

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

**WIESNER HEALTHCARE
INNOVATION LLC,**

Plaintiff,

v.

**The Individuals, Corporations, Limited
Liability Companies, Partnerships, and
Unincorporated Associates Identified on
Schedule A,**

Defendants.

Case No. 1:24-cv-7124

JURY TRIAL DEMANDED

VERIFIED COMPLAINT

Plaintiff Wiesner Healthcare Innovation LLC (“Plaintiff”) hereby brings the present action against all Individuals, Corporations, Limited Liability Companies, Partnerships, and Unincorporated Associates Identified on Schedule A (collectively, “Defendants”), attached hereto, as follows:

I. JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over Plaintiff’s claims pursuant to the provisions of the Patent Act, 35 U.S.C. § 1 et seq., the Lanham Act, 15 U.S.C. § 1051, et seq., 28 U.S.C. § 1338(a)-(b) (exclusive patent claim jurisdiction), and 28 U.S.C. § 1331 (original federal question jurisdiction).

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 which infringe Plaintiff’s patented inventions, as described below, to residents of Illinois. In addition, on information and belief, Defendants 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 infringe upon Plaintiff’s patented invention 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’ infringing 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 infringing operation. Plaintiff is forced to file this action to combat Defendants’ infringing of its patented invention,

[illegible]

9. The [REDACTED] Patent issued on [REDACTED]. See **Exhibit 1.**
10. The [REDACTED] Patent was and is valid and enforceable at all times relevant to this action and is entitled to a presumption of validity under 35. U.S.C. § 282.
11. Claim 1 of the [REDACTED] Patent reads

A series of horizontal black bars of varying lengths, representing redacted text. The bars are stacked vertically, with some having significant leading space. The lengths vary, with some bars spanning most of the width of the page and others being much shorter. The bars are solid black and have uniform thickness.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. See Exhibit 1.

12. The [REDACTED] Patent issued on [REDACTED]. See Exhibit 1.

13. The [REDACTED] Patent was and is valid and enforceable at all times relevant to this action and is entitled to a presumption of validity under 35. U.S.C. § 282.

14. Claim 1 of the [REDACTED] Patent reads:

[illegible]

[REDACTED]
[REDACTED]. See Exhibit 1.

15. Plaintiff researches, develops, and patents ground-breaking inventions and advancements in the fields of [REDACTED]. Specifically, Plaintiff has developed a [REDACTED] product used [REDACTED]
[REDACTED]. Plaintiff's invention is [REDACTED] than its competitor's products, making Plaintiff's invention ideal for [REDACTED]. This improvement in [REDACTED] technology has led to Plaintiff filing for and having been issued numerous patents, including Plaintiff's Patents that are at issue in this matter. Plaintiff's product, which embodies Plaintiff's Patents, under the name "[REDACTED]" ("Plaintiff's Product"), exclusively through its website ([REDACTED]). Plaintiff's Product is an [REDACTED]
[REDACTED]
[REDACTED].

16. Plaintiff provides notice of its patent rights directly on the packaging of all of Plaintiff's Products. True and correct copies of the packaging for Plaintiff's Products, with the notice of patent rights marked, are attached hereto as Exhibit 2. See Figure 1.

17. On Plaintiff's website, [REDACTED], Plaintiff lists each of Plaintiff's Patents, and includes the patent numbers directly underneath the product image to indicate which patents the product embodies. See Exhibit 2 and Figures 2 and 3.

