

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 1:24-cv-21419

GOOD PRODUCT CO.,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS,
AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON
SCHEDULE "A",

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff, GOOD PRODUCT CO.,¹ by and through its undersigned counsel, brings this Complaint against Defendants, The Individuals, Partnerships, And Unincorporated Associations Identified on Schedule "A"² hereto (collectively "Defendants"), who are promoting, selling,

¹ Since it is unknown when Plaintiff's forthcoming *Ex Parte* Application for Entry of Temporary Restraining Order will be ruled on, Plaintiff's name has been removed to prevent Defendants from getting advanced notice. Copyright piracy and infringement lawsuits like this one are closely monitored by Chinese defendants on websites like www.sellerdefense.cn, social media (QQ, WeChat, etc.), and elsewhere on the internet. The www.sellerdefense.cn website and others warn infringers specifically of product types, brands, law firms filing cases, and other information necessary for defendants, like those named in this case, to evade Plaintiff's anti-pirating and anti-counterfeiting efforts and hide their ill-gotten gains. Plaintiff will file under seal an Unredacted Complaint which identifies Plaintiff and provides additional information and allegations once the record is unsealed.

² Since it is unknown when Plaintiff's forthcoming *Ex Parte* Motion for Entry of Temporary Restraining Order, Including a Temporary Injunction, an Order Restraining Transfer of Assets, a Temporary Asset Restraint, Expedited Discovery, and Service of Process by Email will be ruled on, Plaintiff's name has been removed to prevent Defendants from getting advanced notice. Copyright piracy and infringement lawsuits like this one are closely monitored by Chinese defendants on websites like www.sellerdefense.cn, social media (QQ, WeChat, etc.), and elsewhere on the internet. The www.sellerdefense.cn website and others warn infringers specifically of product types, brands, law firms filing cases, and other information necessary for defendants, like those named in this case, to evade Plaintiff's anti-pirating and anti-counterfeiting efforts and hide their ill-gotten gains. Plaintiff will file under seal an Unredacted Complaint which identifies Plaintiff and provides additional information and allegations once the record is unsealed.

² Schedule "A" to this Complaint will be filed under seal after this Honorable Court rules on Plaintiff's forthcoming Motion to for Leave to File Certain Documents Under Seal and to Temporarily Proceed Under a Pseudonym.

offering for sale and distributing goods using or bearing infringements and confusingly similar imitations of Plaintiff's intellectual property within this district through various Internet based e-commerce stores using the seller identities as set forth on Schedule "A" hereto (the "Seller IDs"), and in support of its claims, alleges as follows:

SUMMARY OF THE ACTION

1. Plaintiff GOOD PRODUCT CO. ("GOOD PRODUCT" or "Plaintiff") brings this action against the Defendants on Schedule "A" for willful copyright infringement and piracy committed for purposes of commercial advantage or private financial gain by the unauthorized reproduction, distribution, or use, including by electronic means, of Plaintiff's copyrighted works in violation of 17 U.S.C. §501, and for all the remedies available under 17 U.S.C. § 101, *et seq.*, 17 U.S.C. § 1203, and The All Writs Act, 28 U.S.C. § 1651(a).

2. Plaintiff brings this action against the Defendants on Schedule "A" for false designation of origin, common law unfair competition, and common law trademark infringement pursuant to 15 U.S.C. § 1125(a) and Florida's common law, The All Writs Act, 28 U.S.C. §1651(a), and all remedies available under 15 U.S.C. §§1114(2) and 1116.

SUBJECT MATTER JURISDICTION

3. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

4. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the state law claims because those claims are so related to the federal claims that they form part of the same case or controversy.

PERSONAL JURISDICTION

5. Defendants are subject to personal jurisdiction in this district because they purposefully direct their 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 in Florida and operating under their Seller IDs.

6. Defendants are subject to personal jurisdiction in this district because their illegal activities directed towards the state of Florida cause Plaintiff injury in Florida, and Plaintiff's claims arise out of those activities.

7. Alternatively, 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.

VENUE

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(3) because Defendants are not residents in the United States and therefore there is no district in which an action may otherwise be brought. Defendants are thus subject to the Court's personal jurisdiction.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 since Defendants are, upon information and belief, aliens who are engaged in infringing activities and causing harm within this district by advertising, offering to sell, selling and/or shipping infringing products to consumers into this district.

10. Venue is proper in this Court pursuant to 28 U.S.C. §1400(a) because Defendants or their agents reside or may be found in this judicial district and therefore subject to the Court's personal jurisdiction.

