

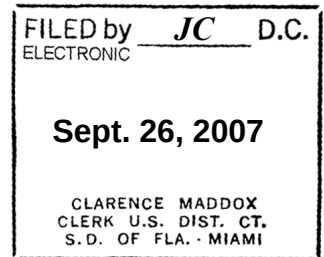
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Olem Shoe Corp.,
A Florida corporation,

Plaintiff,

vs.

Case No.



R&S Accessories, Inc.,
A New York corporation and
Haim Cohen Saban a/k/a
Victor Cohen, individually,

07-22529-CIV-GRAHAM/O'SULLIVAN

Defendants.

_____ /

COMPLAINT FOR DECLARATORY RELIEF

COMES NOW the Plaintiff, Olem Shoe Corp. (hereinafter "Plaintiff" or "Olem"), and files its Complaint for Declaratory Relief, as follows:

NATURE OF ACTION

This is an action for declaratory judgment under 28 § 2201 of The United States Code.

JURISDICTION AND VENUE

1. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 1338 and the Federal Declaratory Judgment Act, 28 USC 2201 and 2202, and has jurisdiction over the defendants, *inter alia*, by

virtue of the fact that they have transacted business within the State of Florida in this District; and/or promoted and/or sold goods in the District.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(b) because a substantial part of the events or omissions giving rise to the claim occurred in this District and Defendant does business in this district.

THE PARTIES

3. Plaintiff is a Florida corporation incorporated on March 27, 1964, and has been engaged in the business of importing and distributing footwear since at least as early as its incorporation date.

4. Defendant R&S Accessories, Inc. is a New York corporation incorporated on October 8, 1992, and has been engaged in the business of distributing shoes.

5. Upon information and belief, Defendant Victor Cohen, a/k/a Haim Cohen Saban, is a resident of New York and an officer of R&S Accessories, Inc.

6. The parties shall be referred to collectively as "Defendants", and separately as "Defendant R&S" and Defendant "Cohen."

FACIS

7. On August 21, 2007, Defendants served Plaintiff with the letter, attached hereto as Exhibit "1". The letter included attachments purporting to be visual arts copyright certificate and graphic representations of a beaded shoe and a hand-bag which were inferred to have been the deposits made with the

Copyright Office. This letter will be referred to as the Letter and the copyright certificate as the Copyright.

8. The letter was authored by Defendant Cohen who signed as the president for Defendant R&S.

9. Upon information and belief, none of the shoes sold by Defendants purportedly covered by the Copyright include a copyright notice.

10. The Copyright papers list Defendant Cohen as the author of the two-dimensional work submitted to the Library of Congress as work made for hire. The claimant of the Copyright is Defendant R&S. The Copyright refers to sequin shoes and handbags describing the two-dimensional work submitted and allegedly infringed. There is no apparent relationship between the articles described in the application for registration and purportedly illustrated in the two-dimensional work deposited.

11. Plaintiff has imported and distributed shoes, including those made with sequins, for many years. Plaintiff does not generally import and sell handbags, with or without sequins, and it is only incidentally that it has sold hand bags.

12. One of the shoe styles that Plaintiff started commercializing, includes sequins arranged in an arbitrary design that Defendants claim infringes their Copyright.

ACTION FOR DECLARATORY JUDGMENT AND OTHER RELIEF

Plaintiff Olem realleges the matters set for in paragraphs 1 through 12, above.

13. Counter-Defendant R&S has claimed in its Letter to be the owner of the Copyright and that said Copyright has been infringed by Plaintiff Olem.

14. The allegedly copyrighted material is part of the public domain and/or not infringed and/or non-enforceable by Defendants and/or said Copyright is invalid.

15. It is in the interest of justice that this Honorable Court declare the rights of the parties with respect to the Copyright in the United States since there is a *bona fide* justifiable controversy between said parties.

16. There is no adequate remedy at law available to Plaintiff Olem.

17. Plaintiff Olem has suffered irreparable harm and will continue to suffer irreparable harm in the absence of the relief prayed for herein.

18. There is an actual present and practical need for the declaratory and other relief prayed for herein.

WHEREFORE, Plaintiff Olem demands entry of a judgment against Defendant R&S, as follows:

- a. Declaring said Copyright invalid and/or not infringed by Plaintiff and/or unenforceable.

