IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

SOL STRONG LLC,

Plaintiff,

v.

The Individuals, Corporations, Limited Liability Companies, Partnerships, and Unincorporated Associations Identified on the Attached Schedule A,

Defendants.

Civil Action No:________

JURY TRIAL DEMANDED

VERIFIED COMPLAINT

Plaintiff Sol Strong LLC, for its Verified Complaint against the Individuals, Corporations, Limited Liability Companies, Partnerships, and Unincorporated Associations Identified on the Attached Schedule A, alleges as follows:

NATURE OF THE CASE

1. This is an action for (1) trademark infringement under the Lanham Act, 15 U.S.C. § 1114; (2) counterfeiting under the Lanham Act, 15 U.S.C. § 1114; (3) unfair competition in violation of the Lanham Act, 15 U.S.C. § 1125(a); (4) unfair competition under Illinois common law; (5) violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq*.; and (6) Violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq*. Plaintiff brings this action to protect one of its most valuable assets, namely, the goodwill and consumer recognition associated with its federally registered trademark for the mark V-WHITE. *See* Exhibit A, U.S. Trademark Registration No. 5,534,274 ("the '274 Registration").

THE PARTIES AND TRADEMARK

2. Plaintiff Sol Strong LLC ("Sol Strong" or "Plaintiff") is a limited liability company organized under the laws of the State of Texas with its principal place of business at 16213 Chianti Cove, Pflugerville, Texas 78660.

3. Plaintiff is the owner by assignment of all right, title, interest, and goodwill associated with the '274 Registration and the V-WHITE Mark.

4. The '274 Registration claims "Toothpaste, non-medicated mouthwash and teeth whitening gels" and has been in continuous use in interstate commerce since at least as early as July 14, 2017.

5. Plaintiff sells at least electric toothbrushes, toothpastes, and replacement parts under the V-WHITE Mark at least through its website, https://v-white-oral.com/, and through its merchant storefront on Amazon.com. *See* https://www.amazon.com/s?me=AYUJ8NFQF42PY&marketplaceID=ATVPDKIKX0DER (storefront, last accessed 4/11/2023) and https://www.amazon.com/sp?ie=UTF8&seller=AYUJ8NFQF42PY (seller profile, last accessed 4/11/2023).

6. Plaintiff's use in commerce of the V-WHITE Mark for electric toothbrushes and replacement parts predates Defendants' uses described herein.

7. Plaintiff also uses a stylized version of its V-WHITE Mark, the "V-WHITE Logo," and has used such logo in commerce in connection with the same of electric toothbrushes, toothpastes, and replacement parts since before Defendants' uses described herein :

V-WHITE

8. On information and belief, Defendants are one or more individuals and/or business entities who reside outside of the United States, in countries including the People's Republic of China, Israel, Indonesia, Australia, India, and Canada. Defendants conduct business throughout the United States, including within the State of Illinois and this Judicial District, through the operation of the fully interactive, commercial online marketplaces operating under Defendants' one or more Internet Stores. The Defendants have targeted the United States, including Illinois, and have offered to sell, and currently offer to sell, and on information and belief have sold and continue to sell products that infringe upon Plaintiff's trademark rights to consumers within the United States, including Illinois.

9. In particular, Defendants sell products that infringe upon Plaintiff's rights to the V-WHITE Mark (and/or V-WHITE Logo) through online marketplaces and merchant accounts at least on the websites Amazon.com, Walmart.com, alibaba.com, aliexpress.com, and eBay.com and potentially on their own fully interactive websites. Exemplary screenshots of some of Defendants' infringing offerings on these marketplaces are attached as Exhibit B.

JURISDICTION AND VENUE

10. This is an action for trademark infringement and counterfeiting under the Lanham Act, as well as related claims.

11. On information and belief, Defendants, either individually or jointly, operate one or more e-commerce stores or merchant accounts listed in Schedule A attached hereto.

12. 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 network. In the event that Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

13. This Court has original subject matter jurisdiction over the claims in this action under 15 U.S.C. § 1051 *et seq.*, 28 U.S.C. § 1338(a)-(b), and 28 U.S.C. § 1331. This Court has supplemental jurisdiction over Plaintiff's related state and common law claims under 28 U.S.C. § 1367.