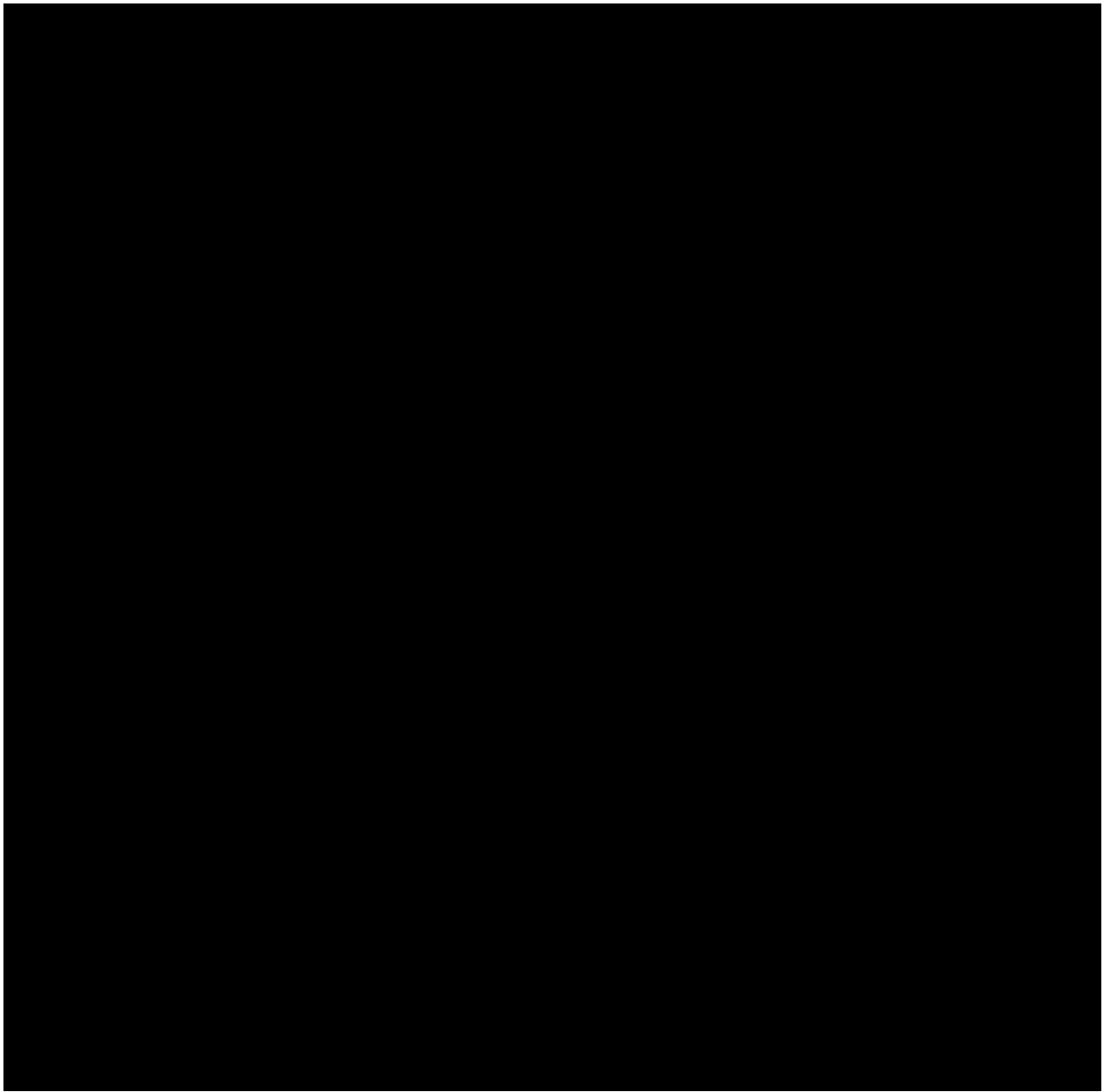


Figure 2 Plaintiff's Website



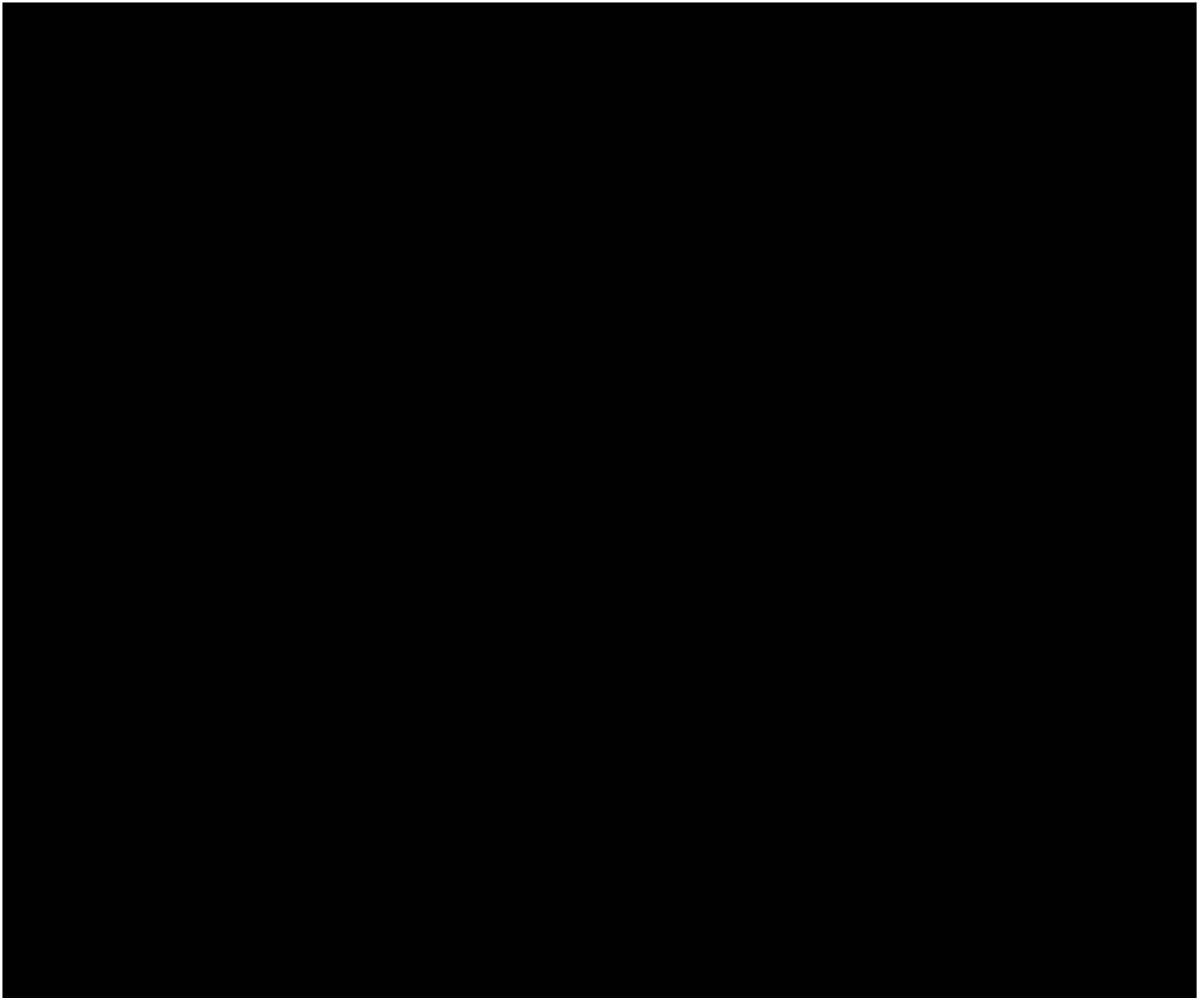


Figure 3 Plaintiff's Website [REDACTED]

18. Plaintiff is also the lawful owner of US Trademark Registration No. [REDACTED] ("Plaintiff's Trademark"), attached as **Exhibit 3**, and shown below.

Registration Number	Trademark	Registration Date	Goods and Services
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

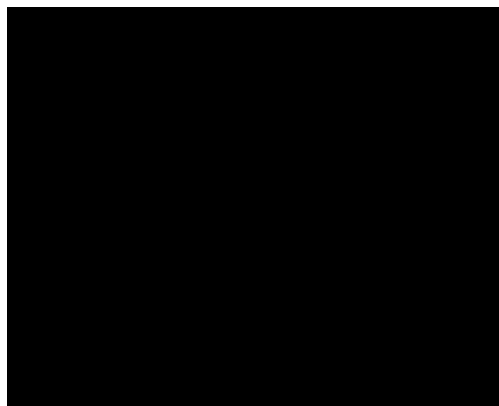
19. Plaintiff's Trademark, shown below, consists of an illustration drawing of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. See **Exhibit 3**. Plaintiff has used its trademark to advertise and continuously sell its product since [REDACTED]. Accordingly, Plaintiff has amassed substantial common law trademark rights, and good will in its trademark.



