

3. Plaintiffs VIBV and VUSA are sister companies, and each are wholly-owned subsidiaries of Velcro Industries N.V.

4. On information and belief, Defendant OUTDOOR TEXTILES, INC. is a Florida corporation having a place of business at 3411 S.E. Dixie Hwy, Stuart, Florida 34997. On information and belief, Defendant OUTDOOR TEXTILES, INC. has conducted and is conducting business in this district by means of, *inter alia*, an Internet website at <www.outdoortextiles.com>.

JURISDICTION AND VENUE

5. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1338(a) and (b), and pursuant to the doctrine of supplemental jurisdiction as codified in Title 28 U.S.C. § 1367.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c).

COUNT I - FEDERAL TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114: VELCRO® TRADEMARK

7. From a date long prior to the acts of Defendant complained of herein, Plaintiff VIBV and its exclusive licensee, Plaintiff VUSA, have extensively used the mark and name VELCRO® in connection with, *inter alia*, fastener products and goods incorporating fastener products. Plaintiffs and their customers have advertised and promoted these goods throughout the United States, including by way of an Internet website at “www.velcro.com”. As a result of these efforts, the mark VELCRO® has

become a famous mark, and the goodwill associated with the mark and name VELCRO® has become a valuable asset of the Plaintiffs.

8. Plaintiff VIBV is the owner of twenty (20) United States Trademark Registrations for the mark VELCRO, as follows:

<u>MARK</u>	<u>REG. NO.</u>	<u>ISSUED</u>	<u>GOODS</u>
VELCRO	661,700	05-13-58	Notion-namely a synthetic material sold in ribbon, sheet, or piece goods form, said material having complemental parts which adhere to each other when pressed together and adapted for use as a closure, fastener, or button for closing garments, curtains, or the like.
VELCRO	1,027,417	12-16-75	Separable fasteners - namely, hook and loop-type fasteners and components thereof.
VELCRO	1,031,355	01-27-76	Medical splints and straps for use therewith incorporating hook and loop fasteners.
VELCRO	1,044,049	07-20-76	Safety straps incorporating hook and loop fasteners for medical uses on operating tables, wheelchairs, and the like.
VELCRO	1,091,889	05-23-78	Hook and loop type fasteners for use with recreational vehicles and the like.
VELCRO	1,154,773	05-19-81	Straps incorporating hook and loop type fasteners for use in the medical field

VELCRO	1,163,756	08-04-81	Screen kits, including hook and loop tapes, insect screening and adhesive.
VELCRO	1,184,926	01-05-82	Self-gripping hair rollers.
VELCRO	1,598,591	05-29-90	Molded and extruded plastic material having a surface of hooks or loops, for use in manufacture as components of hook and loop fastening systems; hook and loop fastening systems for use in manufacture
VELCRO	1,705,079	08-04-92	Fabrics and textiles and substitutes therefor, namely, woven, molded, or extruded synthetic material having a surface of hooks and woven synthetic material having a surface of loops.
VELCRO	1,846,829	07-26-94	Separable fasteners; namely, hook and loop type fasteners and components thereof.
VELCRO	2,174,852	07-21-98	Toys and games incorporating hook and loop fasteners, namely, flying disc catch games, tag games featuring balls and vests, target games featuring balls and targets, stuffed toys and dolls with detachable limbs and features, puppets and detachable limbs and features therefor, puppet theaters and board games.
VELCRO	2,220,407	01-26-99	Adhesives for stationery and household use.
VELCRO	2,225,595	02-23-99	Non-electric hair curlers, namely hair rollers.
VELCRO	2,225,651	02-23-99	Snap fasteners and grommets in the nature of eyelets for securing tarpaulins.

VELCRO	2,227,960	03-02-99	Water-resistant pouches for general use.
VELCRO	2,227,961	03-02-99	Watch bands.
VELCRO	2,242,632	05-04-99	Adhesive cement for hobbyists.
VELCRO	2,529,312	01-15-02	Fasteners, namely, buckles, & design snap-hooks, adjuster bars, slides, cord locks, zipper pulls, and modular buckles having alternative components adaptable to different sizes and configurations.
VELCRO	2,570,823	05-21-02	Fasteners, namely, buckles, snap-hooks, adjuster bars, slides, cord locks, zipper pulls, and modular buckles having alternative components adaptable to different sizes and configurations.

9. Defendant OUTDOOR TEXTILES, INC. has marketed and is currently marketing fastener products referred to as “velcro,” which products, on information and belief, do not comprise or incorporate genuine VELCRO® brand fastener materials. Defendant’s use of the term “velcro” in this manner is likely to cause confusion, mistake, and deception as to the source of Defendant’s products, as to the association between Plaintiffs and Defendant, and/or as to the licensing or approval of Defendant’s products by Plaintiffs. To the extent that purchasers and potential purchasers of the Defendant’s products are dissatisfied with the products, such dissatisfaction will reflect upon and irreparably damage the reputation and goodwill enjoyed by Plaintiffs in the VELCRO® mark. Defendant’s use of Plaintiffs’ trademark constitutes an infringement of Plaintiffs’ federally-registered trademarks, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. Sec. 1114(1). Defendant has been notified of its infringing activities but has nonetheless continued to infringe, in willful violation of Plaintiffs’ rights.

