

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

APPLE CORPS LIMITED,

Plaintiff,

vs.

THE INDIVIDUAL, BUSINESS ENTITY, OR
UNINCORPORATED ASSOCIATION
IDENTIFIED ON SCHEDULE "A,"

Defendant.

_____ /

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff, Apple Corps Limited ("Plaintiff" or "Apple Corps") hereby sues Defendant, the Individual, Business Entity, or Unincorporated Association identified on Schedule "A" hereto (the "Defendant"). Defendant is promoting, offering for sale, selling, and/or distributing goods bearing and/or using counterfeits and confusingly similar imitations of Plaintiff's trademarks and/or unauthorized versions of The Beatles band members' likeness within this district through its Internet based e-commerce store operating under the seller name set forth on Schedule "A" hereto (the "E-commerce Store Name"). In support of its claims, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This is an action for damages and injunctive relief 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 All Writs Act, 28 U.S.C. § 1651(a), Florida Statute § 540.08, 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 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. Defendant is subject to personal jurisdiction in this district, because it directs business activities toward and conducts business with consumers throughout the United States, including within the State of Florida and this district, through at least, its Internet based e-commerce store accessible and doing business in Florida and operating under its E-commerce Store Name. Alternatively, based on its overall contact with the United States, Defendant is subject to personal jurisdiction in this district pursuant to Federal Rule of Civil Procedure 4(k)(2) because (i) Defendant is 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 Defendant is, upon information and belief, a non-resident in the United States and 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. Plaintiff, Apple Corps Limited, is an incorporated limited company organized under the laws of the United Kingdom with its principal place of business located in London, United Kingdom. Apple Corps is owned by the former members of The Beatles and, where applicable, their successors and its principal activities are the promotion, marketing, and policing of the products and rights of The Beatles, such as merchandising rights and audio and audio-visual content. Apple Corps owns the exclusive right by assignment from The Beatles to all merchandising rights of the Beatles and all other intangible rights in the name "The Beatles."

5. Apple Corps is engaged in the development, manufacture, promotion, distribution, and sale in interstate commerce, throughout the United States, including within this district, of a variety of quality goods using The Beatles band members' likeness and multiple common law and federally registered trademarks, including those discussed in Paragraph 18 below.

6. As a result of their enormous fame, The Beatles band members' likeness enjoys wide-spread recognition and monetary value. The Beatles have a substantial global and intergenerational fan base.

7. Plaintiff's trademarked goods, as well as their goods using The Beatles band members' likeness, are advertised, offered for sale, and sold within the State of Florida, including this district. Defendant, through the sale and offer to sell counterfeit, infringing, and/or unauthorized versions of Beatles branded products, is directly, and unfairly, competing with Plaintiff's economic interests in the United States, including within the State of Florida, and causing Plaintiff irreparable harm and damage within this jurisdiction.

8. Like many other famous intellectual property owners, Plaintiff suffers ongoing daily and sustained violations of its intellectual property rights at the hands of those who, such as Defendant herein, wrongfully publishes, reproduces, and counterfeits Plaintiff's intellectual property for the twin purposes of (i) duping and confusing the consuming public and (ii) earning substantial profits by benefitting from the world-wide fame and reputation that The Beatles have accrued over the course of their highly successful professional life.

9. To combat the harm caused by the actions of Defendant, Plaintiff expends significant resources in connection with intellectual property enforcement efforts. The exponential growth of intellectual property violations over the Internet has created an environment that requires companies, such as Plaintiff, 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 connected to The Beatles brand.

THE DEFENDANT

10. Defendant is an individual, business entity of unknown makeup, or unincorporated association who, upon information and belief, either resides and/or operates in a foreign jurisdiction, redistributes products from the same or similar sources in that location, and/or ships its goods from the same or similar sources in those locations to consumers as well as shipping and fulfillment centers within the United States to distribute its products from those locations. Defendant has the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendant targets its business activities towards consumers throughout the United States, including within this district, through the operation of, at least, its commercial Internet based e-commerce store under the E-commerce Store Name.

