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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

REEBOK INTERNATIONAL LTD., a
Massachusetts corporation; and **REEBOK
INTERNATIONAL LIMITED**, a foreign
entity,

Plaintiffs,

v.

TRB ACQUISITIONS LLC, a New York
limited liability company; **RBX.COM LLC**,
a New York limited liability company;
**ELITE PERFORMANCE FOOTWEAR
LLC**, a New York limited liability company;
and **RBX DIRECT LLC**, a New York
limited liability company,

Defendants.

No. 3:16-cv-01618-SI

**SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiffs Reebok International Ltd. and Reebok International Limited (collectively, “Reebok” or “Plaintiffs”) allege as follows:

NATURE OF ACTION

1. This is an action under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, for infringement by Defendants TRB Acquisitions LLC, RBX.COM LLC, Elite Performance Footwear LLC, and RBX DIRECT LLC (collectively, “Defendants”) of patents owned by Reebok.

THE PARTIES

2. Plaintiff Reebok International Ltd. is a corporation organized and existing under the laws of the Commonwealth of Massachusetts, having its principal place of business at 1895 J.W. Foster Boulevard, Canton, Massachusetts 02021.

3. Plaintiff Reebok International Limited is a corporation organized and existing under the laws of England, having its principal place of business at 11/12 Pall Mall, London SW1Y 5LU, England. Reebok International Ltd. and Reebok International Limited are wholly owned by adidas AG. Reebok International Ltd. and Reebok International Limited, as well as any predecessors or related entities, are collectively referred to herein as “Reebok.”

4. Defendant TRB Acquisitions LLC (“TRB”) is a New York limited liability company, with its principal place of business at 34 West 33rd Street, 5th Floor, New York, New York 10001.

5. Defendant RBX.COM LLC (“RBX.COM”) is a New York limited liability company, with its principal place of business at 34 West 33rd Street, 5th Floor, New York, New York 10001.

6. Defendant Elite Performance Footwear LLC (“Elite”) is a New York limited liability company, with its principal place of business at 10 West 33rd Street, Suite 804, New York, New York 10001.

7. Defendant RBX DIRECT LLC (“RBX DIRECT”) is a New York limited liability company, with its principal place of business at 34 West 33rd Street, 5th Floor, New York, New York 10001. Defendants RBX.COM and RBX DIRECT are collectively referred to herein as “RBX.”

JURISDICTION AND VENUE

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

9. This Court has personal jurisdiction over Defendants because, on information and belief, (a) Defendants have marketed, distributed, offered for sale, and/or sold the infringing products to persons within the State of Oregon; (b) Defendants regularly transact and conduct business within the State of Oregon; and/or (c) Defendants have otherwise made or established contacts within the State of Oregon sufficient to permit the exercise of personal jurisdiction. As one example, Defendants’ products are sold by retailers with multiple locations across the State of Oregon. Thus, and as supported by the further factual allegations below, Defendants have purposefully availed themselves of the benefits of the State of Oregon, and the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice.

10. The District of Oregon is a proper venue pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the acts or omissions giving rise to Plaintiffs’ claims occurred in this District.

THE PATENTS

11. Reebok International Limited is the owner of United States Patent No. 8,505,221 (“the ’221 patent”), including the right to sue for past damages. The ’221 patent was duly and legally issued by the United States Patent and Trademark Office on August 13, 2013, is active,

and is entitled “Collapsible Shoe.” A true and correct copy of the ’221 patent is attached hereto as **Exhibit A**.

12. Reebok International Limited is the owner of United States Patent No. 7,637,035 (“the ’035 patent”), including the right to sue for past damages. The ’035 patent was duly and legally issued by the United States Patent and Trademark Office on December 29, 2009, is active, and is entitled “Collapsible Shoe.” A true and correct copy of the ’035 patent is attached hereto as **Exhibit B**.

13. Reebok International Limited is the owner of United States Patent No. 8,020,320 (“the ’320 patent”), including the right to sue for past damages. The ’320 patent was duly and legally issued by the United States Patent and Trademark Office on September 20, 2011, is active, and is entitled “Collapsible Shoe.” A true and correct copy of the ’320 patent is attached hereto as **Exhibit D**.

