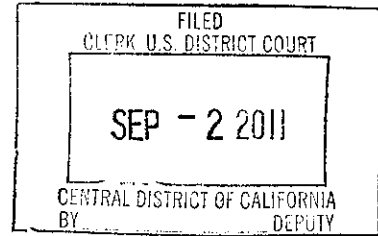


COPY



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8 Attorneys for Plaintiffs SKECHERS U.S.A., INC. and
 9 SKECHERS U.S.A., INC. II

10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA—WESTERN DIVISION

12 SKECHERS U.S.A., INC., a Delaware
 13 corporation, and SKECHERS U.S.A., INC.
 14 II, a Delaware corporation,

15 Plaintiffs,

16 v.

17 STEVEN MADDEN, LTD., a Delaware
 18 company, STEVIES, INC., a Delaware
 19 corporation, and DOES 1-10, Inclusive,
 20 Defendants.

Case No.: **CV11-07295 PA (AJW)**

**COMPLAINT FOR INJUNCTIVE
 RELIEF AND FOR DAMAGES
 FOR:**

- (1) PATENT INFRINGEMENT [35 U.S.C. § 271];
- (2) FEDERAL TRADE DRESS INFRINGEMENT [15 U.S.C. § 1125(a)];
- (3) FEDERAL UNFAIR COMPETITION [15 U.S.C. § 1125(a)];

FAXED

DEMAND FOR JURY TRIAL

24 Plaintiffs Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II (collectively
 25 referred to as "Skechers"), Delaware corporations, by and through their attorneys,
 26 allege as follows:

1 **NATURE OF ACTION**

2 1. This is a complaint for patent infringement, trademark infringement,
3 federal and state trademark dilution, federal and state unfair competition, federal
4 trade dress infringement, common law trademark infringement and common law
5 unfair competition.

6 **THE PARTIES**

7 2. Plaintiffs Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II are
8 corporations duly organized and existing under the laws of the State of Delaware
9 with their principal place of business located at 228 Manhattan Beach Blvd.,
10 Manhattan Beach, California 90266. Skechers U.S.A., Inc. II is a wholly owned
11 subsidiary of Skechers U.S.A., Inc.

12 3. Skechers is one of the leading footwear companies today. Its business
13 includes the design, development, marketing, sale and distribution of high quality
14 footwear throughout the United States and the world.

15 4. Upon information and belief, defendant Steven Madden, Ltd. ("Steve
16 Madden") is a Delaware corporation with a principal place of business located at 52-
17 16 Barnett Ave., New York, NY 10004.

18 5. Upon information and belief, defendant Stevies, Inc. ("Stevies") is a
19 Delaware company with a principal place of business located at 52-16 Barnett Ave.,
20 New York, NY 10004.

21 6. Upon information and belief, defendant Stevies is a wholly owned
22 subsidiary of Steve Madden.

23 7. Defendants Does 1 – 10, inclusive, are sued herein under fictitious names.
24 Their true names and capacities are unknown to Skechers. When their true names
25 and capacities are ascertained, Skechers will amend this complaint by inserting their
26 true names and capacities. Skechers is informed and believes and thereon alleges,

1 that Does 1 – 10, and each of them are responsible in some manner for the
2 occurrences alleged herein and that Skechers' damages were proximately caused by
3 such Defendants. (Steve Madden, Stevies and Does 1 – 10 are referred to
4 collectively as "Defendants.")

5 **JURISDICTION AND VENUE**

6 8. This Court has jurisdiction of the subject matter of this action under the
7 laws of the United States, 35 U.S.C. §271 and 15 U.S.C. § 1125. This Court has
8 jurisdiction over these claims pursuant to 28 U.S.C. §§ 1338 (b) and 1367(a).

9 9. This Court has personal jurisdiction over the Defendants because they
10 have committed one or more of the infringing acts complained of herein in California
11 and in this district, and they do regular business in California and in this district.

12 10. Venue in this Court is proper under the provisions of 28 U.S.C.
13 §§ 1391(b) and (c) because a substantial part of the events and omissions giving rise
14 to the claims herein arose in this district. Venue is further proper in this Court under
15 the provisions of 28 U.S.C. §1400(b) because the Defendants committed acts of
16 infringement and have regular and established places of business in California and in
17 this district.

18 **SKECHERS' TWINKLE TOES® PATENT**

19 11. The United States Patent and Trademark Office has acknowledged the
20 novel, non-obvious, useful, innovative and unique qualities of Skechers' TWINKLE
21 TOES® by awarding U.S. Patent, No. D571,095 (the "'095 Patent") for the unique,
22 novel and nonobvious toe cap design on shoe. Skechers owns the '095 Patent. A true
23 and correct copy of the '095 Patent is attached as Exhibit 1.

24 **SKECHERS' TWINKLE TOES® TRADE DRESS**

25 12. Skechers is the owner of an inherently distinctive trade dress embodied by
26 a line of unique and distinctive footwear known as the "Twinkle Toes® Series." This

1 trade dress is comprised of footwear with distinctive appearance and is known as the
2 "Twinkle Toes® Trade Dress".