14. Personal jurisdiction is proper in this Court pursuant to Fed. R. Civ. P. 4(k)(2) because Plaintiff's claims arise under federal law, Defendants are not subject to jurisdiction in any state's courts of general jurisdiction, and the exercise of jurisdiction over Defendants comports with due process based on their contacts with the United States. Defendants, at least through their active efforts to sell their infringing products in the United States, have established minimum contacts with the United States such that maintenance of this suit does not offend traditional notions of fair play and substantial justice.

15. Specifically, Defendants have purposefully directed their infringing activities at residents of the United States and Illinois by directly targeting business activities toward consumers in the United States, including Illinois, through at least the fully interactive, commercial Internet Store(s) operating under the Online Marketplace Accounts identified in Schedule A attached hereto. In particular, Defendants are reaching out to do business with United States, and Illinois residents by operating one or more commercial, interactive Internet Stores through which United States and Illinois residents can purchase products being sold in connection with or under marks that infringe upon Plaintiff's rights to and/or counterfeit the V-WHITE Mark.

16. Each of the Defendants has targeted sales from United States and Illinois residents by operating one or more online stores that offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, have sold products in connection

with or under marks that infringe upon Plaintiff's rights to and/or counterfeit the V-WHITE Mark to residents of the United States and Illinois.

17. Each of the Defendants is committing tortious acts in the United States (including Illinois) is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the United States and the State of Illinois.

18. Plaintiff's claims asserted in this suit arise out of Defendants' activities within the United States.

19. Finally, the United States' assertion of personal jurisdiction over Defendants is reasonable and fair because any burden on Defendants is sufficiently outweighed by the United States' substantial interest in enforcing its federal trademark laws and Plaintiff's interest in obtaining effective and convenient relief.

20. No competing United States forum exists (because the forum is the entire United States) for the consideration of competing substantive social policies or efficiency of resolution, and the United States' foreign relations policies with the countries where Defendants are located will not be hindered by the exercise of personal jurisdiction here.

21. Accordingly, personal jurisdiction over the Defendants is properly exercised by this Court.

22. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(c)(3) because Defendants do not reside in the United States and therefore may be sued in any judicial district herein.

DEFENDANT'S INFRINGING ACTS

23. On information and belief, Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their network of online

marketplaces and user accounts. On information and belief, Defendants regularly create new online marketplace accounts on various platforms using the identities listed in Schedule A to the Complaint, as well as other unknown fictitious names and addresses. On information and belief, such Defendant Internet Store registration patterns are one of many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their operation, and to avoid being shut down.

24. Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores demonstrating a series of interrelated acts of infringement. The Defendant Internet Stores include notable common features beyond selling the exact same infringing products, including the same or similar product images, the accepted payment methods, check-out methods, meta data, illegitimate SEO tactics, lack of contact information, identically or similarly priced items and volume sales discounts, similar hosting services, and the use of the same text and images.

25. In addition to operating under multiple fictitious names, Defendants in this case and defendants in other similar cases against online infringers use a variety of other common tactics to evade enforcement efforts. For example, on information and belief, infringers like Defendants will often register new online marketplace accounts under new aliases once they receive notice of a lawsuit. On information and belief, infringers also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection.

26. On information and belief, e-commerce store operators like Defendants are also in constant communication with each other and regularly participate in QQ.com chat rooms and through websites such as sellerdefense.cn, kaidianyo.com and kuajingvs.com regarding tactics for operating multiple accounts, evading detection, pending litigation, and potential new lawsuits.

27. Further, on information and belief, infringers such as Defendants typically operate multiple credit card merchant accounts and PayPal accounts behind layers of payment gateways so that they can continue operation in spite of Plaintiff's enforcement efforts, such as take down notices. On information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their PayPal accounts or other financial accounts to off-shore bank accounts outside the jurisdiction of this Court.

