

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

LUMINO DESIGNS INC.,

Plaintiff,

v.

TARGET CORPORATION, TARGET
BRANDS, INC., FOOTSTAR, INC., THE
STRIDE RITE CORPORATION, K MART
HOLDING CORPORATION, KOHL'S
CORPORATION, SEARS, ROEBUCK and CO.,
BROWN SHOE COMPANY, INC., J.C.
PENNEY COMPANY, INC.,

Defendants.

Civil Action No. 05-C-3699
Hon. Robert W. Gettleman

Magistrate Judge Keys

SECOND AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff Lumino Designs, Inc. ("Lumino Designs") complains of defendants as follows:

NATURE OF LAWSUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

THE PARTIES

2. Lumino Designs is a New York corporation with its principal place of business at 38 Dallas Avenue, New Hyde Park, NY 11040. Lumino is the named assignee of, owns all right title and interest in, and has standing to sue for infringement of United States Patent No. 5,743,616, entitled "LED Illuminated Image Display," issued April 28, 1998 ("the '616 patent") (Exhibit A).

3. Defendants Target Corporation and Target Brands, Inc (collectively "Target") are Minnesota corporations with principal places of business at 1000 Nicollet Mall, Minneapolis, MN 55403. Upon information and belief, Target transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

4. Defendant Footstar Corporation ("Footstar") is a Texas corporation with a principal place of business at 933 MacArthur Blvd. Mahwah New Jersey 07430. Upon information and belief, Footstar transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

5. Defendant Kmart Holding Corporation ("Kmart") is a Michigan corporation with a principal place of business at 3100 West Big Beaver Road, Troy, MI 48084. Upon information and belief, Kmart transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

6. Defendant The Stride Rite Corporation ("Stride Rite") is a Massachusetts corporation with a principal place of business at 191 Spring Street, Lexington, MA 02420. Upon information and belief, Stride Rite transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

7. Defendant Kohl's Corporation. ("Kohl's") is a Wisconsin corporation with a principal place of business at N56 W17000 Ridgewood Drive, Menomonee Falls, Wisconsin 53051. Upon information and belief, Kohl's transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

8. Defendant Sears Roebuck and Co. ("Sears") is a New York corporation with a principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 600179. Upon information and belief, Sears transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

9. Defendant Brown Shoe Company, Inc. ("Brown Shoe") is a New York corporation with a principal place of business at 8300 Maryland Avenue, St. Louis, Missouri 63105. Upon information and belief, Brown Shoe transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

10. Defendant J.C. Penney Company, Inc. ("J.C. Penny") is a Delaware corporation with a principal place of business at 6501 Legacy Drive, Plano, Texas 75024. Upon information and belief, J.C. Penney transacts business and has sold to customers in this judicial district and throughout the State of Illinois products that infringe claims of the '616 patent.

JURISDICTION AND VENUE

11. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

12. Personal Jurisdiction over the defendant is proper in this Court. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

DEFENDANTS' ACTS OF PATENT INFRINGEMENT

13. Target has infringed the '616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the '616 patent, including by way of example but not limitation, the following lighted shoe products:

<u>PRODUCT DESCRIPTION</u>	<u>MARKING(S) ON PRODUCT</u>
Light Moves Boys lights navy	093-06-1633 id 506445 01Q80 SKU 390930616332
Light Moves Boys lights navy	093-06-2625 SKU 9093062625
girls pink	Vendor 1148327 RN 17730 ftyid 16670904 Dcpi 093/C

Upon information and belief, none of the above-identified lighted shoe products is sourced by BBC International LTD.

14. Target has also infringed the '616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others.

15. Although Lumino Designs has served discovery requests calling for Target to identify all models of lighted shoe products it has made, sold, offered for sale or used, Target has to date refused to do so and has joined in a motion seeking to stay Lumino Designs'

discovery. Accordingly, Lumino Designs' allegations are not limited solely to the specific models and products identified with particularity above.

16. Target's infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the '616 patent.

17. Kmart has infringed the '616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the '616 patent, including by way of example but not limitation, the following lighted shoe products:

<u>PRODUCT DESCRIPTION</u>	<u>MARKING(S) ON PRODUCT</u>
KMART	Street Lights by Footstar.com
ACI	Hot Wheels Lights
KMART	The Incredibles by Footstar.com

Upon information and belief, none of the above-identified lighted shoe products is sourced by BBC International LTD.

