

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.:

MOB ENTERTAINMENT, INC.,

Plaintiff,

v.

THE PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A,"

Defendants.

_____ /

COMPLAINT

Mob Entertainment, Inc. ("Plaintiff") hereby brings the present action against the Partnerships and Unincorporated Associations identified on Schedule A attached hereto (collectively, "Defendants") and alleges as follows:

JURISDICTION AND VENUE

1. This is an action seeking damages and injunctive relief for trademark counterfeiting and infringement and false designation of origin under the Lanham Act pursuant to 15 U.S.C. §§ 1114, 1116, 1121, 1125(a), and 1125(d), the Copyright Act 17 U.S.C. § 501, *et seq.*, and The All Writs Act, 28 U.S.C. § 1651(a); 15 U.S.C. § 1051 *et seq.*

2. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, the Copyright Act 17 U.S.C. § 501, *et seq.*, 28 U.S.C. § 1338(a)–(b) and 28 U.S.C. § 1331.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendants since each of the Defendants directly

targets business activities toward consumers in the United States through at least the fully interactive e-commerce stores¹ operating under the seller aliases identified in Schedule A attached hereto (the “Seller Aliases”). Specifically, Defendants have targeted sales to United States residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States accept payment in U.S. dollars and/or funds from U.S. bank accounts and, on information and belief, have sold products using infringing and counterfeit versions of Plaintiff’s federally registered trademarks and/or unauthorized copies of Plaintiff’s federally registered copyrighted works (collectively, the “Unauthorized Poppy Playtime Products”) to residents of the United States. Each of the Defendants is committing tortious acts in the United States, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the United States.

INTRODUCTION

4. This action has been filed by Plaintiff to combat e-commerce store operators who trade upon Plaintiff’s reputation and goodwill by selling and/or offering for sale Unauthorized Poppy Playtime Products. Defendants create e-commerce stores operating under one or more Seller Aliases that are advertising, offering for sale, and selling Unauthorized Poppy Playtime Products to unknowing consumers. E-commerce stores operating under the Seller Aliases share unique identifiers, establishing a logical relationship between them and that Defendants’ counterfeiting operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid and mitigate liability by operating under one or more Seller Aliases to conceal both their identities and the full scope and interworking of their counterfeiting operation. Plaintiff is forced to file this action to combat Defendants’ counterfeiting

¹ The e-commerce store URLs are listed on Schedule A hereto under the Online Marketplaces.

of its registered trademarks and infringement of its registered copyrighted works, as well as to protect unknowing consumers from purchasing Unauthorized Poppy Playtime Products over the internet. Plaintiff has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademarks and infringement of its copyrighted works as a result of Defendants' actions and seeks injunctive and monetary relief.

THE PARTIES

Plaintiff

5. Mob Entertainment, Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business in St. Louis, Missouri.

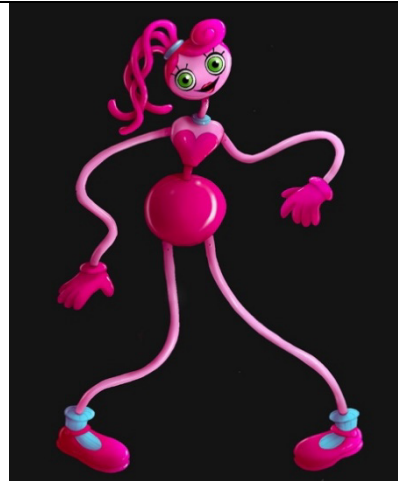
6. Plaintiff is a digital entertainment company that creates and distributes high quality animated content across multiple platforms. Plaintiff's focus is on the production and distribution of digital content and playable video games. Most notably, Plaintiff developed and released the world-famous video game, Poppy Playtime. Plaintiff released the first chapter (Chapter 1) of Poppy Playtime, "A Tight Squeeze," on October 12, 2021, the second chapter (Chapter 2), "Fly in a Web," on May 6, 2022, and a spin-off multi-player game, "PROJECT: Playtime," on December 12, 2022. The third chapter (Chapter 3), "Deep Sleep," was released on January 30, 2024.

