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12 **UNITED STATES DISTRICT COURT**
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14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15
16 **SAN JOSE DIVISION**

17 Shen Ko Tseng,

18 Plaintiff,

19 v.

20 Ross Stores, Inc., ACI International and
21 Xiamen Aider Shoe Company Ltd.,

22 Defendants.

Case No. 5:20-cv-02694-EJD

**AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

23 **COMPLAINT**

24 Plaintiff, Shen Ko Tseng, by and through his undersigned attorneys, for his First Amended
25 Complaint against Defendant Ross Stores, Inc. (“Ross”), Defendant ACI International (“ACI”)
26 and Defendant Xiamen Aider Shoe Company Ltd. (“Aider”), alleges as follows:
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NATURE OF ACTION

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

PARTIES

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

7 3. Plaintiff Shen Ko Tseng is informed and believes and thereon alleges that
8 Defendant Ross is a corporation organized and existing under the laws of the State of Delaware,
9 Delaware Secretary of State file number 2191809, having its principal place of business at 5130
10 Hacienda Drive, Dublin, CA 94568.

11 4. Plaintiff Shen Ko Tseng is informed and believes and thereon alleges that
12 Defendant ACI is a corporation organized and existing under the laws of the State of California,
13 California Secretary of State File Number C0266520, having its principal place of business at 844
14 Moraga Drive, Los Angeles, CA 90049.

15 5. Plaintiff Shen Ko Tseng is informed and believes and thereon alleges that
16 Defendant Aider is a corporation organized and existing under the laws of the People's Republic
17 of China, having its principal place of business at Room 9D2, No. 46, Hu Lee Blvd., Hu Lee
18 District, Xiamen, Fu Jian Province, People's Republic of China.

19 6. Plaintiff Shen Ko Tseng is informed and believes and thereon alleges that
20 Defendant ACI engages in a business of distributing within the United States of various footwear
21 products which are imported into the United States by Defendant Aider.

22 7. Plaintiff Shen Ko Tseng is informed and believes and thereon alleges that
23 Defendant ACI distributes various footwear products to major United States retainers, including,
24 without limitation, Defendant Ross and Wal-Mart Stores, Inc. ("Walmart").

JURISDICTION AND VENUE

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26
27 8. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*,
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1 including §§ 271, 281, 282, 283, 284, and 285.

2 9. This Court has subject matter jurisdiction over this patent infringement action
3 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4 10. Defendant ACI is a corporation domiciled in the State of California.

5 11. Defendant Ross is a Delaware corporation having its principal office in the State of
6 California.

7 12. Defendant Aider is a corporation domiciled in China.

8 13. This Court has personal jurisdiction over Defendants, and each of them, pursuant
9 to California long arm statute codified in Cal. Code Civ. Proc. § 410.10.

10 14. Defendant Ross conducts and has conducted a substantial, systematic, and
11 continuous business in the State of California and in this District as alleged hereinabove.

12 15. Defendant Aider conducts and has conducted a substantial, systematic, and
13 continuous business in the United States, the State of California and this District as alleged
14 hereinabove.

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

17 **INTRADISTRICT ASSIGNMENT**

18 17. Assignment of the present action to the San Francisco or Oakland Division of this
19 Court is proper because the substantial part of the events or omissions, which give rise to this
20 action has occurred in Alameda county, where Defendant Ross' principal office is located.

22 **BACKGROUND**

23 18. On November 18, 2008, United States Patent No. 7,452,106 ("the '106 patent")
24 entitled "CIRCUIT DEVICE FOR CONTROLLING A PLURALITY OF LIGHT-EMITTING
25 DEVICES IN A SEQUENCE" was duly and legally issued to Plaintiff. Plaintiff is the owner of
26 all rights, title and interest in the '106 patent. A copy of the '106 patent is attached hereto as
27 Exhibit A.
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1 19. The ‘106 patent discloses and claims certain electronic circuits (namely, LED
2 controller) for electronically controlling multiple light emitting diodes (LEDs) causing the
3 multiple LEDs to flash by a first pre-defined lighting sequence and a second pre-defined lighting
4 sequence based on motion of shoes.

5 20. Defendant Aider imports into the United States and sells to Defendant ACI certain
6 LED illuminated shoes incorporating LED controllers infringing one or more claims of the ‘106
7 patent.

8 21. Defendant ACI offers to sell, sells, and distributes those infringing shoes within
9 the United States to Defendant Ross and other United States retailer, such as Walmart.

10 22. Defendant Ross then offers to sell, sells, and distributes those infringing shoes
11 from Defendant ACI within the United States to end customers within the United States.

