

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.**

MPL COMMUNICATIONS LIMITED,

Plaintiff,

vs.

THE INDIVIDUALS, PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff, MPL Communications Limited¹ (“Plaintiff” or “MPL Communications”), hereby sues Defendants, the Individuals, Partnerships, and Unincorporated Associations Identified on Schedule “A” hereto (collectively “Defendants”). Defendants are promoting, selling, offering for sale and distributing goods bearing the unauthorized use of Paul McCartney’s image and likeness and counterfeits and confusingly similar imitations of Plaintiff’s trademarks within this district through various Internet based e-commerce stores and a fully interactive commercial Internet website operating under their seller identities and domain name set forth on Schedule “A” (the “Seller IDs and Subject Domain Name”). In support of its claims, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This is an action for federal trademark counterfeiting and infringement, false designation of origin, common law unfair competition, common law trademark infringement, and unauthorized publication of likeness pursuant to 15 U.S.C. §§ 1114, 1116, and 1125(a), The

¹ “MPL” stands for McCartney Productions Limited.

All Writs Act, 28 U.S.C. § 1651(a), and Florida Statute §540.08. Accordingly, this Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiff's state law claims because those claims are so related to the federal claims that they form part of the same case or controversy.

2. Defendants are subject to personal jurisdiction in this district, because they direct business activities toward and conduct business with consumers throughout the United States, including within the State of Florida and this district, through at least the Internet based e-commerce stores and fully interactive commercial Internet website accessible in Florida and operating under their Seller IDs and Subject Domain Name.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 since Defendants are, upon information and belief, aliens who are engaged in infringing activities and causing harm within this district by advertising, offering to sell, selling, and/or shipping unauthorized and infringing products into this district.

THE PLAINTIFF

4. Plaintiff, MPL Communications, is a limited company organized under the laws of the United Kingdom with its principal place of business located in London, United Kingdom. MPL Communications was founded by Paul McCartney to handle his business interests and post-Beatles work and is now considered one of the world's largest music publishers, owning an extensive range of material covering nearly 100 years of music. MPL Communications is engaged in the development, promotion, distribution, and sale in interstate commerce, throughout the United States, including within this district, of a variety of quality goods, using common law and federally registered trademarks, including but not limited to the Paul

McCartney trademarks as discussed in Paragraph 19 below, and Paul McCartney's image and likeness.

5. As a result of his enormous fame, Paul McCartney's image and likeness enjoys wide-spread recognition and monetary value. Paul McCartney has a substantial global and intergenerational fan base.

6. Plaintiff's unauthorized and infringing goods are advertised, offered for sale, and sold throughout the United States, the State of Florida, and this district. Defendants, through the sale and offer to sell unauthorized, counterfeit, and infringing versions of Paul McCartney branded products, are directly, and unfairly, competing with Plaintiff's economic interests in the State of Florida and causing Plaintiff harm within this jurisdiction.

7. Like many other famous trademark owners, Plaintiff suffers ongoing daily and sustained violations of its trademark rights at the hands of counterfeiters and infringers, such as Defendants herein, who wrongfully reproduce and counterfeit Plaintiff's trademarks for the twin purposes of (i) duping and confusing the consuming public and (ii) earning substantial profits across their e-commerce stores.

8. Plaintiff's goods featuring Paul McCartney's image and likeness are advertised, offered for sale, and sold throughout the United States, the State of Florida, and this district. Defendants, through the sale and offer to sell goods bearing unauthorized reproductions of Paul McCartney's image likeness, are directly, and unfairly competing with Plaintiff's economic interests in the state of Florida and causing harm within this jurisdiction.

9. Plaintiff suffers ongoing daily and sustained violations of its rights in Paul McCartney's image and likeness at the hands of those who, such as Defendants herein, wrongfully and without authorization use Paul McCartney's image and likeness in order to earn

substantial profits by benefitting from the world-wide fame and reputation that Paul McCartney has accrued over the course of his highly successful professional life.

10. In order to combat the indivisible harm caused by the combined actions of Defendants, Plaintiff expends significant resources in connection with enforcing its intellectual property rights. The exponential growth of counterfeiting over the Internet has created an environment that requires companies, such as Plaintiff, to expend significant time and money across a wide spectrum of efforts in order to protect both consumers and themselves from the ill effects of confusion and the erosion of the goodwill connected to Plaintiff's brand.

