

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

██████████,

Plaintiff,

v.

THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

Case No. 23-cv-00854

COMPLAINT

Plaintiff ██████████ (“██████” or “Plaintiff”),¹ hereby brings the present action against the Partnerships and Unincorporated Associations Identified on Schedule A attached hereto (collectively, “Defendants”) and alleges as follows:

I. JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over ██████’s claims pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendants because Defendants structure their business activities so as to target consumers in the United States, including Illinois, through at least

¹ Since it is unknown when Plaintiff’s forthcoming (1) Motion for Leave to File Certain Documents Under Seal and Temporarily Proceed Under a Pseudonym and (2) *Ex Parte* Motion for Entry of a Temporary Restraining Order, including a Temporary Injunction, a Temporary Asset Restraint, and Expedited Discovery will be ruled on, Plaintiff’s name has been redacted to prevent Defendants from getting advanced notice. **Exhibit 1** to the Complaint showing Plaintiff’s Trademarks, Schedule A to the Complaint listing the Defendants by their Seller Aliases, Plaintiff’s Notification of Affiliates, and Plaintiff’s Notice of Trademark Claims will be filed under seal accordingly.

the fully interactive e-commerce stores operating under the aliases identified on Schedule A attached hereto (the “Seller Aliases”). Specifically, Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers, offering shipping to the United States, including Illinois, accepting payment in U.S. dollars and, on information and belief, selling products using infringing and counterfeit versions of [REDACTED]’s federally registered trademarks (collectively, the “Unauthorized Products”) to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused [REDACTED] substantial injury in the state of Illinois.

II. INTRODUCTION

3. [REDACTED] filed this case to prevent e-commerce store operators who trade upon [REDACTED]’s reputation and goodwill from further selling and/or offering for sale Unauthorized Products. Defendants create e-commerce stores under one or more Seller Aliases and then advertise, offer for sale, and/or sell Unauthorized Products to unknowing consumers. E-commerce stores operating under the Seller Aliases share identifiers, such as design elements and similarities of the Unauthorized Products offered for sale, establishing that a logical relationship exists between them, and that Defendants’ counterfeiting operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Defendants take advantage of a set of circumstances, including the anonymity and mass reach afforded by the Internet and the cover afforded by international borders, to violate [REDACTED]’s intellectual property rights with impunity. Defendants attempt to avoid liability by operating under one or more Seller Aliases to conceal both their identities, locations, and the full scope and interworking of their counterfeiting operation. [REDACTED] is forced to file this action to combat Defendants’ counterfeiting of its registered trademarks, as well as to protect consumers from purchasing Unauthorized Products over the internet. [REDACTED] has been,

and continues to be, irreparably damaged through consumer confusion and dilution of its valuable trademarks because of Defendants' actions and therefore seeks injunctive and monetary relief.

III. THE PARTIES

4. Plaintiff, [REDACTED], is [REDACTED]
[REDACTED] and is the owner of the trademarks asserted in this
action. [REDACTED]

[REDACTED]
[REDACTED]

5. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].⁴

7. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

8. [REDACTED] markets and sells a variety of products emanating from [REDACTED] including apparel such as hoodies, onesies, t-shirts, and shorts; plush dolls; accessories like pins, keychains, stickers, phone cases, masks, and bags; and other merchandise bearing [REDACTED]'s trademarks (collectively, "[REDACTED] Products"). [REDACTED] Products have become enormously popular and even iconic, driven by [REDACTED]'s quality standards and innovative designs. Among the purchasing public, [REDACTED] Products are instantly recognizable as such. [REDACTED] Products are distributed and sold to consumers through retailers throughout the United States, including through authorized retailers in Illinois such as Target, Walmart, and Kohl's, and through [REDACTED]'s official Amazon store [REDACTED].

9. [REDACTED] has used the [REDACTED] and [REDACTED] trademarks, and other trademarks, for many years and has continuously sold products under its trademarks (collectively,

³ *Id.*

⁴ *See* [REDACTED].

[illegible]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

--	--	--	--

			[REDACTED] [REDACTED] [REDACTED] [REDACTED]
--	--	--	---

[illegible]

--	--	--	--

[illegible]

			[REDACTED]
			[REDACTED]
			[REDACTED]
			[REDACTED]

[illegible]

11. The above U.S. registrations for the [REDACTED] Trademarks are valid, subsisting, and in full force and effect, and Registration No. [REDACTED] is incontestable pursuant to 15 U.S.C. § 1065. The registrations for the [REDACTED] Trademarks constitute *prima facie* evidence of their validity and of [REDACTED]'s exclusive right to use the [REDACTED] Trademarks pursuant to 15 U.S.C. § 1057(b). True and correct copies of the United States Registration Certificates for the [REDACTED] Trademarks are attached hereto as **Exhibit 1**.