11. Defendant is directly and personally contributing to, inducing, and engaging in the sale of counterfeit and unauthorized branded products as alleged herein.

12. Defendant is the past and present controlling force behind the sale of products bearing and/or using counterfeits, infringing, and unauthorized versions of Plaintiff's intellectual property as described herein.

13. Defendant misappropriates The Beatles band members' likeness by advertising, offering for sale, and selling goods using The Beatles band members' likeness without Plaintiff's authorization.

14. Defendant directly engages in unfair competition with Plaintiff by advertising, offering for sale, and selling goods bearing and/or using counterfeits and infringements of Plaintiff's trademarks to consumers within the United States and this district through, at least, the

Internet based e-commerce store using, at least, the E-commerce Store Name, as well as additional names, e-commerce stores, or seller identification aliases not yet known to Plaintiff. Defendant has purposefully directed some portion of its unlawful activities towards consumers in the State of Florida through the advertisement, offer to sell, sale, and/or shipment of counterfeit, infringing, and unauthorized versions of Plaintiff's goods into the State.

15. Defendant has registered, established or purchased, and maintained its E-commerce Store Name. Defendant may have engaged in fraudulent conduct with respect to the registration of the E-commerce Store Name by providing false and/or misleading information during the registration or maintenance process related to its E-commerce Store Name. Defendant has registered and/or maintained the E-commerce Store Name for the sole purpose of engaging in unlawful infringing and counterfeiting activities.

16. Defendant will likely continue to register or acquire new e-commerce store names or other aliases, as well as related payment accounts, for the purpose of offering for sale and/or selling goods using counterfeit and confusingly similar imitations of one or more of Plaintiff's trademarks and/or unauthorized versions of The Beatles band members' likeness unless preliminarily and permanently enjoined.

17. Defendant's E-commerce Store Name, associated payment accounts, and any other alias e-commerce store or seller identification names used in connection with the sale of counterfeit and infringing goods bearing and/or using one or more of Plaintiff's trademarks and/or The Beatles band members' likeness are essential components of Defendant's online activities and are the means by which Defendant furthers its counterfeiting, infringing and misappropriating scheme and causes harm to Plaintiff. Moreover, Defendant is using Plaintiff's famous name, trademarks, and The Beatles band members' likeness to drive Internet consumer traffic to its e-commerce store

operating under the E-commerce Store Name, thereby increasing the value of the E-commerce Store Name and decreasing the size and value of Plaintiff's legitimate marketplace and intellectual property rights at Plaintiff's expense.

COMMON FACTUAL ALLEGATIONS

Apple Corp's Business and Trademark Rights

18. Apple Corps 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 "BEATLES Marks"):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
THE BEATLES	1,752,120	February 16, 1993	IC 025 - Headwear, sweatshirts, t-shirts, shirts.
BEATLES	4,373,956	July 30, 2013	IC 025 - Footwear and headgear, namely, hats and caps; clothing, namely, shirts, polo shirts, t-shirts, sweatshirts; jackets, coats; scarves; neckties; socks; long-sleeved shirts and long sleeved t-shirts; fleece tops; thermal tops; jerseys; tank tops; swim wear; slippers; cloth babies' bibs.

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

19. The BEATLES Marks have been extensively and continuously used in interstate commerce to identify and distinguish a variety of quality goods. The BEATLES Marks have been in use by Apple Corps since long before the Defendant's use of counterfeits of the BEATLES Marks.

20. The BEATLES Marks are a symbol of Apple Corps' quality, reputation and enormous goodwill and have never been abandoned.

21. The BEATLES Marks are well known and famous. Apple Corps and its licensees expend substantial resources in developing, advertising, and otherwise promoting the BEATLES Marks. The BEATLES Marks qualify as famous marks as that term is used in 15 U.S.C. §1125(c)(1).

