

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHELLE E. DE SOUSA, JOSE DE JESUS DE
SOUSA, AND BRANOVATIONS, INC.,

Plaintiffs,

v.

SMART726, 100DAYSLATE_9 SHOP,
2020COMING SHOP, 77SUPERSEVENS77,
9HAPPY9, A WHOLE LOTTA EVERYTHING,
ACCESSARY, ALODI8867, AOYI, AQC0888888,
ATOMIC PUNK INC., AUTUMN188,
AVALONBON, BAIZE_YY, BARGAIN
WAREHOUSE, BEAUTYMALLUS, BEBETTY-
88, BEHINDTHEPRETTY, BINGE955, BJG
DEALS, BODUI290, BUCKSHAW25,
CCTOYOTO SHOP, CELLRITE727,
CESTFORMIDABLE2014, CHUQIN-62,
CLEOPATRAGOODS, COPASETICALCAT,
CREATIVITYPARKCENTRAL, DAILY
NECESSITIES STORE, DARJEA894195,
DDSEDS2 SHOP, ELANZA771,
ENJOYLIFE2018Y, EPBLHSNTPHE,
ESUKCESO, EVERYDAYGADGETZ,
FCEDFDVS, FODIMON JEWELRY, FREEICE,
GADGETZONESS, GASLOOTEN, GIFTS
STORE-5, GIRL_DRESSUP, GLOBAL HOME
PRODUCTS, GOODDEALSTAR123, GOOLE002,
GREENTHREADS23, HDFIUWAU, HELLO-
MOTORCYCLE, HENGSHUIFUBAISHAN_0,
HSBABYHOMES, HTZA68, HUIWA-36,
HUOWEIYA, INDIANREALSP84,
JIAOQINGSHANGMAO, JIGUIKEJI,
JISUJISU888 SHOP, JIZHI1048, KACARYDA,
KRIST3497, LO PRYCE CLUB, LUBTFS, MIK
2024 E-COMMERCE,
MILITARYCOLLECTORS2019, MINGZHE345
SHOP, MINLING123, MONI_7457,
MOST_IMPORTANT_BEAUTY, NBAAA1

Case No.: 24 -cv-

COMPLAINT

FILED UNDER SEAL

DEMAND FOR JURY TRIAL

SHOP, NHTW9944, NSSTARS, OUKAIDE-0,
OUTDOOR-HUB, PAMENTECH, POUSCH
OUTLET, PPA35869 SHOP, PUREJOY2024,
QFI_36, RETROYEARS, SHANGHAILAIFE_0,
SHCH2254, SHENGY634, SHERRY_47,
SHUNYASHOP, SIXTYSHADESOFGREY,
S'TAR STORT, SU3516271, TAKSHONLINE,
TASITBLE, TASTETRAIL, THELIJ83,
THIVI.ONLINE, TLGOODSON75, TOYDS888,
TUNSHA1525, UHQO9816, WE444, WW6SSX
SHOP, XC2020520 SHOP, XIAOMAYIYIYAYI
SHOP, XIAOXIAOLU223 SHOP, XIAOYAO02,
XINGYUAN1314 SHOP, XYMFASHIONSTORE,
YUYUAN-888, YY1YYXX2 SHOP, YYDS-2023,
YYDS888, ZAJAJEIO, ZHAOBENYI,
ZHONGLIMAO-0, ZHONGYANG497, BUTTBIG,
FATTAH, HEHEBAIHUOSHANGHANG, TRIM
STORE, ALIGAMENT, CHENNUO, CHUONI
CO.LTD, COZYCOLLECTIVE, DIMANFENG
INC, DONGGUANG, DONGMENTAISHANG,
EXZPASSION,
FOSHANSHISHAALANSHANGMAO,
FOSHANSHIZEZAOJIAJUYOUX, GOLDEN KOI,
GUANGZHOUKUNKAI, HCHPEJ, HONGC LLC,
HONGTAIBAOZHUANGFULIAO,
HONGWANGJIE TRADING,
JIANYUANWENHUA,
JINANLIANJINGWANGLUOKEJI.COM,
JINGJING CO.LTD, JUNQI, KEWITY,
LANHEXINGCHEN, LI LOONG TOYS, LINNAO
LTD, LUOKU CO.LTD, LZGUNGY, MIDEWHIK,
NANWANG CO. , LTD., NICE MAKET FOR
YOU, PINGXIAO CO.LTD, QBGUGU,
SAOAKINY, SHOPPINGNOW CO.ITD, SHUJIN
CO.LTD, SZBYHTH LLCXY, SZD CO.LTD,
TAIZAI TRADING CO. , LTD., VONGEM
FASHION STORE, VORCOY, WEIRUN CO.LTD,
WIN WITH SCIENCE, WTXUE CO.LTD,

XIASHUIX, XIUXIA SHOP, YANG CNCT,
YANZHAO HOME STORE, YHRY,
YIJIEELECTRONIC, YU CO. , LTD., YULIJU,
YXMHDGA, SAILING EXPEDITION, and
YAJINGSONGY012,

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff hereby sues Defendants, the Individuals, Partnerships, and Unincorporated Associations identified in the Caption, which are set forth in **Schedule “A”** hereto (collectively “Defendants”). All Defendants are knowingly and intentionally promoting, advertising, distributing, offering for sale, and selling patent infringing versions of Plaintiff’s patented **CLEAVA®** and **SNAPPY CAMI®** brand mock camisoles, which infringe on one or more claims of the Plaintiff’s Patent¹ and some of the Defendants and some are copying Plaintiff’s photographs and advertising, throughout the United States, (“Plaintiff’s Works”) (*as described below*) thus infringing on Plaintiff’s copyright², using at least one of the Amazon.com, eBay.com, Temu.com, Wish.com, Walmart.com, and Aliexpress.com online marketplaces (“Internet Marketplaces”) operating under the seller identities as set forth on **Schedule “A”**

¹ U.S. Patent No. 8,152,591, for a “GARMENT AND BRASSIERE ACCESSORY.” A copy of the patent is attached to the Complaint as **Exhibit 3**.

² While all of the Defendants are selling products that infringe on at least one claim of the Plaintiff’s Patent, the following Defendants are using one or more of the Plaintiff’s photographs to advertise, market and sell their Infringing Products and are thus unfairly competing: FATTAH, hehebaihuoshanghang, Militarycollectors2019, Trim Store.

hereto (the “Seller IDs”)(“Infringing Product”). In support of its claims, Plaintiff alleges as follows:

NATURE OF THE ACTION

1. Michelle E. DeSousa is a co-inventor and owner and president of the Plaintiff company, BraNovations, Inc., the exclusive licensee of the Plaintiff’s patented **CLEAVA®** and **SNAPPY CAMI®** brand mock camisoles, together with her husband and co-inventor, Jose De Jesus De Sousa. They are collectively the “Plaintiff” bringing this lawsuit (herein after “Plaintiff”). Plaintiff’s patented **CLEAVA®** and **SNAPPY CAMI®** brand mock camisoles are protected by multiple utility and design patents both here in the United States and Internationally.³ The Plaintiff’s innovative mock camisoles are a garment and brassiere accessories that are worn under a top, easily adjusted for size, fasten to a brassiere, cover cleavage, and thus provide a user with the ability to wear short tops and dresses in situations that require modest attire.

2. All the Defendants have offered for sale, sold, and distributed knock-off versions of the Plaintiff’s Product which infringe at least one claim of the Plaintiff’s Patent. Moreover, Defendants’ sale, distribution, and advertising of the Infringing Product are highly likely to cause

³ U. S. A Utility Patents No.'s 8,062,093 and 8,152,591 and 8,257,139, U. S. A Design Patent No. D661,463 S, U. S. A. Registered Trademarks No.'s 3,784,662 and 3,950,573, Nigeria Utility Patent No. NG/C/1212/628, South Africa Utility Patent No. 2012/03020 and 2012/09413, Israel Utility Patent No. 218,817, Australia Utility Patent No. 2011253119, Mexico Utility Patent No. MX/a/2012/2012/003579, Mongolia Utility Patent No.3936, New Zealand Utility Patent No. NZ 599,573, Philippines Utility Patent No. 2012-500615, Algeria Utility Patent No. 120848, Japan Utility Patent No. 571 9489, Canada Utility Patent No. CA 2,812,384 / CA 2,812,530, CA 2,864,270, Singapore Utility Patent No. 185536, and Tunisia Utility Patent No. 23122.

consumers to believe that Defendants are offering a genuine version of Plaintiff's Product when they are not.

3. Shown below are example types of Infringing Product offered for sale by the Defendants:



Plaintiff's Listing



Infringing Listing of Defendant FATAH



Plaintiff's Listing



Infringing Listing of Defendant hehebaihuoshanghang



Plaintiff's Listing



Infringing Listing of Defendant Militarycollectors2019

Other Infringing Listings Appear in **Complaint Exhibit 1.**

4. Defendants' Infringing Products are not as well made and may disappoint consumers who may give bad reviews that may impact Plaintiff's products.

5. Defendants' Infringing Products threaten to destroy the reputation of high quality that Plaintiff's Products have earned.

6. Plaintiff's Product is marketed and advertised extensively including on its website <https://www.cleava.com/> and its storefront on Amazon.com. The unique features of Plaintiff's Product and the manner in which it is marketed and advertised, including the distinct photographs, the design, the instructions, the packaging, and the unique presentation of the product, all comprise Plaintiff's valuable intellectual property ("IP") and all have become distinct in consumer's minds such that consumers associate all of this IP with Plaintiff's Product. Screenshots from Plaintiff's Website and Amazon Store are attached as **Complaint Exhibit 2**.

7. The innovative features of Plaintiff's Product are the subject of U. S. Patent No. 8,152,591 entitled "GARMENT AND BRASSIERE ACCESSORY." A copy of the patent is attached as **Complaint Exhibit 3**. The Plaintiff's Product is marked in accordance with the Patent Act. A Claim Chart for an exemplar infringing product is attached as **Complaint Exhibit 4** demonstrating that the Defendant's products infringe on at least Claim 1 of the Plaintiff's Patent.

8. On information and belief, Defendants' sale of Infringing Products gives rise to a plausible expectation that discovery will reveal that Defendants' actions all arise from the same transaction, occurrence, or series of transactions. Specifically, on information and belief, Defendants are actively participating in a conspiracy to distribute and sell Infringing Products.

For example, Defendants, on information and belief, are working together to manufacture, arrange the manufacture of and/or sell and otherwise distribute the Infringing Products.

Moreover, the Infringing Products all infringe on at least one claim of the Plaintiff's Patent.

9. Plaintiff therefore brings this action for Patent Infringement under 35 U.S.C. § 271, and The All-Writs Act, 28 U.S.C. § 1651(a) and against some of the Defendant under Section 43 (a) of the Lanham Act.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiff's state law claims because those claims are so related to the federal claims that they form part of the same case or controversy.

