

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Erik B. Cherdak
149 Thurgood Street
Gaithersburg, Maryland 20878

Plaintiff,

v.

Target Corporation
1000 Nicollett Mall
Minneapolis, Minnesota 55403

Defendant.

SERVE ON:

The Corporation Trust Incorporated
300 E. Lombard Street
Baltimore, MD 21202
Registered Agent Target Corp.

No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Erik B. Cherdak ("Cherdak"), by and through undersigned counsel and in and for his Complaint against Defendant Target Corporation (also referred to herein as "TARGET"), alleges the follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement under the laws of the United States and, in particular, under Title 35 of the United States Code (Patents) (35 USC § 1, *et seq.*). Jurisdiction and venue are based on Sections 1338(a), 1391(b) and (c), and/or 1400(b) of Title 28, United States Code.

**Joseph
Greenwald
& Laake**

Joseph, Greenwald & Laake, P.A.
6404 Ivy Lane • Suite 400
Greenbelt, Maryland 20770
(301) 220-2200 • Fax 220-1214

2. Plaintiff Erik B. Cherdak is an individual who resides in Gaithersburg, Maryland. At all times relevant herein, Mr. Cherdak has been and is the named inventor and owner of United States Patent Nos. 5,343,445 (“the ‘445 patent”) and 5,452,269 (“the ‘269 patent”) (hereinafter also collectively referred to as “the Cherdak patents”), which were duly and legally issued by the U.S. Patent and Trademark Office on August 30, 1994 and September 19, 1995, respectfully. True and correct copies of each of the Cherdak patents, both entitled “Athletic Shoe with Timing Device,” are attached hereto at Exhibits A & B. Mr. Cherdak is the owner of the entire rights, title, and interests in and to the ‘445 and ‘269 patents and has the right to recover for past infringement of the Cherdak patents.

3. TARGET is, on information and belief a Minnesota, USA corporation with its principal place of business at 1000 Nicollett Mall, Minneapolis, Minnesota 55403.

4. TARGET is presently and has in the past engaged in the design, manufacture, importation, distribution, licensing, sale, and offering for sale, of what are commonly referred to as light up shoes. At certain relevant times for purposes of this Complaint, TARGET engaged in the infringement of, and/or induced the infringement of and/or committed contributory infringement of, the Cherdak patents throughout the United States, including, but not limited to, in the District of Maryland.

FACTUAL ALLEGATIONS

5. On July 6, 1993, Mr. Cherdak filed a patent application entitled “Athletic Shoe with Timing Device” that resulted in the issuance of the ‘445 patent on August 30, 1994. On August 29, 1994, as a continuation of the ‘445 patent application, Mr. Cherdak filed a continuation patent application entitled “Athletic Shoe with Timing Device” that resulted in

**Joseph
Greenwald
& Laake**

Joseph, Greenwald & Laake, P.A.
6404 Ivy Lane • Suite 400
Greenbelt, Maryland 20770
(301) 220-2200 • Fax 220-1214

the issuance of the '269 patent on September 19, 1995. The Cherdak patents are directed to shoe products and, more particularly, shoes containing lighting systems.

6. TARGET has in the past imported, made, distributed, sold and offered for sale, and continues to import, make, distribute, sell and offer for sale, infringing light up shoes such as those bearing the, "SPOT LITES" and "LIGHT MOVES" brand identifiers. Exemplary infringing lighted shoe products TARGET has designed, made, has had made on its behalf, marketed, sold and/or otherwise placed in U.S. commerce, are certain SPOT LITES branded lighted shoe products having inner shoe labels bearing DPCI No. 093061629 (boys), certain LITE MOVES branded lighted shoe products having inner shoe labels bearing DPCI Nos. 093/06/1631 (boys) and 093/06/6038 (girls). The aforementioned girls style LITE MOVES branded lighted shoe product and the aforementioned boys style SPOT LITES branded lighted shoe product were marketed by TARGET as late as February 14, 2005 – See Exhibit C. Each of the aforementioned exemplary lighted shoe products includes a lighting module having U.S. patent number 5,709,464 marked thereon.

COUNT ONE

PATENT INFRINGEMENT UNDER 35 U.S.C. § 271

7. Paragraphs 1 through 6 are hereby incorporated by reference as though completely set forth herein.

8. On August 30, 1994, the '445 patent was duly and legally issued by the U.S. Patent and Trademark Office. On September 19, 1995, the '269 patent was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff Cherdak is the owner of the '445 and '269 patents.

**Joseph
Greenwald
& Laake**

Joseph, Greenwald & Laake, P.A.
6404 Ivy Lane • Suite 400
Greenbelt, Maryland 20770
(301) 220-2200 • Fax 220-1214

9. On information and belief, TARGET has infringed, contributed to the infringement of, and/or induced the infringement of the '445 and '269 patents in violation of 35 U.S.C. § 271 (a), (b) and (c) by Defendant's manufacture, importation, distribution, sales and offers for sale of infringing light up shoe products including, but not limited to, the light up shoe products identified in paragraph 6 hereof.

10. Upon information and belief, TARGET has infringed one or more claims of the '445 and '269 patents in violation of U.S.C. § 271(b) by actively inducing its distributors, customers, and/or retailer outlets to infringe one or more claims of the '445 and '269 patents.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Cherdak prays for judgment and relief against TARGET as follows:

1. For a judgment that the '445 and '269 patents are valid and infringed by Defendant including, but not limited to, its subsidiaries, predecessors-in-interest and business units however and wherever formed;
2. That a permanent injunction issue against continued infringement of the '445 and '269 patents by Defendant and its parents, subsidiaries, officers, directors, employees, affiliates representatives and agents, and all those acting in concert with or through Defendant, directly or indirectly, including, but not limited to, distributors, customers and retailers;
3. That an accounting be had for damages caused to Plaintiff Cherdak by Defendant's infringement, together with pre-judgment and post-judgment interest;
4. Such other further relief as the Court shall deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues so triable.

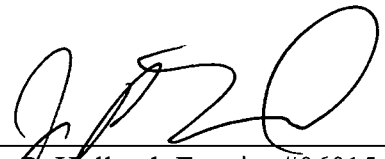
**Joseph
Greenwald
& Laake**

Joseph, Greenwald & Laake, P.A.
6404 Ivy Lane • Suite 400
Greenbelt, Maryland 20770

(301) 220-2200 • Fax 220-1214

Respectfully submitted,

JOSEPH GREENWALD & LAAKE



Jay P. Holland, Esquire #06015
Lawrence R. Holzman, Esquire #10751
6404 Ivy Lane, Suite 400
Greenbelt, MD 20770
(240) 553-1199 (v); (301) 220-1214 (fax)
lholzman@jgllaw.com
Counsel for Plaintiff

February 21, 2006

**Joseph
Greenwald
& Laake**

Joseph, Greenwald & Laake, P.A.
6404 Ivy Lane • Suite 400
Greenbelt, Maryland 20770
(301) 220-2200 • Fax 220-1214