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11  
 12 UNITED STATES DISTRICT COURT  
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14  
 15 GAVRIELI BRANDS, LLC, a  
 California Limited Liability Company,

16 Plaintiff,

17 v.

18 XIAMEN HUAXI TECHNOLOGY  
 19 CO., LTD. d/b/a CZZPTC, a Chinese  
 company,

20 Defendant.

Case No. 2:22-cv-5924

**COMPLAINT FOR PATENT  
 INFRINGEMENT, TRADE  
 DRESS INFRINGEMENT, AND  
 UNFAIR COMPETITION**

**DEMAND FOR JURY TRIAL**

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**COMPLAINT AND JURY DEMAND**

Plaintiff Gavrieli Brands, LLC (“Gavrieli”) for its complaint against Defendant Xiamen Huaxi Technology Co., Ltd (d/b/a “CZZPTC”), hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the laws of the United States, 35 U.S.C. § 101 *et seq.*, trade dress infringement arising under the Federal Trademark Act of 1946, known as the Lanham Act, 15 U.S.C. § 1051, *et seq.*, and unfair trade practices arising under the laws of the state of California, Cal. Bus. Prof. Code § 17200 *et seq.*

2. Gavrieli is the owner of all right, title, and interest in United States Design Patents Nos. D844,950 and D681,928 (collectively, the “Patents-in-Suit,” attached hereto as Exhibits A and B).

3. Gavrieli is the owner of all right, title, and interest to the distinctive trade dress (the “Trade Dress”) associated with Tieks®.

4. Defendant has used and continues to use the claimed designs of the Patents-in-Suit, without Gavrieli’s permission, in their “CZZPTC Fruitshoes” ballet flats that Defendant makes, uses, offers for sale, sell, and/or import into the United States.

5. Defendant has incorporated and continues to incorporate the Trade Dress, without Gavrieli’s permission, into the “CZZPTC” ballet flats that Defendant makes, uses, offers for sale, sell, and/or import into the United States.

6. Gavrieli seeks, among other things, permanent injunctive relief to stop CZZPTC from infringing the Patents-in-Suit; permanent injunctive relief to stop CZZPTC from infringing its trade dress; damages and/or disgorgement of CZZPTC’s profits from its infringing activities; pre-judgment and post-judgment interest; costs and attorneys’ fees; and all other relief the Court deems just and proper.

1 **THE PARTIES**

2 7. Gavrieli is a California limited liability company with its principal  
3 place of business at 5731 Buckingham Parkway, Culver City, California 90230.

4 8. CZZPTC is a company from the People’s Republic of China. Upon  
5 information and belief, its principal place of business is located at Unit 09, 25F,  
6 Shenglong Global Center, 23 Changting Street, Wanglong 2<sup>nd</sup> Road, Ninghua  
7 Avenue, Taijiang District, Fuzhou, Fujian. Upon information and belief, based on  
8 the US Trademark Registration No. 5522707 for “CZZPTC,” it is also located at  
9 No. 103 Ziran Village, Zhu Alley, Qibu Village, Gongchen Street, Licheng District,  
10 Shenzen, China 518000. Defendant does not make its address available on its  
11 website, Amazon Web Store, or product packaging. Plaintiff has been unable to  
12 find additional addresses other than what is listed above. Upon information and  
13 belief, CZZPTC may be served with process, under the Hague Convention, at its  
14 address located in Shenzen, China.

15 9. CZZPTC offers for sale and sells the Accused Products on the  
16 CZZPTC official website (<https://www.CZZPTC.com/>), and through its Amazon  
17 Web Store (<https://www.amazon.com/stores/CZZPTC/%E4%B8%BB%E9%A1%B5/page/8CC15C50-F99F-4241-8341-719FAD9028BA>).

19 **JURISDICTION AND VENUE**

20 10. This action arises under the patent laws of the United States, 35 U.S.C.  
21 § 1 *et seq.*, and the Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.* (the “Lanham  
22 Act”).

23 11. This Court has original jurisdiction over the subject matter of this  
24 action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, 2202, the patent laws of the  
25 United States, including 35 U.S.C. § 271 *et seq.*, and the Lanham Act, 15 U.S.C. §  
26 1114 *et seq.*

27 12. This Court has general and specific personal jurisdiction over  
28 CZZPTC, consistent with the Constitution of this state and the United States and

1 the California Long Arm Statute, Cal. Code Civ. Proc § 410.10, on information and  
2 belief, due at least to its substantial business conducted in this District, including:  
3 (i) having solicited business in the State of California and this District, transacted  
4 business within the State of California and this District and attempted to derive  
5 financial benefit from residents of the State of California and in this District,  
6 including benefits directly related to the instant patent and trade dress infringement  
7 causes of action set forth herein; (ii) having placed its products and services into the  
8 stream of commerce throughout the United States and having been actively engaged  
9 in transacting business in California and in this District; and (iii) having committed  
10 the complained of tortious acts in California and in this District.

11 13. CZZPTC, upon information and belief, directly and/or through  
12 subsidiaries and agents (including distributors, retailers, wholesalers,  
13 manufacturers, and others), makes, imports, ships, distributes, offers for sale, sells,  
14 uses, and advertises (including offering products and services through its website as  
15 well as other online retailers) its products and/or services in the United States, the  
16 State of California and the Central District of California.

17 14. CZZPTC, upon information and belief, directly and/or through its  
18 subsidiaries, agents, alter egos, agents and/or intermediaries (including distributors,  
19 retailers, and others), has purposefully and voluntarily placed one or more of its  
20 infringing products and/or services, as described below, into the stream of  
21 commerce with the expectation that they will be purchased and used by consumers  
22 in the Central District of California. These infringing products and/or services have  
23 been purchased and used by consumers in the Central District of California.  
24 CZZPTC has committed acts of patent infringement and trade dress infringement  
25 within the State of California and, more particularly, within the Central District of  
26 California.

27 15. This Court's exercise of personal jurisdiction over CZZPTC is  
28 consistent with the California Long Arm Statute, Cal. Code Civ. Proc. § 410.10,

1 and traditional notions of fair play and substantial justice.