3 13. The Twinkle Toes® Trade Dress features the unique combination of the
4 following design elements: a vulcanized canvass sneaker; a toe cap adorned with
5 crystals, rhinestones, sequins or a plurality of other similar shiny elements; and,
6 canvass uppers distinguished by colorful art designs or patterns. Representative
7 samples of the Twinkle Toes® Trade Dress are shown in Exhibit 2.

8 14. The Twinkle Toes® Trade Dress, in part or as a whole, is used simply to
9 convey the distinctive appearance of the Twinkle Toes® Series and is nonfunctional.

10 15. The Twinkle Toes® Trade Dress is inherently distinctive. Skechers has
11 expended many millions of dollars promoting and advertising its Twinkle Toes®
12 Series featuring Twinkle Toes® Trade Dress. Based on extensive, frequent, and
13 ongoing advertising, marketing, sales and distribution by Skechers of the Twinkle
14 Toes® Trade Dress, the Twinkle Toes® Trade Dress has acquired distinctiveness.
15 The Twinkle Toes® Trade Dress includes the appearance of shoes that have an
16 inherently distinctive appearance. The Twinkle Toes® Trade Dress indicates that it
17 emanates from a single source.

18 16. The Twinkle Toes® Series featuring the Twinkle Toes® Trade Dress has
19 sold many millions of pairs of shoes in the United States.

20 17. Since the time when Skechers first created and began using the Twinkle
21 Toes® Trade Dress, Skechers has been, and currently is, the exclusive source in the
22 United States for footwear having the Twinkle Toes® Trade Dress. Skechers'
23 Twinkle Toes® Series footwear has been sold since its inception with the Twinkle
24 Toes® Trade Dress, which indicates its source as Skechers.

25 18. Skechers has continuously advertised, marketed, sold and distributed its
26 footwear having Twinkle Toes® Trade Dress.

1 19. Skechers has expended substantial effort and funds in developing
2 goodwill in Skechers' Twinkle Toes® Trade Dress and in developing a consumer
3 association of the Twinkle Toes® Trade Dress as emanating from Skechers.
4 Skechers has expended many millions of dollars promoting and advertising its
5 Twinkle Toes® Trade Dress. Advertisements and promotions for the Twinkle Toes®
6 Trade Dress have appeared throughout the United States in malls, on point-of-
7 purchase materials in stores and on television. As a result of Skechers' very
8 substantial advertising, marketing, and promotion, Skechers' Twinkle Toes® Trade
9 Dress has acquired secondary meaning.

10
11 **THE DEFENDANTS' INFRINGEMENT OF SKECHERS' TWINKLE TOES®**
12 **PATENT**

13 20. The Defendants manufacture, import, sell and offer to sell a line of
14 footwear under the brand name "Stevies". The Stevies footwear line includes,
15 among others, shoes that have a vulcanized canvas sneaker, a toe cap adorned with
16 crystal, rhinestones, sequins or a plurality of other similar shiny elements, and canvas
17 uppers distinguished by colorful art designs or patterns. A sample of a shoe in the
18 Stevies footwear line is shown in Exhibit 3. The Defendants are using the Stevies
19 footwear line in interstate commerce throughout the United States, including within
20 the state of California and in this district.

21 21. The Stevies footwear lines embodies and infringes the patented invention
22 disclosed in the '095 Patent, shown in Exhibit 1.

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1 **THE DEFENDANTS' INFRINGEMENT OF THE TWINKLE TOES® TRADE**
2 **DRESS**

3 22. The Defendants manufacture, import, sell and offer to sell a line of
4 footwear under the brand name "Stevies". The Stevies footwear line includes,
5 among others, shoes that have a vulcanized canvas sneaker, a toe cap adorned with
6 crystal, rhinestones, sequins or a plurality of other similar shiny elements, and canvas
7 uppers distinguished by colorful art designs or patterns. A sample of a shoe in the
8 Stevies footwear line is shown in Exhibit 3. The Defendants are using the Stevies
9 footwear line in interstate commerce throughout the United States, including within
10 the state of California and in this district.

11 23. The appearance of the Defendants' Stevies footwear line so closely
12 resembles the appearance and trade dress of Skechers' Twinkle Toes® Trade Dress,
13 representative samples are shown in Exhibit 2, that the Defendants' Stevies footwear
14 line are likely to cause confusion, mistake, and deception as to an affiliation,
15 connection, or association of the Defendants with Skechers. Additionally, the
16 appearance of the Defendants' Stevies footwear line so closely resembles the
17 appearance and trade dress of Skechers' Twinkle Toes® Trade Dress that the
18 Defendants' Stevies footwear line of shoes are likely to cause confusion, mistake, and
19 deception as to the origin, sponsorship, or approval of the Defendants' Stevies
20 footwear line. The Defendants' Stevies footwear line so closely resemble Skechers'
21 Twinkle Toes® Trade Dress that the Defendants' act of selling and offering to sell
22 the Defendants' Stevies footwear line infringe Skechers' Twinkle Toes® Trade Dress.

