

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

SUGARTOWN WORLDWIDE LLC,

Plaintiff,

v.

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

Defendants.

Case No. 23-cv-15906

COMPLAINT

Plaintiff Sugartown Worldwide LLC (“Lilly Pulitzer” 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 the claims in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, the Copyright Act 17 U.S.C. § 501, *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 since each of the Defendants directly targets business activities toward consumers in the United States, including Illinois, through at least the fully interactive e-commerce stores¹ operating under the seller aliases identified in 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

¹ The e-commerce store urls are listed on Schedule A hereto under the Online Marketplaces.

consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and/or funds from U.S. bank accounts, and, on information and belief, have sold products using infringing and counterfeit versions of Plaintiff's federally registered trademarks and/or unauthorized copies of Plaintiff's federally registered copyrighted works 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 Sugartown Worldwide LLC is a subsidiary of Oxford Industries, Inc., which specializes in high-end clothing and apparel. This action has been filed by Plaintiff to combat e-commerce store operators who trade upon Plaintiff's reputation and goodwill by selling and/or offering for sale unauthorized and unlicensed products using infringing and counterfeit versions of Plaintiff's federally registered trademarks and/or unauthorized copies of Plaintiff's federally registered copyrighted works (collectively, the "Unauthorized Plaintiff's Products"). The Defendants create e-commerce stores operating under one or more Seller Aliases that are advertising, offering for sale and selling Unauthorized Plaintiff's Products to unknowing consumers. E-commerce stores operating under the Seller Aliases share unique identifiers establishing a logical relationship between them and that Defendants' counterfeiting operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid and mitigate liability by operating under one or more Seller Aliases to conceal both their identities 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 and infringement of its registered copyrighted works, as well as to protect unknowing consumers from

purchasing Unauthorized Plaintiff's Products over the Internet. Plaintiff has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademarks and infringement of its copyrighted works as a result of Defendants' actions and seeks injunctive and monetary relief.

III. THE PARTIES

Plaintiff Lilly Pulitzer

4. Plaintiff Sugartown Worldwide LLC ("Lilly Pulitzer" or "Plaintiff") is a limited liability company organized and existing under the laws of the state of Delaware, having a place of business at 999 Peachtree Street, NE, Suite 688, Atlanta, Georgia 30309.

5. Lilly Pulitzer designs, markets, distributes, and sells upscale collections of women's and girl's dresses, sportswear and other products. Lilly Pulitzer was originally created in the late 1950's with a brand heritage and aesthetic based on the Palm Beach resort lifestyle.

6. For generations, Lilly Pulitzer has come to represent the resort lifestyle for women and girls of all ages. Lilly Pulitzer designs, manufactures, distributes, and sells a wide variety of products including clothing, jewelry, bags, and accessories (the "Plaintiff's Products"), all of which prominently display Lilly Pulitzer's federally registered trademarks and/or copyrighted works. Plaintiff's Products are renowned for their high quality and style and are identified and recognized using the Lilly Pulitzer name, copyrighted works, and trademarks.

7. Lilly Pulitzer incorporates a variety of distinctive marks in the design of its various Plaintiff's Products. As a result of its long-standing use, Lilly Pulitzer owns common law trademark rights in its trademarks. Plaintiff's Products typically include at least one of Lilly Pulitzer's registered trademarks. Often, several Lilly Pulitzer marks are displayed on a single product. Lilly Pulitzer uses its trademarks in connection with the marketing of its Plaintiff's

Products, including the following marks which are collectively referred to as the “Plaintiff’s Trademarks.”

REGISTRATION NUMBER	REGISTERED TRADEMARK
1,157,374 1,926,195 1,990,353 3,620,844 2,152,933 2,880,228 4,111,667	LILLY PULITZER (word mark)
3,612,987 3,686,521 3,841,879	
4,729,221	LUXLETIC (word mark)
5,768,102	BABY LILLY (word mark)
4,108,919	LITTLE LILLY (word mark)
5,765,823	
5,576,301	

8. The Plaintiff’s Trademarks have been used exclusively and continuously in the U.S. by Lilly Pulitzer and have never been abandoned. The above U.S. registrations for the Plaintiff’s Trademarks are valid, subsisting, and in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. True and correct copies of the federal trademark registration certificates for the above Plaintiff’s Trademarks are attached hereto as **Exhibit 1**. The registrations for the Plaintiff’s Trademarks constitute *prima facie* evidence of their validity and of Lilly Pulitzer’s exclusive right to use the Plaintiff’s Trademarks pursuant to 15 U.S.C. § 1057(b).

