

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Z-TECH, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
	)	Civil Action No.: 1:13-cv-00011-KBM-WDS
	)	
YONG OH LEE,	)	
	)	
Z-COIL LTD (Korean corporation), and	)	
	)	
JOHN THIERRY	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	
	)	

**Z-TECH, INC.'S VERIFIED FIRST AMENDED COMPLAINT FOR PATENT
INFRINGEMENT; FEDERAL TRADEMARK INFRINGEMENT; FEDERAL UNFAIR
COMPETITION; CONVERSION; FRAUD; AND VIOLATION OF THE NEW MEXICO
UNFAIR TRADE PRACTICES ACT**

COMES NOW, Plaintiff Z-TECH, INC. (hereinafter "Z-Tech"), against defendant YONG OH LEE, an individual, (hereinafter "Lee"), Z-CoiL Ltd. (hereinafter "Z-CoiL Ltd"), and JOHN THIERRY, alleging as follows:

NATURE OF CASE

1. This action involves claims for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 et seq.; trademark infringement under the Lanham Act, 15 U.S.C § 1114.; unfair competition under 15 U.S. C. § 1125 (a); and various New Mexico state law claims including conversion, fraud and unfair competition.

THE PARTIES

2. Plaintiff Z-Tech is a New Mexico corporation, corporation number 1441153, with its principal place of business at 6932 4th Street NW, Albuquerque, New Mexico 87107.

3. Defendant Yong Oh Lee is an individual and resident of the Republic of Korea. Defendant Lee's last known business address is #103-1105 Hyub Sung Phoenix, Buam 3 Dong, Pusan Jin-Ku Pusan, Korea. Defendant Lee's last known residence address is 116-1801 LG Metro City, Yong Ho Dong, Nam GU, Busan, Republic of Korea. Defendant Lee is bi-lingual, and is fluent in English; all communications and contracts between Plaintiff Z-Tech and Defendant Lee are in English.

4. Defendant Z-CoiL Ltd is a Korean corporation having a place of business at 116-1801 LG Metro City 176-30, Yong Ho Dong, Nam Gu Busan, Republic of Korea. On information and belief, Lee controls Z-CoiL Ltd.

5. Defendant John Thierry is an individual residing at 21522 Homer, Dearborn, Michigan, 48124, who owns and operates a Z-Tech, Inc. franchise store named "Z-CoiL Comfort Shoes" located at 1314 N. Telegraph Road, Dearborn, Michigan 48128.

JURISDICTION AND VENUE

6. This court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1332, because the matter in controversy exceeds the sum of \$75,000, exclusive of interests and costs, and the parties are citizens of different states and countries. This court also has subject matter jurisdiction over certain claims herein pursuant to 28 U.S.C. §§ 1331 and 1338 (a) and (b) because such claims arise under the laws of the United States, and over other claims herein pursuant to supplemental jurisdiction, 28 U.S.C. § 1367.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

STATEMENT OF FACTS (applicable to all claims)

8. Plaintiff Z-Tech is a shoe design and manufacturing company marketing its product in the United States and throughout the world as Z-CoiL footwear and Z-CoiL Pain Relief Footwear. As outlined below, Z-CoiL shoes have a multi-piece insole system and a unique/proprietary rigid orthotic and spring system. This rigid orthotic and 3-inch wide conical

steel coil at the heel acts as a shock absorber, cushioning impact and reducing the strain and impact of everyday activities such as standing, walking and running. Z-CoiL footwear provides overall support for the foot and helps prevent heel spurs, plantar fasciitis, knee trouble, hip pain and back pain. Z-Tech footwear is covered by design and utility patents, including U.S. patent Nos. 5,435,079 (“the ‘079 patent”) and 5,970,630 (“the ‘630 patent”). These patents are licensed to Z-Tech on an exclusive basis from the company’s founder, Alvaro Gallegos.