7. Poppy Playtime is a first-person survival horror game that involves an unnamed protagonist who is called upon to investigate a mystery at a toy factory abandoned by the fictional toy company Playtime Co. The player must solve puzzles in order to progress further, all while avoiding the game's main antagonist, Huggy Wuggy, a large humanoid figure that once acted as the mascot of Playtime Co. Huggy Wuggy and other characters associated with the game have gained significant popularity among those in the gaming community and abroad. Some of these famous characters and other elements from Poppy Playtime and PROJECT: Playtime are displayed in the following chart:

Huggy Wuggy

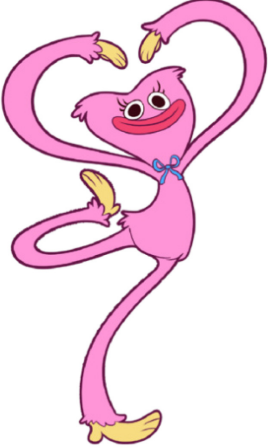

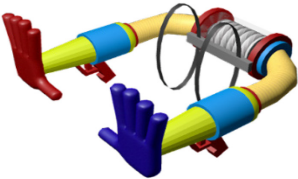








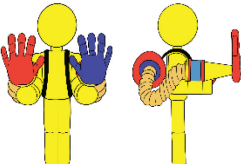


Mommy Long Legs






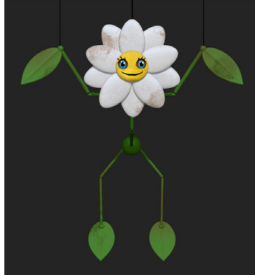
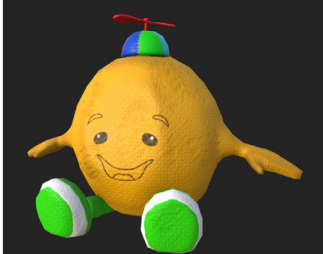

Poppy





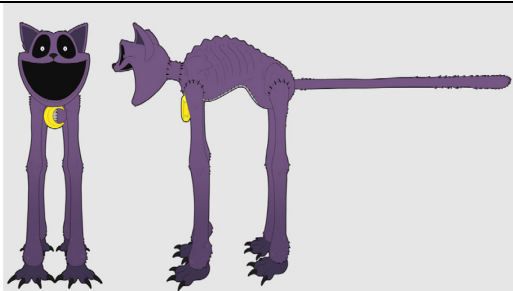



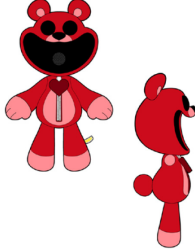



<p>Kissy Missy</p>	
<p>Killy Willy</p>	
<p>Grab Pack</p>	
<p>Playtime Co</p>	


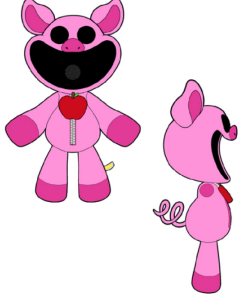

Boogie Bot	 A green, rounded robot character with a black visor, musical notes floating around its head, and its arms raised in a dancing pose.
Candy Cat	 A blue, fluffy cat-like creature with a long, curved tail, sticking its tongue out and surrounded by colorful candy pieces.
Bunzo Bunny	 A yellow and green rabbit-like character with a large, smiling mouth, wearing a green vest and holding a yellow object.
Daddy Long Legs	 A blue, insect-like character with extremely long, thin legs, wearing a blue and yellow outfit.
PJ Pug-a-Pillar	 A purple and blue caterpillar-like character with a large, smiling mouth and small legs.
The Player	 Two yellow, stick-figure characters with large, colorful hands (one red, one blue) and holding a red and yellow object.
Bron	 A red and yellow dinosaur-like character with a long neck and a friendly expression.
Poppy Playtime	 The logo for 'Poppy Playtime', featuring the word 'POPPY' in large, white, stylized letters with red outlines, and 'PLAYTIME' in smaller, red, stylized letters below it, all on a black background.