9. Lilly Pulitzer has registered many of its works with the United States Copyright Office (collectively, the “Plaintiff’s Copyrighted Works”), including the following:

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001365818	“Summer 2020 Jellies Coral (Shade Seekers)” April 22, 2019	
VAu001367263	“Summer 2020 404665 Reel Nauti” July 18, 2019	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001365610	“Big Leafy (It Was All A Dream)” April 22, 2019	
VAu001377612	“Fall 2020 Don’t Be Jelly” October 11, 2019	

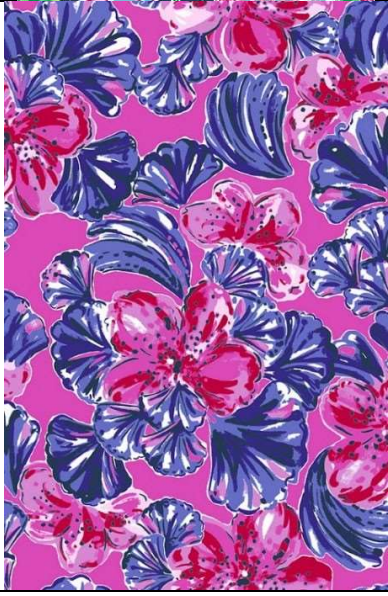
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit	
VAu001366045	“Fall 2020 Isle Be Back” July 19, 2019		
VAu001365850	“Fall 2020 Treasure Trove” July 19, 2019		

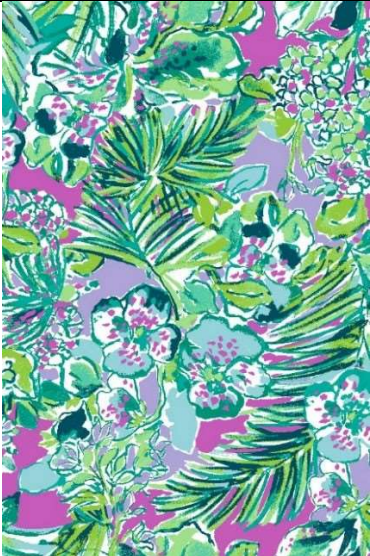
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001406985	“Fronds Place LP” June 2, 2020	 A repeating pattern of stylized tropical leaves in various shades of pink and magenta on a light background.
VAu001371821	“Spring 2020 903979 Peony For Your Thoughts” August 20,2019	 A dense, colorful floral pattern featuring large peonies in shades of pink, blue, and green, set against a dark blue background.
VAu001344300	“Spring 2020 Paradise Found” January 28, 2019	 A dense, colorful floral pattern featuring large hibiscus flowers in shades of pink, blue, and green, set against a light background.

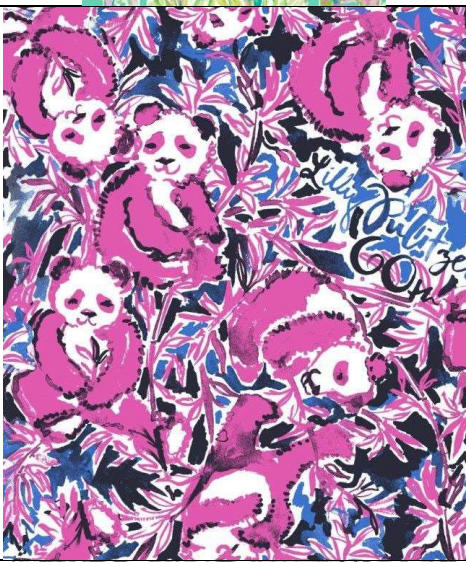
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001350130	“Spring 2020 Hip Nautic” January 28, 2019	
VAu001344291	“Spring 2020 Hanging Around” January 28, 2019	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001371912	“Spring 2020 904635 Honda Classic” September 13, 2019	
VAu001403483	“Keep On Beleafing” July 16, 2020	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001403227	“Seen and Herd Navy” July 16, 2020	
VAu001409815	“Bunny Business” August 18, 2020	
VAu001383950	“Spring 2021 Spotted On Worth” January 15, 2020	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001407147	"S21 Honda Classic" July 30, 2020	
VAu001432314	"In A Holiday" May 17, 2021	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001418220	“Keepin It Reel” January 6, 2021	
VAu001291556	“2018 Fall Initial Early Bloomer” September 1, 2017	