THE DEFENDANTS

11. Defendants are individuals and/or business entities of unknown makeup, each of whom, upon information and belief, likely either reside and/or operate in foreign jurisdictions, redistribute products from the same or similar sources in those locations, and/or ship their goods from the same or similar sources in those locations to shipping and fulfillment centers within the United States to redistribute their products from that location. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendants purposefully target their business activities toward consumers throughout the United States, including within this district, through the simultaneous operation of, at least, Internet based e-commerce stores via Internet marketplace websites under the Seller IDs or a fully interactive commercial Internet website under the Subject Domain Name.

12. Defendants are the past and present controlling forces behind the sale of products bearing and/or using counterfeits and infringements of Plaintiff's trademarks as described herein operating and using at least the Seller IDs and Subject Domain Name.

13. Defendants misappropriate Paul McCartney's image and likeness by advertising,

offering for sale, and selling goods bearing Paul McCartney's image and likeness without Plaintiff's authorization.

14. Defendants directly engage in unfair competition with Plaintiff by advertising, offering for sale, and selling goods, bearing counterfeits and infringements of one or more of Plaintiff's trademarks to consumers throughout the United States and this district through the Internet based e-commerce stores or commercial Internet website using, at least, the Seller IDs and Subject Domain Names, as well as additional names, e-commerce stores, seller identification aliases, domain names, or websites not yet known to Plaintiff. Defendants have purposefully directed some portion of their illegal activities towards consumers in the State of Florida through the advertisement, offer to sell, sale, and/or shipment of unauthorized, counterfeit, and infringing goods into the State.

15. Defendants have registered, established, used, or purchased, and maintained their Seller IDs and Subject Domain Name. Upon information and belief, Defendants may have engaged in fraudulent conduct with respect to the registration of the Seller IDs and Subject Domain Name by providing false and/or misleading information to the Internet based e-commerce platforms where they offer for sale and/or sell and to their domain registrar during the registration or maintenance process related to their respective Seller ID and Subject Domain Name. Upon information and belief, some Defendants have registered and/or maintained some of their Seller IDs and Subject Domain Name for the sole purpose of engaging in unlawful infringing and counterfeiting activities.

16. Defendants will likely continue to register or acquire new seller identification aliases and domain names for the purpose of selling and offering for sale goods bearing counterfeit and confusingly similar imitations of one or more of Plaintiff's trademarks and

unauthorized versions of Paul McCartney's image and likeness unless preliminarily and permanently enjoined.



17. Defendants use their Internet-based businesses to infringe and misappropriate the intellectual property rights of Plaintiff.

18. Defendants' business names, i.e., the Seller IDs and Subject Domain Name, associated payment accounts, and any other alias seller identification names and domain names used in connection with the sale of counterfeit and infringing goods bearing one or more of Plaintiff's trademarks and the unauthorized image and likeness of Paul McCartney are essential components of Defendants' online activities and are one of the means by which Defendants further their counterfeiting, infringing, and misappropriating scheme and cause harm to Plaintiff. Moreover, Defendants are using Plaintiff's famous name, trademarks, and Paul McCartney's image and likeness to drive Internet consumer traffic to their e-commerce stores or website operating under the Seller IDs and Subject Domain Name, thereby increasing the value of the Seller IDs and Subject Domain Name and decreasing the size and value of Plaintiff's legitimate marketplace at Plaintiff's expense.

COMMON FACTUAL ALLEGATIONS

Plaintiff's Business and Trademark Rights

19. Plaintiff is the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively, the "Paul McCartney Marks"):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
PAUL McCARTNEY	2,407,693	November 28, 2000	IC 025 – Articles of outer clothing and underclothing, namely, t-shirts, sweatshirts, waistcoats, jackets, hats and caps.
	3,171,747	November 14, 2006	IC 025 – Articles of outer clothing and underclothing, namely, suits, jackets, t-shirts, hats and caps.
	6,062,657	May 26, 2020	IC 025: Articles of outer clothing and underclothing, namely, shirts, blouses, jackets, scarves, ties, dressing gowns, bath robes, sleeping garments, hats, socks, belts, caps, gloves and aprons, all for wear, jeans, neckwear; knitted articles of clothing and articles of clothing made from knitted materials, namely, t-shirts, shorts and hooded tops.

The Paul McCartney Marks are used in connection with the manufacture and distribution of quality goods in the classes identified above. True and correct copies of the Certificates of Registration for the Paul McCartney Marks are attached hereto as Composite Exhibit “1.”

