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## Rapper-Repped Clothing Co. Hits Under Armour With TM Suit

By **Aaron Vehling**

Law360, New York (March 06, 2015, 2:07 PM ET) -- Hydro Clothing, an apparel brand featured on several VH1 reality shows featuring former Public Enemy rapper Flavor Flav, on Thursday sued Under Armour Inc. in a California federal court, alleging that Under Armour's similarly named products infringe on Hydro's trademarks.

Hydro Clothing, a name under which Cohen International Inc., does business, says in its suit that Under Armour's line of shirts, board shorts, pants, hoodies and other apparel under the name "Hydro" and "Hydro Armour" is deceptive and likely to confuse consumers. The complaint also names Dick's Sporting Goods Inc., which sells Under Armour's clothing line.

"[Under Armour]'s unauthorized use of the Hydro mark is a trademark use which is likely to confuse the reasonably prudent consumer into believing that [Under Armour]'s infringing apparel products are produced by Cohen," the complaint says. "On information and belief, Dick's and [other] retailers are continuing to sell [Under Armour] products bearing the Hydro mark, despite being requested in writing by Cohen to cease their infringement of the Hydro mark."

Before filing the lawsuit, Hydro Clothing also sent Under Armour directly a cease-and-desist notice, but the apparel company continues to promote and sell products under the Hydro mark, the complaint says.

The three-count complaint, which accuses Under Armour and Dick's of violating the Lanham Act and makes federal and California unfair competition claims, asks for damages, disgorged profits and a court order banning additional manufacture and sale of Under Armour's Hydro products, among other things.

The origins of Hydro Clothing's "Hydro" mark traces back to 1997, when a company called E.Z. Green Hydroponics I Inc. began selling several types of apparel under the mark. In 2000, E.Z. Green and Cohen started a website to market and sell the products, according to the complaint.

The apparel bearing the Hydro mark has been sold directly to individual buyers and through retail distributors, according to the suit.

Starting in 2004 and at least until 2009, the profile of the clothing ascended considerably when Hydro Clothing's products were featured on several of VH1's reality shows that featured Flav — beginning with "The Surreal Life" and continuing with "Strange Love" and three seasons of "Flavor of Love," according to the suit.

"Flavor Flav and the casts of these shows wore apparel provided to them by Cohen or its predecessor and bearing the Hydro mark in most or all of the episodes broadcast," the complaint says.

The Hydro mark obtained additional commercial exposure through Flav's public appearances and when he was a guest on talk shows, according to the suit.

In 2006, E.Z. Green registered the mark with the U.S. Patent and Trademark Office and in 2011 it officially assigned the mark to Cohen and company principal Lior Cohen, according to the suit, which says that Under Armour began marketing clothing with the mark in 2014.

Under Armour has recently also been on the plaintiffs' side in a trademark infringement suit. In February, the company **launched a suit** in a Maryland federal court against Skechers USA Inc., saying that the shoe company's TV commercial rips off the athletic apparel company's well-known "Protect This House. I Will." ad campaign.

Representatives for Under Armour and Dick's were not immediately available to comment on Friday.

The trademark-in-suit is U.S. Trademark Number 3109252.

Hydro Clothing is represented by Brandon J. Witkow and Cory A. Baskin of Witkow Law.

Counsel information for the defendants was not immediately available on Friday.

The case is Cohen International Inc. v. Under Armour Inc. et al., case number 2:15-cv-01625, in the U.S. District Court for the Central District of California.

--Editing by Stephen Berg.

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