THE PLAINTIFF

11. Plaintiff GOOD PRODUCT is a REDACTED with its principal place of business in REDACTED. GOOD PRODUCT [REDACTED.] REDACTED's technical and functional

features are patented and registered as utility patent with the U.S. Patent and Trademark Office under Registration No. US [REDACTED].

12. In REDACTED, GOOD PRODUCT created the brand REDACTED under which the REDACTED and other GOOD PRODUCT products would be sold. GOOD PRODUCT began identifying itself as REDACTED to customers, distributors, and at trade shows. GOOD PRODUCT staff identify themselves as working for REDACTED and wear REDACTED uniforms. GOOD PRODUCT created the website at REDACTED, and the social media accounts for REDACTED at Facebook REDACTED, Instagram (REDACTED), X (REDACTED), and LinkedIn (REDACTED). All GOOD PRODUCT products are promoted, advertised, and sold through REDACTED online accounts and the REDACTED website.

13. REDACTED has become synonymous with GOOD PRODUCT. Consumers often refer to REDACTED to mean the Plaintiff.

14. Plaintiff's products are sold through its own website REDACTED, REDACTED, and other authorized retailers.

15. Plaintiff owns the copyrights and trademarks described below that are the subject of this action.

16. Plaintiff offers for sale and sells its products within the state of Florida, including this district, and throughout the United States.

17. Like many other intellectual property rights owners, Plaintiff suffers ongoing daily and sustained violations of its intellectual property rights at the hands of counterfeiters and infringers, such as Defendants herein.

18. Plaintiff is harmed, the consuming public is duped and confused, and the Defendants earn substantial profits in connection with the infringing conduct.

19. In order to combat the harm caused by the combined actions of Defendants and others engaging in similar infringing conduct, Plaintiff, expends significant resources in connection with its intellectual property enforcement efforts, including legal fees and investigative fees.

20. The recent explosion of infringement over the Internet has created an environment that requires companies like Plaintiff to expend significant time and money across a wide spectrum of efforts in order to protect both consumers and itself from the ill effects of infringement of Plaintiff's intellectual property rights, including consumer confusion and the erosion of Plaintiff's brand.

PLAINTIFF'S INTELLECTUAL PROPERTY RIGHTS

A. PLAINTIFF'S COPYRIGHT RIGHTS

21. Plaintiff advertises, markets, promotes, and sells its products using photographs and a technical drawing which are protected by copyright and registered with the United States Copyright Office (collectively the "Copyrighted Works"). Samples of some of Plaintiff's Copyrighted Works can be seen below.

REDACTED:

REDACTED

REDACTED:

REDACTED

REDACTED:

REDACTED

22. Plaintiff's Copyrighted Works are duly registered with the Register of Copyrights as shown in the table below.³ True and correct copies of Copyright Certificates of Registration and the Works they apply to are attached hereto as **Composite Exhibit 1**.⁴

REDACTED

23. Plaintiff's goods are widely legitimately advertised and promoted by Plaintiff and its authorized distributors using Plaintiff's Copyrighted Works.

24. The Copyrighted Works show Plaintiff's high-quality REDACTED, and the technical drawing, REDACTED, demonstrates to users how to use the REDACTED.

25. Plaintiff has never granted authorization to anyone to advertise, market, or promote unauthorized goods using Plaintiff's Copyrighted Works.

B. PLAINTIFF'S TRADEMARK RIGHTS

26. Plaintiff manufactures and sells worldwide unique, high-quality REDACTED under the marks REDACTED and REDACTED⁵ (collectively, the "REDACTED Marks"), as shown in Plaintiff's Copyrighted Works below:

REDACTED:

REDACTED

REDACTED:

REDACTED

³ The information on Plaintiff's copyrights is redacted in initial filing in order to prevent Defendants from getting advanced notice. Pursuant to the Court's Order on Plaintiff's Motion to Seal, Plaintiff will file an Unredacted Complaint which identifies Plaintiff's copyrights and provides additional information and allegations once the record is unsealed.

⁴ Exhibit 1 is omitted in initial filing. Plaintiff will attach the Exhibit 1 to the Unredacted Complaint.

⁵ The information on Plaintiff's trademarks is redacted in initial filing in order to prevent Defendants from getting advanced notice. Pursuant to the Court's Order on Plaintiff's Motion to Seal, Plaintiff will file an Unredacted Complaint which identifies Plaintiff's trademarks and provides additional information and allegations once the record is unsealed.

27. Plaintiff created and is the owner of all rights in and to the REDACTED Marks for its unique, high quality REDACTED, including trademark common law rights and the exclusive right to enforce its rights and retain and retain and recover all proceeds thereof.