11. This Court may exercise personal jurisdiction over a non-resident of the State in which the Court sits to the extent authorized by the state's laws. Fed. R. Civ. P. 4(e). Pennsylvania authorizes personal jurisdiction over each Defendant pursuant to 42 Pa. Cons. Stat. § 5322 (a) which provides in pertinent part: "A tribunal of this Commonwealth may exercise personal jurisdiction over a person ... as to a cause of action or other matter arising from such person: (1) Transacting any business in this Commonwealth. Without excluding other acts which may constitute transacting business for the purpose of this paragraph: (ii) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit ... (3) Causing harm or tortious injury by an act or omission in this Commonwealth. (4) Causing harm or tortious injury by an act or omission outside this Commonwealth ... (10) Committing any

violation within the jurisdiction of the Commonwealth of any statute, home rule charter, local ordinance or resolution, or rule or regulation promulgated thereunder by any government unit or of any order of court or other government unit.” In the alternative, Federal Rule of Civil Procedure 4(k) confers personal jurisdiction over the Defendants because, upon information and belief, Defendants regularly conduct, transact and/or solicit business in Pennsylvania and in this judicial district, and/or derive substantial revenue from their business transactions in Pennsylvania and in this judicial district and/or otherwise avail themselves of the privileges and protections of the laws of the Commonwealth of Pennsylvania such that this Court's assertion of jurisdiction over Defendants does not offend traditional notions of fair play and due process, and/or Defendants’ illegal counterfeiting and infringing actions caused injury to Plaintiff in Pennsylvania and in this judicial district such that Defendants should reasonably expect such actions to have consequences in Pennsylvania and in this judicial district, for example:

a. Upon information and belief, at all times relevant hereto, Defendants were and/or are systematically directing and/or targeting their business activities at consumers in the United States, including Pennsylvania, through on-line platforms with Merchant Storefronts (as defined *infra*), via on-line marketplace websites, such as Amazon.com, eBay.com, Temu.com, Wish.com, Walmart.com, and Aliexpress.com, under the Seller IDs, as well as any and all as yet undiscovered accounts with Merchant Storefronts held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them (“User Accounts”), through which consumers in the United States, including Pennsylvania, can view the one or more of Defendants’ Merchant Storefronts that each Defendant operates, uses to

communicate with Defendants regarding their listings for Infringing Products and to place orders for, receive invoices for and purchase Infringing Products for delivery in the U.S., including Pennsylvania, as a means for establishing regular business with the U.S., including Pennsylvania.

b. Upon information and belief, certain Defendants are sophisticated sellers, each operating one or more commercial businesses using their respective User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert of participation with any of them, operate storefronts to manufacture, import, export, advertise, market, promote, distribute, offer for sale and/or otherwise deal in products, including the Infringing Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them (“Merchant Storefront(s)”) in wholesale quantities at significantly below-market prices to consumers worldwide, including to those in the U.S., and specifically Pennsylvania.

c. Upon information and belief, Defendants’ Merchant Storefronts reflect multiple sales to consumers all over the world, including repeat sales to consumers in the U.S. and into this judicial district.

d. Upon information and belief, all Defendants accept payment in U.S. Dollars and offer shipping to the U.S., including to Pennsylvania.

e. Upon information and belief, at all times relevant, Defendants have transacted business with consumers located in the U.S., including Pennsylvania, for the sale and shipment of Infringing Products.

f. Upon information and belief, some Defendants are employing and benefiting from substantially similar, paid advertising and marketing and advertising strategies in order to make their Merchant Storefronts selling illegal goods appear more relevant and attractive to search result software across an array of search words, including but not limited to “CLEAVA” and, “SNAPPY CAMI”. By their actions, Defendants are causing concurrent and indivisible harm to Plaintiff and the consuming public by (i) depriving Plaintiff of its right to fairly compete for space within the various on-line marketplace search results and reducing the visibility of the Plaintiff’s Product on various on-line marketplaces and/or diluting and driving down the retail market price for the Plaintiff’s Product; (ii) causing an overall degradation of the value of the goodwill associated with Plaintiff’s Product; and (iii) increasing Plaintiff’s overall cost to market its goods and educate consumers about its brand and products.

g. Upon information and belief, Defendants have cooperated, communicated their plans with one another, shared information, and coordinated their efforts, all in order to create an illegal marketplace operating in parallel to the legitimate marketplace of Plaintiff’s and the legally authorized resellers of Plaintiff’s genuine goods.

h. Upon information and belief, Defendants are concurrently targeting their infringing activities toward consumers and causing harm in Allegheny County, Pennsylvania.

i. Upon information and belief, Defendants likely reside and/or operate in foreign jurisdictions with lax trademark and patent enforcement systems and are cooperating by creating an illegal stream of infringing and counterfeit goods.

j. Upon information and belief, Defendants are aware of Plaintiff, its genuine **CLEAVA**[®] and **SNAPPY CAMI**[®] mock camisole products, and are aware that their illegal infringing actions alleged herein are likely to cause injury to Plaintiff in the United States, in Pennsylvania and in this judicial district specifically, as Plaintiff conducts substantial business in Pennsylvania.

k. Plaintiff is suffering irreparable and indivisible injury and suffered substantial damages as a result of Defendants' unauthorized and wrongful sale of infringing goods.

12. Venue is proper, *inter alia*, pursuant to 28 U.S.C. § 1391 because, for example:

a. Upon information and belief, Defendants conduct, transact, and/or solicit business in this judicial district.

b. Upon information and belief, Defendants or their agent(s) may be found in this district because personal jurisdiction is proper in this district.

c. Upon information and belief, this is a judicial district in which a substantial part of the events or omissions giving rise to the infringement claims occurred, or a substantial part of the property that is the subject of the action is situated.

d. Defendants not resident in the United States may be sued in this judicial district because personal jurisdiction is proper in this district.

THE PLAINTIFF

13. Plaintiff company, BraNovations, Inc. d/b/a Cleava, is a Florida corporation and has its principal place of business in Naples Florida. Michelle E. De Sousa and Jose De Jesus De Sousa are co-inventors and owners of the Plaintiff's Patent. BraNovations, Inc. is the exclusive licensee of the Plaintiff's Patent.

14. Plaintiff is, in part, engaged in the business of manufacturing and distributing throughout the world, including within this district, the **CLEAVA**[®] and **SNAPPY CAMI**[®] mock camisole products, through its website, cleava.com, its authorized storefront on amazon.com, and various retail establishments. Defendants, through the sale and offer to sell Infringing Products are directly, and unfairly, competing with Plaintiff's economic interest in the Commonwealth of Pennsylvania and causing Plaintiff harm within this jurisdiction.

15. Like many other brand owners, Plaintiff suffers ongoing daily and sustained violations of its rights at the hands of infringers, such as Defendants herein, who wrongfully reproduce Plaintiff's Products for the twin purposes of (i) duping and confusing the consuming public and (ii) earning substantial profits from the sale of their Infringing Products. The natural and intended byproduct of Defendants' actions is the erosion and destruction of the goodwill associated with Plaintiff's Products and the destruction of the legitimate market sector in which Plaintiff operates.

16. The recent explosion of counterfeiting and infringement over the Internet, including through online marketplace platforms, has created an environment that requires brand owners, such as Plaintiff, to expend significant time and money across a wide spectrum of efforts in order to protect both consumers and Plaintiff from the ill effects of confusion and the erosion of the goodwill associated with Plaintiff's brand and products.

17. E-commerce sales, including through e-commerce stores like those of Defendants, have resulted in a sharp increase in the shipment of unauthorized products into the United States. *Ference Dec⁴*, Exhibit 1, Excerpts from Fiscal Year 2021 U.S. Customs and Border Protection ("CBP") Intellectual Property Seizure Statistics Report. Over 89% of all CBP intellectual property seizures were smaller international mail and express shipments (as opposed to large shipping containers). *Id.* More than half (51%) of CBP seizures originated from mainland China and Hong Kong. *Id.* Infringing and pirated products account for billions in economic losses, resulting in tens of thousands of lost jobs for legitimate businesses and broader economic losses, including lost tax revenue.

18. Third party service providers like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing infringers to "routinely use false or inaccurate names and addresses when registering with these e-commerce platforms." *Ference Dec.*, Exhibit 2, Daniel C.K. Chow, Alibaba, Amazon, and Infringing in the Age of the Internet, 40 NW. J. INT'L L. & BUS. 157, 186 (2020); see also, report on "Combating

⁴ Referring to Declaration of Stanley D. Ference III in Support of Temporary Restraining Order, filed herewith.

Trafficking in Infringing and Pirated Goods” prepared by the U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans (Jan. 24, 2020), attached as *Ference Dec.*, Exhibit 3 and finding that on “at least some e-commerce platforms, little identifying information is necessary for an Infringer to begin selling” and recommending that “[s]ignificantly enhanced vetting of third-party sellers” is necessary. Infringers hedge against the risk of being caught and having their websites taken down from an e-commerce platform by preemptively establishing multiple virtual store-fronts. *Ference Dec.*, Exhibit 3, at p. 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, Infringers can have many different profiles that can appear unrelated even though they are commonly owned and operated. *Ference Dec.*, Exhibit 3 at p. 39. Further, “E-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of Infringing and Infringers.” *Ference Dec.*, Exhibit 2 at 186-187.

THE DEFENDANTS

19. The Defendants are individuals and/or business entities of unknown makeup, each of whom, upon information and belief, either reside or operate in foreign jurisdictions, or (though not foreign)⁵ redistribute products from the same or similar sources in those foreign locations. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).

⁵ Prior to filing this lawsuit, Plaintiff viewed a public seller profile that is published by certain Defendant’s storefronts that purports to identify the name and address of the Defendant. Solely based upon their representation on their storefronts, the following defendants have identified themselves as US-based and are not at this time alleged to be foreign sellers: 77SuperSevens77, A whole lotta everything, Atomic Punk Inc., avalonbon, behindthepretty, BJG Deals, buckshaw25, cellrite727, cestformidable2014, copaseticalcat, elanza771, Esukceso, EverydayGadgetz, gaslooten, GreenThreads23, krist3497, Pousch Outlet, Sixtyshadesofgrey, tlgoodson75, FATTAH, Trim Store.

Defendants target their business activities toward consumers throughout the United States, including within this district, and conduct pervasive business through the operation of, at least, one fully interactive commercial Internet based e-commerce store via, at least one of the Internet based online marketplaces Aliexpress.com, Amazon.com, eBay.com, Temu, Walmart.com, and Wish.com, all under the Seller IDs.

20. Upon information and belief, the Defendants use aliases in conjunction with the operation of their businesses as set forth in Schedule “A” hereto.

