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10 Skip Hop, Inc.

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 SKIP HOP, INC., a New York
14 Corporation,

15 Plaintiff,

16 v.

17 MUNCHKIN, INC., a Delaware
18 Corporation; and

19 BRICA, INC., a Florida Corporation

20 Defendants.

Case No. 2:15-cv-6339

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff Skip Hop, Inc. ("Plaintiff" or "Skip Hop"), by its attorneys, for its complaint against Defendants Munchkin, Inc. ("Munchkin") and Brica, Inc. ("Brica") (collectively referred to as "Defendants") hereby alleges as follows:

INTRODUCTION

1. This is an infringement action brought by the Skip Hop pursuant to the Patent Laws of the United States, United States Code, Title 35 for damages and to enjoin future infringement.

JURISDICTION

2. This Court has original jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a) because it arises under the Patent Laws of the United States, United States Code, Title 35.

3. This Court has personal jurisdiction over the Defendants in this action on the grounds that, upon information and belief: (a) the Defendants have committed acts of patent infringement in the State of California; (b) the Defendants do business in the State of California; and (c) Brica is a division of Munchkin, and Munchkin's principal place of business is in the State of California.

VENUE

4. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) because a substantial part of the events giving rise to this claim occurred in this District and because the Defendants are subject to personal jurisdiction in this district.

5. Venue is further proper in this District under 28 U.S.C. § 1400(b) because the Defendants committed acts of infringement in this District.

PARTIES

6. Plaintiff Skip Hop, Inc., is a corporation organized and existing under the laws of New York with its principal place of business located at 50 West 23rd Street, 11th Floor, New York, NY 10010.

7. Defendant Munchkin, Inc., is a corporation organized under the laws of Delaware with its principal place of business located at 7835 Gloria Ave, Van Nuys, CA 91406, which is within the Central District of California. Munchkin is qualified to do business in California.

8. Defendant Brica is a corporation organized under the laws of Florida with its principal place of business located at 2126 Cumberland Avenue, Charlotte, NC 28203-6010.

FACTUAL BACKGROUND

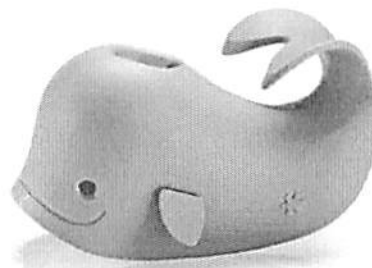
9. Skip Hop is a market-leading company that creates unique, innovative and highly functional products that make parenting easier, better and more fun.

10. Skip Hop is a leading producer and seller of baby products and products for parenting to consumers in the United States under the SKIP HOP® brand.

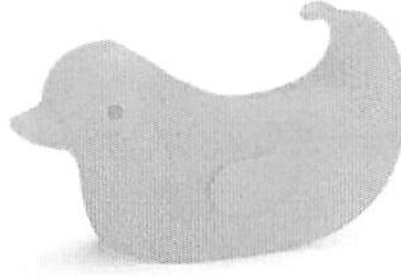
11. Skip Hop offers for sale spout covers in the shape of whales that brighten up the bath tub while keeping a baby's head safe from bumps. This spout cover is offered for sale under the trademark MOBY™ (the "Moby Cover"). The sleek design of the Moby Cover includes an adjustable strap that fits snugly on most tub spouts, and a tail that is also a handy hook, so the Moby Cover can hang around when bathtime is done.

12. Similarly, Skip Hop offers for sale spout covers in the shape of ducks under the trademark DUCKY™ (the "Ducky Cover"). Like the Moby Cover, the Ducky Cover includes an adjustable strap that fits snugly on most tub spouts, and a tail that is also a handy hook, so the Ducky Cover can hang around when bathtime is done.

13. The Moby Cover possesses the following appearance:



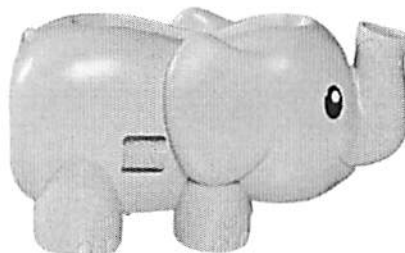
1 14. The Ducky Cover possesses the following appearance:



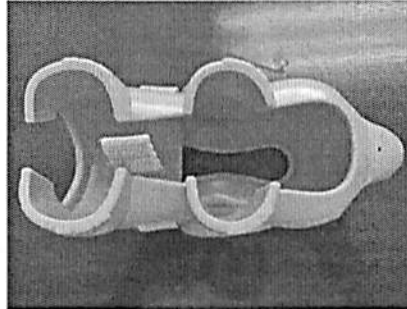
7 15. The Moby Cover, as pictured above, includes a body structure that has an upper
8 portion, two opposing side portions, and a front portion as well as a receiving area that is defined
9 between the upper portion, the two opposing side portions, and the front portion. The Moby
10 Cover also has a strap that connects the two opposing side portions, which serves the purpose of
11 securing the bath spout to the bath cover. The Moby Cover also contains at least one aperture that
12 is defined by one of the side portions of the body, and this aperture serves the purpose of
13 receiving and end of the strap that connects the two opposing side portions and secures the Moby
14 Cover to the bath spout.

15 16. Like Skip Hop, Defendants Brica and Munchkin are in the business of designing,
16 manufacturing, and marketing products intended to promote the safety and entertainment of
17 infants and young children. Skip Hop and Defendants are in direct competition with one another
18 in the baby and parenting products industry.