28. The REDACTED Mark was first used on Plaintiff's REDACTED on REDACTED, through Plaintiff's store at REDACTED, available worldwide including in the United States. Evidence of actual use in commerce of the REDACTED Mark is attached hereto as **Composite Exhibit 2**.⁶

29. The REDACTED Mark was first used on Plaintiff's patented REDACTED on REDACTED, through Plaintiff's store at REDACTED, available worldwide including in the United States. Evidence of actual use in commerce of the REDACTED Mark can be seen in **Composite Exhibit 2**.

30. Although not registered with the United States Patent and Trademark Office, the REDACTED Marks are inherently distinctive and strong marks. The literal elements are arbitrary or fanciful marks in relation to REDACTED, products Plaintiff manufactures and sells under those Marks. Their distinctiveness and actual prior uses in commerce establish ownership rights and support their entitlement to trademark protection, with all available legal actions and remedies, against unlawful and unauthorized uses such as the ones by Defendants which are described in this action.

31. The REDACTED Marks are used in connection with the manufacture and distribution of Plaintiff's unique, high quality REDACTED.

⁶ Exhibit 2 is omitted in initial filing. Plaintiff will attach the Exhibit 2 to the Unredacted Complaint.

32. The REDACTED Marks are usually displayed on the packaging for Plaintiff's patented REDACTED, on a wrap that surrounds the product, and on the hang tab, as shown below:

REDACTED

33. The REDACTED Mark is present in Plaintiff's copyrighted technical drawing "REDACTED."

34. The REDACTED Mark is usually displayed on Plaintiff's patented REDACTED, as shown below:

REDACTED

35. Wherever practicable, Plaintiff displays a "TM" notice next to the REDACTED. See **Comp. Ex. 2**.

36. The REDACTED Marks are used in connection with the manufacture and distribution of Plaintiff's unique, high-quality REDACTED.

37. The REDACTED Marks have been used in interstate commerce by Plaintiff to identify and distinguish its unique, high-quality REDACTED for an extended period long prior in time to Defendants' use and misuse of copies of those trademarks.

38. The REDACTED Marks have never been assigned or licensed to the Defendants.

39. The REDACTED Marks are symbols of Plaintiff's quality goods, reputation and goodwill and have never been abandoned.

40. Plaintiff has carefully monitored and policed the use of the REDACTED Marks.

41. Plaintiff has expended substantial time, money and other resources developing, advertising and otherwise promoting worldwide, including in the United States, the REDACTED

Marks in connection with its unique, high-quality REDACTED. Plaintiff's copyrighted photographs and technical drawing are a product of those promotional efforts.

42. In recent years, annual sales of Plaintiff's unique, high-quality REDACTED bearing or using the REDACTED Marks have exceeded one hundred thousand dollars within the United States.

43. As a result of Plaintiff's efforts, members of the consuming public readily identify merchandise bearing or sold under the REDACTED Marks as unique, high-quality REDACTED sponsored and approved by Plaintiff.

44. Accordingly, the REDACTED Marks have achieved secondary meaning as identifiers of unique, high-quality REDACTED.

45. Genuine unique, high-quality REDACTED bearing or using the REDACTED Marks are widely legitimately advertised and promoted by Plaintiff via the Internet.

46. Visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing has become increasingly important to Plaintiff's overall marketing and consumer education efforts.

47. Thus, Plaintiff expends significant monetary resources on Internet marketing and consumer education, including search engine optimization ("SEO") strategies.

48. Plaintiff's SEO strategies allow Plaintiff to fairly and legitimately educate consumers about the value associated with Plaintiff's products and the goods marked with the REDACTED Marks.

DEFENDANTS

49. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).

50. Defendants are individuals and/or business entities of unknown makeup, 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 within the United States to redistribute their products from those locations.

51. Defendants are engaged in business in Florida but have not appointed an agent for service of process.

52. Upon information and belief, Defendants have registered, established, or purchased, and maintained their Seller IDs.

53. 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 via the Internet marketplace websites under the Seller IDs.

54. Defendants are the past and present controlling forces behind the sale of products bearing infringements of Plaintiff's intellectual property rights as described herein operating and using at least the Seller IDs.

55. Defendants directly engage in unfair competition with Plaintiff by advertising, offering for sale, and selling goods bearing or using infringements of Plaintiff's intellectual property rights to consumers within the United States and this district through Internet based e-commerce stores using, at least, the Seller IDs and additional names, websites, or seller identification aliases not yet known to Plaintiff.