10. Unless permanently enjoined by this court, the acts of Defendants will cause irreparable injury and damage to Plaintiffs and their valuable trademark rights, for which damage and injury there exists no adequate remedy at law.

**COUNT II - VIOLATION OF THE FEDERAL TRADEMARK
DILUTION ACT, 15 U.S.C. § 1143(C): VELCRO® TRADEMARK**

11. Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1-10 above.

12. Alternatively, even if Defendant is offering genuine VELCRO® brand material, its use of the term “velcro” generically as a noun -- for example in the phrase “All velcros available are UV resistant” -- rather than in a trademark manner, has caused dilution of the distinctive quality of the famous VELCRO mark, in violation of 15 U.S.C. §1143(c).

**COUNT III - FEDERAL TRADEMARK INFRINGEMENT
UNDER 15 U.S.C. § 1114: VELSTICK® TRADEMARK**

13. From a date long prior to the acts of Defendants complained of herein, Plaintiff VIBV and its exclusive licensee, Plaintiff VUSA, have extensively used the mark and name VELSTICK® in connection with, *inter alia*, fastener products and goods incorporating fastener products. Plaintiffs and their customers have extensively advertised and promoted these goods through the United States. As a result, the mark VELSTICK® has become a famous mark, and the goodwill associated therewith has become a valuable asset of the Plaintiffs.

14. Plaintiff VIBV is the owner of incontestable United States Trademark Registrations Nos. 820,027 and 1,594,388 for the mark VELSTICK for hook-and-loop fastener materials.

15. Defendant OUTDOOR TEXTILES, INC. has marketed and is currently marketing fastener products referred to as “velstick,” which products, on information and belief, do not comprise or incorporate genuine VELSTICKO® brand fastener materials. Defendant’s use of the term “velstick” in this manner is likely to cause confusion, mistake, and deception as to the source of Defendant’s products, as to the association between Plaintiffs and Defendant, and/or as to the licensing or approval of Defendant’s products by Plaintiffs. To the extent that purchasers and potential purchasers of the Defendant’s products are dissatisfied with the products, such dissatisfaction will reflect upon and irreparably damage the reputation and goodwill enjoyed by Plaintiffs in the VELSTICK® mark. Defendant’s use of Plaintiffs’ trademark constitutes an infringement of Plaintiffs’ federally-registered trademarks, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. Sec. 1114(1). Defendant has been notified of its infringing activities but has nonetheless continued to infringe, in willful violation of Plaintiffs’ rights.

COUNT IV - VIOLATION OF THE FEDERAL TRADEMARK
DILUTION ACT, 15 U.S.C. § 1143(C): VELSTICK® TRADEMARK

16. Plaintiffs repeat and re-allege the allegations set forth in paragraphs 1-15 above.

17. Alternatively, even if Defendant is offering genuine VELSTICK® brand material, its use of the term “velstick” generically as a noun -- for example in the phrase “Velstick is also

available” -- rather than in a trademark manner, has caused dilution of the distinctive quality of the famous VELSTICK mark, in violation of 15 U.S.C. §1143(c).

COUNT V – VIOLATION OF NEW HAMPSHIRE R.S. Ch. 358-A:2

18. Plaintiffs repeat and re-allege the allegations of paragraphs 1-17 above.

19. The aforesaid actions of Defendant constitute an unfair method of competition or unfair or deceptive acts or practices in the conduct of trade or commerce. Plaintiffs have been injured and are being injured by these actions. Consequently, these actions violate New Hampshire R.S. 358-A:2.

COUNT VI – COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

20. Plaintiffs repeat and re-allege the allegations of paragraphs 1-19 above.

21. The aforesaid actions of Defendant have damaged and are damaging Plaintiffs, in violation of the common law of trademark infringement and unfair competition.

* * * * *

WHEREFORE, Plaintiffs VELCRO INDUSTRIES B.V. and VELCRO USA INC. demand judgment against the Defendant OUTDOOR TEXTILES, INC. as follows:

A. That Defendant be preliminarily and permanently enjoined from using the terms “velcro” and “velstick”, and any confusingly similar variation thereof, in any manner in connection with the marketing and sale of its products.

B. That Defendant be ordered to file with this court and to serve upon Plaintiffs within thirty days of service of the permanent injunction requested herein, a report in writing, under oath, setting forth in detail the manner and form in which Defendant has complied therewith.

C. With regard to Counts I, III, V, and VI of the Complaint, that Defendant pay to Plaintiffs VELCRO INDUSTRIES B.V. and VELCRO USA INC., Defendant's profits and such damages as Plaintiffs have incurred by reason of the actions complained of herein, said profits and damages to be trebled in view of the willfulness of Defendant's illegal actions.

D. That Plaintiffs recover their costs in this civil action, as well as their reasonable attorney fees and other expenses.

E. That this court grant such other and further relief as it deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b), Fed. R. Civ. P., Plaintiffs hereby demand trial by jury of all issues so triable.

VELCRO INDUSTRIES B.V.
and VELCRO USA INC.

Date: January 6, 2005

/s/ R. Matthew Cairns
R. Matthew Cairns (#411)
Ransmeier & Spellman
One Capital Street
P.O. Box 600
Concord, NH 03302-0600
603/228-0477
matt@ranspell.com

OF COUNSEL:

John L. Welch
Susan B. Montgomery
Foley Hoag LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2600
617/732-1000