

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA

Case No. _____ **– Civ** _____

Suzette A. Kelly

Plaintiff (s)

vs.

Fashion Nova, Inc.

Defendant(s)

COMPLAINT

I, Suzette A. Kelly, plaintiff, in the above styled cause, sue defendant(s): Fashion Nova, Inc. for patent infringement of United States Patents, Both Patents were filed for on June 19, 2012, and awarded. US F674,991 S award January 29, 2013 (V Cut) and US D686,800 S awarded July 30, 2013 (C Cut) a copy of said protected patents are seen in Exhibit A.

This action is filed under (indicate under which federal law or section of the U.S. Constitution this action is being filed): US Code Title 35 Section 271

Plaintiff: Suzette A. Kelly (“Suzette”) complains against Fashion Nova, Inc (“Fashion Nova”) as follows:

INTRODUCTION

1. Suzette A. Kelly owner of Sarahi Fashion House, Inc designer of absolutely the perfect fit jeans, (“Sarahi Jeans”)
2. Sarahi was birth in November 2008 in Miami, Florida by designer Suzette, first as a Fashion House designing couture collections, that led to the couture designs of jeans.
3. Suzette's innovations in the couture designs of jeans have given her intellectual property rights, including design patents, utility patents, and trade dress protection.

4. Fashion Nova, however, is promoting and selling of the Fashion Nova Jeans and it's curves collection of jeans launched 2016 (hereinafter "Fashion Nova Jeans") – a collection of jeans, pants and shorts. But instead of developing its own designs, Fashion Nova has chose to copy Suzette's designs as embodied in, Suzette's Sarahi Jeans Curves and Signature Collections.

5. By this action, Suzette seeks to put an end to Fashion Nova unlawful conduct and to obtain recompense for the harm that Suzette has suffered.

THE PARTIES

6. Suzette is the Designer of Sarahi Jeans who's principal place of business is Miami, Florida 33169

7. Per Fashion Nova website their principal place of business is at 6600 Topanga Blvd, Suite 2012, Los Angeles, CA 91303. Fashion Nova operates and/or owns the website located at <http://Fashionnova.com/>

8. Defendant Fashion Nova including through its website at <http://Fashionnova.com/> In particular, has committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271 and 15 U.S.C. § 1125, and has offered for sale, sold, marketed, and/or imported infringing products. In 2019 it came to Suzette's attention that Fashion Nova was using her design at which time a letter to cease and desist was sent to Fashion Nova, however they continue to act willfully in infringing on Suzette's patent designs. Exhibit B (Letter of cease-and-desist)

Fashion Nova's acts cause injury to Suzette's Designs.

9. Because this action is an Intellectual Property Action within the meaning of Civil Local Rule 3-2(c), the action is to be assigned on a district-wide basis.

FACTS COMMON TO ALL CLAIMS

Suzette's Innovation and Industry Recognition

10. In 2013 after both patents were awarded, Suzette started working with management companies to get the jeans into stores such as Global Fash-

ion Management and The Doneger Group, out of NYC, which was recommended by Nordstrom. Suzette also was also advised to work with other manufacturers to get the help needed to launch jeans in stores by Monica C Clausell- Neiman Marcus. In the Summer of 2019 Macy's allowed Suzette's Sarahi Jeans to be in a few of their stores.

11. In 2011, Suzette introduced the first of its Curves line of jeans, the Signature collection and the Curve Collection in 2012. Suzette is the global innovator of the curves jeans as she was awarded both patents in 2013 pictured below



US00D674991S

(12) **United States Design Patent** (10) Patent No.: **US D674,991 S**
Kelly (45) Date of Patent: **** Jan. 29, 2013**

(54) **JEANS**
(76) Inventor: **Suzette Kelly, Miami, FL (US)**
(**) Term: **14 Years**
(21) Appl. No.: **29/425,063**
(22) Filed: **Jun. 19, 2012**
(51) **LOC (9) Cl.** **02-02**
(52) **U.S. Cl.** **D2/742**
(58) **Field of Classification Search** **D2/712,**
D2/731, 737, 738, 742; 2/79, 227, 228, 234-238
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

373,628	A	•	11/1887	Wood et al.	.....	2/228
620,435	A	•	2/1899	Fisher	.....	2/227
2,417,529	A	•	3/1947	Terry	.....	2/227
D339,220	S	•	9/1993	Buziol	.....	D2/742
D461,943	S	•	8/2002	Lyden	.....	D2/742
D483,924	S	•	12/2003	Morisset	.....	D2/742
D600,882	S	•	9/2009	Johnson, Jr.	.....	D2/742
D606,284	S	•	12/2009	Caten et al.	.....	D2/742

D647,689 S • 11/2011 Girband et al. D2/742
2004/0205879 A1 • 10/2004 Leba 2/247
2011/0185470 A1 • 8/2011 Jones 2/69

• cited by examiner

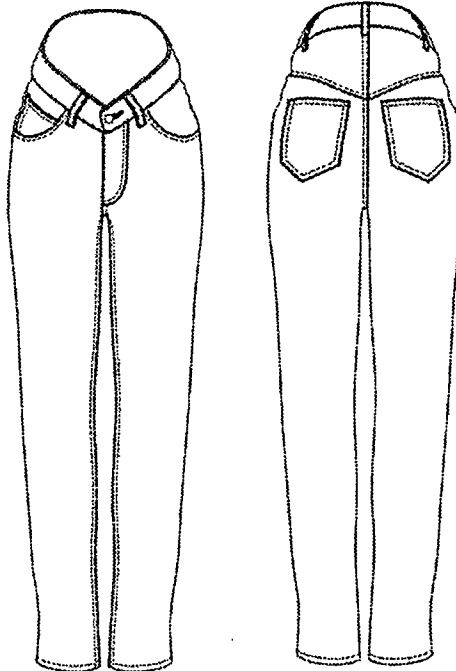
Primary Examiner — Rashida Johnson
(74) *Attorney, Agent, or Firm* — Carol N. Green, Esq.

(57) **CLAIM**
The ornamental design for the jeans, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view of the jeans.
FIG. 2 is a front view of the jeans.
FIG. 3 is a rear view of the jeans.
FIG. 4 is a right side view of the jeans.
FIG. 5 is left side plan view of the jeans; and,
FIG. 6 is a reduced front view of the jeans; the broken lines representing portions of the human form show the jeans being worn and form no part of the claimed design.
The broken lines, shown throughout the views on the surface of the jeans, represent stitching.

1 Claim, 6 Drawing Sheets





US00D686800S

(12) **United States Design Patent** (10) Patent No.: **US D686,800 S**
 Kelly (45) Date of Patent: ** *Jul. 30, 2013

(54) JEANS
 (76) Inventor: Suzette Kelly, Miami, FL (US)
 (*) Notice: This patent is subject to a terminal disclaimer.
 (**) Term: 14 Years
 (21) Appl. No.: 29/425,064
 (22) Filed: Jun. 19, 2012
 (51) LOC (9) Cl. 02-02
 (52) U.S. Cl. D2/742
 USPC D2/742
 (58) Field of Classification Search
 USPC D2/712, 731, 737, 738, 742; 2/79, 2/227, 228, 234-238
 See application file for complete search history.