14. Reebok International Ltd. holds the exclusive license in the United States to the ’221, ’035, and ’320 patents.

GENERAL ALLEGATIONS

15. Reebok is one of the world’s leading producers of athletic and casual footwear and apparel products. Reebok invests significant resources in developing and improving new and innovative technologies that are incorporated into its footwear and apparel products. Reebok invests significant resources to protect the value of its technology and innovations. Reebok also protects its intellectual property and has in the past protected its intellectual property from infringement by Defendants TRB, RBX.COM, and Elite.

16. The ’221 patent, entitled “Collapsible Shoe,” relates to an article of footwear with a flexible unitary sole. This sole includes two flexure lines that extend in the direction of the length of the shoe through at least a portion of the heel area of the sole. These flexure lines divide the heel area of the sole into first, second, and third sole plates. An example of the flexible sole is shown in Figure 3 of the ’221 patent:

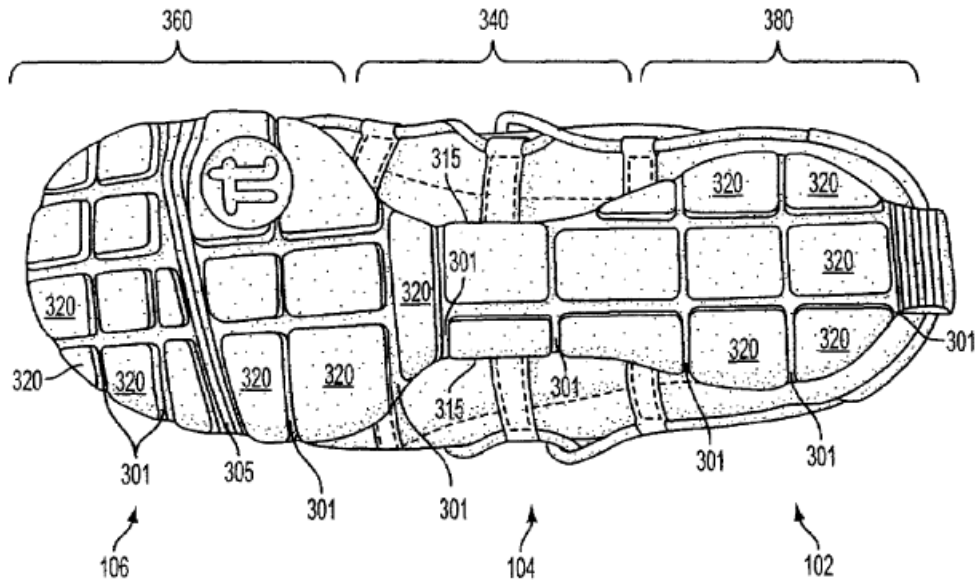


FIG. 3

Claim 1 of the '221 patent is representative:

1. An article of footwear comprising:

an upper; and

a flexible sole fixed to said upper and having a heel area, wherein said sole includes:

a first and second flexure line that extends through at least a portion of a length of said sole along at least a portion of said heel area, wherein said second flexure line is disposed between said first flexure line and a medial side of said sole,

wherein said first and second flexure lines divide said sole at the portion of said heel area into first, second and third sole plates, each of the first, second and third sole plates being undivided by a flexure line,

wherein the first sole plate extends from a lateral side of said sole to said first flexure line,

wherein the second sole plate extends from said first flexure line to said second flexure line, and

wherein the third sole plate extends from said second flexure line to the medial side of said sole.

