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AO 120 (Rev. 3/04)

AUG 19 2008

Mail Stop B Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court W/D LOUISIANA on the following Patents or Trademarks:

DOCKET NO. 1:08cv1179	DATE FILED 8/13/2008	U.S. DISTRICT COURT W/D LOUISIANA
PLAINTIFF SPORTS DESIGN & DEVELOPMENT INC		DEFENDANT MILLER BREWING CO
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 2,658,214		SEE ATTACHED
2		
3		
4		
5		

In the above-entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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3			
4			
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In the above-entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK ROBERT H. SHEMWELL, CLERK	BY DEPUTY CLERK <i>Sandra G. Dean</i>	DATE 8/14/2008
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Copy 1--Upon initiation of action, mail this copy to Director Copy 3--Upon termination of action, mail this copy to Director
 Copy 2--Upon filing document adding patent(s), mail this copy to Director Copy 4--Case file copy

TRADEMARK

**U.S. District Court
Western District of Louisiana (Alexandria)
CIVIL DOCKET FOR CASE #: 1:08-cv-01179-DDD-JDK
Internal Use Only**

Sports Design & Development Inc vs. Miller Brewing Co
Assigned to: Judge Dee D Drell
Referred to: Magistrate Judge James D Kirk
Cause: 15:1051 Trademark Infringement

Date Filed: 08/13/2008
Jury Demand: Plaintiff
Nature of Suit: 840 Trademark
Jurisdiction: Federal Question

Plaintiff

Sports Design & Development Inc
a Louisiana Corp
doing business as
Bill Lewis Lures

represented by **Allen D Darden**
Phelps Dunbar et al (BR)
P O Box 4412
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Email: dardena@phelps.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Miller Brewing Co
a Wisconsin Corp

Date Filed	#	Docket Text
08/13/2008	1	COMPLAINT against Miller Brewing Co with Jury Demand (Filing fee \$350, receipt number 0536000000000885271) filed by Sports Design & Development Inc. (Attachments: # 1 Exhibits A and B, # 2 Civil cover sheet)(aty,Darden, Allen) Modified on 8/13/2008 to take out wordy text (Dean, S). (Entered: 08/13/2008), (QC'ed on 08/13/2008, by Dean , S)
08/13/2008	3	Judge Dee D Drell and Magistrate Judge James D Kirk added. (crt,Dean, S) (Entered: 08/13/2008)
08/13/2008	3	(Court only) ***Set Trademark Flag. (crt,Dean, S) (Entered: 08/13/2008)

08/14/2008	<u>2</u>	AO 120 Report on the Filing or Determination of an Action Regarding a Patent or Trademark. Commissioner of Patents & Trademarks added to case as a Notice party. (crt,Dean, S) (Entered: 08/14/2008)
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

SPORTS DESIGN AND
DEVELOPMENT, INC., a Louisiana
Corporation, d/b/a BILL LEWIS LURES

CIVIL ACTION NO. _____

JUDGE _____

VERSUS

MAG. JUDGE _____

MILLER BREWING COMPANY, a
Wisconsin Corporation

JURY DEMAND

COMPLAINT

By and through counsel, Plaintiff Sports Design and Development, Inc. d/b/a Bill Lewis Lures hereby alleges and complains against Defendant Miller Brewing Company as follows:

PARTIES, JURISDICTION AND VENUE

1. Sports Design and Development, Inc. d/b/a Bill Lewis Lures (hereinafter "Sports Design") is a Louisiana corporation with a principal place of business at 5527 Coliseum Boulevard, Alexandria, Louisiana 71303.
2. Upon information and belief, Defendant Miller Brewing Company (hereinafter "Miller Brewing"), is a Wisconsin corporation with a principal place of business at 3939 W. Highland Blvd., Milwaukee, Wisconsin 53208.
3. Sports Design brings this action under the Lanham Trademark Act, Title 15, United States Code §1051, et seq, and Louisiana State and common law provisions.
4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331, 1338, and 1367.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391.