<p>Baby Long Legs</p>	
<p>Boxy Boo!</p>	
<p>PROJECT: PLAYTIME Huggy (smile)</p>	
<p>PROJECT: PLAYTIME Kissy Missy (teeth)</p>	
<p>PROJECT: PLAYTIME Train</p>	
<p>PROJECT: PLAYTIME Logo</p>	

<p>PROJECT: PLAYTIME Coin</p>	
<p>PROJECT: PLAYTIME Ticket</p>	
<p>Catbee</p>	
<p>Daisy</p>	
<p>Kick-me-Paul</p>	
<p>Owen the Oven</p>	

<p>Sir Poops-A-Lot</p>	 A purple and white toy box for 'Sir Poops-A-Lot'. The box features a cartoon bear character wearing a black suit and a top hat, holding a black toilet brush. The text 'Sir Poops-A-Lot' is written in a stylized font. A yellow 'Try Me!' button is visible on the right side of the box.
<p>PROJECT: PLAYTIME Player</p>	 A yellow, full-body figure of a character from the 'PROJECT: PLAYTIME' series. The character is wearing a yellow jumpsuit with a black visor and a black belt. The figure is standing with its arms slightly away from its body.
<p>PROJECT: PLAYTIME Phone (Phase 2)</p>	 A vertical, black toy phone. The top part of the phone is red and features a white, jagged, tooth-like shape. The bottom part of the phone is black and has a yellow label with some text.
<p>PROJECT: PLAYTIME Logo (Phase 2)</p>	 The logo for 'PROJECT: PLAYTIME PHASE 2 INCINERATION'. The words 'PROJECT: PLAYTIME' are in a small, black, rectangular box. Below that, 'PHASE 2' is written in a larger, yellow, stylized font. At the bottom, 'INCINERATION' is written in a large, yellow, stylized font with a black outline.
<p>CH3 CatNap (big)</p>	 Two purple, stylized cat-like characters. The one on the left is a small, round cat with a yellow crescent moon on its chest. The one on the right is a larger, more elongated cat with a long, thin tail and a yellow crescent moon on its chest.

<p>CH3 CatNap - Smiling Critters (plush)</p>	
<p>CH3 Bob BearHug - Smiling Critters (plush)</p>	
<p>CH3 Hoppy Hopscotch - Smiling Critters (plush)</p>	
<p>CH3 KickinChicken - Smiling Critters (plush)</p>	
<p>CH3 DogDay Smiling - Critters (plush)</p>	

<p>CH3 Bubba Bubbaphant - Smiling Crittters (plush)</p>	
<p>CH3 PickyPiggy Smiling - Crittters (plush)</p>	
<p>CH3 CraftCorn Smiling - Crittters (plush)</p>	

8. The Poppy Playtime video game has become a global success that resonates with children and adults worldwide and has gained wide exposure on platforms such as iOS, Google Play, Steam, PlayStation, YouTube and Twitch. For example, playthrough videos of Chapter 1 of Poppy Playtime have received billions of views on YouTube and TikTok, and 11 million downloads on PC and mobile. As such, the Poppy Playtime trademarks and characters are invaluable assets of Plaintiff’s business.

9. In addition to the popular video game, a variety of licensed Poppy Playtime products are available, including stuffed toys, posters, and clothing (collectively, the “Poppy Playtime Products”).

10. Poppy Playtime Products are distributed and sold to consumers directly through Plaintiff’s website at poppyplaytime.com, as well as through authorized retailers in the United States.

11. Plaintiff has used POPPY PLAYTIME trademark and other trademarks for many years in connection with the Poppy Playtime video game and related line of Poppy Playtime Products and has continuously sold products under the POPPY PLAYTIME trademark and other trademarks (collectively, the “POPPY PLAYTIME Trademarks”). As a result of this long-standing use, strong common law trademark rights have amassed in the POPPY PLAYTIME Trademarks. Plaintiff’s use of the marks has also built substantial goodwill in and to the POPPY PLAYTIME Trademarks. Plaintiff has registered the below POPPY PLAYTIME Trademarks with the United States Patent and Trademark Office.

Registration No.	Trademark
7,157,530	POPPY PLAYTIME
7,392,878	BOXY BOO
7,523,931	MOMMY LONG LEGS

12. The above U.S. registrations for the POPPY PLAYTIME Trademarks are valid, subsisting, and in full force and effect. The registrations for the POPPY PLAYTIME Trademarks constitute *prima facie* evidence of its validity and of Plaintiff’s exclusive right to use the POPPY PLAYTIME Trademarks pursuant to 15 U.S.C. § 1057(b).