22. The Beatles enjoy world-wide notoriety and fame. As a result of this fame, The Beatles' band members' likenesses are widely recognized, giving them substantial monetary value in the marketplace.

23. Additionally, Plaintiff owns all rights in the names, likeness and personas of each of the four members in the context of The Beatles as a group.

24. Further, Apple Corps and its licensees extensively use, advertise, and promote the BEATLES Marks and The Beatles band members' likeness in the United States in association with the sale of quality goods. Apple Corps and its licensees expend significant resources promoting the BEATLES Marks and The Beatles band members' likeness and products bearing and/or using the BEATLES Marks and The Beatles band members' likeness on the Internet, and via its official website, www.thebeatlesstore.com. Apple Corps' prominent use of the BEATLES Marks has further enhanced the BEATLES Marks' recognition and fame with members of the consuming public. In the last few years alone, Apple Corps has experienced substantial sales of its high quality goods.

25. The worldwide popularity of the Beatles musical compositions, musical recordings, and the enormous sales of goods bearing and/or using the Beatles name and the band members' likeness, has resulted in the widespread recognition of the "Beatles" brand. As a result of Apple Corps' use, promotion and advertisement of the Beatles brand, members of the consuming public readily identify merchandise bearing or sold using the BEATLES Marks as being quality

merchandise sponsored and approved by Apple Corps.

26. Accordingly, the BEATLES Marks are among the most widely recognized trademarks in the United States, and the trademarks have achieved substantial secondary meaning among consumers as identifiers of quality goods.

27. Apple Corps' has carefully monitored and policed the use of the BEATLES Marks and the use of The Beatles band members' likeness and has never assigned or licensed the BEATLES Marks or The Beatles band members' likeness to the Defendant in this matter.

28. Genuine goods bearing and/or using the BEATLES Marks and/or the authorized use of The Beatles band members' likeness are widely legitimately advertised, promoted, and offered for sale by Apple Corps, and its authorized licensees, via the Internet. Visibility on the Internet, particularly via Internet search engines and social media platforms is important to Apple Corps' overall marketing and consumer education efforts. Thus, Apple Corps expends significant resources on Internet marketing and consumer education which allows Apple Corps and its authorized licensees to educate consumers fairly and legitimately about the value associated with the Beatles brand, and the goods sold thereunder.

Defendant's Infringing Activities

29. Defendant is promoting, advertising, distributing, offering for sale, and/or selling goods in interstate commerce bearing and/or using counterfeit and confusingly similar imitations of the BEATLES Marks and/or unauthorized versions of The Beatles band members' likeness (the "Counterfeit Goods") through at least the e-commerce store operating under the E-commerce Store Name. Specifically, Defendant is using the BEATLES Marks to initially attract online consumers and drive them to Defendant's e-commerce store operating under the E-commerce Store Name. Defendant is using virtually identical copies of the BEATLES Marks and/or The Beatles band

members' likeness for different quality goods. Plaintiff has used the BEATLES Marks extensively and continuously before Defendant began offering counterfeit and confusingly similar imitations of Plaintiff's merchandise.

30. Defendant's Counterfeit Goods are of a quality substantially different than that of Plaintiff's genuine goods. Defendant is actively using, promoting and otherwise advertising, distributing, selling and/or offering for sale its Counterfeit Goods with the knowledge and intent that such goods will be mistaken for the genuine quality goods offered for sale by Plaintiff despite Defendant's knowledge that it is without authority to use the BEATLES Marks or The Beatles band members' likeness. Defendant's actions are likely to cause confusion of consumers who will believe all of Defendant's goods offered for sale in Defendant's e-commerce store are genuine goods originating from, associated with, and/or approved by Plaintiff.

31. Defendant advertises its e-commerce store, including its Counterfeit Goods, to the consuming public via at least the e-commerce store operating under the E-commerce Store Name. In so doing, Defendant improperly and unlawfully uses the BEATLES Marks and unauthorized versions of The Beatles band members' likeness, without authority.