17. Like the '221 patent, the '035 patent is entitled "Collapsible Shoe" and relates to an article of footwear with a flexible unitary sole. This sole includes a first flexure line that extends in the direction of the length of the shoe, through at least part of the arch and part of the forefoot areas of the sole. The sole includes another flexure line that extends in the direction of the length of the shoe, this one through at least part of the forefoot area of the sole. The first flexure line divides part of the arch area of the sole into first and second sole plates. Both flexure lines divide part of the forefoot area of the sole into third, fourth, and fifth sole plates. Claim 1 of the '035 patent is representative:

1. An article of footwear comprising:

an upper; and

a flexible unitary sole fixed to said upper and having a forefoot area, a heel area and an arch area, and further having a length and a width, wherein said sole includes:

a first flexure line that extends through at least a portion of the length of said sole and divides said sole at said arch area into first and second sole plates, the first sole plate extending from a lateral side of said sole to said flexure line and the second sole plate extending from said flexure line to a medial side of said sole, wherein a widest portion of the second sole plate is wider than a widest portion of the first sole plate, and wherein the first and second sole plates have a ground contacting surface, and a second flexure line that extends through at least a portion of the length of said sole along at least a portion of said forefoot area, wherein said first flexure line extends longitudinally through at least a portion of said forefoot area, said second flexure line being disposed between said first flexure line and the medial side of said sole,

wherein said first and second flexure lines divide said sole at the portion of said forefoot area into third, fourth and fifth sole plates that extend the width of said sole, each of the third, fourth and fifth sole plates being undivided by a flexure line,

wherein the third sole plate extends from the lateral side to said first flexure line,

wherein the fourth sole plate extends from said first flexure line to said second flexure line, and

wherein the fifth sole plate extends from said second flexure line to the medial side of said sole.

18. Like the '221 and '035 patents, the '320 patent is entitled "Collapsible Shoe" and relates to an article of footwear with a flexible unitary sole. This sole includes a plurality of laterally extending flexure lines that extend across the width of the sole and divide the sole into a plurality of sole plates or sole elements. The sole includes one laterally extending flexure line in the arch area that defines two sole plates. At least one of these sole plates extends the width of the sole and is undivided by a flexure line. Claim 1 of the '320 patent is representative:

1. An article of footwear comprising:

an upper adapted to substantially cover a user's foot and comprising a first flexible material; and

a flexible sole fixed to said upper, wherein said sole includes:

a second flexible material different from said first flexible material, wherein said second flexible material is a foam material, and

a plurality of laterally extending flexure lines that extend across a width of said sole so as to divide said sole into a plurality of sole plates that flex with respect to one another,

wherein said sole includes an arch area, wherein at least one of said laterally extending flexure lines divide said sole at said arch area, the at least one of said laterally extending flexure lines defining two sole plates at said arch area which flex with respect to one another, wherein at least one of said two sole plates extends the width of said sole and is undivided by a flexure line, wherein the one of said two sole plates extends from a lateral side of said sole to a medial side of said sole.

19. Defendants license, promote, market, import and/or sell multiple footwear products, including the footwear products identified below as infringing the '221, '035, and '320 patents (the "Infringing Products"). For example, Defendants Elite and RBX.COM manufacture,

directly or indirectly, Infringing Products in China under license from Defendant TRB and import the Infringing Products into the United States. Defendant RBX.COM markets, offers for sale, and sells multiple Infringing Products through its website, <https://www.rbxactive.com/>, to customers, residents, or businesses within this judicial district. On information and belief, Defendants RBX and Elite also ship Infringing Products to customers, residents, or businesses within this judicial district. On information and belief, Defendant RBX offers for sale, distributes, and sells Infringing Products in the United States to residents, customers, or businesses in this judicial district.

20. Upon information and belief, Defendant TRB actively encourages, directs, and controls others to market, sell, offer for sale, and distribute Infringing Products to residents, customers, or businesses within this judicial district. TRB and RBX have the same registered place of business, and upon information and belief, share management and are under common ownership.

21. Upon information and belief, TRB instructs, directs, controls, orchestrates, oversees and otherwise is responsible for the conduct of RBX by, among other things, maintaining control over the quality of the goods sold by RBX, by directing or maintaining enforcement rights in TRB's intellectual property, and by exercising control among TRB's licensees over the distribution channels in which its licensed goods may be sold. Upon information and belief, TRB directs and controls at least RBX to import, market, offer for sale, sell, and distribute Infringing Products in the United States, including within this judicial district, and is liable for at least RBX's conduct. As a result of TRB's retention and exercise of the aforementioned, RBX is an agent of TRB.