23 24. The Defendants have placed their infringing Stevies footwear line in
24 direct competition with Skechers' Twinkle Toes® Series footwear, well after the
25 Twinkle Toes® Series acquired secondary meaning, and are attempting to "pass off"
26 their Defendants' Stevies footwear line as high-quality Skechers shoes.

1 25. The Defendants placed their infringing Stevies footwear line in
2 competition with Skechers' Twinkle Toes® Trade Dress well after the Twinkle
3 Toes® Trade Dress acquired secondary meaning.

4 26. The Defendants use of nearly identical trade dress on their Stevies
5 footwear line infringes Skechers' Twinkle Toes® Trade Dress and has caused and
6 will continue to cause confusion among the footwear buying public.

7 27. Upon information and belief, the Defendants have engaged in intentional
8 infringement by designing, manufacturing, and importing shoes having an
9 appearance that is confusingly similar to Skechers' Twinkle Toes® Trade Dress.

10 28. Upon information and belief, the Defendants have acted with full
11 knowledge of Skechers' Twinkle Toes® Trade Dress and without Skechers'
12 authorization or consent.

13 29. Upon information and belief, the Defendants have acted willfully, in bad
14 faith and with the intent to confuse and mislead the public and unfairly trade on the
15 substantial and valuable goodwill associated with Skechers' Twinkle Toes® Trade
16 Dress and to capitalize on Skechers' highly respected reputation as a stylish, high-
17 quality footwear company.

18 30. The Defendants will continue to manufacture and import their infringing
19 Defendants' Stevies footwear line and cause additional confusion in the marketplace
20 and further dilute the fame of Skechers' Twinkle Toes® Trade Dress unless they are
21 enjoined.

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FIRST CLAIM FOR RELIEF

[Patent Infringement Against Defendants; 35 U.S.C. § 271]

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3 31. Skechers realleges and incorporates by reference paragraphs 1 – 30 of this
4 Complaint as if fully set forth herein.

5 32. On June 17, 2008, the United States Patent and Trademark Office issued
6 United States Patent, Patent No. D571,095, the '095 Patent, shown in Exhibit 6.
7 Skechers became the owner of the '095 Patent on June 7, 2011, and currently is, the
8 exclusive owner of the entire right, title and interest in and to the '095 Patent.
9 Skechers' ownership of the '095 Patent includes without limitation the exclusive right
10 to enforce the '095 Patent, the exclusive right to file actions based on infringement of
11 the '095 Patent, and the exclusive right to recover damages or other monetary
12 amounts for infringement of the '095 Patent and to be awarded injunctive relief
13 pertaining to the '095 Patent. Skechers has owned the '095 Patent during the
14 Defendants' infringement of the '095 Patent.

15 33. The Defendants have been, and presently are, infringing the '095 Patent
16 within this judicial district and elsewhere by making, offering to sell, selling, and
17 importing shoes that embody the patented invention disclosed in the '095 Patent. The
18 Defendants' infringing shoes are referred to as the Stevies footwear line, as discussed
19 above in Paragraph 20 with representative samples in Exhibit 3. The Defendants will
20 continue to make, offer to sell, sell, and import the Stevies footwear line unless
21 enjoined by this Court.

22 34. The Defendants are infringing the '095 Patent in violation of 35 U.S.C. §
23 271. The Stevies footwear line infringe the '095 Patent in violation of 35 U.S.C.
24 §271.

25 35. The Defendants' Stevies footwear line were not authorized or otherwise
26 approved in any manner by Skechers.

1 36. The Defendants will continue to infringe the '095 Patent and irreparably
2 harm Skechers unless their infringing activities are enjoined by this Court.

3 37. Skechers has complied with the statutory requirement of placing a notice
4 of the '095 Patent on all shoes that it makes and sells that embody the invention
5 disclosed in the '095 Patent since it has acquired the '095 Patent.

6 38. Due to the Defendants' infringement of the '095 Patent, Skechers has
7 suffered, is suffering, and will continue to suffer irreparable injury for which
8 Skechers has no adequate remedy at law. Skechers is therefore entitled to a
9 permanent injunction against the Defendants' further infringing conduct.

10 39. The Defendants have profited and are profiting from their infringement of
11 the '095 Patent and Skechers has been and is being damaged and losing profit by such
12 infringement. Skechers is therefore entitled to recover damages from the Defendants
13 and the total profit under 35 U.S.C. §§ 284 and 289 derived from such infringement,
14 all in an amount to be proved at trial.

15 **SECOND CLAIM FOR RELIEF**

16 **[Federal Trade Dress Infringement; 15 U.S.C. § 1125(a)]**

17 40. Skechers realleges and incorporates by reference paragraphs 1 – 39 of this
18 Complaint as if fully set forth herein.