56. Defendants have purposefully directed some portion of their illegal activities towards consumers in the state of Florida through the advertisement, offer to sell, sale, and/or shipment of infringing goods into the State.

57. Upon information and belief, Defendants may have engaged in fraudulent conduct with respect to the registration of the Seller IDs by providing false and/or misleading information to the Internet based e-commerce platforms or domain registrar where they offer to sell and/or sell during the registration or maintenance process related to their respective Seller IDs.

58. Upon information and belief, many Defendants registered and maintained their Seller IDs for the sole purpose of engaging in illegal infringing activities.

59. Upon information and belief, Defendants will likely continue to register or acquire new seller identification aliases for the purpose of selling and offering for sale infringements of Plaintiff's intellectual property rights unless preliminarily and permanently enjoined.

60. Defendants use their Internet-based businesses to infringe the intellectual property rights of Plaintiff and others.

JOINDER OF DEFENDANTS IN THIS ACTION IS PROPER

61. Defendants are the individuals, partnerships, and unincorporated associations set forth on Schedule "A" hereto.

62. Defendants are promoting, selling, offering for sale and distributing goods bearing or using infringements and confusingly similar imitations of Plaintiff's intellectual property within this district.

63. Joinder of all Defendants is permissible based on the permissive party joinder rule of Fed. R. Civ. P. 20(a)(2) that permits the joinder of persons in an action as Defendants where any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and any question of law or fact common to all Defendants will arise in the action.

64. Joinder of the multiple Defendants listed in Schedule “A” attached hereto is permitted because Plaintiff asserts rights to relief against these Defendants jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and common questions of law or fact will arise in the action.

65. Joinder of the multiple Defendants listed in Schedule “A” attached hereto serves the interests of convenience and judicial economy, which will lead to a just, speedy, and inexpensive resolution for Plaintiff, Defendants, and this Court.

66. Joinder of the multiple Defendants listed in Schedule “A” attached hereto will not create any unnecessary delay nor will it prejudice any party. On the other hand, severance is likely to cause delays and prejudice Plaintiff and Defendants alike.

67. Joinder of the multiple Defendants listed in Schedule “A” is procedural only and does not affect the substantive rights of any defendant listed on Schedule “A” hereto.

68. This court has jurisdiction over the multiple Defendants listed in Schedule “A” hereto. Venue is proper in this court for this dispute involving the multiple Defendants listed in Schedule “A” hereto.

69. Plaintiff’s claims against the multiple Defendants listed in Schedule “A” are all transactionally related.

70. Plaintiff is claiming infringement of its intellectual property rights against Defendants.

71. The actions of all Defendants cause indivisible harm to Plaintiff by Defendants’ combined actions engaging in similar infringing conduct when each is compared to the others.

72. All Defendants’ actions are logically related. All Defendants are all engaging in the same systematic approach of establishing online storefronts to redistribute illegal products

from the same or similar sources while maintaining financial accounts that the Defendants can easily conceal to avoid any real liability for their actions.

73. All Defendants are located in foreign jurisdictions, mostly China.

74. All Defendants undertake efforts to conceal their true identities from Plaintiff in order to avoid detection for their illegal and infringing activities.

75. All Defendants have the same or closely related sources for their infringing products with some sourcing from the same upstream source and others sourcing from downstream sources who obtain infringing products from the same upstream sources.

76. All Defendants take advantage of a set of circumstances the anonymity and mass reach the internet affords to sell Infringing Goods across international borders and violate Plaintiff's intellectual property rights with impunity.

77. All Defendants have registered their Seller IDs with a small number of online platforms for the purpose of engaging in illegal and infringing activity.

78. All Defendants use payment and financial accounts associated with their online storefronts or the online platforms where their online storefronts reside.

79. All Defendants use their payment and financial accounts to accept, receive, and deposit profits from their infringing activities.

80. All Defendants can easily and quickly transfer or conceal their funds in their use payment and financial accounts to avoid detection and liability in the event that the Plaintiff's anti-counterfeiting and anti-pirating efforts are discovered, or Plaintiff obtains a monetary award.

81. All Defendants violated one or more of the Plaintiff's intellectual property rights in the United States by the use of common or identical methods.

82. All Defendants understand that their ability to profit through anonymous internet stores is enhanced as their numbers increase, even though they may not all engage in direct communication or coordination.

83. Many of the Defendants are operating multiple internet storefronts and online marketplace seller accounts using different Seller IDs listed on Schedule “A”. As a result, there are more Seller IDs than there are Defendants, a fact that will emerge in discovery.

