

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.

GUCCI AMERICA, INC.,

Plaintiff,

vs.

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

Defendants.

/

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff, Gucci America, Inc. (“Plaintiff” or “Gucci”) hereby sues Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule “A” (collectively “Defendants”). Defendants are promoting, selling, offering for sale, and distributing goods bearing counterfeits and confusingly similar imitations of Gucci’s trademarks within this district through various Internet based e-commerce stores operating under the seller identities set forth on Schedule “A” (the “Seller IDs”). In support of its claims, Gucci alleges as follows:

JURISDICTION AND VENUE

1. This is an action for damages and injunction relief for federal trademark counterfeiting and infringement, false designation of origin, cybersquatting, common law unfair competition, and common law trademark infringement pursuant to 15 U.S.C. §§ 1114, 1116, 1125(a), 1125(d), The All Writs Act, 28 U.S.C. § 1651(a), and Florida’s common law. 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 Gucci'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 stores¹ accessible in Florida and operating under their Seller IDs. Alternatively, Defendants are subject to personal jurisdiction in this district pursuant to Federal Rule of Civil Procedure 4(k)(2) because (i) Defendants are not subject to jurisdiction in any state's court of general jurisdiction; and (ii) exercising jurisdiction is consistent with the United States Constitution and laws.

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 infringing products into this district.

THE PLAINTIFF

4. Gucci is a corporation organized under the laws of the State of New York with its principal place of business in the United States located at 195 Broadway, 12th Floor, New York, New York 10007. Gucci operates boutiques throughout the world, including within this district. Gucci is, in part, engaged in the business of manufacturing and distributing throughout the world, including within this district, a variety of high-quality goods under multiple world famous

¹ Some Defendants use their Seller IDs in tandem with electronic communication via private messaging applications and/or services in order to complete their offer and sale of counterfeit Gucci-branded products. Specifically, consumers are able to browse listings of Gucci-branded products online via Defendants' respective Seller IDs, ultimately directing customers to send inquiries, exchange data, and complete purchases via electronic communication with those Defendants.

common law and federally registered trademarks, including those identified in Paragraph 14 below. Gucci offers for sale and sells its trademarked goods within the State of Florida, including this district, and throughout the United States. Defendants, through the offer to sell and sale of counterfeit and infringing Gucci branded products, are directly, and unfairly, competing with Gucci's economic interests in the United States, including the State of Florida, and causing Gucci irreparable harm and damage within this jurisdiction.

5. Like many other famous trademark owners, Gucci 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 Gucci's trademarks for the twin purposes of (i) duping and confusing the consuming public and (ii) earning substantial profits across their e-commerce stores. The natural and intended byproduct of Defendants' combined actions is the erosion and destruction of the goodwill associated with the Gucci name and associated trademarks and the destruction of the legitimate market sector in which it operates.

6. To combat the indivisible harm caused by the concurrent actions of Defendants and others engaging in similar conduct, each year Gucci expends significant monetary resources in connection with trademark enforcement efforts, including legal fees, investigative fees, and support mechanisms for law enforcement. The exponential growth of counterfeiting over the Internet, including through online marketplace platforms and social media websites, has created an environment that requires companies, such as Gucci, to expend significant resources across a wide spectrum of efforts in order to protect both consumers and itself from confusion and the erosion of the goodwill embodied in Gucci's brand.

THE DEFENDANTS

7. Defendants are individuals, business entities of unknown makeup, or unincorporated associations each of whom, upon information and belief, 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 consumers as well as shipping and fulfillment centers within the United States to redistribute their products from those locations. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendants target their business activities toward consumers throughout the United States, including within this district, through the simultaneous operation of commercial Internet based e-commerce stores under the Seller IDs.

8. Some Defendants operate under the Seller IDs in tandem with electronic communication via private messaging applications and/or services, thereby creating an interconnected ecosystem which functions as an online marketplace operation.

9. Defendants use aliases in conjunction with the operation of their businesses, including but not limited to those identified by Defendant Number on Schedule "A."

10. Defendants are the past and present controlling forces behind the sale of products using counterfeits and infringements of Gucci's trademarks as described herein.

11. Defendants directly engage in unfair competition with Gucci by advertising, offering for sale, and selling goods each bearing and/or using counterfeits and infringements of one or more of Gucci's trademarks to consumers within the United States and this district through Internet based e-commerce stores using, at least, the Seller IDs, as well as additional seller identification aliases not yet known to Gucci. 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 counterfeit and infringing Gucci branded goods into the State.