13. The POPPY PLAYTIME Trademarks are distinctive when applied to the Poppy Playtime Products, signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff’s quality standards. Whether Plaintiff manufactures the products itself

or contracts with others to do so, Plaintiff has ensured that products bearing the POPPY PLAYTIME Trademarks are manufactured to the highest quality standards.

14. The POPPY PLAYTIME Trademarks are famous marks, as that term is used in 15 U.S.C. § 1125(c)(1) and have been continuously used and never abandoned. The innovative marketing and product designs of the Poppy Playtime Products have enabled the Poppy Playtime brand to achieve widespread recognition and fame and have made the POPPY PLAYTIME Trademarks some of the most well-known marks in the video game industry. The widespread fame and significant goodwill associated with the Poppy Playtime brand have made the POPPY PLAYTIME Trademarks a valuable asset of Plaintiff.

15. Plaintiff has expended substantial time, money, and other resources in advertising and promoting the POPPY PLAYTIME Trademarks. Poppy Playtime Products have also been the subject of extensive unsolicited publicity resulting from their fame and innovative designs. As a result, products bearing the POPPY PLAYTIME Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Plaintiff. Poppy Playtime Products have become among the most popular of their kind. The POPPY PLAYTIME Trademarks have achieved tremendous fame and recognition which has only added to the inherent distinctiveness of the marks. As such, the goodwill associated with the POPPY PLAYTIME Trademarks is of incalculable and inestimable value to Plaintiff.

16. The Poppy Playtime copyrighted works (the “Poppy Playtime Copyrighted Works”) are registered with the United States Copyright Office, which are as follows: (1) “HUGGY WUGGY 2D” (U.S. Copyright Registration Nos. VA0002288105), issued by the Register of Copyrights on February 23, 2022, and the corresponding supplemental registration: VA0002337317; (2) “MOMMY LONG LEGS 2D” (U.S. Copyright Registration Nos.

VA0002293330), issued by the Register of Copyrights on February 24, 2022; (3) “POPPY” (U.S. Copyright Registration Nos. VA0002294398), issued by the Register of Copyrights on April 6, 2022, and the corresponding supplemental registration: VA0002328878; (4) “KISSY MISSY” (U.S. Copyright Registration Nos. VA0002295039), issued by the Register of Copyrights on April 4, 2022, and the corresponding supplemental registration: VA0002329039; (5) “KILLY WILLY” (U.S. Copyright Registration Nos. VA 0002313745), issued by the Register of Copyrights on August 15, 2022; (6) “Grab Pack.” (U.S. Copyright Registration Nos. VA0002295044), issued by the Register of Copyrights on April 4, 2022, and the corresponding supplemental registration: VA0002324267; (7) “Playtime Co” (U.S. Copyright Registration Nos. VA0002315377), issued by the Register of Copyrights on April 4, 2022; (8) “Boogie Bot” (U.S. Copyright Registration Nos. VA0002308194), issued by the Register of Copyrights on April 4, 2022, and the corresponding supplemental registration: VA0002324268; (9) “Candy Cat.” (U.S. Copyright Registration Nos. VA0002299187), issued by the Register of Copyrights on April 6, 2022; (10) “Bunzo Bunny” (U.S. Copyright Registration Nos. VAu001467492 and VA0002302450), issued by the Register of Copyrights on April 6, 2022 and May 31, 2022, respectively, and the corresponding supplemental registration: VA0002337322; (11) “Daddy Long Legs” (U.S. Copyright Registration Nos. VA0002307871), issued by the Register of Copyrights on June 17, 2022; (12) “PJ Pug-a-Pillar” (U.S. Copyright Registration Nos. VAu001467493, VA0002305066, and VA0002309543), issued by the Register of Copyrights on April 6, 2022, May 31, 2022, and July 6, 2022, respectively; (13) “The Player” (U.S. Copyright Registration Nos. VA0002307489), issued by the Register of Copyrights on July 6, 2022; (14) “Bron” (U.S. Copyright No. VA0002307750), issued by the Register of Copyrights on July 11, 2022; (15) “Poppy Playtime” (U.S. Copyright Registration Nos. VA0002313620), issued by the Register of Copyrights on August 15, 2022; (16)