21. Defendants are the past and present controlling forces behind the sale of products infringing at least one claim of the Plaintiff’s Patent described herein using at least the Seller IDs.

22. Upon information and belief, Defendants were willfully advertising, offering for sale and selling goods infringing upon at least one claim of the Plaintiff’s Patent to consumers within the United States and this district through several fully interactive, commercial Internet websites and Internet based e-commerce stores operating under, at least, the storefronts, the Seller IDs, and any additional domain names, websites and corresponding website URLs or seller identifications and store URL aliases not yet known to Plaintiff. Defendants have purposefully directed some portion of their illegal activities towards consumers in the Commonwealth of Pennsylvania through the advertisement, offer to sell, sale, and/or shipment of Infringing Products into the Commonwealth.

23. Defendants have registered, established, or purchased, and maintained the on-line marketplace website storefronts and Seller IDs. Upon information and belief, Defendants have

engaged in fraudulent conduct with respect to the registration of the storefronts and Seller IDs by providing false and/or misleading information to the Internet based e-commerce platforms where they offer for sale and/or sell, during the registration or maintenance process related to their respective Seller ID. Upon information and belief, Defendants have anonymously registered and maintained some of the Seller IDs for the sole purpose of engaging in illegal infringing activities.

24. Upon information and belief, Defendants will continue to register or acquire new seller identification aliases for the purpose of selling and offering for sale goods infringing at least one claim of the Plaintiff's Patent unless preliminarily and permanently enjoined.

25. Defendants' Internet-based businesses amount to nothing more than illegal operations established and operated in order to infringe the intellectual property rights of Plaintiff.

26. Defendants' business names, i.e., the Seller IDs, associated payment accounts, and any other alias seller identification names used in connection with the sale of goods infringing on at least one claim of the Plaintiff's Patent are essential components of Defendants' online activities and are the means by which Defendants further their infringement scheme and cause harm to Plaintiff.

COMMON FACTUAL ALLEGATIONS

Plaintiff and Its Innovative Product

27. The Plaintiff's Product is designed to quickly attach to a brassiere, adjust to the correct size, convert a short top or dress into a modest manner of dress. The Plaintiff's Product retails for between \$19.99 and \$39.99 (pictured below):



28. The Plaintiff's Patent has never been assigned or licensed to any of the Defendants in this matter. Plaintiff has provided constructive notice of the Plaintiff's Patent by placing the patent number of the patent on the packaging of Plaintiff's Product.

29. Plaintiff's Product has been featured in videos or articles by numerous media outlets.

Defendants' Wrongful and Infringing Conduct

30. Upon information and belief, Defendants are, through at least the Internet based e-commerce stores operating under the Seller IDs, promoting, selling, offering for sale, and distributing goods that willfully infringe at least one claim of the Plaintiff's Patent while marketing their knock-off products in a willful attempt to pass off their knock-off products as the genuine version of Plaintiff's Products.

31. Upon information and belief, Defendants' Infringing Products are of a quality substantially and materially different than that of Plaintiff's genuine goods. Defendants, upon information and belief, are actively using, promoting and otherwise advertising, distributing, selling, and/or offering for sale substantial quantities of their Infringing Products with the knowledge and intent that such goods will be mistaken for the genuine high-quality goods offered for sale by Plaintiff despite Defendants' knowledge that they are without authority to use the subject matter of the Plaintiff's Patent.

32. Defendants advertise their Infringing Products for sale to the consuming public via Internet based e-commerce stores on, at least, one Internet marketplace using at least the Seller IDs. In so advertising these goods, Defendants improperly and unlawfully infringe at least one claim of the Plaintiff's Patent without Plaintiff's permission.

33. As part of their overall infringement scheme, Defendants are, upon information and belief, concurrently employing and benefitting from substantially similar, advertising and marketing strategies based, in large measure, upon an illegal use of infringements of the Plaintiff's Patent in order to make their e-commerce stores selling illegal goods appear more relevant and attractive to consumers online. By their actions, Defendants are contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for Plaintiff's genuine goods. Defendants are causing, individual, concurrent and indivisible harm to Plaintiff and the consuming public by (i) depriving Plaintiff and other third parties of their right to fairly compete for space within search engine results and reducing the visibility of Plaintiff's genuine goods on the World Wide Web, (ii) causing actual consumer confusion, (iii) harm to Plaintiff's reputations, including tarnishing its status as the innovator in

this market, (iv) an overall degradation of the value of the goodwill associated with the Plaintiff's brand, and (v) increasing Plaintiff's overall cost to market its goods and educate consumers about its brand via the Internet.

34. Plaintiff confirmed that Defendants were and/or are still currently offering for sale and/or selling Infringing Products for sale to the consuming public via Internet based e-commerce stores on, at least, one Internet marketplace using at least the Seller IDs and that Defendants provide shipping and/or have actually shipped Infringing Products to customers located within this judicial district.

35. There is no question that the Infringing Product itself and the manner in which it is marketed is designed to confuse and mislead consumers into believing that they are purchasing Plaintiff's Product or that the Infringing Product is otherwise approved by or sourced from Plaintiff, thereby trading on the goodwill and reputation of Plaintiff.

36. Upon information and belief, at all times relevant hereto, Defendants in this action had full knowledge of Plaintiff's ownership of the Plaintiff's Patent. Defendants' use of the patent is without Plaintiff's consent or authorization.

37. Defendants are engaging in the above-described illegal infringing activities knowingly and intentionally or with reckless disregard or willful blindness to Plaintiff's rights for the purpose of infringing the Plaintiff's Patent and trading on Plaintiff's goodwill and reputation. If Defendants' intentional infringing activities are not preliminarily and permanently enjoined by this Court, Plaintiff and the consuming public will continue to be harmed.

38. Defendants' above-identified infringing activities are likely to cause confusion, deception, and mistake in the minds of consumers before, during, and after the time of purchase. Moreover, Defendants' wrongful conduct is likely to create a false impression and deceive customers, the public, and the trade into believing there is a connection or association between Plaintiff's Products and Defendants' Infringing Products, which there is not.

39. Upon information and belief, Defendants' payment and financial accounts are being used by Defendants to accept, receive, and deposit profits from Defendants' infringing activities connected to their Seller IDs and any other alias e-commerce stores, photo albums, seller identification names, domain names, or websites being used and/or controlled by them.

40. Further, upon information and belief, Defendants are likely to transfer or secret their assets to avoid payment of any monetary judgment awarded to Plaintiff.

41. Plaintiff has no adequate remedy at law.

42. Plaintiff is suffering irreparable injury and have suffered substantial damages as a result of Defendants' unauthorized and wrongful infringement of at least one claim of the Plaintiff's Patent. If Defendants' infringing activities are not preliminarily and permanently enjoined by this Court, Plaintiff and the consuming public will continue to be harmed.

43. The harm and damages sustained by Plaintiff has been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of their Infringing Products.

COUNT I – PATENT INFRINGEMENT (35 U.S.C. § 271 (a))

44. The allegations in the above paragraphs are hereby incorporated by reference.

45. The innovative features of Plaintiff's Product are the subject of U. S. Patent No. 8,152,591 entitled "GARMENT AND BRASSIERE ACCESSORY" (a copy of the patent is attached to the Complaint as **Exhibit 3**). The Plaintiff's Product is marked in accordance with the Patent Act.

46. The Infringing Products infringe at least Claim 1 of the Plaintiff's Product, as more fully detailed in **Exhibit 3 and Exhibit 4**, respectively.

47. Defendants have infringed and continue to infringe the Plaintiff's Patent either directly or indirectly through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271, by making, using, selling, importing and/or offering to sell Infringing Products, namely the knock-offs that infringe at least one claim of the Plaintiff's Patent.

48. Defendants' infringement, contributory infringement and/or inducement to infringe has injured Plaintiff and it, therefore, is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

49. Defendants' infringement, contributory infringement and/or inducement to infringe has been willful and deliberate because Defendants have notice of or knew of the Plaintiff's Patent and have nonetheless injured and will continue to injure Plaintiff, unless and until this Court enters an injunction, which prohibits further infringement and specifically enjoins further manufacture, use, sale, importation and/or offer for sale of products or services that come within the scope of the Plaintiff's Patent.

50. Based on Defendants' wrongful conduct, Plaintiff is entitled to injunctive relief as well as monetary damages and other remedies as provided by the Patent Act, including damages

that Plaintiff has sustained and will sustain as a result of Defendants' illegal and infringing actions as alleged herein, enhanced discretionary damages and reasonable attorneys' fees and costs.

COUNT II – FEDERAL UNFAIR COMPETITION (15 U.S.C. § 1125(a))

Plaintiff vs. Defendant Nos. 66, 116, 117, 118 ⁶

51. Plaintiff hereby adopts and re-alleges the allegations set forth in the preceding paragraphs as if set forth herein.

52. Upon information and belief, Defendants' Infringing Products bearing, offered for sale, and sold using copies of at least one of the Plaintiff's Works have been widely advertised and offered for sale throughout the United States via at least one fully interactive Internet marketplace.

53. Defendants' Infringing Products bearing, offered for sale, and sold using copies of at least one of the Plaintiff's Works are virtually identical in appearance to Plaintiff's genuine goods. Defendants' Infringing Products, however, are different and likely inferior in quality. Accordingly, Defendants' activities are likely to cause confusion in market and among the general public as to at least the origin or sponsorship of their Infringing Products.

54. Defendants, upon information and belief, have used in connection with their advertisement, offer for sale, and sale of their Infringing Products, false designations of origin

⁶ See note 2, *supra*.

and false descriptions and representations, including words or other symbols and trade dress, which tend to falsely describe or represent such goods and have caused such goods to enter into with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Plaintiff's detriment.

55. Defendants have engaged in the unauthorized use of Plaintiff's Works in Defendants' advertisement and promotion of their Infringing Products. Defendants have misrepresented to members of the consuming public that the Infringing Products being advertised and sold by them are genuine, non-infringing goods.

56. Additionally, Defendants are using infringements of the Plaintiff's Works in order to unfairly compete with Plaintiff and others for space within search engine organic results, thereby jointly depriving Plaintiff of a valuable marketing and educational tool which would otherwise be available to Plaintiff and reducing the visibility of Plaintiff's genuine goods on the World Wide Web.

57. Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

58. Plaintiff has no adequate remedy at law, and has sustained indivisible injury and damage caused by Defendants' concurrent conduct. Absent an entry of an injunction by this Court, Defendants will continue to wrongfully reap profits and Plaintiff will continue to suffer irreparable injury to its goodwill and business reputation, as well as monetary damages.

59. Based on Defendants' wrongful conduct, Plaintiff is entitled to injunctive relief, Plaintiff's actual damages and Defendants' profits in an amount to be proven at trial, enhanced discretionary damages for willful infringement, and reasonable attorneys' fees and costs.