Plaintiff's Trademark

20. The above U.S. registrations for Plaintiff's Trademark is valid, subsisting, and in full force and effect. The registration for the Plaintiff's Trademark constitutes prima facie

evidence of its validity and of Plaintiff's exclusive right to use the Plaintiff's Trademark pursuant to 15 U.S.C. § 1057(b). A true and correct copy of the United States Registration Certificates for the Plaintiff's Trademark is included in **Exhibit 3**.

21. The Plaintiff's Trademark is exclusive to Plaintiff and is displayed extensively to advertise, market, and promote the design and shape of Plaintiff's Product. The Plaintiff's Trademark is also distinctive when applied to Plaintiff's Product, signifying to the purchaser that the product is exclusively Plaintiff's, or its licensees, and is manufactured to Plaintiff's quality standards. Whether Plaintiff manufactures the product itself or contracts with others to do so, Plaintiff has ensured that all products advertised with the Plaintiff's Trademark are manufactured to the highest quality standards.

22. The Plaintiff's Trademark has been continuously used and never abandoned. The success of the Plaintiff's product, in addition to the marketing of Plaintiff's Product, has enabled the Plaintiff's Brand and product design to achieve widespread recognition and has made the Plaintiff's Trademark one of the most well-known marks in the [REDACTED] industry. The outstanding reputation and significant goodwill associated with the Plaintiff's Brand and product design have made the Plaintiff's Trademark a valuable asset of Plaintiff.

23. Products advertised with the Plaintiff's Trademark have been the subject of substantial and continuous marketing and promotion. Plaintiff has marketed and promoted, and continues to market and promote, the Plaintiff's Trademark in the industry and to consumers through Plaintiff's website.

24. Plaintiff has expended substantial time, money, and other resources advertising, promoting, and marketing Plaintiff's Products. Plaintiff's Products have also been the subject of extensive unsolicited publicity due to the longstanding success of the Plaintiff's Brand. As a

result, products that are advertised with the Plaintiff's Trademark are widely recognized and exclusively associated by consumers as being high-quality products sourced from Plaintiff or Plaintiff's licensees. The Plaintiff's Trademark has achieved tremendous fame and recognition as the [REDACTED] on the market, adding to the inherent distinctiveness of the mark. As such, the goodwill associated with the Plaintiff's Trademark is of immeasurable value to Plaintiff.

25. Plaintiff's Product is sold only by Plaintiff or through authorized licensees and are recognized by the public as being exclusively associated with the Plaintiff's Brand.

26. 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 infringing network. If Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

27. The success of the Plaintiff's Products has resulted in significant infringement of Plaintiff's Patents and Trademark. Because of this, Plaintiff has implemented an anti-infringement 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 Amazon.com, Inc. ("Amazon"), eBay, Inc. ("eBay"), WhaleCo, Inc., ("Temu"), and Walmart, Inc. ("Walmart"), including the e-commerce stores operating under the Seller Aliases.

True and correct copies of the screenshot printouts showing the active e-commerce stores operating under the Seller Aliases reviewed are attached as **Exhibit 4**.

28. 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 infringers. *The Counterfeit Silk Road: Impact of Counterfeit Consumer Products Smuggled Into the United States*, prepared by John Dunham & Associates (**Exhibit 5**).

29. Because counterfeit products sold by offshore online counterfeiters do not enter normal retail distribution channels, the U.S. 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.*

30. 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 6**, 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 7**, 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 7** 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 7** 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 6** 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.

31. The very same concerns regarding anonymity, multi-storefront infringers, and slow and ineffective notice and takedown marketplace procedures impact Plaintiff’s enforcement efforts when trying to assert its own patent rights.

32. 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.

33. 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 use of Plaintiff's Patents or Trademark, and none of the Defendants are authorized retailers of Plaintiff's Product.

34. 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.

35. 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 infringing operation, and to avoid being shut down.