6. On information and belief, this Court has personal jurisdiction over Miller Brewing inasmuch as Miller Brewing has utilized the infringed trademark to promote, market and sell its products in the state of Louisiana, and Miller Brewing does a substantial amount of business in Louisiana.

GENERAL ALLEGATIONS

7. Sports Design is in the business of manufacturing and marketing various fishing lures. Among the products offered by Sports Design is a very popular lure that is sold in connection with the trademarks RAT-L-TRAP and RATTLETRAP. The RAT-L-TRAP lure has been a very successful product for a significant amount of time. As such, Sports Design has significant common law rights associated with the marks RAT-L-TRAP and RATTLETRAP throughout the United States.

8. Sports Design's RAT-L-TRAP lure also has a distinctive, well-recognized shape or design. Sports Design has obtained trademark protection for this design. Sports Design is the owner of United States Trademark Registration Number 2,658,214 for a design mark in the shape of a fishing lure for use in connection with "fishing lures" and has been using the mark since at least as early as 1976. A copy of the U.S. Registration Certificate for Registration No. 2,658,214 is attached hereto as Exhibit A.

9. Sports Design's lure design trademark, U.S. Registration No. 2,658,214, is hereinafter referred to as "Lure Design Trademark." The Lure Design Trademark is famous.

10. Upon information and belief, Miller Brewing created an advertising and promotional unit in the shape of a large fishing lure with a Miller Brewing logo or trademark on

at least one side. Upon information and belief, Miller Brewing also created an actual fishing lure with a Miller Brewing logo or trademark on at least one side. See, Exhibit B attached hereto. The advertising unit in the shape of a large fishing lure and the actual fishing lure are hereinafter collectively referred to as "Lure Advertising". Miller Brewing's Lure Advertising is sufficiently similar to Sports Design's Lure Design Trademark such that confusion is likely. Sports Design has never authorized Miller Brewing to utilize Sports Design's Lure Design Trademark.

11. Upon information and belief, Miller Brewing's Lure Advertising is virtually identical to Sports Design's Lure Design Trademark and Miller Brewing's Lure Advertising is utilized primarily in stores and areas where fishing lures are sold. This makes confusion as to Sports Design's authorization or association with Miller Brewing products more likely.

12. By adopting Sports Design's Lure Design Trademark for its own advertising, Miller Brewing is clearly attempting to trade on the significant good will and fame associated with Sports Design's RAT-L-TRAP fishing lures and Sports Design's Lure Design Trademark in the marketplace.

13. Sports Design has maintained a policy of not authorizing association of its company, its products, or its trademarks with any alcoholic beverages. This policy has been violated by Miller Brewing's unauthorized use of Miller Brewing's Lure Advertising and has compromised Sports Design's intended commercial reputation.

14. Because Miller Brewing's Lure Advertising is virtually identical to Sports Design's Lure Design Trademark, Sports Design believes that Miller Brewing's use of the Lure

Advertising is likely to cause confusion, or to cause mistake, or to deceive consumers about the affiliation of certain goods in light of Sports Design's registered Lure Design Trademark.

FIRST CAUSE OF ACTION
(Trademark Infringement, 15 U.S.C. §1114(a))

15. Sports Design hereby incorporates by this reference each and every allegation contained in paragraphs 1 through 14 as if set forth fully herein.

16. The Lure Advertising used by Miller Brewing is virtually identical to Sports Design's registered Lure Design Trademark. Therefore, Miller Brewing's use of the Lure Advertising in connection with its goods is likely to cause confusion, or to cause mistake, or to deceive consumers about the affiliation of certain goods in light of Sports Design's registered Lure Design Trademark.

17. Through these activities, Miller Brewing has infringed Sports Design's trademark rights under the Lanham Act, 15 U.S.C. §1114(a) and under the common law.