Count III – Common Law Unfair Competition

Plaintiff vs. Defendant Nos. 66, 116, 117, 118

60. Plaintiff hereby adopts and re-alleges the allegations set forth in the preceding paragraphs as if set forth herein.

61. This is an action against Defendants based on their promotion, advertisement, distribution, sale, and/or offering for sale of goods bearing and/or using marks that are virtually identical, both visually and phonetically, to one or more of the Plaintiff's Works in violation of Pennsylvania's common law of unfair competition.

62. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale, and distributing goods bearing and/or using infringements of one or more of the Plaintiff's Works. Defendants are also using infringements of one or more of the Plaintiff's Works to unfairly compete with Plaintiff and others on Internet marketplaces, for space in search results across an array of search terms, and visibility on the World Wide Web.

63. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' products by their use of one or more of the Plaintiff's Works.

64. Plaintiff has no adequate remedy at law and is suffering irreparable injury and damages as a result of Defendants' actions.

65. As a result of Defendants' actions alleged herein, Plaintiff is entitled to injunctive relief, an order granting Plaintiff's damages and Defendants' profits stemming from their infringing activities, and exemplary or punitive damages for Defendants' intentional misconduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment on all Counts of this Complaint and an award of equitable relief and monetary relief against Defendants as follows:

a. Entry of temporary, preliminary, and permanent injunctions pursuant to 35 U.S.C. § 283, and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Infringing Products (i.e., patent infringing or unfairly competing by using copies or unauthorized derivative works of Plaintiff's Works);

c. Entry of an Order that, upon Plaintiff's request, any Internet marketplace website operators and/or administrators that are provided with notice of the injunction, including but not limited to the online marketplaces Aliexpress.com, Amazon.com, ebay.com, Temu.com, Walmart.com and wish.com, identify any e-mail address known to be associated with Defendants' respective Seller ID, and cease facilitating access to any or all e-commerce stores through which Defendants engage in the promotion, offering for sale, and/or sale of Infringing Products.

d. Entry of an Order that, upon Plaintiff's request, any Internet marketplace website operators and/or administrators who are provided with notice of the injunction, including but not limited to the online marketplaces Aliexpress.com, Amazon.com, ebay.com, Temu.com, Walmart.com and wish.com, permanently remove any and all listings offering for sale Infringing Products via the e-commerce stores operating under the Seller IDs, including any and all listings linked to the same seller or linked to any other alias seller identification name being used and/or controlled by Defendants to promote, offer for sale and/or sell Infringing Products.

e. Entry of an Order that, upon Plaintiff's request, any Internet marketplace website operators and/or administrators who are provided with notice of the injunction, including but not limited to the online marketplaces Aliexpress.com, Amazon.com, ebay.com, Temu.com, Walmart.com and wish.com, immediately cease fulfillment of and sequester all goods of each Defendant or other Seller under a Seller ID offering for sale the Infringing Product in its inventory, possession, custody, or control, and surrender those goods to Plaintiff.

f. Entry of an order awarding Plaintiff damages adequate to compensate for the infringement of its patent, but in no event less than a reasonable royalty for the use made of the invention by the Defendants, together with interest and costs as fixed by the Court pursuant to 35 U.S.C. § 284 and that the award be trebled as provided for under 35 U.S.C. §284.

g. Entry of an order requiring Defendants to account to and pay Plaintiff for all profits and damages resulting from Defendants' infringing and unfairly competitive activities and that the award to Plaintiff be trebled, as provided for under 15 U.S.C. §1117.

h. Entry of an award pursuant to 15 U.S.C. § 1117 (a) and (b) of Plaintiff's costs and reasonable attorneys' fees and investigative fees associated with bringing this action.

i. Entry of an Order finding that this case is exceptional and an award to Plaintiff of its attorney fees and costs as provided by for under 35 U.S.C. § 285.

j. Entry of an Order that, upon Plaintiff's request, any financial institutions, payment processors, banks, escrow services, money transmitters, including, but not limited to, Amazon Services, LLC d/b/a Amazon.com, and Amazon Payments, Inc. d/b/a Amazon Pay (collectively "Amazon"), Whaleco Inc., a Delaware Corporation, which is a wholly owned subsidiary of Pinduoduo Inc. which is owned by PDD Holdings (collectively, "Temu"), eBay, Inc. d/b/a ebay.com, Walmart Inc. and Wal-Mart.com USA, LLC, wish.com, Alibaba.com US LLC d/b/a Alibaba.com and Aliexpress.com ("Third Party Service Providers") and financial institutions, including but not limited to, Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. AliPay (China) Internet Technology Co. Ltd., and Alipay.com Co., Ltd. (collectively referred to as "AliPay")⁷, Amazon Payments, Inc., Walmart Pay, Klarna, Inc. d/b/a Klarna, PayPal, Inc. d/b/a paypal.com, and Context Logic, Inc. d/b/a wish.com ("Financial Institutions")⁸, and their related companies and affiliates, identify and restrain all funds, up to and including the total amount of judgment, in all financial accounts and/or sub-accounts used in connection with the Seller IDs or other domain names, alias seller identification names, or e-commerce store names

⁷ WorldPay US, Inc. ("WorldPay") processes transactions on behalf of Alibaba and Alipay, which may appear as "AliExpress" on a cardholder's credit card statement.

⁸ Plaintiff acknowledge that they are seeking multiple forms of relief. Plaintiff will promptly provide supplemental briefing or oral argument on any issue should the Court request it.

or store URLs used by Defendants presently or in the future, as well as any other related accounts of the same customer(s) and any other accounts which transfer funds into the same financial institution account(s), to be surrendered to Plaintiff in partial satisfaction of the monetary judgment entered herein.

k. Entry of an award of pre- and post-judgment interest on the judgment amount.

l. Entry of an order for any further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands a trial by jury on all claims.

Respectfully submitted,

Dated: December 10, 2024

/s/ Stanley D. Ference III

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FERENCE & ASSOCIATES LLC

409 Broad Street

Pittsburgh, Pennsylvania 15143

(412) 741-8400 - Telephone

(412) 741-9292 - Facsimile

Attorneys for Plaintiff

Schedule “A”
Defendants with Store Name and Seller ID

Defendant Number	Store/Seller Name	Seller ID
1	smart726	205007979291
2	100dayslate_9 shop	196095579145
3	2020coming shop	364595460117
4	77SuperSevens77	364674748430
5	9happy9	235783315094
6	A whole lotta everything	155526371485
7	Accessory	156467912458
8	alodi8867	387375012173
9	aoyi	305841757126
10	aqc0888888	395622959899
11	Atomic Punk Inc.	286177158913
12	autumn188	296360471177
13	avalonbon	387499445064
14	baize_yy	235806910718
15	Bargain Warehouse	162461261532
16	beautymallus	146048631855
17	bebetty-88	275967601885
18	behindthepretty	225880492749
19	binge955	315927206420
20	BJG Deals	382085522570
21	bodui290	176538719233
22	buckshaw25	256687331793
23	cctoyoto shop	204552303380
24	cellrite727	276567277264
25	cestformidable2014	296724766397
26	chuqin-62	356275991516
27	CleopatraGoods	355733912038
28	copaseticalcat	405241126160
29	creativityparkcentral	154636662021
30	Daily necessities store	364880975352
31	darjea894195	365095542234
32	dddseeds2 shop	305283053375
33	elanza771	116152657635
34	enjoylife2018y	116114076629
35	epblhsntphe	235698610203

36	Esukceso	315062378297
37	EverydayGadgetz	146116582998
38	feedfdvs	375461624401
39	FODIMON JEWELRY	405185786814
40	freeice	355764742222
41	gadgetzonest	146054977290
42	gaslooten	146190764147
43	Gifts Store-5	123997548742
44	girl_dressup	176429445141
45	Global Home Products	386823771436
46	gooddealstar123	126515630936
47	goole002	387609095052
48	GreenThreads23	356031858692
49	hdfiuwau	335385624331
50	hello-motorcycle	395089067126
51	hengshuifubaishan_0	356084559873
52	hsbabyhomes	315693110735
53	htza68	386873447328
54	huiwa-36	404962204572
55	Huweiya	315425303392
56	indianrealsp84	315972769746
57	jiaoqingshangmao	126760503182
58	jiguikeji	335530198389
59	jisujisu888 shop	355224147458
60	jizhi1048	375671015391
61	kacaryda	186215988440
62	krist3497	315977471549
63	Lo Pryce Club	314438855417
64	LUBTFS	305639141955
65	Mik 2024 E-COMMERCE	155947260613
66	Militarycollectors2019	163761448772
67	mingzhe345 shop	305283081684
68	minling123	326184293080
69	moni 7457	126524049260
70	most important beauty	186682623105
71	nbaaal shop	225884543286
72	nhtw9944	315952915383
73	nsstars	226408866402
74	oukaide-0	226403703123
75	Outdoor-Hub	375762352609
76	pamentech	296783997362
77	Pousch Outlet	134841282192

78	ppa35869 shop	386309230714
79	purejoy2024	167018128106
80	qfi_36	305317881434
81	retroyears	185013152866
82	shanghaiife 0	285935849124
83	shch2254	405058815423
84	shengy634	386982659329
85	sherry 47	364822847296
86	SHUNYASHOP	135264395380
87	sixtyshadesofgrey	226071887637
88	s'tar stort	315678357259
89	su3516271	176657512958
90	TakshOnline	266419327705
91	Tasitble	387359181472
92	tastetrail	405151571345
93	thelij83	405204294982
94	thivi.online	364793694641
95	tlgoodson75	387585674285
96	toyds888	375786533196
97	tunsha1525	226326076830
98	uhqo9816	286023879044
99	WE444	226432768762
100	ww6ssx shop	225884425955
101	xc2020520 shop	235311859791
102	xiaomayiyiyayi shop	386308944542
103	xiaoxiaolu223 shop	395018758673
104	xiaoyao02	387353654572
105	xingyuan1314 shop	386308959433
106	xymfashionstore	305837683938
107	yuyuan-888	387499927309
108	yy1yyxx2 shop	355504142855
109	yyds-2023	126615961214
110	yyds888	126657982420
111	zaiajeio	235557008882
112	zhaobenyi	315391891428
113	zhonglimao-0	235780923935
114	zhongyang497	365170000055
115	ButtBig	A22O9WBS25PWHR
116	FATTAH	A3OH33OJGT4ZLM
117	hehebaihuoshanghang	AGWUNH3KMEP49
118	Trim Store	A3FG8BGQOYQ3U9
119	Aligament	101520067

