is a limited liability company organized and existing under the laws of the State of New Jersey, with its principal office located in Teaneck, New Jersey. Upon further information and belief, Defendant is subject to this Court’s general and specific personal jurisdiction because Defendant

has minimum contacts within the State of Texas and the Northern District of Texas and, pursuant to due process and/or the Texas Long Arm Statute, Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Northern District of Texas; Defendant regularly conducts and solicits business within the State of Texas and within the Northern District of Texas; and causes of action arise directly from Defendant's business contacts and other activities in the State of Texas and in the Northern District of Texas.

JURISDICTION AND VENUE

4. The Court may exercise subject matter jurisdiction over the claims set forth in this complaint pursuant to 15 U.S.C. § 1121 (Lanham Act) and 28 U.S.C. §§ 1331 (federal question), and 1338 (patents and trademarks). This case presents federal questions arising under the Patent Act, 35 U.S.C. §§ 1, *et seq.*, and under the Lanham Act, 15 U.S.C. § 1051, *et seq.*

5. The Court may exercise personal jurisdiction over Defendant in this action on the grounds that, upon information and belief: (a) Defendant has committed acts of patent infringement in the State of Texas; and (b) Defendant does business in the State of Texas by, among other things, offering products for sale in Texas through its website www.thepillgolf.com.

6. Service of process on Defendant in this action will be effected pursuant to Fed. R. Civ. P. 4(h).

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(b).

FIRST CLAIM FOR RELIEF **(Patent Infringement)**

8. Plaintiffs incorporate the allegations in paragraphs 1 through 7 as though fully set forth herein.

9. On May 17, 2011, United States Patent No. D 638,080 was duly and legally issued to Trevor Armstrong for the invention “Putting Training Apparatus” (hereinafter “the ’080 Patent”). A true and correct copy of the ’080 Patent is attached hereto as Exhibit A.

10. Mr. Trevor Armstrong has granted an exclusive license in the ’080 Patent to PuttStrong. By virtue of the license, PuttStrong has the right to recover damages for past and future infringement of the ’080 Patent.

11. PuttStrong is the manufacturer and supplier of products manufactured for the U.S. under the ’080 Patent.

12. Defendant has infringed and continues to infringe the ’080 Patent by making, using, selling, and/or importing products embodying the patented invention, inducing others to make, use, sell, and/or import products embodying the patented invention, and/or by contributing to the manufacture, use, sale, and/or importation of products embodying the patented invention.

13. Defendant’s infringement of the ’080 Patent has caused Plaintiffs monetary harm in an amount to be proved at trial. In addition, unless restrained, Defendant’s continued infringement of the ’080 Patent will cause Plaintiffs irreparable harm for which there is no adequate remedy at law.

14. Plaintiffs’ products embodying the patented invention and/or packaging for such products have properly been marked with references to the ’080 Patent.

15. Upon information and belief, Defendant has known of the ’080 Patent, but has continued to infringe the ’080 Patent and thus has knowingly and willfully infringed the ’080 Patent in disregard of Plaintiffs’ rights.

Prayer for Relief for First Claim

WHEREFORE, Plaintiffs pray for (a) an order finding that Defendant has infringed the '080 Patent; (b) an accounting for and an award of damages, including lost profits, resulting from Defendant's infringement, and/or reasonable royalties for such infringement pursuant to 35 U.S.C. § 284; (c) a trebling of Plaintiffs' damages because of the knowing, willful, and wanton nature of Defendant's conduct; (d) an assessment of interest, both prejudgment and post judgment, on the damages awarded; (e) a finding of this case to be exceptional and an award of attorneys' fees incurred by Plaintiffs in this action pursuant to 35 U.S.C. § 285; (f) a preliminary and permanent injunction against Defendant's continued infringement of the '080 Patent; (g) an order directing that all goods in the possession, custody, or control of Defendant that infringe the '080 Patent be delivered up and destroyed within 30 days of entry of judgment; (h) an award of Plaintiffs' costs in bringing and prosecuting this action; and (i) such other and further relief as the Court deems just and proper.

