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11 **UNITED STATES DISTRICT COURT**

12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 DROP STOP LLC,
15 *a California Limited Liability*
16 *Company,*

17 Plaintiff,

18 v.

19 JIAN QING “JOHNNY” ZHU, *an*
 20 *individual*; ZAKE
 21 INTERNATIONAL INC., *an*
 22 *Indiana Corporation*; ZAKE USA,
 23 *an unincorporated entity*; 3BTECH,
 24 INC., *an Indiana Corporation*;
 25 SHENZHEN ZHOUWU
 26 TECHNOLOGY CO., LTD., *a*
 27 *Chinese Limited Company*; and
 28 TAIWU KEJI CO., LTD., *a Chinese*
Limited Company.

Defendants.

Case No. 2:16-cv-7916

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

Parties

1
2 6. Plaintiff Drop Stop is a Limited Liability Company existing under the
3 laws of the State of California, having its principal place of business in Los Angeles,
4 California.

5 7. Defendant Jian Qing Zhu is an individual who resides in or near
6 Granger, Indiana. On information and belief, Mr. Zhu lives at 10204 Adams Rd,
7 Granger, Indiana 46530. Defendant Jian Qing Zhu also uses the aliases “Jianqing
8 Zhu” and “Johnny Zhu.”

9 8. Defendant Zake International Inc. (“Zake International”) is a
10 corporation organized and existing under the laws of the State of Indiana, having a
11 principal place of business in South Bend, Indiana.

12 9. Defendant Zake USA is a division, affiliate and/or alter ego of Zake
13 International.

14 10. Defendant 3BTech, Inc. (“3B Tech”) is a corporation organized and
15 existing under the laws of the State of Indiana, having a principal place of business
16 in South Bend and/or Mishawaka, Indiana.

17 11. On information and belief, Defendant Shenzhen Zhouwu Technology
18 Co., Ltd. (“Shenzhen Zhouwu”) is a company organized and existing under the laws
19 of China, having a principal place of business in Guangdong, China.

20 12. On information and belief, Defendant Taiwu Keji Co., Ltd. (“Taiwu”),
21 is a company organized and existing under the laws of China, having a principal
22 place of in Nanshan District Keji Yuan, Keyi Street M-4 Building, 4th floor, D-2,
23 Shenzhen Guangdon, 518000.

24 13. On information and belief, Defendants Zake USA, Zake International,
25 3B Tech, Shenzhen Zhouwu and Taiwu are divisions, affiliates and/or alter egos of
26 one another, and alter egos of Defendant Zhu.

27 14. Defendants Zhu, Zake International, Zake USA, 3B Tech, Shenzhen
28 Zhouwu and/or Taiwu use the alias and/or trade name “Also Popular” to sell and

1 offer for sale products in California and throughout the United States, including
2 through Amazon.com.

3 15. Defendants Zhu, Zake International, Zake USA, 3B Tech, Shenzhen
4 Zhouwu and/or Taiwu also use the alias and/or trade name “ChiTronic” to sell and
5 offer for sale products in California and throughout the United States, including
6 through Amazon.com.

7 16. On information and belief, Defendants Zhu, Zake International, Zake
8 USA, 3B Tech, Shenzhen Zhouwu and/or Taiwu are also doing business as and/or
9 are affiliated with entities known as “Coolgate” and “BOTU,” among other names.

10 **Jurisdiction and Venue**

11 17. This Court has subject matter jurisdiction for this action pursuant to 28
12 U.S.C. §§ 1331, 1332 and 1338. The amount in controversy exceeds \$75,000.00.

13 18. This Court has personal jurisdiction over each Defendant because,
14 among other things, each Defendant transacts business by facilitating sales and
15 marketing the infringing products in the State of California, including in this Judicial
16 District.

17 19. Among other things, Defendants maintain an office in this Judicial
18 District at 525 Pariott Place, City of Industry, California 91475.

19 20. Among other things, Defendants also maintain a distribution center in
20 Los Angeles, California.

