

TransPacific Law Group  
Pavel I. Pogodin, Ph.D., Esq. (SBN 206441)  
pavel@transpacificlaw.com  
1 Daniel Burnham Court  
#914  
San Francisco, California, 94109  
Telephone: (650) 954-6857  
Facsimile: (650) 472-8961

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Shen Ko Tseng,  
  
Plaintiff,  
  
v.  
Skechers U.S.A., Inc.,  
  
Defendant.

Case No. 3:16-cv-1860-MEJ

**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Plaintiff, Shen Ko Tseng, by and through his undersigned attorneys, for his First Amended Complaint against Skechers U.S.A., Inc. ("Skechers" or "Defendant") alleges as follows:

**NATURE OF ACTION**

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, §§100, et seq.

**PARTIES**

2. Plaintiff Shen Ko Tseng is a natural person who resides in Taipei, Taiwan.

3. On information and belief, Defendant Skechers is a corporation organized and existing under the laws of the state of Delaware, having its principal place of business at 225 S. Sepulveda Blvd., Manhattan Beach, California.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Defendant Skechers conducts and has conducted a substantial, systematic, and continuous business of selling and distributing infringing products in this judicial district. Moreover, Defendant Skechers purposefully has offered to sell, has sold and/or has distributed infringing products in this judicial district.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

#### **BACKGROUND**

7. On March 10, 2009, United States Patent No. 7,500,761 (“the ‘761 patent”) entitled “CIRCUIT DEVICE FOR CONTROLLING A PLURALITY OF LIGHT-EMITTING DEVICES IN A SEQUENCE” was duly and legally issued to Plaintiff. Plaintiff is the owner of all rights, title and interest in the ‘761 patent. A copy of the ‘761 patent is attached hereto as Exhibit A.

8. The ‘761 patent discloses and claims certain electronic circuits for electronically controlling multiple light emitting diodes (LEDs) causing the multiple LEDs to flash in accordance with predetermined lighting patterns based on certain external factors(s).

9. Defendant Skechers imports into the United States, and offers to sell, distributes and sells within the United States certain LED illuminated shoes, which incorporate electronic circuits infringing one or more claims of the ‘761 patent.

10. Exemplary LED illuminated shoes incorporating electronic circuits infringing one or more claims of the ‘761 patent, which are imported, offered for sale, distributed and sold by Defendant Skechers, include, but are not limited to, “Magic Lites” line of footwear including,

1 without limitation, “Magic Lites Street Lightz Spectra Sneaker” branded LED illuminated shoes,  
 2 “Skechers Magic Lites Color-Changing ON/OFF Button Velcro Sneakers” branded LED  
 3 illuminated shoes, “Skechers Kids Magic Light-up Kazam Sneaker” branded LED illuminated  
 4 shoes, “Skechers Magic Lites Super Hot-Lights” branded LED illuminated shoes as well as “Hot  
 5 Lights: Damager II - Adventurer” branded LED illuminated shoes. The foregoing shoes listed in  
 6 this paragraph will be referred to collectively herein as the “LED Illuminated Shoes.” The LED  
 7 Illuminated Shoes listed in this paragraph are merely exemplary shoes containing infringing  
 8 electronic circuits and, on information and belief, Defendant Skechers does sell, does offer for  
 9 sale, and does distribute other LED Illuminated Shoes incorporating electronic circuits infringing  
 10 one or more claims of the ‘761 patent at least in this judicial district and/or throughout the United  
 11 States.

12 11. On July 29, 2008, United States Patent No. 7,405,674 (“the ‘674 patent”) entitled  
 13 “CIRCUIT FOR CONTROLLING A PLURALITY OF LIGHT-EMITTING DEVICES  
 14 DISPOSED ON AN OBJECT IN A SEQUENCE” was duly and legally issued to Plaintiff.  
 15 Plaintiff is the owner of all rights, title and interest in the ‘674 patent. A copy of the ‘674 patent  
 16 is attached hereto as Exhibit B.

