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Retailers Settle Trademark Suit Over 'G-Defy' Shoes

Share us on: By **Jonathan Randles**

Law360, New York (October 08, 2014, 3:44 PM ET) -- A group of sports apparel retailers including [Under Armour Inc.](#) and [Foot Locker Inc.](#) said Tuesday that they have settled under undisclosed terms a California lawsuit alleging they sold athletic shoes that violate shoe maker Gravity Defyer Corp.'s "G-Defy" trademark.

Attorneys for the retailers and Gravity Defyer notified a California federal judge that they had reached a resolution to the **year-old litigation** after the fifth day of trial. The lawsuit was over retailers' sale and advertising of allegedly trademark-infringing Micro G Defy brand shoes.

Gravity Defyer claimed in its suit that when the retailers began selling the Micro G Defy shoes, webpages showing Gravity Defyer's shoes were buried by results for Micro G. The defendants agreed to stop advertising the Micro G Defy products shortly after the lawsuit was filed.

[Nordstrom Inc.](#), [Dick's Sporting Goods Inc.](#), Champs Sports, [Sport Chalet Inc.](#), Zappos IP Inc., Backcountry.com Inc., Rogan Shoes Inc., Road Runner Sports Retail Inc., MonkeySports Inc., Holabird Sports LLC and [Eastbay Inc.](#) were also listed as defendants in the case.

The trial went underway weeks after U.S. District Judge John Kronstadt in July **denied the retailers' motion for summary judgment**. At the time, Judge Kronstadt said questions over whether customers were confused between the Micro G Defy and Gravity Defyer shoes should be left for a jury to decide.

“There is a genuine issue of fact with respect to whether the ordinary consumer is likely to associate the two products,” Judge Kronstadt said.

In support of that finding, Judge Kronstadt noted that both Gravity Defyer and Micro G Defy are athletic shoes that were advertised as providing extra “bounce” to wearers.

Meanwhile, Gravity Defyer moved to prevent the retail defendants from presenting evidence to a jury that the advertising used to boost the purported benefits of wearing G-Defy shoes were false or misleading. The retailers had indicated before trial that advertising claims Gravity Defyer had used in its G-Defy marketing will form the basis of a so-called **"unclean hands"** defense that, if successful, could help them reduce or avoid potential liability.

According to an exhibit that has been submitted to the court, Gravity Defyer has claimed in print advertising that the "smart spring technology" in G-Defy shoes provides "immediate relief" to joint pain, eliminates ankle and foot pain and provides individuals who regularly wear the shoe improved athletic performance.

Attorneys for Gravity Defyer and the accused retailers did not immediately respond to messages seeking comment on Wednesday.

Gravity Defyer is represented by Robert J. Lauson of Lauson & Tarver LLP and Leon Small.

The defendants are represented by Allan E. Anderson and Jerrold Abeles of Arent Fox LLP and Arnold E. Sklar and Alan J. Hart of Ropers Majeski Kohn & Bentley PC.

The case is Gravity Defyer Corp. v. Under Armour Inc. et al., case number 2:13-cv-01842, in the U.S. District Court for the Central District of California.

--Editing by Christine Chun.

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