12. Defendants have registered, established or purchased, and maintained their Seller IDs. Defendants may have engaged in fraudulent conduct with respect to the registration of the Seller IDs by providing false and/or misleading information during the registration or maintenance process related to their respective Seller ID. Many of the Defendants have registered and/or maintained some of their Seller IDs for the sole purpose of engaging in unlawful infringing and counterfeiting activities.

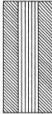
13. Defendants will likely continue to register or acquire new seller identification names or other aliases, and related payment accounts, for the purpose of selling and/or offering for sale goods bearing and/or using counterfeit and confusingly similar imitations of one or more of Gucci's trademarks unless preliminarily and permanently enjoined.

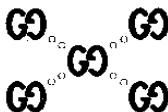
14. Defendants' Seller IDs, associated payment accounts, and any other alias seller identification names used in connection with the sale of counterfeit and infringing goods bearing and/or using one or more of Gucci's trademarks are essential components of Defendants' online activities and are one of the means by which Defendants further their counterfeiting and infringement scheme and cause harm to Gucci. Moreover, Defendants are using Gucci's famous brand name and trademarks to drive Internet consumer traffic to their e-commerce stores operating under the Seller IDs, thereby increasing the value of the Seller IDs and decreasing the size and value of Gucci's legitimate marketplace and intellectual property rights at Gucci's expense.

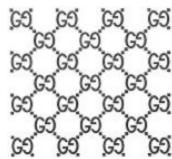
COMMON FACTUAL ALLEGATIONS

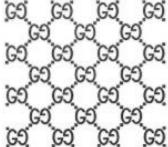
Plaintiff's Business and Trademark Rights

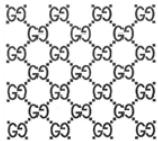
15. Gucci is the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively the “Gucci Marks”):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
GUCCI	0,876,292	September 9, 1969	IC 006 – vacuum bottles, vanity cases sold empty. IC 018 – pocketbooks, wallets, travel and duffel bags, attache cases, toilet cases sold empty and shoe bags. IC 025 – shoes and boots.
	1,106,722	November 21, 1978	IC 025 – neckties, scarves, belts, footwear, shirts, sweaters, coats, suits, and bathing suits.
	1,107,311	November 28, 1978	IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, card cases, partly and wholly of leather, key cases, passport cases, cosmetic cases, attache cases, valises, suitcases, duffles.
 (Green Red Green Stripe Design)	1,122,780	July 24, 1979	IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, card cases, attache cases, valises, suitcases, duffles, and key cases.
	1,158,170	June 23, 1981	IC 025 – clothing-namely, neckties, scarves, belts, footwear, shirts, coats, hats, dresses, and bathing suits.

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
GUCCI	1,168,477	September 8, 1981	IC 025 – neckties, scarves, belts, footwear, shirts, sweaters, coats, suits, dressing gowns, hats, socks, dresses, and bathing suits.
 (Green Red Green Stripe Design)	1,483,526	April 5, 1988	IC 025 – footwear.
 (Blue Red Blue Stripe Design)	1,511,774	November 8, 1988	IC 018 – purses, handbags, shoulder bags, clutch bags, tote bags.
	3,039,629	January 10, 2006	IC 025 – footwear and belts.
	3,039,630	January 10, 2006	IC 018 – wallets, purses, handbags, tote bags, business card cases, credit card cases and key cases, partly or wholly of leather.
	3,072,547	March 28, 2006	IC 025 – neckties, scarves, belts, footwear and gloves.
	3,072,549	March 28, 2006	IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases, partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attaché cases, valises, suitcases and duffles.

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	3,378,755	February 5, 2008	IC 014 – jewelry and watches. IC 016 – agendas and notebooks. IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases, partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attaché cases, valises, suitcases and duffles. IC 025 – scarves, belts, footwear, shirts, sweaters, coats, suits.
	4,220,947	October 9, 2012	IC 014 – jewelry. IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attaché cases, valises, suitcases and duffel bags. IC 025 – neckties, scarves, belts, footwear and gloves.
	4,229,081	October 23, 2012	IC 014 – jewelry. IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attaché cases, valises, suitcases and duffel bags. IC 025 – neckties, scarves, belts, footwear and gloves.

