

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

	X	Case No.: _____
SKECHERS U.S.A., INC., a Delaware Corporation, and SKECHERS U.S.A., INC. II, a Virginia Corporation	:	COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF ARISING OUT OF PATENT INFRINGEMENT [35 U.S.C. § 271];
Plaintiffs,	:	
v.	:	DEMAND FOR JURY TRIAL
HERMÈS INTERNATIONAL, a France Corporation and HERMÈS OF PARIS, INC., a New York Corporation, and Defendant Does 1-10 inclusive,	:	
Defendants.	:	
	:	X

Plaintiffs Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II (collectively “Skechers”) for their complaint against Hermès International and Hermès of Paris, Inc. and Defendant Does 1-10 (hereinafter “Hermès” or “Defendant”), allege as follows:

PARTIES

1. Plaintiff Skechers U.S.A., Inc. is a corporation duly organized and existing under the laws of the State of Delaware with a principal place of business located at 228 Manhattan Beach Blvd., Manhattan Beach, California 90266.
2. Plaintiff Skechers U.S.A., Inc. II is a corporation duly organized and existing under the laws of the State of Virginia with a principal place of business located

at 228 Manhattan Beach Blvd., Manhattan Beach, California 90266. Skechers U.S.A., Inc. II is a wholly-owned subsidiary of Skechers U.S.A., Inc.

3. On information and belief, Defendant Hermès International is a corporation, organized and existing under the laws of France, having its principal place of business located at 24, rue du Faubourg Saint-Honoré, Paris, France. Hermès does business in the United States through its wholly-owned subsidiary Hermès of Paris, Inc.

4. On information and belief, Defendant Hermès of Paris, Inc. is a corporation, organized and existing under the laws New York, having its principal place of business located at 55 East 59th Street, New York, New York 10022. Defendants Does 1 – 10, inclusive, are sued herein under fictitious names. Their true names and capacities are unknown to Skechers. When their true names and capacities are ascertained, Skechers will amend this complaint by inserting their true names and capacities. Skechers is informed and believes and thereon alleges, that Does 1 – 10, and each of them, are responsible in some manner for the occurrences alleged herein and that Skechers' damages were proximately caused by such defendants.

JURISDICTION AND VENUE

5. Jurisdiction in this Court arises under the patent laws of the United States, 35 U.S.C. §§271 and 289. This Court has jurisdiction over these claims pursuant to 27 U.S.C. §§ 1331.

6. This Court has personal jurisdiction over defendants because Hermès has committed one or more of the infringing acts complained of herein in New York and in this District, Hermès has multiple sales outlets in New York and in this District, and Hermès does regular business in New York and in this District.

7. Venue in this Court is proper under the provisions of 28 U.S.C. § 1400 (b) because defendants reside in this District and 28 U.S.C. §§ 1391(b) and (c) because a substantial part of the claims arose in this district.

FACTUAL BACKGROUND

8. From its humble beginnings as a small business in Manhattan Beach, California, Skechers has grown to become a multi-billion-dollar global leader in the footwear industry. Over the years, Skechers has earned its reputation as a world leader in designing cutting-edge footwear.

9. Skechers' commitment to innovation is evident in the tens of millions of dollars spent in researching and developing its proprietary line of shoe designs. These ornamental designs are embodied in the highly successful SKECHERS GO WALK series featuring the MASSAGE FIT sole as well as various other Skechers styles.

10. The United States Patent and Trademark Office (USPTO) has acknowledged the novel, non-obvious, and ornamental designs embodied in the Skechers' styles featuring the MASSAGE FIT sole by thus far issuing U.S. Patent Nos. D965,263 S

(Exhibit 1, the “ ’263 patent”), and D925,183 S (Exhibit 2, the “ ’183 patent”) therefore to Skechers.

11. Defendant has infringed the ’263 patent and ’183 patent by making, using, selling, offering for sale, and/or importing for sale shoes that embody the patented inventions disclosed in these patents, or be enabling and/or inducing others to commit such acts.