18. Kmart has also infringed the '616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others.

19. Although Lumino Designs has served discovery requests calling for Kmart to identify all models of lighted shoe products it has made, sold, offered for sale or used, Kmart has to date refused to do so and has joined in a motion seeking to stay Lumino Designs' discovery. Accordingly, Lumino Designs' allegations are not limited solely to the specific models and products identified with particularity above.

20. Kmart's infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and,

specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the '616 patent.

21. Footstar has infringed the '616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the '616 patent, including by way of example but not limitation, the following lighted shoe products:

<u>PRODUCT DESCRIPTION</u>	<u>MARKING(S) ON PRODUCT</u>
The Incredibles by Footstar.com	2796, 72784 A05

Upon information and belief, none of the above-identified lighted shoe products is sourced by BBC International LTD.

22. Footstar has also infringed the '616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others.

23. Although Lumino Designs has served discovery requests calling for Footstar to identify all models of lighted shoe products it has made, sold, offered for sale or used, Kmart has to date refused to do so and has joined in a motion seeking to stay Lumino Designs' discovery. Accordingly, Lumino Designs' allegations are not limited solely to the specific models and products identified with particularity above.

24. Footstar's infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the '616 patent.

25. Stride Rite has infringed the '616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the '616 patent, including by way of example but not limitation, the following lighted shoe products:

<u>PRODUCT DESCRIPTION</u>	<u>MARKING(S) ON PRODUCT</u>
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Solar	6324545
Orbit	4418661
Heart Lace	5210570w
Iron Man Navy/Orange	4210241
Virtuoso	
Virtuoso Hook & Loop	
Virtuoso Zip	4084943
Spidey Navy Lea/Mesh	4054342
Iron Man	
LTS Trekk NAVY LEA	6118749
Solar With ½ light up sole	6324545
Iron Man II	
Slam Dunk Hoop & Loop	2180602
Freeze Tag Girls Boot	5091194
Freeze Tag Boys Boot	4091146
LTS TREKK	4118741W

Upon information and belief, none of the above-identified lighted shoe products is sourced by BBC International LTD.

26. Stride Rite has also infringed the '616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others.

27. Although Lumino Designs has served discovery requests calling for Stride Rite to identify all models of lighted shoe products it has made, sold, offered for sale or used, Stride Rite has to date refused to do so and has joined in a motion seeking to stay Lumino Designs' discovery. Accordingly, Lumino Designs' allegations are not limited solely to the specific models and products identified with particularity above.

28. Stride Rite's infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the '616 patent.

29. Kohl's has infringed the '616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the '616 patent, including by way of example but not limitation, "Teenage

Mutant Ninja Turtles” children’s sneakers marked “ES Originals.” Kohl’s has also infringed the ‘616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others. Although Lumino Designs has served discovery requests calling for Kohl’s to identify all models of lighted shoe products it has made, sold, offered for sale or used, Kohl’s has to date refused to do so. Accordingly, Lumino Designs’ allegations are not limited solely to the specific model and product identified with particularity above.

30. Kohl’s’ infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the ‘616 patent.

31. Sears has infringed the ‘616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the ‘616 patent, including by way of example but not limitation, the following lighted shoe products:

<u>PRODUCT DESCRIPTION</u>	<u>MARKING(S) ON PRODUCT</u>
Teenage Mutant Ninja Turtles	
Blink	56006 518 306 aan-1
Hot Wheels Accelerace	89022 d36 M890922552
Cars light up sneaker Dragster	0602 AS 29554105
Trucker Model 49030	As2914605 0602 d m9030512
Spiderman Spidey High top Sneakers	
Adorada 39028 (Heel)	39028 0602 ad2962400
Power Rangers Police	
Power Ranger Mystic Force	
Bulldozer	Style 58202

Upon information and belief, none of the above-identified lighted shoe products is sourced by BBC International LTD.

32. Sears has also infringed the ‘616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others.

33. Although Lumino Designs has served discovery requests calling for Sears to identify all models of lighted shoe products it has made, sold, offered for sale or used, Sears has to date refused to do so and has joined in a motion seeking to stay Lumino Designs' discovery. Accordingly, Lumino Designs' allegations are not limited solely to the specific models and products identified with particularity above.