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	4,349,908	June 11, 2013	IC 009 – cases and covers for mobile phones and mobile communication devices. IC 026 – hair accessories, namely, hair bands and hair holders.
 (Green Red Green Stripe Design)	4,379,039	August 6, 2013	IC 025 – shorts, pants, jeans, leggings, t-shirts, polo shirts, shirts, sweaters, sweatshirts, dresses, skirts, swimwear, one piece garments for infants and toddlers, cloth bibs, scarves, ties, hats, gloves, belts.
	4,563,071	July 8, 2014	IC 009 – protective covers and cases for mobile electronic devices and computers. IC 014 – watches.
GUCCI	4,563,098	July 8, 2014	IC 009 – protective covers and cases for mobile electronic communication devices and computers; computer application software for all mobile devices, namely, software for providing information in the field of fashion, the arts and lifestyle.
GUCCI	4,563,132	July 8, 2014	IC 018 – handbags, shoulder bags, clutch bags, tote bags, briefcases, business card cases, credit card cases, backpacks, key cases, passport cases, cosmetic cases sold empty, valises, suitcases, luggage, all the foregoing being made in whole or in part of leather.
 (Blue Red Blue Stripe Design)	4,563,151	July 8, 2014	IC 018 – gym bags, wallets

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
 (Green Red Green Stripe Design)	4,567,112	July 15, 2014	IC 009 – eyeglasses and sunglasses; protective covers and cases for mobile electronic communication devices and computers; cell phone straps; computer carrying cases. IC 014 – jewelry and key rings of precious metal. IC 018 – cosmetic cases sold empty, luggage, duffle bags.
	4,583,258	August 12, 2014	IC 009 – protective covers and cases for mobile electronic communications devices and computers; computer cases made of leather. IC 014 – watches. IC 018 – backpacks, general purpose trolley bags; baby bags, namely, bags for carrying babies' accessories. IC 025 – clothing, namely, shirts and jackets.
	5,073,022	November 1, 2016	IC 018 – handbags and wallets. IC 025 – belts and footwear.
	5,235,368	July 4, 2017	IC 018 – handbags, shoulder bags, tote bags and wallets. IC 025 – footwear, belts and boots.

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	5,921,104	November 26, 2019	<p>IC 009 – cases and covers for mobile phones.</p> <p>IC 018 – handbags; shoulder bags; messenger bags; tote bags; clutch bags; backpacks; duffle bags; wallets; business card cases; leather credit card cases and holders; pouches of leather.</p> <p>IC 025 – clothing, namely, tops as clothing, scarves, footwear, headwear; children's and infants' cloth bibs.</p>
G U C C I	6,073,427	June 9, 2020	<p>IC 003 – fragrances, incense, cosmetics, nail polish.</p> <p>IC 004 – candles.</p> <p>IC 009 – sunglasses, eyeglasses, cases for sunglasses, cases for eyeglasses, mobile phone cases, cases for computers, cases for tablet computers, computer application software for all mobile devices, namely, downloadable software for providing information in the field of fashion, the arts and lifestyle.</p> <p>IC 014 – jewelry, watches, key rings, cuff links, tie bars.</p> <p>IC 018 – pocketbooks, handbags, shoulder bags, clutches, wristlet bags, coin purses, wallets, credit card cases, business card cases, tote bags, backpacks, diaper bags, cosmetic bags sold empty, luggage.</p> <p>IC 020 – throw pillows, cushions, chairs, armchairs, folding floor screens and tables.</p> <p>IC 021 – incense burners, mugs, cups,</p>

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
			<p>trays for household purposes, porcelain pots and vases, dishes, sugar bowls, creamer pitchers, chargers being dinnerware, non-electric coffee pots, non-electric tea pots.</p> <p>IC 025 – tops as clothing, bottoms as clothing, coats, jackets, suits, dresses, jumpsuits, bathing suits, scarves, ties as clothing, belts, gloves, headwear, footwear, tights, socks, stockings.</p> <p>IC 027 – wallpaper.</p> <p>IC 035 – retail store services for clothing, footwear, fashion accessories, jewelry, watches, handbags, sunglasses, fragrances, home furnishings and accessories; online retail store services for clothing, footwear, fashion accessories, jewelry, watches, handbags, sunglasses, fragrances, home furnishings and accessories.</p> <p>IC 041 – providing entertainment news and information in the fields of fine art, film, music, theater, and dance through an Internet website portal and social media sites entertainment services, namely, organizing sporting and cultural events.</p> <p>IC 045 – providing news and information in the fields of fashion and personal lifestyles through an Internet website.</p>

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

16. The Gucci Marks have been used in interstate commerce to identify and distinguish Gucci's high-quality goods for an extended period of time.