20. The Paul McCartney Marks have been extensively and continuously used in interstate commerce to identify and distinguish a variety of quality goods. The Paul McCartney Marks have been in use by Plaintiff since long before the Defendants’ use of counterfeits of the Paul McCartney Marks.

21. The Paul McCartney Marks are symbols of Plaintiff’s quality, reputation and enormous goodwill and have never been abandoned.

22. The Paul McCartney Marks are well known and famous. Plaintiff and its licensees have expended substantial time, money and other resources in developing, advertising,

and otherwise promoting the Paul McCartney Marks. The Paul McCartney Marks qualify as famous marks as that term is used in 15 U.S.C. §1125(c)(1).

23. Paul McCartney enjoys world-wide notoriety and fame. As a result of his fame, Paul McCartney's image and likeness are widely recognized, giving them substantial monetary value in the marketplace.

24. Plaintiff holds a valid license for use of Paul McCartney's image and likeness. Plaintiff's goods featuring Paul McCartney's image and likeness are authorized goods.

25. Further, Plaintiff and its licensees have extensively used, advertised, and promoted the Paul McCartney Marks and Paul McCartney's image and likeness in the United States in association with the sale of quality goods. Plaintiff and its licensees have expended significant resources promoting the Paul McCartney Marks and Paul McCartney's image and likeness and products bearing the Paul McCartney Marks and Paul McCartney's image and likeness on the Internet, and via its official website, www.paulmccartney.com. Plaintiff's prominent use of the Paul McCartney Marks has further enhanced Paul McCartney Marks' recognition and fame with members of the consuming public. In the last few years alone, Plaintiff has experienced substantial sales of its high quality goods.

26. The worldwide popularity of Paul McCartney's musical compositions, musical recordings, and the enormous sales of goods bearing Paul McCartney's name and image and likeness, has resulted in the widespread recognition of the "Paul McCartney" brand. As a result of Plaintiff's use, promotion and advertisement of the Paul McCartney brand, members of the consuming public readily identify merchandise bearing or sold under the Paul McCartney Marks as being quality merchandise sponsored and approved by Plaintiff.

27. Accordingly, the Paul McCartney Marks are widely recognized trademarks in the

United States, and the trademarks have achieved substantial secondary meaning as identifiers of quality goods.

28. Plaintiff has carefully monitored and policed the use of the Paul McCartney Marks and the use of Paul McCartney's image and likeness and has never assigned or licensed the Paul McCartney Marks or Paul McCartney's image and likeness to any of the Defendants in this matter.

29. Genuine goods bearing the Paul McCartney Marks and/or authorized use of Paul McCartney's image and likeness are widely legitimately advertised, promoted, and offered for sale by Plaintiff, and its authorized licensees, via the Internet. Visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing has become increasingly important to Plaintiff's overall marketing and consumer education efforts. Thus, Plaintiff expends significant resources on Internet marketing and consumer education which allow Plaintiff and its authorized licensees to fairly and legitimately educate consumers about the value associated with the Paul McCartney Marks, Paul McCartney's image and likeness, and the goods sold in connection therewith.

Defendants' Infringing Activities

30. Defendants are promoting and advertising, distributing, selling, and/or offering for sale goods in interstate commerce bearing counterfeit and confusingly similar imitations of one or more of the Paul McCartney Marks and unauthorized versions of Paul McCartney's image and likeness (the "Counterfeit Goods") through at least the Internet based e-commerce stores or commercial Internet website operating under the Seller IDs and Subject Domain Name. Several Defendants are also using, at least, the listings and associated images identified by the Amazon Standard Identification Numbers ("ASIN") on Schedule "A" annexed hereto. Specifically,

Defendants are using virtually identical copies of one or more of the Paul McCartney Marks for different quality goods. Plaintiff has used the Paul McCartney Marks extensively and continuously before Defendants began offering goods using counterfeit and confusingly similar imitations of Plaintiff's merchandise.

31. Defendants' Counterfeit Goods are of a quality substantially and materially different than that of Plaintiff's genuine goods. Defendants are actively using, promoting and otherwise advertising, distributing, selling and/or offering for sale substantial quantities of their Counterfeit Goods with the knowledge and intent that such goods will be mistaken for Plaintiff's genuine quality goods despite Defendants' knowledge that they are without authority to use the Paul McCartney Marks or Paul McCartney's image and likeness. The net effect of Defendants' actions is likely to cause confusion of consumers at the time of initial interest, sale, and in the post-sale setting, who will believe all of Defendants' goods offered for sale in Defendants' e-commerce stores are genuine goods originating from, associated with, and/or approved by Plaintiff.

