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Attorney for Plaintiff
PRO PERFORMANCE SPORTS, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PRO PERFORMANCE SPORTS, LLC, a
Delaware Limited Liability Company,

Plaintiff,

vs.

PIONEER INTERNATIONAL (U.S.)
CORPORATION, a Delaware Corporation,

Defendant.

Case No. '16CV0464 BAS JLB

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff, Pro Performance Sports, LLC (“PPS” or “Plaintiff”) for its Complaint against
2 Defendant Pioneer International (U.S.) Corporation (“Pioneer” or “Defendant”) alleges and
3 states as follows:

4 **NATURE OF ACTION**

5 1. This is an action for patent infringement arising under the patent laws of the
6 United States, 35 U.S.C. § 1 et seq. Plaintiff seeks damages, attorneys’ fees, costs, pre-
7 judgment and post-judgment interest, and injunctive relief.
8

9 **THE PARTIES**

10 2. Plaintiff, Pro Performance Sports, LLC, is a limited liability company organized
11 and existing under the laws of the State of Delaware, with its principal place of business at
12 2081 Faraday Avenue, Carlsbad, California.

13 3. Upon information and belief, Defendant, Pioneer International (U.S.) Corporation,
14 is a corporation organized and existing under the laws of the State of Delaware, with its
15 principal place of business at 60 Sharp Street, #2, Hingham, Massachusetts.
16

17 **JURISDICTION & VENUE**

18 4. This Court has original and exclusive jurisdiction over the subject matter of this
19 case pursuant to 35 U.S.C. § 271, and 28 U.S.C. §§ 1331 and 1338(a).

20 5. Upon information and belief, this Court has personal jurisdiction over Defendant
21 since, *inter alia*, Defendant transacts business in, and maintains continuous and systematic
22 contacts within, this District and the State of California. Defendant further has committed acts
23 of patent infringement complaint of herein and/or contributed to or induced those acts of patent
24 infringement by others in this District, and elsewhere in California and the United States.
25

26 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400.
27
28

FACTUAL BACKGROUND

1
2 7. Plaintiff, PPS, is a company based in Carlsbad, California, and that designs,
3 manufactures, markets and sells skill and performance sports training products and programs in
4 the United States and throughout the world under its brand name “SKLZ®”. PPS’s products
5 are available for sale at major sporting goods retailers, specialty retailers, and through its
6 website www.sklz.com.

7
8 8. On November 12, 2013, United States Patent No. 8,579,737 (“the ‘737 Patent”)
9 entitled “Goal Apparatus,” was duly and legally issued by the United States Patent and
10 Trademark Office. PPS is the exclusive licensee of the ‘737 Patent, and has “all substantial
11 rights” in the ‘737 Patent, including the right to exclude others from making, using, selling,
12 offering to sell, or importing in this District and elsewhere in the United States the patent
13 invention(s) of the ‘737 Patent, and the right to sue for infringement of the ‘737 Patent and
14 collect damages for infringement of the same. A true and correct copy of the ‘737 Patent is
15 attached hereto as **EXHIBIT 1**.

16
17 9. Upon information and belief, Defendant, Pioneer, is a company that manufactures,
18 imports, markets and sells a variety of sporting good products, including those focused on team
19 sports. See, e.g., www.pioneerintcorp.com. Upon further information and belief, Scott Cheney
20 is President of Pioneer.

21
22 10. In 2015, Plaintiff became aware that Defendant was importing, manufacturing
23 offering for sale, and/or selling a soccer goal apparatus (“Accused Product”) in the United States,
24 and that infringed one or more claims of the ‘737 Patent. Specifically, Plaintiff became aware
25 that Defendant was selling a large number of the Accused Product to, at least, the sporting goods
26 retailer The Sports Authority (“TSA”) who, in turn, sold it at their retail locations throughout the
27 United States under TSA’s private label “Classic Sport®”.

1 11. Upon becoming aware of Defendant's activities described above, PPS contacted
2 Defendant's President, Scott Cheney, who initially provided PPS with information concerning
3 sales of the Accused Product to TSA. Attempts by PPS to follow-up with Defendant on this
4 matter went unanswered.