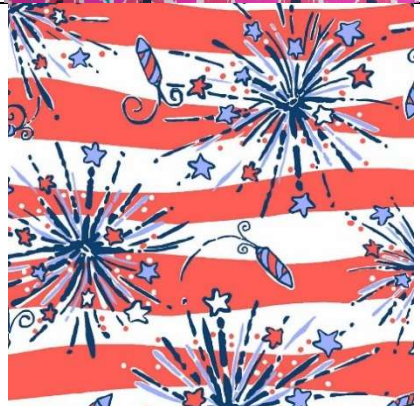
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001278809	“2018 Summer Initial On Parade” June 16, 2017	
VAu001301935	“2018 Resort Initial Hangin With My Boo” November 22, 2017	
VAu001311691	“Pottery Barn Lilly Pulitzer Organic Orchid Print for Duvet in Via Flora” November 27, 2017	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001315215	“2019 Spring Initial Koala Me Maybe” March 9,2018	
VAu001324447	“2019 Fall Initial Colorful Caravan (Colorful Camelflauge)” July 31, 2018	
VAu001324475	“2019 Fall Initial Mermaid in the Shade” July 31, 2018	

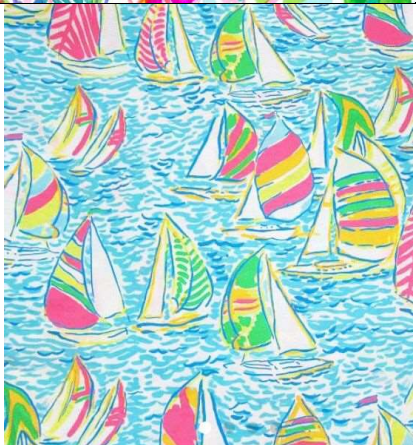
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001324434	“2019 Fall Initial Zanzibar Zoo” July 31, 2018	
VAu001033885	“Spring 2011 First Impression” August 2, 2010	
VAu001033885	“Spring 2011 Peel and Eat” August 2, 2010	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001103843	“Fall 2012 VV4 Tusk In Sun” May 9, 2012	
VAu001134491	“Resort 2013 EJ8 Lulu” May 15, 2013	
VAu001103576	“Resort 2012 AR3 Crown Jewels” May 7, 2012	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001134623	“Resort 2013 EK2 Feelin’ Groovy” May 15, 2013	
VAu001118082	“Summer 2013 DA8 Let’s Cha Cha Mini.” November 21, 2012	
VAu001201484	“2015 Resort Fall KS9 Toucan Play” February 13, 2015	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001212013	“2015 Resort LF9 Oh Shello” May 12, 2015	
VAu001125283	“Fall 2013 DS6 Hearts a Flutter” February 13, 2013	
VAu001118290	“Summer 2013 DQ7 She’s a Firecracker” November 21, 2012	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001142080	“Spring 2014 FE1 The Sea Soiree” August 15, 2013	
VAu001153371	“Summer 2014 GS1 Lobstah Roll” November 27, 2013	
VAu001153389	“Summer 2014 GK6 She She Shells” November 26, 2013	

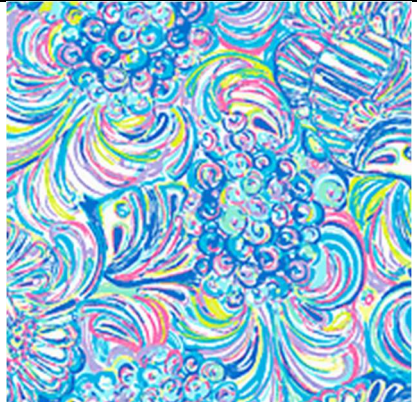
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001103512 VAu001103494	“Fall 2012 AAA Wild Confetti” “Fall 2012 SS6 Wild Confetti” May 9, 2012	
VAu001291278	“2018 Spring Final XP8 Catch the Wave” August 28, 2017	
VAu001090664	“Summer 2012 - Z14 You Gotta Regatta” November 29, 2011	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001134649	“Resort 2013 E16 Mai Tai” May 15, 2013	
VAu001232196	“2016 Resort Fall GM8 Jellies Be Jammin” August 13, 2015	
VAu001324373	“2019 Summer Initial Cracked Up” June 28, 2018	