SECOND CLAIM FOR RELIEF
(Trade Dress Infringement)

16. Plaintiffs incorporate the allegations in paragraphs 1 through 15 as though fully set forth herein.

17. PuttStrong has adopted a distinctive trade dress for its product. The "PuttStrong Trade Dress" consists of PuttStrong's product enclosed in a fabric bag having drawstrings. Documents showing PuttStrong's product and its packaging are attached hereto as Exhibit B.

18. Defendant markets, imports, and/or sells a product that consists of a product that looks almost identical to PuttStrong's product enclosed in a fabric bag having drawstrings. Documents showing Defendant's product and its packaging are attached hereto as Exhibit C.

19. Defendant's product infringes the PuttStrong Trade Dress.

20. Defendant's product is likely to deceive or cause confusion or mistake as to the affiliation, connection, or association of such product with PuttStrong's product, or as to the origin, sponsorship, or approval of Defendant's product by PuttStrong in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

21. On information and belief, Defendant has knowingly and willfully copied the PuttStrong Trade Dress with the intent to trade on the goodwill developed by PuttStrong in establishing the PuttStrong Trade Dress.

22. Defendant will continue to infringe the PuttStrong Trade Dress unless restrained from doing so. Defendant's intentional copying is further evidenced by the degree of similarity between the products and their packaging.

Prayer for Relief for Second Claim

WHEREFORE, PuttStrong prays for (a) an order finding that the Defendant has infringed the PuttStrong Trade Dress; (b) a preliminary and permanent injunction against the Defendant's continued infringement of the PuttStrong Trade Dress as permitted under 15 U.S.C. § 1116; (c) an order requiring that all infringing materials in the possession, custody, or control of the Defendant be delivered up and destroyed as permitted under 15 U.S.C. § 1118; (d) an award of damages comprised of PuttStrong's actual damages, the profits obtained by the Defendant, and the costs of this action as provided in 15 U.S.C. § 1117(a); (e) treble damages as provided in 15 U.S.C. § 1117(b); (f) costs and attorneys' fees as permitted under 15 U.S.C. § 1117(a); and (g) such other and further relief as the Court deems just and proper.

THIRD CLAIM FOR RELIEF **(Unfair Competition)**

23. Plaintiffs incorporate the allegations in paragraphs 1 through 22 as though fully set forth herein.

24. Defendant has displayed, distributed, sold, and used merchandise that infringes the PuttStrong Trade Dress, thereby taking advantage of the good will and business reputation of PuttStrong by unfair means.

25. Defendant has engaged in unfair competition willfully and with a bad faith intent to injure PuttStrong.

26. PuttStrong has sustained, and will continue to sustain, substantial injuries, loss, and damage to its business by reason of the unfair competition of Defendant.

27. On information and belief, unless restrained and enjoined, Defendant will continue to engage in unfair competition that injures PuttStrong and thereby cause irreparable damage to PuttStrong.

Prayer for Relief for Third Claim

WHEREFORE, PuttStrong prays for (a) an order finding that the Defendant has unfairly competed with PuttStrong by copying and using the design in the '080 Patent and the PuttStrong Trade Dress; (b) a preliminary and permanent injunction against the Defendant's continued unfair competition; (c) an award of damages comprised of PuttStrong's actual damages, the profits obtained by the Defendant, and the costs of this action; (d) costs and attorneys' fees; and (e) such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs demand a jury trial on all issues triable by jury.

Dated: March 1, 2013

Respectfully submitted by,

/s/ Winston O. Huff
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CERTIFICATE OF FILING

I hereby certify that on March 1, 2013 I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system.

Respectfully submitted,

/s/ Winston O. Huff
Winston O. Huff, Attorney in Charge