2 16. Venue is proper as to CZZPTC, which is organized under the law of  
3 the People’s Republic of China, under 28 U.S.C. § 1391(c)(3) that provides, “a  
4 defendant not resident in the United States may be sued in any judicial district, and  
5 the joinder of such a defendant shall be disregarded in determining where the action  
6 may be brought with respect to other defendants.”

7 **FACTUAL ALLEGATIONS**

8 17. Gavrieli is well known around the world for its Tieks® by Gavrieli  
9 line of footwear (“Tieks®”). Through Gavrieli’s significant investment in research,  
10 design, development, and marketing, Tieks® has come to possess a distinctive  
11 design, instantly recognizable by its many unique features, including, but not  
12 limited to, a colored outsole that peeks out from under the upper portion while the  
13 flats are being worn—known as the “Peekaboo” outsole. These design features are  
14 essential to the Tieks® brand identity and are recognized in the marketplace as a  
15 designator of the Tieks® brand. An example Tieks® shoe is shown below:



22  
23 18. Tieks® are available in over fifty (50) styles and patterns, and retail  
24 for \$185 to \$345 per pair. Sold out styles and patterns of Tieks® are often resold  
25 by consumers on secondary markets, such as Poshmark and eBay, for well-above  
26 the retail price.

27 19. Tieks® has received extensive and favorable media coverage on its  
28 innovative and stunning design. In the August 2011 issue of Oprah Winfrey’s O

1 Magazine, Tieks® was selected to be on the “O List,” and was again featured by  
2 Oprah in Spring 2012, as an item on her list of “Mother’s Day Gifts She Really  
3 Wants.” Oprah’s endorsement of Tieks® was so well known that E! News  
4 published an article titled “Obsessions: Oprah’s Ultra-Comfy Ballet Flats.” In  
5 2012, INC Magazine featured Tieks® on its “30 Under 30” list, praising the  
6 founders for having “created a powerful brand as well as their own category of  
7 footwear.” Similarly, in 2013, Forbes listed Tieks® on its list of the “25 Most  
8 Innovative Consumer and Retail Brands” that “honor[s] . . . companies that are  
9 starting to change the way we live our lives.” In 2013, Entrepreneur Magazine  
10 wrote that Tieks® had “develop[ed] a cult status.”

11 20. The Tieks® brand has a strong and devoted fan base, including one of  
12 the largest social media followings in the fashion world, with over 1.5 million  
13 followers on Facebook. Fans of the Tieks® brand have even created Facebook Fan  
14 Groups devoted to buying, selling, and trading second-hand pairs of Tieks® ballet  
15 flats.

16 21. Tieks® has been advertised and featured extensively throughout the  
17 United States, including through Gavrieli’s own social media and advertising, as  
18 well as dozens of feature stories in national publications and broadcast, such as  
19 Forbes, INC, Essence, Travel + Leisure, O Magazine, and the Today Show, as well  
20 as hundreds of blogs. The vast majority of the articles, broadcasts, and blog posts  
21 about Tieks® focus on the novel Peekaboo outsole design.

22 22. Gavrieli has made significant investments, both in time and resources,  
23 in developing Tieks® designs and securing the intellectual property rights that  
24 protect it, including the patents asserted in this Complaint.

1 **Gavrieli’s Design Patents**

2 23. On April 9, 2019, the USPTO issued U.S. Design Patent No.  
3 D844,950, titled “Shoe With Blue Outpatch Sole” (“the ’950 patent”). A true and  
4 correct copy of the ’950 patent is attached hereto as Exhibit A.

5 24. On May 14, 2013, the USPTO issued U.S. Design Patent No.  
6 D681,928, titled “Shoe” (“the ’928 patent”). A true and correct copy of the ’928  
7 patent is attached hereto as Exhibit B.

8 **Gavrieli’s Trade Dress**

9 25. Through extensive and consistent advertising, promotion, and publicity  
10 of the Tieks® line of footwear, Gavrieli has obtained and holds trade dress  
11 protection in the design elements most closely associated with Tieks® .

12 26. Gavrieli has owned and used its distinctive and non-functional trade  
13 dress on its footwear and featured prominently in its advertising for well over six  
14 years to identify Gavrieli as the source of the footwear.

15 27. The trade dress at issue in this case consists of a distinctive blue  
16 outsole design (the “Trade Dress”), as shown below:



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26 28. The Trade Dress has acquired secondary meaning in the minds of  
27 consumers through Gavrieli’s widespread use, sale, advertising, and promotion of  
28 its Trade Dress, and as such, is distinctive and serves to identify Tieks® by Gavrieli

1 as the source of any shoe using the Trade Dress.

2 29. The color blue on the outsole of the Trade Dress serves no functional  
3 or utilitarian purpose.