17. The Gucci Marks have been used in commerce by Gucci long prior in time to Defendants' use of copies of those Marks. The Gucci Marks have never been assigned or licensed to any of the Defendants in this matter.

18. The Gucci Marks are symbols of Gucci's quality, reputation and goodwill and have never been abandoned. Gucci has carefully monitored and policed the use of the Gucci Marks.

19. The Gucci Marks are well known and famous and have been for many years. Gucci expends substantial resources developing, advertising and otherwise promoting the Gucci Marks. The Gucci Marks qualify as famous marks as that term is used in 15 U.S.C. §1125(c)(1).

20. Further, Gucci extensively uses, advertises, and promotes the Gucci Marks in the United States in association with the sale of high-quality goods. Gucci expends enormous resources promoting the Gucci Marks and products bearing the Gucci Marks. In recent years, annual sales of products bearing the Gucci Marks have totaled in the hundreds of millions of dollars within the United States.

21. As a result of Gucci's efforts, members of the consuming public readily identify merchandise bearing or sold using the Gucci Marks as being high-quality goods sponsored and approved by Gucci.

22. Accordingly, the Gucci Marks have achieved secondary meaning among consumers as identifiers of high-quality goods.

23. Genuine goods bearing the Gucci Marks are widely legitimately advertised and promoted by Gucci, its authorized distributors, and unrelated third parties via the Internet.

Visibility on the Internet, particularly via Internet search engines and social media platforms, is important to Gucci's overall marketing and consumer education efforts. Thus, Gucci expends significant monetary resources on Internet marketing and consumer education regarding its products, including search engine optimization ("SEO"), search engine marketing ("SEM"), and social media strategies. Those strategies allow Gucci and its authorized retailers to educate consumers fairly and legitimately about the value associated with the Gucci brand and the goods sold thereunder and the problems associated with the counterfeiting of Gucci's trademarks.

Defendants' Infringing Activities

24. Defendants are each promoting, advertising, distributing, offering for sale, and/or selling goods in interstate commerce bearing and/or using counterfeit and confusingly similar imitations of one or more of the Gucci Marks (the "Counterfeit Goods") through at least the e-commerce stores operating under the Seller IDs. Specifically, Defendants are using the Gucci Marks to initially attract online consumers and drive them to Defendants' e-commerce stores operating under the Seller IDs. Defendants are each using identical copies of one or more of the Gucci Marks for different quality goods. Gucci has used the Gucci Marks extensively and continuously before Defendants began offering counterfeit and confusingly similar imitations of Gucci's merchandise.

25. Defendants' Counterfeit Goods are of a quality substantially different than that of Gucci'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 the genuine high-quality goods offered for sale by Gucci, despite Defendants' knowledge that they are without authority to use the Gucci Marks. 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 or through Defendants' e-commerce stores are genuine goods originating from, associated with, and/or approved by Gucci.

26. Defendants advertise their e-commerce stores, including their Counterfeit Goods offered for sale, to the consuming public via e-commerce stores on, at least, the Seller IDs. In so doing, Defendants improperly and unlawfully use one or more of the Gucci Marks without Gucci's permission.

27. As part of their overall unlawful scheme, Defendants are, upon information and belief, concurrently employing and benefitting from substantially similar, advertising and marketing strategies based, in large measure, upon an illegal use of counterfeits and infringements of the Gucci Marks. Specifically, Defendants are using counterfeits and infringements of Gucci's famous name and the Gucci Marks to make their e-commerce stores selling illegal goods appear more relevant and attractive to consumers searching for both Gucci and non-Gucci goods and information online. By their actions, Defendants are contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for Gucci's genuine goods. Defendants are causing individual, concurrent and indivisible harm to Gucci and the consuming public by (i) depriving Gucci and other third parties of their right to fairly compete for space online and within search engine results and reducing the visibility of Gucci's genuine goods on the World Wide Web, (ii) causing an overall degradation of the value of the goodwill associated with the Gucci Marks, and (iii) increasing Gucci's overall cost to market its goods and educate consumers about its brand via the Internet.

