

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

HANESBRANDS INC.,

Plaintiff,

v.

JACQUES MORET, INC.,

Defendant;

CIVIL ACTION NO. 1:17-cv-357

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Hanesbrands Inc. (“Hanesbrands”) for its Complaint against Jacques Moret, Inc. (“Jacques Moret”) alleges as follows:

The Nature of the Action

1. This is an action for infringement of United States Patent No. 6,125,664 (“the ‘664 Patent”) under 35 U.S.C. § 271.

The Parties

2. Hanesbrands is a Maryland corporation, with a principal place of business at 1000 East Hanes Mill Road, Winston-Salem, North Carolina 27105.

3. On information and belief, Jacques Moret is a Delaware corporation, with a principal place of business at 1411 Broadway, 8th Floor, New York, NY 10018. Service upon Jacques Moret may be made by serving its registered agent for service of process, The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801.

4. On information and belief, Jacques Moret is in the business of selling basic and fashion apparel for men, women and children, and derives revenue from sales and distribution of the products at issue in the District.

Jurisdiction and Venue

5. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over defendant Jacques Moret. On information and belief, Jacques Moret is incorporated in Delaware, regularly does or solicits business in this jurisdiction (either through retail stores or its interactive website), engages in other persistent courses of conduct in this jurisdiction, and/or derives substantial revenue from goods and services provided to persons or entities in this jurisdiction.

7. In addition, the Court has personal jurisdiction over Jacques Moret because it has established minimum contacts with the forum and the exercise of jurisdiction over Jacques Moret would not offend traditional notions of fair play and substantial justice. In accordance with established distribution channels for the accused products, Jacques Moret reasonably anticipated that the accused products would end up in this District and be sold herein.

8. Venue in this jurisdiction is proper under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

Background

9. Hanesbrands is one of the world's leading providers of branded apparel products such as T-shirts, bras, panties, men's underwear, socks, hosiery, casualwear, shapewear and activewear.

10. George Alexander Graham Browder, Jr. filed for a patent on his invention for a bra formed from an integral circular blank, including a torso part with an inner layer and an outer

layer, seamlessly joined to a turned welt, and was granted U.S. Patent No. 6,125,664 on October 3, 2000, which was ultimately assigned to Hanesbrands.