22. TRB's licensing activities, among other conduct, also encourages, supports, and enables one or more entities to market, sell, offer for sale, and/or distribute Infringing Products within the United States. Upon information and belief, Defendant TRB's conduct is intentional and knowing. The athletic footwear market is a competitive market. TRB, RBX.COM, RBX

DIRECT, and Elite are currently engaged in another lawsuit where Reebok is defending its intellectual property against infringement by TRB, RBX.COM, RBX DIRECT, and Elite. In light of the competitive marketplace and Reebok's defense of its intellectual property, TRB, Elite, and RBX knew, or should have known, of Reebok's patents, including the '221, '035, and '320 patents. Upon information and belief, TRB, Elite, and RBX knew, or at least should have known, that the Infringing Products infringed one or more claims of the '221, '035, or '320 patents as described below.

23. Defendants license, manufacture, import, distribute, market, offer for sale, and sell multiple Infringing Products. For example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Lightweight Active shoe, depicted below from the side and bottom:



Defendants and their retail partners have marketed and sold this shoe as the Men's Lightweight Active shoe and, on information and belief, under other trade names through various retail outlets.

24. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Prime Cross Training Balance shoe, depicted below from the side and bottom:



Defendants and their retail partners have marketed and sold this shoe as the Men's Prime Cross Training Balance shoe and, on information and belief, under other trade names through various retail outlets.

25. The Men's Lightweight Active shoe and the Men's Prime Cross Training Balance shoe are articles of footwear that include an upper and a flexible sole.

26. The flexible sole of the Men's Lightweight Active shoe and the Men's Prime Cross Training Balance shoe includes at least first and second flexure lines that extend through at least a portion of the heel area of the shoe and divide the sole into first, second, and third sole plates. The first, second, and third sole plates are undivided by a flexure line.

27. The flexible sole of the Men's Lightweight Active shoe and the Men's Prime Cross Training Balance shoe includes at least first and second flexure lines that extend through at least a portion of the forefoot area of the shoe and divide the sole into first, second, and third sole plates. The first, second, and third sole plates are undivided by a flexure line. The flexible sole of the Men's Lightweight Active shoe and the Men's Prime Cross Training Balance shoe also includes at least one sole plate in the arch area of the sole.

28. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Cross Training Mesh Workout shoe, depicted below from the side and bottom:



Defendants and their retail partners have marketed and sold this shoe as the Men's Cross Training Mesh Workout shoe and, on information and belief, under other trade names through various retail outlets.

29. The Men's Cross Training Mesh Workout shoe is an article of footwear that includes an upper and a flexible sole.

30. The flexible sole of the Men's Cross Training Mesh Workout shoe includes at least first and second flexure lines that extend through at least a portion of the heel area of the shoe and divide the sole into first, second, and third sole plates. The first, second, and third sole plates are undivided by a flexure line.

31. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Women's Elite Athletic Mesh Running shoe, depicted below from the side and bottom:



Defendants and their retail partners have marketed and sold this shoe as the Women's Elite Athletic Mesh Running shoe and, on information and belief, under other trade names through various retail outlets.

32. The Women's Elite Athletic Mesh Running shoe is an article of footwear that includes an upper and a flexible sole.

33. The flexible sole of the Women's Elite Athletic Mesh Running shoe includes at least first and second flexure lines that extend through at least a portion of the heel area of the shoe and divide the sole into first, second, and third sole plates. The first, second, and third sole plates are undivided by a flexure line.

34. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's X-Knit Special Edition Training shoe, depicted below from the side and bottom:



Defendants and their retail partners have marketed and sold this shoe as the Men's X-Knit Special Edition Training shoe and, on information and belief, under other trade names through various retail outlets.

35. The Men's X-Knit Special Edition Training shoe is an article of footwear that includes an upper and a flexible sole.

36. The flexible sole of the Men's X-Knit Special Edition Training shoe includes at least first and second flexure lines. The first flexure line divides the arch area of the sole into first and second sole plates. The first and second flexure lines divide the forefoot area of the sole into third, fourth, and fifth sole plates. Each of the first, second, third, fourth, and fifth sole plates are undivided by a flexure line. The flexible sole of the Men's X-Knit Special Edition Training shoe also includes at least one sole plate in the arch area of the sole.

37. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Classic Runner shoe, depicted below from the side and bottom:



38. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Lumen Performance shoe, depicted below from the side and bottom:



39. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Prime Athletic shoe, depicted below from the side and bottom:



40. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Breathable Lightweight Free Running shoe, depicted below from the side and bottom:



41. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Men's Stratus Cross Training shoe, depicted below from the side and bottom:



42. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, and encourage and support the sale of, a Women's Vortex Performance shoe, depicted below from the side and bottom:



43. On information and belief, the Men's Classic Runner shoe, Men's Lumen Performance shoe, Men's Prime Athletic shoe, Men's Breathable Lightweight Free Running shoe, Men's Stratus Cross Training shoe, and Women's Vortex Performance shoe each have substantially the same flexible sole (referred to herein as the "Men's Classic Runner Shoe Sole"). Defendants and their retail partners have marketed and sold each of these shoes under the names identified above and, on information and belief, under other trade names through various retail outlets.

44. The Men's Classic Runner shoe, Men's Lumen Performance shoe, Men's Prime Athletic shoe, Men's Breathable Lightweight Free Running shoe, Men's Stratus Cross Training shoe, and Women's Vortex Performance shoe are articles of footwear that each include an upper and a flexible sole.

45. The flexible sole of the Men's Classic Runner shoe, Men's Lumen Performance shoe, Men's Prime Athletic shoe, Men's Breathable Lightweight Free Running shoe, Men's Stratus Cross Training shoe, and Women's Vortex Performance shoe includes at least first and second flexure lines. The first flexure line divides the arch area of the sole into first and second sole plates. The first and second flexure lines divide the forefoot area of the sole into third, fourth, and fifth sole plates. Each of the first, second, third, fourth, and fifth sole plates are undivided by a flexure line.

46. As another example, Defendants market, import, offer for sale, and sell (or direct and control others to do so) or license, distribute, encourage and support the sale of, a Men's Lightweight Mesh Sneaker, which may also be referred to as the Michael shoe model. This shoe is depicted below from the side and bottom:



47. The Men's Lightweight Mesh Sneaker is an article of footwear that includes an upper and a flexible sole.

48. The flexible sole of the Men's Lightweight Mesh Sneaker includes a plurality of laterally extending flexure lines that extend across the width of the sole and divide the sole into a plurality of sole plates or sole elements. At least one of the laterally extending flexure lines in the arch area defines two sole plates. At least one of these sole plates extends the width of the sole and is undivided by a flexure line.

49. On August 10, 2016, Reebok filed a Complaint before the International Trade Commission (the "ITC") alleging that Defendants violated 19 U.S.C. § 1337 through their sale and importation of Infringing Products.

50. On September 8, 2016, the ITC instituted an investigation (the "Investigation") and styled it *In the Matter of Certain Athletic Footwear*, Inv. No. 337-TA-1018.

51. On December 12, 2016, the parties jointly provided notice to the ITC of a Consent Order, provided by Defendants to Plaintiffs, stipulating that Defendants would cease the importation of any products that infringed certain claims of the '221 and '035 patents, and that Defendants would not aid, abet, encourage, participate in, or induce the sale of Infringing Products.

52. On December 20, 2016, the ITC's Administrative Law Judge (the "ALJ") recommended termination of the Investigation based on Defendants' Consent Order and issued an Initial Determination.

53. On January 18, 2017, the ITC issued its Notice of the Commission's Determination Not to Review an Initial Determination Terminating the Investigation; Issuance of Consent Order; Termination of the Investigation. This Notice states that the ITC has determined not to review the ALJ's Initial Determination and that the Commission has terminated the Investigation.

54. Throughout the pendency of the Investigation by the ITC, Defendants continued to import and sell Infringing Products.