21 21. In addition, each of the Defendants has willfully infringed, either
22 directly or indirectly, the patent-in-suit owned by Drop Stop LLC, a company
23 residing in the State of California, thereby intentionally directing harm to a
24 California resident.

25 22. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b)
26 because, among other things, Defendants transact business within this District,
27 facilitate offers for sale of infringing products in this District, and/or facilitate
28 infringing sales of the accused products in this District.

1 **Factual Background**

2 ***The Growth of DROP STOP®***

3 23. Entrepreneurs Jeffrey Simon and Marc Newburger invented the DROP
4 STOP®, a device that obstructs the gap between an automobile’s front seats and the
5 automobile’s center console, preventing personal items from becoming lodged in the
6 small and largely inaccessible gap. The DROP STOP® provides numerous benefits
7 to drivers and passengers, including mitigating distractions while on the road. To
8 promote the development and distribution of the DROP STOP® and the growth of
9 their ensuing business, Simon and Newburger founded Drop Stop LLC, which was
10 and still is headquartered in Los Angeles, California. Simon and Newburger are co-
11 Presidents of Drop Stop LLC.

12 24. As a reflection of their innovative product, in 2012 the U.S. Patent and
13 Trademark Office issued U.S. Patent No. 8,267,291 for an “Apparatus for Closing
14 Gaps” (the “’291 Patent”), which covers the DROP STOP® product. Jeffrey Simon
15 and Marc Newburger are the sole inventors listed on the patent. A true and correct
16 copy of the ’291 Patent is attached hereto as Exhibit A.

17 25. In March 2013, Simon and Newburger, on behalf of their business,
18 were featured on the hit primetime ABC series “Shark Tank” through which they
19 were able to promote their DROP STOP® (including the fact that it is patented) to
20 well-known angel investors, as well as to millions of viewers around the world.
21 After pitching DROP STOP® on the show, investor “shark” and “Queen of QVC”
22 Lori Greiner remarked, “I know if something is a Hero or a Zero and Drop Stop is a
23 real Hero.”

24 26. Based on the resulting success and sales surge of DROP STOP® after
25 its television showcase, the patented product was featured on Shark Tank again on
26 multiple occasions, including in November 2013 and December 2014. Since then,
27 the patented DROP STOP® has also been featured on Oprah.com, “The Howard
28 Stern Show,” “The View,” “The Queen Latifah Show,” ABC7 News, CBS and

1 KCAL News, *Car and Driver* magazine, Cars.com and other reputable media and
2 consumer publications.

3 27. Today, the patented DROP STOP® product is sold nationwide through
4 big box and large online retailers, including WalMart, Amazon.com, Bed Bath &
5 Beyond, QVC, as well as other national and global retailers.

6 28. Labels for the DROP STOP® product are marked with the '291 Patent
7 number, and have been so marked substantially since the '291 Patent issued.

8 ***The '291 Patent at Issue***

9 29. Drop Stop LLC holds all interest in and title to the '291 Patent,
10 including the right to sue for past and current damages relating to infringement.

11 30. Claim 8 of the '291 Patent recites the following limitations:

12 An apparatus adapted to be disposed in an automotive vehicle
13 between a seat and a central console of the automotive vehicle,
14 comprising:

15 a. an elongated member including a casing having a top, a
16 bottom, and a pair of opposed first and second sides, the casing
17 enclosing a core, the first side adapted to abut the seat and the second
18 side adapted to abut the central console, the elongated member
19 configured to slide along the central console during longitudinal motion
20 of the seat; and

21 b. a slot encircled by the casing and the core, and extending
22 between the bottom and top of the elongated member in a generally
23 vertical attitude normal to both the bottom and the top and aligned
24 longitudinally when placed in the vehicle and adapted to receive a
25 seatbelt component having one end anchored to a side of the seat,
26 wherein the slot provides engagement to the seatbelt component when
27 properly positioned adjacent the car seat to permit the elongated
28 member to slide along the central console during longitudinal motion of
the seat, wherein the slot is generally oval in shape when engaged with
the seatbelt component.