09/25/2007 05:22 3054458484

SANCHELIMA & ASSOC.

PAGE 06

- b. Permanently enjoining Defendants from threatening Plaintiff Olem, its employees and distributors from bringing legal action based on the Copyright.
- c. Such other and further relief as the Court deems proper and just in light of the circumstances.

Respectfully submitted,

Olem Shoe Corp.
800 Northwest 21 Street
Miami, Florida 33127

By: 
Roberto Olemberg, President

SANCHELIMA & ASSOCIATES, P.A.
Attorneys for Plaintiff
235 Southwest Le Jeune Road
Miami, Florida 33134
Tel. 305 447 1616
Fax. 305 445 8484

By: 
Jesus Sanchelima

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Olem Shoe Corp.,
A Florida corporation,

Plaintiff,

vs.

Case No.

R&S Accessories, Inc.,
A New York corporation and
Mr. Ham Cohen Saban a/k/a
Victor Cohen, individually,

Defendants.

COMPLAINT FOR DECLARATORY RELIEF

EXHIBIT “1”

R&S Accessories Corp
330 5th ave
Suite 302a
NY,NY 10001
212 629 0530

Att,Mr Issac Olemberg /Mr Eduardo Delmonte
Olem Shoe
800 NW 21 Street
Miami,Florida 33127-4626
VIA UPS DELIVERY

Aug 21 2007

Dear Sirs,

It has come to our attention that Olem shoe corporation is offering for sale at trade shows (ATLANTA & WSA AUG 2007,B&STA NY MARCH 19-20 2007) beaded evening bags and shoes that are identical to our copyrighted works. The Reproduction of these works (We have enclosed a copy of the approved copyright application and a picture of the SOFIA bag and shoe) identical to our copyrighted bags and shoes is not authorized by anyone and constitutes infringement under the laws of the Untied States and international treaties and damaging to the reputation of R&S Accessories Corp.as a source of quality designers products.

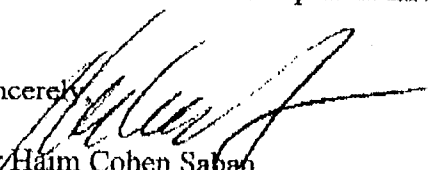
We have enclosed

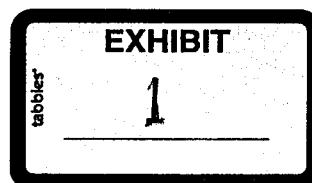
- 1.Our Postcard mailing from January 2006 with the SOFIA STYLE
- 2.Proof of copyright on the SOFIA pattern (SHOE & BAG)
- 3.Picture of Olem shoe #WR7510 or 37565 dated 2/11/2007,taken at the trade show in ATLANTA AUG 19-20 2007

In the light of the above , we demand that you immediately cease and desist reproducing and selling bag and shoes identical to R&S Accessories Corp. evening bags and shoes.

If we do not receive confirmation of compliance on or before Sept 25th 2007 we will have no alternative but to pursue all legal remedies available.

Sincerely,


Mr Haim Cohen Saban
R&S Accessories Corporation
TEL 212 629 0530
FAX 212 629 0536



Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form VA
For a Work of the Visual Arts
UNITED STATES COPYRIGHT OFFICE

VA 1-360-403



EFFECTIVE DATE OF REGISTRATION

NOV 08 2005

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Title of This Work ▼

SOFIA

NATURE OF THIS WORK ▼ See instructions

Beaded, Sequin with Stone, Handbag & Shoe

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Page ▼

NAME OF AUTHOR ▼

R&S Accessories Corp.

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☒ Yes
☐ No

Author's Nationality or Domicile
Name of Country
OR Citizen of U.S.A.
Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No
If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See instructions

- | | | |
|---|---|---|
| ☐ 3-Dimensional sculpture | ☐ Map | ☐ Technical drawing |
| ☒ 2-Dimensional artwork | ☐ Photograph | ☐ Text |
| ☐ Reproduction of work of art | ☐ Jewelry design | ☐ Architectural work |

Name of Author ▼

Victor Cohen

Dates of Birth and Death

Year Born ▼ Year Died ▼
1967

Was this contribution to the work a "work made for hire"?
☒ Yes
☐ No

Author's Nationality or Domicile
Name of Country
OR Citizen of U.S.A.
Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No
If the answer to either of these questions is "Yes," see detailed instructions.

