

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.**

WHIRLPOOL CORPORATION,
WHIRLPOOL PROPERTIES, INC., and
MAYTAG PROPERTIES, LLC,

Plaintiffs,

vs.

THE INDIVIDUALS, BUSINESS ENTITIES,
AND UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

_____ /

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiffs, Whirlpool Corporation, Whirlpool Properties, Inc., and Maytag Properties, LLC (collectively, “Plaintiffs” or “Whirlpool”) hereby sue Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule “A” (collectively “Defendants”). Defendants are promoting, selling, offering for sale, and distributing goods within this district bearing counterfeits and confusingly similar imitations of Plaintiffs’ trademarks through various Internet based e-commerce stores operating under the seller identification names identified on Schedule “A” hereto (the “Seller IDs”). In support of their claims, Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. This is an action for damages and injunctive relief for federal trademark counterfeiting and infringement, false designation of origin, cybersquatting, common law unfair competition, and common law trademark infringement pursuant to 15 U.S.C. §§ 1114, 1116, 1125(a), and 1125(d), The All Writs Act, 28 U.S.C. § 1651(a), and Florida’s common law.

Accordingly, this Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiffs' state law claims because those claims are so related to the federal claims that they form part of the same case or controversy.

2. Defendants are subject to personal jurisdiction in this district, because they direct business activities toward and conduct business with consumers throughout the United States, including within the State of Florida and this district, through at least the Internet based e-commerce stores accessible and doing business in Florida and operating under the Seller IDs. Alternatively, based on their contacts with the United States, Defendants are subject to personal jurisdiction in this district pursuant to Federal Rule of Civil Procedure 4(k)(2) because (i) Defendants are not subject to jurisdiction in any state's court of general jurisdiction; and (ii) exercising jurisdiction is consistent with the United States Constitution and laws.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 since Defendants are, upon information and belief, non-residents in the United States and engaged in infringing activities and causing harm within this district by advertising, offering to sell, selling, and/or shipping infringing products into this district.

THE PLAINTIFFS

4. Plaintiff Whirlpool Corporation is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 2000 North M-63, Benton Harbor, Michigan. Plaintiff Whirlpool Corporation is a leading global manufacturer and highly regarded appliance company. Plaintiff Whirlpool Corporation, through various subsidiary companies, manufactures and distributes throughout the world, including within this district, a variety of home appliances and accessories under the Whirlpool®, KitchenAid®, Maytag®, and

EveryDrop® brands using multiple common law and federally registered trademarks, including those identified below.

5. Plaintiff Whirlpool Properties, Inc. is a Michigan corporation having its principal place of business at 500 Renaissance Drive, Suite 101, Saint Joseph, Michigan. Whirlpool Properties, Inc. is a wholly-owned subsidiary of Whirlpool Corporation.

6. Plaintiff Maytag Properties, LLC is a limited liability company organized and existing under the laws of the state of Michigan with a principal place of business at 500 Renaissance Drive, Suite 101, Saint Joseph, Michigan. Whirlpool Corporation wholly owns Maytag Properties, LLC indirectly through intervening subsidiaries.

7. Plaintiffs Whirlpool Properties, Inc. and Maytag Properties, LLC, own, manage, enforce, license, and maintain intellectual property, including trademarks. Plaintiffs Whirlpool Properties, Inc. and Maytag Properties, LLC license certain trademark rights to Plaintiff Whirlpool Corporation, including the federal trademark registrations at issue herein.

8. Goods bearing Plaintiffs' registered trademarks set forth below are offered for sale and sold through various channels of trade within the State of Florida, including this district, and throughout the United States. Defendants, through offering for sale and sale of goods using counterfeit and infringing versions of Plaintiffs' branded products are directly, and unfairly, competing with each Plaintiffs' economic interests in the United States, including within the State of Florida, and causing each Plaintiff irreparable harm within this jurisdiction.

9. Like many other famous trademark owners, Plaintiffs suffer ongoing daily and sustained violations of their respective trademark rights at the hands of counterfeiters and infringers, such as Defendants herein, who wrongfully reproduce and counterfeit Plaintiffs' trademarks for the twin purposes of (i) duping and confusing the consuming public and (ii)

earning substantial profits across their e-commerce stores. The natural and intended byproduct of Defendants' combined actions is the erosion and destruction of the goodwill associated with Plaintiffs' respective names and trademarks, as well as the destruction of the legitimate market sector in which they operate.