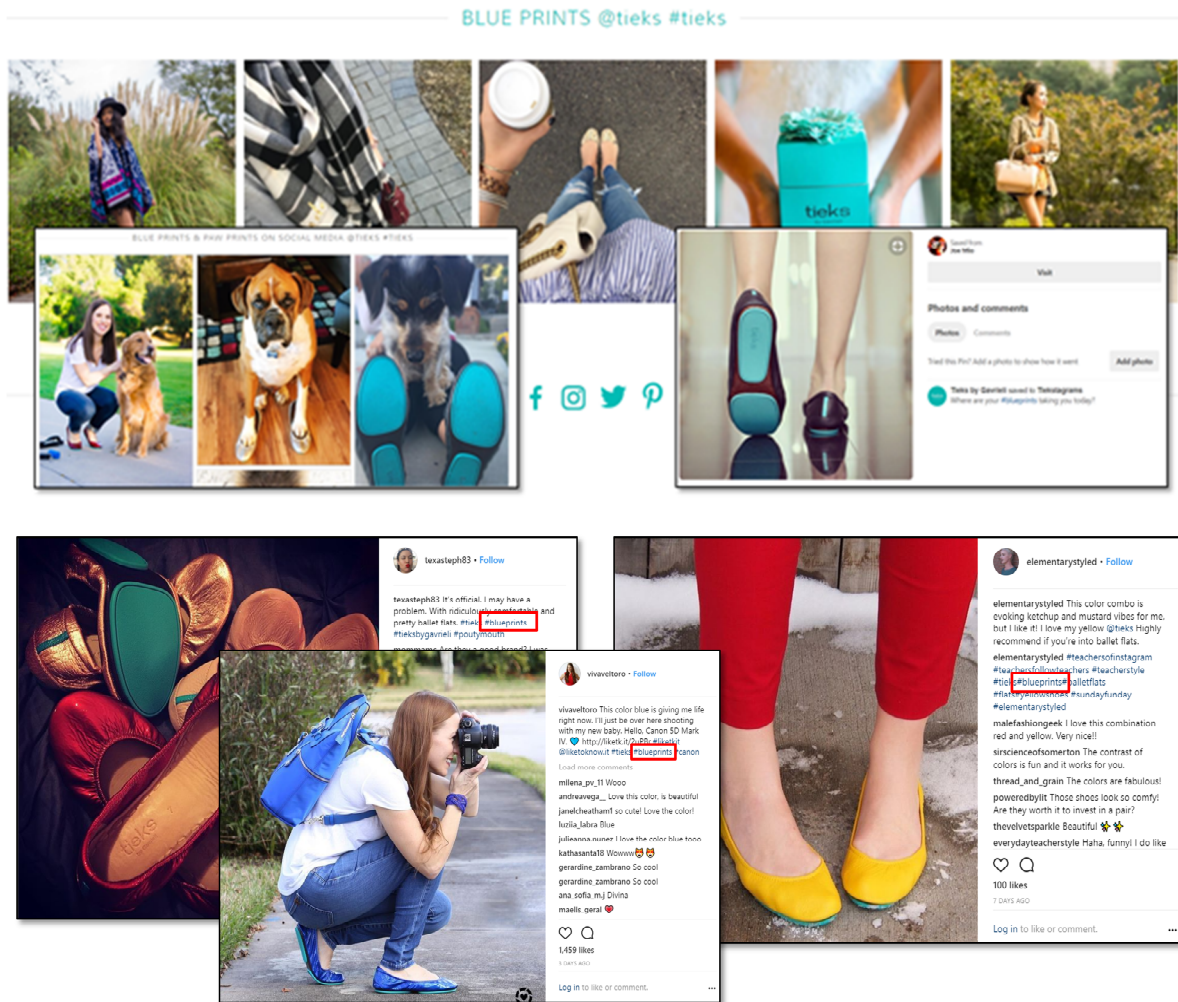
4 30. To reinforce the brand significance of the color blue, Gavrieli's  
5 advertising and promotional efforts from as early as 2011 to present have  
6 consistently focused on educating the public to associate a blue outsole as applied  
7 to shoes with Tieks®. As one example, Gavrieli markets the outsole color on  
8 Tieks® as "Tiek Blue." The express purpose of this "look for" advertising is to  
9 establish the Trade Dress as a symbol of origin to identify that the shoes emanate  
10 only from the Tieks® brand. Gavrieli has devoted significant resources over the  
11 years to advertise and promote its blue outsole shoes using "look for" advertising.

12 31. Gavrieli's advertising in visual media since 2011 has consistently  
13 emphasized the Trade Dress and the "look for" blue theme, including, for example,  
14 emphasizing the blue outsole using blue motifs, such as blue borders and  
15 underlines. Also, Gavrieli's advertising text has used various "blue" phrases in  
16 addition to "Tiek Blue," including, but not limited to, "Something Tiek Blue," "Say  
17 'I Do' in Tiek Blue," "I'm Dreaming of a Tiek Blue Christmas," "All I Want for  
18 Christmas is Tiek Blue," "A Tiek Blue Dream Come True." Moreover, Gavrieli  
19 includes a note with each pair of Tieks® sold that says: "We Look Forward to  
20 Seeing Where Your Blue Prints Take You."

21 32. Gavrieli has also extensively advertised the Trade Dress on social  
22 media, including advertisements that encouraged consumers to post pictures of the  
23 blue outsole design on their Tieks® using the "Tieks" or "BluePrints" hashtag.  
24 Gavrieli's online advertisements emphasizing the Trade Dress reached tens of  
25 millions of people each year. Gavrieli also operates a blog called "The Blue Prints  
26 Blog," and has organized a giveaway called "The Blue Prints Box Giveaway." The  
27 Gavrieli website has a page dedicated to displaying Instagram and Facebook posts  
28 that use "#Tieks," as well as a slide on the home page dedicated to displaying



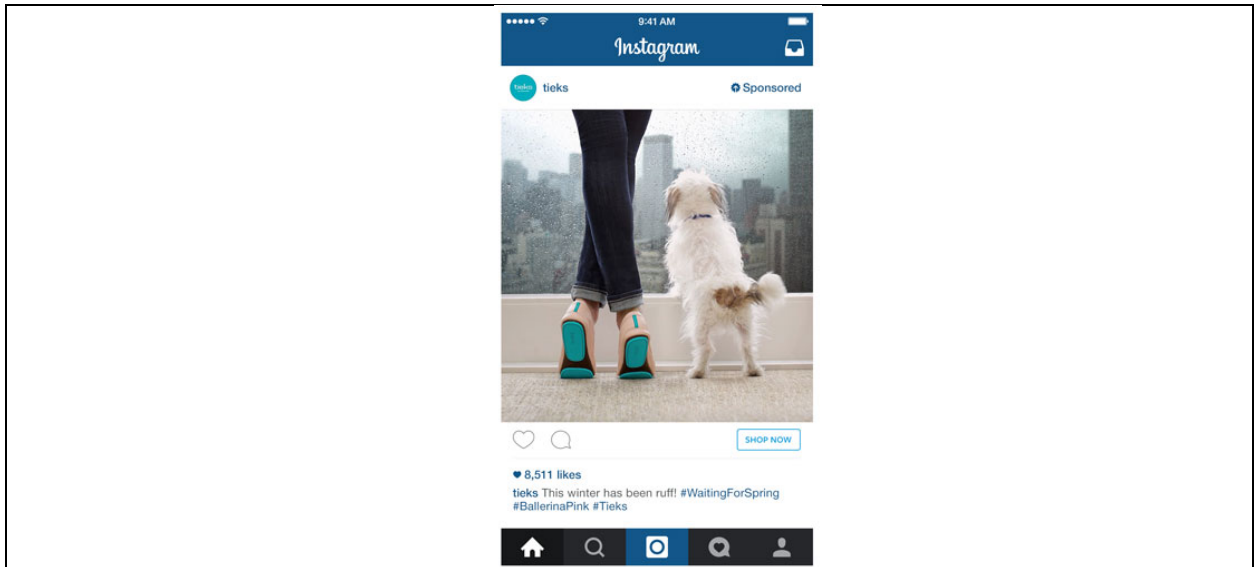
1 Instagram and Facebook posts that use “#BluePrints.” Additionally, Gavrieli’s