17 12. The ‘674 patent discloses and claims certain electronic circuits for electronically  
 18 controlling multiple light emitting diodes (LEDs) causing the multiple LEDs to flash in  
 19 accordance with predetermined lighting pattern(s), such as LEDs first lighting separately and  
 20 sequentially, and then simultaneously flashing N times, N being a natural number.

21 13. Defendant Skechers imports into the United States, and offers to sell, distributes  
 22 and sells within the United States certain LED illuminated shoes, which incorporate electronic  
 23 circuits infringing one or more claims of the ‘674 patent.

24 14. Exemplary LED illuminated shoes incorporating electronic circuits infringing one  
 25 or more claims of the ‘674 patent, which are imported, offered for sale, distributed and sold by  
 26 Defendant Skechers, include, but are not limited to, “S LIGHTS - FLASHPOD” and “S LIGHTS  
 27 - LUMOS” branded LED illuminated shoes. The foregoing shoes listed in this paragraph will be  
 28

1 referred to collectively herein as the “Second LED Illuminated Shoes.” The Second LED  
 2 Illuminated Shoes listed in this paragraph are merely exemplary shoes containing infringing  
 3 electronic circuits and, on information and belief, Defendant Skechers does sell, does offer for  
 4 sale, and does distribute other Second LED Illuminated Shoes incorporating electronic circuits  
 5 infringing one or more claims of the ‘674 patent at least in this judicial district and/or throughout  
 6 the United States.

7  
 8 **FIRST CAUSE OF ACTION**  
 9 **(Infringement of the ‘761 patent)**

10 15. Plaintiff Shen Ko Tseng incorporates the allegations set forth in Paragraphs 1-14  
 11 above as if fully set forth herein.

12 16. The LED Illuminated Shoes that Defendant Skechers imports into the United  
 13 States, and distributes, offers to sell and sells within the United States incorporate electronic  
 14 circuits that are covered by one or more claims of the ‘761 patent.

15 17. Defendant’s Skechers importation, offers to sell, sales, and distribution within the  
 16 United States of the LED Illuminated Shoes incorporating electronic circuits covered by one or  
 17 more claims of the ‘761 patent is unauthorized.

18 18. Defendant’s Skechers importation, offers to sell, sales, and distribution within the  
 19 United States of LED Illuminated Shoes containing electronic circuits covered by one or more  
 20 claims of the ‘761 patent thus constitute infringement of the ‘761 patent in violation of 35 U.S.C.  
 21 § 271(a).

22 19. Upon information and belief, Defendant Skechers is aware of the ‘761 patent, but  
 23 yet it knowingly and actively induces third parties to offer for sale and sell the LED Illuminated  
 24 Shoes incorporating electronic circuits infringing one or more claims of the ‘761 patent within the  
 25 United States. Defendant Skechers thus actively induces infringement of the ‘761 patent in  
 26 violation of 35 U.S.C. § 271(b).

27 20. Defendant Skechers has profited through infringement of the ‘761 patent. As a  
 28 result of Defendant’s Skechers unlawful infringement of the ‘761 patent, Plaintiff has suffered

1 damages in an amount not yet determined and will continue to suffer damages in the future.

2 21. Upon information and belief, Defendant's Skechers acts of infringement are  
3 willful. Upon information and belief, Defendant Skechers knew and knows of the '761 patent  
4 and that LED Illuminated Shoes incorporate electronic circuits infringing one or more claims of  
5 the '761 patent. Such willful acts of infringement entitle Plaintiff to an award of enhanced  
6 damages and reasonable attorney fees against Defendant Skechers.

7 22. Upon information and belief, Defendant Skechers intends to continue its unlawful  
8 infringing activity and Plaintiff will continue to be damaged by such infringement, unless  
9 Defendant Skechers is enjoined by this Court.

10 23. Defendant's Skechers acts of infringement have caused irreparable harm to  
11 Plaintiff and Plaintiff will continue to suffer such irreparable harm unless Defendant Skechers is  
12 preliminarily and permanently enjoined by this Court.