19 41. By the acts and omissions set forth above, the Defendants are violating
20 Lanham Act § 43(a), 15 U.S.C. § 1125(a) and are infringing Skechers' trade dress.
21 The Defendants' use in commerce of their Stevies footwear line, shown in Exhibit 3,
22 constitutes a false designation of origin, a false and misleading description of fact,
23 and a false and misleading representation of fact which is likely to cause confusion,
24 to cause mistake, and to deceive by wrongly suggesting some affiliation, connection,
25 or association between the Defendants' Stevies footwear line and Skechers' Twinkle
26 Toes® Trade Dress, shown in Exhibit 2. Such use by the Defendants of their Stevies

1 footwear line is also likely to cause confusion, to cause mistake, and to deceive as to
2 the origin, sponsorship, or approval of the Defendants' Stevies footwear line. Such
3 use by the Defendants of their Stevies footwear line constitutes trade dress
4 infringement in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

5 42. The Defendants have infringed, and continue to infringe, Skechers'
6 Twinkle Toes® Trade Dress. The Defendants' Stevies footwear line infringes
7 Skechers' Twinkle Toes® Trade Dress.

8 43. The Defendants' conduct is likely to cause confusion, mistake and
9 deception among the general purchasing public, and interfere with Skechers' ability to
10 use and profit from its Twinkle Toes® Trade Dress.

11 44. The Defendants' conduct as described above is also likely to harm or
12 extinguish the current ability of Skechers' Twinkle Toes® Trade Dress to indicate
13 that the Twinkle Toes® Trade Dress emanates from a single source. The Defendants'
14 conduct as described above harms the goodwill and reputation associated with the
15 Twinkle Toes® Trade Dress.

16 45. Skechers has suffered, is suffering, and will continue to suffer irreparable
17 injury for which Skechers has no adequate remedy at law. Skechers is therefore
18 entitled to a permanent injunction against Defendants' further infringing conduct.

19 46. Defendants have profited and are profiting from such infringement, and
20 Skechers has been and is being damaged and losing profit by such infringement.
21 Skechers is therefore entitled to recover damages and profits from Defendants in an
22 amount to be proved at trial as a consequence of Defendants' violations of Lanham
23 Act § 43(a), 15 U.S.C. § 1125(a).

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THIRD CLAIM FOR RELIEF

[Federal Unfair Competition; 15 U.S.C. § 1125(a)]

47. Skechers realleges and incorporates by reference paragraphs 1 – 46 of this Complaint as if fully set forth herein.

48. By the acts and omissions set forth above, Defendants are unfairly competing with Skechers by producing, marketing and selling the shoes shown in Exhibit 3.

49. Due to such unfair competition, Skechers has suffered, is suffering, and will continue to suffer irreparable injury for which Skechers has no adequate remedy at law. Skechers is therefore entitled to a permanent injunction against Defendants to prevent them from unfairly competing with Skechers.

50. Defendants have profited and are profiting from their unfair competition with Skechers, and Skechers has been and is being damaged and losing profit by such unfair competition. Skechers is therefore entitled to recover damages and profits from Defendants in an amount to be proved at trial as a consequence of Defendants' unfair competition.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II respectfully demand a judgment against Defendants as follows:

- 1. A judgment declaring that Defendants have:
 - a. infringed Skechers' '095 Patent;
 - b. infringed Skechers' Twinkle Toes® Trade Dress;
 - e. competed unfairly with Skechers;
 - f. injured Skechers' business reputation by the unauthorized use of Skechers' Twinkle Toes® Trade Dress; and

1 g. willfully violated the applicable laws of the United States and of the
2 states where Defendants' goods have been sold, all to the detriment of
3 Skechers;

4 2. That the Defendants, their officers, agents, servants,
5 employees, attorneys, assigns and all persons in active concert with or participation
6 with them be forthwith preliminarily and thereafter permanently enjoined and
7 restrained from:

- 8 a. Infringing or inducing infringement of the '095 Patent;
- 9 b. Infringing or inducing infringement of Skechers' Twinkle Toes® Trade
10 Dress;
- 11 c. Using the Skechers' Twinkle Toes® Trade Dress, alone or in combination
12 with any other elements, to advertise or identify Defendants' goods or
13 services;
- 14 d. Unfairly competing with Skechers in any manner whatsoever;
- 15 e. Causing likelihood of confusion, or injury to business reputation of
16 Skechers' marks, symbols, labels, or forms of advertising or promotion;
- 17 f. Engaging in any acts or activities directly or indirectly calculated to trade
18 upon Skechers' Twinkle Toes® Trade Dress or the reputation or goodwill of
19 Skechers, or in any way to compete unfairly with Skechers;

20 3. For a judgment directing that any shoes, goods, labels, emblems or
21 packaging in the possession or under the control of Defendants which infringe the
22 '095 Patent or any colorable imitation or facsimile thereof, but not emanating from
23 Skechers, be delivered up and destroyed within 10 days of entry of judgment, and
24 that all instrumentalities used in the production of such shoes, goods, labels,
25 emblems or packaging, including any and all items, objects, tools, machines, and
26 equipment used in such production, be delivered up and destroyed within 10 days of

1 entry of judgment;

2 4. For a judgment directing Defendants to recall all infringing goods and
3 any other materials sold, distributed, advertised or marketed which infringe the '095
4 Patent or any colorable imitation or facsimile thereof, but not emanating from
5 Skechers;

6 5. For a judgment against Defendants awarding Skechers damages, lost
7 profits, reasonable royalties, and other monetary amounts including without
8 limitation:

- 9 a. all damages sustained by Skechers as a result of the Defendants'
10 unlawful infringement of the '095 Patent, together with appropriate
11 interest on such damages and that such damages be trebled, pursuant
12 to 35 U.S.C. § 284;
- 13 b. The Defendants' total profit from the Defendants' sales of footwear
14 that infringes the '095 Patent, and all other remedies provided by 35
15 U.S.C. § 289;
- 16 c. All remedies provided for by 15 U.S.C. § 1117 (a), including but not
17 limited to all damages sustained by Skechers as a result of
18 Defendants' unlawful infringement of the Skechers' Twinkle Toes®
19 Trade Dress together with appropriate interest on such damages and
20 that such damages be trebled;
- 21 d. All remedies provided for by 15 U.S.C. § 1117 (a), including but not
22 limited to all profits derived by each of the Defendants from the sale
23 of goods by the direct or indirect use of any of Skechers' Twinkle
24 Toes® Trade Dress or colorable imitations or facsimiles thereof, and
25 that such profits be trebled;
- 26

1 e. all damages sustained by Skechers on account of unfair competition,
2 lost business opportunities and any other damage suffered by
3 Skechers as a result of Defendants' acts described in this complaint,
4 and that such damages be trebled; and

5 f. for the maximum statutory damages allowed under 15 U.S.C. §
6 1117(c);

7 6. For an order directing Defendants to pay punitive damages to Skechers;

8 7. For an order directing Defendants to pay restitution to Skechers;

9 8. For an award of attorneys' fees pursuant to 15 U.S.C. § 1117;

10 9. For an award of pre-judgment interest at the maximum rate allowed by
11 law;

12 10. For the costs of suit herein; and

13 11. For such additional and further relief that the Court may deem just and
14 proper under the circumstances.

15
16 KLEINBERG & LERNER, LLP

17
18 September 2, 2011

By:



Marshall A. Lerner

Bradford E. Mattes

Philip L. Nulud

1875 Century Park East, Suite 1150

Los Angeles, CA 90067

Attorneys for Plaintiffs Skechers U.S.A., Inc. and

Skechers U.S.A., Inc. II

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule 38-1, Plaintiffs Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II demand a trial by jury of any and all issues triable of right by a jury pursuant to the Seventh Amendment to the United States Constitution or as given by a statute of the United States.

September 2, 2011

By:



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Bradford E. Mattes
Philip L. Nulud
Kleinberg & Lerner, LLP
1875 Century Park East, Suite 1150
Los Angeles, CA 90067
Attorneys for Plaintiffs Skechers U.S.A., Inc. and
Skechers U.S.A., Inc. II

EXHIBIT 1



US00D571095S

(12) **United States Design Patent**
Clifford

(10) **Patent No.:** **US D571,095 S**
(45) **Date of Patent:** **** Jun. 17, 2008**

(54) **CRYSTAL-COVERED SHOE TOE CAP**

(75) Inventor: **Pauline Clifford**, 1 Kirkhill Crescent,
Neilston, Glasgow (GB) G78 3NS

(73) Assignee: **Pauline Clifford**, Glasgow (GB)

(**) Term: **14 Years**

(21) Appl. No.: **29/265,699**

(22) Filed: **Sep. 6, 2006**

(51) **LOC (8) Cl.** **02-99**

(52) **U.S. Cl.** **D2/972; D2/946**

(58) **Field of Classification Search** D2/916-918,
D2/925-945, 971, 964, 965, 969, 896, 900,
D2/902, 907, 946, 972-974, 976; 36/1, 11.5,
36/9 R, 136, 113, 114, 126-130, 112
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

D91,535 S *	2/1934	Morali	.....	D2/932
1,977,995 A *	10/1934	Morali	.....	36/136
D158,389 S *	5/1950	Lakow	.....	D2/971
D179,486 S *	1/1957	Levine	.....	D2/942

D192,695 S *	5/1962	Glascok	.....	D2/900
D333,376 S *	2/1993	Raffe	.....	D2/969
D501,710 S *	2/2005	Choi	.....	D2/971
D545,039 S *	6/2007	Weitzman et al.	.....	D2/971
D552,338 S *	10/2007	Choi et al.	.....	D2/971
D554,354 S *	11/2007	Guers-Neyrud	.....	D2/971

* cited by examiner

Primary Examiner—Dominic Simone

(74) *Attorney, Agent, or Firm*—Liu & Liu; Wen Liu

(57) **CLAIM**

The ornamental design for the crystal-covered show toe cap, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a crystal-covered shoe toe cap showing my new design;

FIG. 2 is a perspective view of a second embodiment of FIG. 1; and,

FIG. 3 is a perspective view of a third embodiment of FIG. 1.

The broken line disclosure is for illustrative purposes only and forms no part of the claimed design.