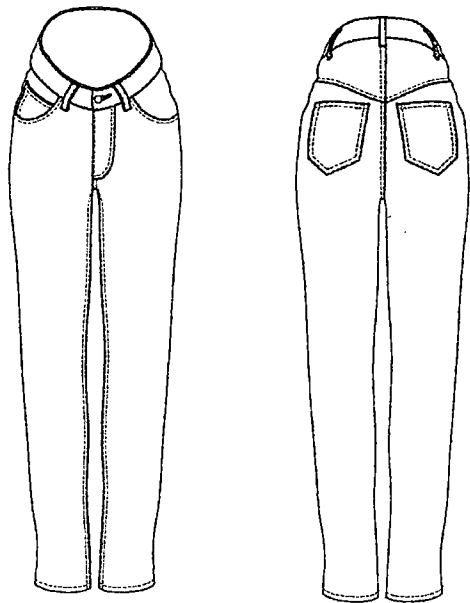
(56) **References Cited**
 U.S. PATENT DOCUMENTS
 373,628 A * 11/1887 Wood et al. 2/228
 620,435 A * 2/1899 Fisher 2/227
 2,417,529 A * 3/1947 Terry 2/227
 D339,220 S * 9/1993 Buziol D2/742
 D461,943 S * 8/2002 Lyden D2/742

D483,924 S * 12/2003 Morisset D2/742
 D600,882 S * 9/2009 Johnson, Jr. D2/742
 D606,284 S * 12/2009 Caten et al. D2/742
 D647,689 S * 11/2011 Girbaud et al. D2/742
 2004/0205879 A1 * 10/2004 Leba 2/247
 2011/0185470 A1 * 8/2011 Jones 2/69
 * cited by examiner
 Primary Examiner — Rashida Johnson
 (74) Attorney, Agent, or Firm — Carol N. Green, Esq.

(57) **CLAIM**
 The ornamental design for the jeans, as shown and described.

DESCRIPTION
 FIG. 1 is a front perspective view of the jeans.
 FIG. 2 is a front view of the jeans.
 FIG. 3 is a rear view of the jeans.
 FIG. 4 is a right side view of the jeans.
 FIG. 5 is left side view of the jeans; and,
 FIG. 6 is a reduced front view of the jeans in use.
 The broken lines representing portions of the human form as shown in FIG. 6 show the jeans being worn and form no part of the claimed design. The broken lines shown throughout the views, i.e. FIGS. 1-6 on the surface of the jeans represent stitching.

1 Claim, 6 Drawing Sheets



U.S. Patent Jul. 30, 2013 Sheet 6 of 6 US D686,800 S

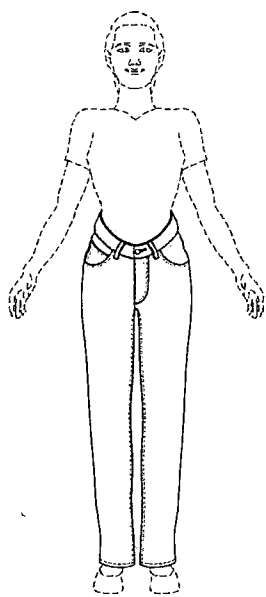


FIG. 6



Suzette's Design Patent
Sarahi Jeans
Fashion Nova Jeans

U.S. Patent Jul. 30, 2013 Sheet 5 of 6 US D686,800 S

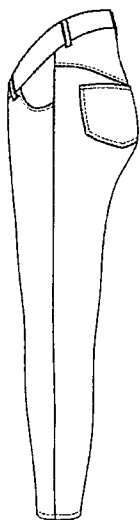


FIG. 5



U.S. Patent

Jan. 29, 2013

Sheet 6 of 6

US D674,991 S

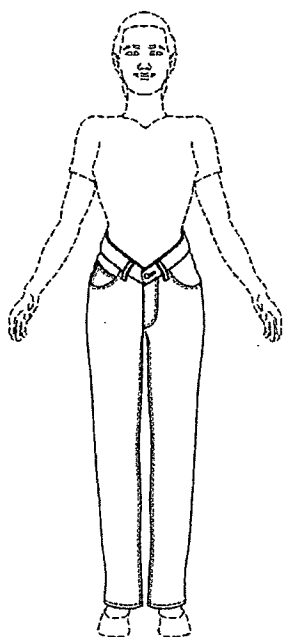


FIG. 6



Suzette's Design Patent

Sarahi Jeans

Fashion Nova Jeans

U.S. Patent

Jul. 30, 2013

Sheet 5 of 6

US D686,800 S

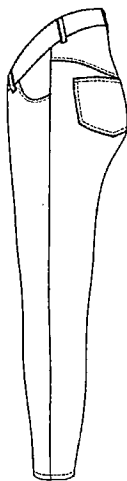


FIG. 5



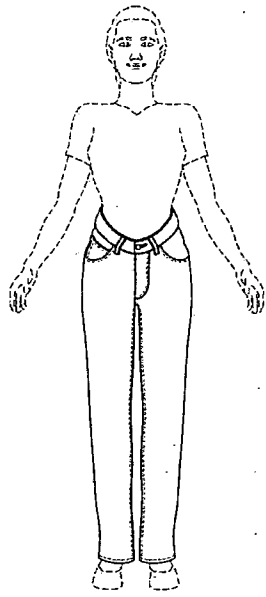
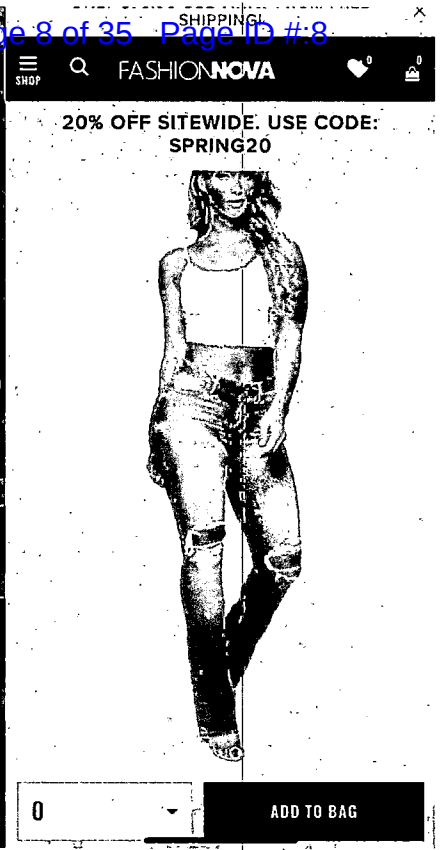


FIG. 6



Suzette's Design Patent

Sarahi Jeans

Fashion Nova Jeans



Sarahi Jeans



Fashion Nova Jeans

U.S. Patent

Jul. 30, 2013

Sheet 6 of 6

US D686,800 S

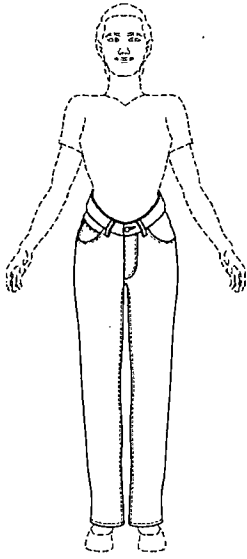


FIG. 6



ONLY \$75.00 USD AWAY FROM FREE SHIPPING!