84. Defendants’ business names, i.e., the Seller IDs, associated payment accounts, and any other alias seller identification names or e-commerce stores used in connection with the sale of infringements of Plaintiff’s intellectual property rights are essential components of Defendants’ online activities and are one of the means by which Defendants further their infringement scheme and cause harm to Plaintiff.

85. Defendants are using infringements of Plaintiff’s intellectual property rights 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 Plaintiff’s legitimate marketplace and intellectual property rights at Plaintiff’s expense.

86. Defendants, through the sale and offer to sell infringing products, are directly, and unfairly, competing with Plaintiff’s economic interests in the state of Florida and causing Plaintiff harm and damage within this jurisdiction.

87. The natural and intended by product of Defendants’ logically related actions is the erosion and destruction of the goodwill associated with Plaintiff’s intellectual property rights and the destruction of the legitimate market sector in which it operates.

88. Upon information and belief, at all times relevant hereto, Defendants had actual or constructive knowledge of Plaintiff's intellectual property rights, including Plaintiff's exclusive right to use and license such intellectual property rights.

DEFENDANTS' INFRINGING ACTIVITIES

89. Defendants are promoting, advertising, distributing, selling, and/or offering for sale cheap copies of Plaintiff's products in interstate commerce that are infringements of Plaintiff's intellectual property rights (the "Infringing Goods") through at least the Internet based e-commerce stores operating under the Seller ID's.

90. Specifically, Defendants are using infringements of the Copyrighted Works and REDACTED Marks to initially attract online customers and drive them to Defendants' e-commerce stores operating under the Seller IDs.

91. Plaintiff has used the Copyrighted Works and REDACTED Marks extensively and continuously before Defendants began offering goods bearing or using unauthorized reproduction or derivative works of one or more of Plaintiff's Copyrighted Works under identical or similar marks to one or more of the REDACTED Marks.

92. Defendants are actively using, promoting and otherwise advertising, distributing, selling and/or offering for sale substantial quantities of their Infringing Goods without authority to use Plaintiff's Copyrighted Works and REDACTED Marks.

93. Defendants are using Plaintiff's own copyrighted photographs to promote, sell, and offer for sale Defendants' Infringing Goods.

94. Defendants have removed Plaintiff's identifying information from the Copyrighted Works and used the altered versions to sell their Infringing Goods.

95. Defendants advertise their e-commerce stores, including their Infringing Goods offered for sale, to the consuming public via e-commerce stores on, at least, one Internet marketplace website operating under, at least, the Seller IDs.

96. In so advertising their stores and products, Defendants improperly and unlawfully use reproductions or versions of the Copyrighted Works, or derivatives thereof, and unlawfully use similar marks or marks identical to the REDACTED Marks, without Plaintiff's permission.

97. As part of their overall infringement scheme, most Defendants are, upon information and belief, concurrently employing and benefitting from substantially similar, advertising and marketing strategies based, in large measure, upon an illegal use of infringements of the Copyrighted Works and REDACTED Marks.

98. Specifically, Defendants are using infringements of the Copyrighted Works and REDACTED Marks in order to make their e-commerce stores selling illegal goods appear more relevant and attractive to consumers searching for both Plaintiff's goods and goods sold by Plaintiff's competitors online.

99. By their actions, Defendants are contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for Plaintiff's genuine goods.

100. Defendants are causing individual, concurrent and indivisible harm to Plaintiff and the consuming public by (i) depriving Plaintiff and other third parties of their right to fairly compete for space within search engine results and reducing the visibility of Plaintiff's genuine goods on the World Wide Web, (ii) causing an overall degradation of the value of the goodwill associated with Plaintiff's business and its intellectual property assets, and (iii) increasing Plaintiff's overall cost to market its goods and educate consumers via the Internet.

101. Defendants are concurrently conducting and targeting their infringing activities toward consumers and likely causing unified harm within this district and elsewhere throughout the United States.

102. As a result, Defendants are defrauding Plaintiff and the consuming public for Defendants' own benefit.

103. Upon information and belief, at all times relevant hereto, Defendants in this action had full knowledge of Plaintiff's ownership of the Copyrighted Works and REDACTED Marks, including its exclusive right to use and license such intellectual property and the goodwill associated therewith.

104. Defendants' use of the Copyrighted Works and REDACTED Marks, including the promotion and advertisement, reproduction, distribution, sale and offering for sale of their Infringing Goods, is without Plaintiff's consent or authorization.

105. Defendants are engaging in the above-described illegal infringing activities knowingly and intentionally or with reckless disregard or willful blindness to Plaintiff's rights.

