



business in Illinois, and named as its agent National Registered Agents, Inc., 200 West Adams Street, Chicago, Illinois 60606.

5. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 271 *et seq.*

6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. The Court has personal jurisdiction over Nike and venue is proper under 28 U.S.C. § 1400(b).

8. On February 12, 2013, U.S. Reissue Patent No. RE43,994 (“the ‘994 Patent”) entitled “*Flexible Material*” was duly and legally issued to Stirling, on an application filed by David Stirling Taylor.

9. Stirling is the owner of all right, title and interest in the ‘994 Patent. McDavid is the exclusive licensee in the Field of Use.

10. Nike is infringing, directly and/or indirectly, one or more claims of the ‘994 Patent by importing into the United States, and by offering to sell, selling, and/or using within the United States, foam padded garments, sold under the “Deflex” and “Nike Pro Combat” marks. Unless enjoined by the Court, Nike will continue to infringe the ‘994 Patent.

11. Nike’s acts of infringement have injured and damaged McDavid and Stirling.

12. Nike’s infringement has caused irreparable injury to McDavid and Stirling and will continue to cause irreparable injury until Nike is enjoined from further infringement by the Court.

**PRAYER FOR RELIEF**

**WHEREFORE**, McDavid and Stirling pray for:

1. Judgment that the '994 Patent is valid, enforceable and infringed by Nike;
2. A preliminary and permanent injunction enjoining Nike, its officers, directors, agents, employees, servants, attorneys, licensees, successors, assigns, customers, and those persons acting in active concert or participation with Nike from infringing, inducing infringement of, or contributorily infringing the '994 Patent;
3. An award of damages arising out of infringement by Nike of the '994 Patent, together with interest;
4. A judgment that this is an exceptional case pursuant to 35 U.S.C. § 285 and that McDavid and Stirling be awarded their reasonable attorneys' fees, costs and expenses incurred in this action ; and
5. Such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

McDavid and Stirling demand trial by jury of all issues triable of right by a jury.

Date: February 11, 2013

s/ Karl R. Fink

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