

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

COSTA DEL MAR, INC.,

Plaintiff,

vs.

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

Defendants.

/

---

**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

Plaintiff, Costa Del Mar, Inc. ("Plaintiff" or "Costa") hereby sues Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule "A" (collectively "Defendants"). Defendants are promoting, offering for sale, selling, and/or distributing goods bearing and/or using counterfeits and confusingly similar imitations of Plaintiff's trademarks within this district through various Internet based e-commerce stores operating under the seller names set forth on Schedule "A" hereto (collectively the "E-commerce Store Names"). 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, and common law trademark infringement pursuant to 15 U.S.C. §§ 1114, 1116, and 1125(a), 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 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<sup>1</sup> accessible and doing business in Florida and operating under their E-commerce Store Names. Alternatively, based on their overall contacts with the United States, 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, 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, Costa Del Mar, Inc. ("Costa") is a corporation organized under the laws of the State of Florida with its principal place of business in Daytona Beach, Florida, and an office located at 2361 Mason Avenue, Suite 100, Daytona Beach, Florida, 32117-5166. Costa is, and for years has been, a leader in the design, manufacture, and distribution of outdoor lifestyle sunglasses. Costa is, in part, engaged in the business of manufacturing and distributing throughout the world,

---

<sup>1</sup> Defendants advertise, promote, and offer their goods for sale under their E-commerce Store Names via TikTok Shop. TikTok Shop is an e-commerce feature of the video hosting service TikTok and is accessible via the TikTok mobile app. TikTok Shop allows sellers to sell products directly to consumers via in-feed videos, live videos, and the Showcase feature. Consumers can also browse and search for products in TikTok Shop's "marketplace" tab.

including within this district, a variety of high-quality sports performance lifestyle goods under multiple world-famous common law and federally registered trademarks, as discussed in Paragraph 15 below.

5. Plaintiff offers for sale and sells its trademarked goods through various channels of trade within the State of Florida, including this district, and throughout the United States. Defendants, through the offer for sale and sale of counterfeit and infringing versions of Plaintiff's branded products, are directly and unfairly competing with Plaintiff's economic interests in the United States, including the State of Florida, and causing Plaintiff irreparable harm within this jurisdiction.

6. 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. The natural and intended byproduct of Defendants' combined actions is the erosion and destruction of the goodwill associated with Plaintiff's famous name and associated trademarks, as well as the destruction of the legitimate market sector in which it operates.

7. To combat the indivisible harm caused by the concurrent actions of Defendants and others engaged in similar conduct, Plaintiff expends significant resources in connection with trademark enforcement efforts. The exponential growth of counterfeiting over the Internet, including through online marketplace and social media platforms, has created an environment that requires companies, such as the 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 embodied in the Plaintiff's brand.

### **THE DEFENDANTS**

8. 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, at least, their Internet based e-commerce stores under the E-commerce Store Names.

9. Defendants use aliases in connection with the operation of their businesses.

10. 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.

11. Defendants directly engage in unfair competition with Plaintiff by advertising, offering for sale, and selling goods, each bearing and/or using counterfeits and infringements of one or more of Plaintiff's trademarks to consumers within the United States and this district through at least, the Internet based e-commerce stores using, at least, the E-commerce Store Names, as well as additional e-commerce store or seller identification aliases not yet known to Plaintiff. Defendants have purposefully directed some portion of their unlawful activities towards consumers in the State of Florida through the advertisement, offer to sell, sale, and/or shipment of counterfeit and infringing branded versions of Plaintiff's goods into the State.

12. Defendants have registered, established or purchased, and maintained their E-commerce Store Names. Defendants may have engaged in fraudulent conduct with respect to the registration of the E-commerce Store Names by providing false and/or misleading information during the registration or maintenance process related to their respective E-commerce Store Names.

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

14. Defendants' E-commerce Store Names, associated payment accounts, and any other alias e-commerce store names and/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 are essential components of Defendants' online activities and are the means by which Defendants further their counterfeiting and infringing scheme and cause harm to Plaintiff. Moreover, Defendants are using Plaintiff's famous name and/or associated trademarks to drive Internet consumer traffic to their e-commerce stores operating under the E-commerce Store Names, thereby increasing the value of the E-commerce Store Names and decreasing the size and value of Plaintiff's legitimate marketplace and intellectual property rights at Plaintiff's expense.