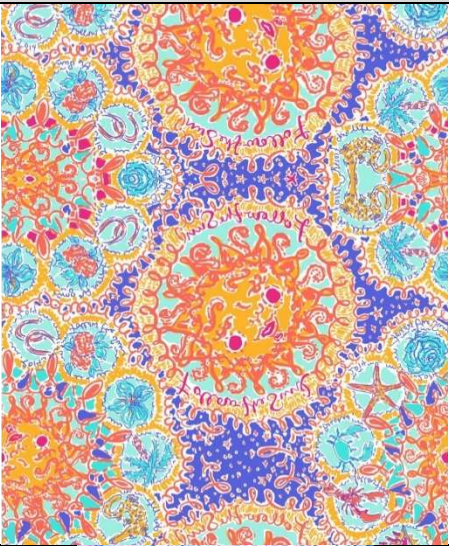
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001111221	“Spring 2013 BX1 Lucky Charms Blue Full Blossom” August 16, 2012	
VAu001232291	“2016 Resort Fall OG2 Exotic Garden” August 13, 2015	
VAu001189807	“Summer 2015 KB6 Red Right Return” November 13, 2014	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001271341	“2018 Spring Gumbo Limbo” March 6, 2017	
VAu001200718	“2016 Spring Initial MH3 Flamenco” March 11, 2015	
VAu001200364	“2016 Spring Initial MD6 La Playa” March 10, 2015	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001111219	“Spring 2013 CB9 Ice Cream Social” August 16, 2012	
VAu001157836	“Fall 2014 HC2 Electric Feel” February 24, 2014	
VAu001219943	“2016 Summer NJ7 Lovers Coral” June 12, 2015	

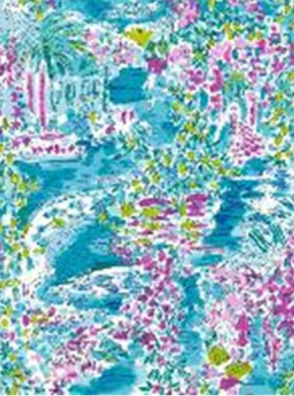
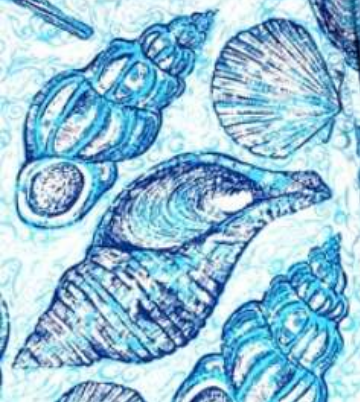
U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001125294	“Fall 2013 DY8 Bait and Switch” February 26, 2013	
VAu001189684	“Summer 2015 KD1 Casa Marina” November 13, 2014	
VAu001238224	“Spring 2017 Initial RI3 Guilty Pleasure” March 1, 2016	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001201471	“2015 Resort Fall KT7 Private Island” February 13, 2015	
VAu001308176	“2018 Fall Final BE1 Mermaid Cove Engineered Skipper Dress Border” February 23, 2018	
VAu001238724	“2016 Resort Fall OE9 Psychedelic Sunshine” February 18, 2016	

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit	
VAu001134489	“Resort 2013 FD8 Written in the Sun” May 15, 2013		
VAu001315214	“2019 Spring Initial Kaleidoscope Coral” March 9, 2018		
VAu001315218	“2019 Spring Initial Maybe Gator” March 9, 2018		

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit	
VAu001301910	“2018 Resort Initial Half Shell” November 22, 2017		
VAu001315632	“2019 Spring Initial Sway This Way” March 9, 2018		
VAu001301968	“2018 Resort Initial Zest For Life” November 22, 2017		