28. Defendants, without any authorization or license from Plaintiff, have knowingly and willfully marketed and offered for sale, sold, and/or imported into the United States for subsequent resale products in connection with marks that violate Plaintiff's rights to and/or counterfeit the V-WHITE Mark, V-WHITE Logo, and/or '274 Registration. Each Defendant Internet Store offers shipping to the United States, including Illinois, and, on information and belief, each Defendant has sold products sold in connection with or under the Infringing Marks in the United States, including Illinois.

29. Defendants had actual and/or constructive knowledge of Plaintiff's rights in its V-WHITE Mark at least as early as the date of application of its registration, December 18, 2017.

30. Defendants are using, in commerce, reproductions or copies of Plaintiff's V-WHITE Mark and/or V-WHITE Logo.

31. Plaintiff has neither consented to nor authorized Defendants' use of the V-WHITE Mark and/or V-WHITE Logo.

32. Attached as Exhibit B are exemplary screenshots showing Defendants' infringement. Defendants sell a variety of personal care products including toothbrushes that closely mimic Plaintiff's toothbrushes, replacement parts therefor, toothpaste, and whitening gels.

Many Defendants also use Plaintiff's marketing images in their advertising and/or mimic Plaintiff's packaging design.

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

33. Plaintiff realleges and incorporates each of the allegations set forth in Paragraphs 1-32 as if restated herein in their entirety.

34. By selling products in connection with and/or under the V-WHITE Mark, Defendants have used an exact reproduction of Plaintiff's registered V-WHITE Mark in connection with the advertising, offer for sale, and sale of their competing products in commerce.

35. Defendants' use of the registered V-WHITE Mark in connection with the advertising, offer for sale, and sale of their competing products was/is likely to confuse consumers, cause them to mistakenly purchase Defendants' thinking them to be Plaintiff's products or affiliated with Plaintiff, and to otherwise deceive consumers.

36. On information and belief, Defendants' acts have been willful and are a deliberate attempt to trade on the success and reputation associated with Plaintiff's products.

37. As a direct and proximate result of Defendants' infringement of the registered V-WHITE Mark, Plaintiff has suffered irreparable harm as well as monetary and other damages in an as-yet-undetermined amount.

38. Unless Defendants are enjoined by this Court from continuing its infringement of the registered V-WHITE Mark, Plaintiff will suffer additional irreparable damages and impairment of the control over the quality of the goods associated with the registered V-WHITE Mark and the resulting reputation and good will in the minds of consumers. Accordingly, a preliminary injunction against further infringement, to be replaced by a permanent injunction at the conclusion of this case, is appropriate.

39. Unless enjoined, Defendants' infringing activity will cause harm to Plaintiff that is irreparable and for which there is no adequate remedy at law.

40. Additionally, unless preliminarily and permanently enjoined by this Court, Defendants' actions will cause irreparable harm on the consuming public who believe they are purchasing Plaintiff's product under the registered V-WHITE Mark, but are instead being sent a competing product from an unknown source.

COUNT II: TRADEMARK COUNTERFEITING (15 U.S.C. § 1114)

41. Plaintiff realleges and incorporates each of the allegations set forth in paragraphs 1-40 as if restated herein in their entirety.

42. By selling competing products bearing the V-WHITE Mark, Defendants have counterfeited and copied the registered V-WHITE Mark and applied that counterfeit mark to the advertisements for their competing products in connection with the sale of those competing products.

43. Defendants' acts of selling their competing products under the V-WHITE Mark are likely to cause confusion among consumers, cause consumers to mistakenly purchase the competing products thinking they are purchasing Plaintiff's products, and to otherwise deceive consumers.

44. By counterfeiting the registered V-WHITE Mark, Defendants have gained access to a market that they otherwise would not have been able to exploit.

45. On information and belief, Defendants' acts of counterfeiting have been willful and deliberate.

46. As a direct and proximate result of Defendants' counterfeiting of the registered V-WHITE word mark, Plaintiff has suffered irreparable harm as well as monetary and other damages in an as-yet-undetermined amount.