“Baby Long Legs” (U.S. Copyright Registration Nos. VA0002313618), issued by the Register of Copyrights on August 15, 2022; (17) “Boxy Boo!” (U.S. Copyright Registration Nos. VAu001481285), issued by the Register of Copyrights on August 31, 2022; (18) “Catbee” (U.S. Copyright Registration Nos. VA0002314605), issued by the Register of Copyrights on April 4, 2022; (19) “Daisy” (U.S. Copyright Registration Nos. VA0002309221), issued by the Register of Copyrights on April 4, 2022; (20) “Kick-me-Paul” (U.S. Copyright Registration Nos. VA0002309536), issued by the Register of Copyrights on July 6, 2022; (21) “Owen the Oven” (U.S. Copyright Registration Nos. VA0002309540), issued by the Register of Copyrights on July 6, 2022; (22) “Sir Poops-A-Lot” (U.S. Copyright Registration Nos. VA0002309546), issued by the Register of Copyrights on July 6, 2022; (23) “PROJECT: PLAYTIME Huggy (smile)” (U.S. Copyright Registration Nos. VA0002343263), issued by the Register of Copyrights on March 10, 2023; (24) “PROJECT: PLAYTIME Kissy Missy (teeth)” (U.S. Copyright Registration Nos. VA0002343260), issued by the Register of Copyrights on March 10, 2023; (25) “PROJECT: PLAYTIME Train” (U.S. Copyright Registration Nos. VA0002343265), issued by the Register of Copyrights on March 10, 2023; (26) “PROJECT: PLAYTIME Logo” (U.S. Copyright Registration Nos. VA0002343511), issued by the Register of Copyrights on March 10, 2023; (27) “PROJECT: PLAYTIME Coin” (U.S. Copyright Registration Nos. VA0002343789), issued by the Register of Copyrights on March 10, 2023; and (28) “PROJECT: PLAYTIME Ticket” (U.S. Copyright Registration Nos. VA0002343752), issued by the Register of Copyrights on March 10, 2023; (29) “PROJECT: PLAYTIME Player” (U.S. Copyright Registration Nos. VA0002343147), issued by the Register of Copyrights on March 10, 2023; (30) “PROJECT: PLAYTIME Phone (Phase 2)” (U.S. Copyright Registration Nos. VA0002364954), issued by the Register of Copyrights on July 26, 2023; (31) “PROJECT: PLAYTIME Logo (Phase 2)” (U.S. Copyright Registration Nos.

VA0002364960), issued by the Register of Copyrights on July 26, 2023; (32) “CH3 Main Character (big)” (U.S. Copyright Registration Nos. VAu001501019), issued by the Register of Copyrights on July 12, 2023; (33) “CH3 Main Character (plush)” (U.S. Copyright Registration Nos. VAu001501018), issued by the Register of Copyrights on July 12, 2023; (34) “CH3 Character 2 (plush)” (U.S. Copyright Registration Nos. VAu001505729), issued by the Register of Copyrights on July 13, 2023; (35) “CH3 Character 3 (plush)” (U.S. Copyright Registration Nos. VAu001505841), issued by the Register of Copyrights on July 13, 2023; (36) “CH3 Character 4 (plush)” (U.S. Copyright Registration Nos. VAu001505833), issued by the Register of Copyrights on July 13, 2023; (37) “CH3 Character 5 (plush)” (U.S. Copyright Registration Nos. VAu001505728), issued by the Register of Copyrights on July 13, 2023; (38) “CH3 Character 6 (plush)” (U.S. Copyright Registration Nos. VAu001505840), issued by the Register of Copyrights on July 13, 2023; (39) “CH3 Character 7 (plush)” (U.S. Copyright Registration Nos. VAu001505843), issued by the Register of Copyrights on July 13, 2023; (40) “CH3 Character 8 (plush)” (U.S. Copyright Registration Nos. VAu001505842), issued by the Register of Copyrights on July 13, 2023; (41) “Poppy Playtime - Chapter 2.” (U.S. Copyright Registration Nos. PA0002352982), issued by the Register of Copyrights on June 8, 2022; (42) “Poppy Playtime.” (U.S. Copyright Registration Nos. PA0002352981), issued by the Register of Copyrights on June 8, 2022; (43) “PROJECT: PLAYTIME Factory.” (U.S. Copyright Registration Nos. PA0002405148), issued by the Register of Copyrights on March 10, 2023; (44) “CH3 Teaser Trailer #2 (July 26, 2023)” (U.S. Copyright Registration Nos. PA0002421932), issued by the Register of Copyrights on July 26, 2023.