9. In association with the marketing and sale of its footwear, Plaintiff Z-Tech has adopted, used and registered a number of trademarks, including: Z-CoiL (and coil design), Registration No. 2,504,010, copy attached as Exhibit A, and Z-Coil Registration No. 2,504,011. This registration is valid and incontestable. The Z-CoiL (and coil design) trademark is used on, inter alia, Plaintiff Z-Tech's website and the tongue of Z-CoiL shoes.

10. Plaintiff Z-Tech has been manufacturing, marketing and selling its Z-CoiL footwear since 1995. The shape of the heel design, as illustrated in Exhibit B, is so unusual and unique as to be inherently distinctive or, if not, has acquired secondary meaning.

11. On or about July 1, 1995, Z-Tech entered into a written contract with Defendant Lee, a Korean shoe manufacturer. Defendant Lee solicited work from Plaintiff Z-Tech in New Mexico and represented himself to be a shoe manufacturer with over 20-years experience that produced products for Nike and Reebok. The contract was entitled Sublicense and Trademark Agreement. A true and correct copy of the contract is attached as Exhibit C. The contract provides, in relevant part:

a. “Whereas, the Licenser [Z-Tech] represents that it has the sole authority to sublicense of the inventions, process and improvements described and claimed in United States Patent No. 5,435,079 filed July 25, 1995 (“the Patent”), relating to a Spring Athletic Shoe and Cushion Athletic Shoes (hereinafter called the “Product”), and the trademark “Z-Tech” (the “Trademark”) and to grant the rights, licenses and privileges herein provided for; and

b. Whereas, the Licensee [Lee] desires to obtain the exclusive right, license and privilege to manufacture and distribute the Product in certain Asian countries and desires to pay Z-Tech for the use of the patent and trademark;

c. Now, therefore, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

i. The “Territory” shall be the Republics of China, Hong Kong, Taiwan, Japan, Vietnam, Indonesia, Thailand, Philippines, Korea, Singapore and Malaysia.

ii. Except as otherwise provided by this Agreement, the Licensor [Z-Tech] grants to the Licensee [Lee] the exclusive right, license and privilege to manufacture and to distribute the Product during the term of this Agreement. Licensee is granted the right to sublicense his rights hereunder subject to prior written approval of Licensor to any company controlled by the Licensee, however, the Licensee must stamp, designate and advertise the Product under such names, designs and/or appellations as the Licensor may determine in its sole discretion. ...

iii. Obligations of Licensee [Lee]: Licensee agrees that he will not do or permit any act whereby any proprietary rights to use any trademark or trade name or design of the Licensor may be endangered and that it will not claim any proprietary interest in the trademark “Z-Tech” ... Licensee agrees to keep all technical information, drawing, specifications, manufacturing instruments and other information relating to the Product whether furnished by the Licensor or in any way acquired by the Licensee in connection with the exploitation of the Product, as strictly confidential. Licensee will not, without prior written consent of Licensor, communicate the same to anyone except to its employees, agents or representatives ...

iv. Applicable Law: The law applicable to this agreement shall be the laws of the state of New Mexico and the United States of America and the parties hereto agree to be bound by the jurisdiction of any competent court within the state of New Mexico. The parties expressly agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.”

12. No where in the Sublicense and Trademark Agreement was Defendant Lee or Defendant Z-CoiL Ltd granted any license under any patent, or permission to use the Z-CoiL name, or the coil design, or any variation thereof, or to market any shoe product in the United States.

13. In or about July 1995, Defendant Lee was also contracted on an “as needed” basis to manufacture Z-CoiL 1.0 shoes for Plaintiff Z-Tech using proprietary molds owned by Plaintiff Tech. These shoes were produced in Korea, and shipped to Z-Tech for distribution in the United States, and other countries not included in the Sublicense and Trademark Agreement. Defendant Lee represented he would comply with all applicable standards of care, and return the molds upon request.