18 advertising text uses various “Blue Prints” phrases, including “Blue Prints & Paw  
 19 Prints” and “Where are your #BluePrints taking you today?” To date, over 71,000  
 20 pictures have been posted to Instagram using “#Tieks,” and over 54,000 using  
 21 “#BluePrints.” Below is a small sample of Gavrieli’s social media advertising from  
 22 2011 to present emphasizing the blue outsole, as well as exemplary Instagram posts  
 23 from consumers that used “#Tieks” and “#BluePrints” to denote the Trade Dress on  
 24 the shoe.

25 33. Gavrieli has for many years placed ads on different online sites,  
 26 including numerous popular and highly trafficked website, including, but not  
 27 limited to, Google, Facebook, Instagram, Yahoo, New York Times, CNN,  
 28 Huffington Post, Fox News, and MSN. Gavrieli’s advertising is being, and has

1 been, exposed to millions of people. Below is an exemplary online advertisement  
2 placed by Gavrieli for Tiekcs®, which prominently features the color blue on the  
3 outsole.



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14 34. Gavrieli has spent substantial money and resources to advertise,  
15 market, and promote the Trade Dress through online and print media in the United  
16 States. The Trade Dress has also received significant media coverage in digital,  
17 broadcast, online, and print media around the United States.

18 35. Gavrieli has made substantial sales of Tiekcs® in the United States, all  
19 of which use the Trade Dress.

20 36. Through Gavrieli's continued and widespread commercial use and  
21 success of the Trade Dress, as well as its advertising, publicity, and promotion, the  
22 consuming public has come to recognize the design of the Trade Dress, which is  
23 non-functional and distinctive, and to associate it with a single source, namely,  
24 Tiekcs® by Gavrieli.

25 **CZZPTC's Infringing Activities**

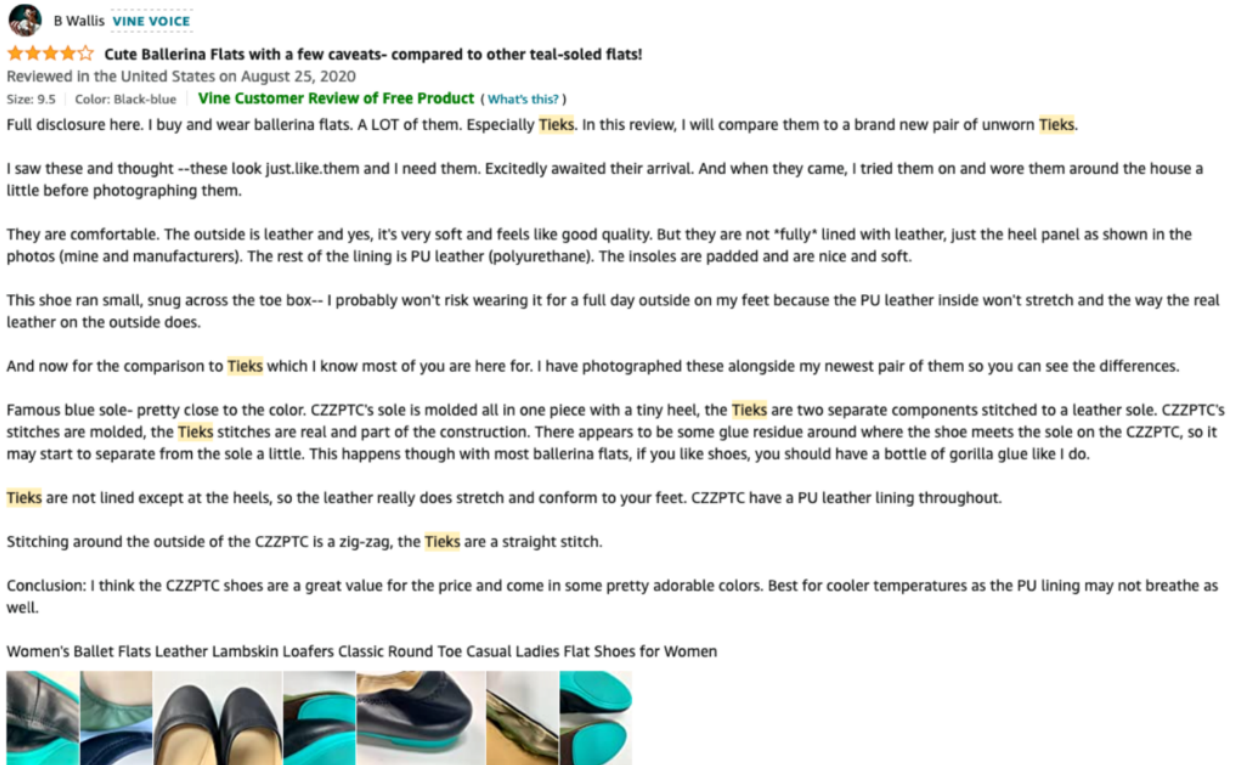
26 37. As shown below, the Accused Products and the Defendant's website  
27 mimic several designs protected by Gavrieli's intellectual property, including its  
28 valuable patent and trade dress rights.

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38. Rather than create their own distinctive product design, CZZPTC chose to embark on a campaign to systematically copy Gavrieli’s distinctive footwear in order to improperly exploit the goodwill Gavrieli has spent years building in the marketplace. Even a cursory comparison of Tieks® with the Accused Products reveals the extent of this misappropriation of Gavrieli intellectual property. *See* Exhibit F-1.