18. Sports Design has suffered actual damages as a result of trademark infringement in an amount to be proven at trial. Additionally, the harm to Sports Design arising from Miller Brewing's acts is not fully compensable by money damages. Sports Design has suffered, and continues to suffer, irreparable harm which has no adequate remedy at law and which will continue unless Miller Brewing's conduct is preliminarily and permanently enjoined.

19. Since Miller Brewing's Lure Advertising is virtually identical to Sports Design's popular and famous Lure Design Trademark, Miller Brewing was surely familiar with the Lure Design Trademark and Miller Brewing's unauthorized use of a confusingly similar trademark is

therefore willful and intentional. As a result, Sports Design is further entitled to treble damages and an award of costs and attorneys fees.

SECOND CAUSE OF ACTION
(Unfair Competition, 15 U.S.C. §1125(a)(1)(A))

20. Sports Design hereby incorporates by this reference each and every allegation contained in paragraphs 1 through 19 as if set forth fully herein.

21. Miller Brewing has used in interstate commerce its Lure Advertising, which use is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, association, origin, sponsorship, or approval of their goods and commercial activities in light of Sports Design's Lure Design Trademark.

22. By engaging in these activities, Miller Brewing has engaged in unfair competition under 15 U.S.C. §1125(a)(1)(A) and under the common law.

23. Sports Design has suffered actual damages as a result of Miller Brewing's unfair competition in an amount to be proven at trial. Additionally, the harm to Sports Design arising from Miller Brewing's acts is not fully compensable by money damages. Sports Design has suffered, and continues to suffer, irreparable harm which has no adequate remedy at law and which will continue unless Miller Brewing's conduct is preliminarily and permanently enjoined.

24. Since Miller Brewing's Lure Advertising is virtually identical to Sports Design's popular and famous Lure Design Trademark, Miller Brewing was surely familiar with the Lure Design Trademark and Miller Brewing's unauthorized use of a confusingly similar trademark is therefore willful and intentional. As a result, Sports Design is further entitled to treble damages and an award of costs and attorneys fees.

THIRD CAUSE OF ACTION
(Trademark Dilution, 15 U.S.C. §1127)

25. Sports Design hereby incorporates by this reference each and every allegation contained in paragraphs 1 through 24 as if set forth fully herein.

26. The Lure Advertising used by Miller Brewing is virtually identical to Sports Design's registered Lure Design Trademark. Therefore, Miller Brewing's use of its Lure Advertising in connection with its goods is causing dilution and actual injury to the economic value of Sports Design's registered Lure Design Trademark.

27. Through these activities, Miller Brewing has diluted Sports Design's trademark rights under the Lanham Act, 15 U.S.C. §1127.

28. Sports Design has suffered actual damages as a result of trademark dilution in an amount to be proven at trial. Additionally, the harm to Sports Design arising from Miller Brewing's acts is not fully compensable by money damages. Sports Design has suffered, and continues to suffer, irreparable harm which has no adequate remedy at law and which will continue unless Miller Brewing's conduct is preliminarily and permanently enjoined.

29. Since Miller Brewing's Lure Advertising is virtually identical to Sports Design's popular and famous Lure Design Trademark, Miller Brewing was surely familiar with the Lure Design Trademark and Miller Brewing's unauthorized use of a confusingly similar trademark is therefore willful and intentional. As a result, Sports Design is further entitled to treble damages and an award of costs and attorneys fees.

FOURTH CAUSE OF ACTION

(Unfair Competition, La. R.S. 51:211 et seq. and Louisiana Common Law)

30. Sports Design hereby incorporates by this reference each and every allegation contained in paragraphs 1 through 29 as if set forth fully herein.

31. Sports Design has a protectable proprietary right in the Lure Design Trademark in that Sports Design has established use of the Lure Design Trademark and the Lure Design Trademark has become a distinctive indicator of Sports Design's products. Miller Brewing has used in commerce in Louisiana its Lure Advertising in connection with alcoholic beverages, which use is an unfair trademark infringement and is likely to lead to a material diminution in the value of Sports Design's Lure Design Trademark.