1 Claim, 3 Drawing Sheets

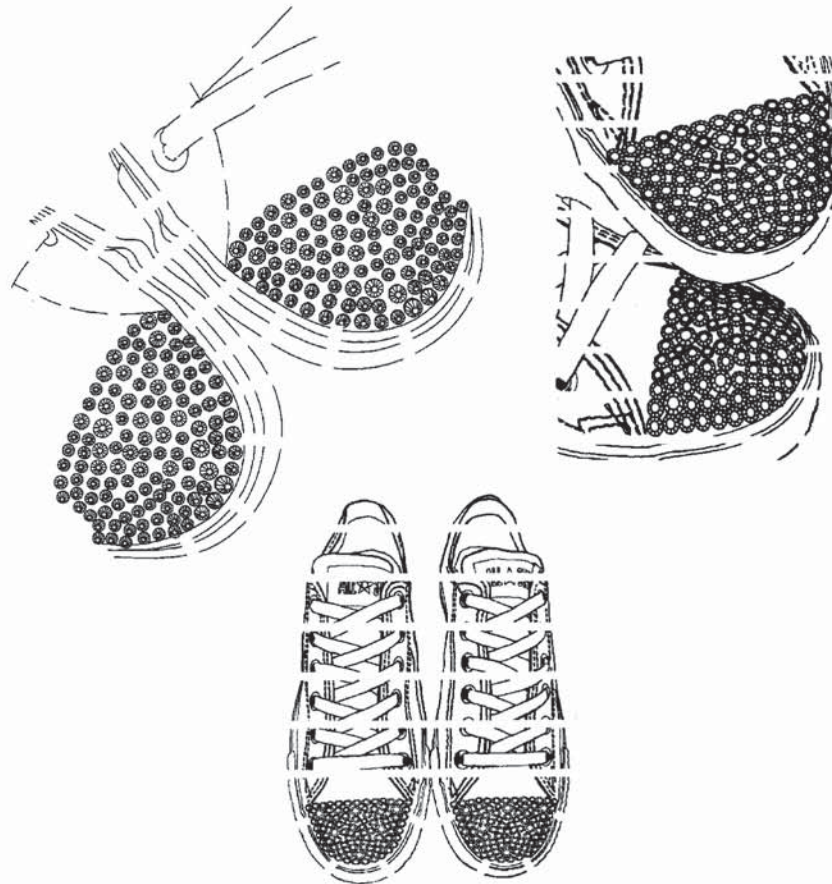
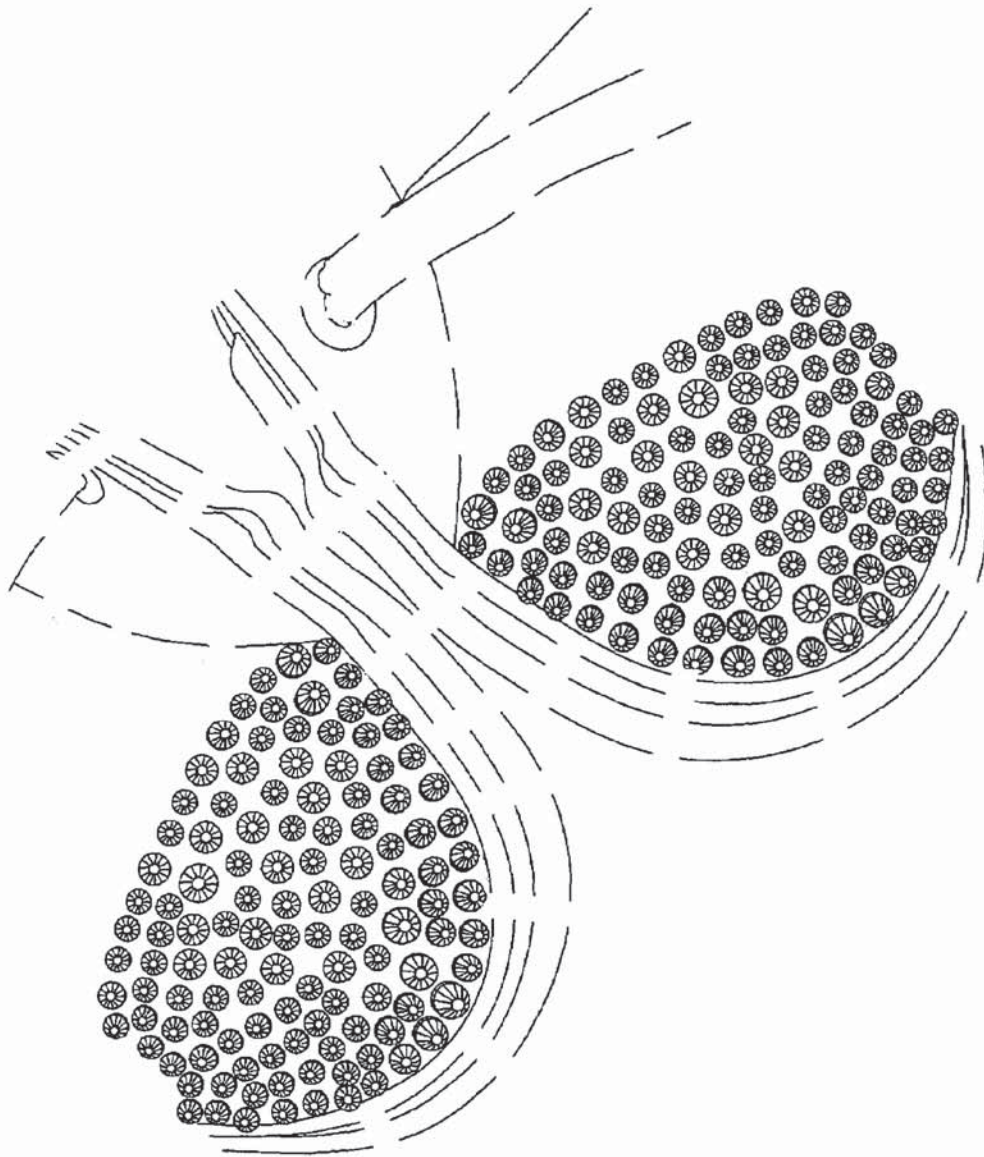


