

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

CREATIVE LICENSING CORPORATION,

Plaintiff,

v.

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

Defendants.

Case No. 23-cv-02325

COMPLAINT

Plaintiff Creative Licensing Corporation (“Plaintiff”) 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 Plaintiff’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 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, offer

shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, sell products using infringing and counterfeit versions of Plaintiff's federally registered trademark (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 Plaintiff substantial injury in the state of Illinois.

II. INTRODUCTION

3. Plaintiff filed this case to prevent e-commerce store operators who trade upon Plaintiff'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 Plaintiff's intellectual property rights with impunity. Defendants attempt to avoid liability by operating under one or more Seller Aliases to conceal their identities, locations, and the full scope and interworking of their counterfeiting operation. Plaintiff is forced to file this action to combat Defendants' counterfeiting of its registered trademark, as well as to protect consumers from purchasing Unauthorized Products over the internet. Plaintiff has been, and continues to be, irreparably damaged through consumer confusion

and dilution of its valuable trademark because of Defendants' actions and therefore seeks injunctive and monetary relief.

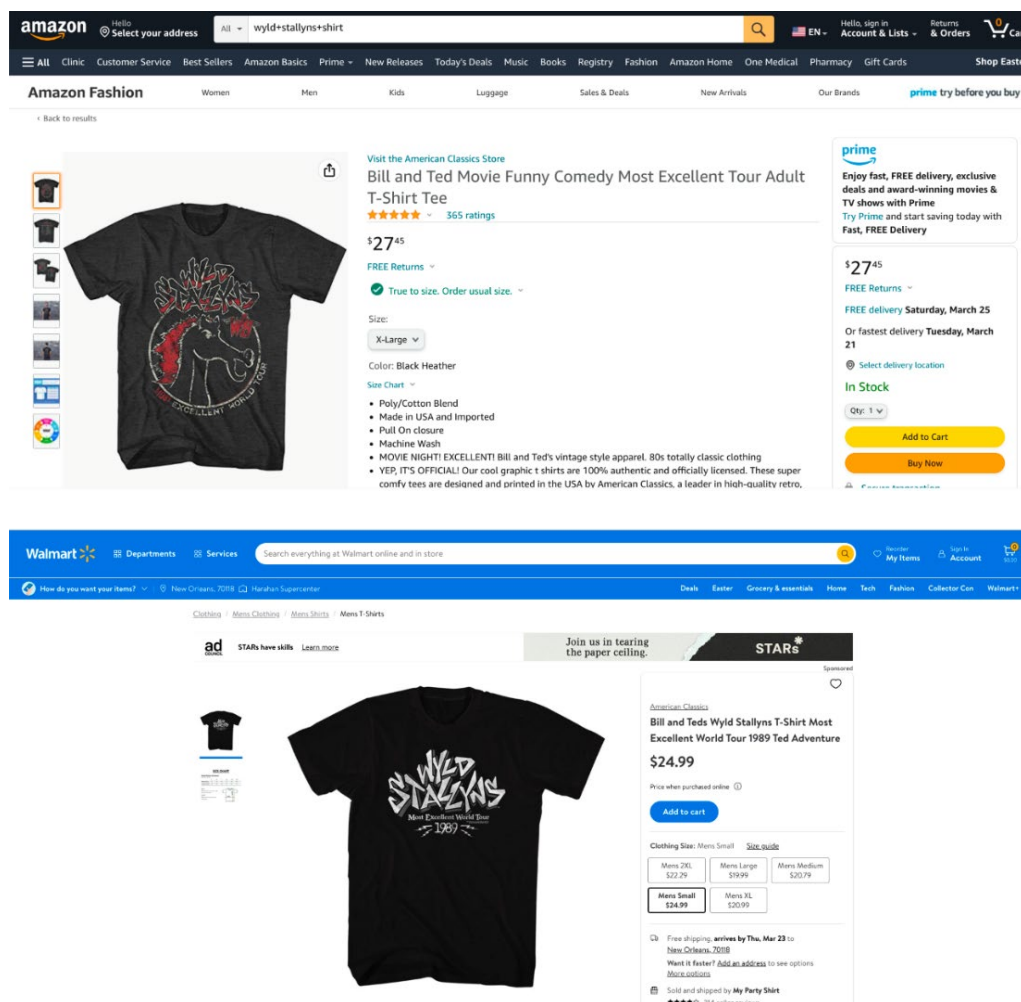
III. THE PARTIES

4. Founded in 1982, and based in Los Angeles, Creative Licensing Corporation is a full-service independent merchandise licensing agency that specializes in long term brand development. CLC has its principal place of business at 10940 Wilshire Blvd., Suite 1600, Los Angeles, California, United States, and is the owner of the trademark asserted in this action. CLC represents a large catalogue of iconic films and properties for worldwide merchandise licensing, including the Wyld Stallyns brand.