19 17. Upon information and belief, Munchkin currently makes, uses, sells, offers for sale
20 and/or imports offers spout covers in the shape of an elephant (the "Munchkin Cover"). The
21 Munchkin Cover possesses the following appearance:



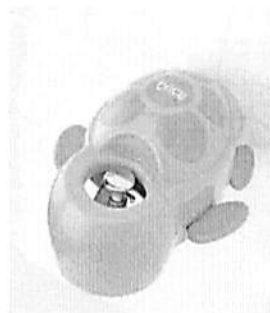
18. The Munchkin Cover, as described above, is comprised of a body structure having an upper portion, two opposing side portions, and a front portion, as well as a receiving area defined between the upper portion, the two opposing portions, and the front portion. This receiving area is shown in the photo below:



19. The Munchkin Cover also contains a strap that is operably connected to the two opposing side portions, which is for securing the bath spout to the bath cover. This strap is shown in the photo above, and both side portions of the Munchkin Cover possess apertures for receiving the ends of the strap.

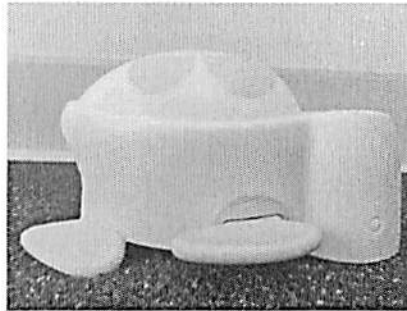
20. The upper portion of the Munchkin Cover is designed to fit over a bath spout. The purpose of the Munchkin Cover is to keep a baby's head safe from bumps.

21. Upon information and belief, Brica currently makes, uses, sells, offers for sale and/or imports offers spout covers in the shape of a turtle (the "Brica Cover"). The Brica Cover possesses the following appearance:

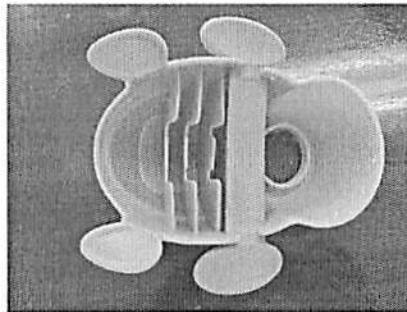


22. The Brica Cover, as described above, is comprised of a body structure with an exterior facing surface, the body structure having an upper portion, two opposing side portions,

1 and a front portion, as well as a receiving area defined between the upper portion and the two
2 opposing side portions, and the front portion.



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10 23. The Brica Cover also contains a strap that spans the two opposing side portions
11 and traverses apertures in both of the side portions. The end portion of the straps on the Brica
12 Cover have a dimension larger than the dimension of the apertures. The end of the straps extend
13 through the apertures, as shown below:



19
20 24. The purpose of the Brica Cover is to keep a baby's head safe from bumps.

21 **U.S. PATENT NO. 9,060,653**

22 25. On June 23, 2015, U.S. Patent No. 9,060,653 ("the '653 patent") for a "Bath Spout
23 Cover" was duly, properly and legally issued by the United States Patent and Trademark Office
24 (the "PTO") to applicant and Plaintiff Skip Hop.

25 26. A true and correct copy of the '653 patent, which is incorporated herein by this
26 reference, is attached to the Complaint as **Exhibit A**.

27 27. Skip Hop is the owner of all right, title and interest in the '653 patent.
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6 29. The invention disclosed in the '653 patent is designed to keep a baby's head safe
7 from bumps while the baby is in a bathtub.

11 31. The Brica Cover and the Munchkin Cover are covered by and infringe one or more
12 claims of the '653 patent.

14 **INFRINGEMENT OF U.S. PATENT NO. 9,060,653**

17 33. The Brica Cover infringes and continues to infringe at least claims 15 through 19
18 of the '653 patent.

22 35. Brica's infringement of the '653 patent has been willful, wanton, egregious, and
23 with disregard of Plaintiffs' patent rights and will continue unabated unless enjoined by this
24 Court.

1 37. Unless the future occurrence of these actions by Defendants is enjoined, Skip Hop
2 will suffer irreparable injury for which there is no adequate remedy at law.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiffs pray for relief as follows:

5 1. An Order requiring that Defendant and its officers, agents, servants, employees,
6 attorneys, privies, and those persons in active concert or participation with them, be preliminarily
7 and permanently enjoined from the continued infringement of U.S. Patent No. 9,060,653;

8 2. An award to Skip Hop pursuant to 35 U.S.C. § 284 of damages, not less than a
9 reasonable royalty, adequate to compensate Skip Hop for the infringement of its patent rights;
10

11 3. An award to Skip Hop of prejudgment interest on said sums;

12 4. Trebling of said award pursuant to 35 U.S.C. § 284;

13 5. An award to Skip Hop pursuant to 35 U.S.C. § 285 of its reasonable attorneys'
14 fees incurred in this case;

15 6. An award to Skip Hop of post judgment interest on said sums at the legal
16 judgment rate from date of the judgment;

17 7. An award to Skip Hop of the costs of this action;

18 8. Any further relief to which the Skip Hop may appear entitled; and
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20 9. Trial by jury on all issues so triable.
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1 Dated: August __, 2015

Respectfully submitted,

2 SKIP HOP, INC.

3 By: 
4

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21 Attorneys for Plaintiff,
SKIP HOP, INC.

24 **JURY DEMAND**

25 Skip Hop, Inc. requests a jury trial for all triable issues to the extent allowed by the United
26 States Constitution and Federal Rules of Civil Procedure.

1 Dated: August __, 2015

Respectfully submitted,

2 SKIP HOP, INC.

3 By: s/ 

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