FIG. 1



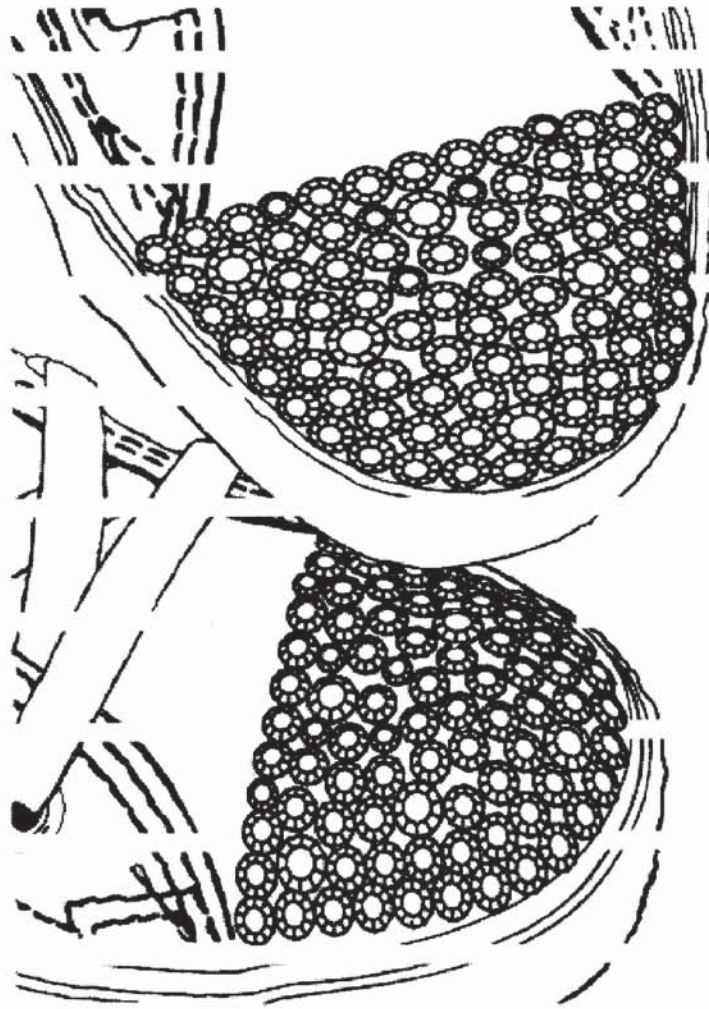


FIG. 2

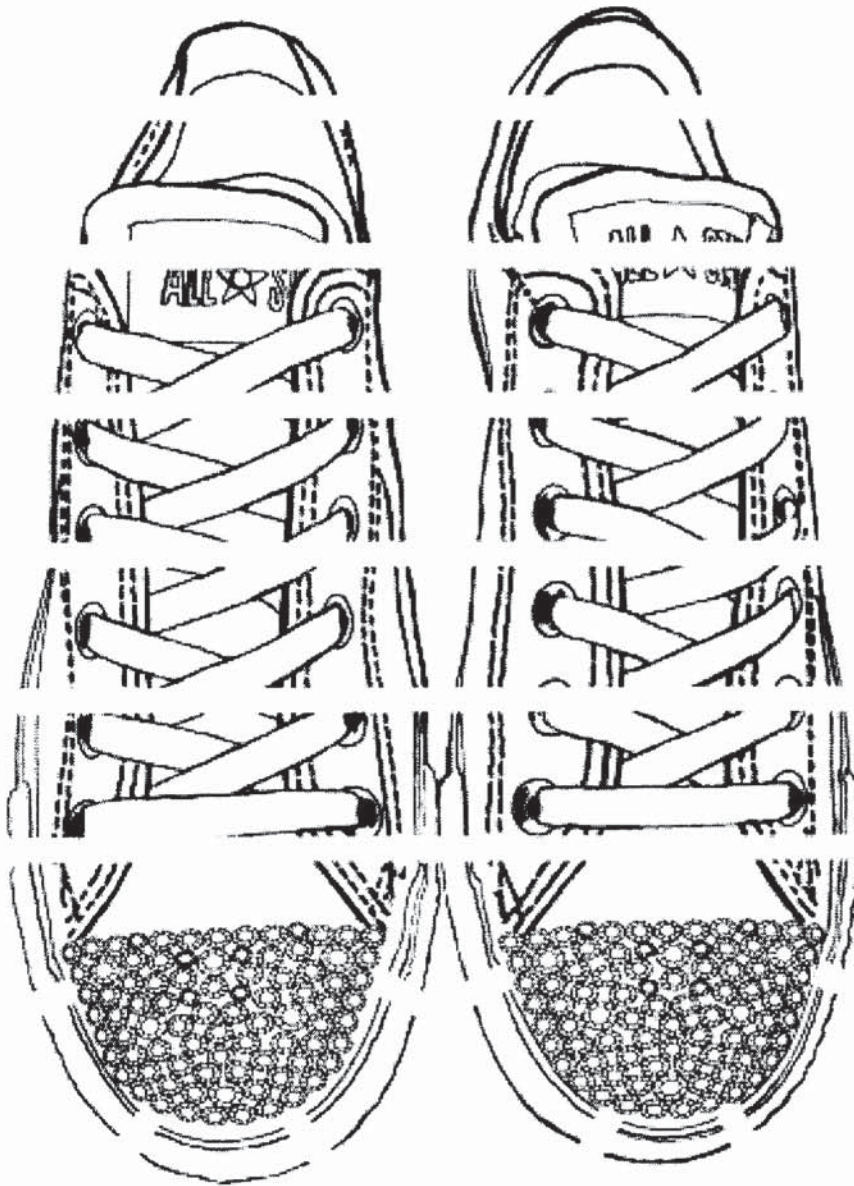


FIG. 3





































EXHIBIT 3











**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Percy Anderson and the assigned discovery Magistrate Judge is Andrew J. Wistrich.

The case number on all documents filed with the Court should read as follows:

CV11- 7295 PA (AJWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Marshall A. Lerner (State Bar No. 55,224)
Bradford E. Mattes (State Bar No. 159,004)
Philip L. Nulud (State Bar No. 245,147)
Kleinberg & Lerner, LLP
1875 Century Park East, Suite 1150
Los Angeles, California 90067
(310)557-1511 fax (310) 557-1540

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SKECHERS U.S.A., INC., a Delaware corporation, and SKECHERS
U.S.A., INC. II, a Delaware corporation,

PLAINTIFF(S)

v.

STEVEN MADDEN, LTD., a Delaware company, STEVIES, INC., a
Delaware corporation, and DOES 1 – 10, Inclusive,

DEFENDANT(S).

CASE NUMBER

CV11-07295 PA(ATW)

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
Marshall A. Lerner, whose address is:

KLEINBERG & LERNER, LLP
1875 Century Park East, Suite 1150
Los Angeles, California 90067-2501

an answer to the complaint _____ amended complaint counterclaim cross-claim
which is herewith served upon you within 21 days after service of this Summons upon you, exclusive
of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
demanded in the complaint.

Clerk, U.S. District Court

JULIE PRADO

SEAL

Dated: September 2, 2011

By: _____

Deputy Clerk

(Seal of the Court)

COPY

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself)
SKECHERS U.S.A., INC., a Delaware Corporation and **SKECHERS U.S.A., INC. II**, a Delaware Corporation

DEFENDANTS
STEVEN MADDEN, LTD., a Delaware company, and
STEVIES, INC., a Delaware corporation, **DOES 1-10**, inclusive

(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases):
LOS ANGELES

County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):
Delaware

(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
Marshall A. Lerner, Bradford E. Mattes, Philip L. Nulud
KLEINBERG & LERNER, LLP
1875 Century Park East, Suite 1150, Los Angeles, CA 90067-3112
(310) 557-1511, fax (310) 557-1540

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify): 6 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No MONEY DEMANDED IN COMPLAINT: \$ According to proof