14. As part of the manufacturing process, Z-Tech provided Defendants with the specifications and engineering requirements for all of the requisite tools and molds. Defendants produced the orthotic, forefoot outsole, midsole and heel pad molds in accordance with these specifications and engineering requirements. Plaintiff Z-Tech paid all appropriate manufacturing and production costs for these molds. Plaintiff Z-Tech has owned these molds at all times. Z-

Tech's ownership has never been questioned by Defendants, and was always agreed that such molds were the exclusive property of Plaintiff Z-Tech.

15. Plaintiff Z-Tech permitted Defendants to retain its molds for utilization in the manufacturing process. Permitting a shoe manufacturer to temporarily retain molds is custom and practice in the industry. The various molds are outlined in Exhibit D. At all times, each of the referenced molds was the sole property of Plaintiff Z-Tech, who purchased the molds for the costs identified in Exhibit D, totaling \$1,073,500.00.

16. Without the knowledge or consent of Plaintiff Z-Tech, on February 19, 2011, Defendant Z-Coil Ltd filed an application in the U.S. Patent & Trademark Office to register RX and coil design as a trademark for a variety of goods and services, including shoes. Based on this application, on July 17, 2012 Registration No. 4,173,534 issued. See Exhibit E. This mark incorporates a coil design substantially identical to the coil design employed by Plaintiff Z-Tech.

17. The Sublicense and Trademark Agreement was terminated by mutual agreement on or about May 25, 2011. See Exhibit F.

18. On or before October 21, 2011, Plaintiff Z-Tech sought to diversify its production, and requested that Defendant Lee return its various molds. Defendant Lee refused without justification.

19. Plaintiff Z-Tech has continued to demand immediate return of all molds identified in Exhibit D. Defendant Lee has continued to refuse to return the molds.

20. Defendant Lee acknowledges that the subject molds are the property of Plaintiff Z-Tech. Defendant Lee is attempting to extort monies from Plaintiff Z-Tech, demanding an "estimated" mold "repair" cost of \$40,000 for the CC03 series molds, and \$5,000 for every other mold, or approximately the original \$1 million plus mold production cost. He is also demanding \$300 per month "warehouse charge" on the molds he/Defendant Z-Coil Ltd is refusing to return.

21. Defendants refusal to return Z-Tech's production molds is wrongful, unjustified, oppressive and malicious. Plaintiff Z-Tech has no ability to produce its original Z-Coil 1.0 product without the requisite molds, now in the sole and unauthorized possession of Defendants.

At great expense, Plaintiff has been forced to purchase all new tooling and has continued to build Z-CoiL shoes with this new tooling called the Z-CoiL 2.0. However, Plaintiff Z-CoiL is unable to provide its franchisees with its original Z-CoiL 1.0 saleable product without the required molds, and is suffering irreparable harm.

22. Without permission from Plaintiff Z-Tech, Defendants are now using Plaintiff's molds to manufacture shoes which incorporate the proprietary orthotic, forefoot outsole, midsole and heel components. These shoes, which duplicate Plaintiff's unique heel design, are substantial copies of Z-CoiL 1.0 shoes. Further, such knock off shoes are marked with the RX (and coil design).

23. Defendant Lee and/or Defendant Z-CoiL Ltd is contracting with franchisee's of Plaintiff Z-Tech and is now selling knock offs of Plaintiff Z-Tech's Z-CoiL 1.0 footwear to these franchisees in violation of: the '079 Patent and the '630 Patent; the Z-CoiL (and coil design) and Z-COIL; and the unique Z-CoiL trade dress.

24. Defendants are now operating a website www.rxshoes.biz in which they advertise and offer for sale shoes which are manufactured with Plaintiff Z-Tech's molds and which are substantial duplicates of the Z-CoiL 1.0 shoes. This website features the knock off of Z-Tech's Z-CoiL (and coil design) trademark, and also misappropriates portions of Plaintiff's fitting guide from www.zoil.com. See Exhibits G and H.