31. Claim 14 of the '291 Patent recites the following limitations:

An apparatus for use in an automotive vehicle having a central
console extending alongside a seat, comprising:

1 a. an elongated member including a casing of a first material
2 enclosing a core of a second material having a first portion adapted to
3 be pressed against the central console positioned adjacent to the seat,
4 and a second portion adapted to be pressed against the seat when the
5 elongated member is positioned in a gap defined between the central
6 console and the seat; and

7 b. a slot extending through the casing and the core of the
8 elongated member, and adapted to receive a safety belt receiving
9 component having a first end coupled to the seat and a second free end,
10 wherein the slot is configured to allow the free end of the safety belt
11 receiving component to pass through the slot and wherein the slot is
12 conformable around the safety belt receiving component, and wherein
13 the slot provides engagement to the safety belt receiving component
14 when properly positioned adjacent to the seat, wherein the slot has an
15 open configuration when engaged with the safety belt receiving
16 component and a partially closed configuration when disengaged from
17 the safety belt receiving component.

18 32. The '291 Patent is valid and subsisting.

19 *The Relationships Among the Various Defendants*

20 33. Defendant Jian Qing “Johnny” Zhu operates various listings on
21 Amazon.com under the name “Also Popular.”

22 34. Defendant Zhu operates the “Also Popular” listing using his email
23 address alsopopular@zakeusa.com.

24 35. Amazon.com records identify the seller associated with the “Also
25 Popular” listings as Jian Qing Zhu/Also Popular.

26 36. According to Indiana Secretary of State records, Mr. “Jianqing Zhu” is
27 also the President of and registered agent for Defendant Zake International.

28 37. According to Indiana Secretary of State records, the principal office of
Zake International is 3431 William Richardson Dr., Ste B, South Bend, Indiana
46628.

38. The building located at William Richardson Dr., Ste B, South Bend,
Indiana 46628 is also the 3B Tech building. The words “WWW.3BTECH.NET”
appear on the building.

1 39. The domain name zakeusa.com is registered to Johnny Zhu from 3B
2 Tech Inc.

3 40. The website www.zakeusa.com is the website for Zake USA.

4 41. The website www.zakeusa.com indicates that the “head office” for
5 Zake USA is located at 3431 William Richardson Dr. South Bend, IN 46628, USA,
6 which is the same address associated with Zake International and 3B Tech.

7 42. The website for www.zakeusa.com identifies “Johnny Zhu” as part of
8 its executive team. Specifically, the website includes the following description of
9 Johnny Zhu:

10 Johnny has a history of filtering big data, finding the right products, and
11 analyzing potential engineering and IP issues with the US market. Once an
12 ideal product is identified, the entire package—from product design, branding,
13 marketing, and PR—is helped to market through Johnny’s guidance.
(<http://zakeusa.com/about.html>).

14 43. The website for www.zakeusa.com indicates that Zake USA has an
15 “LA Office” located at 525 Pariott Place, City of Industry, California 91475.

16 44. The website for www.zakeusa.com also indicates that Zake USA has
17 “Distribution Centers” located in Los Angeles, CA; Minneapolis, MN; and South
18 Bend, IN.

19 45. The website for www.zakeusa.com also indicates that Zake USA has a
20 “China Office” located at Rm. 203, Bldg. C, Getailong Industrial Park, #445 Bulong
21 Rd., Longgang Dist, Shenzhen, China.

22 46. According to U.S. Patent and Trademark Office records, Defendant
23 Shenzhen Zhouwu is the registrant of the ChiTronic mark (Serial Nos. 86667899
24 and 86706304).

25 47. According to the USPTO records, Defendant Shenzhen Zhouwu is
26 located at “CHINA 2/F, Bldg. C, GeTaiLong Industrial Park No. 445, Bulong Rd.,
27

1 Bantian St., Longgang Shenzhen, Guangdong CHINA,” which is substantially the
2 same address on zakeusa.com for its “China Office.”