5. Wyld Stallyns is the fictional heavy metal band formed within the 1989 hit movie, *Bill & Ted's Excellent Adventure*. The *Bill & Ted* franchise, which also includes *Bill & Ted's Bogus Journey* and *Bill & Ted Face the Music*, is an American comedy sci-fi film series following Bill and Ted, two metalhead friends played by Keanu Reeves and Alex Winter. The series initially follows Bill and Ted's efforts to make their band Wyld Stallyns successful while their lackadaisical attitudes threaten their high school graduation and the future of the band. However, unknown to Bill and Ted at the time, Wyld Stallyns' music is the basis of a future utopian society. So, to make sure the future is assured, Bill and Ted receive help from leaders of the future to pass their history report. The latter two movies in the *Bill & Ted* franchise focus on the attempts of others to break up the two friends in order to prevent the future utopia from occurring. Wyld Stallyns is featured heavily across all three films in the franchise. Through the success of the films, spanning over thirty years, Wyld Stallyns has amassed a large following and remains a pop culture icon.

6. Plaintiff and/or its licensees market and sell a variety of products emanating from Wyld Stallyns, including apparel such as t-shirts and sweatshirts, caps, hats, and other merchandise

bearing Plaintiff's WYLD STALLYNS trademark (collectively, "Wyld Stallyns Products"). Wyld Stallyns Products have become enormously popular and even iconic, driven by Plaintiff's quality standards and innovative designs. Among the purchasing public, Wyld Stallyns Products are instantly recognizable as such. Wyld Stallyns Products are distributed and sold to consumers through retailers throughout the United States by Plaintiff's licensees, including through authorized retailers in Illinois, such as Walmart. Images showing some of Plaintiff's licensees selling Wyld Stallyns Products online are included below.



7. Plaintiff and/or its licensees have used the WYLD STALLYNS trademark for many years and have continuously sold products under the WYLD STALLYNS trademark ("Wyld

Stallyns Trademark”). As a result of this long-standing use, strong common law trademark rights have amassed in the Wyld Stallyns Trademark. Use of the Wyld Stallyns Trademark has also built substantial goodwill in the Wyld Stallyns Trademark. The Wyld Stallyns Trademark is a famous mark and valuable asset of Plaintiff. Wyld Stallyns Products also typically include the Wyld Stallyns Trademark.

8. The Wyld Stallyns Trademark is registered with the United States Patent and Trademark Office and is included below.

Registration Number	Trademark	Registration Date	Goods and Services
6,280,846	WYLD STALLYNS	Mar. 2, 2021	CLASS 25: Clothing, namely, shirts, t-shirts, hoodies, pullovers, sweatshirts, tank tops, infant and toddler one piece clothing, scarves, knit face masks being headwear, socks, caps and hats

9. The above U.S. registration for the Wyld Stallyns Trademark is valid, subsisting, and in full force and effect. The registration for the Wyld Stallyns Trademark constitutes *prima facie* evidence of its validity and of Plaintiff’s exclusive right to use the Wyld Stallyns Trademark pursuant to 15 U.S.C. § 1057(b). A true and correct copy of the United States Registration Certificate for the Wyld Stallyns Trademark is attached hereto as **Exhibit 1**.

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

11. The Wyld Stallyns Trademark is a famous mark, as that term is used in 15 U.S.C. § 1125(c)(1), and has been continuously used and never abandoned. The success of the *Bill & Ted* series, in addition to the marketing of Wyld Stallyns Products, has enabled the Wyld Stallyns brand ("Wyld Stallyns Brand") to achieve widespread recognition and fame and has made the Wyld Stallyns Trademark one of the most well-known marks in the entertainment industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Wyld Stallyns Brand have made the Wyld Stallyns Trademark a valuable asset of Plaintiff.

12. Products bearing the Wyld Stallyns Trademark have been the subject of substantial and continuous marketing and promotion. Plaintiff has marketed and promoted, and continues to market and promote, the Wyld Stallyns Trademark in the industry and to consumers through retailers throughout the United States, including through authorized retailers in Illinois such as on Amazon.com and Walmart.com.

13. Plaintiff has expended substantial time, money, and other resources advertising, promoting, and marketing Wyld Stallyns Products. Wyld Stallyns Products have also been the subject of extensive unsolicited publicity due to the longstanding success of the Wyld Stallyns Brand. As a result, products bearing the Wyld Stallyns Trademark are widely recognized and

exclusively associated by consumers as being high-quality products sourced from Plaintiff or Plaintiff's licensees. The Wyld Stallyns Trademark has achieved tremendous fame and recognition, adding to the inherent distinctiveness of the mark. As such, the goodwill associated with the Wyld Stallyns Trademark is of immeasurable value to Plaintiff.

14. Wyld Stallyns Products are sold only by Plaintiff or through authorized licensees and are recognized by the public as being exclusively associated with the Wyld Stallyns Brand.