25. Through a former franchisee of Plaintiff, Defendants have caused the www.rxshoes.biz web address to be forwarded to customers of Plaintiff Z-Tech, which forwarding was intended to direct business away from Plaintiff and to cause confusion as to source or sponsorship. Z-Tech customers who have viewed this website have been confused.

26. On or about December 3, 2012, Plaintiff Z-Tech emailed Defendant Lee a cease and desist letter. Defendant Lee has not responded, and Defendants are still shipping products manufactured with Z-Tech's molds to the United States via DHL Express. Franchisees purchasing these products include John Thierry, 1314 N. Telegraph Road, Dearborn, Michigan 48128/21522 Horner, Dearborn, Michigan 48124. Defendants are also advertising on their

website that that they will be "hosting a Fitting Event in Omaha NE in Late January" and will be at the Florida State Fair this coming February 7 -18, 2013.

27. Defendant John Thierry has engaged in an ongoing course of conduct by which he is acting as agent and broker on behalf of Defendant Yong Oh Lee and Z-CoiL, Ltd., in the United States, with full knowledge that his actions violate the various patents and trademark referenced above.

COUNT ONE

Patent Infringement – '079 Patent
All Defendants

28. Plaintiff Z-Tech hereby incorporates all prior allegations as if set forth fully herein.

29. Defendants have been and continue to infringe one or more claims of the '079 Patent through, among other activities, the wrongful/unauthorized detention and use of Z-Tech's proprietary molds for production of Z-CoiL styled shoes, and by importing into the United States, offering for sale, selling, and/or otherwise distributing Z-CoiL knock off shoes in violation of 35 U.S.C. § 271. Defendants have also infringed the '079 Patent by knowingly and actively inducing others, including franchisees or former franchisees of Plaintiff to infringe such patent.

30. Defendants infringement and inducement to infringe has been willful, intentional, and deliberate with full knowledge of the '079 Patent. Defendants have irreparably injured and will continue to injury Plaintiff Z-Tech, unless and until this Court enters an injunction ordering that Z-Tech's molds be returned, prohibiting further infringement, and enjoining further manufacture, use, importation and sale of shoes (and shoe components) that come within the scope of the claims of the '079 Patent.

31. The acts and omissions complained of Defendants in this and following Counts are, upon information and belief, egregious in nature, reckless, wanton, and in total disregard of the rights of Plaintiff. In addition to the actual damages ascertained, punitive or exemplary

damages are appropriate to punish and deter these types of acts and omissions from occurring in the future.

32. Plaintiff Z-Tech is entitled to injunctive and compensatory relief, including attorneys' fees and costs, as well as enhanced damages pursuant to 35 U.S.C. § § 271, 281 and 283-285.

COUNT TWO

Patent Infringement – '630 Patent
All Defendants

33. Plaintiff Z-Tech hereby incorporates all prior allegations as if set forth fully herein.

34. Defendants have been and continue to infringe one or more claims of the '630 Patent through, among other activities, the wrongful/unauthorized detention and use of Z-Tech's proprietary molds for production of Z-CoiL styled shoes, and by importing into the United States, offering for sale, selling, and/or otherwise distributing Z-CoiL knock off shoes in violation of 35 U.S.C. § 271. Defendants have also infringed the '630 Patent by knowingly and actively inducing others, including franchisees or former franchisees of Plaintiff to infringe such patent.

35. Defendants infringement and inducement to infringe has been willful, intentional, and deliberate with full knowledge of the '630 Patent. Defendants have irreparably injured and will continue to injury Plaintiff Z-Tech, unless and until this Court enters an injunction ordering that Z-Tech's molds be returned, prohibiting further infringement, and enjoining further manufacture, use, importation and sale of shoes (and shoe components) that come within the scope of the claims of the '630 Patent.