120	CHENNUO	101667120
121	CHUONI Co.Ltd	102486802
122	CozyCollective	101619355
123	DiManFeng Inc	101220832
124	Dongguang	101567330
125	dongmentaishang	102478098
126	Exzpassion	101565319
127	foshanshishaalanshangmao	102492053
128	foshanshizezaojiajuyoux	101672925
129	Golden Koi	102500031
130	guangzhoukunkai	101689019
131	HCHPEJ	101623460
132	Hongc LLC	101638846
133	hongtaibaozhuangfuliao	102507417
134	Hongwangjie Trading	101578106
135	Jianyuanwenhua	101670145
136	jinanlianjingwangluokeji.com	102490662
137	JINGJING Co.Ltd	102481928
138	JUNQI	101583459
139	KEWITY	101633473
140	lanhexingchen	102477142
141	Li loong Toys	102510034
142	LINNAO Ltd	101250922
143	LUOKU Co.Ltd	102484093
144	LzGUNGY	101661823
145	Midewhik	101464698
146	Nanwang Co. , Ltd.	101521138
147	nice maket for you	102621662
148	PINGXIAO Co.Ltd	102484277
149	QBgugu	101596074
150	Saoakiny	101576158
151	ShoppingNow Co.Itd	101222732
152	SHUJIN Co.Ltd	101677810
153	szbyhth LLCxy	102576882
154	SZD Co.Ltd	101240063
155	Taizai Trading Co. , Ltd.	102506719
156	Vongem Fashion store	101651506
157	VORCOY	101616915
158	WEIRUN Co.Ltd	101675172
159	WIN WITH SCIENCE	101289673
160	WTXUE CO.Ltd	101614067
161	XIAshuix	102490511

162	xiuxia shop	101694125
163	Yang cnct	101638538
164	Yanzihao Home Store	101592725
165	YHRY	101286232
166	Yijieelectronic	101593777
167	YU Co. , Ltd.	101521138
168	YULIJU	101651955
169	Yxmhdga	102607609
170	Sailing Expedition	5b05533159206935a1196bb6
171	yajingsongy012	63ff10e7ca51360b12630a0a

LISTING OF EXHIBITS

- Exhibit 1.....Exemplar Screenshots of Infringing Listings
- Exhibit 2.....Screenshots from Plaintiff’s Website and Amazon Store
- Exhibit 3.....U.S. Patent No. 8,152,591
- Exhibit 4.....Comparison of Exemplar Infringing Product to claim 1 of U.S.
Patent No. 8,152,591

EXHIBIT 1



Plaintiff's Listing

Infringing Listing of Defendant FATTAH



Plaintiff's Listing

Infringing Listing of Defendant

hehebaihuoshanghang



Plaintiff's Listing

Infringing Listing of Defendant

Militarycollectors2019

EXHIBIT 2

https://www.cleava.com/category_s/1843.htm

The screenshot shows the Cleava website interface. At the top, there's a navigation bar with the Cleava logo and contact information. Below that, a comparison is made between the 'Cleava' and 'Snappy Cami'. The Cleava product is shown with red arrows indicating adjustment points: 'Adjust here for the width of the bra strap and/or chest size' and 'Adjust here for the width of the bridge, cup size and height'. The Snappy Cami is also shown with similar adjustment points. A '100% SATISFACTION GUARANTEE' seal is visible. A blue award ribbon says 'MUST BE SEEN 2013'. Navigation links like 'ABOUT PRODUCTS', 'CONTACT US', and 'LOGIN/REGISTER' are present.

NEW!
Snappy Cami
Snap on Mock Camisole.
PATENTS • COPYRIGHTS • TRADEMARKS

Solid or Lace

Securely Snaps

Available in assorted colors and styles

Full lace worn over a solid = a variety of looks

Instant layering...
Control your style...
Transform your look...

- Instantly On or Off. No need to undress.
- Covers cleavage in an elegant way.
- Fits most bras, thin to wide straps.
- Lightweight, cool and comfortable.

Adjust here for the width of the bra strap and/or chest size.

Tuck under the bridge of the bra, or let it hang for deep low cut tops and dresses.

BEFORE AFTER

scan QR code for video demo

Amazon Store

29 results for "Cleava"

Sort by: Featured

Delivery
 All Prime

Department
Alexa Skills
Amazon Devices & Accessories
Appliances
Apps & Games
Arts, Crafts & Sewing
Audible Books & Originals
Automotive
Baby Products
Beauty & Personal Care
Books
CDs & Vinyl
Cell Phones & Accessories
Clothing, Shoes & Jewelry
Collectibles & Fine Art
Credit & Payment Cards
Digital Music
Electronics
Everything Else
Gift Cards
Grocery & Gourmet Food
Handmade Products
Health & Household
Home & Business Services
Home & Kitchen
Industrial & Scientific

Results
Check each product page for other buying options. Price and other details may vary based on product size and color.





 <p>Overall Pick</p>			
<p>Cleava Snap-To-Bra Mock Camisole [259] Black & Gray - SOLID (Two in a Pack) - Original Classic.</p> <p>★★★★☆ 220</p> <p>\$39⁹⁹</p> <p>Prime Two-Day FREE delivery Sat, Oct 26</p>	<p>Cleava SNAP ON Mock Camisole snap to Bra cami - Original NO LACE Classic.</p> <p>★★★★☆ 108</p> <p>\$29⁹⁹</p> <p>FREE delivery Oct 31 - Nov 7 Or fastest delivery Oct 30 - Nov 1</p> <p>Small Business</p>	<p>Cleava SNAP ON Mock Camisole snap to bra cami - LACE LADY CORSO - BLACK ON BLACK.</p> <p>★★★★☆ 15</p> <p>\$39⁹⁹</p> <p>FREE delivery Oct 31 - Nov 7 Or fastest delivery Oct 30 - Nov 1</p> <p>Small Business</p>	<p>Cleava SNAP ON Mock Camisole snap to Bra cami - Sassy LACE CORSO.</p> <p>★★★★☆ 3</p> <p>\$39⁹⁹</p> <p>FREE delivery Oct 31 - Nov 6 Or fastest delivery Thu, Oct 31</p> <p>Small Business</p> <p>Add to Cart</p>

EXHIBIT 3



US008152591B2

(12) **United States Patent**
De Sousa et al.

(10) **Patent No.:** **US 8,152,591 B2**
(45) **Date of Patent:** **Apr. 10, 2012**

(54) **GARMENT AND BRASSIERE ACCESSORY**

(56) **References Cited**

(76) Inventors: **Michelle E. De Sousa**, Naples, FL (US);
Jose De Jesus De Sousa, Naples, FL (US)

U.S. PATENT DOCUMENTS

626,589	A *	6/1899	Bucher	450/28
731,759	A *	6/1903	Dieter	2/48
770,752	A *	9/1904	Hull	2/54
1,645,995	A *	10/1927	McCarthy	2/92
2,472,606	A *	6/1949	Michaelson	450/86
2,707,786	A *	5/1955	Stoner	2/119
3,064,265	A *	11/1962	Bridgewater	2/74
4,955,846	A	9/1990	Greenberg	
4,995,846	A *	2/1991	Mariol	446/376
6,205,585	B1 *	3/2001	Capparelli	2/106
6,550,067	B2 *	4/2003	Force	2/104
6,935,921	B1 *	8/2005	Eudenbach et al.	450/54
2006/0277648	A1 *	12/2006	Harry	2/69
2007/0281585	A1 *	12/2007	Calamari et al.	450/1

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **13/095,124**

(22) Filed: **Apr. 27, 2011**

(65) **Prior Publication Data**

US 2011/0201251 A1 Aug. 18, 2011

Related U.S. Application Data

(63) Continuation of application No. 12/778,212, filed on May 12, 2010, which is a continuation-in-part of application No. 12/586,622, filed on Sep. 25, 2009, now Pat. No. 8,062,093, which is a continuation-in-part of application No. 11/855,131, filed on Sep. 13, 2007, now abandoned.

(51) **Int. Cl.**
A41C 3/00 (2006.01)

(52) **U.S. Cl.** **450/1; 450/30; 450/86; 2/105; 2/106**

(58) **Field of Classification Search** 450/1, 30-35, 450/63, 70-74, 77-80, 82, 86, 88, 87, 92, 450/93; 2/912, 913, 69, 73-75, 90, 96, 102-106, 2/109, 110, 113, 114, 118, 67, 119, 122, 2/129, 133, 46, 50-54

See application file for complete search history.