1 39. Multiple customers across social media and Amazon have also pointed  
 2 out CZZPTC’s blatant copying of Tieks® designs. For example, in an Amazon  
 3 review a customer outlines an extensive comparison between a pair of Tieks®  
 4 ballet flats with an Accused Product which is reproduced below:



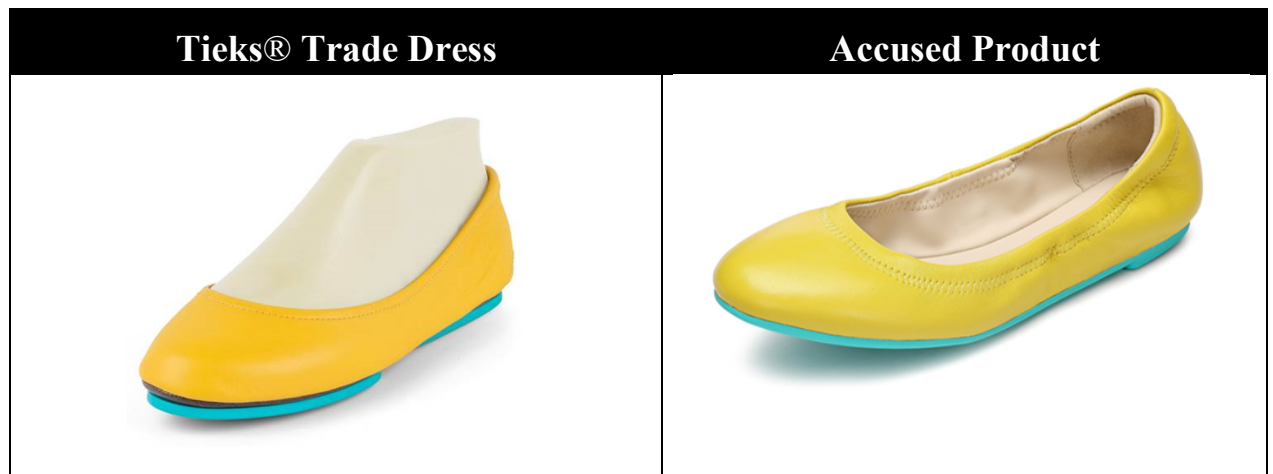
18 40. As stated previously, and as evidenced by the example above,  
 19 CZZPTC offers for sale the Accused Products through its official website and its  
 20 Amazon Web Store with the name “CZZPTC.” A pair of the Accused Products  
 21 from the CZZPTC Amazon store was purchased for delivery within this district to  
 22 Inglewood, CA. Attached as Exhibit C is a screenshot of the order invoice  
 23 reflecting the purchase of the Accused Products.

24 41. The above-referenced pair of the Accused Products were received in  
 25 Inglewood, CA.

26 42. The Accused Products, including the styles “Red,” “Blackblue,”  
 27 “Black,” “Rose Gold,” “Rufous,” “Fruitshoes Red,” “Fruitshoes Gold,” “Silver,”  
 28 “Fruitshoes Blue,” “Bright Yellow,” “Blacksuede,” “Coffee,” “Bronze,” “Royal

1 Blue,” “Yellow,” “Brown,” “Green,” and “Navy Blue” that are sold or offered for  
 2 sale by CZZPTC on the CZZPTC website and Amazon Web Store, unlawfully  
 3 incorporate designs claimed by the Asserted Design Patents including, but not  
 4 limited to, the Peekaboo outsole design, and infringe the Asserted Design Patents.

5 43. On information and belief, CZZPTC is well aware of the Trade Dress,  
 6 and of the goodwill represented and symbolized thereby. Notwithstanding this  
 7 awareness, the CZZPT sold and continues to sell competitive footwear with a blue  
 8 outsole on its website and Amazon Web Store that duplicates, copies, and uses the  
 9 distinctive Trade Dress. A comparison of the Trade Dress and an Accused Product  
 10 is included below:



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18 44. One of Gavrieli’s most significant distinctions in the marketplace is its  
 19 blue outsole design, which uniquely stands out from all other shoes on the market.  
 20 Gavrieli’s goodwill among consumers is uniquely tied to its Trade Dress. It is  
 21 abundantly clear from CZZPTC’s website that it sought to unfairly capitalize on  
 22 Gavrieli’s goodwill and Trade Dress. For instance, on its website, CZZPTC makes  
 23 it a point to highlight the “design Blue color” of its “thick non-skid rubber outsole  
 24 patches.” An exemplary image of this language is included below. Notably,  
 25 however, this language is nearly identical to an excerpt on the Tieks® website:  
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### CZZPTC Website



#### DURABILITY

*Thick non-skid rubber outsole patches, in our design **Blue** color provide traction and shock absorption to keep you grounded with every step. The midsole is specially treated to be both flexible and durable, allowing the shoe to be folded and unfolded repeatedly.*