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Patent Infringement 35 USC §271; Trade Dress Infringement 15 USC §1125(a); Federal Unfair Competition 15 USC §1125(a); Unfair Competition Under CA Law Cal Bus & Prof Code 17200;

VII. NATURE OF SUIT (Place an X in one box only.)

<p>OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities /Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Act</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Info. Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>	<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p> <p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Fed. Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury-Med Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury-Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p>	<p>TORTS</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p> <p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 444 Welfare</p> <p><input type="checkbox"/> 445 American with Disabilities - Employment</p> <p><input type="checkbox"/> 446 American with Disabilities - Other</p> <p><input type="checkbox"/> 440 Other Civil Rights</p>	<p>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus/Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p>FORFEITURE / PENALTY</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety /Health</p> <p><input type="checkbox"/> 690 Other</p>	<p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input checked="" type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p>
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VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? No Yes

If yes, list case number(s):

CV11-07295

FOR OFFICE USE ONLY: Case Number: _____



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? No Yes

If yes, list case number(s): 2:11cv01893 JHN(PJW)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

- Check here if the U.S. government, its agencies or employees is a named plaintiff:
 Los Angeles County

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

- Check here if the U.S. government, its agencies or employees is a named defendant.
 STEVEN MADDEN, LTD., a Delaware corporation and STEVIES, INC., a Delaware corporation

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

- Note: In land condemnation cases, use the location of the tract of land involved.
 Los Angeles County

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date September 2, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))