

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

EVERYTHING BASEBALL LIMITED, LLC,)
)
Plaintiff,)
)
v.)
)
WILSON SPORTING GOODS COMPANY,)
)
HUNT WILSON INTERNATIONAL LTD.,)
)
SCHUTT SPORTS, INC., EASTON-BELL)
)
SPORTS, INC., HILLERICH & BRADSBY CO.,)
)
AMPAC ENTERPRISES, INC., RAWLINGS)
)
SPORTING GOODS, INC., ADIDAS AG,)
)
REEBOK INTERNATIONAL LTD., RIDDELL)
)
SPORTS INC., DIAMOND SPORTS CO. INC.,)
)
and NOCONA ATHLETIC GOODS COMPANY,)

Defendants.

FILED: JULY 7, 2008
08CV3840
JUDGE BUCKLO
MAGISTRATE JUDGE KEYS
NF

COMPLAINT

Everything Baseball Limited, LLC by and through its attorneys, files this Complaint for patent infringement against Wilson Sporting Goods Company, Hunt Wilson International Ltd., Schutt Sports, Inc., Easton-Bell Sports, Inc., Hillerich & Bradsby Co., Ampac Enterprises, Inc., Rawlings Sporting Goods, Inc., Adidas AG, Reebok International Ltd., Riddell Sports Inc., Diamond Sports Co. Inc., and Nocona Athletic Goods Company, and in support thereof, states as follows:

THE PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Everything Baseball Limited, LLC (“Everything Baseball”), is an Illinois Corporation having its principle place of business at 41W. 035 Saddlebrook Drive, St. Charles, Illinois, 60175.

2. Defendant Wilson Sporting Goods Company (“Wilson”) has its corporate headquarters and principal place of business at 8750 W. Bryn Mawr Avenue, Chicago, Illinois, 60631. Wilson sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, covered by the patent-in-suit, within this judicial district.

3. Defendant Hunt Wilson International Ltd. (“Hunt”), an Illinois corporation, has its corporate headquarters and principal place of business at 3600 Jarvis Avenue, Skokie, Illinois, 60076-4018. Hunt sells sporting goods under brands such as “Champro” throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

4. Defendant Schutt Sports, Inc. (“Schutt”), an Illinois corporation, has its corporate headquarters and principle place of business at 610 Industrial Drive, Litchfield, Illinois, 62056-3040. Schutt sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

5. Defendant Easton-Bell Sports, Inc. (“Easton”), a California corporation, has its principle place of business at 7855 Haskell Ave. Suite 200, Van Nuys, California, 91406. Easton sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

6. Defendant Hillerich & Bradsby Co. (“H&B”) has its principle place of business at 800 W Main Street, Louisville, KY 40232. H&B sells sporting goods under brands including “Louisville Slugger” throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

7. Defendant Ampac Enterprises, Inc. (“Ampac”) has its principle place of business at 1 Main Street, Shirley, MA 01464. Ampac sells sporting goods under brands such as “All-Star Sports Equipment” throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

8. Defendant Rawlings Sporting Goods, Inc. (“Rawlings”) has its principle place of business at 510 Maryville University Drive, Suite 110, St. Louis, Missouri, 63141. Rawlings sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

9. Defendant Adidas AG (“Adidas”) has its principle place of business at Adidassler-Strasse 1 91074 Herzogenaurach, Germany. Adidas sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

10. Defendant Reebok International Ltd. (“Reebok”), a subsidiary of Adidas, has its principle place of business at 1895 J.W. Foster Boulevard, Canton, Massachusetts, 02021. Reebok sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

11. Defendant Riddell Sports Inc. (“Riddell”) has its principle place of business at 900 Third Avenue, New York, New York 10022 . Riddell sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

12. Defendant Diamond Sports Co. Inc. (“Diamond”) has its principle place of business at 11130 Warland Drive, Cypress, California, 90630-5032. Diamond sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

13. Defendant Nocona Athletic Goods Company (“Nocona”) has its principle place of business at 901 East Highway 82, Nocona, Texas, 76255. Nocona sells sporting goods throughout the United States, including baseball chest protectors covered by the patent-in-suit, within this judicial district.

14. Jurisdiction is proper under 28 U.S.C. §§ 1331, 1332, and 1338.

15. Venue is proper pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

FACTUAL BACKGROUND

16. Sam Gallucci has been passionate about baseball his entire life. For nearly 20 years Gallucci coached high school baseball, college baseball and was a baseball instructor in various organizations. Tom Serewicz has also been an avid baseball fan his entire life, starting with playing in various little leagues during his childhood.

17. In 1987, Gallucci started Wasco Baseball League in Wasco, Illinois, a village just west of St. Charles. Wasco Baseball League was a little league for children between the ages of 6 and 18. At that time, Wasco only had a park district league which consisted of 43 children and two baseball fields. By 2002, when Gallucci retired as president of Wasco Baseball League, it had over 2,000 children and more than 20 baseball fields.

18. In 1999 Serewicz, through his children, became a coach of one of the teams in Wasco Baseball League and became friends with Gallucci.