### Tieks® Website



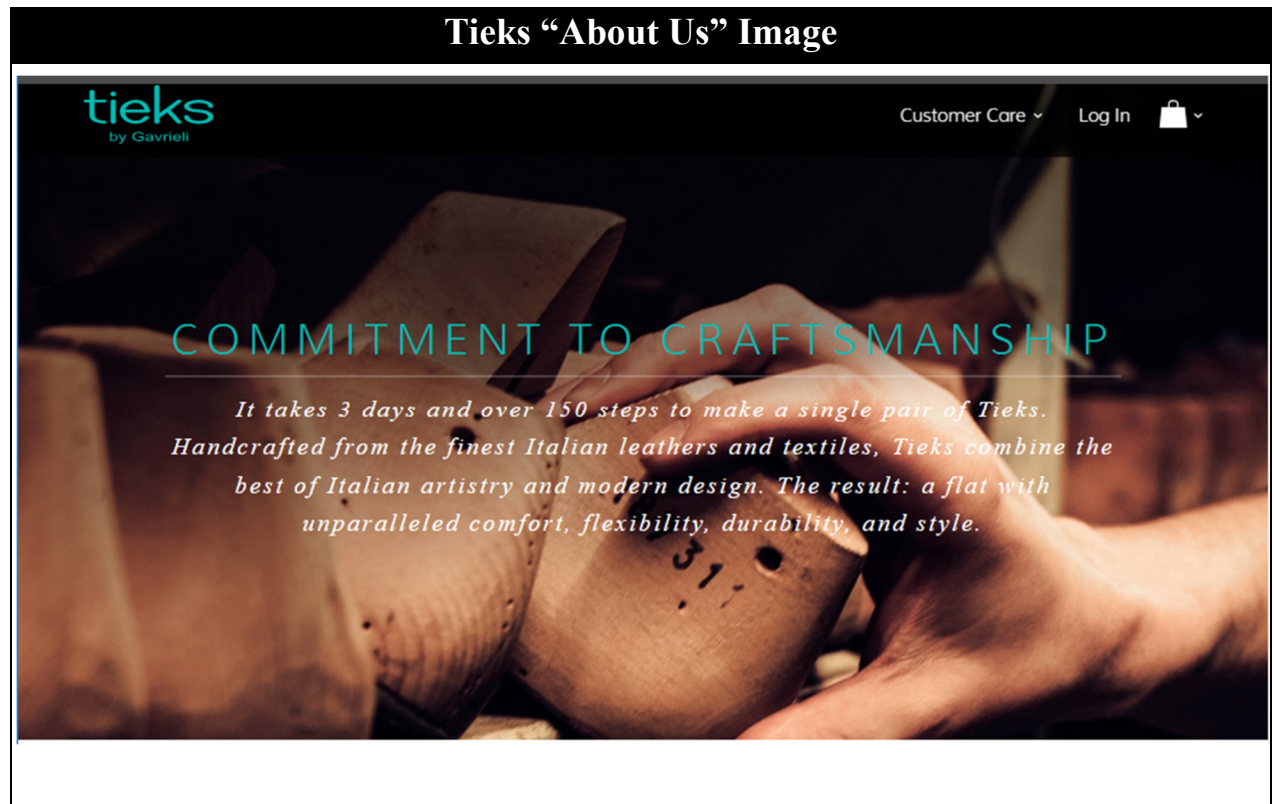
#### DURABILITY

Thick non-skid rubber outsole patches in our signature Tiek **Blue** color provide traction and shock absorption to keep you grounded with every step. The brown leather midsole is specially treated to be both flexible and durable, allowing the shoe to be folded and unfolded repeatedly.

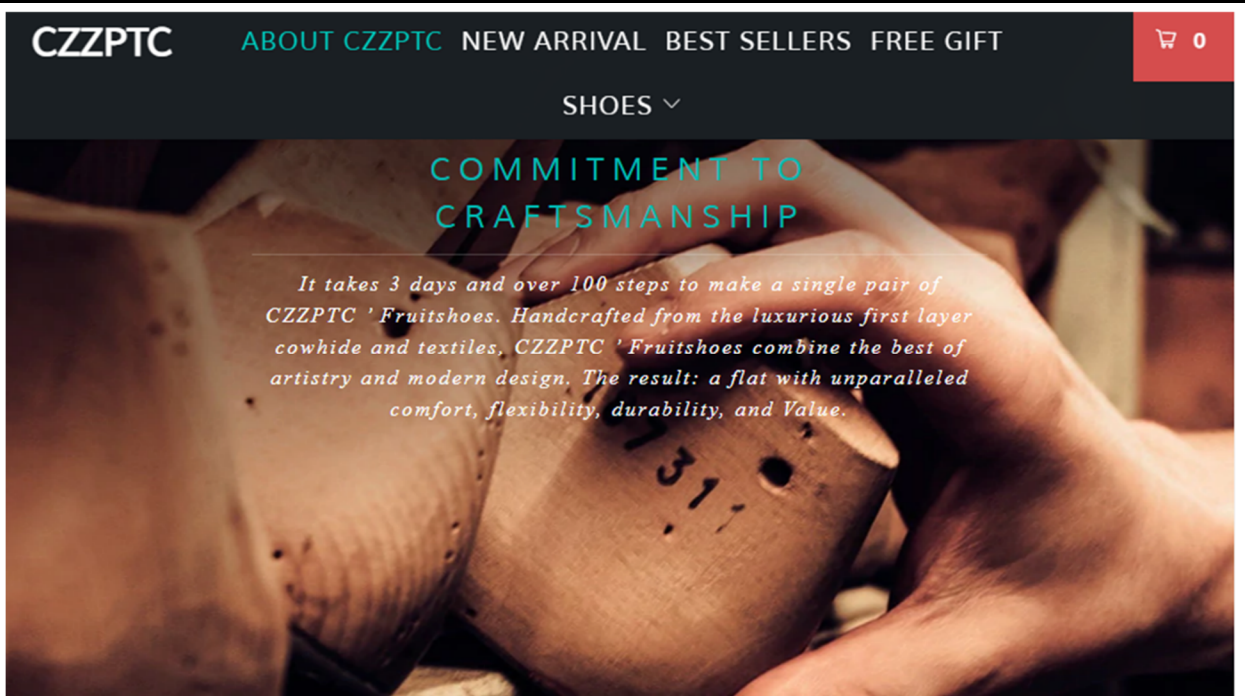
45. The Accused Products have caused and are likely to cause confusion, mistake, and deception as to their source of origin, and their unauthorized use of the Trade Dress is likely to falsely suggest a sponsorship, connection, or association between Defendant, their products, and/or their commercial activities with Gavrieli. For example, the public is likely to mistakenly believe that Gavrieli makes the Accused Products, that Gavrieli has authorized Defendant to use its distinctive design, or that there is some kind of relationship between Gavrieli and Defendant.

46. To further promote their infringement and compound customer confusion, CZZPTC has also copied many images and design elements from the

1 Tieks® website. One example of such copying is displayed on CZZPTC’s “About  
2 Us” webpage which appears to be an almost exact copy of the Tieks® “About Us”  
3 webpage. See Exhibits D and E. The CZZPTC image contains an *identical* mission  
4 statement (“Commitment to Craftsmanship”), uses *identical* fonts of *identical*  
5 colors, and uses an *identical* background image depicted in the screenshots below.  
6 See *id.* Both images appear to be identical and both seem to be affiliated with  
7 Tieks®.