SEARCH FASHIONNOVA

20% OFF SITEWIDE. USE CODE: SPRING20

0 ADD TO BAG

Suzette's Design Patent

Sarahi Jeans

Fashion Nova Jeans



Sarahi Jeans

Fashion Nova Jeans

Stating:

Instead of developing its own jeans designs, Fashion Nova chose to copy Suzette's style and design, including the cut of the waist line which is Suzette's designs distinctive properties. Numerous industry and analyst reviews have noted Fashion Nova's blatant copying, of not just Suzette's designs but there are also plenty of other designers who have been targeted by them and have had their designs stolen. Jennifer Lopez dress by Versace, Aazhia had her Dress design stolen, Luci Widen had her Knots & Vibes design stolen, & Destiny Bleu was also victimized by the firm when they stole her design.

Infringement of Suzette's Patents

16. Fashion Nova have market, promote, sold and is selling Fashion Nova jeans and it's curve collection launched in 2016 is an infringement on Suzette's design patents; patent US F674,991 know as the V cut, with design elements

- a. V-Cut of the Jeans' waistline
- b. The V-Cut is a High V (i.e. front rise is high)
- c. Jeans has a smaller waistline than the hips (tapered)
- d. V-Cut has a higher back rise for a perfect fit eliminating the "butt crack."
- e. V-Cut creates a perfect fit so you don't need a belt.

And Patent US D686,800 know as the C cut, with design elements

- a.C-Cut of the Jeans' waistline.
- b.The C-Cut is a Low C (i.e. front rise is low).
- c.Jeans has a smaller waistline than the hips (tapered).
- d.C-Cut has a higher back rise for a perfect fit eliminating the "butt crack.
- e. C-Cut creates a perfect fit so you don't need a belt.

12. In addition to the look and fit of the designs as the designs are not just limited to jeans but bottoms, the designs featured several other design elements that have become uniquely associated with Suzette's designs and Sarahi Jeans.

13. For example, patent US F674,991 know as the V cut, features design elements includes

- a. V-Cut of the Jeans' waistline
- b. The V-Cut is a High V (i.e. front rise is high)
- c. Jeans has a smaller waistline than the hips (tapered)
- d. V-Cut has a higher back rise for a perfect fit eliminating the "butt crack."
- e. V-Cut creates a perfect fit so you don't need a belt.

And Patent US D686,800 know as the C cut, features design elements includes

- a.C-Cut of the Jeans' waistline.
- b.The C-Cut is a Low C (i.e. front rise is low).
- c.Jeans has a smaller waistline than the hips (tapered).
- d.C-Cut has a higher back rise for a perfect fit eliminating the "butt crack.
- e. C-Cut creates a perfect fit so you don't need a belt.

14. Women from all around the world have given Suzette praise for her hears designs as well as fashion editors.

Fashion Nova's Infringing Products

15. Fashion Nova has offered for sale, sold, used, and/or marketed in the United States, and around the world such as the United Kingdom, imported and exported out of the United States, it's Fashion Nova jeans and curve collections. Fashion Nova jeans and curve collection, which infringes Suzette's intellectual property rights in its distinctive looks, design and fit.

FIRST CLAIM FOR RELIEF (Infringement of United States Patent No. US D686,800)

17. Suzette incorporates and realleges paragraphs 1 through 16 of this Complaint.

18. Fashion Nova has infringed and continues to infringe one or more claims of the 'D686,800 Patent by using, selling, and/or offering to sell in the United States, and/or importing/export into and out of the United States, the Fashion Nova Jeans and Curve Collection are in violation of 35 U.S.C. § 271.

SECOND CLAIM FOR RELIEF (Infringement of United States Patent No. US F674,991)

19. Suzette incorporates and realleges paragraphs 1 through 18 of this Complaint.

20. Fashion Nova has infringed and continues to infringe one or more claims of the US F674,991 Patent by using, selling, and/or offering to sell in the United States, and/or importing/export into and out of the United States, the Fashion Nova Jeans and Curve Collection are in violation of 35 U.S.C. § 271.

THIRD CLAIM FOR RELIEF (Trade Dress Infringement)

21. Suzette incorporates and realleges paragraphs 1 through 20 of this Complaint.

22. Suzette is the owner of all right and title to the distinctive Suzette's Sarahi Jeans Trade Dress. Suzette's Sarahi Jeans Trade Dress, as embodied in numerous collections of jeans styles, including distressed, bootcut, flare, straight, wide leg and skinny leg jeans.

23. In addition, based on extensive and consistent advertising, promotion, and sales throughout the United States, and international markets the Suzette's Sarahi Jeans Trade Dress has acquired distinctiveness awareness that has identified them among consumers, identifying Suzette as the designer of Sarahi Jeans.

24. Suzette's extensive advertising, promotion, and sales of products with the distinctive Suzette's Sarahi Jeans Trade Dress have resulted in Suzette's acquisition of valuable, legally protected rights in the Suzette's Sarahi Jeans Trade Dress, as well as considerable consumer goodwill.

25. The Fashion Nova jeans and its curve collection has misappropriated the Suzette's Sarahi Jeans Trade Dress by copying a combination of several elements of that trade dress.

26. Fashion Nova's manufacture, promotion, and distribution of the Suzette's Designs with products that copies a combination of several elements of the Suzette's Sarahi Jeans Trade Dress is likely to cause confusion mistake, or to deceive the consumer as to the affiliation, connection or association of Fashion Nova's jeans and curve collection with Suzette's Sarahi Jeans, or to the origin, sponsorship, or approval by Suzette of Fashion Nova's jeans and curve collection.

27. Fashion Nova's manufacture, promotion, and distribution of the Fashion Nova jeans and curve collection with a design that copies a combination of several elements of the of the Suzette's Sarahi Jeans Trade Dress enables Fashion Nova to benefit unfairly from Suzette's reputation and success.

28. Fashion Nova's actions constitute false designation of origin in violation of 15 U.S.C. §1125(a).

29. Fashion Nova knew of the Suzette Sarahi Jeans Trade Dress when it designed its jeans and curve collection, Fashion Nova's infringement has been and continues to be intentional, willful and without regard to Suzette's Sarahi Jeans Trade Dress.

30. Suzette's Sarahi Jeans has been and will continue to be irreparably harmed and damaged by Fashion Nova's conduct, and Suzette lacks an adequate remedy at law to compensate for this harm and damage.