10. To combat the indivisible harm caused by the concurrent actions of Defendants and others engaging in similar conduct, each year Plaintiffs expend significant resources in connection with trademark enforcement efforts. The exponential growth of counterfeiting over the Internet, particularly through online marketplace and social media platforms, has created an environment that require companies, such as Plaintiffs, to expend significant resources across a wide spectrum of efforts in order to protect both consumers and themselves from the confusion and the erosion of the goodwill embodied in Plaintiffs' brands.

THE DEFENDANTS

11. Defendants are individuals, business entities of unknown makeup, or unincorporated associations each of whom, upon information and belief, either reside and/or operate in foreign jurisdictions, redistribute products from the same or similar sources in those locations, and/or ship their goods from the same or similar sources in those locations to shipping and fulfillment centers, warehouses, and/or storage facilities within the United States to redistribute their products from that location using domestic e-commerce shipping services. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendants target their business activities toward consumers throughout the United States, including within this district, through the simultaneous operation of commercial Internet based e-commerce stores under the Seller IDs.

12. Defendants use aliases in connection with the operation of their businesses.

13. Defendants are the past and present controlling forces behind the sale of products bearing counterfeits and infringements of Plaintiffs' trademarks as described herein.

14. Defendants directly engage in unfair competition with Plaintiffs by advertising, offering for sale, and selling goods each bearing and/or using counterfeits and infringements of one or more of Plaintiffs' trademarks to consumers within the United States and this district through the Internet based e-commerce stores using, at least, the Seller IDs, as well as additional seller identification aliases not yet known to Plaintiffs. Defendants have purposefully directed some portion of their unlawful activities towards consumers in the State of Florida through the advertisement, offer to sell, sale, and/or shipment of counterfeit and infringing branded versions of Plaintiffs' goods into the State.

15. Defendants have registered, established or purchased, and maintained their Seller IDs. Defendants may have engaged in fraudulent conduct with respect to the registration of the Seller IDs by providing false and/or misleading information during the registration or maintenance process related to their respective Seller ID. Many Defendants have registered and/or maintained some of their Seller IDs for the sole purpose of engaging in unlawful infringing and counterfeiting activities.

16. Defendants will likely continue to register or acquire new seller identification names or other aliases, as well as related payment accounts, for the purpose of offering for sale and/or selling goods bearing counterfeit and confusingly similar imitations of one or more of Plaintiffs' trademarks unless preliminarily and permanently enjoined.

17. Defendants' Seller IDs, associated payment accounts, and any other alias seller identification names, e-commerce store, and user names used in connection with the sale of counterfeit and infringing goods using one or more of Plaintiffs' trademarks are essential

components of Defendants’ online activities and are the means by which Defendants further their counterfeiting and infringing scheme and cause harm to Plaintiffs. Moreover, Defendants are using one or more of Plaintiffs’ respective famous brand names and/or associated trademarks to drive Internet consumer traffic to their e-commerce stores operating under the Seller IDs, thereby increasing the value of the Seller IDs, and decreasing the size and value of Plaintiffs’ legitimate marketplace and intellectual property rights at Plaintiffs’ expense.

COMMON FACTUAL ALLEGATIONS

Whirlpool Properties, Inc.’s Business and Trademark Rights

18. Plaintiff Whirlpool Properties, Inc. (“Whirlpool”) is the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively the “Whirlpool Marks”):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
KITCHENAID	2,520,284	December 18, 2001	IC 037 – installation, repair and maintenance of hand and stand electric beating and mixing machines, coffee making machines, toasters, food processors, blenders, clothes washing and drying machines, dishwashers, refrigerators, freezers, combination refrigerator/freezers, ranges, ovens and surface units, microwave ovens, cooktops, exhaust hoods, ventilating fans, air conditioners, dehumidifiers, wine cellars, water supply units for dispensing cold water and ice from refrigerators, food waste disposers, food waste and trash compactors, ice makers, electrically operated hot water dispensers, and compressors for refrigerators.

KitchenAid	2,520,285	December 18, 2001	IC 037 – installation, repair and maintenance of hand and stand electric beating and mixing machines, coffee making machines, toasters, food processors, blenders, clothes washing and drying machines, dishwashers, refrigerators, freezers, combination refrigerator/freezers, ranges, ovens and surface units, microwave ovens, cooktops, exhaust hoods, ventilating fans, air conditioners, dehumidifiers, wine cellars, water supply units for dispensing cold water and ice from refrigerators, food waste disposers, food waste and trash compactors, ice makers, electrically operated hot water dispensers, and compressors for refrigerators.
WHIRLPOOL	4,983,312	June 21, 2016	IC 011 – water filtration and purification units and replacement cartridges and filters therefor for refrigerators.
EVERYDROP	5,232,741	June 27, 2017	IC 011 – refrigerator water filters; water filtration pitchers sold empty and portable water filter bottles sold empty.
Whirlpool	5,921,312	November 26, 2019	IC 011 – heating, cooling and ventilating apparatus, namely, furnaces, gas water heaters, conversion burners, heat pumps, air conditioning units, condensing units, evaporator units, evaporator coils, central humidifiers, central air cleaners, furnace boilers and heat exchangers; Clothes drying machines; Refrigerators, freezers, combination refrigerator-freezers; Water softening apparatus and installations, air conditioners, dehumidifiers, cooking ovens, cooking ranges, gas and electric cooktops, microwave ovens for cooking and range exhaust hoods; Freezer chests; Water purification and delivery systems comprising standalone water cabinets; Built-in bottled water dispensing apparatus for hot or chilled water; Domestic water