* cited by examiner

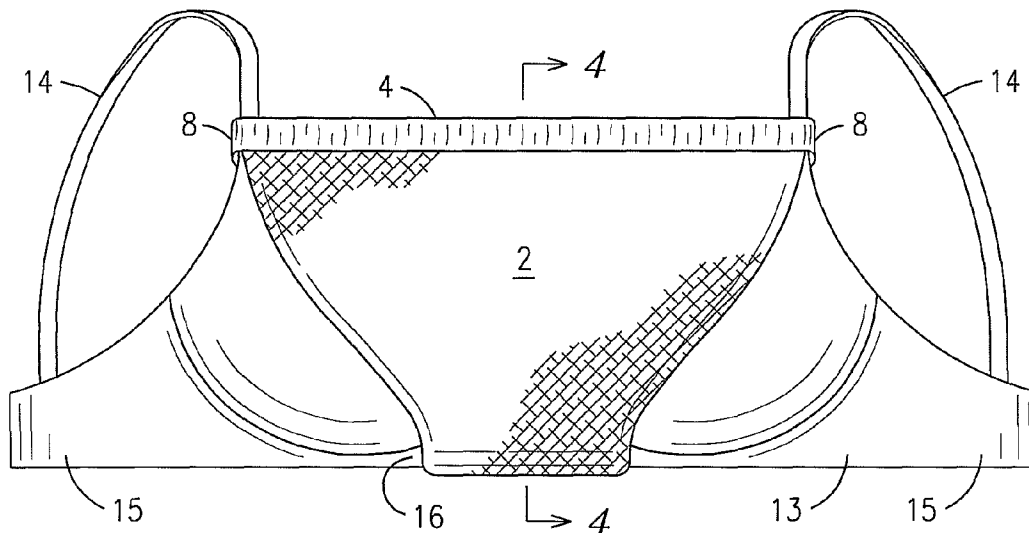
Primary Examiner — Gloria Hale

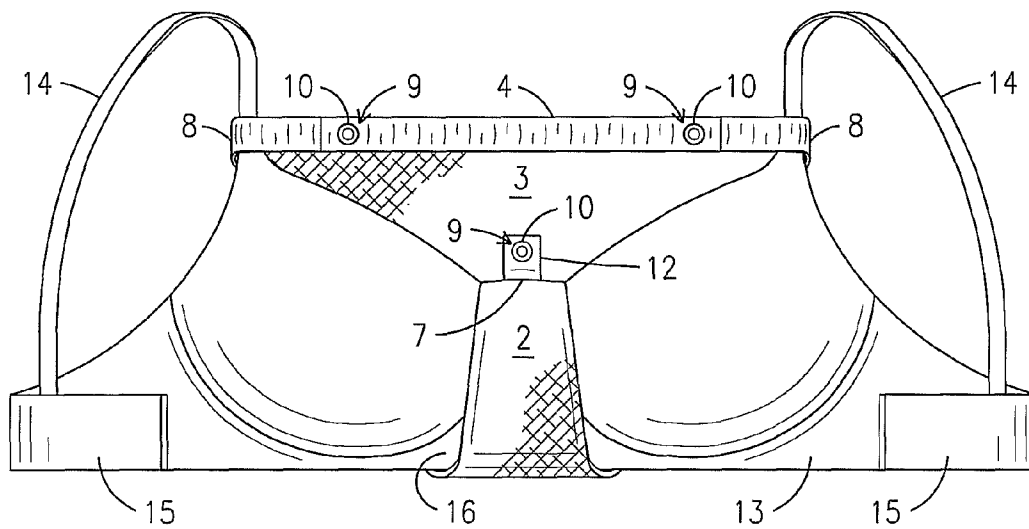
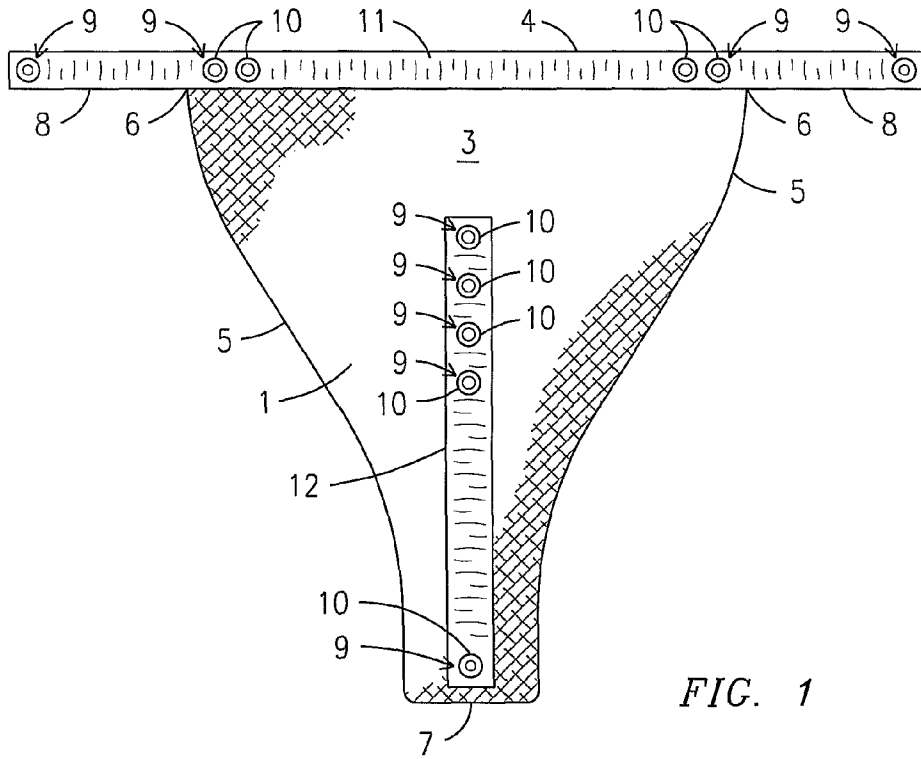
(74) *Attorney, Agent, or Firm* — Maier & Maier, PLLC

(57) **ABSTRACT**

A garment and brassiere accessory that is substantially triangular in shape having attachment straps extending outward from upper corners of the undergarment that may be looped around shoulder straps of a brassiere. In addition, a lower corner may be looped around a center portion of the brassiere. An upper band of preferably elastomeric material located along an upper edge of the undergarment keeps the undergarment securely against a woman's chest while being worn. The undergarment is preferably constructed from two layers of material, an outer layer and an inner layer so that the outer layer hides any wrinkles or indentations caused by the stress of the lower corner pulling on the inner layer while the undergarment is being worn. Additional features include extension straps that allow a user to adapt the undergarment to a larger chest and/or brassiere size or to wear the undergarment without a brassiere and detachable jewelry.