12. Defendant’s infringing shoes include, at least, the models identified by Hermès as Éclair and Envol shoes. Defendant has profited and is profiting from such design patent infringements.

Hermès Éclair



Hermès Envol

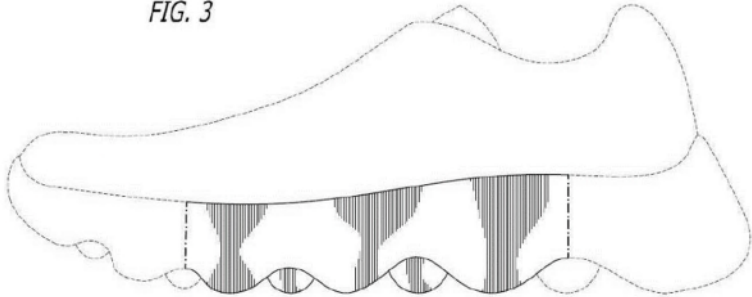

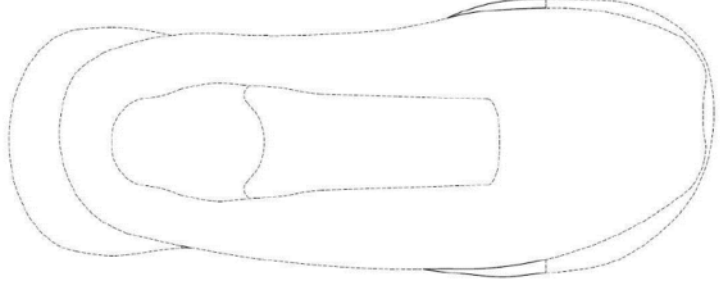



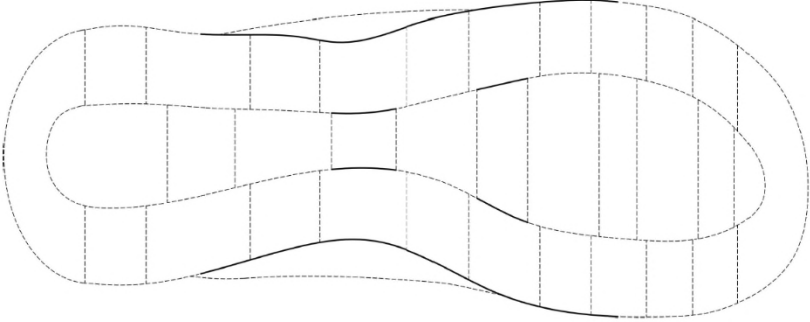
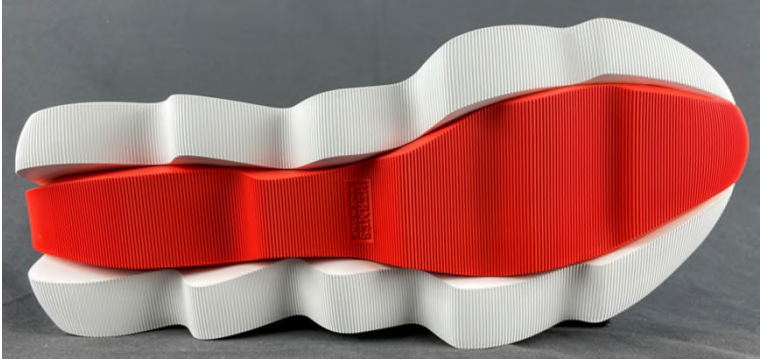
13. On information and belief, the Éclair and Envol styles have the substantially the same infringing sole.