### CZZPTC "About Us" Image



47. The images below are further examples of Defendant's blatant copying.





1 48. Upon information and belief, Defendant’s infringement of the Trade  
2 Dress has been, and continues to be undertaken knowingly, willfully, deliberately,  
3 maliciously, and in bad faith, entitling Gavrieli to enhanced damages and to  
4 attorneys’ fees and expenses incurred in prosecuting this action under 15 U.S.C. §  
5 1117.

6 49. Defendant’s unauthorized acts as described herein have caused and  
7 will continue to cause irreparable damage to Gavrieli and the Tieks brand unless  
8 preliminarily and permanently restrained by this Court.

9 **FIRST CLAIM FOR RELIEF**

10 **(Infringement of the ’950 Patent – 35 U.S.C. § 271)**

11 50. Paragraphs 1 through 49 are incorporated by reference as if fully stated  
12 herein.

13 51. Gavrieli owns all rights, title, and interest in the ’950 patent.

14 52. CZZPTC, without authorization from Gavrieli, has made, used, offered  
15 for sale, sold, and/or imported into or in the United States, and continues to make,  
16 use, offer for sale, sell, and/or import into or in the United States, the Accused  
17 Products having designs substantially similar to the ’950 patent, including, but not  
18 limited to, the “Red,” “Blackblue,” “Black,” “Rose Gold,” “Rufous,” “Fruitshoes  
19 Red,” “Fruitshoes Gold,” “Silver,” “Fruitshoes Blue,” “Bright Yellow,”  
20 “Blacksuede,” “Coffee,” “Bronze,” “Royal Blue,” “Yellow,” “Brown,” “Green,”  
21 and “Navy Blue” CZZPTC ballet flats. Further discovery may reveal additional  
22 infringing products and/or models.



23 53. The excerpt from Table 1, reproduced below, compares an exemplary  
24 figure from the ’950 patent<sup>1</sup> with a photograph of an exemplary Accused Product  
25 taken from a corresponding view. A complete version of Table 1 comparing all  
26 figures from the ’950 patent to corresponding views of the Accused Products is

27 \_\_\_\_\_  
28 <sup>1</sup> The ’950 patent claims a wide range of Pantone blue colors. The exemplary  
figure in Table 1 includes a blue color that falls within the claimed Pantone range.

1 attached as Exhibit F-2. The Accused Product pictured has been advertised,  
 2 marketed, promoted, and made available for purchase to all CZZPTC site visitors.  
 3 The Accused Product pictured is also available for sale currently on the CZZPTC  
 4 official website.

5

6 **TABLE 1**

The '950 Patent	Exemplary Accused Product
	

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12 54. By the foregoing acts, CZZPTC has infringed, literally and/or under  
 13 the doctrine of equivalents, and continues to infringe, the '950 patent in violation of  
 14 the 35 U.S.C. § 271.

15 55. Upon information and belief, CZZPTC's infringement of the '950  
 16 patent is, has been, and continues to be undertaken knowingly, willfully,  
 17 deliberately, maliciously, and in bad faith, entitling Gavrieli to enhanced damages  
 18 under 35 U.S.C. § 284 and to attorneys' fees and expenses incurred in prosecuting  
 19 this action under 35 U.S.C. § 285.

20 56. Upon information and belief, CZZPTC has gained profits by virtue of  
 21 its infringement of the '950 patent.

22 57. Upon information and belief, CZZPTC has obtained further investment  
 23 by virtue of its infringement of the '950 patent.

24 58. As a direct and proximate result of CZZPTC's infringement of the  
 25 '950 patent, Gavrieli has been and continues to be damaged in an amount yet to be  
 26 determined.

27 59. Gavrieli will suffer and is suffering irreparable harm from CZZPTC's  
 28

1 infringement of the '950 patent. Gavrieli has no adequate remedy at law and is  
2 entitled to an injunction against CZZPTC's infringement of the '950 patent. Unless  
3 enjoined by this Court, CZZPTC will continue its infringing conduct, thereby  
4 causing Gavrieli to further sustain irreparable damage, loss, and injury, for which  
5 Gavrieli has no adequate remedy at law.

6 **SECOND CLAIM FOR RELIEF**

7 **(Infringement of the '928 Patent – 35 U.S.C. § 271)**

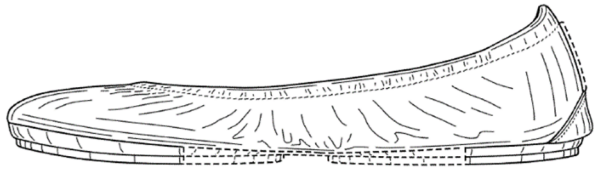

8 60. Paragraphs 1 through 59 are incorporated by reference as if fully stated  
9 herein.

10 61. Gavrieli owns all rights, title, and interest in the '928 patent.

11 62. CZZPTC, without authorization from Gavrieli, has made, used, offered  
12 for sale, sold, and/or imported into or in the United States, and continues to make,  
13 use, offer for sale, sell, and/or import into or in the United States, the Accused  
14 Products having designs substantially similar to the '928 patent, including, but not  
15 limited to, the "Red," "Blackblue," "Black," "Rose Gold," "Rufous," "Fruitshoes  
16 Red," "Fruitshoes Gold," "Silver," "Fruitshoes Blue," "Bright Yellow,"  
17 "Blacksuede," "Coffee," "Bronze," "Royal Blue," "Yellow," "Brown," "Green,"  
18 and "Navy Blue" CZZPTC ballet flats. Further discovery may reveal additional  
19 infringing products and/or models.