12 23. Exemplary LED illuminated shoes incorporating LED controllers infringing one or
13 more claims of the ‘106 patent, which are imported, offered for sale, distributed and sold by
14 Defendant ACI to Walmart include, without limitation, “Disney Minnie I”, and “Mcqueen 95”
15 branded LED illuminated shoes (the foregoing shoes listed in this paragraph will be referred to
16 collectively herein as the “Walmart LED Illuminated Shoes I”):

17
18 Disney Minnie I



Mcqueen 95



as well as “Lighting Mcqueen”, “Lion King”, and “Disney Minnie II” branded LED illuminated shoes (the foregoing shoes listed in this paragraph will be referred to collectively herein as the “Walmart LED Illuminated Shoes II”):

Lighting Mcqueen



Lion King



Disney Minnie II




24. Exemplary LED illuminated shoes incorporating LED controllers infringing one or more claims of the '106 patent, which are imported, offered for sale, distributed and sold by Defendant ACI to Ross include, include, without limitation, "PAW Patrol I", "Disney Minnie I", and "PAW Patrol II" branded LED illuminated shoes (the foregoing shoes listed in this paragraph will be referred to collectively herein as the "Ross LED Illuminated Shoes I"):

PAW Patrol I		
Disney Minnie I		
PAW Patrol II		

as well as "Lighting Mcqueen", "PAW Patrol III", "Princess", and "Disney Minnie II"

1 branded LED illuminated shoes (the foregoing shoes listed in this paragraph will be referred to
 2 collectively herein as the “Ross LED Illuminated Shoes II”):

3 4 5 6 7 8 9	Lighting Mcqueen	
10 11 12 13	PAW Patrol III	
14 15 16 17 18	Princess	
19 20 21 22 23	Disney Minnie II	

24
 25 25. The Walmart LED Illuminated Shoes I, Ross LED Illuminated Shoes I, Walmart
 26 LED Illuminated Shoes II and Ross LED Illuminated Shoes II alleged in the above paragraphs are
 27 merely exemplary shoes containing infringing LED controllers.

28 26. Plaintiff Shen Ko Tseng is informed and believes and thereon alleges that

1 Defendant Aider imports into the United States, and then Defendant ACI sells, offers for sale, and
 2 distributes other LED illuminated shoes incorporating LED controllers that are infringing one or
 3 more claims of the '106 patent at least in this judicial district and/or throughout the United States.
 4

5 CAUSE OF ACTION

6 **(Infringement of the '106 patent)**

7 27. Plaintiff Shen Ko Tseng incorporates the allegations set forth in Paragraphs 1-26
 8 above as if fully set forth herein.

9 28. The Walmart LED Illuminated Shoes I, Ross LED Illuminated Shoes I, Walmart
 10 LED Illuminated Shoes II and Ross LED Illuminated Shoes II that Defendant Aider imports into
 11 the United States, and then Defendant ACI offers to sell and sells to Ross and/or Walmart are
 12 covered by one or more claims of the '106 patent.

13 29. The '106 patent is valid and enforceable, and Defendant Aider's importation into
 14 the United States, and ACI's offers to sell, sales, and distribution within the United States of the
 15 Walmart LED Illuminated Shoes I, Ross LED Illuminated Shoes I, Walmart LED Illuminated
 16 Shoes II and Ross LED Illuminated Shoes II incorporating LED controllers covered by one or
 17 more claims of the '106 patent is unauthorized.

18 30. Defendant Aider's importation into the United States, and Defendant ACI's offers
 19 to sell, sales, and distribution within the United States of Walmart LED Illuminated Shoes I, Ross
 20 LED Illuminated Shoes I, Walmart LED Illuminated Shoes II and Ross LED Illuminated Shoes II
 21 containing LED controllers covered by one or more claims of the '106 patent thus constitutes
 22 infringement of the '106 patent in violation of 35 U.S.C. § 271(a).

23 31. For example, "Mcqueen 95" branded shoe of Walmart LED Illuminated Shoes I
 24 infringes at least claims 1-4 of the '106 patent, either literally or under the doctrine of equivalents.

25 32. Furthermore, "Lion King" branded shoe of Walmart LED Illuminated Shoes II
 26 infringes at least claims 1-4 of the '106 patent, either literally or under the doctrine of equivalents.

27 33. Additionally, "PAW Patrol I" branded shoe of Ross LED Illuminated Shoes I
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1 infringes at least claims 1-4 of the '106 patent, either literally or under the doctrine of equivalents.

2 34. Moreover, "Lighting Mcqueen" branded shoe of Ross LED Illuminated Shoes II
3 infringes at least claims 1-4 of the '106 patent, either literally or under the doctrine of equivalents.

4 35. Defendant Aider is aware of the '106 patent, but yet it knowingly and actively
5 induces third parties to offer for sale and sell the Walmart LED Illuminated Shoes I, Ross LED
6 Illuminated Shoes I, Walmart LED Illuminated Shoes II and Ross LED Illuminated Shoes II
7 incorporating LED controllers infringing one or more claims of the '106 patent within the United
8 States. Defendant Aider thus actively induces infringement of the '106 patent in violation of 35
9 U.S.C. § 271(b).