32. Defendants advertise their Counterfeit Goods for sale to the consuming public via e-commerce stores and/or a website operating on, at least, one Internet marketplace website and/or one commercial Internet website, using, at least, the Seller IDs and Subject Domain Name. In so advertising these goods, Defendants improperly and unlawfully use one or more of the Paul McCartney Marks and unauthorized versions of Paul McCartney's image and likeness, without Plaintiff's permission.

33. As part of their overall infringement, counterfeiting, and misappropriating scheme, Defendants are, upon information and belief, all employing and benefitting from substantially similar advertising and marketing strategies based, in large measure, upon an illegal

use of counterfeits, infringements, and misappropriations of the Paul McCartney Marks and Paul McCartney's image and likeness. Specifically, Defendants are using counterfeits, infringements, and misappropriations of at least one of the Paul McCartney Marks and/or Paul McCartney's image and likeness in order to make their e-commerce stores and website selling illegal goods appear more relevant and attractive to consumers online. By their actions, Defendants are contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for Plaintiff's genuine goods. Defendants are causing individual, concurrent and indivisible harm to Plaintiff and the consuming public by (i) depriving Plaintiff and other third parties of their right to fairly compete for space within search engine results and reducing the visibility of Plaintiff's genuine goods on the World Wide Web, and (ii) causing an overall degradation of the value of the goodwill associated with the Paul McCartney Marks and Paul McCartney's image and likeness.

34. Defendants are concurrently conducting and targeting their counterfeiting, infringing, and misappropriating activities toward consumers and likely causing unified harm within this district and elsewhere throughout the United States. As a result, Defendants are defrauding Plaintiff and the consuming public for Defendants' own benefit.

35. Multiple Defendants, without permission or authorization, use Paul McCartney's image and likeness on their goods, often in connection with their unauthorized use of the Paul McCartney Marks.

36. At all times relevant hereto, Defendants in this action had full knowledge of Plaintiff's ownership of the Paul McCartney Marks and rights in the use of Paul McCartney's image and likeness, including its exclusive rights to use and license such intellectual property and the goodwill associated therewith.

37. Defendants' use of the Paul McCartney Marks, including the promotion and advertisement, reproduction, distribution, sale and offering for sale of their Counterfeit Goods, is without Plaintiff's consent or authorization.

38. Defendants' use of Paul McCartney's image and likeness, including the promotion and advertisement, reproduction, distribution, sale and offering for sale of their goods featuring Paul McCartney's image and likeness, is without Plaintiff's consent or authorization.

39. Defendants are engaging in the above-described illegal counterfeiting, infringing, and misappropriating activities knowingly and intentionally or with reckless disregard or willful blindness to Plaintiff's rights for the purpose of trading on Plaintiff's goodwill and reputation. If Defendants' intentional counterfeiting, infringing, and misappropriating activities are not preliminarily and permanently enjoined by this Court, Plaintiff and the consuming public will continue to be harmed.

40. Defendants' above identified infringing and misappropriating activities are likely to cause confusion, deception, and mistake in the minds of consumers before, during and after the time of purchase. Moreover, Defendants' wrongful conduct is likely to create a false impression and deceive customers, the public, and the trade into believing there is a connection or association between Plaintiff's genuine goods and Defendants' Counterfeit Goods, which there is not.

41. Defendants' payment and financial accounts, including but not limited to those specifically set forth on Schedule "A," are being used by Defendants to accept, receive, and deposit profits from Defendants' trademark counterfeiting and infringing and unfairly competitive activities connected to their Seller IDs and Subject Domain Name and any other alias e-commerce stores, seller identification names, domain names, or websites being used

and/or controlled by them.

42. Further, Defendants are likely to transfer or secret their assets to avoid payment of any monetary judgment awarded to Plaintiff.

43. Plaintiff has no adequate remedy at law.

44. Plaintiff is suffering irreparable injury and has suffered substantial damages as a result of Defendants' unauthorized and wrongful use of the Paul McCartney Marks and Paul McCartney's image and likeness. If Defendants' counterfeiting, infringing, misappropriating and unfairly competitive activities are not preliminarily and permanently enjoined by this Court, Plaintiff and the consuming public will continue to be harmed.