32. By engaging in these activities, Miller Brewing has engaged in unfair competition and infringement of trade names under Louisiana statute and the common law.

33. Sports Design has suffered actual damages as a result of Miller Brewing's unfair competition in an amount to be proven at trial. Additionally, the harm to Sports Design arising from Miller Brewing's acts is not fully compensable by money damages. Sports Design has suffered, and continues to suffer, irreparable harm which has no adequate remedy at law and which will continue unless Miller Brewing's conduct is preliminarily and permanently enjoined.

34. Since Miller Brewing's Lure Advertising is virtually identical to Sports Design's popular and famous Lure Design Trademark, Miller Brewing was surely familiar with the Lure Design Trademark and Miller Brewing's unauthorized use of a confusingly similar trademark is therefore willful and intentional. As a result, Sports Design is further entitled to treble damages and an award of costs and attorneys fees.

FIFTH CAUSE OF ACTION
(Trademark Dilution, La. R.S. 51:223.1)

35. Sports Design hereby incorporates by this reference each and every allegation contained in paragraphs 1 through 34 as if set forth fully herein.

36. The Lure Advertising used by Miller Brewing is virtually identical to Sports Design's registered Lure Design Trademark. Therefore, Miller Brewing's use of its Lure Advertising in connection with its goods is causing dilution of Sports Design's registered Lure Design Trademark and a likelihood of injury to Sports Design's business reputation.

37. Through these activities, Miller Brewing has diluted Sports Design's trademark rights under La. R.S. 51:223.1.

38. Sports Design has suffered actual damages as a result of trademark dilution in an amount to be proven at trial. Additionally, the harm to Sports Design arising from Miller Brewing's acts is not fully compensable by money damages. Sports Design has suffered, and continues to suffer, irreparable harm which has no adequate remedy at law and which will continue unless Miller Brewing's conduct is preliminarily and permanently enjoined.

39. Since Miller Brewing's Lure Advertising is virtually identical to Sports Design's popular and famous Lure Design Trademark, Miller Brewing was surely familiar with the Lure Design Trademark and Miller Brewing's unauthorized use of a confusingly similar trademark is therefore willful and intentional. As a result, Sports Design is further entitled to treble damages and an award of costs and attorneys fees.

WHEREFORE, it is respectfully requested that the court enter a judgment in favor of Sports Design as follows:

A. That the Court enter judgment that Miller Brewing has infringed Sports Design's Lure Design Trademark under 15 U.S.C. §1114(a) and the common law;

B. That the Court enter judgment that Miller Brewing has competed unfairly pursuant to 15 U.S.C. §1125(a) and the common law;

C. That the Court enter judgment that Miller Brewing has diluted Sports Design's Lure Design Trademark under 15 U.S.C. §1127;

D. That the Court enter judgment that Miller Brewing has competed unfairly and infringed Sports Design's trademark under La. R.S. 51:211 and Louisiana common law;

E. That the Court enter judgment that Miller Brewing has diluted Sports Design's Lure Design Trademark under La. R.S. 51:223.1;

F. That the Court preliminarily and permanently enjoin Miller Brewing from using the Lure Design Trademark and any other mark, symbol, or device that is confusingly similar to Sports Design's Lure Design Trademark;

G. That Miller Brewing be ordered to pay damages to Sports Design in an amount to be determined by this Court;

H. That Miller Brewing be ordered to pay Sports Design's attorneys' fees and its costs for this action pursuant to the Lanham Act;

I. That Miller Brewing be required to pay pre-judgment and post-judgment interest until such awards are paid; and

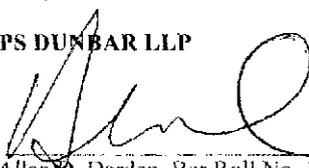
J. That Sports Design has such other and further relief as shall seem just and proper to the Court.

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Sports Design hereby demands a jury trial on all claims and issues so triable.

Dated this 13th day of August, 2008.

Respectfully submitted,

PHELPS DUNBAR LLP

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