55. Defendants continued to sell Infringing Products during the pendency of the Investigation by the ITC despite their full knowledge of Reebok's patents. For example, RBX sold a pair of RBX Men's Lightweight Lazer Cut Ventilated Cross Training shoes, which incorporate a sole that is the same or substantially similar to the sole incorporated in the Men's Cross Training Mesh Workout shoe depicted above, in January of 2017, through Amazon.com. A redacted copy of the sales order for this pair of shoes is attached hereto as **Exhibit C**.

COUNT I

(Direct Infringement of United States Patent No. 8,505,221 by Defendants)

56. Reebok realleges and incorporates herein by reference the allegations set forth above.

57. Defendants directly infringe, literally or under the doctrine of equivalents, one or more claims of the '221 patent, including at least claim 1, by, without authority, importing, offering for sale, and selling articles of footwear, including at least the Men's Lightweight Active shoe, Men's Prime Cross Training Balance shoe, Women's Elite Athletic Mesh Running shoe, and Men's Cross Training Mesh Workout shoe, within the United States, in violation of 35 U.S.C. § 271(a).

58. Further, TRB directly infringes, literally or under the doctrine of equivalents, one or more claims of the '221 patent, including at least claim 1, by, without authority, directing and controlling others to import, offer for sale, and sell articles of footwear, including at least the

Men's Lightweight Active shoe, Men's Prime Cross Training Balance shoe, Women's Elite Athletic Mesh Running shoe, and Men's Cross Training Mesh Workout shoe, within the United States, in violation of 35 U.S.C. § 271(a).

59. Further, TRB is directly liable for the acts of its agents, including at least RBX. These acts include the direct infringement, literally or under the doctrine of equivalents, of one or more claims of the '221 patent as described above.

60. The Men's Lightweight Active shoe and Men's Prime Cross Training Balance shoe, and any shoes incorporating a sole that is the same or substantially similar to these shoes, which contain features described above, infringe at least claim 1 of the '221 patent.

61. The Women's Elite Athletic Mesh Running shoe and Men's Cross Training Mesh Workout shoe, and any shoes incorporating a sole that is the same or substantially similar to these shoes, which contain features described above, infringe at least claim 1 of the '221 patent.

62. Reebok has been and continues to be injured by Defendants' infringement of the '221 patent. Reebok is entitled to recover damages in an amount to be determined at trial, but in no event less than a reasonable royalty.

63. Unless enjoined by this Court, Defendants' acts of infringement will continue to damage Reebok irreparably.

COUNT II

(Direct Infringement of United States Patent No. 7,637,035 by Defendants)

64. Reebok realleges and incorporates herein by reference the allegations set forth above.

65. Defendants directly infringe, literally or under the doctrine of equivalents, one or more claims of the '035 patent, including at least claims 1 and 18, by, without authority, importing, offering for sale, and selling articles of footwear, including at least the Men's Lightweight Active shoe, Men's Prime Cross Training Balance shoe, Men's X-Knit Special Edition Training shoe, Men's Classic Runner shoe, Men's Lumen Performance shoe, Men's

Prime Athletic shoe, Men's Breathable Lightweight Free Running shoe, Men's Stratus Cross Training shoe, and Women's Vortex Performance shoe within the United States, in violation of 35 U.S.C. § 271(a).

66. Further, TRB directly infringes, literally or under the doctrine of equivalents, one or more claims of the '035 patent, including at least claims 1 and 18, by, without authority, directing and controlling others to import, offer for sale, and sell articles of footwear, including at least the Men's Lightweight Active shoe, Men's Prime Cross Training Balance shoe, Men's X-Knit Special Edition Training shoe, Men's Classic Runner shoe, Men's Lumen Performance shoe, Men's Prime Athletic shoe, Men's Breathable Lightweight Free Running shoe, Men's Stratus Cross Training shoe, and Women's Vortex Performance shoe within the United States, in violation of 35 U.S.C. § 271(a).

67. Further, TRB is directly liable for the acts of its agents, including at least RBX. These acts include the direct infringement, literally or under the doctrine of equivalents, of one or more claims of the '035 patent as described above.

68. The Men's Lightweight Active shoe and Men's Prime Cross Training Balance shoe, and any shoes incorporating a sole that is the same or substantially similar to these shoes, which contain features described above, infringe at least claim 18 of the '035 patent.