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit	
VAu001330726	“2019 Spring Final 101378 Call My Shell Phone Engineered Swim One Piece Front” August 16, 2018		
VAu001330730	“2019 Spring Final 101379 Call My Shell Phone Engineered Swim Bikini Bottom” August 16, 2018		
VAu001315624	“2019 Spring Initial Sway This Way Engineered Swim” March 9, 2018		

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit	
VAu001329738	“2019 Spring Final 401975 Sway This Way Engineered Tote” August 16, 2018		
VAu001298817	“2018 Resort Initial Postcard From Positano” November 22, 2017		
VAu00988604	“Lilly Pulitzer Resort 2009 Stuffed Shells” January 7, 2009		
VAu001232261	“2016 Resort Fall OF9 Island Time” August 13, 2015		

U.S. Copyright Registration No.	Work Title and Issue Date	Image Deposit
VAu001255489	“2016 Resort PE7 Safari Sighted” May 27, 2016	
VAu001103578	“Resort 2012 AR6 Moving Slowly” May 7, 2012	
VAu001371531	“Spring 2020 903625 In Full Bloom” October 4, 2019	

True and correct copies of the U.S. federal copyright registration certificates and U.S. Copyright Office registration information for the above-referenced Plaintiff's Copyrighted Works are attached hereto as **Exhibit 2**.

10. Among the exclusive rights granted to Lilly Pulitzer under the U.S. Copyright Act are the exclusive rights to reproduce, prepare derivative works of, distribute copies of, and display the Plaintiff's Copyrighted Works to the public.

11. Plaintiff's Trademarks and Plaintiff's Copyrighted Works are exclusive to Plaintiff, and are displayed extensively on Plaintiff's Products and in Plaintiff's marketing and promotional materials. Plaintiff's Products have long been among the most popular products in the world and have been extensively promoted and advertised at great expense. In fact, Plaintiff has expended millions of dollars annually in advertising, promoting and marketing featuring its Plaintiff's Trademarks and/or Plaintiff's Copyrighted Works. Plaintiff's Products have also been the subject of extensive unsolicited publicity resulting from their high quality and popularity. Because of these and other factors, Plaintiff's brand and the Plaintiff's Trademarks have become famous throughout the United States.

12. Plaintiff's Trademarks are distinctive when applied to Plaintiff's Products, signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff's quality standards. Whether Plaintiff manufactures the products itself or licenses others to do so, Plaintiff has ensured that products bearing its trademarks are manufactured to the highest quality standards.

13. Plaintiff has expended substantial time, money, and other resources in developing, advertising and otherwise promoting Plaintiff's Trademarks and Plaintiff's Copyrighted Works. As a result, Plaintiff's Products bearing Plaintiff's Trademarks and/or Plaintiff's Copyrighted Works are widely recognized and exclusively associated by consumers, the public, and the trade as being products sourced from Plaintiff. Plaintiff's Trademarks have achieved tremendous fame and recognition over the years, which has only added to the distinctiveness of the marks. As such, the goodwill associated with Plaintiff's Trademarks is of incalculable and inestimable value to Plaintiff.

14. For years, Plaintiff has operated an e-commerce website where it promotes and sells genuine Plaintiff's Products at lillypulitzer.com. Sales of Plaintiff's Products via its lillypulitzer.com website represent a significant portion of Plaintiff's business. The lillypulitzer.com website features proprietary content, images and designs exclusive to Plaintiff.

The Defendants

15. Defendants are individuals and business entities of unknown makeup who own and/or operate one or more of the e-commerce stores under at least the Seller Aliases identified on Schedule A and/or other seller aliases not yet known to Plaintiff. Upon information and belief, Defendants reside and/or operate in the People's Republic of China or other foreign jurisdictions with lax trademark enforcement systems, or redistribute products from the same or similar sources in those locations. Defendants have the capacity to be sued pursuant to Federal Rule 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 Plaintiff's brand has resulted in significant counterfeiting of Plaintiff's Trademarks and copying of Plaintiff's Copyrighted Works. In recent years, Plaintiff has identified many fully interactive, e-commerce stores offering counterfeit Plaintiff Products on online marketplace platforms such as Amazon, eBay, AliExpress, Alibaba, Wish.com, Walmart,