28. Defendants are concurrently conducting and targeting their counterfeiting and infringing activities toward consumers and likely causing unified harm within this district and

elsewhere throughout the United States. As a result, Defendants are defrauding Gucci and the consuming public for Defendants' own benefit.

29. At all times relevant hereto, Defendants have had full knowledge of Gucci's ownership of the Gucci Marks, including its exclusive right to use and license such intellectual property and the goodwill associated therewith.

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

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

32. Defendants' above identified infringing 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 Gucci's genuine goods and Defendants' Counterfeit Goods, which there is not.

33. Moreover, upon information and belief, at least Defendant Numbers 1-2 have registered their respective Seller ID using marks that are nearly identical and/or confusingly similar to at least one of the Gucci Marks (the "Cybersquatted Seller IDs").

34. Defendant Numbers 1-2 do not have, nor have they ever had, the right or authority to use the Gucci Marks. Further, the Gucci Marks have never been assigned or licensed to be

used on any of the websites, including the websites operating under the Cybersquatted Seller IDs.

35. Defendant Numbers 1-2 have provided false and/or misleading contact information when applying for the registration of their respective Cybersquatted Seller ID or have intentionally failed to maintain accurate contact information with respect to the registration of their respective Cybersquatted Seller ID.

36. Defendant Numbers 1-2 have never used the Cybersquatted Seller IDs in connection with a bona fide offering of goods or services.

37. Defendant Numbers 1-2 have not made any bona fide non-commercial or fair use of the Gucci Marks on a website accessible under the Cybersquatted Seller IDs.

38. Defendant Numbers 1-2 have intentionally incorporated at least one of the Gucci Marks in their respective Cybersquatted Seller ID to divert consumers looking for Gucci's Internet website to their own e-commerce store for commercial gain.

39. Given the visibility of Defendants' various e-commerce stores and websites and the similarity of their actions, it is clear Defendants are either affiliated, or at a minimum, cannot help but know of each other's existence and the unified harm likely to be caused to Gucci and the overall consumer market in which they operate because of Defendants' concurrent actions.

40. Although some Defendants may be physically acting independently, they may properly be deemed to be acting in concert because the combined force of their actions serves to multiply the harm caused to Gucci.

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 any other alias seller identification names 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 Gucci.

43. Gucci has no adequate remedy at law.

44. Gucci is suffering irreparable injury because of Defendants' unauthorized and wrongful use of the Gucci Marks. If Defendants' counterfeiting and infringing, and unfairly competitive activities are not preliminarily and permanently enjoined by this Court, Gucci and the consuming public will continue to be harmed while Defendants wrongfully earn a substantial profit.

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

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

46. Gucci hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 45 above.

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

48. Defendants are promoting and otherwise advertising, selling, offering for sale, and distributing goods bearing and/or using counterfeits and/or infringements of one or more of the Gucci Marks. Defendants are continuously infringing and inducing others to infringe the

Gucci Marks by using one or more of them to advertise, promote, offer to sell, and sell counterfeit and infringing Gucci branded goods.

49. 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.

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

51. Defendants' above-described unlawful actions constitute counterfeiting and infringement of the Gucci Marks in violation of Gucci's rights under § 32 of the Lanham Act, 15 U.S.C. § 1114.

52. Gucci has suffered and will continue to suffer irreparable injury while Defendants are earning a substantial profit due to Defendants' above-described activities if Defendants are not preliminarily and permanently enjoined.

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

53. Gucci hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 45 above.

54. Defendants' Counterfeit Goods bearing, offered for sale and sold using copies of one or more of the Gucci Marks have been widely advertised and offered for sale throughout the United States via the Internet.

55. Defendants' Counterfeit Goods bearing, offered for sale, and sold using copies of at least one of the Gucci Marks are virtually identical in appearance to Gucci's genuine goods. However, Defendants' Counterfeit Goods are different in quality. Accordingly, Defendants'

activities are likely to cause confusion in the trade and among consumers as to at least the origin or sponsorship of their Counterfeit Goods.

56. 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 in the United States with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Gucci's detriment.

57. Defendants have each authorized infringing uses of one or more of the Gucci 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.