20 Claims, 4 Drawing Sheets





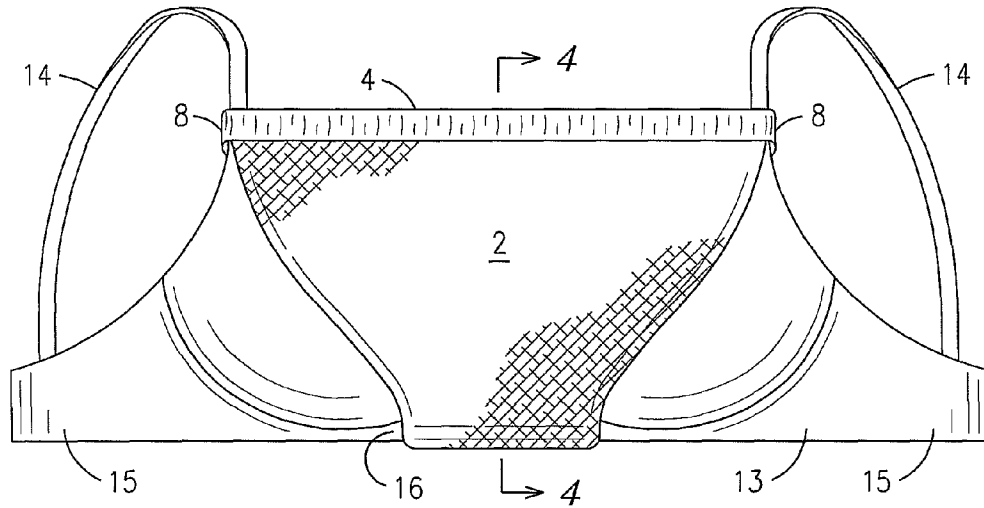


FIG. 3

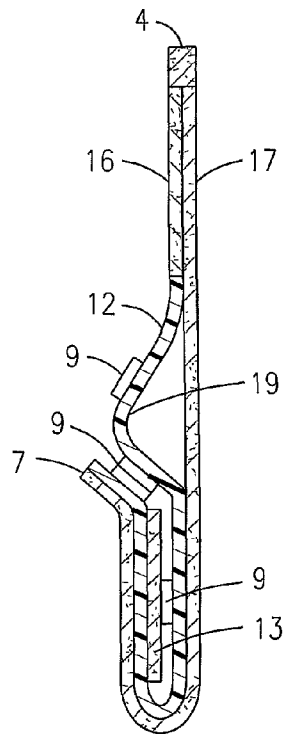


FIG. 4

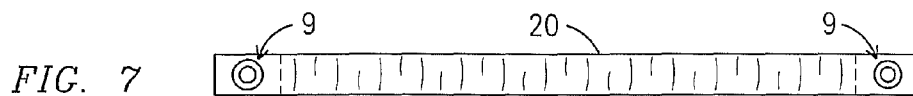


FIG. 7

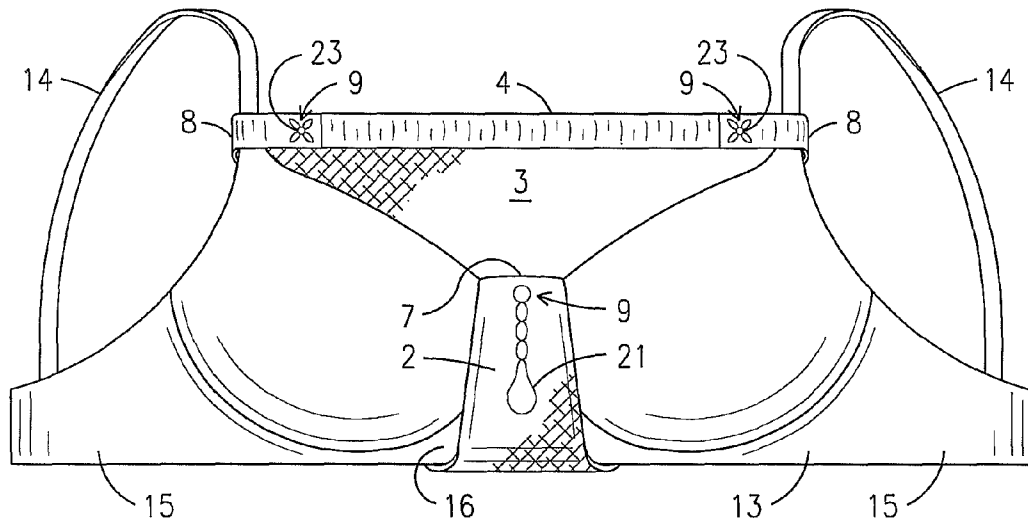


FIG. 5

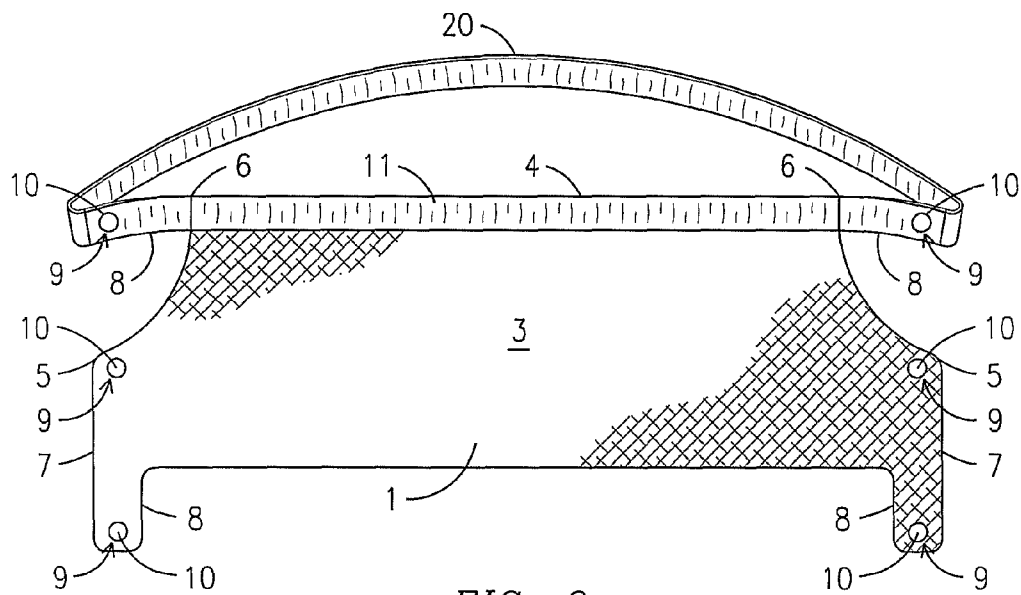


FIG. 6

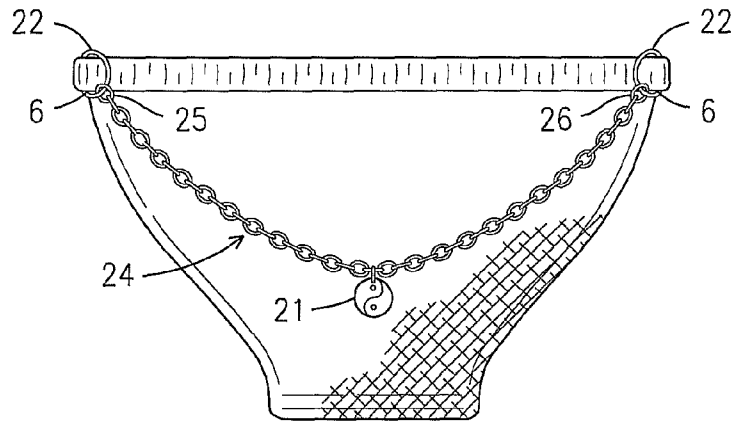


FIG. 8

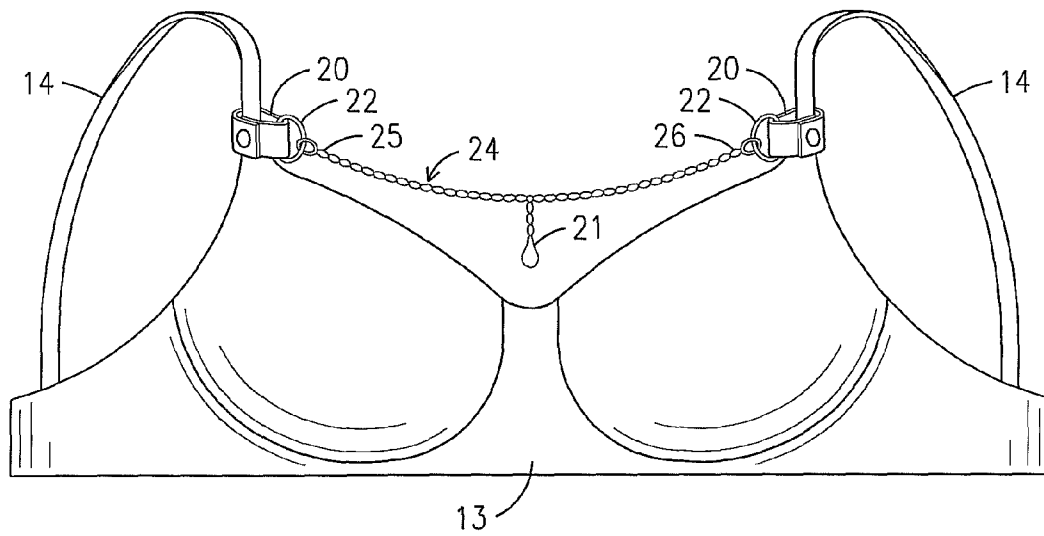


FIG. 9

GARMENT AND BRASSIERE ACCESSORY

CROSS REFERENCE TO RELATED APPLICATION

This is a continuation application of U.S. patent application Ser. No. 12/778,212, filed on May 12, 2010, which was a continuation-in-part application of U.S. patent application Ser. No. 12/586,622, filed on Sep. 25, 2009, which was a continuation-in-part application of U.S. patent application Ser. No. 11/855,131, filed on Sep. 13, 2007. The patent applications identified above are incorporated hereby in their entirety to provide continuity of disclosure.

BACKGROUND OF THE INVENTION

This invention relates to women's garments, undergarments and brassieres, more particularly, a device that attaches to a brassiere and simulates a camisole or tank top and covers a user's chest area and/or cleavage, thereby allowing the user to wear short-cut tops and dresses in formal or any other situations that require a modest attire.

There are many environments, such as work, school, church, etc., where it is considered inappropriate for women to wear low short-cut tops or dresses that reveal too much cleavage. Many women own dresses and/or tops that are formal, but low cut. Therefore a woman can be very limited in her options with regard to clothes for work and so forth. Past attempts have been made to develop garments that attach to brassieres or prevent the low cut tops or dresses to cover exposed cleavage.

However, many of these garments do not attach securely to brassieres to ensure that the garments will not come loose and also do not fit snugly against a woman's chest. A further problem with past garments is that they are not adjustable and thus are not adaptable to different chest sizes and/or different sizes of brassieres. An even further problem with past garments is that some use securing means, such as adhesives, strings, bows, etc., to attach the garments to the brassiere or to the outer garment. These past securing means have been prone to failure due to the fact that securing means, such as adhesives, do not always adhere and do not allow a user to re-use the garment without applying new adhesive. Further, securing means, such as bows, show through the outer garment, thereby making it obvious that a woman is wearing a cleavage covering device that simulates a tank top or camisole. An even further problem with past devices is that they do not attach to strapless brassieres.

Therefore, a need exists for an undergarment that securely attaches to a wearers brassiere, is adjustable to a woman's chest and/or bra size, gives the appearance of being an actual undergarment such as a tank-top, provides a re-usable securing means and can be worn even without a brassiere.

The relevant prior art includes the following references:

Pat. No. (u.s. unless stated otherwise)	Inventor	Issue/Publication Date
2007/0281585	Calamari et al.	Dec. 06, 2007
4,955,846	Greenberg	Sep. 11, 1990

SUMMARY OF THE INVENTION

The primary object of the present invention are to provide a garment and brassiere accessory that securely attaches to a wearer's brassiere.

Another object of the present invention is to provide a garment and brassiere accessory that is adjustable to a woman's chest and/or bra size.

5 An even further object of the present invention is to provide a garment and brassiere accessory that gives the appearance of being an actual undergarment, such as a tank top.

Another object of the present invention is to provide a garment and brassiere accessory that provides a re-usable securing means.

10 An even further object of the present invention is to provide a garment and brassiere accessory that provides a securing means that is not visible through an outer garment.

15 Another object of the present invention is to provide a garment and brassiere accessory that fits securely against a woman's chest.

An even further object of the present invention is to provide a garment and brassiere accessory that will attach to a strapless brassiere.

20 An additional object of the present invention is to provide a garment and brassiere accessory that allows attachment of jewelry to the garment.

25 An even further object of the present invention is to provide a garment and brassiere accessory that can be instantly taken on or off.

An additional object of the present invention is to provide a garment and brassiere accessory that can be worn without a brassiere.

30 The present invention fulfills the above and other objects by providing a garment and brassiere accessory that is substantially triangular in shape having a front surface, a rear surface, an upper edge, side edges, upper corners and a lower corner. Attachment straps extend outward from the upper corners. The attachment straps may be looped around the shoulder straps of a brassiere or in the case of a strapless brassiere, around the side straps of the brassiere. The attachment straps have securing means, such as snaps, buttons, hook and loop fastener, etc., located thereon. After looping the attachment straps around the shoulder straps of a brassiere, the securing means located on the attachment straps are secured to a corresponding securing means located along the upper edge of the garment and brassiere accessory. There may be a plurality of securing means located along the upper edge to allow a user to adjust the length of the loops made by the attachment straps and, thus, the width of the garment and brassiere accessory. A securing means is also located on the lower corner of the device. The lower corner may be looped around the center portion of a brassiere. After looping the lower corner around the center portion of a brassiere, the securing means located on the lower corner is secured to a corresponding securing means located on the rear side of the garment and brassiere accessory.

35 There may be a plurality of securing means located on the rear side of the garment and brassiere accessory to allow a user to adjust the length of the loop made by the lower corner and, thus, the height of the garment and brassiere accessory.

40 An upper band of elastomeric material is located along the upper edge of the garment and brassiere accessory. The elastomeric material keeps the garment and brassiere accessory securely against a woman's chest while being worn. The garment and brassiere accessory is preferably constructed from two layers of material, an outer layer and an inner layer. An advantage of having multiple layers of material is that the outer layer hides the securing means as well as any wrinkles or indentations caused by the stress of the lower corner pulling on the inner layer while the garment and brassiere accessory is being worn.

Additional features of the present invention include extension straps that attach to the attachment straps and allow a user to adapt the garment and brassiere accessory to a larger chest and/or brassiere size. The extension straps may also be used so that a woman can still wear the garment and brassiere accessory without a brassiere. For example, a long extension strap that goes around the woman's back may be attached to the attachment straps of the garment and brassiere accessory. The garment and brassiere accessory may also include attachment means for attaching jewelry to the garment. The above and other objects, features and advantages of the present invention should become even more readily apparent to those skilled in the art upon a reading of the following detailed description in conjunction with the drawings wherein there is shown and described illustrative embodiments of the invention.

BRIEF DESCRIPTION OF THE DRAWINGS

In the following detailed description, reference will be made to the attached drawings in which:

FIG. 1 is a rear view of a garment and brassiere accessory of the present invention;

FIG. 2 is a rear view of a garment and brassiere accessory of the present invention attached to a brassiere;

FIG. 3 is a front view of a garment and brassiere accessory of the present invention attached to a brassiere;

FIG. 4 is a side cross sectional view along line 4-4 of FIG. 3 of a garment and brassiere accessory of the present invention attached to a brassiere;

FIG. 5 is a front view of a garment and brassiere accessory of the present invention attached to a bikini top;

FIG. 6 is a front view of a garment and brassiere accessory of the present invention for use with strapless brassieres;

FIG. 7 is a rear view of an extension strap of the present invention;

FIG. 8 is a front view of a garment and brassiere accessory of the present invention having jewelry attached thereto; and

FIG. 9 is a front view of a brassiere having jewelry attached thereto via extension straps of the present invention.

DESCRIPTION OF THE PREFERRED EMBODIMENTS

For purposes of describing the preferred embodiment, the terminology used in reference to the numbered components in the drawings is as follows:

1. body
2. front surface
3. rear surface
4. upper edge
5. side edge
6. upper corner
7. lower corner
8. attachment strap
9. securing means
10. snap
11. upper band
12. lower band
13. brassiere
14. shoulder straps
15. side straps
16. center portion
17. outer layer
18. inner layer
19. indentation
20. extension strap

21. jewelry
22. attachment means
23. bikini top
24. linking means
25. first end
26. second end

With reference to FIG. 1, a rear view of a garment and brassiere accessory of the present invention is shown. The garment and brassiere accessory comprises a body 1 that is substantially triangular in shape. The body 1 comprises a front surface 2 (as shown in FIG. 3), a rear surface 3, an upper edge 4, side edges 5, upper corners 6 and a lower corner 7. Attachment straps 8 extend outward from the upper corners 6. A plurality of securing means 9, such as snaps 10, buttons, hook and loop fasteners, hook and eye fasteners, etc., are located along the upper edge 4 of the garment and brassiere accessory and attachment straps 8. Also, a securing means 9 is also located on the lower corner 7 of the garment and brassiere accessory. In addition, a plurality of securing means 9 are located on the rear surface 3 of the garment and brassiere accessory directly above the lower corner 7. An upper band 11 preferably having elastomeric qualities is located along the upper edge 4 of the garment and brassiere accessory. The upper band 11 keeps the garment and brassiere accessory securely against a woman's chest while being worn. A lower band 12 preferably having elastomeric qualities is located on the rear surface 3 of the garment and brassiere accessory and provides reinforcement for the securing means 9 that are located on the rear surface 3 of the garment and brassiere accessory directly above the lower corner 7.