15. 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 Plaintiff. 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).

16. 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 Plaintiff to learn Defendants' true identities and the exact interworking of their counterfeit network. If Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

17. The success of the *Bill & Ted* series and Wyld Stallyns Brand has resulted in significant counterfeiting of the Wyld Stallyns Trademark. Because of this, Plaintiff has implemented an anti-counterfeiting program that involves investigating suspicious websites and online marketplace listings identified in proactive Internet sweeps. Recently, Plaintiff has

identified many fully interactive e-commerce stores offering Unauthorized Products on online marketplace platforms like AliExpress.com (“AliExpress”), Amazon.com, Inc. (“Amazon”), Etsy, Inc. (“Etsy”), and ContextLogic, Inc. d/b/a Wish.com (“Wish”), 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**).

18. Because the 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.*

19. 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.

20. 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, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, sell and/or offer for sale Unauthorized Products to residents of Illinois.

21. 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. Plaintiff has not licensed or authorized Defendants to use the Wyld Stallyns Trademark and none of the Defendants are authorized retailers of Wyld Stallyns Products.

22. Many Defendants also deceive unknowing consumers by using the Wyld Stallyns Trademark within the content, text, and/or meta tags of their e-commerce stores to attract consumers using search engines to find websites relevant to Wyld Stallyns Products. Other e-commerce stores operating under the Seller Aliases omit using the Wyld Stallyns Trademark 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 Wyld Stallyns Products.

23. 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.

24. 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.

25. 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.

26. 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.

27. Counterfeiters such as Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation despite Plaintiff's enforcement. E-commerce store operators like Defendants maintain offshore 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.

28. 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 Plaintiff have, jointly and severally, knowingly and willfully used and continue to use the Wyld Stallyns Trademark in connection with the advertisement, distribution, offering for sale, and sale of Unauthorized Products into the United States and Illinois over the Internet.

29. Defendants' unauthorized use of the Wyld Stallyns Trademark 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 Plaintiff.

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

30. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

31. This is a trademark infringement action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the Wyld Stallyns Trademark in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The Wyld Stallyns Trademark is a highly distinctive mark. Consumers have come to expect the highest quality from products offered, sold, or marketed under the Wyld Stallyns Trademark.

32. 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 Wyld Stallyns Trademark without Plaintiff's permission.

33. Plaintiff is the owner or exclusive licensee of the Wyld Stallyns Trademark. Plaintiff's United States registration for the Wyld Stallyns Trademark is in full force and effect. Upon information and belief, Defendants have knowledge of Plaintiff's rights in the Wyld Stallyns Trademark and are willfully infringing and intentionally using infringing and counterfeit versions of the Wyld Stallyns Trademark. Defendants' willful, intentional, and unauthorized use of the Wyld Stallyns Trademark 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.

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

35. Plaintiff has no adequate remedy at law, and if Defendants' actions are not enjoined, Plaintiff will continue to suffer irreparable harm to its reputation and the goodwill of the Wyld Stallyns Trademark.

36. The injuries and damages sustained by Plaintiff 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))

37. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

38. 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 Plaintiff or the origin, sponsorship, or approval of Defendants' Unauthorized Products by Plaintiff.

39. By using the Wyld Stallyns Trademark 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.

40. 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.

41. Plaintiff has no adequate remedy at law and will continue to suffer irreparable harm to its reputation and the associated goodwill of the Wyld Stallyns Brand if Defendants' actions are not enjoined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff 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 Wyld Stallyns Trademark 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 Wyld Stallyns Product or is not authorized by Plaintiff to be sold in connection with the Wyld Stallyns Trademark;
- b. passing off, inducing, or enabling others to sell or pass off any product as a Wyld Stallyns Product or any other product produced by Plaintiff, that is not Plaintiff's or not produced under the authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale under the Wyld Stallyns Trademark;

- c. committing any acts calculated to cause consumers to believe that Defendants' Unauthorized Products are those sold under the authorization, control, or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
 - d. further infringing the Wyld Stallyns Trademark and damaging Plaintiff'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 Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear the Wyld Stallyns Trademark;
- 2) Entry of an Order that, upon Plaintiff's request, those with notice of the injunction, including without limitation, any websites and/or online marketplace platforms, including AliExpress, Amazon, Etsy, and Wish, 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 Wyld Stallyns Trademark;
- 3) That Defendants account for and pay to Plaintiff all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of the Wyld Stallyns Trademark 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 Plaintiff 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 Wyld Stallyns Trademark;
- 5) Plaintiff 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 13th day of April 2023.

Respectfully submitted,

/s/ Martin F. Trainor

Martin F. Trainor

Sydney Fenton

TME Law, P.C.

3339 S. Union Avenue

Chicago, Illinois 60616

708.475.1127

martin@tme-law.com

sydney@tme-law.com

Counsel for Plaintiff Creative Licensing Corporation