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Attorneys for Plaintiff  
LINDA KARECKI

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

LINDA KARECKI,	) CASE NO.: <u>'12CV3011 JAH JMA</u>
	)
Plaintiff,	) <b>COMPLAINT FOR PATENT</b>
v.	) <b>INFRINGEMENT</b>
	)
FILA U.S.A., Inc.,	) <b>DEMAND FOR JURY TRIAL</b>
	)
Defendants.	)
_____	)
	)
	)

Plaintiff Linda Karecki ("Plaintiff") complains as follows:

**NATURE OF ACTION**

1. This action arises under the Patent Laws of the United States, 35 U.S.C. §§100, *et seq.*

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1 a novel method and apparatus for the toning of muscles through the use of  
2 resistance. Plaintiff owned this patent throughout the period of Defendant's  
3 infringing acts and still owns this patent. A copy of the '014 Patent is attached  
4 hereto as Exhibit A.

5 9. Defendant Fila USA is in the business of selling sporting gear,  
6 including its "Fila Toning Resistance" apparel, which includes at least one resilient  
7 memory member as a part of the garment to create muscle resistance for the wearers  
8 of the clothing. Defendant's "Fila Toning Resistance" apparel line includes pants,  
9 capris, jackets, skorts, skort capris, and tank tops/t-shirts.

10 10. Defendant has been selling and offering to sell infringing "Fila Toning  
11 Resistance" apparel within the United States, and within this District, all without  
12 consent from Plaintiff.

### 13 **CLAIM FOR RELIEF**

#### 14 **(Patent Infringement)**

15 11. Plaintiff incorporates by reference and realleges each of the allegations  
16 set forth above.

17 12. Defendant has infringed and is still infringing the '014 Patent by  
18 making, selling, and using "Fila Toning Resistance" apparel, which embodies the  
19 patented invention.

20 13. Upon information and belief, Defendant is aware of the '014 Patent, but  
21 yet it knowingly and actively induces consumers to use its infringing "Fila Toning  
22 Resistance" apparel within the United States. Defendant thus actively induces  
23 infringement of the '014 Patent in violation of 35 U.S.C. § 271(b).

24 14. Defendant's infringing "Fila Toning Resistance" apparel is not a staple  
25 article or commodity of commerce and has no substantial non-infringing use. On  
26 information and belief, Defendant knew that its "Fila Toning Resistance" apparel is  
27 specially made or especially adapted for use in an infringement of the '014 Patent.  
28 Third parties who use the infringing "Fila Toning Resistance" apparel infringe one

1 or more claims of the '014 Patent. Defendant thus contributes to infringement of the  
2 '014 Patent in violation of 35 U.S.C. § 271(c).

3 15. Upon information and belief, Defendant's patent infringement has been  
4 committed willfully with full knowledge of the '014 Patent.

5 16. Defendant's infringing acts render this an exceptional case, and  
6 therefore Plaintiff should be awarded all costs and attorney's fees incurred in this  
7 action as permitted under 35 U.S.C. § 285.

8 17. Plaintiff, as the proximate result of Defendant's patent infringement,  
9 has suffered and, if Defendant is not enjoined, will continue to suffer irreparable  
10 harm, for which it has no adequate legal remedy.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for judgment:

13 1. That Defendant has infringed, contributorily infringed and/or actively  
14 induced infringement of the '014 Patent.

15 2. That Plaintiff be awarded its damages from patent infringement  
16 according to proof and ordering that such damages be multiplied up to treble their  
17 amount;

18 3. Preliminarily and permanently enjoining Defendant and all others  
19 acting in concert with Defendant from making, using, selling or offering to sell the  
20 infringing "Fila Toning Resistance" apparel line, as well as any other products  
21 infringing the '014 Patent without permission or a license from Plaintiff;

22 4. That Defendants be ordered to deliver up to Plaintiff all products  
23 infringing the '014 patent within its ownership, possession or control, for  
24 destruction by Plaintiff or, in the alternative, that the Court award a compulsory  
25 royalty for the current and future sale of such goods;

26 5. That the Court declare this to be an exceptional case pursuant to 35  
27 U.S.C. §285, and award Plaintiff its attorney's fees;

6. That Plaintiff be awarded its costs of suit, and pre- and post-judgment interest on any money judgment;

7. For such other relief as the Court deems proper.

DATED: December 18, 2012

By /s/ Enoch Liang (12.18.2012)

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**JURY DEMAND**

Plaintiff demands a jury trial on all claims as to which she has a right to a jury.

DATED: December 18, 2012

By /s/ Enoch Liang (12.18.2012)

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