3 48. On information and belief, Defendant Taiwu is also involved in
4 making, selling, offering to sell, and importing into the U.S. the accused products.

5 49. On information and belief, Defendants Zake International, Zake USA,
6 3B Tech, Shenzhen Zhouwu and Taiwu are affiliates and/or alter egos of one
7 another, and of Defendant Zhu.

8 50. On information and belief, Defendants Zake International, Zake USA
9 and 3B Tech—including the offices located in South Bend, IN and City of Industry,
10 CA—are general agents for Shenzhen Zhouwu and/or Taiwu.

11 ***The Infringing Products***

12 51. Defendants Zhu, Zake International, Zake USA, 3B Tech, Shenzhen
13 Zhouwu and Taiwu make, sell, offer for sale, use and import into the United States
14 automobile accessory products that directly and indirectly infringe, literally and/or
15 under the doctrine of equivalents, one or more claims of the ’291 Patent.

16 52. Defendants sell and offer to sell the infringing products on popular
17 online retail websites, including Amazon.com and others.

18 53. Among other things, Defendants sell and offer for sale products that
19 infringe the ’291 Patent through the Amazon.com website.

20 54. Defendants make, use, sell, offer for sale and/or import into the United
21 States the “ChiTronic Car Vehicle Seat Hand Brake Gap Filler Pad” (the “ChiTronic
22 Product”).

23 55. Defendants make, use, sell, offer for sale and/or import into the United
24 States the ChiTronic Product through Amazon.com, listing the product under various
25 seller names including “Also Popular,” “Coolgate,” “BOTU” and others.

26 56. One Amazon Standard Identification Number (“ASIN”) for the
27 ChiTronic Product is B00SFKMN8O.

28 57. Two true and correct copies of exemplary Amazon listings for the

1 ChiTronic Product are attached hereto as Exhibits B and C.

2 58. On information and belief, Defendants and/or their affiliates and/or
3 alter egos also sell infringing products through other ASINs on Amazon.com and
4 through other sales channels.

5 59. According to one Amazon.com listing by Defendants, the “ChiTronic
6 Car Vehicle Seat Hand Brake Gap Filler Pad” is offered for sale “by ChiTronic.”

7 60. According to one of Defendants’ listings on Amazon.com, the
8 ChiTronic Product is also “Sold by Also Popular and Fulfilled by Amazon.”

9 61. On one of their Amazon.com listings, Defendants claim that “Also
10 Popular is only [sic] authorized dealer on Amazon, please be ware [sic] of
11 purchasing from other sellers.”

12 62. According to one of Defendants’ listings on Amazon.com, the
13 ChiTronic Product also “Ships from and [is] sold by COOLGATE.”

14 63. According to one of Defendants’ listings on Amazon.com, “BOTU” is
15 also identified as a “Seller” of the ChiTronic Product.

16 64. By making, using, selling, offering for sale and/or importing into the
17 United States the ChiTronic Product, Defendants directly and indirectly infringe,
18 literally and/or under the doctrine of equivalents, at least claims 8 and 14 of the ’291
19 Patent.

20 65. In its intended configuration, the ChiTronic Product is an apparatus that
21 obstructs the gap between an automobile’s front seats and the automobile’s center
22 console, preventing personal items from becoming lodged in the small space.

23 66. In its intended configuration, the ChiTronic Product includes a member
24 with a casing enclosing a core.

25 67. In its intended configuration, the ChiTronic Product includes a member
26 (as described herein) that abuts the car seat on one side and the car’s center console
27 on the other side.

28 68. In its intended configuration, the ChiTronic Product is configured to

1 slide with the car seat (if it is in motion) along the car's center console.

2 69. In its intended configuration, the ChiTronic Product includes an
3 opening creating a slot between the top and bottom of the member, which is built to
4 fit through the car's seatbelt buckle so that the member remains engaged with the
5 seat when properly positioned.