36. The acts and omissions complained of Defendants in this and following Counts are, upon information and belief, egregious in nature, reckless, wanton, and in total disregard of the rights of Plaintiff. In addition to the actual damages ascertained, punitive or exemplary

damages are appropriate to punish and deter these types of acts and omissions from occurring in the future.

37. Plaintiff Z-Tech is entitled to injunctive and compensatory relief, including attorneys' fees and costs, as well as enhanced damages pursuant to 35 U.S.C. § § 271, 281 and 283-285.

COUNT THREE

Trademark Infringement –Z-CoiL (and design) (15 U.S.C. § 1114)
All Defendants

38. Plaintiff Z-Tech hereby incorporates all prior allegations as if fully set forth herein.

39. In violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114, Defendants have infringed Registration Nos. 2,504,010 and 2,504,011 by using the name Z-CoiL Ltd and by using and inducing others to use the RX (and coil) trademark in association with the importation into the United States and the marketing and sale of Z-CoiL styled shoes. By importing, selling, inducing others to market and sell footwear that incorporates the Z-CoiL Ltd name and/or the RX (and coil design) trademark, Defendants are likely to cause confusion, or mistake, or to deceive others as to the affiliation, connection or association of themselves with Plaintiff Z-Tech. Defendants' attempts to associate themselves with Plaintiff has gone so far as to even duplicate the capital "L" in Z-CoiL.

40. Defendants' acts have been willful and in conscious disregard of the rights of Plaintiff Z-Tech.

41. Plaintiff Z-Tech has suffered, is suffering, and will continue to suffer irreparable injury for which it has no adequate remedy at law.

42. Plaintiff Z-Tech is entitled to preliminary relief to be made permanent upon entry of final judgment, preventing Defendants' further infringement.

43. Further, Plaintiff is entitled to damages and enhanced damages in amounts subject to proof.

COUNT FOUR

Trade Dress Infringement (15 U.S.C. § 1125(a))
All Defendants

44. Plaintiff Z-Tech hereby incorporates all prior allegations as if set forth fully herein.

45. In violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), Defendants have infringed Plaintiff Z-Tech's trade dress rights by duplication Plaintiff's unique heel design in its knock-offs of the Z-Coil 1.0 shoes, importing such knock-offs into the United States, selling and inducing others to sell such knock-offs. By importing, selling, inducing others to market and sell footwear that is a knock off of Plaintiff Z-Tech's distinctive Z-Coil 1.0 footwear, Defendants are likely to cause and has caused confusion, or mistake, or to deceive others as to the affiliation, connection or association of themselves with Plaintiff Z-Tech.

46. Defendants' acts have been willful and in conscious disregard of the rights of Plaintiff Z-Tech.

47. Plaintiff Z-Tech has suffered, is suffering, and will continue to suffer irreparable injury for which it has no adequate remedy at law.

48. Plaintiff Z-Tech is entitled to preliminary relief to be made permanent upon entry of final judgment, preventing Defendants' further infringement.

49. Further, Plaintiff is entitled to damages and enhanced damages in amounts subject to proof.

COUNT FIVE

Unfair Competition (15 U.S.C. § 1125(a))
All Defendants

50. Plaintiff Z-Tech hereby incorporates all prior allegations as if set forth fully herein.

51. In violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), Defendants have engaged in unfair competition by, inter alia, the use of the name Z-Coil Ltd and information lifted from Plaintiff's website in association with the importation into the United

States, the offering for sale and the sale of shoes which are essentially knock-offs of Plaintiff's Z-CoiL 1.0 shoes.

52. Defendants' acts have been willful and in conscious disregard of the rights of Plaintiff Z-Tech.

53. Plaintiff Z-Tech has suffered, is suffering, and will continue to suffer irreparable injury for which it has no adequate remedy at law.

54. Plaintiff Z-Tech is entitled to preliminary relief to be made permanent upon entry of final judgment, preventing Defendants' further infringement.