Etsy, Temu, and DHgate, 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 U.S. Customs and Border Protection (CBP) report, in 2021, CBP made over 27,000 seizures of goods with intellectual property rights (IPR) violations totaling over \$3.3 billion, an increase of \$2.0 billion from 2020 *Intellectual Property Rights Seizure Statistics, Fiscal Year 2021*, U.S. Customs and Border Protection (**Exhibit 3**). Of the 27,000 in total IPR seizures, over 24,000 came through international mail and express courier services (as opposed to containers), most of which originated from China and Hong Kong *Id.*

18. Third party service providers 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 4**, 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 5** and finding that on “at least some e-commerce platforms, little identifying information is necessary for a counterfeiter to begin selling” and recommending that “[s]ignificantly enhanced vetting of third-party sellers” is necessary. Counterfeiters hedge against the risk of being caught and having their websites taken down from an e-commerce platform by preemptively establishing multiple virtual store-fronts. **Exhibit 5** 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 5** 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 4** at 186–187.

19. 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/or funds from U.S. bank accounts, and, on information and belief, have sold Unauthorized Plaintiff’s Products to residents of Illinois.

20. Defendants concurrently employ and benefit from substantially 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 and/or funds from U.S. bank accounts, 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 such stores from an authorized retailer. Plaintiff has not licensed or authorized Defendants to use any of Plaintiff’s Trademarks or copy or distribute any of Plaintiff’s Copyrighted Works, and none of the Defendants are authorized retailers of genuine Plaintiff’s Products.

21. Many Defendants also deceive unknowing consumers by using Plaintiff’s Trademarks without authorization within the content, text, and/or meta tags of their e-commerce stores to attract various search engines crawling the Internet looking for websites relevant to consumer searches for Plaintiff’s Products. Other e-commerce stores operating under Seller Aliases omit using Plaintiff’s 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 Plaintiff's Products.

22. 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.

23. E-commerce store operators like Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Unauthorized Plaintiff's 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.

24. 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 any 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 notable common features such as use of the same 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 Plaintiff's Products for sale by the Seller Aliases bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Unauthorized Plaintiff's Products were manufactured by and come from a common source and that Defendants are interrelated.

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

26. Counterfeiters such as Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation in spite of Plaintiff's enforcement. E-commerce store operators like Defendants maintain off-shore bank accounts and regularly move funds from their financial accounts to off-shore accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to Plaintiff. Indeed, analysis of financial account transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

27. Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell Unauthorized Plaintiff's 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 Plaintiff's Trademarks and/or copies of Plaintiff's Copyrighted Works in connection with the advertisement, distribution, offering for sale, and sale of Unauthorized Plaintiff's Products into the United States and Illinois over the Internet.

28. Defendants' unauthorized use of Plaintiff's Trademarks and/or copies of the Plaintiff's Copyrighted Works in connection with the advertising, distribution, offering for sale, and sale of Unauthorized Plaintiff's Products, including the sale of Unauthorized Plaintiff's

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)

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

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

31. 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 Plaintiff's Trademarks without Plaintiff's permission.

32. Plaintiff is the exclusive owner of the Plaintiff's Trademarks. Plaintiff's United States Registrations for its Plaintiff's Trademarks (Exhibit 1) are in full force and effect. On information and belief, Defendants have knowledge of Plaintiff's rights in Plaintiff's Trademarks, and are willfully infringing and intentionally using counterfeits of one or more of Plaintiff's Trademarks. Defendants' willful, intentional and unauthorized use of Plaintiff's Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Unauthorized Plaintiff's Products among the general public.

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

34. 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 Plaintiff's Trademarks.

35. The injuries and damages sustained by Plaintiff have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of Unauthorized Plaintiff's Products.

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

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

37. Defendants' promotion, marketing, offering for sale, and sale of Unauthorized Plaintiff's 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 Plaintiff's Products by Plaintiff.

38. By using Plaintiff's Trademarks on the Unauthorized Plaintiff's Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Unauthorized Plaintiff's Products.

39. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Unauthorized Plaintiff's 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.

40. 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 associated goodwill of Plaintiff's brand.