69. The Men's X-Knit Special Edition Training shoe, and any shoes incorporating a sole that is the same or substantially similar to this shoe, which contains features described above, infringes at least claim 1 of the '035 patent.

70. The Men's Classic Runner shoe, Men's Lumen Performance shoe, Men's Prime Athletic shoe, Men's Breathable Lightweight Free Running shoe, Men's Stratus Cross Training shoe, and Women's Vortex Performance shoe, and any shoes incorporating a sole that is the same or substantially similar to these shoes, which contain features described above, infringe at least claim 1 of the '035 patent.

71. Reebok has been and continues to be injured by Defendants' infringement of the '035 patent. Reebok is entitled to recover damages in an amount to be determined at trial, but in no event less than a reasonable royalty.

72. Unless enjoined by this Court, Defendants' acts of infringement will continue to damage Reebok irreparably.

COUNT III

(Direct Infringement of United States Patent No. 8,020,320 by Defendants)

73. Reebok realleges and incorporates herein by reference the allegations set forth above.

74. Defendants directly infringe, literally or under the doctrine of equivalents, one or more claims of the '320 patent, including at least claims 1 and 16, by, without authority, importing, offering for sale, and selling articles of footwear, including at least the Men's Lightweight Mesh Sneaker, within the United States, in violation of 35 U.S.C. § 271(a).

75. Further, TRB directly infringes, literally or under the doctrine of equivalents, one or more claims of the '320 patent, including at least claims 1 and 16, by, without authority, directing and controlling others to import, offer for sale, and sell articles of footwear, including at least the Men's Lightweight Mesh Sneaker, within the United States, in violation of 35 U.S.C. § 271(a).

76. Further, TRB is directly liable for the acts of its agents, including at least RBX. These acts include the direct infringement, literally or under the doctrine of equivalents, of one or more claims of the '320 patent as described above.

77. The Men's Lightweight Mesh Sneaker, and any shoes incorporating a sole that is the same or substantially similar to this shoe, which contain features described above, infringe at least claims 1 and 16 of the '320 patent.

78. Reebok has been and continues to be injured by Defendants' infringement of the '320 patent. Reebok is entitled to recover damages in an amount to be determined at trial, but in no event less than a reasonable royalty.

79. Unless enjoined by this Court, Defendants' acts of infringement will continue to damage Reebok irreparably.

COUNT IV

(Induced Infringement of United States Patent Nos. 7,637,035, 8,505,221, and 8,020,320 by TRB)

80. Reebok realleges and incorporates herein by reference the allegations set forth above.

81. TRB indirectly infringes one or more claims of the '035 patent, '221 patent, and/or '320 patent, including at least claims 1 and 18 of the '035 patent, claim 1 of the '221 patent, and claims 1 and 16 of the '320 patent, by, without authority and on information and belief, licensing, indemnifying, designing, developing, aiding or assisting in marketing, and/or encouraging or assisting others, including the other Defendants named herein, to import, offer for sale, use, or sell infringing articles of footwear, including at least the Men's Lightweight Active shoe, Men's Prime Cross Training Balance shoe, Men's Cross Training Mesh Workout shoe, Women's Elite Athletic Mesh Running shoe, Men's X-Knit Special Edition Training shoe, Men's Classic Runner shoe, Men's Lumen Performance shoe, Men's Prime Athletic shoe, Men's Breathable Lightweight Free Running shoe, Men's Stratus Cross Training shoe, Women's Vortex Performance shoe, and Men's Lightweight Mesh Sneaker, as well as any shoes incorporating a sole that is the same or substantially similar to these shoes, knowingly and with the specific intent to encourage infringement, including at a minimum being willfully blind to Reebok's '035, '221, and/or '320 patents, and further knowing, or being willfully blind, that such acts would infringe the '035, '221, and/or '320 patents within the United States, in violation of 35 U.S.C. § 271(b).

82. Reebok has been and continues to be injured by TRB's infringement of the '035 patent, '221 patent, and '320 patent. Reebok is entitled to recover damages in an amount to be determined at trial, but in no event less than a reasonable royalty.