55. Further, Plaintiff is entitled to damages and enhanced damages in amounts subject to proof.

COUNT SIX

Conversion

(Defendants Yong Oh Lee and Z-CoiL, Ltd. Only)

56. Plaintiff Z-Tech hereby incorporates all prior allegations as if set forth fully herein.

57. At all times herein mentioned, Plaintiff Z-Tech owns the subject molds.

58. Defendants took the possession of the property for a limited purpose, but has refused to return Plaintiff Z-Tech's molds. Defendants have converted the molds for their own use.

59. The Defendants' acts alleged above were willful, wanton, malicious, and oppressive, and justify the awarding of exemplary and punitive damages.

COUNT SEVEN

Fraud

Defendants Yong Oh Lee and Z-CoiL, Ltd. Only

60. Plaintiff Z-Tech hereby incorporates all prior allegations as if set forth fully herein.

61. By doing the acts referenced above, and by making the various representations, Defendant Lee represented he and Defendant Z-CoiL Ltd would comply with standard industry practices, and return Plaintiff Z-Tech's molds immediately upon request.

62. Defendant Lee had no intention of performing or honoring these promises and representations.

63. Defendants' representations to Plaintiff were false.

64. Defendant Lee made those representations knowing his true intent was to obtain Plaintiff's property, and that the molds would not be returned.

65. Defendant Lee made these representations solely for the purpose of inducing Plaintiff to rely on them.

66. Plaintiff relied on Defendant Lee's representations. As a result of Plaintiff's reliance, Defendant Lee fraudulently obtained for himself and Defendant Z-CoiL Ltd its proprietary molds, converting Plaintiff's property.

67. At the time these promises were made, Plaintiff was ignorant of Defendants' secret intention not to perform and could not, in the exercise of reasonable diligence, have discovered Defendants' secret intention. Plaintiff took the actions outlined above in reliance on Defendants' promises. If Plaintiff had known of Defendants' actual intention, Plaintiff would not have taken that action.

68. As a proximate result of Defendants' fraud and the facts alleged in this Complaint, Plaintiff Z-Tech has been damaged, all to its general and special damage in a sum in excess of the jurisdiction of this court. The aforementioned acts of Defendants were willful, wanton, malicious, oppressive, and were undertaken with the intention to defraud the Plaintiff. Such acts justify the awarding of attorneys fees and punitive damages.

COUNT EIGHT

Violation of New Mexico's Unfair Trade Practices Act
All Defendants

69. Plaintiff hereby incorporates all prior allegations as if set forth fully herein.

70. At all times relevant hereto, Defendants were engaged in “trade” or “commerce” as those terms are defined by the New Mexico Unfair Trade Practices Act (NMSA §57-12-2).

71. Defendants have committed “unfair or deceptive trade practice” as that term is defined in NMSA §57-12-2.

72. Defendants knowingly reproduced knock-off Z-CoiL 1.0 footwear, and usurped Plaintiff’s proprietary and patented technology to produce knock-off Z-CoiL 1.0 footwear, using, inter alia, Plaintiff’s trade dress, mark and logo in association with the marketing and sale of such knock-offs.

73. Defendants have failed to perform in a manner consistent with their representations and contractual obligations, and as a consequence, have violated the New Mexico Unfair Trade Practices Act NMSA section 57-12-2(D)(7).

74. In committing these acts and omissions, Defendants further engaged in “unconscionable trade practice” as that term is defined in NMSA section 57-12-2.

75. As a direct and proximate result of the acts and omission by Defendants, Plaintiff Z-Tech has suffered damages in an amount to be proven at trial.

76. The acts and omissions of Defendants were done willfully, wantonly, maliciously, and/or with reckless disregard for the rights of Plaintiff. As such, Plaintiff is entitled to recover punitive damages in an amount to be determined by the jury, and sufficient to punish Defendants for their misconduct and to deter others from similar conduct in the future.