106. If Defendants' intentional infringing activities are not preliminarily and permanently enjoined by this Court, Plaintiff and the consuming public will continue to be harmed.

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

108. 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' infringing activities connected to their Seller IDs and any other alias, e-commerce stores, or seller identification names being used and/or controlled by them.

109. Defendants are likely to transfer or secret their assets to avoid payment of any monetary judgment awarded to Plaintiff.

110. Plaintiff is suffering irreparable injury and has suffered substantial damages as a result of Defendants' unauthorized and infringing activities and its wrongful use of Plaintiff's intellectual property rights.

111. The harm and damages sustained by Plaintiff have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of their Infringing Goods.

112. Defendants have sold their infringing products in competition directly with Plaintiff's genuine products.

113. Plaintiff should not have any competition from Defendants because Plaintiff never authorized Defendants to use Plaintiff's Copyrighted Works or the REDACTED Marks.

114. Plaintiff has no adequate remedy at law.

COUNT I – COPYRIGHT INFRINGEMENT

115. Plaintiff incorporates the allegations of paragraphs 1 through 114 of this Complaint as if fully set forth herein.

116. Plaintiff has complied in all respects with the Copyright Act of the United States and all other laws governing copyright and secured the exclusive rights and privileges in and to the copyrights at issue in this action.

117. Pursuant to 17 U.S.C. § 411(a), Plaintiff registered copyrights for its Works.

118. Defendants directly infringed Plaintiff's exclusive rights in its copyright registered Works under 17 U.S.C. § 106.

119. Defendants copied, displayed, and distributed Plaintiff's Copyrighted Works and/or prepared derivative works based upon Plaintiff's Copyrighted Works in violation of Plaintiff's exclusive rights under 17 U.S.C. §106(1), (2) and/or (5).

120. Defendants' conduct constitutes willful and direct copyright infringement of Plaintiff's Copyrighted Works.

121. Defendants profited from the direct infringement of the exclusive rights of Plaintiff in the Works at issue in this case under the Copyright Act.

122. Defendants' infringement is not limited to the copyright infringement listed above. Plaintiff will identify such additional infringement after discovery.

123. On information and belief, there is a business practice of infringement by Defendants.

124. On information and belief, Defendants routinely and intentionally infringe the intellectual property rights of others, including but not limited to, acting with willful blindness and/or reckless disregard.

125. Plaintiff has been damaged by the infringement.

126. The harm to Plaintiff is irreparable.

127. Plaintiff is entitled to temporary and permanent injunctive relief from Defendants' willful infringement.

128. Plaintiff is entitled to recover his actual damages and/or statutory damages, at his election.

COUNT II – REMOVAL OR FALSIFICATION OF COPYRIGHT MANAGEMENT INFORMATION

129. Plaintiff incorporates the allegations of paragraphs 1 through 114 of this Complaint as if fully set forth herein.

130. Plaintiff's Copyrighted Works contain copyright management information (CMI) as defined by 17 U.S.C. § 1202 including the names "REDACTED" and "REDACTED" which is identifying information for the Works and for Plaintiff.

131. Plaintiff's CMI is displayed in several of its Copyrighted Works.

132. Defendants knowingly and with the intent to enable or facilitate copyright infringement removed from and failed to display the CMI in the works at issue in this action in violation of 17 U.S.C. § 1202(b), as shown below:

REDACTED:

REDACTED

Defendants' Infringing Image with CMI Removed:

REDACTED

REDACTED:

REDACTED

Defendants' Infringing Image with CMI Removed:

REDACTED

133. Alternatively, Defendants knowingly and with the intent to induce, enable, facilitate, or conceal infringement, provided copyright management information that is false.

134. Defendants committed these acts knowing or having reasonable grounds to know that they will induce, enable, facilitate, or conceal infringement of Plaintiff's rights in the works at issue in this action protected under the Copyright Act.

135. Defendants caused, directed and authorized others to commit these acts knowing or having reasonable grounds to know that they will induce, enable, facilitate or conceal infringement of Plaintiff's rights in the works at issue in this action protected under the Copyright Act.

136. Plaintiff has been damaged.

137. The harm caused to Plaintiff has been irreparable.

COUNT III – FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

138. Plaintiff incorporates the allegations of paragraphs 1 through 114 of this Complaint as if fully set forth herein.

139. Upon information and belief, Defendants' Infringing Goods bearing, offered for sale and sold using copies of one or more of the REDACTED Marks have been widely advertised and offered for sale throughout the United States via their Internet based e-commerce stores.