			filtration units; Reverse osmosis units for purification of water; Appliances for domestic and commercial use, namely, combination garment wrinkle and odor remover and garment dryer; Apparatus and appliances for domestic use, namely, air purifying units, air filters; Gas and electric water heaters; Water conditioning units, water softening apparatus and installations, water coolers, water chillers, countertop water filtration devices, home water filtration devices and water faucet filters; Refrigerator water filters.
everydrop	6,043,859	April 28, 2020	IC 011 – refrigerator water filters.

The Whirlpool Marks are used in connection with the manufacture and distribution of high-quality goods in the classes identified above. True and correct copies of the Certificates of Registration for the Whirlpool Marks are attached hereto as Composite Exhibit “1.”

19. The Whirlpool Marks have been used extensively and continuously in interstate commerce to identify and distinguish Whirlpool’s high-quality goods for an extended period of time.

20. The Whirlpool Marks have been used by Whirlpool long prior in time to Defendants’ use of copies of those Marks. The Whirlpool Marks have never been assigned or licensed to any of the Defendants in this matter.

21. The Whirlpool Marks are symbols of Whirlpool’s high quality, reputation and goodwill and have never been abandoned. Whirlpool has carefully monitored and policed the use of the Whirlpool Marks.

22. Whirlpool expends substantial resources developing, advertising and otherwise promoting the Whirlpool Marks in conjunction with a variety of home appliance products.

23. Further, Whirlpool extensively uses, advertises, and promotes the Whirlpool Marks in the United States in association with the sale of high-quality goods. Whirlpool has spent millions of dollars promoting the Whirlpool Marks and products bearing the Whirlpool Marks. In recent years, annual sales of products bearing the Whirlpool Marks have totaled in the hundreds of millions of dollars within the United States.

24. As a result of Whirlpool's efforts, members of the consuming public readily identify merchandise bearing or sold under the Whirlpool Marks as being high quality goods sponsored and approved by Whirlpool.

25. Accordingly, the Whirlpool Marks have achieved secondary meaning as identifiers of high-quality goods.

26. Genuine goods bearing and/or using the Whirlpool Marks are widely legitimately advertised and promoted by Whirlpool and its related companies, its authorized distributors, and unrelated third parties via the Internet. Visibility on the Internet, particularly via Internet search engines and social media platforms, is important to Whirlpool's overall marketing and consumer education efforts. Thus, Whirlpool expends significant monetary and other resources on Internet marketing and consumer education, including search engine optimization ("SEO"), search engine marketing ("SEM"), and social media strategies. Those strategies allow Whirlpool and its authorized retailers to educate consumers fairly and legitimately about the value associated with the Whirlpool brand and the goods sold thereunder, and the problems associated with the counterfeiting of Whirlpool's trademarks.

Maytag Properties, LLC's Business and Trademark Rights

27. Plaintiff Maytag Properties, LLC ("Maytag") is the owner of all rights in and to the following trademark, which is valid and registered on the Principal Register of the United

States Patent and Trademark Office (the “Maytag Mark”):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
MAYTAG	5,777,058	June 11, 2019	IC 011 – water treatment equipment, namely, water filtration units and reverse osmosis units; water softening apparatus and installations; water purification and filtration apparatus and replacement cartridges and filters therefor.

The Maytag Mark is used in connection with the manufacture and distribution of high-quality goods in the class identified above. A true and correct copy of the Certificate of Registration for the Maytag Mark is attached hereto as Exhibit “2.”

28. The Maytag Mark has been used in interstate commerce to identify and distinguish Maytag’s high-quality goods for an extended period of time.

29. The Maytag Mark has been used by Whirlpool long prior in time to Defendants’ use of copies of that Mark. The Maytag Mark has never been assigned or licensed to any of the Defendants in this matter.

30. The Maytag Mark is a symbol of Maytag’s high quality, reputation and goodwill and has never been abandoned. Whirlpool has carefully monitored and policed the use of the Maytag Mark.