COUNT NINE

Breach of Contract

Defendants Yong Oh Lee and Z-CoiL, Ltd. Only

77. Plaintiff hereby incorporates all prior allegations as if set forth fully herein.

78. Pursuant to section I of the Sublicense and Trademark Agreement, attached as exhibit C, Z-Tech authorized defendant Yong Oh Lee to procure Trademarks within countries defined as the “Territory” under the express agreement that each Trademark be in the name of the Z-Tech, the Licensor. Section V(B) authorized defendant Yong Oh Lee to procure patents for the product within countries defined as the “Territory” under the express agreement that each patent be in the name of Z-Tech, the Licensor. Section IV(E) provides: “Licensee agrees that he will not do or permit any act whereby any proprietary rights to use any trademark or trade name or design of the Licensor may be endanger and that it will not claim any proprietary interest in the trademark “Z-Tech” and will register said trademark within the licensed territory in the name of Licensor and execute any and all proper papers necessary to protect the trademark.”

79. Based on information and belief, Defendant Yong Oh Lee, individually and through Z-CoiL, Ltd., breached the Sublicense and Trademark Agreement by procuring Trademarks, patents and design marks in the “Territory” and throughout the world, and solely in the name of Yong Oh Lee and/or Z-CoiL, Ltd.

80. Defendants breach of contract was intentional and in disregard of Z-Tech’s rights, entitling Z-Tech to an award of punitive damages.

WHEREFORE, the Plaintiff Z-Tech prays for judgment, decree and order against Defendants as follows:

- (1) General and compensatory damages, in an amount to be shown at trial, pursuant to (inter alia) 35 U.S.C. § 284;
- (2) Defendant's profits pursuant to 15 U.S.C. § 1117;
- (3) Pre-judgment interest;
- (4) Increased damages as permitted under 35 U.S.C. § 284 and 15 U.S.C. § 1117;

(5) A finding that this case is exceptional and an award to Z-Tech of its attorneys' fees and costs as provided by 35 U.S.C. § 285 and 15 U.S.C. § 1117;

(6) A permanent injunction prohibiting further infringement, and inducement of infringement of the Z-Tech patents, including importation of infringing product into the United States;

(7) Destruction of infringing articles pursuant to 15 U.S.C. § 1118;

(8) An order cancelling Registration No. 4,173,534;

(9) An order transferring the ownership of the rxshoes.biz domain to Z-Tech;

(10) An order transferring the ownership of any patent, trademark or design mark defendants procured in violation of the Sublicense and Trademark Agreement and/or various patents and trademarks outlined above;

(11) An order compelling the return of Z-Tech's molds;

(12) Treble damages;

(13) Punitive damages;

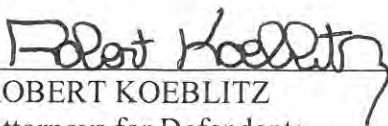
(14) For costs of suit herein; and

(15) For such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff Z-Tech demands a trial by jury on all issues presented in this First Amended Complaint

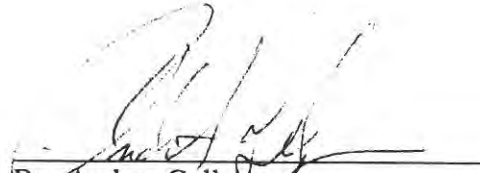
Respectfully submitted:
O'BRIEN & PADILLA, P.C.

By: 
ROBERT KOEBLITZ
Attorneys for Defendants
6000 Indian School Road NE, Suite 200
Albuquerque, NM 87110
(505) 883-8181

VERIFICATION

I, Andres Gallegos, as chief executive officer of Z-Tech, Inc., individually and on behalf of the corporation, have reviewed this First Amended Complaint, and the facts set forth herein. I hereby verify that the allegations are true, correct and complete, to the best of my knowledge. I declare under penalty of perjury pursuant to the laws of the State of New Mexico that the foregoing is true and correct.

Dated: January 31, 2013


By: Andres Gallegos