

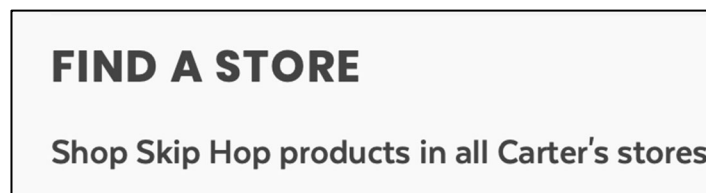


4. As discussed in greater detail below, Defendant has committed acts of patent infringement and/or has induced and/or contributed to acts of patent infringement by others in this judicial district, the State of Texas, and elsewhere in the United States, and continues to do so willfully and without authorization by making, using, offering for sale, selling, or importing various products or services that infringe Oribel's Asserted Patent (defined below).

5. The Court has personal jurisdiction over Defendant, in part, because Defendant has minimum contacts within the State of Texas; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas; Defendant regularly conducts business within the State of Texas; and Oribel's causes of action arise directly from Defendant's business contacts and other activities in the State of Texas, including by virtue of Defendant's infringement in the State of Texas.

6. Venue is proper in this judicial District under 28 U.S.C. § 1400(b) because Defendant has committed patent infringement and/or has induced and/or contributed to acts of infringement by others in the District, and has numerous regular and established places of business in this District, including at least the following locations: 3900 Town Center Dr Sherman, TX 75092, 8946 South Broadway Suite #104 Tyler, TX 75703, 238 Richmond Ranch Road Texarkana, TX 75503, 4909 West Park Boulevard Suite #101 Plano, TX 75093, 5882 Eastex Freeway Beaumont, TX 77708, 820 West Stacy Rd. Suite 414 Allen, TX 75013, 3333 Preston Road Frisco, TX 75034, and 931 South Preston Road Prosper, TX 75078.

Specifically, at each of these stores within this District, Defendant sells Skip Hop Products:



### III. BACKGROUND

7. Oribel is a leading innovator in improving toys and other childcare products for children around the world. As part of its mission, Oribel has invested significant resources and ingenuity into developing new products.

8. One of these innovations is Oribel's PortaPlay® Activity Center.



Featuring a bouncy seat and a tray table that may be used as a play table or to mount accessories such as different types of toys, this portable, interactive device is comfortable and entertaining for children and young toddlers.

9. Oribel has sold the PortaPlay® Activity Center throughout the world including in the United States, garnering praise from across the media landscape including from sources such as Pregnancy & Newborn, Forbes, and USA Today.

10. Oribel also sought and received patent protection for this innovation.

11. On August 11, 2020, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 10,736,437 (“the ’437 Patent” or “the Asserted Patent”), titled “Portable Activity Center.” The ’437 Patent is valid and enforceable.

12. The ’437 Patent is directed to “a portable activity center for a baby or young child ... and more particularly, to a portable activity center that can be used by a child for participating in different activities.” ’437 Pat. at 1:5-7.

13. Oribel is the original applicant and the sole and exclusive owner of all rights, title, and interest in the Asserted Patent, including the sole and exclusive right to prosecute this action, to enforce the Asserted Patent against infringers, to collect damages for past, present and future infringement of the Asserted Patent, and to seek injunctive relief as appropriate under the law.

14. Oribel has complied with any marking requirements under 35 U.S.C. § 287 as to the Asserted Patent.

15. Carter’s is one of the largest branded marketers of young children’s apparel and toys in North America who makes annual revenues reported above a billion dollars in the United States.

16. In February 2017, Carter’s acquired the Skip Hop brand and Skip Hop Holdings for \$140 million. Since then, Carter’s has operated Skip Hop as a wholly-owned subsidiary, subsumed within its own financial reporting, and referred to Skip Hop as one of its brands and protected the Skip Hop name as its own copyright and trademark. Carter’s stated, in its very first SEC filing after the acquisition, that it owned “a leading baby and young child lifestyle brand, *Skip Hop*.” Carter’s stated: “[u]nder our *Skip Hop* brand, we design, source, and market products that are sold primarily to families with young children ....” Carter’s also credited its “*Skip Hop* brand team” for