31. Whirlpool has expended substantial resources developing, advertising and otherwise promoting the Maytag Mark in conjunction with a variety of home appliance products.

32. Further, Whirlpool extensively uses, advertises, and promotes the Maytag Mark in the United States in association with the sale of high quality goods. Whirlpool has expended significant resources promoting the Maytag Mark and products bearing the Maytag Mark.

33. As a result of Maytag's efforts, members of the consuming public readily identify merchandise bearing or sold under the Maytag Mark as being high quality goods sponsored and approved by Whirlpool.

34. Accordingly, the Maytag Mark has achieved secondary meaning as an identifier of high quality goods.

35. Genuine goods bearing and/or using the Maytag Mark are widely legitimately advertised and promoted by Whirlpool and its related companies, its authorized distributors, and unrelated third parties via the Internet. Visibility on the Internet, particularly via Internet search engines and social media platforms, is important to Whirlpool's overall marketing and consumer education efforts. Thus, Whirlpool expends significant monetary and other resources on Internet marketing and consumer education, including search engine optimization ("SEO"), search engine marketing ("SEM"), and social media strategies. Those strategies allow Whirlpool and its authorized retailers to educate consumers fairly and legitimately about the value associated with the Maytag brand and the goods sold thereunder, and the problems associated with the counterfeiting of Maytag's trademark.

Defendants' Infringing Activities

36. Defendants are each promoting and advertising, distributing, offering for sale, and selling goods, including but not limited to water filtration units, such as water filters, in interstate commerce bearing counterfeits and confusingly similar imitations of one or more of the Whirlpool Marks and/or the Maytag Mark (collectively, the "Counterfeit Goods") through at least the Internet based e-commerce stores operating under the Seller IDs. Specifically, Defendants are using the Whirlpool Marks and the Maytag Mark (collectively, "Plaintiffs' Marks") to initially attract online consumers and drive them to Defendants' e-commerce stores

operating under the Seller IDs. Defendants are each using virtually identical copies of one or more of Plaintiffs' Marks for different quality goods. Plaintiffs have used their respective Marks extensively and continuously before Defendants began offering counterfeit and confusingly similar imitations of Plaintiffs' products.

37. Defendants' Counterfeit Goods are of a quality substantially different than that of Plaintiffs' genuine goods. Defendants are actively using, promoting and otherwise advertising, distributing, selling and/or offering for sale substantial quantities of their Counterfeit Goods with the knowledge and intent that such goods will be mistaken for the genuine high-quality goods offered for sale by Plaintiffs despite Defendants' knowledge that they are without authority to use Plaintiffs' Marks. Defendants' actions are likely to cause confusion of consumers who will believe all of Defendants' goods offered for sale in Defendants' e-commerce stores are genuine goods originating from, associated with, and/or approved by Plaintiffs.

38. Defendants advertise their e-commerce stores, including their Counterfeit Goods, to the consuming public via at least the e-commerce stores under the Seller IDs. In so doing, Defendants improperly and unlawfully use one or more of Plaintiffs' Marks without authority.

39. Most Defendants are concurrently employing and benefitting from substantially similar, advertising and marketing strategies based, in large measure, upon an illegal use of counterfeits and infringements of one or more of Plaintiffs' Marks. Specifically, Defendants are using counterfeits and infringements of one or more of Plaintiffs' famous names and Plaintiffs' Marks, or variations thereof, to make their e-commerce stores selling unauthorized goods appear more relevant and attractive to consumers searching for both Plaintiffs' and non-Plaintiffs' goods and information online. By their actions, Defendants are contributing to the creation and maintenance of an unlawful marketplace operating in parallel to the legitimate marketplace for

Plaintiffs' genuine goods. Defendants are causing individual, concurrent and indivisible harm to Plaintiffs and the consuming public by (i) depriving Plaintiffs and other third parties of their right to fairly compete for space online and within search engine results and reducing the visibility of Plaintiffs' genuine goods on the World Wide Web, and (ii) causing an overall degradation of the value of the goodwill associated with Plaintiffs' Marks.

40. Defendants are concurrently conducting and targeting their counterfeiting and infringing activities toward consumers and likely causing unified harm within this district and elsewhere throughout the United States. As a result, Defendants are defrauding Plaintiffs and the consuming public for Defendants' own benefit.

41. At all times relevant hereto, Defendants in this action had full knowledge of Plaintiffs' respective ownership of Plaintiffs' Marks, including their exclusive rights to use and license such intellectual property and the goodwill associated therewith.