Nature of Authorship Check appropriate box(es). See instructions

- | | | |
|---|---|---|
| ☐ 3-Dimensional sculpture | ☐ Map | ☐ Technical drawing |
| ☒ 2-Dimensional artwork | ☐ Photograph | ☐ Text |
| ☐ Reproduction of work of art | ☐ Jewelry design | ☐ Architectural work |

Year in Which Creation of This Work Was Completed

2005

This information must be given Year in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month August Day 01 Year 2005
U.S.A.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

R&S Accessories Corp.
330 5th ave. suite 302a
New York NY 10001

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

SEP 12 2005

ONE DEPOSIT RECEIVED

SEP 12 2005

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

FUNDS RECEIVED NOV 08 2005

MORE ON BACK ▶

- Complete all applicable spaces (numbers 1-6) on the reverse side of this page.
- See detailed instructions.
- Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 1 pages

EXAMINED BY CRB FORM VA
CHECKED BY hmt
☐ CORRESPONDENCE
Yes
FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.
PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.)

a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author as copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number

Year of Registration

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.
a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name
Account Number

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP

R&S Accessories Corp.
330 5th ave. suite 302a
New York, NY 10001

Area code and daytime telephone number (347) 564 5090

Fax number (775) 305 4047

Email nitebags@yahoo.com

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one:

☐ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☒ authorized agent of R&S Accessories Corp.

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

Victor Cohen

Date Sept. 06, 2005

Handwritten signature

X

Certificate
will be
mailed in
window
envelope
to this
address:

Name

R&S Accessories Corp.

Number/Street/Apt

330 5th ave. suite 302a

City/State/ZIP

New York, NY 10001

Instructions:
• Complete all necessary spaces
• Sign your application in space 8

1. Application form
2. Nonrefundable filing fee in check or money
order payable to Register of Copyrights
3. Deposit material

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20540-8000

Fee schedule is
attached. For more
info, visit the
Copyright Office
website at
www.copyright.gov
or call the Copyright
Office at (202) 707-6000.

17 U.S.C. § 506(a). Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by sections 405, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

JS 44 (Rev. 11/05)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

Olem Shoe Corp.,
A Florida corporation

(b) County of Residence of First Listed Plaintiff Miami-Dade County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

SACHELIMA & ASSOCIATES, P.A.
235 Southwest Le Jeune Road
Miami, Florida 33134

DEFENDANTS

R&S Accessories, Inc., A New York corporation, Ham Cohen Saban
a/k/a Victor Cohen, individually

County of Residence of First Listed Defendant Kings, New York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRAIL
LAND INVOLVED.

Attorneys (If Known)
Unknown

(d) Check County Where Action Arose: ☒ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE
HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State ☐ PTF 1 ☐ DEF 1 Incorporated or Principal Place of Business In This State ☐ PTF 4 ☐ DEF 4

Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5

Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury	PERSONAL INJURY ☐ 362 Personal Injury - Med. Malpractice ☐ 365 Personal Injury - Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs. ☐ 660 Occupational Safety/Health ☐ 690 Other	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☒ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 444 Welfare ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 440 Other Civil Rights	PRISONER PETITIONS ☐ 510 Motions to Vacate Sentence Habeas Corpus: ☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition	LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt. Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act	☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) SOCIAL SECURITY ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609 FEDERAL TAX SUITS
				☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 810 Selective Service ☐ 850 Securities/Commodities Exchange ☐ 875 Customer Challenge 12 USC 3410 ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determined Under Equal Access to Justice ☐ 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed- (see VI below) ☐ 4 Reinstated or Recopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to Dist Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

(See instructions second page):

a) Re-filed Case ☐ YES ☒ NOb) Related Cases ☐ YES ☒ NO

JUDGE

DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
Declaratory judgment action for alleged copyright infringement of two-dimensional work of visual art.

LENGTH OF TRIAL via _____ days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE

\$350.00

967283

FOR OFFICE USE ONLY

09/26/07

9/26/07