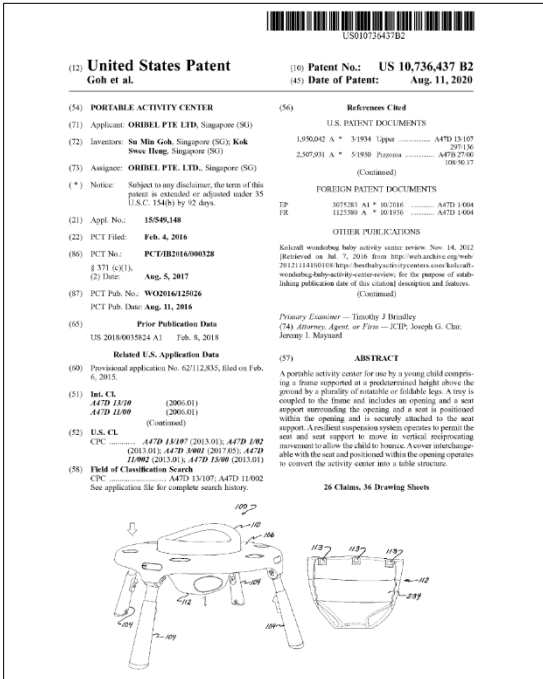
their efforts in that designing, sourcing, and marketing. Following the acquisition, Carter’s “started to introduce *Skip Hop* brand products in [its] retail stores,” and also increased its investment in branding and positioning of the *Skip Hop* brand within its retail locations, such as the ones in this District. Carter’s also wholesales the *Skip Hop* products across the United States, including within this District.

17. Beginning at least in 2017, Carter’s began including all Skip Hop-specific retail locations within its own count of retail stores, and re-emphasized in its public filings to the SEC that it sells *Skip Hop* products in Carter’s branded locations.

18. Today, Carter’s continues to report all Skip Hop revenue as part of its consolidated financials and to attribute all brand value associated with the Skip Hop brand to Carter’s intangible assets.

19. The Skip Hop website ([www.skiphop.com](http://www.skiphop.com)) demonstrates that it is a brand within the Carter’s umbrella, and the “About” link redirects to <https://corporate.carters.com>. The “Contact Us” link directs the web user to an email address belonging to Carter’s ([contactus@carters.com](mailto:contactus@carters.com)) and a phone number that also belongs to Carter’s. The Skip Hop account page even denotes that customers who purchase Skip Hop products are eligible to join the Carter’s Rewards program. The Skip Hop webpage is copyrighted by Carter’s, Inc. and also redirects to the Carter’s Credit Card Carter’s Mobile App, Carter’s gift cards (which can be used on Skip Hop products in store or on the Skip Hop website), the Carter’s Investor Relations page, and many other Carter’s web pages.

20. As discussed in greater detail below, Carter’s makes, uses, sells, and offers for sale the Skip Hop Activity Centers which infringe Oribel’s invention protected by the ’437 Patent.



'437 Patent



Skip Hop Activity Center

21. Defendant competes directly against Oribel, including through their “Activity Center” products, causing Oribel to lose significant profits.

22. Accordingly, Defendant’s infringement, as described below, has injured, and continues to injure Oribel.

**IV. COUNT I: INFRINGEMENT OF THE ASSERTED PATENT**

23. Oribel incorporates each of the allegations of Paragraphs 1–22 above.

24. Defendant has directly infringed and continues to directly infringe the Asserted Patent by, for example, making, using, offering to sell, selling, and/or importing into the United States, without authority, products or services that practice one or more claims of the Asserted Patent.

25. Defendant is not licensed or otherwise authorized to make, use, offer for sale, sell

or import any products or services that embody the inventions of the Asserted Patent in the United States.

26. Defendant has and continues to directly infringe one or more claims of the Asserted Patent, including, for example, claim 1, either literally or under the doctrine of equivalents, by practicing every element of the claimed apparatus in violation of 35 U.S.C. § 271.

27. Defendant has been aware that it infringes the '437 Patent since at least the filing of this lawsuit, and Defendant has failed to cease its infringing activities.

28. Defendant's infringing products include, for example, the Skip Hop Activity Center products, as well as any other similar products made, used, sold, or offered by Defendant (collectively, the "Accused Products").

29. For example, Claim 1 of the '437 Patent recites:

A portable activity center for use by a young child comprising:

a frame;

a plurality of legs for supporting the frame;

a tray mounted to the frame, the tray having an opening;

a seat support mounted to the tray;

a seat positioned within the opening, the seat having a top annular section, a lower crotch section and mid section between the top annular section and the lower crotch section, wherein the seat is positioned securely attached, via the top annular section, to the seat support; and

at least one elastic portion in the mid section of the seat that operate to permit the seat to support a child placed within the seat and to permit vertical reciprocating movement with respect to the frame in response to bouncing movement by the child.