140. Defendants' Infringing Goods bearing, offered for sale, and sold using copies of one or more of the REDACTED Marks are virtually identical in appearance to Plaintiff's genuine goods.

141. Defendants used Plaintiff's own copyrighted photographs to promote, sell, and offer for sale their Infringing Goods.

142. Defendants removed Plaintiff's name and trademarks from Plaintiff's copyrighted photographs and used these altered photographs to sell their Infringing Goods.

143. Defendants' Infringing Goods are different in quality from Plaintiff's goods, and are of much lower quality.

144. Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of their Infringing Goods.

145. Defendants, upon information and belief, have used in connection with their advertisement, offer for sale, and sale of their Infringing Goods, false designations of origin and false descriptions and representations, including words or other symbols and trade dress, which tend to falsely describe or represent such goods and have caused such goods to enter into

commerce with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Plaintiff's detriment.

146. Defendants have authorized infringing uses of one or more of the REDACTED Marks in Defendants' advertisement and promotion of their infringing branded goods.

147. Defendants have misrepresented to members of the consuming public that the Infringing Goods being advertised and sold by them are genuine, non-infringing goods.

148. Defendants are using infringements of one or more of the REDACTED Marks in order to unfairly compete with Plaintiff and others for space within organic search engine results and social media results, thereby jointly depriving Plaintiff of a valuable marketing and educational tool which would otherwise be available to Plaintiff and reducing the visibility of Plaintiff's genuine goods on the internet and across social media platforms.

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

150. Plaintiff has no adequate remedy at law, and has sustained indivisible injury and damage caused by Defendants' concurrent conduct.

151. Absent an entry of an injunction by this Court, Defendants will continue to wrongfully reap profits and Plaintiff will continue to suffer irreparable injury to its goodwill and business reputation, as well as monetary damages.

COUNT IV – COMMON LAW TRADEMARK INFRINGEMENT

152. Plaintiff incorporates the allegations of paragraphs 1 through 114 of this Complaint as if fully set forth herein.

153. Plaintiff is the owner of all common law rights in and to the REDACTED Marks.

154. Plaintiff was the first to use the REDACTED Marks.

155. Plaintiff has used the REDACTED Mark since 2015, and REDACTED Mark since 2013.

156. As a result of Plaintiff's widespread and continuous use in commerce, including its promotion and sales of products bearing the REDACTED Marks, the REDACTED Marks have become widely known.

157. Defendants, with knowledge of and with the intentional disregard of Plaintiff's common law trademark rights, utilize one or more of the REDACTED Marks on and/or in conjunction with the sale of their infringing products. Defendants' infringing activities have caused, are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Infringing Goods bearing or using one or more of the REDACTED Marks.

158. Plaintiff has no adequate remedy at law and is suffering damages and irreparable injury as a result of Defendants' actions.

159. Absent an entry of an injunction by this Court, Defendants will continue to damage Plaintiff and wrongfully reap profits. Plaintiff will continue to suffer irreparable injury to its goodwill and business reputation, as well as monetary damages.

COUNT V – FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

FLA. STAT. § 501.201 et. seq.

160. Plaintiff incorporates the allegations of paragraphs 1 through 114 of this Complaint as if fully set forth herein.

161. Defendants have engaged in acts violating Florida law including, but not limited to, using Plaintiff's Copyrighted Works to sell Defendant's Infringing Goods, including Copyrighted Works displaying Plaintiff's trademarks; removing Plaintiff's name and trademarks from certain Copyrighted Works used; causing a likelihood of confusion as to the source of the

Infringing Goods, causing a likelihood of confusion as to an affiliation, connection, or association with genuine Plaintiff's products, representing that their products have Plaintiff's approval when they do not, and engaging in other conduct which creates a likelihood of confusion among the public.

162. The foregoing acts constitute deceptive acts and unfair trade practices, in violation of the Florida Deceptive and Unfair Trade Practices Act, 815 ILCS § 510, et seq.

163. Plaintiff has no adequate remedy at law, and Defendants' conduct has caused Plaintiff to suffer damage including but not limited to damage to its reputation and associated goodwill. Unless enjoined by the Court, Plaintiff will suffer future irreparable harm as a direct result of Defendants' unlawful activities.