12. The [REDACTED] Trademarks are exclusive to [REDACTED] and are displayed extensively on [REDACTED] Products and in marketing and promotional materials. The [REDACTED] Trademarks are also distinctive when applied to [REDACTED] Products, signifying to the purchaser that the products come from [REDACTED], or its licensees, and are manufactured to [REDACTED]'s quality standards. Whether [REDACTED] manufactures the products itself or contracts with others to do so, [REDACTED] has ensured that products bearing the [REDACTED] Trademarks are manufactured to the highest quality standards.

13. The [REDACTED] Trademarks are famous marks, as that term is used in 15 U.S.C. § 1125(c)(1), and have been continuously used and never abandoned. The success of [REDACTED] in addition to the marketing of [REDACTED] Products, has enabled the [REDACTED] brand (“[REDACTED] Brand”) to achieve widespread recognition and fame and has made the [REDACTED] Trademarks some of the most well-known marks in the video game, entertainment, and merchandising industries. The widespread fame, outstanding reputation, and significant goodwill associated with the [REDACTED] Brand have made the [REDACTED] Trademarks valuable assets of [REDACTED].

14. Products bearing the [REDACTED] Trademarks have been the subject of substantial and continuous marketing and promotion. [REDACTED] has marketed and promoted, and continues to market and promote, the [REDACTED] Trademarks in the industry and to consumers through traditional print media, authorized retailers, social media sites, point of sale material, and its own Amazon store found at [REDACTED].

15. [REDACTED] has expended substantial time, money, and other resources advertising, promoting, and marketing [REDACTED] Products. [REDACTED] Products have also been the subject of extensive unsolicited publicity due to the longstanding success of the [REDACTED] Brand. As a result, products bearing the [REDACTED] Trademarks are widely recognized and exclusively associated by consumers as being high-quality products sourced from [REDACTED] or [REDACTED]’s licensees. The [REDACTED] Trademarks have achieved tremendous fame and recognition, adding to the inherent distinctiveness of the marks. As such, the goodwill associated with the [REDACTED] Trademarks is of immeasurable value to [REDACTED].

16. [REDACTED] Products are sold only by [REDACTED] or through authorized licensees and are recognized by the public as being exclusively associated with the [REDACTED] Brand.

17. Defendants are unknown individuals and business entities who own and/or operate one or more of the e-commerce stores under the Seller Aliases identified on Schedule A and/or other seller aliases not yet known to [REDACTED]. On information and belief, Defendants reside and/or operate in primarily Asian countries or other foreign jurisdictions and redistribute products from the same or similar sources in those locations. Defendants have the capacity to be sued pursuant to Federal Rules of Civil Procedure 17(b).

18. On information and belief, Defendants, either individually or jointly, operate one or more e-commerce stores under the Seller Aliases listed in Schedule A attached hereto. Tactics used by Defendants to conceal their identities and the full scope of their operation make it virtually impossible for [REDACTED] to learn Defendants' true identities and the exact interworking of their counterfeit network. If Defendants provide additional credible information regarding their identities, [REDACTED] will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

19. The success of [REDACTED] has resulted in significant counterfeiting of the [REDACTED] Trademarks. Because of this, [REDACTED] has implemented an anti-counterfeiting program that involves investigating suspicious websites and online marketplace listings identified in proactive Internet sweeps. Recently, [REDACTED] has identified many fully interactive e-commerce stores offering Unauthorized Products on online marketplace platforms such as AliExpress.com ("AliExpress"), Alibaba Group Holding Limited ("Alibaba"), Amazon.com, Inc. ("Amazon"), Dhgate.com ("DHgate"), eBay, Inc. ("eBay"), Etsy, Inc. ("Etsy"), Fruugo.com Limited ("Fruugo"), ContextLogic, Inc. d/b/a Wish.com ("Wish"), and Walmart, Inc. ("Walmart"), including the e-commerce stores operating under the Seller Aliases. The Seller Aliases target consumers in this Judicial District and throughout the United States. According to a report prepared for The Buy

Safe America Coalition, most counterfeit products now come through international mail and express courier services (as opposed to containers) due to increased sales from offshore online counterfeiters. *The Counterfeit Silk Road: Impact of Counterfeit Consumer Products Smuggled Into the United States*, prepared by John Dunham & Associates (**Exhibit 2**).