17. Among the exclusive rights granted to Plaintiff under the U.S. Copyright Act are the exclusive rights to reproduce, prepare derivative works of, distribute copies of, and display the Poppy Playtime Copyrighted Works to the public.

18. Since their first publication, the Poppy Playtime Copyrighted Works have been used on the Poppy Playtime Products and are featured on Plaintiff's website at poppyplaytime.com. Poppy Playtime Products featuring the Poppy Playtime Copyrighted Works are advertised on Plaintiff's website at poppyplaytime.com.

19. Poppy Playtime Products typically include one or more of the registered POPPY PLAYTIME Trademarks and/or one or more of the Poppy Playtime Copyrighted Works. As such, Poppy Playtime Products are recognized by the public as being exclusively associated with the Poppy Playtime brand.

The Defendants

20. Defendants are individuals and business entities of unknown makeup who own and/or operate one or more of the e-commerce stores under at least the Seller Aliases identified on Schedule A and/or other seller aliases not yet known to Plaintiff. On information and belief, Defendants reside and/or operate in the People's Republic of China or other foreign jurisdictions with lax trademark enforcement systems or redistribute products from the same or similar sources in those locations. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).

21. On information and belief, Defendants, either individually or jointly, operate one or more e-commerce stores under the Seller Aliases listed in Schedule A attached hereto. Tactics used by Defendants to conceal their identities and the full scope of their operation make it virtually impossible for Plaintiff to learn Defendants' true identities and the exact interworking of their

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

DEFENDANTS' UNLAWFUL CONDUCT

22. The success of the Poppy Playtime video game and brand has resulted in significant counterfeiting of the POPPY PLAYTIME Trademarks and copying of the Poppy Playtime Copyrighted Works. Consequently, Plaintiff regularly investigates suspicious e-commerce stores identified in proactive Internet sweeps and reported by consumers. In recent years, Plaintiff has identified many fully interactive e-commerce stores offering Unauthorized Poppy Playtime Products on online marketplace platforms such as Amazon, eBay, AliExpress, Alibaba, Wish.com, Walmart, Etsy, DHgate, Temu, and TikTok, including the e-commerce stores operating under the Seller Aliases. The Seller Aliases target consumers throughout the United States. According to a U.S. Customs and Border Protection (“CBP”) report, in 2021, CBP made over 27,000 seizures of goods with intellectual property rights (“IPR”) violations totaling over \$3.3 billion, an increase of \$2.0 billion from 2020.² Of the 27,000 in total IPR seizures, over 24,000 came through international mail and express courier services (as opposed to containers), most of which originated from China and Hong Kong.³

23. Third party service providers like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing counterfeiters to “routinely use false or inaccurate names and addresses when registering with these e-commerce platforms.”⁴ Counterfeiters hedge against the risk of being caught and having their websites taken

² See *Intellectual Property Rights Seizure Statistics, Fiscal Year 2021*, U.S. Customs and Border Protection.

³ *Id.*

⁴ See Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 40 NW. J. INT’L L. & BUS. 157, 186 (2020); see also report on “Combating Trafficking in Counterfeit and Pirated Goods” prepared by the U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans (Jan. 24, 2020), and finding that on “at least some e-commerce platforms, little identifying information is necessary

down from an e-commerce platform by preemptively establishing multiple virtual store-fronts.⁵ Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, counterfeiters can have many different profiles that can appear unrelated even though they are commonly owned and operated.⁶ Further, “E-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of counterfeits and counterfeiters.”⁷

24. Defendants have targeted sales to United States residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, accept payment in U.S. dollars and/or funds from U.S. bank accounts and, on information and belief, have sold Unauthorized Poppy Playtime Products to residents of the United States.