30. The accused Skip Hop Activity Center meets every element of Claim 1.

31. To the extent the preamble is found limiting, the accused Skip Hop Activity Centers are each a portable activity center for use by a young child:



32. As exemplarily shown below, the Skip Hop Activity Centers each comprise a frame:





33. As further shown below, for example, the Skip Hop Activity Centers each comprise a plurality of legs for supporting a frame:

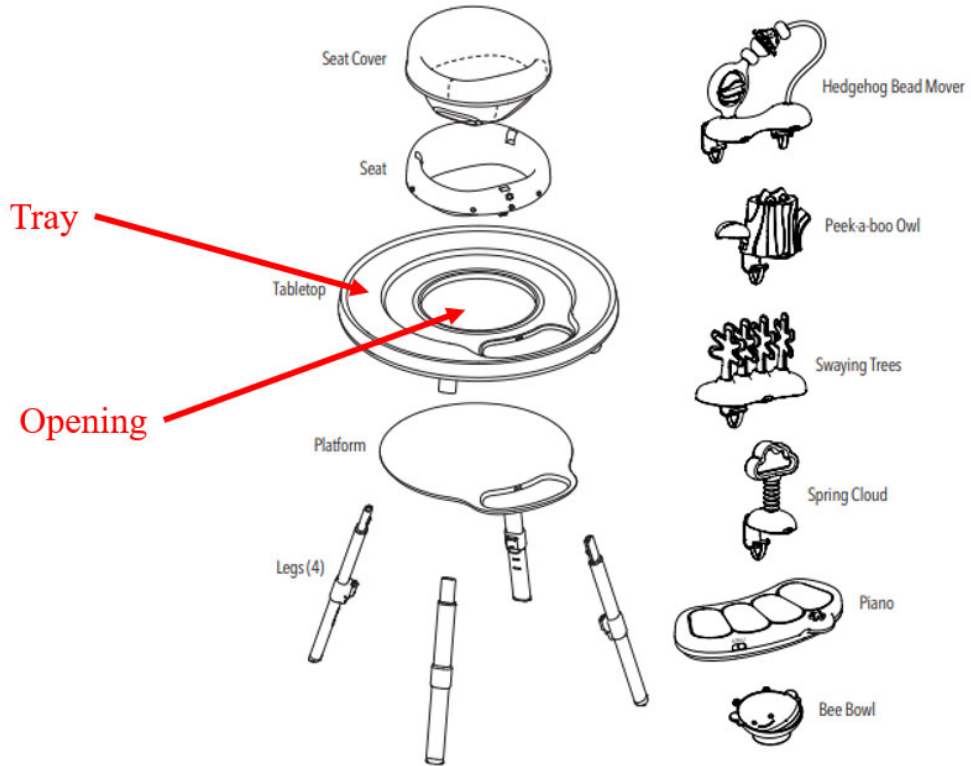


34. The accused Skip Hop Activity Centers each further comprise a tray mounted to a frame, the tray having an opening:

Read all instructions before assembly and use of the stationary Activity Center.

### IMPORTANT! Keep instructions for future use.

#### CONTENTS:



#### CLEANING AND CARE:

**Plastic Parts:** Wipe surfaces with mild soap and water. Air dry.

**Bee Bowl:** Wash thoroughly before use. Dishwasher safe, top rack only.

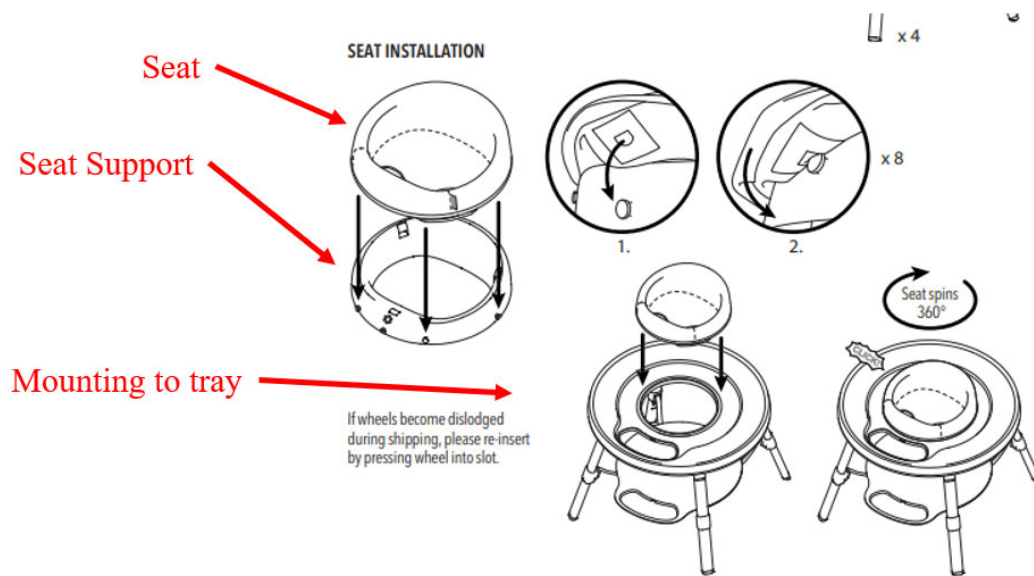
**Fabric Parts:** Machine wash cold, gentle cycle. No Bleach. Dry Flat. Do not iron. Do not dry clean.