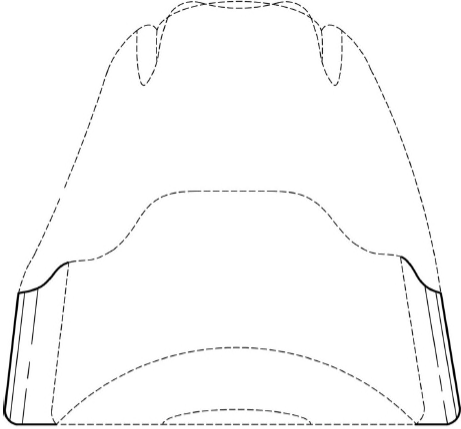

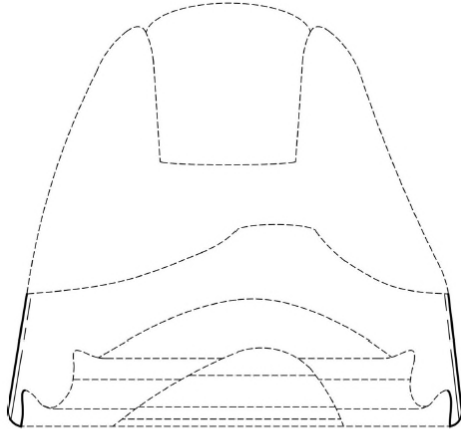

SKECHERS' DESIGN PATENTS

14. Defendant's infringement of the '263 patent is shown by the comparison below of the shoe outsole bottom from the '263 patent next to Defendant's Éclair sneaker outsole.

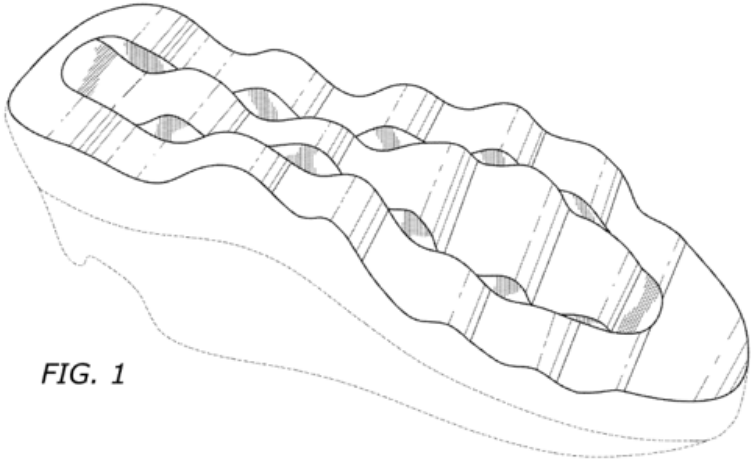

<p>SKECHERS US DESIGN PATENT D965,263 S- OUTSOLE BOTTOM</p>	 <p><i>FIG. 1</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	
<p>SKECHERS US DESIGN PATENT D965,263 S - OUTSOLE BOTTOM</p>	 <p><i>FIG. 2</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	

<p>SKECHERS US DESIGN PATENT D965,263 S- OUTSOLE BOTTOM</p>	<p style="text-align: center;"><i>FIG. 3</i></p> 
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	
<p>SKECHERS US DESIGN PATENT D965,263 S- OUTSOLE BOTTOM</p>	 <p style="text-align: center;"><i>FIG. 4</i></p>