COUNT III
COPYRIGHT INFRINGEMENT OF UNITED STATES COPYRIGHT
REGISTRATIONS (17 U.S.C. §§ 106 AND 501)

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

42. Plaintiff is the owner of valid and enforceable Plaintiff's Copyrighted Works, which contain certain copyrightable subject matter under 17 U.S.C. §§ 101, *et seq.*

43. Plaintiff has complied with the registration requirements of 17 U.S.C. § 411(a) for the Plaintiff's Copyrighted Works and has obtained copyright registrations for the Plaintiff's Copyrighted Works.

44. Defendants do not have any ownership interest in the Plaintiff's Copyrighted Works. Defendants had access to the Plaintiff's Copyrighted Works via the internet.

45. Without authorization from Plaintiff, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced and/or made derivative works incorporating Plaintiff's Copyrighted Works on the e-commerce stores and the corresponding Unauthorized Plaintiff's Products. Defendants' derivative works are virtually identical to and/or are substantially similar to the look and feel of Plaintiff's Copyrighted Works. Such conduct infringes and continues to infringe Plaintiff's Copyrighted Works in violation of 17 U.S.C. § 501(a) and 17 U.S.C. §§ 106(1)–(3), (5).

46. Defendants reap the benefits of the unauthorized copying and distribution of Plaintiff's Copyrighted Works in the form of revenue and other profits that are driven by the sale of Unauthorized Plaintiff's Products.

47. The Defendants have unlawfully appropriated Plaintiff's protectable expression by taking material of substance and value and creating Unauthorized Plaintiff's Products that capture the total concept and feel of Plaintiff's Copyrighted Works.

48. On information and belief, the Defendants' infringement has been willful, intentional, and purposeful, and in disregard of and with indifference to, Plaintiff's rights.

49. The Defendants, by their actions, have damaged Plaintiff in an amount to be determined at trial.

50. Defendants' conduct is causing, and unless enjoined and restrained by this Court will continue to cause Plaintiff great and irreparable injury that cannot fully be compensated or measured in money. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a preliminary and permanent injunction prohibiting further infringement of the Plaintiff's Copyrighted Works.

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 Plaintiff's 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 genuine Plaintiff's Product or is not authorized by Plaintiff to be sold in connection with the Plaintiff's Trademarks;

- b. reproducing, distributing copies of, making derivative works of, or publicly displaying the Plaintiff's Copyrighted Works in any manner without the express authorization of Plaintiff;
 - c. passing off, inducing, or enabling others to sell or pass off any product as a genuine Plaintiff's 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 Plaintiff's Trademarks and/or the Plaintiff's Copyrighted Works;
 - d. committing any acts calculated to cause consumers to believe that Defendants' Unauthorized Plaintiff's Products are those sold under the authorization, control, or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
 - e. further infringing the Plaintiff's Trademarks and/or the Plaintiff's Copyrighted Works and damaging Plaintiff's goodwill; and
 - f. 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 any of Plaintiff's trademarks, including the Plaintiff's Trademarks, or any reproductions, counterfeit copies, or colorable imitations thereof and/or which bear the Plaintiff's Copyrighted Works;
- 2) Entry of an Order that, upon Plaintiff's request, those with notice of the injunction, including, without limitation, any online marketplace platforms such as eBay, AliExpress, Alibaba, Amazon, Wish.com, DHgate, Etsy, Temu, and Walmart (collectively, the "Third Party

Providers”) shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using Plaintiff’s Trademarks and/or which bear the Plaintiff’s Copyrighted Works;

- 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 Plaintiff’s 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 Plaintiff’s Trademarks;
- 5) As a direct and proximate result of Defendants’ infringement of the Plaintiff’s Copyrighted Works, Plaintiff is entitled to damages as well as Defendants’ profits, pursuant to 17 U.S.C. § 504(b);
- 6) Alternatively, and at Plaintiff’s election prior to any final judgment being entered, Plaintiff is entitled to the maximum amount of statutory damages provided by law, \$150,000 per work infringed pursuant to 17 U.S.C. § 504(c), or for any other such amount as may be proper pursuant to 17 U.S.C. § 504(c);
- 7) Plaintiff is further entitled to recover its attorneys’ fees and full costs for bringing this action pursuant to 17 U.S.C. § 505 and 17 U.S.C. § 1117(a); and
- 8) Award any and all other relief that this Court deems just and proper.

Dated this 13th day of November 2023.

Respectfully submitted,

/s/ Justin R. Gaudio

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