35. The tray of the Skip Hop Activity Centers is also shown in the image below mounted to the frame as claimed in the '437 Patent:

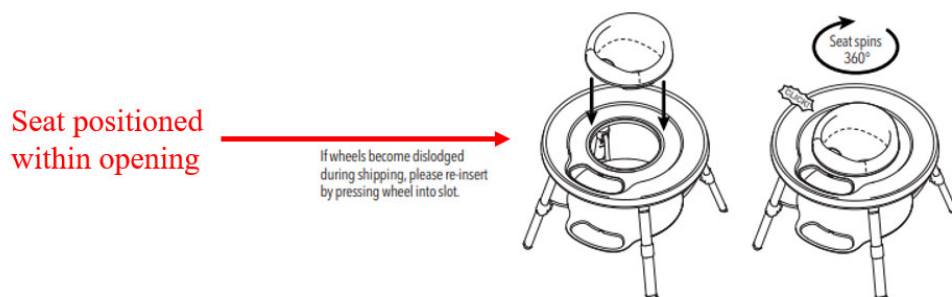


36. Moreover, as in the example shown below, the accused Skip Hop Activity Centers each comprise a seat support mounted to a tray, the tray having an opening:

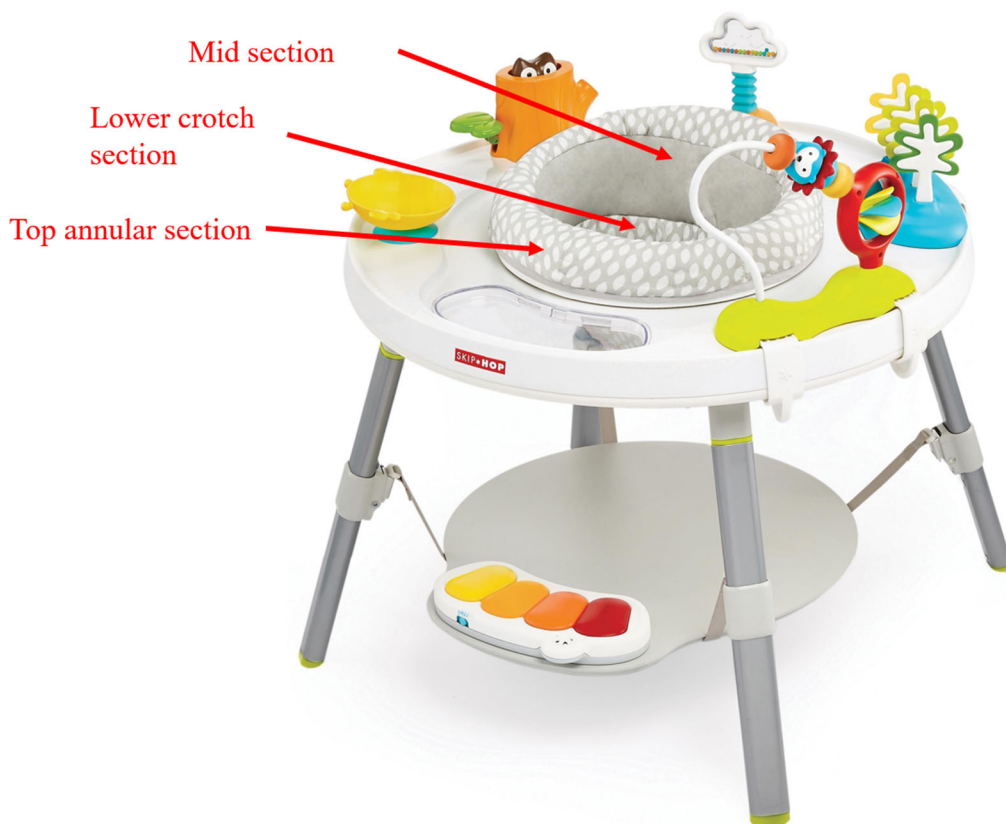


37. Defendant's Skip Hop Activity Centers each further comprise a seat positioned

within an opening:

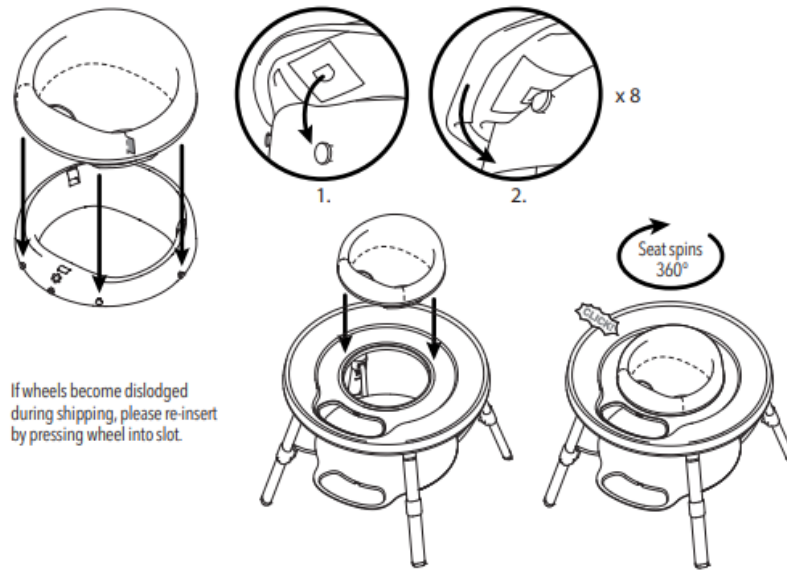


38. The seats of the accused Skip Hop Activity Centers each have a top annular section, a lower crotch section and mid section between the top annular section and the lower crotch section.



39. Moreover, as illustrated below, the seats of the Skip Hop Activity Centers are each positioned securely attached, via the top annular section, to a seat support:

SEAT INSTALLATION



40. Defendant's Skip Hop Activity Centers each comprise a seat with at least one elastic portion in the mid section of the seat that operates to permit the seat to support a child placed within the seat and to permit vertical reciprocating movement with respect to the frame in response to bouncing movement by the child, as further shown below:



41. Defendant's website describes the Skip Hop Activity Centers as being easy to assemble, with toys that can be positioned anywhere for baby. It features a 360-degree rotating seat that turns and stretches for bouncing. Defendant further identifies three stages of use of the infringing Skip Hop Activity Center: Sit, swivel, bounce & play; Cruise & interact; Play table, and a 360-degree rotating seat that stretches for bouncing and includes toy loops to attach toys.

42. Since at least the filing of this action, Defendant has been aware of the unjustifiably high risk that its actions constituted and continue to constitute infringement of the '437 Patent, and that the '437 Patent is valid. Defendant could not reasonably, subjectively believe that its actions do not constitute infringement of the '437 Patent, and it could not reasonably, subjectively believe that the '437 Patent is invalid. Despite this knowledge and subjective belief, and the unjustifiably high risk that its actions constitute infringement, Defendant has continued its infringing activities. As such, Defendant willfully infringes the '437 Patent.

#### **V. JURY DEMAND**

43. Oribel hereby demands a trial by jury on all issues so triable.

#### **VI. PRAYER FOR RELIEF**

WHEREFORE, Oribel requests entry of judgment in its favor and against Defendant as follows:

- a) A judgment declaring that Defendant has directly infringed one or more claims of the Asserted Patent, either literally or under the doctrine of equivalents;
- b) A judgment declaring that Defendant has induced and/or contributed to infringement and/or are inducing and/or contributing to infringement of one or more claims of the Asserted Patent, either literally or under the doctrine of equivalents;
- c) An award of damages pursuant to 35 U.S.C. § 284 adequate to compensate Oribel for Defendant's infringement of the Asserted Patent in an amount according to proof at trial (together with prejudgment and post-judgment interest), but no less than a reasonable royalty;

- d) An award of costs and expenses pursuant to 35 U.S.C. § 284 or as otherwise permitted by law;
- e) A permanent injunction against all present and future infringing acts by Defendant or, in the alternative, an award of an ongoing royalty;
- f) A judgment declaring that Defendant's infringement has been willful at least as of the date of this Complaint, and an award of appropriate enhanced damages pursuant to 35 U.S.C. § 284; and
- g) Such other and further relief, whether legal, equitable, or otherwise, to which Oribel may be entitled or which this Court may order.

Dated: November 26, 2024

Respectfully submitted,

/s/ Jason McManis

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