31. Suzette is informed and believes, and on that basis alleges, that Fashion Nova has made a name for its Jeans based on Suzette's patent designs and further obtained sales by virtue of its infringement of the Suzette's Sarahi Jeans Trade Dress.

32. Suzette also has sustained damages as a direct and proximate result of Fashion Nova's infringement of the Suzette's Sarahi Jeans Trade Dress in an amount to be proven at trial, including Fashion Nova's profits and/or gains of any kind resulting from its acts of infringement.

an award of costs, and, this being an exceptional case, reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

FOURTH CLAIM FOR RELIEF (Trade Dress Dilution)

34. Suzette incorporates and realleges paragraphs 1 through 33 of this Complaint

35. As alleged above, the Suzette's Sarahi Jeans Trade Dress has acquired distinctiveness in the minds of consumers and has become famous.

36. Fashion Nova has misappropriated the Suzette's Sarahi Jeans Trade Dress to promote its own infringing products in interstate commerce.

37. Fashion Nova has promoted the distinctive and famous Suzette's Sarahi Jeans Trade Dress in a manner that dilutes and is likely to dilute the distinctiveness of the Suzette's Sarahi Jeans Trade Dress by (a) diminishing the public's association of the exclusivity of the Suzette's Sarahi Jeans Trade Dress trade dress with Sarahi as a company, and (b) diminishing the status of the Suzette's Sarahi Jeans Trade Dress as a unique identifier of the Suzette's Sarahi brand.

38. Fashion Nova's actions constitute dilution in violation of 15 U.S.C. §1125(c).

39. Fashion Nova knew of the Suzette's Sarahi Jeans Trade Dress when it designed its Fashion Nova jeans and curve collection, Fashion Nova's acts of dilution have been and continue to be intentional, willful and without regard to the Suzette's Sarahi Jeans Trade Dress.

40. Suzette has been and will continue to be irreparably harmed and damaged by Fashion Nova's conduct, and Suzette lacks an adequate remedy at law to compensate for this harm and damage.

41. Suzette is informed and believes, and on that basis alleges, that Fashion Nova has obtained sales by virtue of its dilution of the Suzette's Sarahi Jeans Trade Dress.

42. Suzette also has sustained damages as a direct and proximate result of Fashion Nova's infringement of the Suzette's Sarahi Jeans Trade Dress in an amount to be proven at trial, including Fashion Nova's profits and/or gains of any kind resulting from its acts of dilution.

43. Because Fashion Nova's actions have been willful, Suzette is entitled to enhanced and exemplary damages, including treble its actual damages, to an award of costs, and, this being an exceptional case, reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

**FIFTH CLAIM FOR RELIEF
(Unfair Business Practices -)**

44. Suzette incorporates and realleges paragraphs 1 through 43 of this Complaint.

86. The acts of Fashion Nova described above constitute unlawful, unfair, and fraudulent business practices

45. Suzette has valid and protectable rights in the Suzette's Sarahi Jeans Trade Dress. The Suzette's Sarahi Jeans Trade Dress does not serve any function other than to identify Suzette Sarahi Jeans as the source of Suzette patent designs. The Suzette's Sarahi Jeans Trade Dress is distinctive, and, through Suzette's use, has come to be associated solely with Suzette's Sarahi Jeans as the source of which it is used.

46. Fashion Nova's use of its infringing trade dress is likely to cause confusion as to the source of Fashion Nova's jeans and curve collection, and is likely to cause others to be confused or mistaken into believing that that Suzette/Sarahi Jeans has authorized Fashion Nova to use her patent design, that there is a relationship between Fashion Nova and Suzette, or that Fashion Nova jeans and curve collection are affiliated with or sponsored by Suzette. In addition, Fashion Nova's jeans and curve collection is likely to dilute the distinctiveness and value of Suzette's famous Sarahi Jeans Trade Dress.

47. The above-described acts and practices by Fashion Nova are likely to mislead or deceive the general public and therefore constitute fraudulent business practices in violation of California Business & Professions Code §§ 17200, et seq.

90. The above-described acts constitute false designation of origin under 15 U.S.C. § 1125(a), and dilution under 15 U.S.C. § 1125(c), and are therefore unlawful acts in violation of California Business & Professions Code §§ 17200, et seq.

48. Fashion Nova acted willfully and intentionally in designing its infringing trade dress, with full knowledge of Suzette's prior rights in the distinctive Suzette's Sarahi Jeans Trade Dress, and with an intent to cause confusion or mistake or to deceive customers into believing that there is an affiliation between Fashion Nova and Suzette or between Fashion Nova's jeans and curve collection and Suzette's Sarahi Jeans.

49. The unlawful, unfair, and fraudulent business practices of Fashion Nova described above present a continuing threat to the public in that Fashion

Nova continues to promote its jeans and curve collection by wrongfully trading on the goodwill of the Suzette's Sarahi Jeans Trade Dress.

50. As a direct and proximate result of these acts, Fashion Nova has received, and will continue to profit from, the Suzette's Sarahi Jeans Trade Dress.

51. As a direct and proximate result of Fashion Nova's wrongful conduct, Suzette has been injured in fact, and such harm will continue unless Fashion Nova's acts are enjoined by the Court. Suzette has no adequate remedy at law for Fashion Nova's continuing violation of Suzette's rights.

52. Fashion Nova should be required to restore to Suzette any and all profits earned as a result of their unlawful, unfair, and fraudulent business practices, or provide Suzette with any other restitutionary relief as the Court

SIXTH CLAIM FOR RELIEF (Unjust Enrichment)

53. Suzette incorporates and realleges paragraphs 1 through 52 of this Complaint.

54. As a result of the conduct alleged herein, Fashion Nova has been unjustly enriched to Suzette detriment. Suzette seeks an accounting and disgorgement of all ill-gotten gains and profits resulting from Fashion Nova's inequitable activities.

PRAYER FOR RELIEF

WHEREFORE, BlackBerry prays for the following relief:

1. A judgment that Fashion Nova has infringed one of more claims of each of the US F674,991 and US D686,800 patents;
2. An order and judgment preliminarily and permanently enjoining Fashion Nova and its officers, agents, affiliates, employees, and attorneys, and all those persons acting or attempting to act in concert or participation with them, from further acts of infringement of the 'US F674,991 and US D686,800 patents;
3. A judgment awarding Suzette all damages adequate to compensate Suzette for Fashion Nova's infringement of the 'US F674,991 and US D686,800 patents, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
4. A judgment awarding Suzette its reasonable attorneys' fees as provided for in 35 U.S.C. § 285 to the extent the Court finds this case exceptional;
5. A judgment awarding Suzette all of Fashion Nova profits as provided for in 35 U.S.C. § 289, including prejudgment interest;

