

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

<p>Cole Haan LLC</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 40px;">v.</p> <p>American Strap, Inc. d/b/a Martin Dingman</p> <p style="padding-left: 40px;">Defendant.</p>	<p>Civil Action No.: 3:22-CV-03024-TLB</p> <p>Jury Trial Demanded</p>
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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Cole Haan LLC (“Cole Haan”) for its Complaint for Patent Infringement against Defendant American Strap, Inc. d/b/a Martin Dingman (“Martin Dingman”) alleges as follows:

INTRODUCTION

1. Cole Haan is a global performance lifestyle brand, serving customers innovative footwear and accessories designed for customers to wear from work-to-workout-to-weekend.
2. Once a purveyor of classic dress shoes, Cole Haan has evolved into a brand known for pushing the aesthetic boundaries of footwear while still remaining connected to its heritage by prioritizing craftsmanship and high-quality materials.
3. This evolution has led to Cole Haan pioneering new categories of footwear, and earning industry and customer acclaim for its versatile products that combine cultural charm, time-honored craft, and modern innovation. Cole Haan has developed its brand and earned its distinction through significant investments in the research, design, development, and marketing of its products.

4. Cole Haan's GrandPrø Rally Laser Cut Sneaker is an example of an elegant yet practical shoe that customers can wear for almost any occasion.



5. Rather than innovating, Martin Dingman has copied Cole Haan's patented designs; and by making, offering for sale, selling, and/or importing its "Dylan Perforated Sport Lace Up Loafer" shoe, Martin Dingman is infringing Cole Haan's patents.



6. As with many of its innovations, Cole Haan owns numerous patents directed to the GrandPrø Rally Laser Cut Sneaker.

7. Cole Haan is filing this lawsuit to protect its design innovations and to stop Martin Dingman from infringing Cole Haan's patents.

PARTIES

8. Plaintiff Cole Haan LLC is a Delaware limited liability company with a principal place of business at 150 Ocean Road, Greenland, New Hampshire 03840.

9. Upon information and belief, Defendant American Strap, Inc. d/b/a Martin Dingman (“Martin Dingman”) is an Arkansas corporation with a principal place of business at 14966 Industrial Park Drive, Lead Hill, Arkansas 72644.

JURISDICTION AND VENUE

10. This is a complaint for patent infringement arising under the patent laws of the United States (35 U.S.C. §§ 101 *et seq.*). This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11. This Court has personal jurisdiction over Martin Dingman. Martin Dingman has its principal place of business in this District, is incorporated in Arkansas, has committed and continues to commit acts of infringement in this District, and has conducted business in this District and/or engaged in continuous and systematic activities in this District.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1400(b) because, upon information and belief, Martin Dingman resides in this District, and/or because Martin Dingman has a regular and established place of business and has committed acts of infringement in this District by making, using, offering to sell, selling, and/or importing products that infringe one or more of Cole Haan’s patents at issue in this lawsuit.

FACTUAL BACKGROUND

A. Cole Haan Background and Patents

13. Cole Haan has evolved into a brand customers know as an innovator of crafted and versatile fashionable footwear.

14. Cole Haan's renown was not attained by happenstance: Cole Haan expends significant time, money, and other resources designing, researching, and developing its products.

15. In addition to its R&D investments, Cole Haan dedicates significant resources to protecting its innovations.

16. As a result, the United States Patent and Trademark Office and patent offices around the world have granted Cole Haan hundreds of patents in the past decade. Cole Haan also has many other patent applications presently pending.

17. Relevant to this dispute, Cole Haan owns all right, title, and interest in, and has the right to sue and recover for all infringements of, U.S. Patent Nos.:

- D888,381 ('381 Patent), which matured from App. No. 29/713,101;
- D888,403 ('403 Patent), which matured from App. No. 29/713,099;
- D943,907 ('907 Patent), which matured from App. No. 29/721,491; and
- D805,749 ('749 Patent), which matured from App. No. 29/552,689.

The '381 Patent, '403 Patent, '907 Patent, and '749 Patent are collectively referred to as the "Asserted Patents."

18. The U.S. Patent and Trademark Office duly and legally issued each of the Asserted Patents on the dates shown below. A true and correct copy of each patent is attached as an exhibit to the Complaint as identified below.