With reference to FIGS. 2 and 3, a rear view and a front view of a garment and brassiere accessory of the present invention attached to a brassiere 13, respectively, are shown. To secure the garment and brassiere accessory to a brassiere 13, the attachment straps 8 are looped around shoulder straps 14 of the brassiere 13 or in the case of a strapless brassiere, looped around or looped under and over side straps 15 of the brassiere 13. The attachment straps 8 are then secured to the upper edge 4 of the garment and brassiere accessory by attaching the securing means 9 located on the attachment straps 8, which as shown here are snaps 10, to corresponding securing means 9 located along the upper edge 4 of the garment and brassiere accessory. Then the lower corner 7 is looped around a center portion 16 of the brassiere 13. The lower corner 7 is then secured to the rear surface 3 of the garment and brassiere accessory by attaching the securing means 9 located on the lower corner 7 to corresponding securing means 9 located along the rear surface 3 of the garment and brassiere accessory.

With reference to FIG. 4, a side cross sectional view along line 4-4 of FIG. 3 of a garment and brassiere accessory of the present invention attached to a brassiere 13 is shown. The garment and brassiere accessory is preferably constructed from two layers of material, an outer layer 17 and an inner layer 18, both preferably made of a stretchable cloth-like material. An advantage of having an outer layer 17 and an inner layer 18 is that the outer layer 17 hides the securing means 9 as well as any wrinkles or indentations 19 caused by the stress of the lower corner 7 pulling downward on the inner layer 17 while the garment and brassiere accessory is being worn.

With reference to FIG. 5, a front view of a garment and brassiere accessory of the present invention attached to a bikini top 23 is shown. The garment and brassiere accessory is worn with the rear surface 3 facing outward when worn on a bikini top 23. To secure the garment and brassiere accessory to the bikini top 23, the attachment straps 8 are looped around

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shoulder straps **14** of the bikini top **23**. The attachment straps **8** are then secured to the upper edge **4** of the garment and brassiere accessory by attaching the securing means **9** located on the attachment straps **8**, which as shown here are decorative snaps **23**, to corresponding securing means **9** located along the upper edge **4** of the garment and brassiere accessory. Then the lower corner **7** is looped around a center portion **16** of the bikini top **23**. The lower corner **7** is then secured to the rear surface **3** of the garment and brassiere accessory by attaching the securing means **9** located on the lower corner **7** to corresponding securing means **9** located along the rear surface **3** of the garment and brassiere accessory. A decorative piece of jewelry **21** is attached to the securing means **9** located on the lower corner **7**.

With reference to FIG. 6, a front view of a garment and brassiere accessory of the present invention for use with strapless brassieres. The garment and brassiere accessory comprises a body **1** that is substantially rectangular in shape. The body **1** comprises a front surface **2**, a rear surface **3**, an upper edge **4**, side edges **5**, upper corners **6** and lower corners **7**. Attachment straps **8** extend outward from the upper corners **6**. Securing means **9**, such as snaps **10**, buttons, hook and loop fasteners, hook and eye fasteners, etc., are located on the attachment straps **8**. The attachment straps **8** are used in conjunction with an extension strap **20** (as shown further in FIG. 7) that allows a user to secure the upper edge **4** of the garment and brassiere accessory around the user's back. Also, attachment straps **8** having securing means **9** extend downward from the lower corners **7** of the garment and brassiere accessory. In addition, securing means **9** are located on the rear surface **3** of the garment directly above the lower corners **7**. The attachment straps **8** located on the lower corners **7** may be looped around or looped under and over side straps **15** of the brassiere **13**. An upper band **11** preferably having elastomeric qualities is located along the upper edge **4** of the garment and brassiere accessory. The upper band **11** keeps the garment and brassiere accessory securely against a woman's chest while being worn.

With reference to FIG. 7, a rear view of an extension strap **20** of the present invention **20** is shown. The extension strap **20** can be made in various lengths or sizes. The extension strap **20** has securing means **9** located on opposite ends that attach to the securing means **9** located on the garment and brassiere accessory allow a user to adapt the garment and brassiere accessory to a larger chest and/or brassiere **13** size. Extension straps **20** may also be used so that a woman can still wear the garment and brassiere accessory without a brassiere **13**. For example, a long extension strap **20** may be attached to the attachment straps **8** of the garment and brassiere accessory and be worn around the back of a user.

With reference to FIG. 8, a front view of a garment and brassiere accessory of the present invention having jewelry **21** attached thereto is shown. The garment and brassiere accessory may have an attachment means **22**, such as loops, hooks, clasps, etc., that allow a user to attach a piece of jewelry **21** or a plurality of linking means **24**, such as a rope, ribbon, wire, chain, pearls, beads, etc., having a first end **25** and a second end **26**, to the garment and brassiere accessory or directly to a brassiere. The attachment means **22** are preferably located near the upper corners **6** of the garment and brassiere accessory.

Finally with reference to FIG. 9, a front view of a brassiere **13** having jewelry **21** attached thereto via extension straps **20** of the present invention is shown. Jewelry **21** or a plurality of linking means **24**, such as a rope, ribbon, wire, chain, pearls, beads, etc., having a first end **25** and a second end **26**, is attached to the brassiere **13** by looping the extension straps **20** around the shoulder straps **14** of the brassiere **13** and through the an attachment means **22**, which as shown here are rings.

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It is to be understood that while a preferred embodiment of the invention is illustrated, it is not to be limited to the specific form or arrangement of parts herein described and shown. It will be apparent to those skilled in the art that various changes may be made without departing from the scope of the invention and the invention is not to be considered limited to what is shown and described in the specification and drawings.

What is claimed is:

1. A brassiere garment accessory comprising:

a body having a front surface,
a rear surface,
an upper edge,
at least two side edges, and
at least two upper corners at distal ends of the upper edge
and at least one lower corner;
at least one attachment strap extending from each of the at least two upper corners, the at least one attachment strap having a proximal portion coupled to the body and a distal portion extending away from the body along the upper edge; and
at least one fastener located on the distal portion of the at least one attachment strap that facilitates coupling of the at least one fastener located on the distal portion of the at least one attachment strap to at least one fastener located on at least one of the proximal portion of the at least one attachment strap and the body of the brassiere garment accessory.

2. A brassiere garment accessory of claim **1** further comprising: an upper band located along the upper edge of the body.

3. A brassiere garment accessory of claim **2** wherein: said upper band has elastomeric qualities.

4. A brassiere garment accessory of claim **1** further comprising: a lower band located on the rear surface of the body.

5. A brassiere garment accessory of claim **2** wherein: said lower band has elastomeric qualities.

6. A brassiere garment accessory of claim **1** wherein: the body further comprises at least one outer layer and at least one inner layer.

7. A brassiere garment accessory of claim **1** further comprising: an extension strap for extending the length of the at least one attachment strap.

8. A brassiere garment accessory of claim **1** further comprising: an attachment portion for attaching a piece of jewelry to the garment and brassiere accessory.

9. A brassiere garment accessory of claim **1** wherein: the body further comprises at least one lower corner.

10. A brassiere garment accessory of claim **9** further comprising: at least one fastener located on the at least one lower corner.

11. A brassiere garment accessory comprising:

a body having a front surface, a rear surface, an upper edge,
at least two side edges, and at least two upper corners at distal ends of the upper edge;
at least one attachment strap extending from each of the at least two upper corners, the attachment strap having a proximal portion coupled to the body and a distal portion extending away from the body along the upper edge; and
at least one fastener located on the distal portion of the attachment strap that facilitates coupling of the at least one fastener located on the distal portion of the at least one attachment strap to at least one fastener located on at least one of the proximal portion of the at least one attachment strap and the body of the brassiere garment accessory; wherein at least a portion of the body comprises at least one inner layer and at least one outer layer; and the upper edge has elastomeric qualities.

12. A brassiere garment accessory of claim **11** further comprising: an upper band located along the upper edge of the body.

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13. A brassiere garment accessory of claim 12 wherein: said upper band has elastomeric qualities.

14. A brassiere garment accessory of claim 11 further comprising: a lower band located on the rear surface of the body.

15. A brassiere garment accessory of claim 14 wherein: 5
said lower band has elastomeric qualities.

16. A brassiere garment accessory of claim 11 further comprising: an extension strap for extending the length of the at least one attachment strap.

17. A brassiere garment accessory of claim 11 further comprising: an attachment portion for attaching a piece of jewelry 10
to the garment and brassiere accessory.

18. A brassiere garment accessory comprising:

a body having a front surface, a rear surface, an upper edge, 15
at least two side edges, and at least two upper corners at distal ends of the upper edge and at least one lower corner;

and

at least one attachment strap extending from each of the at least two side edges, the attachment strap having a proxi-

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mal portion coupled to the body and a distal portion extending away from the body along the upper edge the at least one attachment strap further having at least one fastener located on a distal portion of the at least one attachment strap that facilitates coupling of the at least one fastener located on the distal portion of the at least one attachment strap to at least one fastener located on at least one of a proximal portion of the at least one attachment strap and the body of the brassiere garment accessory.

19. A brassiere garment accessory of claim 18, wherein at least a portion of the body comprises at least one inner layer and at least one outer layer.

20. A brassiere garment accessory of claim 18, further comprising a plurality of fasteners located on the proximal portion of the attachment strap and at least one fastener located on the distal portion of the attachment strap.

* * * * *

EXHIBIT 4

Claim Chart

US Patent No. 8152591

Claim 1

1. A brassiere garment accessory comprising:

a body having a front Surface, a rear Surface, an upper edge,

at least two side edges,

and at least two upper corners at distal ends of the upper edge and at least one lower corner,

at least one attachment strap extending from each of the at least two upper corners,

the at least one attachment strap having a proximal portion coupled to the body and a distal portion extending away from the body along the upper edge;



and at least one fastener located on the distal portion of the at least one attachment strap that facilitates coupling of the at least one fastener located on the distal portion of the at least one attachment strap to at least one fastener located on at least one of the proximal portion of the at least one attachment strap and the body of the brassiere garment accessory.