6. An order preliminarily and permanently enjoining Fashion Nova and its officers, agents, affiliates, employees, and attorneys, and all those persons acting or attempting to act in concert or participation with them, from: directly or indirectly infringing the Suzette's Sarahi Jeans Trade Dress, or using any other product design similar to or likely to cause confusion with the Suzette's Sarahi Jeans Trade Dress; using any false designation of origin or false description, including the appearance of its jeans and curve collection product, that can, or is likely to, lead the consuming public, or individual members thereof, to believe that any goods produced, advertised, promoted, marketed, provided, or sold by Fashion Nova are in any manner associated or connected with Suzette of Sarahi Jeans, or are advertised, promoted, marketed, sold, licensed, sponsored, approved or authorized by Suzette; committing any other unfair business practices directed toward obtaining for themselves the business and customers of Suzette; and committing any other unfair business practices directed toward devaluing or diminishing Suzette's brand or business;

7. Actual damages suffered by Suzette as a result of Fashion Nova's unlawful conduct, in an amount to be proven at trial, as well as prejudgment interest as authorized by law;

8. Reasonable funds for future corrective advertising;

9. An accounting of Fashion Nova's profits since it launched its curve collection in 2016 as provided for in 15 U.S.C. § 1117;

10. A judgment trebling any damages award as provided for in 15 U.S.C. § 1117;

11. A judgment awarding Suzette its reasonable attorneys' fees as provided for in 15 U.S.C. § 1117 and any applicable state law;

12. An order pursuant to 15 U.S.C. § 1118 requiring that all materials bearing the infringing Suzette's Sarahi Jeans Trade Dress to be delivered up and destroyed, and requiring Fashion Nova to withdraw from the market all infringing products and advertising and promotional material displaying the infringing products;

13. An order directing Fashion Nova to file with the Court and serve upon Suzette's counsel within thirty (30) days after entry of the order of injunction, a report setting forth the manner and form in which Fashion Nova has complied with the injunction, including the provision relating to destruction and recall of infringing products and materials;

14. Punitive damages pursuant

15. Restitutionary relief against Fashion Nova and in favor of Suzette, including disgorgement of wrongfully obtained profits and any other appropriate relief;

Dated: 08/31/2021

Respectfully submitted,

Suzette A. Kelly

suzette@SarahiJeans.com

1815 McKinley Street

Unit 6

Hollywood, Florida 33020

(786) 417-5442

(Exhibit A)