10 36. Defendant ACI is also aware of the '106 patent, but yet it knowingly and actively
11 induces third parties to offer for sale and sell the Walmart LED Illuminated Shoes I, Ross LED
12 Illuminated Shoes I, Walmart LED Illuminated Shoes II and Ross LED Illuminated Shoes II
13 incorporating LED controllers infringing one or more claims of the '106 patent within the United
14 States. Defendant ACI thus actively induces infringement of the '106 patent in violation of 35
15 U.S.C. § 271(b).

16 37. Defendants ACI, Ross and Aider has profited through infringement of the '106
17 patent. As a result of Defendants' unlawful infringement of the '106 patent, Plaintiff has suffered
18 damages in an amount not yet determined and will continue to suffer damages in the future.

19 38. Upon information and belief, Defendant ACI's and Defendant Aider's acts of
20 infringement are willful. Defendants ACI and Aider knew and knows of the '106 patent and that
21 Walmart LED Illuminated Shoes I, Ross LED Illuminated Shoes I, Walmart LED Illuminated
22 Shoes II and Ross LED Illuminated Shoes II incorporate LED controllers infringing one or more
23 claims of the '106 patent. Such willful acts of infringement entitle Plaintiff to an award of
24 enhanced damages and reasonable attorney fees against Defendants ACI and Aider.

25 39. Upon information and belief, Defendant Ross' acts of infringement are willful.
26 Defendants Ross knew and knows of the '106 patent and that Ross LED Illuminated Shoes I and
27 Ross LED Illuminated Shoes II incorporate LED controllers infringing one or more claims of the
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1 ‘106 patent. Such willful acts of infringement entitle Plaintiff to an award of enhanced damages
2 and reasonable attorney fees against Defendant Ross.

3 40. Upon information and belief, Defendants ACI and Aider intend to continue its
4 unlawful infringing activity with respect to Walmart LED Illuminated Shoes I, Ross LED
5 Illuminated Shoes I, Walmart LED Illuminated Shoes II and Ross LED Illuminated Shoes II and
6 Plaintiff will continue to be damaged by such infringement, unless Defendants ACI and Aider are
7 enjoined by this Court.

8 41. Defendants ACI’s and Aider’s acts of infringement in connection with Walmart
9 LED Illuminated Shoes I, Ross LED Illuminated Shoes I, Walmart LED Illuminated Shoes II and
10 Ross LED Illuminated Shoes II have caused irreparable harm to Plaintiff and Plaintiff will
11 continue to suffer such irreparable harm unless Defendant ACI and Aider are preliminarily and
12 permanently enjoined by this Court.

13 42. Upon information and belief, Defendant Ross intends to continue its unlawful
14 infringing activity with respect to Ross LED Illuminated Shoes I and Ross LED Illuminated
15 Shoes II and Plaintiff will continue to be damaged by such infringement, unless Defendant Ross
16 is enjoined by this Court.

17 43. Defendant Ross’ acts of infringement in connection with Ross LED Illuminated
18 Shoes I and Ross LED Illuminated Shoes II have caused irreparable harm to Plaintiff and Plaintiff
19 will continue to suffer such irreparable harm unless Defendant Ross is preliminarily and
20 permanently enjoined by this Court.

21 PRAYER

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

- 23 (a) enter judgment that Defendants ACI, Ross, and Aider have infringed the ‘106 patent;
24 (b) preliminarily and permanently enjoin Defendants ACI, Ross, Aider, their officers,
25 subsidiaries, affiliates distributors, agents, servants, employees, attorneys, and all
26 persons in active concert with them, from any further infringement, inducement of
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- 1 infringement, and contributory infringement of the '106 patent;
- 2 (c) enter judgment that Defendant ACI's, Defendant Aider's and Defendant Ross' acts of
- 3 patent infringement are willful;
- 4 (d) award damages, costs, and prejudgment interest to Plaintiff Shen Ko Tseng under 35
- 5 U.S.C. § 284;
- 6 (e) declare this case exceptional and award Plaintiff Shen Ko Tseng his reasonable
- 7 attorneys' fees pursuant to 35 U.S.C. § 285;
- 8 (f) award Plaintiff Shen Ko Tseng treble damages for Defendant ACI's, Defendant
- 9 Aider's and Defendant Ross' willful infringement; and
- 10 (g) award Plaintiff Shen Ko Tseng such other relief as this Court deems just and proper.
- 11

12 Dated: April 23, 2020

Respectfully submitted,

13 By: /s/ Pavel Pogodin

14 Pavel I. Pogodin

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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 23, 2020

Respectfully submitted,

By: /s/ Pavel Pogodin
Pavel I. Pogodin

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