



Sporting Goods Co. Can't Shake Football Helmet Patent Case

By [Adam Lidgett](#) ·

Law360 (January 3, 2024, 9:59 PM EST) -- An Illinois federal judge said Wednesday a jury should decide the issues in a lawsuit claiming a brand of helmets made by sporting goods manufacturer Certor Sports infringes a patent owned by another company, refusing to let Certor out of the suit.

U.S. District Judge Sue E. Myerscough denied Certor Sports LLC's bid for summary judgment in the case brought by patent owner Apalone Inc, [saying in an opinion](#) "that triable issues of fact exist concerning infringement of the asserted claim of the" patent-in-suit.

The asserted claim covers how the first and second shells of a helmet are attached. The judge added "that a reasonable jury could find that the 'attachment mechanism' limitation is present in the F7 accused products."

Certor makes football helmets, including the F7 brand of football helmets, which is accused of infringing the patent-in-suit, U.S. Patent No. 8,938,817, according to the opinion.

Athletic gear developer Apalone sued over the attachment mechanism in 2021 in federal court, but Certor fought back, arguing the helmet doesn't meet the same attachment qualifications as the ones in the '817 patent, according to court documents.

But the judge said it was too early in the case for summary judgment.

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Case Information

Case Title

[Apalone Inc. v. Schutt Sports LLC et al](#)

Case Number

[3:21-cv-03186](#)

Court

Illinois Central

Nature of Suit

Patent

Judge

[Sue E Myerscough](#)

Date Filed

August 25, 2021

"There are issues of fact unsuitable for resolution on summary judgment as to whether the relevant structure of the F7 accused products is identical or equivalent to the chin-strap snaps/screws and face-mask mounts disclosed in the '817 patent," Judge Myerscough said. "This court finds that a jury, therefore, could reasonably conclude that [an] element of the F7 accused products is identical or equivalent to the attachment mechanisms disclosed in the '817 patent."

Counsel for Apalone said he was happy with the order.

"We're pleased with the court's decision and look forward to presenting the case at trial," Raymond P. Niro Jr., an attorney for Apalone, told Law360 on Wednesday.

In 2019, Apalone [sued another company](#) for patent infringement, saying Schutt Sports' football helmet violated "each and every element" of at least one claim on its '817 patent. According to Wednesday's opinion, the case was dismissed when Schutt's parent company [filed for Chapter 7 bankruptcy](#).

Counsel for Certor did not immediately respond to a request for comment.

The patent-in-suit is U.S. Patent No. 8,938,817.

Apalone is represented by Raymond P. Niro Jr. and Kyle D. Wallenberg of [Niro McAndrews LLP](#).

Certor is represented by Thad C. Kodish, Wonjoon Chung and Bailey K. Benedict of [Fish & Richardson PC](#), and David A. Herman and Matthew R. Trapp of [Giffin Winning Cohen & Bodewes PC](#).

The case is Apalone Inc. v. Schutt Sports LLC et al., case number [3:21-cv-03186](#), in the [U.S. District Court for the Central District of Illinois](#).

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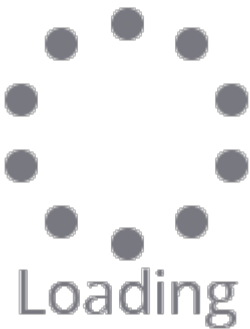
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--Editing by Lakshna Mehta.

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