42. Defendants' use of Plaintiffs' Marks, including the promotion and advertisement, reproduction, distribution, sale and offering for sale of their Counterfeit Goods, is without Plaintiffs' consent or authorization.

43. Defendants are engaging in the above-described illegal counterfeiting and infringing activities knowingly and intentionally or with reckless disregard or willful blindness to Plaintiffs' rights for the purpose of trading on Plaintiffs' respective goodwill and reputations. If Defendants' intentional counterfeiting and infringing activities are not preliminarily and permanently enjoined by this Court, Plaintiffs and the consuming public will continue to be harmed.

44. Defendants' above identified infringing activities are likely to cause confusion, deception, and mistake in the minds of consumers before, during and after the time of purchase.

Moreover, Defendants' wrongful conduct is likely to create a false impression and deceive consumers into believing there is a connection or association between Plaintiffs' genuine goods and Defendants' Counterfeit Goods, which there is not.

45. Moreover, upon information and belief, at least Defendant Number 1 has registered its respective Seller ID using marks that are nearly identical and/or confusingly similar to at least one of Plaintiffs' Marks (the "Cybersquatted Seller ID").

46. Defendant Number 1 does not have, nor has it ever had, the right or authority to use Plaintiffs' Marks. Further, Plaintiffs' Marks have never been assigned or licensed to be used on any of the websites, including the website operating under the Cybersquatted Seller ID.

47. Defendant Number 1 has provided false and/or misleading contact information when applying for the registration of the Cybersquatted Seller ID or has intentionally failed to maintain accurate contact information with respect to the registration of the Cybersquatted Seller ID.

48. Defendant Number 1 has never used the Cybersquatted Seller ID in connection with a bona fide offering of goods or services.

49. Defendant Number 1 has not made any bona fide non-commercial or fair use of Plaintiffs' Marks on a website accessible under the Cybersquatted Seller ID.

50. Defendant Number 1 has intentionally incorporated at least one of Plaintiffs' Marks in its Cybersquatted Seller ID to divert consumers looking for Plaintiffs' Internet websites to its own e-commerce store for commercial gain.

51. Given the visibility of Defendants' various e-commerce stores and the similarity of their concurrent actions, it is clear Defendants are either affiliated, or at a minimum, cannot

help but know of each other's existence and the unified harm likely to be caused to Plaintiffs and the overall consumer market in which they operate because of Defendants' concurrent actions.

52. Although some Defendants may be physically acting independently, they may properly be deemed to be acting in concert because the combined force of their actions serves to multiply the harm caused to Plaintiffs.

53. Defendants' payment and financial accounts, including but not limited to those specifically set forth on Schedule "A," are being used by Defendants to accept, receive, and deposit profits from Defendants' trademark counterfeiting and infringing and unfairly competitive activities connected to their Seller IDs, and any other alias e-commerce stores, seller identification names, or user names being used and/or controlled by them.

54. Further, Defendants, upon information and belief, are likely to transfer or secret their assets to avoid payment of any monetary judgment awarded to Plaintiffs.

55. Plaintiffs have no adequate remedy at law.

56. Plaintiffs are suffering irreparable injury because of Defendants' unauthorized and wrongful use of Plaintiffs' Marks. If Defendants' counterfeiting and infringing, and unfairly competitive activities are not preliminarily and permanently enjoined by this Court, Plaintiffs and the consuming public will continue to be harmed while Defendants wrongfully earn a substantial profit.

57. The harm sustained by Plaintiffs has been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of their Counterfeit Goods.

COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT
PURSUANT TO § 32 OF THE LANHAM ACT (15 U.S.C. § 1114)

58. Plaintiffs hereby adopt and re-allege the allegations set forth in Paragraphs 1 through 57 above.

59. This is an action for trademark counterfeiting and infringement against Defendants based on their use of counterfeit and confusingly similar imitations of Plaintiffs' Marks in commerce in connection with the promotion, advertisement, distribution, offering for sale, and sale of the Counterfeit Goods.

60. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale, and distributing goods bearing counterfeits and/or infringements of one or more of Plaintiffs' Marks. Defendants are continuously infringing and inducing others to infringe Plaintiffs' Marks by using one or more of Plaintiffs' Marks to advertise, promote, offer to sell, and sell counterfeit and infringing versions of Plaintiffs' branded goods.

61. Defendants' concurrent counterfeiting and infringing activities are likely to cause and are causing confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Counterfeit Goods.

62. Defendants' unlawful actions have caused and are continuing to cause unquantifiable and irreparable harm to Plaintiffs and are unjustly enriching Defendants with profits at Plaintiffs' expense.