45. The harm and damages sustained by Plaintiff have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of their Counterfeit Goods.

46. The harm and damages sustained by Plaintiff have been directly and proximately caused by Defendants' unauthorized use of Paul McCartney's image and likeness in connection with the sale of their goods, including the Counterfeit Goods.

COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT
PURSUANT TO § 32 OF THE LANHAM ACT (15 U.S.C. § 1114)

47. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

48. This is an action for trademark counterfeiting and infringement against Defendants based on their use of counterfeit and confusingly similar imitations of the Paul McCartney Marks in commerce in connection with the promotion, advertisement, distribution, offering for sale and sale of the Counterfeit Goods.

49. Defendants are promoting and otherwise advertising, selling, offering for sale,

and distributing goods using counterfeits and/or infringements of one or more of the Paul McCartney Marks. Defendants are continuously infringing and inducing others to infringe the Paul McCartney Marks by using one or more of them to advertise, promote, sell, and offer to sell counterfeit and infringing goods.

50. Defendants concurrent counterfeiting and infringing activities are likely to cause and actually are causing confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Counterfeit Goods.

51. Defendants unlawful actions have caused and are continuing to cause unquantifiable damages to Plaintiff and are unjustly enriching Defendants with profits at Plaintiff's expense.

52. Defendants above-described illegal actions constitute counterfeiting and infringement of the Paul McCartney Marks in violation of Plaintiff's rights under § 32 of the Lanham Act, 15 U.S.C. § 1114.

53. Plaintiff has suffered and will continue to suffer irreparable injury and damages due to Defendants above described activities if Defendants are not preliminarily and permanently enjoined. Additionally, Defendants will continue to wrongfully profit from their illegal activities.

COUNT II - FALSE DESIGNATION OF ORIGIN
PURSUANT TO § 43(a) OF THE LANHAM ACT (15 U.S.C. § 1125(a))

54. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

55. Defendants' Counterfeit Goods bearing, using, offered for sale and sold using copies of one or more of the Paul McCartney Marks have been widely advertised and offered for sale throughout the United States via at least several Internet marketplace websites or a fully interactive commercial Internet website.

56. Defendants' Counterfeit Goods bearing, offered for sale, and sold using copies of at least one of the Paul McCartney Marks are virtually identical in appearance to Plaintiff's genuine goods. Accordingly, Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of their Counterfeit Goods.

57. Defendants have used in connection with their advertisement, offer for sale, and sale of their Counterfeit Goods, false designations of origin and false descriptions and representations, including words or other symbols and trade dress, which tend to falsely describe or represent such goods and have caused such goods to enter into commerce with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Plaintiff's detriment.

58. Defendants have authorized infringing uses of at least one of the Paul McCartney Marks in Defendants' advertisement and promotion of their counterfeit and infringing branded goods. Defendants have misrepresented to members of the consuming public that the Counterfeit Goods being advertised and sold by them are genuine, non-infringing goods.

59. Additionally, Defendants are using counterfeits and infringements of one or more of the Paul McCartney Marks in order to unfairly compete with Plaintiff and others for space within organic search engine results, thereby depriving Plaintiff of a valuable marketing and educational tool which would otherwise be available to Plaintiff and reducing the visibility of Plaintiff's genuine goods on the World Wide Web and across social media platforms.

60. Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

61. Plaintiff has no adequate remedy at law and has sustained indivisible injury and damage caused by Defendants' concurrent conduct. Absent an entry of an injunction by this

Court, Defendants will continue to wrongfully reap profits and Plaintiff will continue to suffer irreparable injury to their goodwill and business reputation, as well as monetary damages.

**COUNT III – UNAUTHORIZED USE OF LIKENESS IN VIOLATION OF
§ 540.08 OF THE FLORIDA STATUTES**

(Against Defendant Numbers 1-39, 55-67, 78-85, 96-100, 102-103 only)

62. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

63. Defendants earned financial benefit from the unauthorized use of Paul McCartney's image and likeness in the sales of their unauthorized goods.

64. Defendants' unauthorized use of Paul McCartney's image and likeness for commercial and advertising purposes thereby violating § 540.08, Florida Statutes.

65. As a result of Defendants' unauthorized use of Paul McCartney's image and likeness, Plaintiff has suffered and continues to suffer damages.