Patent No.	File Date	Issue Date	Expiration Date	Complaint Ex.
D888,381	Nov. 13, 2019	June 30, 2020	June 30, 2035	A
D888,403	Nov. 13, 2019	June 30, 2020	June 30, 2035	B
D943,907	Jan. 21, 2020	Feb. 22, 2022	Feb. 22, 2037	C
D805,749	Jan. 25, 2016	Dec. 26, 2017	Dec. 26, 2032	D

19. Application Nos. 29/713,101 and 29/713,099, from which the '381 Patent and the '403 Patent matured, were each filed with an appendix. The appendix, attached to this Complaint as Ex. E, includes color photos from which the figures of the '381 Patent and the '403 Patent were made.

20. The Asserted Patents are presumed to be valid. 35 U.S.C. § 282.

21. Cole Haan marks its products, including those covered by the Asserted Patents, in conformity with 35 U.S.C. § 287. See <https://www.colehaan.com/Patents.html>.

B. Martin Dingman’s Infringing Activities

22. Upon information and belief, Martin Dingman began selling its “Dylan Perforated Sport Lace Up Loafer” shoes (the Accused Products) after the filing date of each of the Asserted Patents. Three examples of the Accused Products are shown below.



23. Without Cole Haan's authorization, Martin Dingman makes, uses, offers for sale, sells, and/or imports into the United States the Accused Products.

24. Martin Dingman offers to sell and sells the Accused Products to customers through its website (martindingman.com)¹, through online retailers (*e.g.*, Zappos.com², Amazon³), on information and belief, through specialty retail partners⁴.

25. The Accused Products are nearly identical to the designs shown in the figures of the Asserted Patents.

26. Upon information and belief, Martin Dingman's copying of Cole Haan's designs was deliberate.

27. Because Cole Haan marks its product packaging and because the Accused Products are nearly identical to Cole Haan's designs, Cole Haan believes Martin Dingman either had knowledge of the Asserted Patents prior to the filing of this Complaint or engaged in willful blindness as to the Asserted Patents.

28. Despite its knowledge of and/or willful blindness to the Asserted Patents, Martin Dingman proceeded to make, use, sell, offer for sale, and/or import the Accused Products in egregious disregard of the Asserted Patents.

29. Martin Dingman has infringed, and continues to willfully infringe, the Asserted Patents by making, using, selling, offering to sell, and/or importing the Accused Products in this District and elsewhere in the United States, without the consent or authorization of Cole Haan.

¹ <https://martindingman.com/products/dylan-stitched-on-all-season-sneaker-sole-whiskey>;
<https://martindingman.com/collections/all-shoes/products/dylan-stitched-on-all-season-sneaker-sole-stone>;
<https://martindingman.com/products/dylan-perforated-sport-lace-up-loafer-marine>

² <https://www.zappos.com/p/martin-dingman-dylan-marine/product/9654734/color/2043>

³ <https://www.amazon.com/Martin-Dingman-Dylan-Marine-12/dp/B09R9V5CSQ>

⁴ <https://martindingman.com/pages/simple-store-finder>

COUNT I
(Patent Infringement Under 35 U.S.C. § 271 of the '381 Patent)

30. Cole Haan re-alleges and incorporates by reference the allegations set forth in Paragraphs 1-29 of this Complaint as if fully set forth herein.

31. Martin Dingman, without authorization from Cole Haan, has made, used, offered for sale, sold, and/or imported in or into the United States, and continues to make, use, offer for sale, sell, and/or import in or into the United States, shoes having designs that infringe the '381 Patent, including at least the Accused Products.

32. Martin Dingman directly infringes the '381 Patent in violation of 35 U.S.C. § 271(a) by making, using, offering for sale, selling and/or importing the Accused Products, because in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the Accused Products are substantially the same as the '381 Patent, since the resemblance between the two is such as to deceive the ordinary purchaser, inducing the observer to purchase one supposing it to be the other.

33. The aforementioned resemblance between the Accused Products and the '381 Patent is apparent when comparing the similarities in the overall claimed design of the '381 Patent and the design of the Accused Products, as shown in the side-by-side comparison of figures of the '381 Patent and the Accused Products.