36. 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 infringing or counterfeit to one another, suggesting that the Unauthorized Products were manufactured by and come from a common source and that Defendants are interrelated.

37. E-commerce store operators like Defendants communicate with each other through QQ.com chat rooms and utilize websites, like sellerdefense.cn, that provide tactics for operating multiple online marketplace accounts and evading detection by intellectual property owners. Websites like sellerdefense.cn also tip off e-commerce store operators like Defendants of new intellectual property infringement lawsuits filed by intellectual property 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.

38. Infringers and 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.

39. 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 infringed Plaintiff's Patents and Trademark in connection with the use and/or manufacturing of Unauthorized Products and distribution, offering for sale, and sale of Unauthorized Products into the United States and Illinois over the Internet.

40. Defendants' unauthorized use and/or manufacturing of the invention claimed in Plaintiff's Patents and Trademark in connection with the advertising, distribution, offering for sale, and sale of Unauthorized Products, including the sale of Unauthorized Products into the United States, including Illinois, is likely to cause, and has caused, loss of market share and erosion of Plaintiff's patent rights, as well as confusion, mistake, and deception by and among consumers regarding Plaintiff's Trademark and is irreparably harming Plaintiff.

COUNT I
PATENT INFRINGEMENT (15 U.S.C. § 271) – THE [REDACTED] PATENT

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

42. As shown, Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell infringing 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 offered for sale, sold, and/or imported into the United States for subsequent resale or use the same product that infringes directly and/or indirectly the [REDACTED] Patent.

43. As shown in the exemplary claim charts attached hereto as **Exhibit 8**, the products being sold by Defendants infringes at least Claim 1 of the [REDACTED] Patent. The claim charts of **Exhibit 8** are illustrative only and are made without the benefit of discovery or claim construction, and Plaintiff reserves the right to modify its infringement theory as appropriate as

the case proceeds. Although the claim chart only includes Claim 1, Plaintiff alleges that Defendants have infringed each and every claim of the [REDACTED] Patent.

44. Specifically, Defendants have infringed and continue to infringe each and every claim of the [REDACTED] Patent by making, using, importing, selling, and/or offering to sell their infringing products in the United States without authorization or license from Plaintiff.

45. Defendants have profited by their infringement of the [REDACTED] Patent, and Plaintiff has suffered actual harm as a result of Defendants' infringement.

46. As a direct and proximate result of Defendants' infringement, Plaintiff has suffered irreparable harm and monetary and other damages in an amount to be determined. Defendants' infringement of the [REDACTED] Patent in connection with the offering to sell, selling, or importing of products that infringe the [REDACTED] Patent, including such acts into the State of Illinois, is irreparably harming Plaintiff. Defendants' wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing the patented inventions as well as the lost sales and loss of repeat sales stemming from the infringing acts.

47. Defendants' infringement has been and continues to be willful. Accordingly, Plaintiff is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under 35 U.S.C. § 285.

48. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283. Unless Defendants are preliminarily and permanently enjoined by this Court from continuing their infringement of the [REDACTED] Patent, Plaintiff will continue to suffer additional irreparable harm, including loss of market share and erosion of patent rights.

49. Plaintiff is entitled to recover damages adequate to compensate for the infringement, pursuant to 35 U.S.C. § 284, in no event less than a reasonable royalty.

COUNT II
PATENT INFRINGEMENT (15 U.S.C. § 271) – THE [REDACTED] PATENT

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

51. As shown, Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell infringing 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 offered for sale, sold, and/or imported into the United States for subsequent resale or use the same product that infringes directly and/or indirectly the [REDACTED] Patent.

52. The [REDACTED] embodied in Claim 1 of the [REDACTED] Patent is a representative claim similar to that of Claim 1 of the [REDACTED] Patent, such that infringement of Claim 1 of the [REDACTED] Patent would also infer direct infringement or infringement under the doctrine of equivalence of Claim 1 of the [REDACTED] Patent.