19. Serewicz noticed that the catcher on his team had been injured numerous times by balls that would hit the unprotected top and back areas of the catcher's shoulder which the conventional chest protector did not cover.

20. Serewicz searched for a chest protector that would protect the front, top and rear portion of the catcher's shoulder, but there were none. Serewicz and Gallucci together first built a prototype catcher chest protector having a portion extending over the shoulder area of the catcher, and then built several more of these chest protectors for catchers in the Wasco Baseball League. On September 15, 1999, they filed a patent application on their new chest protector.

21. At about this same time, Serewicz and Gallucci started Everything Baseball Limited, LLC which was a store that sold baseball equipment.

22. On December 19, 2000 the Serewicz' and Gallucci patent application issued into U.S. Patent No. 6,161,226 ("the '226 Patent") and is entitled "Baseball Chest Protector," which Gallucci and Serewicz both assigned to Everything Baseball.

23. The '226 Patent involves a new catcher chest protector having a flexible shoulder guard extending over the shoulder of the catcher, which unlike previous chest protectors, (1) protects the front, top and back areas of the shoulder that are susceptible to being hit by baseballs and (2) holds the chest protector in the correct position, thereby preventing the chest protector from "drooping" and exposing the top and back of the shoulder.

24. Team Athletic Goods, Inc. ("TAG"), a manufacturer of baseball equipment, learned of the Serewicz and Gallucci chest protector, and in October 2001 became Everything Baseball's exclusive licensee under the '226 Patent.

FACTS GIVING RISE TO PATENT INFRINGEMENT

25. Defendant Wilson has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: Pro Stock Hinge FX Chest Protector (A3300); Pro Edition Hinge FX Chest Protector (A3310); and MLB Edition Hinge FX Chest Protector (A3320).

26. Defendant Schutt has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of its Burst Chest Protector (127016XX) and Thermoformed Chest Protector.

27. Defendant Easton has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: Natural Chest Protector (SKU#s A165106, A165108, A165110, A165112); Stealth Chest Protector (SKU#s A165125, A165127, A165129); Stealth Comp Chest Protector (SKUs: A165030, A165031); Black Magic Chest Protector (SKU#s A165035, A165036); Stealth Fastpitch Chest Protector (SKU#s A165016, A165018); and Natural Fastpitch Chest Protector (SKU# A165020).

28. Defendant H&B has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: TPX® Bionic Chest Protector (Model BCPX); TPX® Pulse Chest Protector (Models BPCPX and BPCPS); TPX® Pulse YOUTH Chest Protector (Model BPCPY); and Youth Maverick Chest Protector (Model CPYM).

29. Defendant Ampac has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: CP28PRO and CP25PRO Chest Protector; CP1216APRO, CP912APRO and CP79APRO Chest Protectors;

CP1216PS, CP912PS, CP79PS, and CP22PS Chest Protectors; CP55, CP33, CP22, and CP11 Chest Protectors; and CPW14.5PRO and CPW14.5FP Chest Protectors.

30. Defendant Rawlings has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: Coolflo Chest Protector (CFCPPRO and CFCPPROS); Coolflo Chest Protector Junior (CFCPPROJ and CFCPPROJS); Coolflo Chest Protector Youth (CFCPPROY and CFCPLTY); Coolflo Lite Series Chest Protector (CFCPLT); Coolflo Lite Series Chest Protector Junior (CFCPLTJ); Women's Fast Pitch Chest Protectors (CFT900CP and CFT900CPI); and Adult Pro Chest Protector (CP900).

31. Defendant Adidas has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: Adidas Youth Chest Protector (Model No. 2966949).

32. Defendant Reebok has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as its VR6000 Chest Protector.

33. Defendant Hunt has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: CP71 Air-Tech Adult Chest Protector; CP72 Air-Tech Senior League Chest Protector; and CP73 Air-Tech Youth Baseball Chest Protector.

34. Defendant Riddell has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: SPX Chest Protector (Adult, Senior, Youth – 42193, 42194, 42195).

35. Defendant Diamond has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: Jenny Topping Signature Series Chest Protector (DCP-JT); iX3 Series Chest Protectors (DCP-iX3 V1, DCP-iX3 V2, DCP-iX3 V3, and DCP-iX3 FP); and Chest Protector Models (DCP-ML, DCP-32, DCP-FP, DCP-25, DCP-12, DCP-11, and DCP-10).

36. Defendant Nocona has infringed the '226 Patent through at least, but not limited to, the manufacture, use, importation, sale and/or offer for sale of such products as: NCPV Pro Chest Protector; NCPW Women Chest Protector; NCPJV JR Varsity Chest Protector; and NCPY Youth Chest Protector.

WHEREFORE, Everything Baseball requests the following relief from each of the Defendants:

- (1) damages adequate to compensate it for the infringement pursuant to 35 USC § 284;
- (2) prejudgment interest;
- (3) increased damages for their willful infringement pursuant to 35 USC § 284;
- (4) attorney fees for being an exceptional case pursuant to 35 USC § 285; and
- (5) any further relief as this Court deems appropriate.

EVERYTHING BASEBALL
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