U.S. Patent

Jan. 29, 2013

Sheet 5 of 6

US D674,991 S

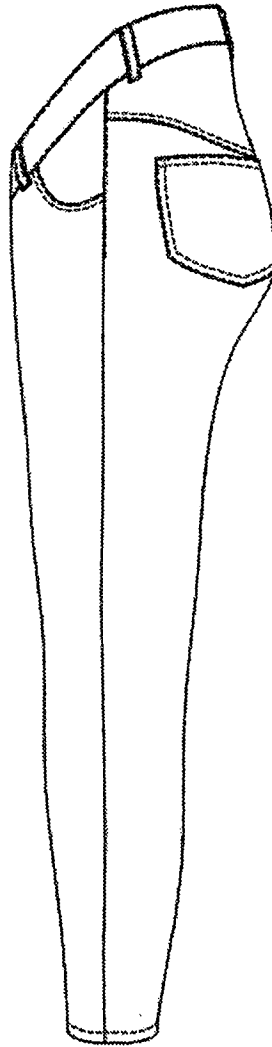


FIG. 5

U.S. Patent

Jan. 29, 2013

Sheet 6 of 6

US D674,991 S

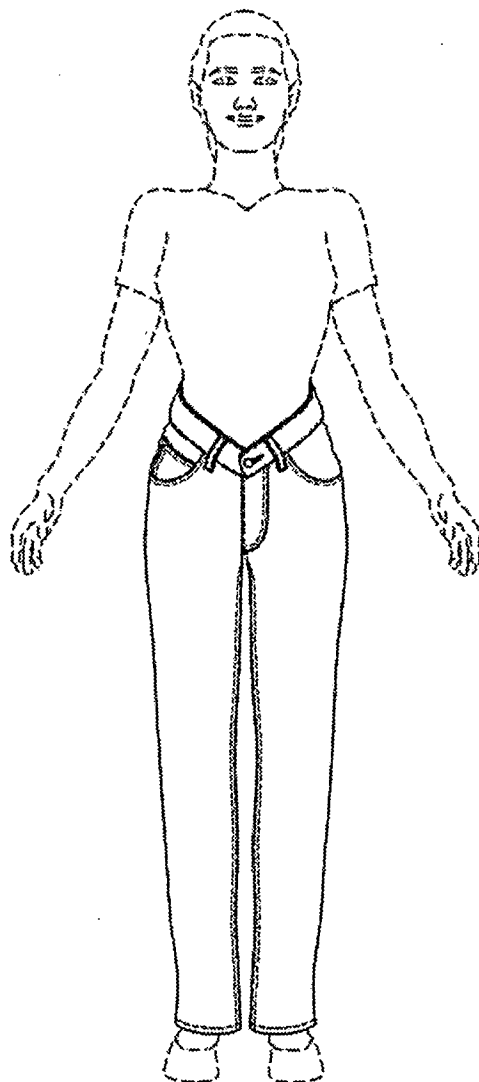


FIG. 6

U.S. Patent

Jan. 29, 2013

Sheet 1 of 6

US D674,991 S

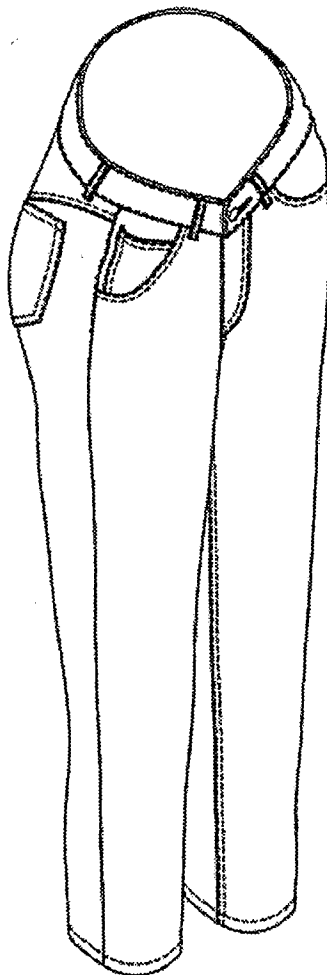


FIG. 1

U.S. Patent

Jan. 29, 2013

Sheet 2 of 6

US D674,991 S

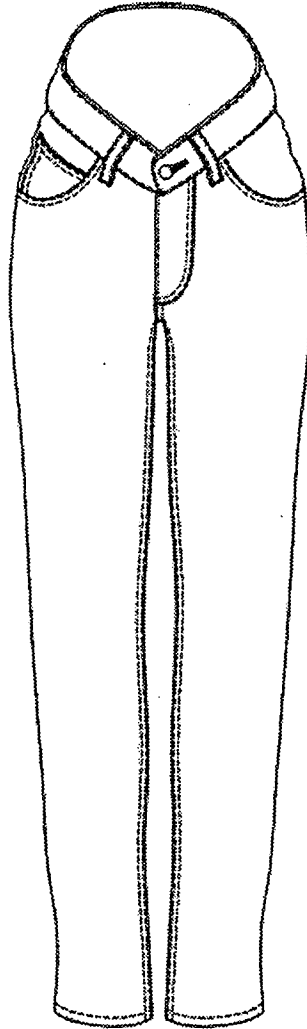


FIG. 2

U.S. Patent

Jan. 29, 2013

Sheet 3 of 6

US D674,991 S

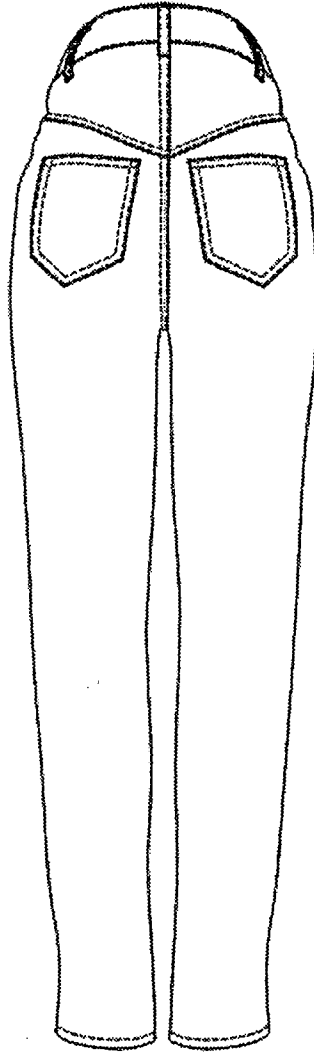


FIG. 3

U.S. Patent

Jan. 29, 2013

Sheet 4 of 6

US D674,991 S

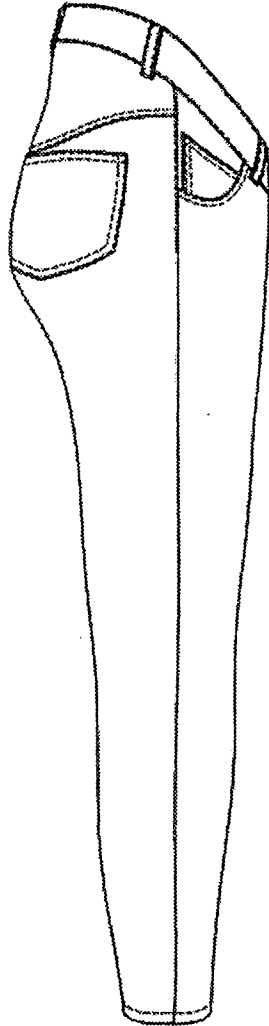


FIG. 4



US00D674991S

(12) **United States Design Patent** (10) **Patent No.:** **US D674,991 S**
Kelly (45) **Date of Patent:** **** Jan. 29, 2013**

(54) **JEANS**
 (76) **Inventor:** Suzette Kelly, Miami, FL (US)
 (**) **Term:** 14 Years
 (21) **Appl. No.:** 29/425,063
 (22) **Filed:** Jun. 19, 2012
 (51) **LOC (9) Cl. 02-02**
 (52) **U.S. Cl. D2/742**
 (58) **Field of Classification Search D2/712,**
 D2/731, 737, 738, 742; 2/79, 227, 228, 234-238
 See application file for complete search history.

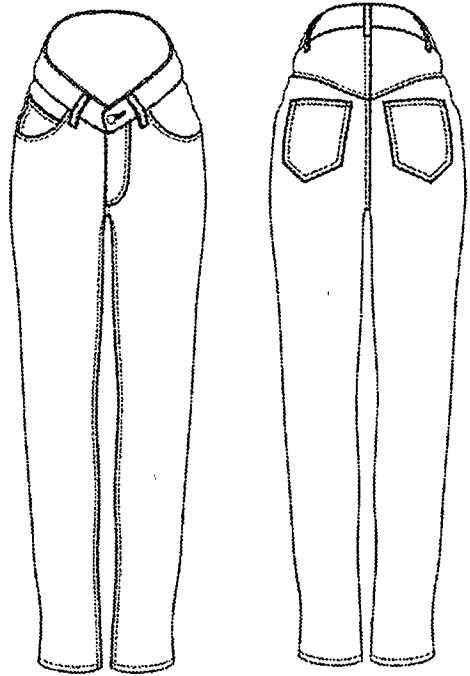
(56) **References Cited**
U.S. PATENT DOCUMENTS
 373,628 A * 11/1887 Wood et al. 2/228
 620,435 A * 2/1899 Fisher 2/227
 2,417,529 A * 3/1947 Terry 2/227
 D339,220 S * 9/1993 Buziol D2/742
 D461,943 S * 8/2002 Lyden D2/742
 D483,924 S * 12/2003 Morisset D2/742
 D600,882 S * 9/2009 Johnson, Jr. D2/742
 D606,284 S * 12/2009 Caten et al. D2/742

D647,689 S * 11/2011 Girbaud et al. D2/742
 2004/0205879 A1 * 10/2004 Leba 2/247
 2011/0185470 A1 * 8/2011 Jones 2/69
 * cited by examiner
Primary Examiner — Rashida Johnson
 (74) **Attorney, Agent, or Firm** — Carol N. Green, Esq.

(57) **CLAIM**
 The ornamental design for the jeans, as shown and described.

DESCRIPTION
 FIG. 1 is a front perspective view of the jeans.
 FIG. 2 is a front view of the jeans.
 FIG. 3 is a rear view of the jeans.
 FIG. 4 is a right side view of the jeans.
 FIG. 5 is left side plan view of the jeans; and,
 FIG. 6 is a reduced front view of the jeans; the broken lines representing portions of the human form show the jeans being worn and form no part of the claimed design.
 The broken lines, shown throughout the views on the surface of the jeans, represent stitching.