20 63. The excerpt from Table 2, reproduced below, compares an exemplary  
21 figure from the '928 patent with a photograph of an exemplary Accused Product  
22 taken from a corresponding view. A complete version of Table 2 comparing all  
23 figures from the '928 patent to corresponding views of the Accused Products is  
24 attached as Exhibit F-3. The Accused Product pictured has been advertised,  
25 marketed, promoted, and made available for purchase to all CZZPTC site visitors.  
26 The Accused Product pictured is also available for sale currently on the CZZPTC  
27 official website.  
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TABLE 2	
The '928 Patent	Exemplary Accused Product
	

64. By the foregoing acts, CZZPTC has infringed, literally and/or under the doctrine of equivalents, and continues to infringe, the '928 patent in violation of the 35 U.S.C. § 271.

65. Upon information and belief, CZZPTC's infringement of the '928 patent is, has been, and continues to be undertaken knowingly, willfully, deliberately, maliciously, and in bad faith, entitling Gavrieli to enhanced damages under 35 U.S.C. § 284 and to attorneys' fees and expenses incurred in prosecuting this action under 35 U.S.C. § 285.

66. Upon information and belief, CZZPTC has gained profits by virtue of its infringement of the '928 patent.

67. Upon information and belief, CZZPTC has obtained further investment by virtue of its infringement of the '928 patent.

68. As a direct and proximate result of CZZPTC's infringement of the '928 patent, Gavrieli has been and continues to be damaged in an amount yet to be determined.

69. Gavrieli will suffer and is suffering irreparable harm from CZZPTC's infringement of the '928 patent. Gavrieli has no adequate remedy at law and is entitled to an injunction against CZZPTC's infringement of the '928 patent. Unless enjoined by this Court, CZZPTC will continue its infringing conduct, thereby causing Gavrieli to further sustain irreparable damage, loss, and injury, for which Gavrieli has no adequate remedy at law.

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**THIRD CLAIM FOR RELIEF**  
**(Common Law Trade Dress Infringement and Unfair Competition)**

70. Paragraphs 1 through 69 are incorporated by reference as if fully stated herein.

71. Since as early as 2011, Gavrieli has utilized and marketed its Tieks® footwear, which embody the Trade Dress. The Trade Dress is unique, arbitrary, and non-functional, and has acquired secondary meaning in the minds of consumers and resulted in a belief that goods embodying the Trade Dress emanate from a single source.

72. The Tieks® line of footwear which embodies the Trade Dress is extremely popular among the relevant consumers and has been widely promoted by Gavrieli through numerous channels of trade. Upon information and belief, Defendant has marketed, offered for sale, and sold the Accused Products to the identical group of consumers as Gavrieli via the same channels of trade as Gavrieli.

73. Defendant has misappropriated the Trade Dress by offering for sale or selling competitive footwear using the Trade Dress. The design of Defendant’s Accused Products so resembles the Trade Dress in appearance and overall commercial impression that the Accused Products are likely to cause confusion or mistake, or to deceive consumers as to the affiliation, connection, or association of Defendant with Gavrieli, or to the origin, sponsorship, or approval by Gavrieli of Defendant’s Accused Products.

74. Defendant’s manufacture, promotion, and/or distribution of the Accused Products uses the Trade Dress, enabling Defendant to benefit unfairly from Gavrieli’s reputation, success, and goodwill in its Trade Dress.

75. Upon information and belief, Defendant was aware of the Trade Dress at the time the Accused Products were designed, manufactured, offered for sale, and/or sold. Accordingly, Defendant’s infringement has been and continues to be intentional and willful.



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**FIFTH CLAIM FOR RELIEF**  
**(Unjust Enrichment)**

84. Paragraphs 1 through 83 are incorporated by reference as if fully stated herein.

85. As a result of the conduct alleged herein, CZZPTC has been unjustly enriched to Gavrieli’s detriment. Gavrieli therefore seeks an accounting and disgorgement of all ill-gotten gains and profits resulting from CZZPTC’s inequitable activities.

**REQUEST FOR RELIEF**

WHEREFORE, Gavrieli prays for judgment against CZZPTC as follows:

- A. A judgment and order adjudicating and declaring that CZZPTC has infringed each of the Patents-in-Suit;
- B. A judgment and order adjudicating and declaring that CZZPTC has infringed Gavrieli’s Trade Dress;
- C. A judgment and order permanently enjoining CZZPTC, its officers, agents, servants, employees, attorneys and all persons in active concert or participation with CZZPTC from further infringement of the Patents-in-Suit and Trade Dress, and from unfair competition;
- D. A judgment and order that CZZPTC must account and pay actual damages, including a disgorgement of CZZPTC’s profits and/or any lost profits or other harm to Gavrieli (but no less than a reasonable royalty), to Gavrieli for CZZPTC’s infringement of the Patents-in-Suit and the Trade Dress;
- E. A judgment and order awarding Gavrieli the total profits realized by CZZPTC from its infringement of the Patents-in-Suit pursuant to 35 U.S.C. § 289;
- F. A judgment and order declaring that CZZPTC has willfully infringed the Patents-in-Suit;
- G. A judgment and order awarding Gavrieli damages adequate to compensate for CZZPTC’s infringement together with enhanced damages up to

1 three times any amount ordered pursuant to 35 U.S.C. § 284;

2 H. A determination that this is an exceptional case under 35 U.S.C. § 285;

3 I. A judgment and order awarding Gavrieli its reasonable attorneys' fees;

4 J. A judgment and order awarding Gavrieli its costs, expenses, and  
5 interest, including pre-judgment and post-judgment interest, as provided for by 35  
6 U.S.C. § 284;

7 K. A judgment and order awarding trade dress infringement and unfair  
8 competition damages, including Defendant's unjust enrichment and profits, with  
9 such damages trebled for willful infringement;

10 L. A judgement and order awarding punitive or exemplary damages  
11 where appropriate;

12 M. A judgment and order awarding Gavrieli both pre-judgment and post-  
13 judgment interest on each and every monetary award; and

14 N. Granting Gavrieli such other and further relief as the Court deems just  
15 and appropriate, or that Gavrieli may be entitled to as a matter of law or equity.

16 **DEMAND FOR JURY TRIAL**

17 In accordance with Federal Rule of Civil Procedure 38 and Local Rule 38.1,  
18 Gavrieli respectfully demands a jury trial of all issues triable to a jury in this action.

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Dated: August 19, 2022

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By /s/ Michael J. Lyons

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