83. Unless enjoined by this Court, TRB's acts of infringement will continue to damage Reebok irreparably.

WILLFUL INFRINGEMENT

84. Reebok realleges and incorporates herein by reference the allegations set forth above.

85. Defendants have knowledge of the '221 patent and '035 patent at least through the filing of the original Complaint in this action. Defendants have also had knowledge of the '221 and '035 patents at least through the filing of a Complaint in the ITC in the case styled *In the Matter of Certain Athletic Footwear*, Investigation No. 337-TA-1018, filed on August 10, 2016. On information and belief, Defendants also had knowledge of the '221 patent, the '035 patent, and the '320 patent or, at a minimum, acted in willful blindness to the existence of the '221, '035, and/or '320 patents prior to the filing of the original Complaint in this action in view of Reebok's past enforcement against one or more of the Defendants of Reebok's other intellectual property rights, including Reebok's trademark rights. On further information and belief, Defendants also had knowledge of the '320 patent through their efforts in defending the ITC Investigation discussed above.

86. Despite this knowledge, Defendants have continued to misappropriate Reebok's intellectual property rights by, among other things, making, using, importing, offering to sell, and selling infringing articles of footwear. Defendants have also maintained continuous and systematic promotional, marketing, and other similar activities despite their knowledge of Reebok's patents and Defendants' infringement thereof.

87. Although Defendants recently consented to stop importing certain of the accused products, Defendants' activities at least since the filing of Reebok's original Complaint in this action and the ITC Complaint have been egregious and willful.

88. Additionally, Defendants' conduct since becoming aware of the '221 patent, the '035 patent, and the '320 patent was intentional, and with knowledge that their activities were infringing.

89. For example, even after consenting to cease the sale and importation of the Infringing Products, Infringing Products continue to be sold by third party retailers in the open market. Instead of destroying remaining inventory, Defendants have, upon information and belief, sold remaining inventory at steep discount prices to various retailers, such that a flood of Infringing Products are currently in the marketplace. Defendants' conduct in this regard has been willful, with full knowledge that the Infringing Products infringe the '221 patent and the '035 patent. Defendants have acted egregiously, wantonly, and recklessly.

90. Furthermore, despite Defendants having promised (via the Consent Order entered in the ITC proceeding) to stop selling Infringing Products by December 31, 2016, Defendants continue to directly offer and sell Infringing Products in 2017.

91. Upon information and belief, Defendants continue to aid, abet, encourage, participate in, or induce the sale of Infringing Products by their customers/retailers and in violation of the Consent Order entered in the ITC proceeding, including at least through sales of Infringing Products through online channels such as Amazon.com as discussed above. *See* Exhibit C.

92. Accordingly, Defendants have intentionally and willfully infringed at least the '221 patent, the '035 patent, and the '320 patent.

93. Reebok has been and continues to be injured by Defendants' infringement of the '221, '035, and '320 patents. In addition to compensatory damages, Reebok is entitled to recover an award, up to three times the damage award, for Defendants' willful infringement.

PRAYER FOR RELIEF

WHEREFORE, Reebok respectfully prays that this Court:

- a. Enter a judgment that Defendants have infringed the '221 patent, '035 patent, and '320 patent (collectively, the "patents-in-suit");
- b. Grant a permanent injunction restraining and enjoining Defendants and their officers, directors, agents, servants, employees, successors, assigns, parents, subsidiaries, affiliated or related companies, and attorneys from directly or indirectly infringing the patents-in-suit;
- c. Award Reebok damages in an amount sufficient to compensate Reebok for Defendants' infringement of the patents-in-suit, but not less than a reasonable royalty, together with interest and costs;
- d. Award Reebok treble damages for Defendants' willful infringement;
- e. Award prejudgment interest to Reebok under 35 U.S.C. § 284;
- f. Find this case to be exceptional pursuant to 35 U.S.C. § 285, and award Reebok its reasonable attorneys' fees incurred in this action; and
- g. Grant such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Reebok respectfully demands a trial by jury on all claims and issues so triable.

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