

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

ZAG AMERICA, LLC,

Plaintiff,

v.

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

Defendants.

Case No. 23-cv-03287

COMPLAINT

Plaintiff ZAG America, LLC (“ZAG” or “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 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 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 trademarks, 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 trademarks because of Defendants' actions and therefore seeks injunctive and monetary relief.

III. THE PARTIES

4. Plaintiff ZAG America, LLC is a California limited liability company having its principal place of business at 3002 Main Street, Santa Monica, CA 90405 and is the owner of the trademarks asserted in this action.

5. Plaintiff is an independent, cutting-edge film, TV, and digital production studio specializing in world-class storytelling through animation, with a unique portfolio of classic stories, timeless values, and iconic characters and melodies. With offices in Paris, France and Los Angeles, California, ZAG's compelling content reaches kids and families all over the world. ZAG is also a leading marketer, licensor, and developer of innovative consumer entertainment products based on its acclaimed properties and content. One of Plaintiff's most popular television series, *Miraculous: Tales of Ladybug & Cat Noir* (the "Miraculous Series"), is the subject of this action.

6. The Miraculous Series follows the adventures of two Parisian high-school students, Marinette and Adrien, who have been chosen as superheroes: Ladybug and Cat Noir. Their mission is to keep Paris safe from evil villains while keeping their secret identities and living normal lives as high school kids. To date, the Miraculous Series has five seasons available to watch, and Plaintiff plans to develop additional seasons.

7. The Miraculous Series has gained worldwide popularity and is available to stream throughout the world, including on the Netflix and Disney platforms. The Miraculous Series was ranked by IMDB amongst the Top 10 Best Animated Shows in the last 20 years.¹ With a massive fan base of young adult viewers, the Miraculous Series has become a digital planetary craze with millions of people subscribing to the official Miraculous Ladybug YouTube channel and the official Miraculous Ladybug & Cat Noir mobile game generating over 100 million downloads.

¹ <https://screenrant.com/best-animated-kids-shows-of-last-20-years-imdb/>

8. Plaintiff has also received many awards throughout the world for the Miraculous Series, including products related thereto. These awards include the 2018 Teen Choice Award for Choice Animated Series and the 2020 Nickelodeon Kids Choice Awards, Mexico for Favorite Animated Series. The Miraculous brand (“Miraculous Brand”) was also awarded the Brazilian Toy Magazine’s Awards for Best Brand of 2016 and Best National Toy for 2016, 2017, and 2018; the UK Licensing Awards for Best Children’s or Tween Licensed Property and Best Licensed Children’s Apparel Range for 2018; and the Bologna Licensing Trade Fair’s 2019 Best Pre-School Licensing Project Award.

9. ZAG markets and sells a variety of products stemming from the Miraculous Series, including video games; clothing, such as scarves, shirts, sweatshirts, and costumes; accessories like jewelry; bags; face masks; cell phone covers; household items such as water pens, blankets, and pillows; party supplies; and other collectibles such as plush toys, comics, and toys (collectively, “Miraculous Products”).

10. Miraculous Products have become enormously popular and even iconic, driven by Plaintiff’s quality standards and innovative designs. Among the purchasing public, Miraculous Products are instantly recognizable as such. The Miraculous Brand has become a global success and Miraculous Products are among the most recognizable in the world. Miraculous Products are distributed and sold to consumers through retailers throughout the United States, including through authorized retailers in Illinois such as Target, Kohls, and Walmart; through Plaintiff’s official Amazon store; and through the official zag-store.com website. Miraculous Products are sold only through authorized retail channels and are recognized by the public as being exclusively associated with Plaintiff and the Miraculous Brand.

11. Plaintiff has used the MIRACULOUS trademarks, and other trademarks, for many years and has continuously sold products under its trademarks (collectively, the “Miraculous Trademarks”). As a result of this long-standing use, strong common law trademark rights have amassed in the Miraculous Trademarks. Plaintiff’s use of the marks has also built substantial goodwill in the Miraculous Trademarks. The Miraculous Trademarks are famous marks and valuable assets of Plaintiff. Miraculous Products also typically include at least one of the Miraculous Trademarks.

12. The Miraculous Trademarks are registered with the United States Patent and Trademark Office and are included below.

Registration Number	Trademark	Registration Date	Goods and Services
5,402,278	MIRACULOUS	Feb. 13, 2018	For: Digital media, namely, DVD's, and pre-recorded electronic media featuring music, motion pictures, and television programs featuring family and kids entertainment content; ear buds, audio accessories namely, wireless and wired headsets; computer accessories, namely, computer, tablet and mobile device covers and cases; downloadable media, namely, downloadable audiovisual recordings featuring family and kids entertainment content; electronic publications, namely, downloadable electronic materials in the nature of cartoons in class 009. For: Entertainment services, namely, television programs in the field of family and kids entertainment, animated cartoons, a continuing animated episode

