

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

Erik B. Cherdak,
149 Thurgood Street
North Potomac, Maryland 20878

Plaintiff,

vs.

BBC International, Ltd.
1515 North Federal Hwy.
Suite 206
Boca Raton, FL 33432

-and-

BBC International, LLC
1515 North Federal Hwy.
Suite 206
Boca Raton, FL 33432

No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

SERVE ON:

CHARLES S. MESSNER
1515 NORTH FEDERAL HWY.
SUITE 206
BOCA RATON, FL 33432

COMPLAINT

Plaintiff Erik B. Cherdak ("Cherdak"), in and for his Complaint against Defendants BBC International, Ltd. and BBC International, LLC (collectively referred to herein as "BBC"), alleges as follows:

JURISDICTION AND VENUE

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

THE PARTIES

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 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. A true and correct copy of the Cherdak patents, both entitled “Athletic Shoe with Timing Device,” are attached hereto at Exhibit A. 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 these patents.

3. Defendant BBC International, Ltd. is, on information and belief, a New York corporation with its principal place of business at 1515 North Federal Highway, Suite 206, Boca Raton, Florida, 33432. Defendant BBC International LLC is, on information and belief, a Florida Limited Liability Company with its principal place of business at 1515 North Federal Highway, Suite 206, Boca Raton, Florida, 33432. Both of the above entities are headquartered at 1515 North Federal Highway, Suite 206, Boca Raton, Florida, 33432, and both, on information and belief, have the same registered agent and the same officer/directors (or, in the case of the LLC, Manager/Members). Plaintiff refers to them collectively as “BBC” herein, as they seem to be alter-egos of one another.

4. BBC is presently and has in the past engaged in the design, import, distribution, licensing, sale, and offering for sale, of what are commonly referred to as children’s light up shoes. At certain relevant times for purposes of this Complaint, BBC engaged in the

infringement of, and/or induced the infringement of and/or committed contributory infringement of, the '445 and '269 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 the issuance of the '269 patent on September 19, 1995. The Cherdak patents relate to lighted shoe products.

6. BBC has in the past imported, distributed, sold and offered for sale, and continues to import, distribute, sell and offer for sale, infringing children's light up shoes either directly or via branded entities such as STRIDE RITE.

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 to Mr. Cherdak for an invention involving light up shoe products. On September 19, 1995, the '269 patent was duly and legally issued to Mr. Cherdak for an invention involving light up shoe products. Mr. Cherdak is the owner of the '445 and '269 patents.

9. On information and belief, BBC has infringed, contributed to the infringement of, and/or induced the infringement of one or more claims of the '445 and '269 patents in violation of 35 U.S.C. § 271 (a), (b), and (c) by its importation, distribution, sales and offers for sale of the infringing light up shoes including, but not limited to, children's light up shoes.

10. Upon information and belief, BBC has infringed one or more claims of the '445 and '269 patents in violation of 35 U.S.C. § 271 (b) by actively inducing its distributors, customers, and/or retailers to infringe one or more claims of the '445 and '269 patents.

11. Upon information and belief, BBC's infringement of the '445 and '269 patents has been willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Mr. Cherdak prays for judgment and relief against BBC International, LLC and BBC International, LTD, jointly and severally, as follows:

1. For a judgment that the '445 and '269 patents are valid and infringed by Defendants including, but not limited to, their 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 Defendants and their parents, subsidiaries, officers, directors, employees, affiliates, representatives and agents, and all those acting in concert with or through them, directly or indirectly, including, but not limited to, distributors, customers and retailers;

3. That an accounting be had for damages caused to Mr. Cherdak by Defendants' infringement, together with pre-judgment and post-judgment interest;

4. That Mr. Cherdak be awarded treble damages due to the willful nature of Defendants' infringement pursuant to 35 U.S.C. § 284;
5. That Mr. Cherdak be awarded costs and attorneys' fees due to the exceptional nature of this case.
6. 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.

Respectfully submitted,

/S/
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