53. Thus, as shown in **Exhibit 8**, the products being sold by Defendants infringes at least Claim 1 of the [REDACTED] Patent. The claim charts of **Exhibit 8** are illustrative only and are made without the benefit of discovery or claim construction, and Plaintiff reserves the right to modify its infringement theory as appropriate as the case proceeds. Although the claim chart only includes Claim 1 of the [REDACTED] Patent, Plaintiff alleges that Defendants have also infringed on Claim 1 of the [REDACTED] Patent, given the similarities in the [REDACTED] embodied in both claims, and Defendants have infringed on each and every other claim of the [REDACTED] Patent.

54. Specifically, Defendants have infringed and continue to infringe each and every claim of the [REDACTED] Patent by making, using, importing, selling, and/or offering to sell their infringing products in the United States without authorization or license from Plaintiff.

55. Defendants have profited by their infringement of the [REDACTED] Patent, and Plaintiff has suffered actual harm as a result of Defendants' infringement.

56. As a direct and proximate result of Defendants' infringement, Plaintiff has suffered irreparable harm and monetary and other damages in an amount to be determined. Defendants' infringement of the [REDACTED] Patent in connection with the offering to sell, selling, or importing of products that infringe the [REDACTED] Patent, including such acts into the State of Illinois, is irreparably harming Plaintiff. Defendants' wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing the patented inventions as well as the lost sales and loss of repeat sales stemming from the infringing acts.

57. Defendants' infringement has been and continues to be willful. Accordingly, Plaintiff is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under 35 U.S.C. § 285.

58. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283. Unless Defendants are preliminarily and permanently enjoined by this Court from continuing their infringement of the [REDACTED] Patent, Plaintiff will continue to suffer additional irreparable harm, including loss of market share and erosion of patent rights.

59. Plaintiff is entitled to recover damages adequate to compensate for the infringement, pursuant to 35 U.S.C. § 284, in no event less than a reasonable royalty.

COUNT III
PATENT INFRINGEMENT (15 U.S.C. § 271) – THE [REDACTED] PATENT

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

61. As shown, Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell infringing 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 offered for sale, sold, and/or imported into the United States for subsequent resale or use the same product that infringes directly and/or indirectly the [REDACTED] Patent.

62. The [REDACTED] embodied in Claim 1 of the [REDACTED] Patent is a representative claim similar to that of Claim 1 of the [REDACTED] Patent, such that infringement of Claim 1 of the [REDACTED] Patent would also infer direct infringement or infringement under the doctrine of equivalence of Claim 1 of the [REDACTED] Patent.

63. Thus, as shown in Exhibit 8, the products being sold by Defendants infringes at least Claim 1 of the [REDACTED] Patent. The claim charts of Exhibit 8 are illustrative only and are made without the benefit of discovery or claim construction, and Plaintiff reserves the right to modify its infringement theory as appropriate as the case proceeds. Although the claim chart only includes Claim 1 of the [REDACTED] Patent, Plaintiff alleges that Defendants have also infringed on Claim 1 of the [REDACTED] Patent, given the similarities in the [REDACTED] embodied in both claims, and Defendants have infringed on each and every other claim of the [REDACTED] Patent.

64. Specifically, Defendants have infringed and continue to infringe each and every claim of the [REDACTED] Patent by making, using, importing, selling, and/or offering to sell their infringing products in the United States without authorization or license from Plaintiff.

65. Defendants have profited by their infringement of the [REDACTED] Patent, and Plaintiff has suffered actual harm as a result of Defendants' infringement.

66. As a direct and proximate result of Defendants' infringement, Plaintiff has suffered irreparable harm and monetary and other damages in an amount to be determined. Defendants' infringement of the [REDACTED] Patent in connection with the offering to sell, selling, or importing of products that infringe the [REDACTED] Patent, including such acts into the State of Illinois, is irreparably harming Plaintiff. Defendants' wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing the patented inventions as well as the lost sales and loss of repeat sales stemming from the infringing acts.

67. Defendants' infringement has been and continues to be willful. Accordingly, Plaintiff is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under 35 U.S.C. § 285.

68. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283. Unless Defendants are preliminarily and permanently enjoined by this Court from continuing their infringement of the [REDACTED] Patent, Plaintiff will continue to suffer additional irreparable harm, including loss of market share and erosion of patent rights.