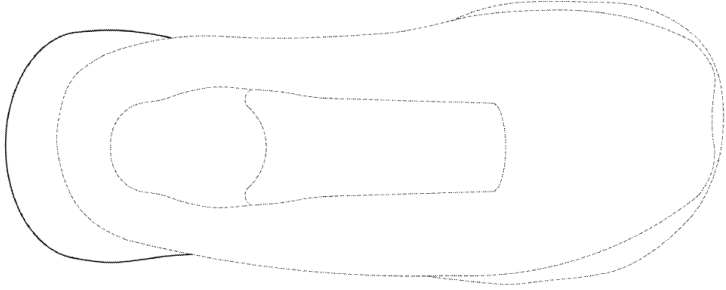

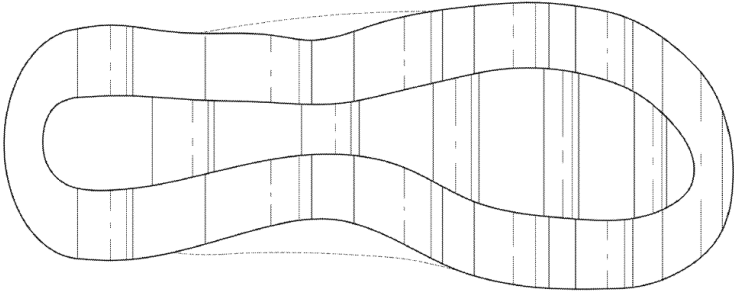

<p>ÈCLAIR SNEAKER (HERMÈS)</p>	
<p>SKECHERS US DESIGN PATENT D965,263 S- OUTSOLE BOTTOM</p>	 <p><i>FIG. 5</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	

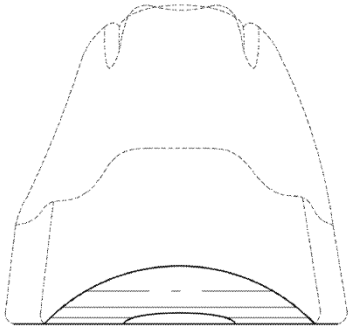

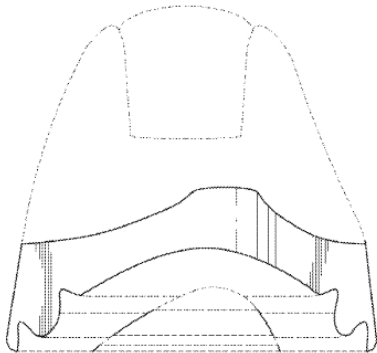

<p>SKECHERS US DESIGN PATENT D965,263 S- OUTSOLE BOTTOM</p>	<p>ÈCLAIR SNEAKER (HERMÈS)</p>
 <p><i>FIG. 6</i></p>	
<p>SKECHERS US DESIGN PATENT D965,263 S- OUTSOLE BOTTOM</p>	<p>ÈCLAIR SNEAKER (HERMÈS)</p>
 <p><i>FIG. 7</i></p>	

15. Defendant's infringement of the '183 patent is shown by the comparison below of the shoe outsole bottom from the '183 patent next to Defendant's Èclair sneaker outsole.

<p>SKECHERS US DESIGN PATENT D925,183 S- OUTSOLE BOTTOM</p>	 <p><i>FIG. 1</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	 <p><i>z</i></p>

<p>SKECHERS US DESIGN PATENT D925,183 S- OUTSOLE BOTTOM</p>	 <p><i>FIG. 2</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	
<p>SKECHERS US DESIGN PATENT D925,183 S- OUTSOLE BOTTOM</p>	 <p><i>FIG. 3</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	

<p>SKECHERS US DESIGN PATENT D925,183 S- OUTSOLE BOTTOM</p>	 <p><i>FIG. 4</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	
<p>SKECHERS US DESIGN PATENT D925,183 S- OUTSOLE BOTTOM</p>	 <p><i>FIG. 5</i></p>
<p>ÈCLAIR SNEAKER (HERMÈS)</p>	

<p>SKECHERS US DESIGN PATENT D925,183 S- OUTSOLE BOTTOM</p>	<p>ÈCLAIR SNEAKER (HERMÈS)</p>
 <p><i>FIG. 6</i></p>	
<p>SKECHERS US DESIGN PATENT D925,183 S- OUTSOLE BOTTOM</p>	<p>ÈCLAIR SNEAKER (HERMÈS)</p>
 <p><i>FIG. 7</i></p>	

FIRST CAUSE OF ACTION
(Design Patent Infringement, Patent No. US D965,263)

16. Skechers realleges and incorporates by reference the full text of all of the foregoing numbered paragraphs, photographs and figures as though each such paragraph, photograph and figure has been fully set forth hereat.