32. Defendant is employing and benefiting from advertising and marketing strategies based, in large measure, upon an unauthorized use of counterfeits, infringements, and misappropriations of the BEATLES Marks and The Beatles band members' likeness. Specifically, Defendant is using counterfeits, infringements and misappropriations of at least one of the BEATLES Marks and/or The Beatles band members' likeness to make its e-commerce store selling unauthorized goods appear more relevant and attractive to consumers searching for both Plaintiff's and non-Plaintiff's goods and information online. Defendant is causing harm to Plaintiff and the consuming public by (i) depriving Plaintiff and other third parties of their right to fairly

compete for space online and 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 BEATLES Marks and The Beatles band members' likeness.

33. Defendant is conducting and targeting its counterfeiting, infringing and misappropriating activities toward consumers and causing harm within this district and elsewhere throughout the United States. As a result, Defendant is defrauding Plaintiff and the consuming public for Defendant's own benefit.

34. Defendant, without permission or authorization, is using The Beatles band members' likeness on its goods in connection with its unauthorized use of the BEATLES Marks.

35. At all times relevant hereto, Defendant has had full knowledge of Plaintiff's ownership of the BEATLES Marks and rights in the use of The Beatles band members' likeness, including its exclusive right to use and license such intellectual property and the goodwill associated therewith.

36. Defendant's use of the BEATLES Marks, including the promotion and advertisement, reproduction, distribution, sale and offering for sale of its Counterfeit Goods, is without Plaintiff's consent or authorization.

37. Defendant's use of The Beatles band members' likeness, including the promotion and advertisement, reproduction, distribution, sale and offering for sale of its goods featuring The Beatles band members' likeness, is without Plaintiff's consent or authorization.

38. Defendant is engaging in the above-described unlawful 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 Defendant's 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.

39. Defendant's 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, Defendant's wrongful conduct is likely to create a false impression and deceive consumers into believing there is a connection or association between Plaintiff's genuine goods and Defendant's Counterfeit Goods, which there is not.

40. Defendant's payment and financial account, including but not limited to the one specifically set forth on Schedule "A," is being used by Defendant to accept, receive, and deposit profits from Defendant's trademark counterfeiting and infringing and unfairly competitive activities connected to its E-commerce Store Name and any other alias seller identification names it uses and/or controls.

41. Further, Defendant, upon information and belief, is likely to transfer or secret its assets to avoid payment of any monetary judgment awarded to Plaintiff.

42. Plaintiff has no adequate remedy at law.

43. Plaintiff is suffering irreparable injury and has suffered substantial damages because of Defendant's unauthorized and wrongful use of the BEATLES Marks and The Beatles band members' likeness. If Defendant's 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 while Defendant wrongfully earns a substantial profit.

44. The harm and damage sustained by Plaintiff has been directly and proximately caused by Defendant's wrongful reproduction, use, advertisement, promotion, offers to sell, and

sale of its Counterfeit Goods.

45. The harm and damage sustained by Plaintiff has been directly and proximately caused by Defendant's unauthorized use of The Beatles band members' likeness in connection with the sale of its goods, including the Counterfeit Goods.

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

46. Plaintiff 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 Defendant based on its use of counterfeit and confusingly similar imitations of the BEATLES Marks in commerce in connection with the promotion, advertisement, distribution, offering for sale and sale of the Counterfeit Goods.

48. Defendant is promoting and otherwise advertising, selling, offering for sale, and distributing goods bearing and/or using counterfeits and/or infringements of the BEATLES Marks. Defendant is continuously infringing and inducing others to infringe the BEATLES Marks by using the BEATLES Marks to advertise, promote, sell, and offer to sell counterfeit and infringing Beatles branded goods.

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

50. Defendant's unlawful actions have caused and are continuing to cause unquantifiable damages and irreparable harm to Plaintiff and are unjustly enriching Defendant with profits at Plaintiff's expense.