20. Because counterfeit products sold by offshore online counterfeiters do not enter normal retail distribution channels, the US economy lost an estimated 300,000 or more full-time jobs in the wholesale and retail sectors alone in 2020. *Id.* When accounting for lost jobs from suppliers that would serve these retail and wholesale establishments, and the lost jobs that would have been induced by employees re-spending their wages in the economy, the total economic impact resulting from the sale of counterfeit products was estimated to cost the United States economy over 650,000 full-time jobs that would have paid over \$33.6 billion in wages and benefits. *Id.* Additionally, it is estimated that the importation of counterfeit goods costs the United States government nearly \$7.2 billion in personal and business tax revenues in the same period. *Id.*

21. Online marketplace platforms like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing counterfeiters to “routinely use false or inaccurate names and addresses when registering with these e-commerce platforms.” **Exhibit 3**, Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 40 NW. J. INT’L L. & BUS. 157, 186 (2020); *see also* report on “Combating Trafficking in Counterfeit and Pirated Goods” prepared by the U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans (Jan. 24, 2020), attached as **Exhibit 4**, and finding that on “at least some e-commerce platforms, little identifying information is necessary for a counterfeiter to begin selling” and that “[t]he ability to rapidly proliferate third-party online marketplaces greatly

complicates enforcement efforts, especially for intellectual property rights holders.” Counterfeiters hedge against the risk of being caught and having their websites taken down from an e-commerce platform by establishing multiple virtual storefronts. **Exhibit 4** at p. 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, counterfeiters can have many different profiles that can appear unrelated even though they are commonly owned and operated. **Exhibit 4** at p. 39. Further, “[e]-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of counterfeits and counterfeiters.” **Exhibit 3** at 186-187. Specifically, brand owners are forced to “suffer through a long and convoluted notice and takedown procedure only [for the counterfeit seller] to reappear under a new false name and address in short order.” *Id.* at p. 161.

22. Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offering shipping to the United States, including Illinois, accepting payment in U.S. dollars and, on information and belief, selling and/or offering for sale Unauthorized Products to residents of Illinois.

23. Defendants concurrently employ and benefit from similar advertising and marketing strategies. For example, Defendants facilitate sales by designing the e-commerce stores operating under the Seller Aliases so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. E-commerce stores operating under the Seller Aliases appear sophisticated and accept payment in U.S. dollars in multiple ways, including via credit cards, Alipay, Amazon Pay, and/or PayPal. E-commerce stores operating under the Seller Aliases often include content and images that make it very difficult for consumers to distinguish

their stores from an authorized retailer. [REDACTED] has not licensed or authorized Defendants to use the [REDACTED] Trademarks, and none of the Defendants are authorized retailers of [REDACTED] Products.

24. Many Defendants also deceive unknowing consumers by using the [REDACTED] Trademarks within the content, text, and/or meta tags of their e-commerce stores to attract consumers using search engines to find websites relevant to [REDACTED] Products. Other e-commerce stores operating under the Seller Aliases omit using the [REDACTED] Trademarks in the item title to evade enforcement efforts while using strategic item titles and descriptions that will trigger their listings when consumers are searching for [REDACTED] Products.

25. E-commerce store operators like Defendants commonly engage in fraudulent conduct when registering the Seller Aliases by providing false, misleading and/or incomplete information to e-commerce platforms to prevent discovery of their true identities and the scope of their e-commerce operation.

26. E-commerce store operators like Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Unauthorized Products. Such seller alias registration patterns are one of many common tactics used by e-commerce store operators like Defendants to conceal their identities and the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

27. Even though Defendants operate under multiple fictitious aliases, the e-commerce stores operating under the Seller Aliases often share unique identifiers, such as templates with common design elements that intentionally omit contact information or other information for identifying Defendants or other Seller Aliases they operate or use. E-commerce stores operating under the Seller Aliases include other common features, such as registration patterns, accepted payment methods, check-out methods, keywords, advertising tactics, similarities in price and

quantities, the same incorrect grammar and misspellings, and/or the use of the same text and images. Additionally, Unauthorized Products for sale by the Seller Aliases bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Unauthorized Products were manufactured by and come from a common source and that Defendants are interrelated.

28. E-commerce store operators like Defendants communicate with each other through QQ.com chat rooms and through websites such as sellerdefense.cn, ikjzd.com, kaidianyo.com, and kuajingvs.com. These websites provide tactics for operating multiple online marketplace accounts and evading detection by brand owners. The websites also tip off e-commerce store operators like Defendants of new intellectual property infringement lawsuits filed by brand owners, such as Plaintiff, and recommend that e-commerce operators cease their infringing activity, liquidate their associated financial accounts, and change the payment processors that they currently use to accept payments in their online stores.

29. Counterfeiters such as Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation despite [REDACTED]'s enforcement. E-commerce store operators like Defendants maintain off-shore bank accounts and regularly move funds from their financial accounts to offshore accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to plaintiffs.

30. Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell Unauthorized Products in the same transaction, occurrence, or series of transactions or occurrences. Defendants, without any authorization or license from [REDACTED] have, jointly and severally, knowingly and willfully used and continue to use

the [REDACTED] Trademarks in connection with the advertisement, distribution, offering for sale, and sale of Unauthorized Products into the United States and Illinois over the Internet.