34. The below chart is a side-by-side comparison of the figures of the '381 Patent to the Accused Products.

Cole Haan's D888,381 ⁵	Martin Dingman "Dylan"
 <p data-bbox="467 653 509 674">FIG. 1</p>	
 <p data-bbox="483 963 526 984">FIG. 2</p>	
 <p data-bbox="477 1293 529 1314">FIG. 3</p>	
 <p data-bbox="483 1667 542 1688">FIG. 4</p>	

⁵ As set forth in U.S. Patent No. D888,381, "The dot-dash-dot lines immediately adjacent the photographic area represent unclaimed boundaries of the design. The broken lines form no part of the claimed design. Color is unclaimed and forms no part of the claimed design."



35. Cole Haan has suffered, and continues to suffer, economic harm as a result of Martin Dingman's infringements in an amount to be proven at trial.

36. Cole Haan has been and will continue to be irreparably harmed by Martin Dingman's infringements of the '381 Patent.

37. Cole Haan has no adequate remedy at law for Martin Dingman's infringement of the '381 Patent.

38. On information and belief, Martin Dingman's infringements of the '381 Patent will continue unless enjoined by this Court.

COUNT II
(Patent Infringement Under 35 U.S.C. § 271 of the '403 Patent)

39. Cole Haan re-alleges and incorporates by reference the allegations set forth in Paragraphs 1-29 of this Complaint as if fully set forth herein.

40. Martin Dingman, without authorization from Cole Haan, has made, used, offered for sale, sold, and/or imported in or into the United States, and continues to make, use, offer for sale, sell, and/or import in or into the United States, shoes having designs that infringe the '403 Patent, including at least the Accused Products.

41. Martin Dingman directly infringes the '403 Patent in violation of 35 U.S.C. § 271(a) by making, using, offering for sale, selling and/or importing the Accused Products, because in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the Accused Products are substantially the same as the '403 Patent, since the resemblance between the two is such as to deceive the ordinary purchaser, inducing the observer to purchase one supposing it to be the other.

42. The aforementioned resemblance between the Accused Products and the '403 Patent is apparent when comparing the similarities in the overall claimed design of the '403 Patent and the design of the Accused Products, as shown in the side-by-side comparison of figures of the '403 Patent and the Accused Products.

43. The below chart is a side-by-side comparison of the figures of the '403 Patent to the Accused Products.

Cole Haan's D888,403 ⁶	Martin Dingman "Dylan"
 <p data-bbox="467 596 505 611">FIG. 1</p>	
 <p data-bbox="483 911 526 926">FIG. 2</p>	
 <p data-bbox="467 1272 526 1287">FIG. 3</p>	
 <p data-bbox="483 1556 526 1570">FIG. 4</p>	

⁶ As set forth in U.S. Patent No. D888,403, "The dot-dash-dot lines immediately adjacent the photographic area represent unclaimed boundaries of the design. The broken lines form no part of the claimed design. Color is unclaimed and forms no part of the claimed design."



44. Cole Haan has suffered, and continues to suffer, economic harm as a result of Martin Dingman's infringements in an amount to be proven at trial.

45. Cole Haan has been and will continue to be irreparably harmed by Martin Dingman's infringements of the '403 Patent.

46. Cole Haan has no adequate remedy at law for Martin Dingman's infringement of the '403 Patent.

47. On information and belief, Martin Dingman's infringements of the '403 Patent will continue unless enjoined by this Court.

COUNT III
(Patent Infringement Under 35 U.S.C. § 271 of the '907 Patent)