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

52. Plaintiff has suffered and will continue to suffer irreparable injury and damages while Defendant is earning a substantial profit due to Defendant's above described activities if Defendant is 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. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 45 above.

54. Defendant's Counterfeit Goods bearing, using, offered for sale, and sold using copies of at least one of the BEATLES Marks have been widely advertised and offered for sale throughout the United States via the internet.

55. Defendant's Counterfeit Goods bearing, offered for sale, and sold using copies of the BEATLES Marks are virtually identical in appearance to Plaintiff's genuine goods. Accordingly, Defendant's activities are likely to cause confusion in the trade and among consumers as to at least the origin or sponsorship of its Counterfeit Goods.

56. Defendant has used in connection with its advertisement, offer for sale, and sale of its Counterfeit Goods, false designations of origin and false descriptions and representations, including words or other symbols and designs, which tend to falsely describe or represent such goods and have caused such goods to enter commerce in the United States with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Plaintiff's detriment.

57. Defendant has authorized infringing uses of at least one of the BEATLES Marks in Defendant's advertisement and promotion of its counterfeit and infringing branded goods.

58. Additionally, Defendant is using counterfeits and infringements of one or more of the BEATLES Marks to unfairly compete with Plaintiff and others for space within organic and paid search engine and social media 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.

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

60. Plaintiff has no adequate remedy at law and has sustained injury and damages caused by Defendant's conduct. Absent an entry of an injunction by this Court, Plaintiff will continue to suffer irreparable injury to its goodwill and business reputation, as well as monetary damages, while Defendant is earning a substantial profit.

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

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

62. Defendant has used The Beatles band members' likenesses and personas to directly promote its Counterfeit Goods for trade, commercial, or advertising purposes.

63. In so doing, Defendant earned a financial benefit from the unauthorized use of The Beatles band members' likeness in the sales of its unauthorized goods.

64. Defendant's use of The Beatles band members' likeness to directly promote its Counterfeit Goods for trade, commercial, or advertising purposes was without Plaintiff's authorization or consent.

65. Defendant's unauthorized use of The Beatles band members' likeness for commercial and advertising purposes thereby violates § 540.08, Florida Statutes.

66. As a result of Defendant's unauthorized use of The Beatles band members' likeness, Plaintiff has suffered and continues to suffer irreparable injury and damages.

67. In addition, as a direct and proximate result of Defendant's violations of § 540.08, Florida Statutes, Plaintiff is entitled to a reasonable fee for use of The Beatles band members' likeness.

COUNT IV – COMMON LAW UNFAIR COMPETITION

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

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

70. Specifically, Defendant is promoting and otherwise advertising, selling, offering for sale and distributing goods bearing and/or using counterfeits and infringements of the BEATLES Marks. Defendant is also using counterfeits and infringements of the BEATLES Marks to unfairly compete with Plaintiff 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.

71. Defendant's infringing activities are likely to cause and are causing confusion, mistake and deception among consumers as to the origin and quality of Defendant's e-commerce store as a whole and all products sold therein by its use of the BEATLES Marks.

72. Plaintiff has no adequate remedy at law and is suffering irreparable injury and damages because of Defendant's actions, while Defendant is unjustly profiting from those actions.

COUNT IV - COMMON LAW TRADEMARK INFRINGEMENT

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

74. Plaintiff is the owner of all common law rights in and to the BEATLES Marks.

75. This is an action for common law trademark infringement against Defendant based on its promotion, advertisement, offering for sale, and sale of its Counterfeit Goods using one or more of the BEATLES Marks.

76. Specifically, Defendant is promoting, and otherwise advertising, distributing, offering for sale, and selling goods using and/or bearing infringements of the BEATLES Marks.

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

78. Plaintiff has no adequate remedy at law and is suffering damages and irreparable injury because of Defendant's actions, while Defendant is unjustly profiting from those actions.

