

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BSN SPORTS, LLC,

Plaintiff,

v.

Bensussen Deutsch & Associates, Inc.,

Defendant.

Civil Action No. 3:15-cv-969

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff BSN SPORTS, LLC (“BSN” or “Plaintiff”) files this Complaint against Defendant Bensussen Deutsch & Associates, Inc. (“BDA” or “Defendant”), and alleges as follows:

PARTIES

1. BSN is a limited liability company organized and existing under the laws of the state of Delaware, with an established place of business at 1901 Diplomat, Farmers Branch, TX 75234, within this judicial district and division.

2. BDA is a corporation organized and existing under the laws of the state of Washington, with an established place of business at 15525 Woodinville-Redmond Road, NE, Woodinville, WA 98072. BDA regularly conducts business in the Northern District of Texas and elsewhere in the United States.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 *et seq.* and 281-285.

4. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. BDA is transacting and/or has transacted business within the Northern District of Texas, including at the very least distributing, selling, offering for sale, advertising, making and/or using products, including buckles, that fall within one or more claims of BSN's patent. BDA is therefore subject to the personal jurisdiction of this Court.

6. BDA, directly or through intermediaries, has committed acts of infringement in the Northern District of Texas, including at the very least, distributing, selling, offering for sale, advertising, making and/or using products, including buckles, that fall within one or more claims of BSN's patent. Accordingly, under 28 U.S.C. §§ 1391 and 1400(b), venue is proper in this Court.

7. For example, BDA currently is marketing and selling its products, including those products that infringe BSN's patent, in Northern District of Texas and elsewhere in the United States. BDA also markets and sells its products directly to customers in the Northern District of Texas through its website <http://www.bdainc.com> (<http://www.bdainc.com/our-work/schools-dairy-council-score-fuel-play-60-store>).

THE PATENT

8. BSN is the owner of U.S. Patent No. 6,308,381 ("the '381 Patent"), which the United States Patent and Trademark Office ("USPTO") duly and lawfully issued on October 30, 2001. A copy of the '381 Patent is attached as Exhibit A.

9. BDA is, at the very least, distributing, selling, offering for sale, advertising, making and/or using products that include a coupling arrangement that infringe one or more claims of BSN's patent.

COUNT 1: PATENT INFRINGEMENT

10. BSN herein incorporates by reference the allegations of paragraphs 1-9.

11. BDA has infringed and continues to infringe one or more claims of the '381 Patent. The infringing acts include, but are not limited to, using, causing to be used, making, causing to be made, importing, causing to be imported, offering to sell, causing to be offered for sale, selling, and/or causing to be sold, products, including buckles, that infringe a claim of the '381 Patent in this judicial district and elsewhere within the United States. BDA is liable for infringement of the '381 Patent pursuant to 35 U.S.C. § 271. By way of example, and without limitation, BDA's products, including buckles a coupling arrangement for coupling a flag to a flag-tag belt meet each and every element of at least claim 1 of the '381 Patent, either literally or equivalently. A non-limiting example of such product is shown in attached Exhibit B.

12. BSN has provided notice of the '381 Patent to BDA.

13. Upon information and belief, BDA had and has knowledge of the '381 Patent, BDA has been and is aware of its infringement, and BDA's infringement has been and continues to be willful.

14. BSN has been and will continue to be injured by BDA's past and continuing infringement of the '381 Patent and is without adequate remedy at law.

15. BDA's infringing acts have caused damage to BSN, and BSN is entitled to recover from BDA the damages sustained by BSN as a result of the wrongful acts in an amount subject to proof at trial. BDA's infringement of BSN's exclusive rights under the '381 Patent will continue to damage BSN, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

16. Upon information and belief, BDA's infringement of the '381 Patent is willful and deliberate, entitling BSN to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

RELIEF REQUESTED

Wherefore, BSN respectfully prays that the Court find and order the following relief:

17. That BDA has infringed the '381 Patent;
18. That BDA's infringement of the '381 Patent has been willful;
19. That BDA and the officers, directors, agents, servants and the employees of BDA, and those persons acting in concert or participation with any of them, are enjoined and restrained from continued infringement, including but not limited to distributing, selling, offering for sale, advertising, making and/or using products that infringe the '381 Patent, prior to its expiration, excluding any extensions;
20. That BDA and the officers, directors, agents, servants and the employees of BDA and those persons acting in concert or participation with any of them deliver to BSN all products that infringe the '381 Patent for destruction at BSN's option;
21. That BSN be awarded monetary relief adequate to compensate BSN for BDA's acts of infringement of the '381 Patent within the United States prior to the expiration of the '381 Patent, including all extensions;
22. That any monetary relief awarded to BSN regarding the infringement of the '381 Patent by BDA be increased due to the willful nature of BDA's infringement of the '381 Patent;
23. That any monetary relief awarded to BSN regarding the infringement of the '381 Patent by BDA be awarded with pre-judgment and post-judgment interest;
24. That the infringement of the '381 Patent by BDA is exceptional and that BSN be awarded the attorneys' fees, costs, and expenses that it incurs prosecuting this action;
25. That BDA be required to file with the Court and serve on BSN within thirty (30) days after entry of the injunctive relief requested above, a report in writing under oath setting

forth in detail the manner and form in which BDA has complied with the injunctive relief; and

26. For such and other further relief that the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

27. BSN demands trial by jury for all issues so triable as a matter of law.

Dated: March 27, 2015

Respectfully submitted,



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