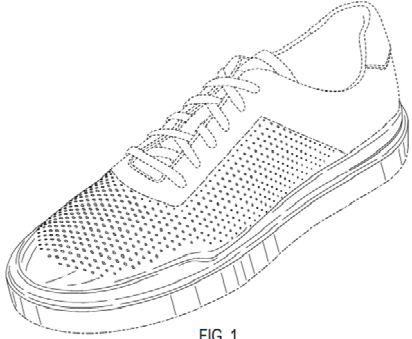

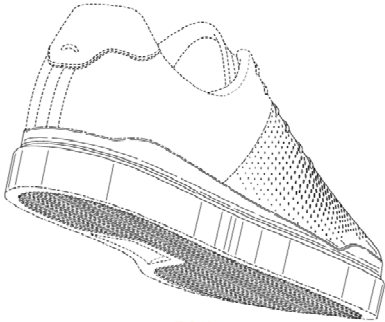

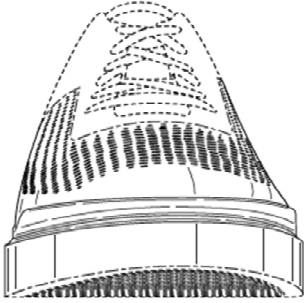

48. Cole Haan re-alleges and incorporates by reference the allegations set forth in Paragraphs 1-29 of this Complaint as if fully set forth herein.

49. Martin Dingman, without authorization from Cole Haan, has made, used, offered for sale, sold, and/or imported in or into the United States, and continues to make, use, offer for sale, sell, and/or import in or into the United States, shoes having designs that infringe the '907 Patent, including at least the Accused Products.

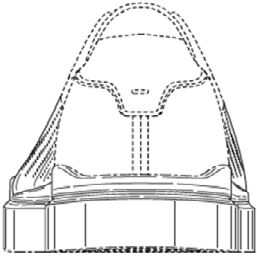

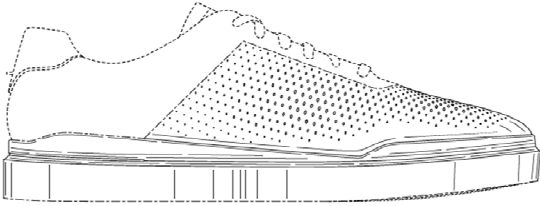

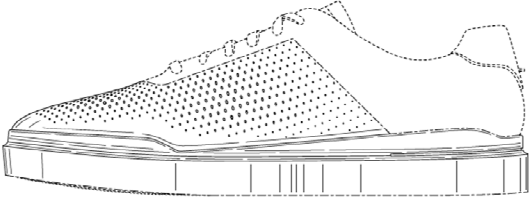

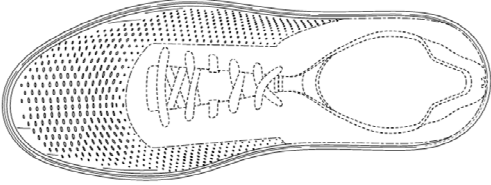

50. Martin Dingman directly infringes the '907 Patent in violation of 35 U.S.C. § 271(a) by making, using, offering for sale, selling and/or importing the Accused Products, because in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the Accused Products are substantially the same as the '907 Patent, since the resemblance between the two is such as to deceive the ordinary purchaser, inducing the observer to purchase one supposing it to be the other.

51. The aforementioned resemblance between the Accused Products and the '907 Patent is apparent when comparing the similarities in the overall claimed design of the '907 Patent and the design of the Accused Products, as shown in the side-by-side comparison of figures of the '907 Patent and the Accused Products.

52. The below chart is a side-by-side comparison of the figures of the '907 Patent to the Accused Products.

Cole Haan's D943,907 ⁷	Martin Dingman "Dylan"
 <p data-bbox="467 701 513 722">FIG. 1</p>	
 <p data-bbox="461 1079 506 1100">FIG. 2</p>	
 <p data-bbox="451 1465 524 1486">FIG. 3</p>	

⁷ As set forth in U.S. Patent No. D943,907, "The dash-dot-dash lines immediately adjacent the shaded areas represent the bounds of the claimed design while all other broken lines illustrate portions of the shoe that form no part of the claimed design."

Cole Haan's D943,907 ⁷	Martin Dingman "Dylan"
 <p data-bbox="451 653 521 680">FIG. 4</p>	
 <p data-bbox="461 940 511 968">FIG. 5</p>	
 <p data-bbox="461 1249 511 1276">FIG. 6</p>	
 <p data-bbox="224 1457 245 1505">FIG. 7</p>	

53. Cole Haan has suffered, and continues to suffer, economic harm as a result of Martin Dingman's infringements in an amount to be proven at trial.