6 70. In its intended configuration, the ChiTronic Product includes a member
7 with an opening or slot that is generally oval in shape when engaged with the
8 seatbelt buckle.

9 71. In its intended configuration, the ChiTronic Product includes a member
10 with a casing made of a certain material and a core made of certain second material.

11 72. In its intended configuration, the ChiTronic Product includes a member
12 with a slot (as described herein) that has an open configuration when engaged with a
13 seatbelt buckle and a partially closed configuration when disengaged from the
14 seatbelt buckle.

15 ***Plaintiff's Notice of Infringement to Defendants***

16 73. Since at least March 2013, Drop Stop LLC has widely publicized that
17 its DROP STOP® product is patented in the United States, including on network
18 television, on all product packaging materials and on its website
19 www.buydropstop.com.

20 74. On information and belief, Defendants have been aware of the '291
21 Patent at least since DROP STOP® was featured on Shark Tank in March 2013.

22 75. Plaintiffs also provided Defendants with actual notice of infringement
23 on or about March 16, 2015, and multiple times thereafter.

24 76. Defendants temporarily removed the ChiTronic Product, at least
25 through the Also Popular listing on Amazon.com's storefront, in response to
26 Plaintiff's March 2015 cease-and-desist demand. But Defendants later re-listed the
27 ChiTronic Products through the Also Popular listing and through other listings.

28

1 77. Today, Defendants continue to make, advertise, distribute, import, offer
2 for sale, and/or sell the ChiTronic Product, including through Amazon.com and
3 through other retailers in the United States.

4 **COUNT I**

5 **Infringement of the '291 Patent**

6 78. Plaintiff restates and incorporates by reference its previous allegations
7 above, as if fully set forth herein.

8 79. Defendants have infringed and continue to infringe, literally and/or
9 under the doctrine of equivalents, one or more claims of the '291 Patent by using,
10 selling and/or offering to sell, in the United States and/or through importation into
11 the United States, one or more products, including the ChiTronic Product and similar
12 products.

13 80. Defendants' willful infringements have been both direct and indirect,
14 including contributory infringement and inducement of infringement. Defendants'
15 infringing activities violate 35 U.S.C. §§ 271(a) through (c).

16 81. The ChiTronic Product is an apparatus adapted to be disposed in an
17 automotive vehicle between a seat and a central console of the automotive vehicle,
18 as described in the claims of the '291 Patent.

19 82. The ChiTronic Product is an apparatus comprising an elongated
20 member including a casing having a top, a bottom, and a pair of opposed first and
21 second sides, the casing enclosing a core, the first side adapted to abut the seat and
22 the second side adapted to abut the central console, the elongated member
23 configured to slide along the central console during longitudinal motion of the seat,
24 as described in the claims of the '291 Patent.

25 83. The ChiTronic Product is an apparatus comprising a slot encircled by
26 the casing and the core, and extending between the bottom and top of the elongated
27 member in a generally vertical attitude normal to both the bottom and the top and
28 aligned longitudinally when placed in the vehicle and adapted to receive a seatbelt

1 component having one end anchored to a side of the seat, wherein the slot provides
2 engagement to the seatbelt component when properly positioned adjacent the car
3 seat to permit the elongated member to slide along the central console during
4 longitudinal motion of the seat, wherein the slot is generally oval in shape when
5 engaged with the seatbelt component, as described in the claims of the '291 Patent.

6 84. The ChiTronic Product is an apparatus for use in an automotive vehicle
7 having a central console extending alongside a seat, as described in the claims of the
8 '291 Patent.

9 85. The ChiTronic Product is an apparatus comprising an elongated
10 member including a casing of a first material enclosing a core of a second material
11 having a first portion adapted to be pressed against the central console positioned
12 adjacent to the seat, and a second portion adapted to be pressed against the seat when
13 the elongated member is positioned in a gap defined between the central console and
14 the seat, as described in the claims of the '291 Patent..