34. Sears' infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the '616 patent.

35. Brown Shoe has infringed the '616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the '616 patent, including by way of example but not limitation, the following lighted shoe products:

<u>PRODUCT DESCRIPTION</u>	<u>MARKING(S) ON PRODUCT</u>
(Barbie Avenue) Barbie Sensation Navy Pink	12777-1 SKU 412777130079
CARS	SKU 04 7140 1730
Star Wars	Model 40721 Black
Power Rangers Mystic Force	SKU 04 7514 2748
Power Rangers SPD	Model 407221 Black
Star Wars Darth Vader	Style 813b99 Shoe Type 017117500552
Barbie	12777
Power Rangers SPD	24217
Star Wars Yoda Lights	Model 6703177 0105 25/33/372 black/green
Airborne	6106541 PW KC
Power Rangers Police	89023 364/aak 554 512
PWR RANGER SPD	93062506
CARS light up sneaker Dragster 89025 554 602	
Power Rangers spaceptl	89021 364aak 554 505
Power Rangers Police	46534 45
CARS light up sneaker Lightning McQueen	567639
Airborne	5885433 PW Cody

Power Rangers Conquer	24217
Power RangersDino Thunder	6347134
Barbie	858706

Upon information and belief, none of the above-identified lighted shoe products is sourced by BBC International LTD.

36. Brown Shoe has also infringed the '616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others.

37. Although Lumino Designs has served discovery requests calling for Brown Shoe to identify all models of lighted shoe products it has made, sold, offered for sale or used, Brown Shoe has to date refused to do so and has joined in a motion seeking to stay Lumino Designs' discovery. Accordingly, Lumino Designs' allegations are not limited solely to the specific models and products identified with particularity above.

38. Brown Shoe's infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the '616 patent.

39. J.C. Penney has infringed the '616 patent by making, offering for sale, selling and/or using shoe products incorporating LED illuminated image displays protected by one or more claims of the '616 patent, including by way of example but not limitation, the following lighted shoe products:

<u>PRODUCT DESCRIPTION</u>	<u>MARKING(S) ON PRODUCT</u>
Arizona Lights Zip II	
Rocket Buzz	Sub 010 Lot 7901
Arizona Junior light up sneaker	
Arizona Sean Black/Grey	Sub 010 Lot 7930 19963-8
AZ lights Race Car White/Navy Red	Sub 010 Lot 7926

Upon information and belief, none of the above-identified lighted shoe products is sourced by BBC International LTD.

40. J.C. Penney has also infringed the '616 patent by knowingly and actively inducing others to infringe and by contributing to the infringement by others.

41. Although Lumino Designs has served discovery requests calling for J.C. Penney to identify all models of lighted shoe products it has made, sold, offered for sale or used, J.C. Penney has to date refused to do so and has joined in a motion seeking to stay Lumino Designs' discovery. Accordingly, Lumino Designs' allegations are not limited solely to the specific models and products identified with particularity above.

42. J.C. Penney's infringement, contributory infringement and inducement to infringe have been willful and deliberate and have injured and will continue to injure Lumino Designs unless and until the Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, sale and/or offer for sale of products that fall within the scope of the '616 patent.

PRAYER FOR RELIEF

WHEREFORE, Lumino Designs asks this Court to enter judgment against defendants and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate Lumino Designs for the infringement that has occurred, together with prejudgment interest from the date infringement of the '616 patent began;

B. Increased damages as permitted under 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to Lumino Designs of its attorneys' fees and costs as provided by 35 U.S.C. § 284;

D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the '616 patent; and,


E. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

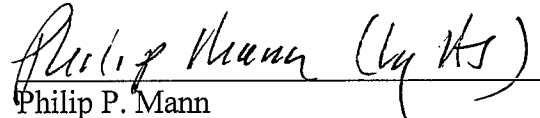
Lumino Designs demands a trial by jury on all issues presented in this Second Amended Complaint.

Dated this 18th day of October, 2006.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Andrew Staes, certify that I have caused Plaintiff's Second Amended Complaint For Patent Infringement to be served upon the parties indicated below, electronically on October 18, 2006.



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