PRAYER FOR RELIEF

79. WHEREFORE, Plaintiff demands judgment on all Counts of this Complaint and an award of equitable relief and monetary relief against Defendant 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 Defendant, its agents, representatives, servants, employees, and all those acting in concert or participation therewith, from using, imitating and/or copying The Beatles band members' likeness and manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods bearing The Beatles

band members' likeness; from infringing, counterfeiting, or diluting the BEATLES Marks; from using the BEATLES Marks, or any mark or design similar thereto, from making unauthorized use of The Beatles band members' likeness in connection with the sale of any unauthorized goods; from using any logo, trade name, trademark, design or likeness, that may be calculated to falsely advertise the services or goods of Defendant 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 Defendant, 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 BEATLES Marks in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendant; 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 Defendant's 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 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 Defendant 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, Defendant in connection with the sale and distribution of non-genuine goods bearing and/or using counterfeits of the BEATLES 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, those acting in concert or participation as service providers to Defendant, who have notice of the injunction, cease hosting, facilitating access to, or providing any supporting service to the E-commerce Store Name, including but not limited to any other alias e-commerce store names through which Defendant engages in the promotion, offering for sale and/or sale of goods using counterfeits and/or infringements of the BEATLES Marks.

d. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority, authorizing Plaintiff to serve the injunction on any e-mail service provider with a request that the service provider permanently suspend the e-mail addresses that are used by Defendant in connection with Defendant's promotion, offering for sale, and/or sale of goods using counterfeits, and/or infringements of the BEATLES Marks.

e. Entry of an Order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority authorizing Plaintiff to serve the injunction on the e-commerce store name registrar(s) and/or the privacy protection service(s) for the E-commerce Store Name to disclose to Plaintiff the true identity and contact information for the registrant of the E-commerce Store Name.

f. 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 Defendant and the top level domain (TLD) Registry for the E-commerce Store Name, and any other e-commerce store names used by Defendant, or its administrators, including backend registry operators or administrators, place the E-commerce Store Name on Registry Hold status for the remainder of the registration period for any such e-commerce store names, thus removing them from the TLD zone files which link the E-

commerce Store Name, and any other e-commerce store names being used and/or controlled by Defendant to engage in the business of marketing, offering to sell, and/or selling goods bearing counterfeits and infringements of the BEATLES Marks, to the IP addresses where the associated e-commerce stores are hosted.

g. 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 E-commerce Store Name and any other e-commerce store names used by Defendant to engage in their counterfeiting of the BEATLES Marks at issue to Plaintiff's control so they may no longer be used for unlawful purposes.

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, registrars and/or top level domain (TLD) Registry for the E-commerce Store Name and any other alias e-commerce store names being used by Defendant who are provided with notice of an injunction issued by this Court identify any e-mail address known to be associated with Defendant's E-commerce Store Name.

i. Entry of an Order requiring Defendant to account to and pay Plaintiff for all profits and damages resulting from Defendant's 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, that Plaintiff be awarded statutory damages from 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.

j. Entry of an Order requiring Defendant to account to and pay Plaintiff for all profits and damages, enrichments, and advantages derived from Defendant's use of The Beatles band members' likenesses and personas 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 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Writs Act, Federal Rule of Civil Procedure 65, and the Court's inherent authority that, upon Plaintiff's request, Defendant and any financial institutions, payment processors, banks, escrow services, money transmitters, e-commerce shipping partner, fulfillment center, warehouse, storage facility, or marketplace platforms, and their related companies and affiliates, identify, restrain and surrender to Plaintiff all funds, up to and including the total amount of judgment, in all financial accounts and/or sub-accounts used in connection with the E-commerce Store Name or other alias e-commerce store names used by Defendant 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 Plaintiff in partial satisfaction of the monetary judgment entered herein.

m. Entry of an Order requiring Defendant, at Plaintiff'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 Defendant's products, including without limitation, the placement of corrective advertising and providing written notice to the public.

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

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

DATED: April 23, 2024.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: **s/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)]