58. Additionally, Defendants are simultaneously using counterfeits and infringements of one or more of the Gucci Marks to unfairly compete with Gucci and others for space within organic and paid search engine and social media results. Defendants are thereby jointly (i) depriving Gucci of valuable marketing and educational space online which would otherwise be available to Gucci and (ii) reducing the visibility of Gucci's genuine goods on the World Wide Web and across social media platforms.

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

60. Gucci has no adequate remedy at law, and has sustained both individual and indivisible injury caused by Defendants' concurrent conduct. Absent an entry of an injunction by

this Court, Gucci will continue to suffer irreparable injury to its goodwill and business reputation, while Defendants are earning a substantial profit.

COUNT III - CLAIM FOR RELIEF FOR CYBERSQUATTING
PURSUANT TO § 43(d) OF THE LANHAM ACT (15 U.S.C. § 1125(d))
(Against Defendant Numbers 1 & 2 only)

61. Gucci hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 45 above.

62. At all times relevant hereto, Gucci has been and still is the owner of the rights, title, and interest in and to the Gucci Marks.

63. Defendant Numbers 1-2 have acted with the bad faith intent to profit from the Gucci Marks and the goodwill associated with the Gucci Marks by registering and using their respective Cybersquatted Seller ID.

64. The Gucci Marks were already distinctive and famous at the time Defendant Number 1-2 registered the Cybersquatted Seller IDs.

65. Defendant Numbers 1-2 have no intellectual property rights in or to the Gucci Marks.

66. The Cybersquatted Seller IDs are identical to, confusingly similar to, or dilutive of at least one of the Gucci Marks.

67. Defendant Number 1-2's conduct is done with knowledge and constitutes a willful violation of Gucci's rights in the Marks. At a minimum, the conduct of these Defendants constitute reckless disregard for and willful blindness to Gucci's rights.

68. Defendant Number 1-2's actions constitute cybersquatting in violation of §43(d) of the Lanham Act, 15 U.S.C. § 1125(d).

69. Gucci has no adequate remedy at law.

70. Gucci has suffered and will continue to suffer irreparable injury while Defendant Numbers 1-2 profit due to the above-described activities if these Defendants is not preliminarily and permanently enjoined, while Defendants are earning a substantial profit.

COUNT IV - COMMON LAW UNFAIR COMPETITION

71. Gucci hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 45 above.

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

73. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale and distributing goods bearing and/or using counterfeits and infringements of one or more of the Gucci Marks. Defendants are also each using counterfeits and infringements of one or more of the Gucci Marks to unfairly compete with Gucci and others for (i) space in search engine and social media results across an array of search terms and (ii) visibility on the World Wide Web.

74. Defendants' infringing activities are likely to cause and are causing confusion, mistake and deception among consumers as to the origin and quality of Defendants' e-commerce stores as a whole and all products sold therein by their use of the Gucci Marks.

75. Gucci has no adequate remedy at law and is suffering irreparable injury because of Defendants' actions, while Defendants are earning a substantial profit.

COUNT IV - COMMON LAW TRADEMARK INFRINGEMENT

76. Gucci hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 45 above.

77. Gucci is the owner of all common law rights in and to the Gucci Marks.

78. 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 using one or more of the Gucci Marks.

79. Specifically, each Defendant is promoting, and otherwise advertising, distributing, offering for sale, and selling goods bearing and/or using infringements of one or more of the Gucci Marks.

80. Defendants' infringing activities are likely to cause and are causing confusion, mistake and deception among consumers as to the origin and quality of Defendants' Counterfeit Goods bearing and/or using the Gucci Marks.

81. Gucci has no adequate remedy at law and is suffering irreparable injury because of Defendants' actions, while Defendants are earning a substantial profit.

PRAYER FOR RELIEF

82. WHEREFORE, Gucci 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, 28 U.S.C. § 1651(a), The All Writs Act, and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods; from

infringing, counterfeiting, or diluting the Gucci Marks; from using the Gucci Marks, or any mark or design similar thereto, in connection with the sale of any unauthorized goods; from using any logo, trade name or trademark or design 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 Gucci; from falsely representing themselves as being connected with Gucci, 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 Gucci; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of the Gucci 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 Gucci, or in any way endorsed by Gucci and from offering such goods in commerce; from engaging in search engine optimization strategies using colorable imitations of Gucci's name or trademarks and from otherwise unfairly competing with Gucci.