13  
14 **SECOND CAUSE OF ACTION**  
15 **(Infringement of the '674 patent)**

16 24. Plaintiff Shen Ko Tseng incorporates the allegations set forth in Paragraphs 1-23  
17 above as if fully set forth herein.

18 25. The Second LED Illuminated Shoes that Defendant Skechers imports into the  
19 United States, and distributes, offers to sell and sells within the United States incorporate  
20 electronic circuits that are covered by one or more claims of the '674 patent.

21 26. Defendant's Skechers importation, offers to sell, sales, and distribution within the  
22 United States of the Second LED Illuminated Shoes incorporating electronic circuits covered by  
23 one or more claims of the '674 patent is unauthorized.

24 27. Defendant's Skechers importation, offers to sell, sales, and distribution within the  
25 United States of Second LED Illuminated Shoes containing electronic circuits covered by one or  
26 more claims of the '674 patent thus constitute infringement of the '674 patent in violation of 35  
27 U.S.C. § 271(a).

28 28. Upon information and belief, Defendant Skechers is aware of the '674 patent, but

1 yet it knowingly and actively induces third parties to offer for sale and sell the Second LED  
 2 Illuminated Shoes incorporating electronic circuits infringing one or more claims of the '674  
 3 patent within the United States. Defendant Skechers thus actively induces infringement of the  
 4 '674 patent in violation of 35 U.S.C. § 271(b).

5 29. Defendant Skechers has profited through infringement of the '674 patent. As a  
 6 result of Defendant's Skechers unlawful infringement of the '674 patent, Plaintiff has suffered  
 7 damages in an amount not yet determined and will continue to suffer damages in the future.

8 30. Upon information and belief, Defendant's Skechers acts of infringement are  
 9 willful. Upon information and belief, Defendant Skechers knew and knows of the '674 patent  
 10 and that Second LED Illuminated Shoes incorporate electronic circuits infringing one or more  
 11 claims of the '674 patent. Such willful acts of infringement entitle Plaintiff to an award of  
 12 enhanced damages and reasonable attorney fees against Defendants.

13 31. Upon information and belief, Defendant Skechers intends to continue their  
 14 unlawful infringing activity and Plaintiff will continue to be damaged by such infringement,  
 15 unless Defendant Skechers is enjoined by this Court.

16 32. Defendant Skechers acts of infringement have caused irreparable harm to Plaintiff  
 17 and Plaintiff will continue to suffer such irreparable harm unless Defendant Skechers is  
 18 preliminarily and permanently enjoined by this Court.

### 19 PRAYER

20 By reason of the foregoing, Plaintiff Shen Ko Tseng respectfully requests that this Court:

- 21 (a) enter judgment that Defendant Skechers has infringed the '761 patent and the '674  
 22 patent;  
 23 (b) enter judgment that Defendant's Skechers acts of patent infringement are willful;  
 24 (c) preliminarily and permanently enjoin Defendant Skechers, its officers, subsidiaries,  
 25 affiliates distributors, agents, servants, employees, attorneys, and all persons in active  
 26 concert with them, from any further infringement, inducement of infringement, and  
 27  
 28

contributory infringement of the '761 patent and the '674 patent;

(d) award damages, costs, and prejudgment interest to Plaintiff Shen Ko Tseng under 35 U.S.C. § 284;

(e) declare this case exceptional and award Plaintiff Shen Ko Tseng his reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

(f) award Plaintiff Shen Ko Tseng treble damages for Defendant's willful infringement; and

(g) award Plaintiff Shen Ko Tseng such other relief as this Court deems just and proper.

Dated: April 25, 2016

Respectfully submitted,

By: /s/ Pavel I. Pogodin

Pavel I. Pogodin

Pavel I. Pogodin, Ph.D., Esq.

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**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38, Plaintiff Shen Ko Tseng demands trial by jury of all issues triable to a jury.

Dated: April 25, 2016

Respectfully submitted,

By: /s/ Pavel I. Pogodin

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