31. Defendants' unauthorized use of the [REDACTED] Trademarks in connection with the advertising, distribution, offering for sale, and sale of Unauthorized Products, including the sale of Unauthorized Products into the United States, including Illinois, is likely to cause, and has caused, confusion, mistake, and deception by and among consumers and is irreparably harming [REDACTED].

COUNT I
TRADEMARK INFRINGEMENT AND COUNTERFEITING (15 U.S.C. § 1114)

32. [REDACTED] hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

33. This is a trademark infringement action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the [REDACTED] Trademarks in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The [REDACTED] Trademarks are highly distinctive marks. Consumers have come to expect the highest quality from [REDACTED] Products offered, sold, or marketed under the [REDACTED] Trademarks.

34. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and advertising products using counterfeit reproductions of the [REDACTED] Trademarks without [REDACTED]'s permission.

35. [REDACTED]'s United States registrations for the [REDACTED] Trademarks are in full force and effect. Upon information and belief, Defendants have knowledge of [REDACTED]'s rights in the [REDACTED] Trademarks and are willfully infringing and intentionally using infringing and counterfeit versions of the [REDACTED] Trademarks. Defendants' willful, intentional, and unauthorized use of the [REDACTED]

Trademarks is likely to cause, and is causing, confusion, mistake, and deception as to the origin and quality of the Unauthorized Products among the general public.

36. Defendants' activities constitute willful trademark infringement and counterfeiting under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

37. [REDACTED] has no adequate remedy at law, and if Defendants' actions are not enjoined, [REDACTED] will continue to suffer irreparable harm to its reputation and the goodwill of the [REDACTED] Trademarks.

38. The injuries and damages sustained by [REDACTED] have been directly and proximately caused by Defendants' wrongful reproduction, use of advertisement, promotion, offering to sell, and/or sale of Unauthorized Products.

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

39. [REDACTED] hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

40. Defendants' promotion, marketing, offering for sale, and sale of Unauthorized Products has created and is creating a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with [REDACTED] or the origin, sponsorship, or approval of Defendants' Unauthorized Products by [REDACTED].

41. By using the [REDACTED] Trademarks in connection with the offering for sale and/or sale of Unauthorized Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Unauthorized Products.

42. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Unauthorized Products to the general public involves the use of counterfeit marks and is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

43. [REDACTED] has no remedy at law and will continue to suffer irreparable harm to its reputation and the associated goodwill of the [REDACTED] Brand if Defendants' actions are not enjoined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, [REDACTED], prays for judgment against Defendants as follows:

1) That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under, or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:

- a. using the [REDACTED] Trademarks or any reproductions, counterfeit copies or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a [REDACTED] Product or is not authorized by [REDACTED] to be sold in connection with the [REDACTED] Trademarks;
- b. passing off, inducing, or enabling others to sell or pass off any product as a [REDACTED] Product or any other product produced by [REDACTED], that is not [REDACTED]'s or not produced under the authorization, control, or supervision of [REDACTED] and approved by [REDACTED] for sale under the [REDACTED] Trademarks;
- c. committing any acts calculated to cause consumers to believe that Defendants' Unauthorized Products are those sold under the authorization, control, or supervision of [REDACTED], or are sponsored by, approved by, or otherwise connected with [REDACTED];
- d. further infringing the [REDACTED] Trademarks and damaging [REDACTED]'s goodwill; and
- e. manufacturing, shipping, delivering, holding for sale, transferring, or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner,

products or inventory not manufactured by or for [REDACTED], nor authorized by [REDACTED] to be sold or offered for sale, and which bear the [REDACTED] Trademarks;

- 2) Entry of an Order that, upon [REDACTED]'s request, those with notice of the injunction, including without limitation, any websites and/or online marketplace platforms such as AliExpress, Alibaba, Amazon, DHgate, eBay, Etsy, Fruugo, Wish, and Walmart shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the [REDACTED] Trademarks;
- 3) That Defendants account for and pay to [REDACTED] all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of the [REDACTED] Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
- 4) In the alternative, that [REDACTED] be awarded statutory damages for willful trademark counterfeiting pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every use of the [REDACTED] Trademarks;
- 5) [REDACTED] is further entitled to recover its attorney's fees and full costs; and
- 6) Award any and all other relief that this Court deems just and proper.

Dated this 10th day of February 2023.

Respectfully submitted,

/s/ Martin F. Trainor

Martin F. Trainor

Sameeul Haque

TME Law, P.C.

3339 S. Union Avenue

Chicago, Illinois 60616

708.475.1127

martin@tme-law.com

sameeul@tme-law.com

Counsel for Plaintiff 