

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

Sportbrain Holdings LLC, an Illinois
limited liability company,

Plaintiff,

v.

PVH Corp.,

Defendant.

Civil Action No.: _____

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Sportbrain Holdings LLC (“Sportbrain”), through its attorney, Isaac Rabicoff, complains of PVH Corp. (“PVH”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant PVH's infringement of Plaintiff Sportbrain's United States Patent No. 7,454,002 entitled “*Integrating Personal Data Capturing Functionality Into a Portable Computing Device and a Wireless Communication Device*” (hereinafter, the “’002 Patent” or the “Patent-in-Suit”). A copy of the ’002 Patent is attached hereto as Exhibit A. Sportbrain seeks monetary damages.

THE PARTIES

2. Plaintiff Sportbrain is an Illinois limited liability company. Sportbrain is the exclusive licensee of the Patent-in-Suit, and possesses all rights thereto, including

the exclusive right to exclude PVH from making, using, selling, offering to sell or importing in this district and elsewhere into the United States the patented invention(s) of the Patent-in-Suit, the right to sublicense the Patent-in-Suit, and to sue PVH for infringement and recover past damages.

3. PVH is a Delaware corporation with its principal place of business located in New York, New York.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.
5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
6. This Court has personal jurisdiction over PVH because, among other things, it engages in substantial business transactions in this judicial district, at least by offering to sell, selling and/or advertising products and services in such a way as to reach customers in Illinois and this judicial district including, but not limited to, over the internet, and through retail stores located throughout this district.
7. PVH has, consequently, committed acts of infringement in this judicial district.
8. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because a substantial part of the events giving rise to the claims occurred in this judicial district, and PVH has committed acts of infringement in this District.

COUNT I: INFRINGEMENT OF THE '002 PATENT

9. Sportbrain realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

10. The '002 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.
11. PVH has infringed and continues to infringe the '002 Patent, either literally or under the doctrine of equivalents. Upon information and belief, PVH has infringed and continues to infringe one or more claims of the '002 Patent by making, using, selling, providing, advertising and/or importing, directly or through intermediaries, in this district and elsewhere in the United States, devices for integrating a personal data capturing functionality into a wireless communication device and for analyzing and supplying feedback information to a user through the combined use of the personal parameter receiver, a wireless communication device, a network server, and website in this district and elsewhere in the United States through its website.
12. In particular, the Defendant has engaged in unauthorized use of Sportbrain's pedometers, thereby infringing at least claim 1 of the '002 Patent. These Sportbrain pedometers incorporate the patented technology of the Sportbrain patent, including carrying out at least the method of claim 1.
13. On or about June of 2012, the Defendant offered to license the '002 Patent, and the '002 Patent was disclosed to them on or before this time.
14. On or about June of 2012, PVH also utilized Sportbrain pedometers for at least an employee wellness program without license from Sportbrain to do so ("Unauthorized Activities"). These Unauthorized Activities, including PVH's

employee wellness program, used these Sportbrain pedometers to specifically carry out the method of claim 1, thereby infringing the '002 Patent.

15. Without permission or compensation to Sportbrain, PVH decided to take Sportbrain's inventions and utilize its patented technology through its Unauthorized Activities. On this basis, this infringement has been willful, deliberate, and in reckless disregard of Sportbrain's patent rights.
16. Sportbrain has complied with the provisions of 35 U.S.C. § 287 to the extent they are applicable.
17. PVH's infringement has injured Sportbrain and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty, together with interest and costs.

WHEREFORE, Plaintiff Sportbrain respectfully asks this Court to enter judgment against Defendant PVH for infringement and against its respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with it, granting the following relief:

- A. PVH has infringed and is infringing one or more claims of the '002 Patent;
- B. PVH accounts to Sportbrain for damages adequate to compensate for PVH's infringement of the '002 Patent and that such damages be awarded to Sportbrain, including pre-judgment and post-judgment interest;
- C. Sportbrain's damages be trebled as a result of PVH's willful infringement of the '002 Patent;

- D. This case be adjudged as an exceptional case pursuant to 35 U.S.C. § 285 and that the Court award Sportbrain its expenses and attorneys' fees incurred in bringing and prosecuting this action; and
- E. Sportbrain be awarded such further and additional relief as the Court deems just and proper.

JURY DEMAND

Under Rule 38(b) of the Federal Rules of Civil Procedure, Sportbrain respectfully requests a trial by jury on all issues.

Respectfully submitted,

/s/ Isaac Rabicoff
Counsel for Plaintiff

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