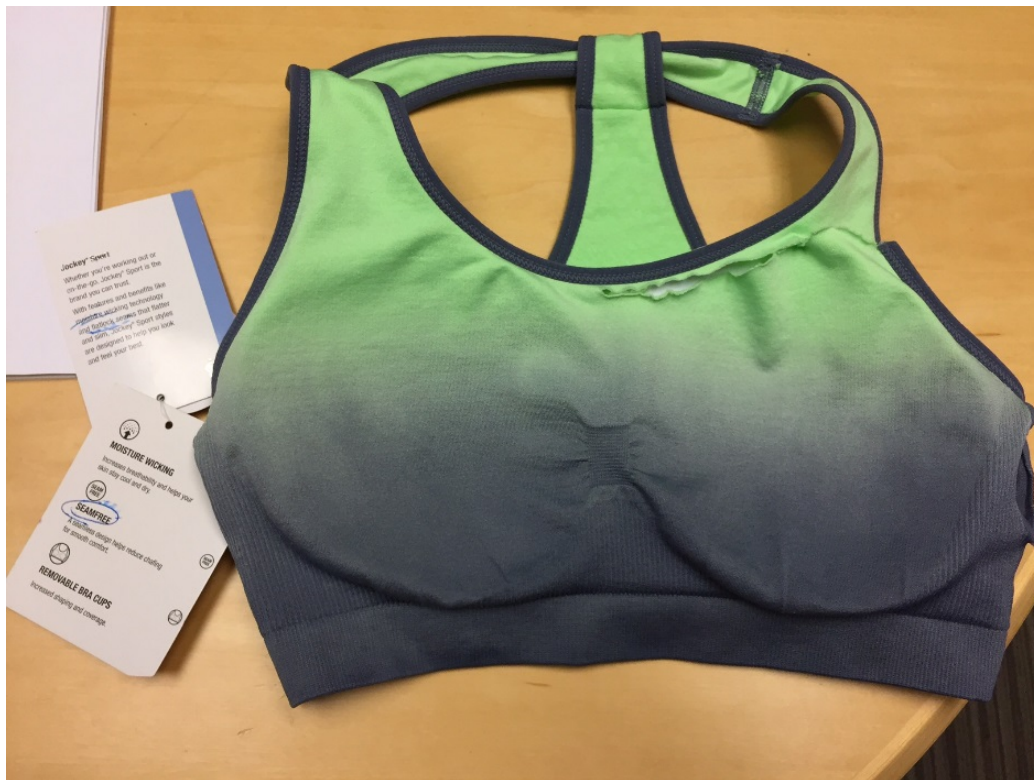
COUNT I

Infringement of U.S. Patent No. 6,125,664 Pursuant to 35 U.S.C. § 271

11. A true and correct copy of the '664 Patent is attached as Exhibit A.
12. Hanesbrands is the owner of the entire right, title and interest in the '664 Patent, including the right to exclude Jacques Moret and to enforce, sue and recover damages for past and future infringement against Jacques Moret.
13. The '664 Patent is valid, enforceable, and was duly issued on October 3, 2000, in full compliance with Title 35 of the United States Code.
14. On information and belief, Jacques Moret currently sells Jockey® brand bras under license from Jockey International, Inc.
15. On information and belief, Jacques Moret has made in, had made in, sold in, offered for sale in, imported into, and/or used in the United States its Jockey® brand bra styles JK-8791/333 and JK-8973.
16. On information and belief, Jacques Moret is continuing to make in, have made in, sell in, offer for sale in, import into, and/or use in the United States its Jockey® brand bra styles JK-8791/333 and JK-8973.
17. On information and belief, Jacques Moret has been, and now is, directly infringing the claims of the '664 Patent in this District and elsewhere in the United States, without the consent or authorization of Hanesbrands, by or through its making, having made, sale, offer for sale, importing into, and/or use in the United States of the patented brassiere, including at least its Jockey® brand bra styles JK-8791/333 and JK-8973, which are covered by one or more claims of the '664 Patent.

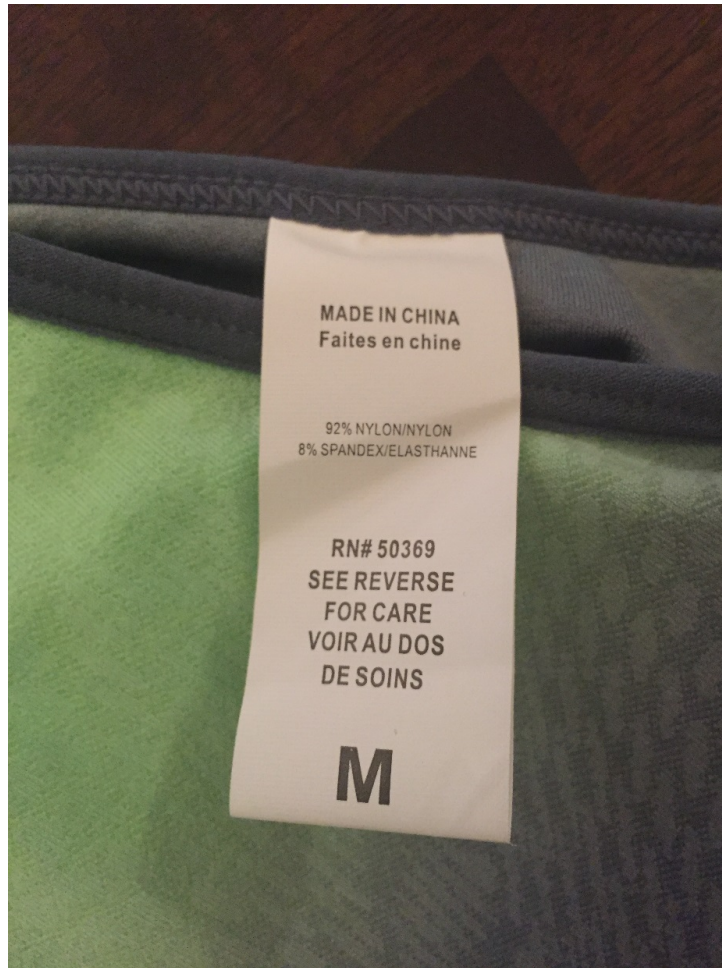
18. For example, Jacques Moret directly infringes at least Claim 1 of the '664 Patent.

19. As claimed in Claim 1 of the '664 Patent, Jacques Moret's Jockey brand bra style JK-8791/333 (pictured below) includes a brassiere, formed from an integral circular blank, with a knit body having a turned welt forming a torso band having a torso encircling shape, and an inner fabric layer and an outer fabric layer extending continuously from the turned welt to form a body portion. The outer fabric layer and the inner fabric layer of bra style JK-8791/333 each have a torso encircling shape and a lower edge that is seamlessly joined to the turned welt. The outer fabric layer and the inner fabric layer form a double layer.





20. The outer fabric layer of Jacques Moret's Jockey brand bra style JK-8791/333 (pictured below) also includes a nylon ground yarn, and further includes an elastomeric yarn.



21. The outer fabric layer of Jacques Moret's Jockey brand bra style JK-8791/333 also includes one or more knit stitches including plain, tuck, or float knit stitches.

22. The turned welt of Jacques Moret's Jockey brand bra style JK-8791/333 is also formed at least in part with elastomeric yarn, in particular, with spandex.

23. Jacques Moret has actual knowledge of the '664 Patent.

24. Jacques Moret had actual knowledge of the '664 Patent since before the filing of Hanesbrands' Original Complaint for infringement.