1 Claim, 6 Drawing Sheets



U.S. Patent

Jul. 30, 2013

Sheet 6 of 6

US D686,800 S

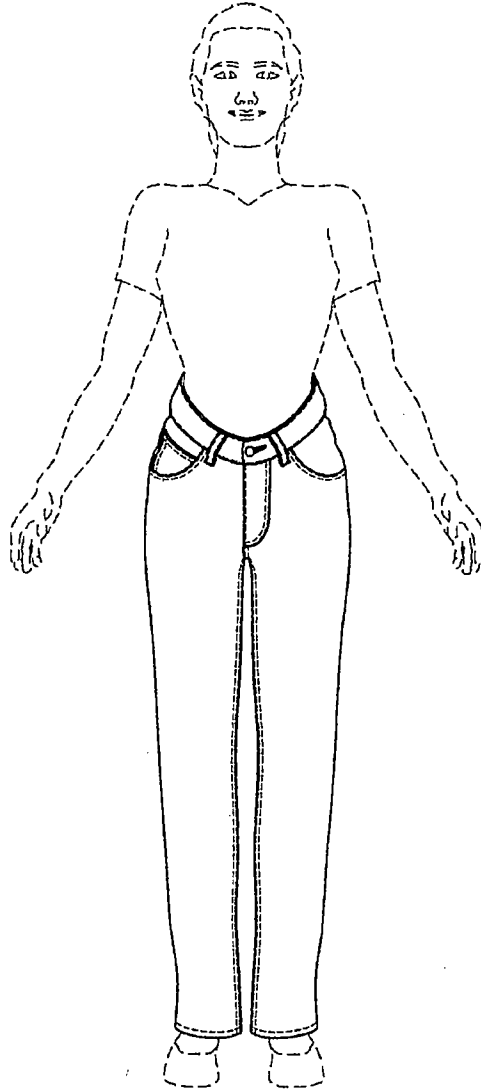


FIG. 6

U.S. Patent

Jul. 30, 2013

Sheet 1 of 6

US D686,800 S

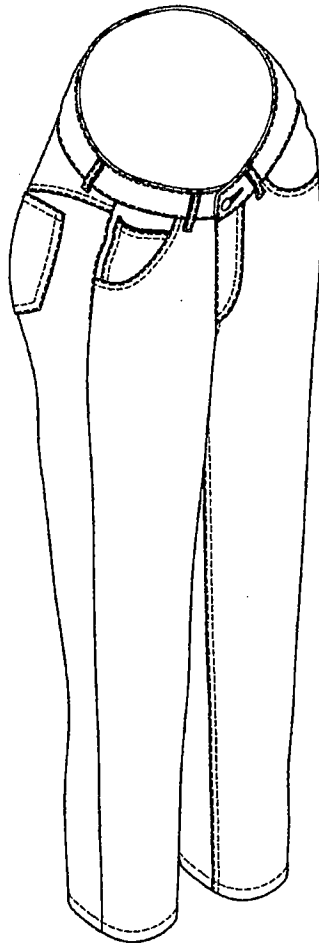


FIG. 1

U.S. Patent

Jul. 30, 2013

Sheet 2 of 6

US D686,800 S

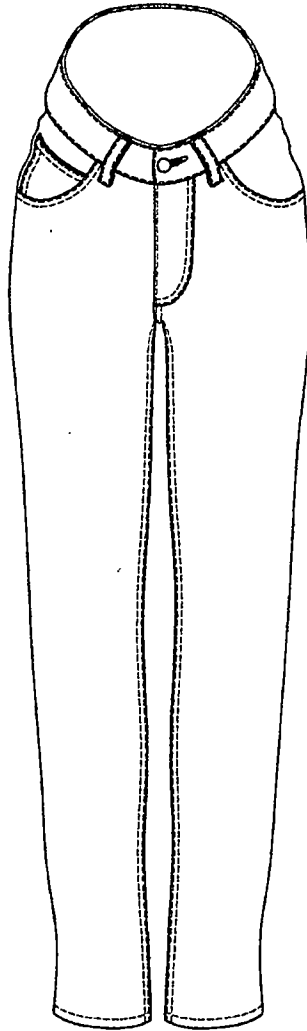


FIG. 2

U.S. Patent

Jul. 30, 2013

Sheet 3 of 6

US D686,800 S

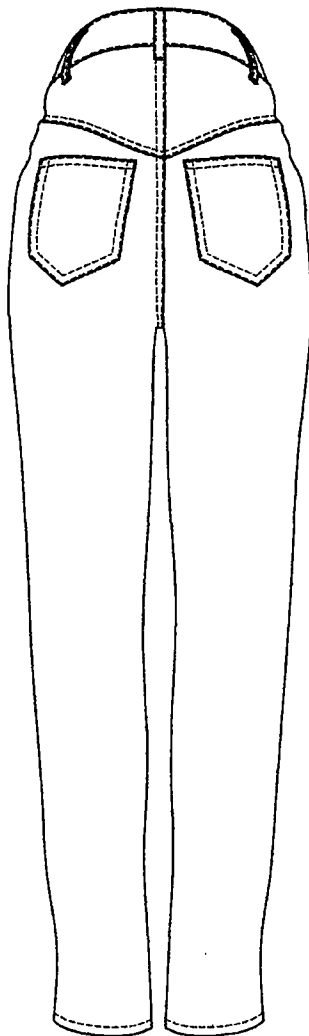


FIG. 3

U.S. Patent

Jul. 30, 2013

Sheet 4 of 6

US D686,800 S

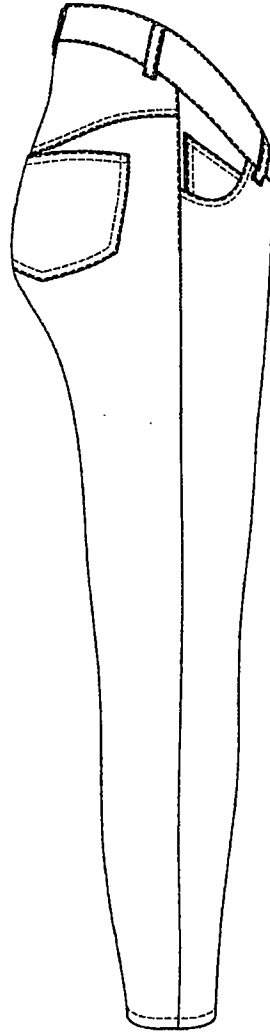


FIG. 4

U.S. Patent

Jul. 30, 2013

Sheet 5 of 6

US D686,800 S

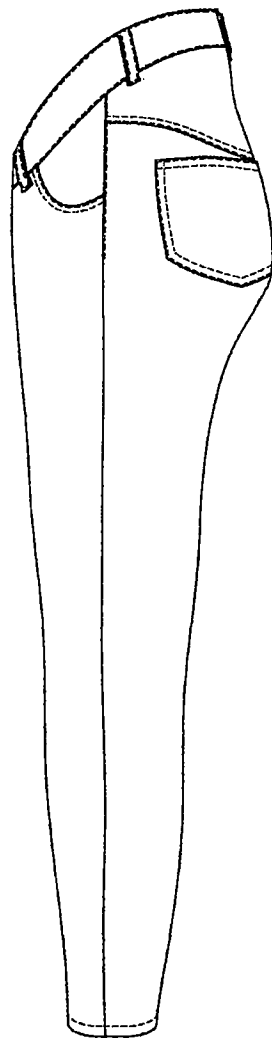


FIG. 5



US00D686800S

(12) **United States Design Patent** (10) **Patent No.:** **US D686,800 S**
Kelly (45) **Date of Patent:** ** *Jul. 30, 2013

(54) **JEANS**
 (76) **Inventor:** Suzette Kelly, Miami, FL (US)
 (*) **Notice:** This patent is subject to a terminal disclaimer.
 (**) **Term:** 14 Years
 (21) **Appl. No.:** 29/425,064
 (22) **Filed:** Jun. 19, 2012
 (51) **LOC (9) Cl.** 02-02
 (52) **U.S. Cl.**
 USPC D2/742
 (58) **Field of Classification Search**
 USPC D2/712, 731, 737, 738, 742; 2/79,
 2/227, 228, 234-238
 See application file for complete search history.