Plaintiff is entitled to recover his reasonable costs and attorneys' fees incurred in this action. WHEREFORE, Plaintiff demands 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 17 U.S.C. § 502 and 503, 15 U.S.C. § 1116, and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from copying, displaying, distributing, or creating derivative works of Plaintiff's Copyrighted Works, and from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Infringing Goods; from infringing, or diluting the REDACTED Marks; from using the REDACTED 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 Plaintiff; from falsely representing themselves as being connected with Plaintiff, 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 Plaintiff; from using any reproduction, infringement, copy, or colorable imitation of the REDACTED 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 Plaintiff, or in any way endorsed by Plaintiff and from offering such goods in commerce; from engaging in search engine optimization strategies using colorable imitations of Plaintiff's name or trademarks and from otherwise unfairly competing with Plaintiff.

- 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 the injunction issued by this 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 infringements of the Copyrighted Works, or that copy, display, distribute or

use derivative works of Plaintiff's registered copyrights, or use the REDACTED Marks or any confusingly similar mark.

- c. Entry of an order authorizing seizure, impoundment and/or destruction of all of the products used to perpetrate the infringing acts pursuant to 17 U.S.C. § 503.
- d. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority that, upon Plaintiff's 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 this Court disable and/or cease facilitating access to the Seller IDs and any other alias seller identification names being used and/or controlled by Defendants to engage in the business of marketing, offering to sell, and/or selling goods using infringements of the Copyrighted Works and/or the REDACTED Marks.
- e. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that, upon Plaintiff's request, any messaging service and 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 this Court identify any e-mail address known to be associated with Defendants' respective Seller IDs.
- f. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that upon Plaintiff's request, any Internet marketplace website operators and/or administrators who are provided with notice of an injunction issued by this Court permanently remove from the multiple platforms, which include, *inter alia*, a direct platform, group platform, seller product

management platform, vendor product management platform, and brand registry platform, any and all listings and associated images of goods using infringements of the Copyrighted Works and/or the REDACTED Marks via the e-commerce stores operating under the Seller IDs, including but not limited to the listings and associated images identified by the “parent” and/or “child” Amazon Standard Identification Numbers (“ASIN”) on Schedule “A” annexed hereto, and upon Plaintiff’s request, any other listings and images of goods using infringements of the Copyrighted Works and/or REDACTED Marks associated with any ASIN 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 using infringements of the Copyrighted Works and/or REDACTED Marks.

- g. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act and this Court’s inherent authority that, upon Plaintiff’s request, Defendants and any Internet marketplace website operators and/or administrators who are provided with notice of an injunction issued by this Court immediately cease fulfillment of and sequester all goods of each Defendant bearing or using infringements of the Copyrighted Works and/or REDACTED Marks in his inventory, possession, custody, or control, and surrender those goods to Plaintiff.
- h. Entry of an Order requiring Defendants to correct any erroneous impression the consuming public may have derived concerning the nature, characteristics, or qualities of their products, including without limitation, the placement of corrective advertising and providing written notice to the public.

- i. Entry of an Order requiring Defendants to account to and pay Plaintiff for all profits and damages resulting from Defendants' copyright infringement, or statutory damages (at Plaintiff's election), for all infringements involved in the action, with respect to any one work, for which any one Defendant is liable individually, or for which Defendants are liable jointly and severally with another, in a sum of not less than \$750 or more than \$30,000 as the Court considers just pursuant to 17 U.S.C. §504(c)(1), or to the extent the Court finds that infringement was committed willfully, an award of statutory damages to a sum of not more than \$150,000 per violation, pursuant to 17 U.S.C. §504(c)(2).
- j. Entry of an Order requiring Defendants to pay Plaintiff for all profits and damages resulting from Defendants' violations of 17 U.S.C. § 1202 or statutory damages (at Plaintiff's election) per violation, for which Defendants shall be liable in a sum per violation of not less than \$2,500 or more than \$25,000 per violation pursuant to 17 U.S.C. §1203.
- k. Entry of an Order requiring Defendants to account to and pay Plaintiff for all profits and damages resulting from Defendants' false designation of origin and unfairly competitive activities and that the award to Plaintiff be trebled, as provided for under 15 U.S.C. § 1125 of the Lanham Act.
- l. Entry of an award pursuant to 17 U.S.C. § 505 and 17 U.S.C. § 1203 of Plaintiff's costs and reasonable attorneys' fees and investigative fees, associated with bringing this action, including the cost of corrective advertising.
- m. Entry of an Order that, upon Plaintiff's request, Defendants and any financial institutions, payment processors, banks, escrow services, money transmitters, 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 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 Plaintiff in partial satisfaction of the monetary judgment entered herein.

- n. Entry of an award of pre-judgment interest on the judgment amount.
- o. Entry of an Order for any further relief as the Court may deem just and proper.

DATED: April 16, 2024

Respectfully submitted,

/s/ Joel B. Rothman

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