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, and the Court's inherent authority enjoining Defendants and all third parties with actual notice of an injunction issued by the Court 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 and/or using counterfeits of the Gucci Marks.

c. Entry of an Order pursuant to 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority, that upon Gucci's request, Defendants and the

top level domain (TLD) Registry for the e-commerce stores used by Defendants, or their administrators, including backend registry operators or administrators, place the e-commerce stores on Registry Hold status for the remainder of the registration period for any such e-commerce store, thus removing them from the TLD zone files which link any e-commerce stores 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 Gucci Marks, to the IP addresses where the associated e-commerce stores 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 Gucci's election, transferring any e-commerce stores used by Defendants to engage in their counterfeiting of the Gucci Marks at issue to Gucci's control so they may no longer be used for unlawful purposes.

e. Entry of an order pursuant to 15 U.S.C. § 1116 and the Court's inherent authority, requiring Defendants, their agent(s) or assign(s), to assign all rights, title, and interest, to any e-commerce stores used by Defendants to Gucci and, if within five (5) days of entry of such order Defendants fail to make such an assignment, the Court order the act to be done by another person appointed by the Court at Defendants' expense, such as the Clerk of Court, pursuant to Federal Rule of Civil Procedure 70(a).

f. Entry of an Order pursuant to 15 U.S.C. § 1116 and the Court's inherent authority, requiring Defendants, their agent(s) or assign(s), to instruct all search engines to permanently delist or deindex any e-commerce stores used by Defendants, and, if within five (5) days of entry of such order Defendants fail to make such a written instruction, the Court order

the act to be done by another person appointed by the Court at Defendants' expense, such as the Clerk of Court, pursuant to Federal Rule of Civil Procedure 70(a).

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 Gucci's request, the applicable governing operators and/or administrators for the Seller IDs who are provided with notice of an injunction issued by the 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 and/or using counterfeits and infringements of the Gucci 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, any Internet marketplace website operators, administrators, registrar and/or top level domain (TLD) Registry for the Seller IDs who are provided with notice of an injunction issued by the Court identify any e-mail address known to be associated with Defendants' respective Seller ID.

i. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and this Court's inherent authority that, upon Gucci's request, any Internet marketplace website operators and/or administrators who are provided with notice of an injunction issued by the Court permanently remove any and all listings and associated images of goods bearing and/or using counterfeits and/or infringements of the Gucci Marks via the e-commerce stores operating under the Seller IDs, and upon Gucci's request, any other listings and images of goods bearing and/or using counterfeits and/or infringements of the Gucci Marks associated with or linked to the same sellers 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/or using counterfeits and/or infringements of the Gucci Marks.

j. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, Federal Rule of Civil Procedure 65, and this Court's inherent authority that upon Gucci's request, Defendants and 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 Gucci Marks in its inventory, possession, custody, or control, and surrender those goods to Gucci.

k. Entry of an Order requiring Defendants to account to and pay Gucci for all profits earned resulting from Defendants' trademark counterfeiting and infringing and unfairly competitive activities and that the profit award to Gucci be trebled, as provided for under 15 U.S.C. §1117, or that Gucci 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 sold, as provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.

l. Entry of an order requiring Defendant Numbers 1-2 to account to and pay Gucci for all profits resulting from that Defendant Number 1-2's cybersquatting activities and that the profit award to Gucci be trebled, as provided for under 15 U.S.C. § 1117, or that Gucci be awarded statutory damages from Defendant Numbers 1-2 in the amount of one hundred thousand dollars (\$100,000.00) per cybersquatted domain name used as provided by 15 U.S.C. § 1117(d) of the Lanham Act.

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

n. Entry of an order pursuant to 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Wrts Act, Federal Rule of Civil Procedure 65, and the Court's inherent authority that, upon Gucci's request, 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, or other alias seller identification names 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), and remain restrained until such funds are surrendered to Gucci in partial satisfaction of the monetary judgment entered herein.

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

p. Entry of an Order requiring Defendants, at Gucci's request, to pay the cost necessary to correct any erroneous impression the consuming public may have received or derived concerning the nature, characteristics, or qualities of Defendants' products, including without limitation, the placement of corrective advertising and providing written notice to the public

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

DATED: December 5, 2022.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: **Stephen M. Gaffigan**

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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)]