(56) **References Cited**
U.S. PATENT DOCUMENTS
 373,628 A * 11/1887 Wood et al. 2/228
 620,435 A * 2/1899 Fisher 2/227
 2,417,529 A * 3/1947 Terry 2/227
 D339,220 S * 9/1993 Buziol D2/742
 D461,943 S * 8/2002 Lyden D2/742

D483,924 S * 12/2003 Morisset D2/742
 D600,882 S * 9/2009 Johnson, Jr. D2/742
 D606,284 S * 12/2009 Caten et al. D2/742
 D647,689 S * 11/2011 Girbaud et al. D2/742
 2004/0205879 A1 * 10/2004 Leba 2/247
 2011/0185470 A1 * 8/2011 Jones 2/69

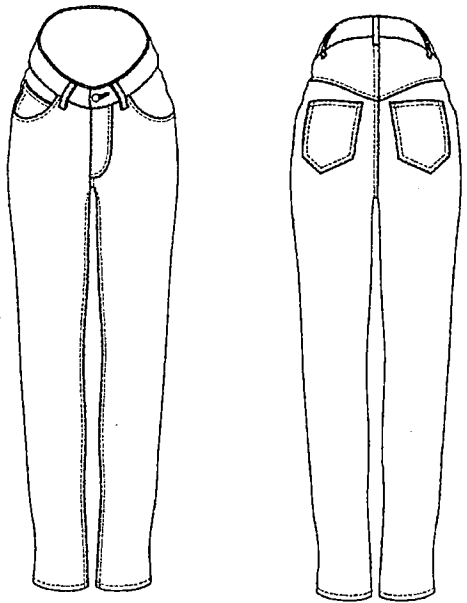
* cited by examiner
Primary Examiner — Rashida Johnson
 (74) *Attorney, Agent, or Firm* — Carol N. Green, Esq.

(57) **CLAIM**
 The ornamental design for the jeans, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view of the jeans.
 FIG. 2 is a front view of the jeans.
 FIG. 3 is a rear view of the jeans.
 FIG. 4 is a right side view of the jeans.
 FIG. 5 is left side view of the jeans; and,
 FIG. 6 is a reduced front view of the jeans in use.
 The broken lines representing portions of the human form as shown in FIG. 6 show the jeans being worn and form no part of the claimed design. The broken lines shown throughout the views, i.e. FIGS. 1-6 on the surface of the jeans represent stitching.

1 Claim, 6 Drawing Sheets



(Exhibit B)



June 19, 2018.

VIA FEDERAL EXPRESS

Fashion Nova
Legal Department
2801 East 46 Street
Vernon, CA 90058

Re: Patented Jeans' Designs and Unfair Competition

Dear Sir/Madam:

I am counsel for Suzette Kelly, owner of U.S. Patents No. US D674,991 ("991") (v-cut design) and US D686,800 ("800") (circle cut design), and all intellectual property rights associated with both patents under federal law. A copy of both patents is enclosed for your reference.

On October 10, 2017 my client forwarded several images of her unique patented jeans to Fashion Nova with her inquiry directed to an opportunity to market and sell the patented jeans on Fashion Nova's website, i.e. www.fashionnova.com. Thereafter, we noted that a plethora of jeans are being marketed and sold on www.fashionnova.com without the proper authorization, e.g. Classic High Waist Skinny Jeans and Classic Mid-Rise Skinny Jeans, which include elements that we believe are the substantial equivalent, if not identical to the '991 and '800 patents.

Having now apprised you of my client's patent rights under federal law, we must request that Fashion Nova immediately cease and desist from further marketing and sales of my client's patented design, without her consent upon your receipt of this letter.

Fashion Nova may wish to have its patent counsel examine its jeans with respect to the '991 and '800 patents to determine whether a non-exclusive license is needed under those patents for continued sales. If you are of the opinion that you do not need a license from Suzette Kelly, it would be helpful if you could give us some insight as to your reasons. In the interim, please cease and desist the sale of your jeans

We look forward to your cooperative reply by **August 25, 2019**.

Sincerely,
Carol Green von Kaul, P.A.

By: *Carol Green von Kaul*

Carol Green von Kaul, Esq.

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

**101 PARK AVENUE
NEW YORK, NY 10178**

(212) 808-7800

FACSIMILE

(212) 808-7897

www.kelleydrye.com

MICHAEL J. ZINNA

DIRECT LINE: (973) 503-5964

EMAIL: mzinna@kelleydrye.com

WASHINGTON, DC
LOS ANGELES, CA
CHICAGO, IL
HOUSTON, TX
PARSIPPANY, NJ
STAMFORD, CT
BRUSSELS, BELGIUM
AFFILIATE OFFICE
MUMBAI, INDIA

July 3, 2019

Via FEDERAL EXPRESS

Carol Green von Kaul, Esq.
Carol Green von Kaul, P.A.
150 NW 70th Avenue, Suite 4
Plantation, FL 33317

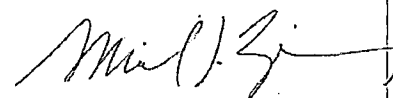
Re: Alleged Infringement U.S. Pat. Nos. D674,991 and D686,800

Dear Carol,

We represent FashionNova in the above-referenced matter. The company has forwarded us your letter of June 19. FashionNova takes all allegations of design patent infringement seriously, but the company expects credible allegations to be accompanied by claim charts or an explanation of how the elements of a design patent's claim are allegedly met by the accused products. You have not provided that here. Without this information we cannot accurately determine whether a license is necessary or advisable. If you would like us to consider this matter further, please provide this information. Direct all correspondence to me going forward.

FashionNova expressly retains all rights and remedies available to it in law or equity.

Very truly yours,



Michael J. Zinna

PRESS FIRMLY TO SEAL



1005



33301

AMOUNT

\$11.40

R2304M113691-19



PRIORITY MAIL

FROM: *Suzette Kelly*
1815 McKinley Street
Unit 6
Hollywood FL 33020

- Expected delivery date specified for domestic use.
- Most domestic shipments include up to \$50 of insurance (restrictions apply).*
- USPS Tracking® included for domestic and many international destinations.
- Limited international insurance.**
- When used internationally, a customs declaration form is required.

*Insurance does not cover certain items. For details regarding claims exclusions see the Domestic Mail Manual at <http://pe.usps.com>.

** See International Mail Manual at <http://pe.usps.com> for availability and limitations of coverage.

[Handwritten signature]

TO:
US Federal Building +
Courthouse
299 East Broward Blvd.
Suit # 108
Ft. Lauderdale FL
33301

FLAT RATE ENVELOPE

ONE RATE ■ ANY WEIGHT

TRACKED ■ INSURED

EXPECTED DELIVERY DAY: 09/11/21

USPS SIGNATURE® TRACKING #



9510 8139 4569 1253 5581 62

To schedule free Package Pickup, scan the QR code.



USPS.COM/PICKUP