63. Defendants' above-described unlawful actions constitute counterfeiting and infringement of Plaintiffs' Marks in violation of Plaintiffs' rights under § 32 of the Lanham Act, 15 U.S.C. § 1114.

64. Plaintiffs have each suffered and will continue to suffer irreparable injury while Defendants are earning a substantial profit due to Defendants' above described activities if Defendants are not preliminarily and permanently enjoined.

COUNT II - FALSE DESIGNATION OF ORIGIN
PURSUANT TO § 43(a) OF THE LANHAM ACT (15 U.S.C. § 1125(a))

65. Plaintiffs hereby adopt and re-allege the allegations set forth in Paragraphs 1 through 57 above.

66. Defendants' Counterfeit Goods bearing, offered for sale and sold using copies of one or more of Plaintiffs' Marks have been widely advertised and offered for sale throughout the United States via the Internet.

67. Defendants' Counterfeit Goods bearing, offered for sale, and sold using copies of at least one of Plaintiffs' Marks are virtually identical in appearance to Plaintiffs' genuine goods. Accordingly, Defendants' activities are likely to cause confusion among consumers as to at least the origin or sponsorship of their Counterfeit Goods.

68. Defendants have used in connection with their advertisement, offer for sale, and sale of their Counterfeit Goods, false designations of origin and false descriptions and representations, including words or symbols and trade dress, which falsely describe or represent such goods and have caused such goods to enter commerce in the United States with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Plaintiffs' detriment.

69. Defendants have each authorized infringing uses of one or more of Plaintiffs' Marks in Defendants' advertisement and promotion of their counterfeit and infringing branded goods. Some Defendants have also misrepresented to members of the consuming public that the Counterfeit Goods being advertised and sold by them are genuine, non-infringing goods.

70. Additionally, Defendants are simultaneously using counterfeits and infringements of one or more of Plaintiffs' Marks to unfairly compete with Plaintiffs and others for space within organic and paid search engine and social media results, thereby jointly (i) depriving Plaintiffs of a valuable marketing and educational tool which would otherwise be available to Plaintiffs and (ii) reducing the visibility of Plaintiffs' genuine goods on the World Wide Web and across social media platforms.

71. Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

72. Plaintiffs have no adequate remedy at law. Plaintiffs have each suffered and will continue to suffer irreparable injury while Defendants are earning a substantial profit due to Defendants' above-described activities if Defendants are not preliminarily and permanently enjoined.

COUNT III - CLAIM FOR RELIEF FOR CYBERSQUATTING
PURSUANT TO § 43(d) OF THE LANHAM ACT (15 U.S.C. § 1125(d))
(Against Defendant Number 1 only)

73. Plaintiffs hereby adopt and re-allege the allegations set forth in Paragraphs 1 through 57 above.

74. At all times relevant hereto, Plaintiffs have been and still are the respective owners of the rights, title, and interest in and to Plaintiffs' Marks.

75. Defendant Number 1 has acted with the bad faith intent to profit from Plaintiffs' Marks and the goodwill associated with Plaintiffs' Marks by registering and using the Cybersquatted Seller ID.

76. Plaintiffs' Marks were already distinctive and famous at the time Defendant Number 1 registered the Cybersquatted Seller ID.

77. Defendant Number 1 has no intellectual property rights in or to Plaintiffs' Marks.

78. The Cybersquatted Seller ID is identical to, confusingly similar to, or dilutive of at least one of Plaintiffs' Marks.

79. Defendant Number 1's conduct is done with knowledge and constitutes a willful violation of Plaintiffs' rights in the Marks. At a minimum, the conduct of this Defendant constitutes reckless disregard for and willful blindness to Plaintiffs' rights.

80. Defendant Number 1's actions constitute cybersquatting in violation of §43(d) of the Lanham Act, 15 U.S.C. § 1125(d).

81. Plaintiffs have no adequate remedy at law.

82. Plaintiffs have suffered and will continue to suffer irreparable injury while Defendant Number 1 profits due to the above-described activities if this Defendant is not preliminarily and permanently enjoined.

COUNT IV - COMMON LAW UNFAIR COMPETITION.

83. Plaintiffs hereby adopt and re-allege the allegations set forth in Paragraphs 1 through 57 above.

84. This is an action against Defendants based on their promotion, advertisement, distribution, sale and/or offering for sale of goods bearing and/or using marks that are virtually identical to one or more of Plaintiffs' Marks in violation of Florida's common law of unfair competition.

85. Specifically, Defendants are each promoting and otherwise advertising, selling, offering for sale and distributing counterfeit and infringing versions of Plaintiffs' branded goods. Defendants are also each using counterfeits and infringements of one or more of Plaintiffs'

Marks to unfairly compete with Plaintiffs and others for (i) space in search engine and social media results across an array of search terms and (ii) visibility on the World Wide Web.