47. Furthermore, unless Defendants are enjoined by this Court from counterfeiting the registered V-WHITE Mark, Plaintiff will suffer additional irreparable damages and impairment of the control over the quality of the goods associated with the registered V-WHITE Mark and the resulting reputation and good will in the minds of consumers. Accordingly, a preliminary injunction against further counterfeiting, to be replaced by a permanent injunction at the conclusion of this case, is appropriate.

48. Unless and until enjoined, Defendants' counterfeiting activity will cause harm to Plaintiff that is irreparable and for which there is no adequate remedy at law.

49. Additionally, unless preliminarily and permanently enjoined by this Court, Defendants' actions will cause and continue to cause irreparable harm on the consuming public who believe they are purchasing Plaintiff's product under the registered V-WHITE Mark but are instead being sent a competing product from an unknown source.

COUNT III: FEDERAL UNFAIR COMPETITION (15 U.S.C. § 1125(a))

50. Plaintiff realleges and incorporates each of the allegations set forth in Paragraphs 1-49 as if restated herein in their entirety.

51. Defendants' acts described above, including selling competing products under the V-WHITE Mark and/or V-WHITE Logo and using Defendants' advertising images, constitute unfair competition under the Lanham Act.

52. By passing off their counterfeit or competing products as genuine products of Plaintiff's (at least through the use of the V-WHITE Mark and/or V-WHITE Logo) and/or by

utilizing Plaintiff's advertising and marketing material to sell its counterfeit or competing products, Defendants have created a false impression that their products and Plaintiff's genuine products have a common origin. This false marketing scheme is likely to cause confusion, mistake, or deception within the relevant consuming public as to the source of the counterfeit or competing products.

53. On information and belief, Defendants' acts of unfair competition have been deliberate, intentional, and willful.

54. As a direct and proximate result of Defendants' unfair competition, Plaintiff has suffered irreparable harm as well as monetary and other damages in an as-yet-undetermined amount.

55. Furthermore, unless Defendants are enjoined by this Court from resuming their unfair competition, Plaintiff will suffer additional irreparable damages and impairment of the control over the quality of the goods associated with its V-WHITE Mark (both its registered and unregistered rights thereto) and/or V-WHITE Logo and its related marketing material.

56. Likewise, unless Defendants are enjoined by this Court from resuming their unfair competition, Plaintiff will lose the ability to differentiate its products as coming from a unique source as opposed to originating from a common source with Defendants' counterfeit or competing products. Accordingly, a preliminary injunction against further unfair competition, to be replaced by a permanent injunction at the conclusion of this case, is appropriate.

57. Unless and until enjoined, Defendants' unfair competition will cause harm to Plaintiff that is irreparable and for which there is no adequate remedy at law.

58. Additionally, unless preliminarily and permanently enjoined by this Court, Defendants' actions will cause irreparable harm on the consuming public who are being led to

believe that the counterfeit or competing products come from the same source as Plaintiff's genuine products.

COUNT IV: ILLINOIS UNFAIR COMPETITION

59. Plaintiff realleges and incorporates each of the allegations set forth in Paragraphs 1-58 as if restated herein in their entirety.

60. By marketing, advertising, and selling their products in connection with the V-WHITE Mark, V-WHITE Logo, or marks confusingly similar thereto, Defendants are acting with the purpose and intent to deceive consumers into believing that their products are made by Plaintiff or are affiliated with or approved by Plaintiff.

61. By marketing, advertising, and selling their products in connection with the V-WHITE Mark, V-WHITE Logo, or marks confusingly similar thereto, Defendants intend to harm and are harming Plaintiff's business.

62. As a result of Defendants' unfair competitive activities, Plaintiff has been damaged and will continue to be damaged unless Defendants are enjoined from using Plaintiff's V-WHITE Mark, V-WHITE Logo, or marks confusingly similar thereto.

63. Plaintiff is also entitled to recover money damages to compensate for Defendants' unfair conduct.

COUNT V: ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

64. Plaintiff realleges and incorporates each of the allegations set forth in Paragraphs 1-63 as if restated herein in their entirety.