### **COMMON FACTUAL ALLEGATIONS**

#### **Costa's Business and Trademark Rights**

15. Costa 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 "COSTA Marks"):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
COSTA DEL MAR	1,723,449	October 13, 1992	IC 009. Sunglasses.
	3,273,228	August 7, 2007	IC 009. Sunglasses, sunglass frames, sunglass lenses.
	3,273,229	August 7, 2007	IC 009. Sunglasses, sunglass frames, sunglass lenses.
	3,431,239	May 20, 2008	IC 009. Eyewear, namely, sports eyewear and sunglasses.
COSTA 580	3,711,018	November 17, 2009	IC 009. Sunglasses and sunglass frames, sunglass lenses.
COSTA	3,857,379	October 5, 2010	IC 009. Sunglasses and sunglass frames.
	4,114,951	March 20, 2012	IC 009. Sports eyewear and sunglasses.
580	4,891,374	January 26, 2016	IC 009. Sunglasses lenses.
	5,646,820	January 8, 2019	IC 009. Eyeglasses and related accessories, namely, eyeglass lenses, eyeglass cases.
	5,653,366	January 15, 2019	IC 009. Eyeglasses and related accessories, namely, eyeglass lenses, eyeglass cases.
COSTA	5,653,368	January 15, 2019	IC 009. Eyeglasses and related accessories, namely, eyeglass lenses, eyeglass cases.

The COSTA 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 COSTA Marks are attached hereto as Composite Exhibit “1.”

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

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

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

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

20. Further, Costa extensively uses, advertises, and promotes the COSTA Marks in the United States in association with the sale of high-quality goods. Costa expends enormous resources promoting the COSTA Marks and products bearing the COSTA Marks on the Internet and via its official website, [www.costadelmar.com](http://www.costadelmar.com).

21. As a result of Costa’s efforts, members of the consuming public readily identify merchandise bearing or sold under the COSTA Marks as being high quality merchandise sponsored and approved by Costa.

22. Accordingly, the COSTA Marks have achieved secondary meaning among consumers as identifiers of Costa's high-quality goods.

23. Genuine goods bearing the COSTA Marks are widely legitimately advertised and promoted by Costa, its authorized distributors, and unrelated third parties via the Internet. Visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing, is important to Costa's overall marketing and consumer education efforts. Thus, Costa expends significant monetary and other resources on Internet marketing and consumer education, including search engine optimization ("SEO"), search engine marketing ("SEM"), and social media strategies. Those strategies allow Costa and its authorized retailers to educate consumers fairly and legitimately about the value associated with the COSTA Marks and the goods sold thereunder, and the problems associated with the counterfeiting of the COSTA trademarks.

#### **Defendants' Infringing Activities**

24. Defendants are each promoting and 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 COSTA Marks (the "Counterfeit Goods") through at least the e-commerce stores operating under the E-commerce Store Names. Specifically, Defendants are using the COSTA Marks ("Plaintiff's Marks") to initially attract online consumers and drive them to Defendants' e-commerce stores operating under the E-commerce Store Names. Defendants are each using virtually identical copies of one or more of Plaintiff's Marks for different quality goods. Plaintiff has used its Marks extensively and continuously before Defendants began offering goods using counterfeit and confusingly similar imitations of Plaintiff's merchandise.

25. Defendants' Counterfeit Goods are of a quality substantially 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 high-quality goods despite Defendants' knowledge that they are without authority to use Plaintiff's Marks. Defendants' actions are 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 Plaintiff.

26. Defendants advertise their e-commerce stores, including their Counterfeit Goods offered for sale, to the consuming public via e-commerce stores using, at least, the E-commerce Store Names. In so doing, Defendants improperly and unlawfully use one or more of Plaintiff's Marks without authority.

27. Most Defendants are concurrently employing and benefitting from substantially similar advertising and marketing strategies based, in large measure, upon an unauthorized use of counterfeits and infringements of Plaintiff's Marks. Specifically, Defendants are using counterfeits and infringements of Plaintiff's famous name and/or Plaintiff's Marks to make their e-commerce stores selling unauthorized goods appear more relevant and attractive to consumers searching for both Plaintiff's and non-Plaintiff's goods and information online. By their actions, Defendants are jointly contributing to the creation and maintenance of an unlawful 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 its right to fairly compete for space online and within search

engine results and reducing the visibility of Plaintiff's genuine goods on the Internet, (ii) causing an overall degradation of the value of the goodwill associated with Plaintiff's Marks by viewing inferior products in either the pre or post sale setting, and/or (iii) increasing Plaintiff'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 towards 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.

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

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

31. Defendants are engaging in the above-described unlawful counterfeiting and infringing 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 and infringing activities are not preliminarily and permanently enjoined by this Court, Plaintiff 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 Plaintiff's genuine goods and Defendants' Counterfeit Goods, which there is not.

33. Given the visibility of Defendants' various e-commerce stores and the similarity of their concurrent 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 Plaintiff and the overall consumer market in which it operates as a result of Defendants' concurrent actions.

34. 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 Plaintiff.

35. 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 E-commerce Store Names and any other alias e-commerce stores, seller identification names, or usernames being used and/or controlled by them.

36. Further, Defendants, upon information and belief, are likely to transfer or secret their assets to avoid payment of any monetary judgment awarded to Plaintiff.

37. Plaintiff has no adequate remedy at law.

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

39. The harm and damages sustained by Plaintiff 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)**

40. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 39 above.