25. Jacques Moret has had actual knowledge of the '664 Patent since at least its receipt of Hanesbrands' correspondence to Jockey International, Inc. asserting that the Jockey brand bra style JK-8791/333 is covered by one or more claims of the '664 patent which, on

information and belief, occurred on or before March 28, 2017. Jacques Moret has nonetheless continued infringing one or more claims of the '664 Patent.

26. On information and belief, Jacques Moret acted with full knowledge of the '664 Patent and without a reasonable basis for believing that it would not be liable for actively inducing the infringement of the '664 Patent. At minimum, Jacques Moret was and continues to be willfully blind to the existence of the '664 Patent and continues to make, sell, offer for sale, import into the United States, use, and direct others to use its infringing bra styles in infringing manners.

27. On information and belief, Jacques Moret takes active steps to induce infringement by others, including one or more of distributors, retailers, customers, and wearers of the bras, of one or more claims of the '664 Patent in violation of 35 U.S.C. § 271(b), including customers that purchase Jacques Moret's Jockey brand bras.

28. Such active steps by Jacques Moret include, but are not limited to encouraging, advertising (including by internet websites), promoting, and instructing others, including customers and/or wearers, to use and/or how to use its bras. For example, Jacques Moret advertises and encourages the use of its Jockey brand bra styles: <https://www.moret.com/index.php/brand-divisions/activewear/jockey/>.

29. On information and belief, Jacques Moret knows or should know that such activities induce others to directly infringe one or more claims of the '664 Patent by using its bras. For example, Jacques Moret should have known that its actions induced others, including one or more of distributors, retailers, customers, and/or wearers of the bras, to directly infringe as of at least the filing of Hanesbrands' Original Complaint.

30. By way of at least the filing of Hanesbrands' Original Complaint, Jacques Moret has known of the '664 Patent and performs acts that it knows, or should know, induce, the direct infringement of one or more claims of the '664 Patent by others, including one or more of distributors, retailers, customers, and/or wearers of the bras.

31. Jacques Moret has engaged in egregious infringing behavior with knowledge of the '664 Patent, which has been duly issued by the United States Patent and Trademark Office, and is presumed valid. On information and belief, Jacques Moret has known or should have known that its actions constituted and continue to constitute infringement of the '664 Patent and that the '664 Patent is valid at least as of the date Jacques Moret was served with or otherwise notified of Hanesbrands' Original Complaint. Jacques Moret could not reasonably, subjectively believe that its actions do not constitute infringement of the '664 Patent, nor could it reasonably, subjectively believe that the '664 Patent is invalid. Despite that knowledge and subjective belief, and the objectively high likelihood that its actions constitute infringement, Jacques Moret has continued its infringing activities. As such, Jacques Moret willfully infringes the '664 Patent.

32. By its actions, Jacques Moret has injured Hanesbrands and is liable to Hanesbrands for infringement of the '664 Patent pursuant to 35 U.S.C. § 271.

33. By its actions, Jacques Moret's infringement of the '664 Patent has irreparably injured Hanesbrands. Unless such infringing acts are enjoined by this Court, Hanesbrands will continue to suffer additional irreparable injury.

34. By its actions, Jacques Moret's infringement of the '664 Patent has damaged, and continues to damage, Hanesbrands in an amount yet to be determined, of at least a reasonable royalty and/or lost profits that Hanesbrands would have made but for Jacques Moret's infringing acts.

PRAYER FOR RELIEF

WHEREFORE, Hanesbrands respectfully requests that this Court enter:

- A. That the '664 Patent has been infringed by Jacques Moret;
- B. That Jacques Moret's infringement of the '664 Patent has been willful;
- C. An award of damages adequate to compensate Hanesbrands for the patent infringement that has occurred, together with pre-judgment interest and costs;
- D. An accounting for acts of infringement presented at trial and/or up to the judgment and an award by the Court of additional damage for any such acts of infringement;
- E. A preliminary and permanent injunction against Jacques Moret from further infringement, or alternatively, award an ongoing royalty for Jacques Moret's post-verdict infringement, payable on each product or service offered by Jacques Moret that is found to infringe one or more claims of the '664 Patent asserted herein, and on all future products and services that are not colorably different from those found to infringe;
- F. An award of all other damages permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found;
- G. A finding that this is an exceptional case and an award to Hanesbrands of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285; and
- H. Such other relief, including other monetary and equitable relief, as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: April 18, 2017

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ Bret T. Winterle

Bret T. Winterle
(NC Bar No. 32,051)
(MDNC Bar No. 032051)
1717 Main Street, Suite 5000
Dallas, Texas 75201
(214) 747-5070 (Telephone)
(214) 747-2091 (Facsimile)
winterle@fr.com

P. Weston Musselman, Jr.
(MDNC Bar No. 017910)
Texas Bar No. 14749600
1717 Main Street, Suite 5000
Dallas, Texas 75201
(214) 747-5070 (Telephone)
(214) 747-2091 (Facsimile)
musselman@fr.com

**ATTORNEYS FOR PLAINTIFF
HANESBRANDS INC.**