			broadcast over television, satellite, audio and video media, ongoing series featuring family and kids entertainment content provided through cable television, satellite, the internet and webcasts, providing ongoing webisodes featuring family and kids entertainment content via a global computer network in class 041.
5,566,252	MIRACULOUS	Sep. 18, 2018	For: Computer software, namely, mobile application software and mobile game software for games for kids based on animated television series in class 009.
5,643,890	MIRACULOUS	Jan. 01, 2019	For: Printed material, namely, books, comics, serial publications in the form of magazines, comic books, graphic novels and manga featuring scenes and characters based on a television series; sketchbooks; notebooks; blank journals; sticker albums; sticker packs; stationery, drawing paper; construction paper; pens; drawing pencils; writing utensils; trading cards and posters in class 016. For: Toys, namely, action figures and accessories therefor; action role play toys in the nature of play sets for children, namely, gear and accessories used by characters in television series, namely, toy weapons, toy jewelry, and children's dress-up accessories; toy vehicles; dolls; role play costumes, namely, costume masks; collector dolls; children's multiple activity toys; decorative room toys, namely,

			playing card game accessories, namely, mats for use in connection with playing card games; tabletop games; puzzles; card games; plush toys; simulated food toys; balloons; paper party favors in class 028.
5,671,603	MIRACULOUS	Feb. 05, 2019	For: Clothing, namely, t-shirts, sweatshirts, sweaters, jackets, sleepwear, dresses, skirts, leggings and tights; outerwear, namely, coats; Halloween costumes, children's costumes for use in dress up play, all tied to, and offered to promote, a children's television program in class 025.
5,697,575	MIRACULOUS	Mar. 12, 2019	For: Electronic publications, namely, downloadable electronic materials in the nature of books, magazines, newsletters, and periodicals all featuring family and kids entertainment content in class 009.
5,753,187	ZAG HEROEZ	May 14, 2019	For: Digital media, namely, DVD's, sound recordings, audiovisual recordings and pre-recorded electronic media featuring television programs featuring family and kids entertainment content; audio accessories namely, wireless and wired headsets; computer software, namely, mobile application software and mobile game software for games for kids based on animated television series; downloadable media, namely, downloadable audiovisual recordings featuring family and kids entertainment content; electronic publications, namely, downloadable electronic materials in the nature of books,

			magazines, newsletters, cartoons and periodicals all featuring family and kids entertainment content in class 009. For: Toys, namely, action figures and accessories therefor; action role play toys in the nature of play sets for children, namely, gear and accessories used by characters in television series, namely, toy weapons, toy jewelry, and children's dress-up accessories; toy vehicles; dolls; roll play costumes, namely, costume masks; puzzles; plush toys in class 028. For: Entertainment services, namely, ongoing television programs in the field of family and kids entertainment, animated cartoons, a continuing animated episode broadcast over television, satellite, audio and video media, a continuing comedy show broadcast over television, satellite, audio and video media, ongoing series featuring family and kids entertainment content provided through cable television, satellite, the internet and webcasts in class 041.
6,222,079	MIRACULOUS	Dec. 15, 2020	For: Books, namely, novels, a series of fiction chapter books, namely, novels and books; story books; picture books; novelty books for children featuring characters from television series in class 016.
6,231,925	MIRACULOUS CRUSH	Dec. 29, 2020	For: Downloadable computer application software for mobile

			phones, portable media players, handheld computers, tablets, namely, mobile application software featuring kids' games for use on mobile devices; downloadable electronic game software for handheld electronic devices; interactive downloadable video game programs and downloadable computer game programs; computer software, namely, downloadable mobile application software and downloadable mobile game software for mobile phones, portable media players, handheld computers, tablets, namely, software for games for kids based on animated television series in class 009.
6,428,485	MIRACULOUS	Jul. 20, 2021	For: Clothing, namely, fashion tops; outerwear, namely, rain wear; clothing accessories, namely, hats, socks, scarves; winter wear, namely, gloves; children's footwear, namely, athletic shoes, slippers, all tied to, and offered to promote, a children's television program in class 025.
6,502,541	ZAG HEROEZ	Sep. 28, 2021	For: Digital media, namely, DVD's, sound recordings, audiovisual recordings and pre-recorded electronic media featuring music and motion pictures featuring family and kids entertainment content; handheld electronic diaries, MP3 players, ear buds, wireless and corded speakers; computer accessories, namely, mobile device covers and cases, chargers, electronic game software for handheld electronic devices; downloadable media, namely,

			downloadable audiovisual recordings featuring family and kids entertainment content in class 009. For: Collector dolls; children's multiple activity toys; decorative room toys, namely, play mats for the purpose of putting together puzzles, playing card game accessories, namely, mats for use in connection with playing card games; card games; outdoor activity toys, namely, skateboards, inflatable pool toys; balloons; paper party favors in class 028. For: Entertainment services, namely, provision of continuing programs, segments, movies, and shows featuring family and kids entertainment content delivered by television, satellite, and the internet, providing ongoing webisodes featuring family and kids entertainment content via a global computer network, and provision of non-downloadable films and movies via a video-on-demand service in class 041.
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13. The above U.S. registrations for the Miraculous Trademarks are valid, subsisting, and in full force and effect. The registrations for the Miraculous Trademarks constitute *prima facie* evidence of their validity and of Plaintiff's exclusive right to use the Miraculous Trademarks pursuant to 15 U.S.C. § 1057(b). True and correct copies of the United States Registration Certificates for the Miraculous Trademarks are attached hereto as **Exhibit 1**.