66. In addition, as a direct and proximate result of Defendants' violations of § 540.08, Florida Statutes, Plaintiff is entitled to a reasonable license fee for use of Paul McCartney's image and likeness.

COUNT IV - COMMON LAW UNFAIR COMPETITION.

67. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

68. This is an action against Defendants based on their promotion, advertisement, distribution, sale and/or offering for sale of goods using or bearing marks that are virtually identical to the Paul McCartney Marks in violation of Florida's common law of unfair competition.

69. Specifically, Defendants are promoting and otherwise advertising, selling,

offering for sale and distributing goods using or bearing counterfeits and infringements of one or more of the Paul McCartney Marks. Defendants are also using counterfeits and infringements of one or more of the Paul McCartney Marks to unfairly compete with Plaintiff and others for (i) space in search engine results across an array of search terms and (ii) visibility on the World Wide Web.

70. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' products by their use of the Paul McCartney Marks.

71. Plaintiff has no adequate remedy at law and is suffering irreparable injury and damages as a result of Defendants' actions.

COUNT V - COMMON LAW TRADEMARK INFRINGEMENT

72. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

73. This is an action for common law trademark infringement against Defendants based on their promotion, advertisement, offering for sale, and sale of their Counterfeit Goods bearing at least one or more of the Paul McCartney Marks. Plaintiff is the owner of all common law rights in and to the Paul McCartney Marks.

74. Specifically, Defendants are manufacturing, promoting, and otherwise advertising, distributing, offering for sale, and selling goods bearing infringements of at least one or more of the Paul McCartney Marks.

75. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Counterfeit Goods bearing the Paul McCartney

Marks.

76. Plaintiff has no adequate remedy at law and is suffering damages and irreparable injury as a result of Defendants' actions.

PRAYER FOR RELIEF

77. WHEREFORE, Plaintiff demands judgment on all Counts of this Complaint and an award of equitable relief and monetary relief against Defendants as follows:

a. Entry of temporary, preliminary, and permanent injunctions pursuant to 15 U.S.C. § 1116 and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from using, imitating and/or copying Paul McCartney's image and likeness and manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods bearing Paul McCartney's image; from infringing, counterfeiting, or diluting the Paul McCartney Marks; from using the Paul McCartney Marks, or any mark or trade dress similar thereto, from making unauthorized use of Paul McCartney's image and likeness, in connection with the sale of any unauthorized goods; from using any logo, trade name or trademark or trade dress, image or likeness that may be calculated to falsely advertise the services or goods of Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with Plaintiff; from falsely representing themselves as being connected with Plaintiff, through sponsorship or association, or engaging in any act that is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of Defendants, are in any way endorsed by, approved by, and/or associated with Plaintiff; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of the Paul McCartney Marks in connection with the publicity, promotion, sale, or advertising of any goods

sold by Defendants; from affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent Defendants' goods as being those of Plaintiff, or in any way endorsed by Plaintiff and from offering such goods in commerce; from engaging in search engine optimization strategies using colorable imitations of Plaintiff's name or trademarks and from otherwise unfairly competing with Plaintiff.

b. Entry of a temporary restraining order, as well as preliminary and permanent injunctions, pursuant to 28 U.S.C. § 1651(a), The All Writs Act, enjoining Defendants and all third parties with actual notice of the injunction from participating in, including providing financial services, technical services or other support to, Defendants in connection with the sale and distribution of non-genuine goods bearing counterfeits of the Paul McCartney Marks.

c. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority that upon Plaintiff's request, the top level domain (TLD) Registry for the Subject Domain Name or its administrators, including backend registry operators or administrators, place the Subject Domain Name on Registry Hold status for the remainder of the registration period for any such domain name, thus removing it from the TLD zone files which link the Subject Domain Name, and any other domain names being used and/or controlled by Defendants to engage in the business of marketing, offering to sell, and/or selling goods bearing counterfeits and infringements of the Paul McCartney Marks, to the IP addresses where the associated websites are hosted.

d. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority canceling for the life of the current registration or, at Plaintiff's

election, transferring the Subject Domain Name and any other domain names used by Defendants to engage in their counterfeiting of the Paul McCartney Marks at issue to Plaintiff's control so they may no longer be used for illegal purposes

e. Entry of an Order, pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that upon Plaintiff's request, the applicable governing Internet marketplace website operators and/or administrators for the Seller IDs who are provided with notice of an injunction issued by this Court disable and/or cease facilitating access to the Seller IDs and any other alias seller identification names being used and/or controlled by Defendants to engage in the business of marketing, offering to sell, and/or selling goods bearing counterfeits and infringements of the Paul McCartney Marks.

f. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that, upon Plaintiff's request, any Internet marketplace website operators, administrators, registrar and/or top level domain (TLD) Registry for the Seller IDs and Subject Domain Name who are provided with notice of an injunction issued by this Court identify any e-mail address known to be associated with Defendants' respective Seller ID or Subject Domain Name

g. Entry of an Order, pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that upon Plaintiff's request, Defendants, any Internet marketplace website operators and/or administrators who are provided with notice of an injunction issued by this Court permanently remove from the multiple platforms, which include, *inter alia*, a Direct platform, Group platform, Seller Product Management platform, Vendor Product Management platform, and Brand Registry platform, any and all listings and associated images of goods bearing counterfeits and/or infringements of the Paul McCartney Marks via the

e-commerce stores operating under the Seller IDs, including but not limited to the listings and associated images identified by the Amazon Standard Identification Numbers (“ASIN”) on Schedule “A” annexed hereto, and upon Plaintiff’s request, any other listings and images of goods bearing counterfeits and/or infringements of the Paul McCartney Marks associated with any ASIN linked to the same seller or linked to any other alias seller identification names being used and/or controlled by Defendants to promote, offer for sale and/or sell goods bearing and counterfeits and/or infringements of the Paul McCartney Marks.

h. Entry of an Order, pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court’s inherent authority that upon Plaintiff’s request, Defendants, any Internet marketplace website operators and/or administrators who are provided with notice of an injunction issued by this Court immediately cease fulfillment of and sequester all goods of each Defendant bearing one or more of the Paul McCartney Marks in its inventory, possession, custody, or control, and surrender those goods to Plaintiff.

i. Entry of an Order requiring Defendants to account to and pay Plaintiff for all profits and damages resulting from Defendants’ trademark counterfeiting and infringing and unfairly competitive activities and that the award to Plaintiff be trebled, as provided for under 15 U.S.C. §1117, or, at Plaintiff’s election with respect to Count I, that Plaintiff be awarded statutory damages from each Defendant in the amount of two million dollars (\$2,000,000.00) per each counterfeit trademark used and product type sold, as provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.

j. Entry of an Order requiring Defendants Numbers 1-39, 55-67, 78-85, 96-100, 102-103 to account to and pay Plaintiff for all profits, enrichments, and advantages derived from those Defendants use of Paul McCartney’s image and likeness pursuant to Florida Statutes

§ 540.08.

k. Entry of an award pursuant to 15 U.S.C. § 1117 (a) and (b) of Plaintiff's costs and reasonable attorneys' fees and investigative fees associated with bringing this action.

l. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that Defendants and any financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, and their related companies and affiliates, identify and restrain all funds, up to and including the total amount of judgment, in all financial accounts and/or sub-accounts used in connection with the Seller IDs and Subject Domain Name or other alias seller identification names and/or e-commerce store names, domain names and/or websites used by Defendants presently or in the future, as well as any other related accounts of the same customer(s) and any other accounts which transfer funds into the same financial institution account(s), to be surrendered to Plaintiff in partial satisfaction of the monetary judgment entered herein.

m. Entry of an award of pre-judgment interest on the judgment amount.

n. Entry of an Order for any further relief as the Court may deem just and proper.

DATED: July 14, 2020.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: **s/Stephen M. Gaffigan**

Stephen M. Gaffigan (Fla. Bar No. 025844)

Virgilio Gigante (Fla. Bar No. 082635)

T. Raquel Wiborg-Rodriguez (Fla. Bar. No. 103372)

Christine Ann Daley (Fla. Bar No. 98482)

401 East Las Olas Blvd., Suite 130-453

Ft. Lauderdale, Florida 33301

Telephone: (954) 767-4819

E-mail: Stephen@smgpa.net

E-mail: Leo@smgpa.net

E-mail: Raquel@smgpa.net

E-mail: Christine@smgpa.net

Attorneys for Plaintiff

SCHEDULE "A"

[This page is the subject of Plaintiff's Motion to File Under Seal. As such, this page has been redacted in accordance with L.R. 5.4(b)(1)]