86. Defendants' infringing activities are likely to cause and are causing confusion, mistake and deception among consumers as to the origin and quality of Defendants' e-commerce stores as a whole and all products sold therein by their use of Plaintiffs' Marks.

87. Plaintiffs have no adequate remedy at law and are suffering irreparable injury because of Defendants' actions while Defendants are earning a substantial profit.

COUNT V - COMMON LAW TRADEMARK INFRINGEMENT

88. Plaintiffs hereby adopt and re-allege the allegations set forth in Paragraphs 1 through 57 above.

89. Plaintiffs are the respective owners of all common law rights in and to their respective Plaintiffs' Marks.

90. This is an action for common law trademark infringement against Defendants based on their promotion, advertisement, offering for sale, and sale of their Counterfeit Goods bearing one or more of Plaintiffs' Marks.

91. Specifically, each Defendant is promoting, and otherwise advertising, distributing, offering for sale, and selling goods bearing infringements of one or more of Plaintiffs' Marks.

92. Defendants' infringing activities are likely to cause and are causing confusion, mistake and deception among consumers as to the origin and quality of Defendants' Counterfeit Goods bearing Plaintiffs' Marks.

93. Plaintiffs have no adequate remedy at law and are suffering irreparable injury as a result of Defendants' actions while Defendants are earning a substantial profit.

PRAYER FOR RELIEF

94. WHEREFORE, Plaintiffs demand judgment on all Counts of this Complaint and an award of equitable relief and monetary relief against Defendants as follows:

a. Entry of temporary, preliminary, and permanent injunctions pursuant to 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Writs Act, and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods; from infringing, counterfeiting, or diluting Plaintiffs' Marks; from using Plaintiffs' Marks, or any mark or design similar thereto, in connection with the sale of any unauthorized goods; from using any logo, trade name or trademark or design that may be calculated to falsely advertise the services or goods of Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with Plaintiffs; from falsely representing themselves as being connected with Plaintiffs, through sponsorship or association, or engaging in any act that is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of Defendants, are in any way endorsed by, approved by, and/or associated with Plaintiffs; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of Plaintiffs' Marks in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants; from affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent Defendants' goods as being those of Plaintiffs, or in any way endorsed by Plaintiffs and from offering such goods in commerce; from engaging in search engine optimization

strategies using colorable imitations of Plaintiffs' name or trademarks and from otherwise unfairly competing with Plaintiffs.

b. Entry of a temporary restraining order, as well as preliminary and permanent injunctions pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority enjoining Defendants and all third parties with actual notice of an injunction issued by the Court from participating in, including providing financial services, technical services or other support to, Defendants in connection with the sale and distribution of non-genuine goods bearing and/or using counterfeits of Plaintiffs' Marks.

c. Entry of an Order pursuant to 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority that upon Plaintiffs' request, Defendants and the top level domain (TLD) Registry for each of Defendants' domain names at issue, and any other domain names used by Defendants, or their administrators, including backend registry operators or administrators, place those domain names on Registry Hold status for the remainder of the registration period for any such domain name, thus removing them from the TLD zone files which link the Defendants' domain names at issue and any other domain names being used and/or controlled by Defendants to engage in the business of marketing, offering to sell, and/or selling goods bearing counterfeits and infringements of Plaintiffs' Marks, to the IP addresses where the associated websites are hosted.

d. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority canceling for the life of the current registration or, at Plaintiffs' election, transferring the Defendants' domain names at issue and any other domain names used by Defendants to engage in their counterfeiting of Plaintiffs' Marks to Plaintiffs' control so they may no longer be used for unlawful purposes.

e. Entry of an order requiring Defendants, their agent(s) or assign(s), to assign all rights, title, and interest, to their domain name(s) at issue to Plaintiffs, and any other domains names being used by Defendants to engage in the business of marketing, offering to sell, and/or selling goods bearing counterfeits and infringements of Plaintiffs' Marks, to Plaintiffs and, if within five (5) days of entry of such order Defendants fail to make such an assignment, the Court order the act to be done by another person appointed by the Court at Defendants' expense, such as the Clerk of Court, pursuant to Federal Rule of Civil Procedure 70(a).

f. Entry of an order requiring Defendants, their agent(s) or assign(s), to instruct all search engines to permanently delist or deindex Defendants' domain name(s) at issue, and any other domains names being used by Defendants to engage in the business of marketing, offering to sell, and/or selling goods bearing counterfeits and infringements of Plaintiffs' Marks, and, if within five (5) days of entry of such order Defendants fail to make such a written instruction, the Court order the act to be done by another person appointed by the Court at Defendants' expense, such as the Clerk of Court, pursuant to Federal Rule of Civil Procedure 70(a).

g. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority that, upon Plaintiffs' request, the applicable governing Internet marketplace website operators and/or administrators for the Seller IDs who are provided with notice of an injunction issued by the Court disable and/or cease facilitating access to the Seller IDs and any other alias e-commerce stores, seller identification names, or user name being used and/or controlled by Defendants to engage in the business of marketing, offering to sell and/or selling goods bearing counterfeits and infringements of Plaintiffs' Marks.

h. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority that, upon Plaintiffs' request, any Internet marketplace website operators, administrators, registrar, and/or top level domain (TLD) Registry for the Seller IDs who are provided with notice of an injunction issued by the Court identify any e-mail address known to be associated with Defendants' respective Seller ID.

i. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that, upon Plaintiffs' request, any Internet marketplace website operators and/or administrators who are provided with notice of an injunction issued by the Court permanently remove any and all listings and associated images of goods bearing and/or using counterfeits and/or infringements of Plaintiffs' Marks via the e-commerce stores operating under the Seller IDs, and upon Plaintiffs' request, any other listings and images of goods bearing and/or using counterfeits and/or infringements of Plaintiffs' Marks associated with or linked to the same sellers or linked to any other alias seller identification names being used and/or controlled by Defendants to promote, offer for sale and/or sell goods bearing and/or using counterfeits and/or infringements of Plaintiffs' Marks.

j. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, that, upon Plaintiffs' request, the authorized representative, officer, managing operator and/or administrator for any Internet marketplace platform, e-commerce shipping partner, fulfillment center, warehouse, and/or storage facility who are provided with notice of the injunction immediately cease fulfillment of and sequester all goods of each Defendant bearing one or more of Plaintiffs' Marks in its inventory, possession, custody, or control, and surrender those goods to Plaintiffs, together with any and all documents, information, paper and/or electronic data, and/or other tangible items pertaining to all services provided to or on behalf of each Defendant.

k. Entry of an Order requiring Defendants to account to and pay Plaintiffs for all profits earned resulting from Defendants' trademark counterfeiting and infringing and unfairly competitive activities and that the profit award to Plaintiffs be trebled, as provided for under 15 U.S.C. § 1117, or that Plaintiffs be awarded statutory damages from each Defendant in the amount of two million dollars (\$2,000,000.00) per each counterfeit trademark used and product sold, as provided by 15 U.S.C. § 1117(c)(2) of the Lanham Act.

l. Entry of an order requiring Defendant Number 1 to account to and pay Plaintiffs for all profits resulting from that Defendant Number 1's cybersquatting activities and that the profit award to Plaintiffs be trebled, as provided for under 15 U.S.C. § 1117, or that Plaintiffs be awarded statutory damages from Defendant Number 1 in the amount of one hundred thousand dollars (\$100,000.00) per cybersquatted domain name used as provided by 15 U.S.C. § 1117(d) of the Lanham Act.

m. Entry of an award pursuant to 15 U.S.C. § 1117 (a) and (b) of Plaintiffs' costs and reasonable attorneys' fees and investigative fees associated with bringing this action.

n. Entry of an Order pursuant to 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Writs Act, Federal Rule of Civil Procedure 65, and the Court's inherent authority that, upon Plaintiffs' request, Defendants and any financial institutions, payment processors, banks, escrow services, money transmitters, e-commerce shipping partner, fulfillment center, warehouse, storage facility, or marketplace platforms, and their related companies and affiliates, identify and restrain all funds, up to and including the total amount of judgment, in all financial accounts and/or sub-accounts used in connection with the Seller IDs, or other alias seller identification or e-commerce store names, domain names and/or websites used by Defendants presently or in the future, as well as any other related accounts of the same customer(s) and any other accounts

which transfer funds into the same financial institution account(s), and remain restrained until such funds are surrendered to Plaintiffs in partial satisfaction of the monetary judgment entered herein.

o. Entry of an Order requiring Defendants, at Plaintiffs' request, to pay the cost necessary to correct any erroneous impression the consuming public may have received or derived concerning the nature, characteristics, or qualities of Defendants' products, including without limitation, the placement of corrective advertising and providing written notice to the public.

p. Entry of an award of pre-judgment interest on the judgment amount.

q. Entry of an Order for any further relief as the Court may deem just and proper.

DATED: November 16, 2022.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

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SCHEDULE "A"

[This page is the subject of Plaintiffs' Motion to File Under Seal. As such, this page has been redacted in accordance with L.R. 5.4(b)(1)]