14. The Miraculous Trademarks are exclusive to Plaintiff and are displayed extensively on Miraculous Products and in marketing and promotional materials. The Miraculous Trademarks are also distinctive when applied to Miraculous 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 Miraculous Trademarks are manufactured to the highest quality standards.

15. The Miraculous 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 the Miraculous Series, in addition to the marketing of Miraculous Products, has enabled the Miraculous Brand to achieve widespread recognition and fame and has made the Miraculous Trademarks some of the most well-known marks in the entertainment industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Miraculous Brand have made the Miraculous Trademarks valuable assets of Plaintiff.

16. Products bearing the Miraculous Trademarks have been the subject of substantial and continuous marketing and promotion. Plaintiff has marketed and promoted, and continues to market and promote, the Miraculous Trademarks in the industry and to consumers through authorized retailers in Illinois such as Target, Kohls, and Walmart; through Plaintiff's official Amazon store; and through the official zag-store.com website.

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

associated by consumers as being high-quality products sourced from Plaintiff or Plaintiff's licensees. The Miraculous Trademarks have achieved tremendous fame and recognition, adding to the inherent distinctiveness of the marks. As such, the goodwill associated with the Miraculous Trademarks is of immeasurable value to Plaintiff.

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

19. 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).

20. 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

21. The success of the Miraculous Series has resulted in significant counterfeiting of the Miraculous Trademarks. 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 Alibaba Group Holding Ltd. (“Alibaba”), AliExpress.com (“AliExpress”), Amazon.com, Inc. (“Amazon”), DHgate.com (“DHgate”), eBay, Inc. (“eBay”), ecrater.com (“eCRATER”), Etsy, Inc. (“Etsy”), Pixels.com, LLC d/b/a Fine Art America (“Fine Art America”) and Pixels.com (“Pixels”), SIA Joom (“Joom”), Visor Commerce Ltd. d/b/a OnBuy.com (“Onbuy”), Printerval.com (“Printerval”), Qoo10 Pte. Ltd. (“Qoo10”), Whaleco Inc. d/b/a Temu.com (“Temu”), 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**).

22. 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.*

23. 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.

24. 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.

25. 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 Miraculous Trademarks, and none of the Defendants are authorized retailers of Miraculous Products.

26. Many Defendants also deceive unknowing consumers by using the Miraculous 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 Miraculous Products. Other e-commerce stores operating under the Seller Aliases omit using the Miraculous 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 Miraculous Products.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

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

33. Defendants' unauthorized use of the Miraculous 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 Plaintiff.

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

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

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

36. 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 Miraculous Trademarks without Plaintiff's permission.

37. Plaintiff is the owner of the Miraculous Trademarks. Plaintiff's United States registrations for the Miraculous Trademarks are in full force and effect. Upon information and belief, Defendants have knowledge of Plaintiff's rights in the Miraculous Trademarks and are willfully infringing and intentionally using infringing and counterfeit versions of the Miraculous Trademarks. Defendants' willful, intentional, and unauthorized use of the Miraculous 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.

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

39. 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 Miraculous Trademarks.

40. 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 sale of Unauthorized Products.

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

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

42. 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.

43. By using the Miraculous 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.

44. 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.

45. Plaintiff has no remedy at law and will continue to suffer irreparable harm to its reputation and the associated goodwill of the Miraculous 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 Miraculous 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 Miraculous Product or is not authorized by Plaintiff to be sold in connection with the Miraculous Trademarks;
- b. passing off, inducing, or enabling others to sell or pass off any product as a Miraculous 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 Miraculous 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 Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
- d. further infringing the Miraculous Trademarks 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 Miraculous Trademarks;

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 such as Alibaba, AliExpress, Amazon, DHgate, eBay, eCRATER, Etsy, Fine Art America and Pixels, Joom, Onbuy, Printerval, Qoo10, Temu, 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 Miraculous Trademarks;

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 Miraculous 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 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 Miraculous Trademarks;
- 5) That Plaintiff be awarded its reasonable attorneys' fees and costs; and
- 6) Award any and all other relief that this Court deems just and proper.

Dated this 24th day of May 2023.

Respectfully submitted,

/s/ Martin F. Trainor
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