5 12. On December 5, 2015, PPS's outside legal counsel sent a letter to Defendant
6 requesting information relating to the Accused Product, and that certain actions immediately be
7 taken by Defendant concerning its infringement of the '737 Patent. Counsel for PPS received no
8 response from Defendant or Defendant's President, Mr. Cheney.

9 13. Counsel for PPS made multiple additional attempts to contact Mr. Cheney
10 through voicemail and e-mail (e.g., on December 11th and 18th, 2015), all without receiving any
11 response.
12

13 14. On January 5, 2016, counsel for PPS called Defendant's offices and spoke with an
14 individual who identified himself as "Paul." Paul stated that Scott Cheney was out of the office,
15 but confirmed Defendant's mailing address, and e-mail address for Scott Cheney. PPS's counsel
16 advised Paul generally of the matter for which he was calling, and asked Paul to pass along this
17 message to Scott Cheney.
18

19 15. On January 6, 2016, PPS's counsel sent another letter to Defendant (via e-mail
20 and Certified Mail Return Receipt Requested) concerning Defendant's infringement of the '737
21 Patent. This letter was confirmed delivered to Defendant via return receipt dated January 8,
22 2016, and signed by a Paul Heaney.
23

24 16. As of the date of this Complaint, Defendant has not responded to any of the
25 above-mentioned communications by counsel for PPS.

26 17. Upon information and belief, Defendant continues to commit the above-alleged
27 acts of infringement of one or more claims of the '737 Patent.
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FIRST CLAIM FOR RELIEF

INFRINGEMENT OF U.S. PATENT NO. 8,579,737

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3 18. Plaintiff re-alleges and incorporates by reference each of the allegations set forth
4 in paragraphs 1 through 17 above.

5 19. Defendant has directly and/or indirectly infringed, and continues to infringe,
6 (literally and under the doctrine of equivalents) one or more claims of the '737 Patent by making,
7 using, selling, offering for sale, and/or importing, the Accused Product, and/or inducing others in
8 the U.S. to do the same.

9
10 20. Defendant's infringement of the '737 Patent has caused, and continues to cause,
11 damage to Plaintiff in an amount to be determined at trial.

12 21. Defendant's infringement of the '737 Patent has caused, and continues to cause,
13 immediate and irreparable harm to Plaintiff for which there is no adequate remedy at law, unless
14 this Court enjoins and restrains such activities.

15 22. Upon information and belief, Defendant's aforementioned infringing acts were,
16 and are, willful and deliberate since such acts were committed by Defendant despite knowledge
17 of the '737 Patent.
18

PRAYER FOR RELIEF

19
20 WHEREFORE, Plaintiff respectfully prays that the Court grant the following relief:

21 A. For judgment that Defendant infringes one or more claims of the '737 Patent;

22 B. An award of damages adequate to compensate Plaintiff for patent infringement, as
23 well as prejudgment interest from the date infringement began, but in no event less than a
24 reasonable royalty as permitted by 35 U.S.C. §284;

25 C. An award of treble damages for the period of any willful infringement pursuant to
26 35 U.S.C. §284;
27
28

1 D. A finding that this case is exceptional and an award of interest, costs and
2 attorneys' fees incurred by Plaintiff in prosecuting this action, as provided by 35 U.S.C. §285;

3 E. A preliminary and permanent injunction prohibiting Defendant, its respective
4 officers, agents, servants, employees and/or all persons acting in concert or participation with
5 them, from engaging in further infringement and/or acts of infringement of the '737 Patent;

6 F. An award of pre-judgment and post-judgment interest as provided by law; and

7 G. For all other and further relief deemed just and proper by the Court.
8

9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a trial by jury on all claims.
11

12 Dated: February 19, 2016

TORREY PINES LAW GROUP, P.C.

14 By: /s/ Jonathan A. Muenkel

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17 Attorney for Plaintiff, Pro
18 Performance Sports, LLC
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