54. Cole Haan has been and will continue to be irreparably harmed by Martin Dingman's infringements of the '907 Patent.

55. Cole Haan has no adequate remedy at law for Martin Dingman's infringement of the '907 Patent.

56. On information and belief, Martin Dingman's infringements of the '907 Patent will continue unless enjoined by this Court.

COUNT IV
(Patent Infringement Under 35 U.S.C. § 271 of the '749 Patent)

57. Cole Haan re-alleges and incorporates by reference the allegations set forth in Paragraphs 1-29 of this Complaint as if fully set forth herein.

58. Martin Dingman, without authorization from Cole Haan, has made, used, offered for sale, sold, and/or imported in or into the United States, and continues to make, use, offer for sale, sell, and/or import in or into the United States, shoes having designs that infringe the '749 Patent, including at least the Accused Products.

59. Martin Dingman directly infringes the '749 Patent in violation of 35 U.S.C. § 271(a) by making, using, offering for sale, selling and/or importing the Accused Products, because in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the Accused Products are substantially the same as the '749 Patent, since the resemblance between the two is such as to deceive the ordinary purchaser, inducing the observer to purchase one supposing it to be the other.

60. The aforementioned resemblance between the Accused Products and the '749 Patent is apparent when comparing the similarities in the overall claimed design of the '749 Patent and the design of the Accused Products, as shown in the side-by-side comparison of figures of the '749 Patent and the Accused Products.

61. The below chart is a side-by-side comparison of the figures of the '749 Patent to the Accused Products.



62. Cole Haan has suffered, and continues to suffer, economic harm as a result of Martin Dingman's infringements in an amount to be proven at trial.

⁸ As set forth in U.S. Patent No. D805,749, "The broken lines immediately adjacent the shaded areas represent the bounds of the claimed design while all other broken lines are directed to environment and are for illustrative purposes only; the broken lines form no part of the claimed design. The depicted locations of the claimed design on the shoe upper are for illustrative purposes only and form no part of the claimed design. The solid black shading represents the color contrast shown in the drawings between an inner lining of the upper and an adjacent portion of an outer lining of the upper."

63. Cole Haan has been and will continue to be irreparably harmed by Martin Dingman's infringements of the '749 Patent.

64. Cole Haan has no adequate remedy at law for Martin Dingman's infringement of the '749 Patent.

65. On information and belief, Martin Dingman's infringements of the '749 Patent will continue unless enjoined by this Court.

JURY DEMAND

66. Pursuant to Federal Rule of Civil Procedure 38(b), Cole Haan demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Cole Haan prays for judgment against Martin Dingman as follows:

A. A judgment and order that Martin Dingman has infringed the Asserted Patents by making, using, offering to sell, selling, and/or importing the Accused Products into the United States;

B. A judgment and order permanently enjoining Martin Dingman and its affiliates, officers, agents, employees, attorneys, and all other persons acting in concert with Martin Dingman, from infringing the Asserted Patents;

C. A judgment and order that Martin Dingman's infringements of the Asserted Patents has been willful;

D. A judgment and order requiring Martin Dingman to pay Cole Haan damages adequate to compensate Cole Haan for Martin Dingman's infringements of the Asserted Patents

pursuant to 35 U.S.C. § 284, or the total profit made by Martin Dingman from its infringements of the Asserted Patents pursuant to 35 U.S.C. § 289;

E. A judgment and order requiring Martin Dingman to pay Cole Haan supplemental damages or profits for any continuing post-verdict infringement up until entry of the final judgment, with an accounting, as needed;

F. A judgment and order requiring Martin Dingman to pay Cole Haan increased damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284;

G. A judgment and order requiring Martin Dingman to pay Cole Haan pre-judgment and post-judgment interest on any damages or profits awarded;

H. A determination that this action is an exceptional case pursuant to 35 U.S.C. § 285;

I. An award of Cole Haan's attorneys' fees for bringing and prosecuting this action;

J. An award of Cole Haan's costs and expenses incurred in bringing and prosecuting this action; and

K. Such further and additional relief as this Court deems just and proper.

Dated: May 16, 2022

Respectfully submitted,

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