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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 **JEZIGN LICENSING, LLC**, a New
York company,

12 Plaintiff,

13 v.

14 **Evolved Footwear**, Missouri sole
15 proprietorship,

16 Defendant.

Case No. '20CV1437 LAB AGS

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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18 For its Complaint, Jezign Licensing, LLC (“Jezign”) alleges as follows:

19 **Nature of This Action**

20 1. This is a design patent infringement action brought by Jezign against
21 Evolved Footwear (“Evolved”) based on Defendant’s ongoing willful infringement
22 of U.S. Design Patent No. D554,848 (“the ‘848 patent”). Attached hereto as Exhibit
23 A is a true and correct copy of the ‘848 patent, which was issued November 13,
24 2007, is entitled “Illuminated shoe lower”, and is owned by Jezign.

25 **Jurisdiction and Venue**

26 2. Jezign is a New York company with a principal place of business in
27 Silver Spring, Maryland.
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3. Defendant Evolved is a Missouri sole proprietorship with a principal place of business in Kansas City, Missouri.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338.

5. This Court has personal jurisdiction over Defendant because Evolved regularly conducts business in California and has incurred the liability complained of herein in California.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(1)-(2) and 1400.

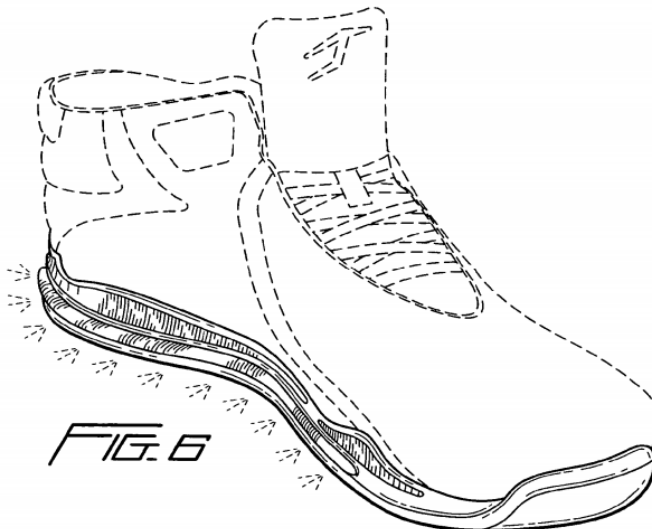
Factual Background

7. Jezign and/is an innovative footwear company started by Jez Marston, the named inventor of the patent-in-suit. Since at least 2000, Jezign and/or its affiliates have been perfecting the design and technology of its unique illuminated footwear.

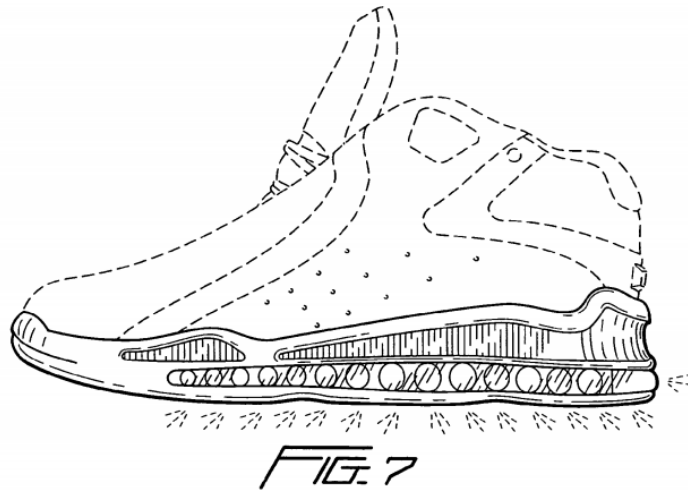
8. Upon information and belief, Evolved is an apparel company that sells the Nike brand shoes modified with LED lights in the sole.

Infringement of U.S. Design Patent No D554,848

9. The claimed design of the patent-in-suit is shown in Figures 1-9 of the patent. Representative images are below:



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10. Evolved offers products including shoes for sale via online retailers (“the Infringing Products”). Images of Evolved’s shoes are shown below:



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11. In the eye of the ordinary observer familiar with the relevant prior art, giving such attention as a purchaser usually gives, the claimed design of the patent-in-suit and the design of Evolved’s shoes are substantially the same, such that the ordinary observer would be deceived into believing that the design of Evolved’s shoes is the design claimed in the patent-in-suit.

12. Defendant has directly infringed, and continues to directly infringe, the patent-in-suit by making, using, offering to sell, selling and/or importing shoes, including the Evolved shoes, having substantially the same ornamental design as the design claimed in the patent-in-suit, in violation of 35 U.S.C. §§ 271(a) and 289.

13. Defendant has had actual knowledge of the patent-in-suit since at least the date on which Defendant received service of the complaint in this action.

14. Upon information and belief, Defendant has sold and continues to sell, offer to sell, distribute and market shoes that infringe the patent-in-suit to end consumers and/or resellers with the intent that these parties will use, market, offer to

1 sell and/or sell the products in the United States in a manner that infringes the
2 patent-in-suit.

3 15. Upon information and belief, Defendant knew or should have known
4 that the use, marketing, offering to sell, and selling of the infringing products by
5 Evolved or its resellers and/or customers would directly infringe on the patent-in-
6 suit.

7 16. Defendant's direct and induced infringement of the patent-in-suit has
8 caused and will continue to cause damage to Jezign.

9 17. Defendant's direct and induced infringement has also caused and will
10 continue to cause irreparable harm to Jezign unless and until such infringing conduct
11 is enjoined pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

12 18. Upon information and belief, Defendant's acts of infringement have
13 been undertaken with knowledge of the patent-in-suit. Such acts constitute willful
14 infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285,
15 and entitle Jezign to enhanced damages and reasonable attorney fees.

16 **Prayer for Relief**

17 Plaintiff prays for judgment as follows:

18 A. An Order preliminarily and permanently enjoining and restraining
19 Defendant from manufacturing, distributing, licensing, using, copying, reproducing,
20 displaying, adapting, offering for sale, and/or selling any product (including, but not
21 limited to, the Infringing Products) that infringes the patent-in-suit;

22 B. An Order directing an accounting to determine Defendant's profits
23 resulting from their unlawful activities;

24 C. An Order awarding Jezign compensation for any and all damages,
25 injury or harm pursuant to 35 U.S.C. §§ 284 and 289;

26 D. An Order directing Defendant to pay full restitution and/or
27 disgorgement of all profits, including any lost profits, and benefits that may have
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1 been obtained by Defendant as a result of its wrongful conduct pursuant to 35
2 U.S.C. §§ 284 and 289;

3 E. An Order awarding Jezign treble damages resulting from Defendant’s
4 willful and intentional conduct pursuant to 35 U.S.C. §§ 284 and 289;

5 F. An Order awarding Jezign punitive and exemplary damages;

6 G. An Order awarding Jezign its reasonable costs and attorneys’ fees, and
7 a Declaration that this case is “exceptional” within the meaning of 35 U.S.C. § 285;
8 and

9 H. Such further relief as this Court deems just and proper.

10 **JURY TRIAL DEMAND**

11 Pursuant to Fed. R. Civ. P. 38(b)(1) and (c), Plaintiff hereby demands a jury
12 trial on all the issues in this action so triable of right by a jury.
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14 Respectfully submitted,

15 Dated: July 26, 2020

SML Avvocati P.C.

16 By: /s/ Stephen M. Lobbin
17 Attorneys for Plaintiff

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