17. On October 4, 2022, the United States Patent and Trademark Office issued United States Patent, Patent No. US D965,263 (Exhibit 1) therefore to Skechers. At all times since the date of issue of the '263 patent, Skechers has been, and currently is, the exclusive owner of the entire right, title and interest in and to the '263 patent. Skechers' ownership of the '263 patent includes without limitation the exclusive right to enforce the '263 patent, the exclusive right to file actions based on infringement of the '263 patent, and the exclusive right to recover damages or other monetary amounts for infringement of the '263 patent and to be awarded injunctive relief pertaining to the '263 patent. Skechers has owned the '263 patent at all times during Defendant's infringement of the '263 patent.

18. Defendant has been, and presently is, infringing the '263 patent within this judicial district and elsewhere by making and selling shoes that embody the patented invention disclosed in the '263 patent. Upon information and belief, Defendant's infringement of the '263 patent is willful. Defendant's infringing shoes are referred to as the Èclair Sneakers and Envol Sneakers, and both the Èclair Sneakers and Envol Sneakers infringe the '263 patent in violation of 35 U.S.C. §§271 and 289.

19. Due to Defendant's infringement of the '263 patent, 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 defendant's further infringing conduct.

20. Defendant has profited and is profiting from its infringement of the '263 patent and Skechers has been and is being damaged and losing profit by such infringement. Skechers is therefore entitled to recover damages from the defendant and the total profit derived from such infringement, all in an amount to be proven at trial.

SECOND CAUSE OF ACTION
(Design Patent Infringement, Patent No. US D925,183)

21. Skechers realleges and incorporates by reference the full text of all of the foregoing numbered paragraphs, photographs and figures as though each such paragraph, photograph and figure has been fully set forth hereat.

22. On July 20, 2021, the United States Patent and Trademark Office issued United States Patent, Patent No. US D925,183 (Exhibit 2) therefore to Skechers. At all times since the date of issue of the '183 patent, Skechers has been, and currently is, the exclusive owner of the entire right, title and interest in and to the '183 patent. Skechers' ownership of the '183 patent includes without limitation the exclusive right to enforce the '183 patent, the exclusive right to file actions based on infringement of the '183 patent, and the exclusive right to recover damages or other monetary amounts for infringement of the '183 patent and to be awarded injunctive relief pertaining to the '183 patent.

Skechers has owned the '183 patent at all times during Defendant's infringement of the '183 patent.

23. Defendant has been, and presently is, infringing the '183 patent within this judicial district and elsewhere by making and selling shoes that embody the patented invention disclosed in the '183 patent. Upon information and belief, Defendant's infringement of the '183 patent is willful. Defendant's infringing shoes are referred to as Èclair Sneakers and Envol Sneakers, and both the Èclair Sneakers and Envol Sneakers infringe the '183 patent in violation of 35 U.S.C. §§271 and 289.

24. Due to Defendant's infringement of the '183 patent, 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 defendant's further infringing conduct.

25. Defendant has profited and is profiting from its infringement of the '183 patent and Skechers has been and is being damaged and losing profit by such infringement. Skechers is therefore entitled to recover damages from the defendant and the total profit derived from such infringement, all in an amount to be proven at trial.

REQUEST FOR RELIEF

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

A. That this Court adjudge and decree that the '263 patent and the '183 patent

are valid and enforceable;

B. That this Court adjudge and decree that Hermès has infringed the claims of the '263 patent and the '183 patent;

C. That this Court permanently enjoin Hermès, its owners, officers, agents, servants, employees, attorneys, successors, and assigns, and all others in active concert or participation with Hermès, from continued infringement of the '263 patent and the '183 patent;

D. That Skechers be awarded Hermès for infringement of the '263 patent and the '183 patent, and that such an award be trebled under 35 U.S.C. § 289;

E. That Skechers be awarded damages against Hermès for infringement of the '263 patent and the '183 patent, and that such an award be trebled under 35 U.S.C. § 284;

F. An award for Skechers' costs and attorneys' fees; and

G. Any other additional and further relief that the Court may deem just and proper under the circumstances.

Dated October 18, 2022.

/s/ Andrew J. Ligotti
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*Attorneys for Plaintiffs Skechers U.S.A., Inc.
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, 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.

Dated October 18, 2022

/s/ Andrew J. Ligotti

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