15 86. The ChiTronic Product is an apparatus comprising a slot extending
16 through the casing and the core of the elongated member, and adapted to receive a
17 safety belt receiving component having a first end coupled to the seat and a second
18 free end, wherein the slot is configured to allow the free end of the safety belt
19 receiving component to pass through the slot and wherein the slot is conformable
20 around the safety belt receiving component, and wherein the slot provides
21 engagement to the safety belt receiving component when properly positioned
22 adjacent to the seat, wherein the slot has an open configuration when engaged with
23 the safety belt receiving component and a partially closed configuration when
24 disengaged from the safety belt receiving component, as described in the claims of
25 the '291 Patent..

26 87. Defendants' infringements of the '291 Patent have been and continue to
27 be intentional, willful, and without regard to Plaintiff's rights.
28

1 88. Defendants have actively induced and continue to actively induce other
2 online sellers, resellers, customers and/or other individuals and/or entities, including
3 BOTU, Coolgate and others, to infringe the '291 Patent.

4 89. Defendants sell and/or otherwise provide these individuals with the
5 ChiTronic Product and other "gap filler pads" with the knowledge that the products
6 will be made, used, sold, offered for sale and/or imported in to the United States, in a
7 manner that infringes the '291 Patent.

8 90. Defendants also manufacture these infringing products with the
9 intention that the products be marketed and sold through various retail channels in
10 the United States.

11 91. Defendants have contributed, and continue to contribute, to
12 infringement of the '291 Patent by online sellers, resellers and/or other individuals
13 and/or entities, including BOTU, Coolgate and others. As detailed above,
14 Defendants' products, including the ChiTronic Product and other gap fillers embody
15 a material part of the claimed invention of the '291 Patent, and Defendants know
16 that these products are especially made and/or adapted to infringe the '291 Patent.
17 Defendants intend that the accused products, including the ChiTronic Product and
18 other similar gap fillers, be made, used, sold, offered for sale and imported into the
19 United States such that they infringe the '291 Patent.

20 92. Defendants' infringement of the '291 Patent has been and continues to
21 be willful. Defendants know and have known of the '291 Patent. Defendants have
22 subjectively known their products are infringing the '291 Patent, and Defendants
23 have proceeded despite an objectively high likelihood that a court would find the
24 products to be infringing.

25 93. Defendants do not have a license to use the '291 Patent. Indeed,
26 Defendants and their affiliates have never had any rights to the '291 Patent.

27 94. Defendants have gained profits by virtue of their infringement of the
28 '291 Patent.

Relief Requested

1
2 WHEREFORE, Plaintiff Drop Stop LLC prays that the Court enter judgment
3 against Defendants Zhu, Zake International, Zake USA, 3B Tech, Shenzhen
4 Zhouwou and Taiwu, and in favor of Plaintiff as follows:

5 A. Judgment that each of the Defendants has infringed one or more claims
6 of the '291 Patent;

7 B. An order and judgment preliminarily and permanently enjoining
8 Defendants and their officers, directors, agents, servants, employees, affiliates,
9 attorneys, and all others acting in privity or in concert with them, and their parents,
10 subsidiaries, divisions, successors and assigns from further acts of infringement of
11 the '291 Patent;

12 C. A judgment awarding Plaintiff all damages adequate to compensate for
13 Defendants' infringement of the '291 Patent, including all pre-judgment and post-
14 judgment interest at the maximum rate permitted by law;

15 D. A judgment awarding Plaintiff all damages, including treble damages,
16 based upon willful infringement, pursuant to 35 U.S.C. § 284, together with pre-
17 judgment and post-judgment interest;

18 E. Judgment that the case is exceptional and an award of reasonable
19 attorneys' fees, expenses, expert fees and other costs incurred in this action under
20 35 U.S.C. § 285;

21 F. Judgment awarding costs of suit; and

22 G. Such other relief as the Court determines to be just and proper.
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1 DATED: May 8, 2017

By: /s/ Guy Ruttenberg

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