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

42. 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 Plaintiff's Marks. Defendants are continuously infringing and inducing others to infringe Plaintiff's Marks by using one or more of Plaintiff's Marks to advertise, promote, offer to sell, and/or sell counterfeit and infringing versions of Plaintiff's branded goods.

43. Defendants' concurrent 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 Defendants' Counterfeit Goods.

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

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

46. Plaintiff has suffered and will continue to suffer irreparable injury and damages 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))**

47. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 39 above.

48. Defendants' Counterfeit Goods bearing, offered for sale, and sold using copies of one or more of Plaintiff's Marks have been widely advertised and offered for sale throughout the United States via at least one Internet marketplace website.

49. Defendants' Counterfeit Goods bearing, offered for sale, and sold using copies of one or more of Plaintiff's Marks are virtually identical in appearance to Plaintiff'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.

50. 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 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.

51. Defendants have each authorized infringing uses of one or more of Plaintiff's Marks in Defendants' advertisement and promotion of their counterfeit and infringing branded goods.

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

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

54. Plaintiff has no adequate remedy at law and has sustained both individual and indivisible injury and damages caused by Defendants' concurrent conduct. Absent an entry of an injunction by this Court, Plaintiff will continue to suffer irreparable injury to its goodwill and business reputation, while Defendants are earning a substantial profit.

**COUNT III - COMMON LAW UNFAIR COMPETITION.**

55. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 39 above.

56. 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 which are virtually identical to one or more of Plaintiff's Marks, in violation of Florida's common law of unfair competition.

57. 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 Plaintiff's Marks. Defendants are also each using counterfeits and infringements of one or more of Plaintiff's 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/or (ii) visibility on the Internet.

58. 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 Plaintiff's Marks.

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

#### **COUNT IV - COMMON LAW TRADEMARK INFRINGEMENT**

60. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 39 above.

61. Plaintiff is the owner of all common law rights in and to Plaintiff's Marks.

62. This is an action for common law trademark infringement against Defendants based on their promotion, advertisement, offering for sale, and/or sale of their Counterfeit Goods bearing and/or using one or more of Plaintiff's Marks.

63. 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 Plaintiff's Marks.

64. 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 Plaintiff's Marks.

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

**PRAYER FOR RELIEF**

66. 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, 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 Plaintiff's Marks; from using Plaintiff's 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 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 Plaintiff's 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 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 Plaintiff's 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 Defendants, who are provided with notice of an injunction issued by the Court, shall cease hosting, facilitating access to, or providing any supporting service to the E-commerce Store Names, and any other alias e-commerce store names being used and/or controlled by Defendants to engage in the business of promoting, offering to sell, and/or selling goods bearing and/or using counterfeits and infringements of Plaintiff's Marks.

d. 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, any Internet platform operators and/or administrators for the E-commerce Store Names who are provided with notice of an injunction issued by the Court, including TikTok Inc., identify any e-mail address known to be associated

with Defendants' respective E-commerce Store Names and any other alias e-commerce store names being used by Defendants.

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 registration platform for the E-commerce Store Names to disclose to Plaintiff the true identities and contact information for the registrants of the E-commerce Store Names.

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, any Internet platform 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 Plaintiff's Marks via the e-commerce stores operating under the E-commerce Store Names, and upon Plaintiff's request, any other listings and images of goods bearing and/or using counterfeits and/or infringements of Plaintiff's Marks associated with or linked to the same sellers or linked to any other alias e-commerce stores and 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 Plaintiff's Marks.

g. Entry of an Order pursuant to 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, Defendants and any Internet platform operators and/or administrators who are provided with notice of an injunction issued by the Court, shall immediately cease fulfillment of and sequester all goods of each Defendant bearing one or more of Plaintiff's Marks in its inventory, possession, custody, or control, and surrender those goods to Plaintiff.

h. Entry of an Order requiring, upon Plaintiff's request, Defendants to request in writing permanent termination of any messaging services, e-commerce Store Names, usernames, e-commerce stores, and social media accounts they own, operate, or control on any messaging service, e-commerce marketplace, or social media website.

i. Entry of an Order requiring Defendants to account to and pay Plaintiff for all profits earned 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 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 offered for sale or sold, as provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.

j. 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.

k. 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, Defendants 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 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 E-commerce Store Names or any other alias e-commerce store 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 Plaintiff in partial satisfaction of the monetary judgment entered herein.

l. Entry of an Order requiring Defendants, 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 Defendants' products, including without limitation, the placement of corrective advertising and providing written notice to the public.

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: September 10, 2024.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: **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](mailto:Stephen@smgpa.net)

E-mail: [Leo@smgpa.net](mailto:Leo@smgpa.net)

E-mail: [Raquel@smgpa.net](mailto:Raquel@smgpa.net)

E-mail: [Christine@smgpa.cloud](mailto:Christine@smgpa.cloud)

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)]**