65. Defendants' aforementioned acts constitute deceptive business practices, in violation of the Consumer Fraud And Deceptive Business Practices Act of Illinois, 815 ILCS 505/1 *et. seq.*

COUNT VI: ILLINOIS DECEPTIVE TRADE PRACTICES ACT

66. Plaintiffs realleges and incorporates each of the allegations set forth in Paragraphs 1-65 as if restated herein in their entirety.

67. Defendants' aforementioned acts constitute deceptive trade practices, in violation of the Deceptive Trade Practices Act of Illinois, 815 ILCS 510/1 *et. seq*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sol Strong LLC respectfully seeks the following relief against Defendants:

A. A preliminary and permanent injunction enjoining, restraining and ordering Defendants, and their officers, agents, servants, attorneys, and other persons who are in active concert or participation with them:

   a. To cease infringing U.S. Trademark Registration No. 5,534,274;

   b. To cease infringing the V-WHITE Mark;

   c. To cease infringing the V-WHITE Logo;

   d. To cease using (including by selling, offering for sale, holding for sale, advertising, or promoting any goods under or in connection with) in commerce any trade name, trade mark, service mark, logo, or Internet domain name that is comprised in whole or in part of the mark "V-WHITE" or any other colorable imitation or mark confusingly similar thereto; AND

   e. To deliver and destroy all inventory, literature, advertisements, packaging, inventory, and other materials displaying the mark "V-WHITE" or any other colorable imitation or mark confusingly similar thereto.

B. Entry of an Order that, upon Plaintiff's request, those with notice of the injunction, including, without limitation, any online marketplace platforms or distributors shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the mark "V-WHITE" or any other colorable imitation or mark confusingly similar thereto;

C. That Judgment be entered against Defendants finding that they have infringed upon U.S. Trademark Registration No. 5,534,274 in violation of 15 U.S.C. § 1114;

D. That Judgment be entered against Defendants finding that they have counterfeited the V-WHITE Mark and/or U.S. Trademark Registration No. 5,534,274 in violation of 15 U.S.C. § 1114;

E. That Judgment be entered against Defendants finding that they have committed acts of unfair competition in violation of 15 U.S.C. § 1125(a);

F. That Judgment be entered against Defendants finding that they have committed acts of unfair competition under Illinois common law;

G. That Judgment be entered against Defendants finding that they have violated the Consumer Fraud And Deceptive Business Practices Act of Illinois, 815 ILCS 505/1 *et. seq.*;

H. That Judgment be entered against Defendants finding that they have violated the Deceptive Trade Practices Act of Illinois, 815 ILCS 510/1 *et. seq.*;

I. A finding that Defendants' infringement of U.S. Trademark Registration No. 5,534,274 and/or the V-WHITE Mark and/or the V-WHITE Logo has been willful;

J. An award of statutory damages for use of a counterfeit mark of up to $2,000,000 against each Defendant on account of the willfulness of such counterfeiting or, in the alternative, an award equal to each Defendant's profits, actual damages suffered by Plaintiff, and the costs of this action;

K. That all non-statutory damages granted in Paragraph J be enhanced in view of the willful nature of Defendants' violations up to an amount not greater than three times such damages;

L. That all non-statutory damages be trebled and Plaintiff be awarded its attorneys' fees on account of Defendants' intentional use of a counterfeit mark;

M. That the case be found exceptional under 15 U.S.C. § 1117;

N. That Plaintiff be awarded its attorneys' fees;

O. That Plaintiff be awarded costs and expenses in this action;

P. An award of prejudgment and post-judgment interest; and

Q. Any and all other relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: April 13, 2023

Respectfully submitted,

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Attorneys for Plaintiff Sol Strong LLC

VERIFICATION

I, Kim Sian, hereby certify as follows:

1. I am the Chief Executive Officer for Sol Strong LLC. As such, I am authorized to make this Verification on Sol Strong LLC's behalf.

2. I have read the foregoing Verified Complaint and, based on my personal knowledge and my knowledge of information reported to me by subordinates and colleagues who report to me, the factual allegations contained in the Verified Complaint are true.

3. I certify under penalty of perjury under the laws of the United States of America that the foregoing statements made by me are true and correct.

Executed in ____Pflugerville Texas USA____________________________________ on April _13___, 2023

____
Kim Sian