69. Plaintiff is entitled to recover damages adequate to compensate for the infringement, pursuant to 35 U.S.C. § 284, in no event less than a reasonable royalty.

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

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

71. This count of trademark infringement by Defendants is based on their unauthorized use in commerce of counterfeit imitations and advertisements of the Plaintiff's Trademark in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The Plaintiff's Trademark is a highly distinctive mark. Consumers have come to expect the highest quality from Plaintiff's Product advertised or marketed with the Plaintiff's Trademark.

72. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and/or advertising products using counterfeit reproductions of the Plaintiff's Trademark without Plaintiff's permission.

73. Plaintiff is the owner of the Plaintiff's Trademark. Plaintiff's United States registrations for the Plaintiff's Trademark is in full force and effect. Upon information and belief, Defendants have knowledge of Plaintiff's rights in the Plaintiff's Trademark and are willfully infringing and intentionally using infringing and counterfeit versions of the Plaintiff's Trademark. Defendants' willful, intentional, and unauthorized use of the Plaintiff's Trademark is likely to cause, and is causing, confusion, mistake, and deception as to the origin and quality of the Unauthorized Products among the general public.

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

75. 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 Plaintiff's Trademark.

76. 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 V
FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

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

78. 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.

79. By using the Plaintiff's Trademark in connection with the offering for sale and/or sale of Unauthorized Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Unauthorized Products.

80. 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.

81. Plaintiff has no remedy at law and will continue to suffer irreparable harm to its reputation and the associated goodwill of the Plaintiff's 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. Making, using, offering for sale, selling and/or importing into the United States for subsequent sale or use any products that infringe upon Plaintiff's Patents; and
- b. Aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon Plaintiff's Patents.

2) 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 Trademark or any reproductions, counterfeit copies or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a Plaintiff's Product or is not authorized by Plaintiff to be sold in connection with the Plaintiff's Trademark;

- b. passing off, inducing, or enabling others to sell or pass off any product as a 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 Trademark;

- c. committing any acts calculated to cause consumers to believe that Defendants' Unauthorized Products are those sold under the authorization, control, or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;

- d. further infringing the Plaintiff's Trademark and damaging Plaintiff's goodwill; and

e. manufacturing, shipping, delivering, holding for sale, transferring, or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear the Plaintiff's Trademark;

3) 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 Amazon, eBay, Temu, and Walmart, shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit goods or goods that infringe Plaintiff's Patents or Trademark.

4) That Judgment be entered against Defendants finding that they have infringed upon Plaintiff's Patents.

5) That Judgment be entered against Defendants finding that infringement of Plaintiff's Patents has been willful.

6) That Plaintiff be awarded damages for such infringement in an amount to be proven at trial, in no event less than a reasonable royalty pursuant to 35 U.S.C. § 284, together with interests and costs.

7) That Plaintiff be awarded treble damages under 35 U.S.C. § 284 for Defendants' willful infringement of Plaintiff's Patents.

8) A finding that this case is exceptional under 35 U.S.C. § 285.

9) That Judgment be entered against Defendants finding that they have counterfeited upon the Plaintiff's Trademark in violation of 15 U.S.C. § 1114;

10) That Judgment be entered against Defendants finding that they have committed acts of false designation of origin in violation of 15 U.S.C. § 1125(a);

- 11) 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 Plaintiff's Trademark be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
- 12) 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 Plaintiff's Trademark;
- 13) That Plaintiff be awarded its reasonable attorneys' fees and costs.
- 14) Award any and all other relief that this Court deems just and proper.

JURY DEMAND

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

Dated: August 12, 2024

Respectfully submitted,

/s/Edward L. Bishop

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*Counsel for Plaintiff, Wiesner Healthcare
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VERIFICATION

I, Juan Felipe Velez, hereby certify as follows:

1. I am the founder and Chief Executive Officer for Wiesner Healthcare Innovation LLC. As such, I am authorized to make this Verification on Wiesner Healthcare Innovation 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 Medellin, Colombia on August 7, 2024

A handwritten signature in black ink, appearing to read 'JF Velez', is written over a horizontal line.

Juan Felipe Velez
CEO

Wiesner Healthcare Innovation LLC