25. Defendants concurrently employ and benefit from substantially similar advertising and marketing strategies. For example, Defendants facilitate sales by designing the e-commerce stores operating under the Seller Aliases so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. E-commerce stores operating under the Seller Aliases appear sophisticated and accept payment in U.S. dollars and/or funds from U.S. bank accounts via credit cards, Alipay, Amazon Pay, and/or PayPal. E-commerce stores operating under the Seller Aliases often include content and images that make it very difficult for consumers to distinguish such stores from an authorized retailer. Plaintiff has not licensed or authorized Defendants to use the POPPY PLAYTIME Trademarks or copy or distribute the Poppy Playtime

for a counterfeiter to begin selling” and recommending that “significantly enhanced vetting of third-party sellers” is necessary.

⁵ *Id.* at p. 22.

⁶ *Id.* at p. 39.

⁷ Chow, *supra* note 4, at p. 186-87.

Copyrighted Works, and none of the Defendants are authorized retailers of genuine Poppy Playtime Products.

26. Many Defendants also deceive unknowing consumers by using the POPPY PLAYTIME Trademarks without authorization within the content, text, and/or meta tags of their e-commerce stores to attract various search engines crawling the internet looking for websites relevant to consumer searches for Poppy Playtime Products. Other e-commerce stores operating under Seller Aliases omit using the POPPY PLAYTIME Trademarks in the item title to evade enforcement efforts while using strategic item titles and descriptions that will trigger their listings when consumers are searching for Poppy Playtime Products.

27. E-commerce store operators like Defendants commonly engage in fraudulent conduct when registering the Seller Aliases by providing false, misleading, and/or incomplete information to e-commerce platforms to prevent discovery of their true identities and the scope of their e-commerce operation.

28. E-commerce store operators like Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Unauthorized Poppy Playtime Products. Such seller alias registration patterns are one of many common tactics used by e-commerce store operators like Defendants to conceal their identities and the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

29. Even though Defendants operate under multiple fictitious aliases, the e-commerce stores operating under the Seller Aliases often share unique identifiers, such as templates with common design elements that intentionally omit any contact information or other information for identifying Defendants or other Seller Aliases they operate or use. E-commerce stores operating under the Seller Aliases include other notable common features such as use of the same registration

patterns, accepted payment methods, check-out methods, keywords, advertising tactics, similarities in price and quantities, the same incorrect grammar and misspellings, and/or the use of the same text and images. Additionally, Unauthorized Poppy Playtime Products for sale by the Seller Aliases bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Unauthorized Poppy Playtime Products were manufactured by and come from a common source and that Defendants are interrelated.

30. E-commerce store operators like Defendants are in constant communication with each other and regularly participate in QQ.com chat rooms and through websites such as sellerdefense.cn and kuajingvs.com regarding tactics for operating multiple accounts, evading detection, pending litigation, and potential new lawsuits.

31. Counterfeiters such as Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation in spite of Plaintiff's enforcement. E-commerce store operators like Defendants maintain off-shore bank accounts and regularly move funds from their financial accounts to off-shore accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to Plaintiff. Indeed, analysis of financial transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

32. Defendants are working to knowingly and willfully import, distribute, offer for sale, and sell Unauthorized Poppy Playtime Products in the same transaction, occurrence, or series of transactions or occurrences. Defendants, without any authorization or license from Plaintiff, have knowingly and willfully used and continue to use the POPPY PLAYTIME Trademarks and/or copies of the Poppy Playtime Copyrighted Works in connection with the advertisement,

distribution, offering for sale, and sale of Unauthorized Poppy Playtime Products into the United States over the internet.

33. Defendants' unauthorized use of the POPPY PLAYTIME Trademarks and/or copies of the Poppy Playtime Copyrighted Works in connection with the advertising, distribution, offering for sale, and sale of Unauthorized Poppy Playtime Products, including the sale of Unauthorized Poppy Playtime Products into the United States is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Plaintiff.

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

34. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs 1 through 33.

35. This is a trademark infringement action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the federally registered POPPY PLAYTIME Trademarks in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The POPPY PLAYTIME Trademarks are highly distinctive marks. Consumers have come to expect the highest quality from Poppy Playtime Products offered, sold, or marketed under the POPPY PLAYTIME Trademarks.

36. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and advertising products using counterfeit reproductions of the POPPY PLAYTIME Trademarks without Plaintiff's permission.

37. Plaintiff's United States Registrations for the POPPY PLAYTIME Trademarks are in full force and effect. On information and belief, Defendants have knowledge of Plaintiff's rights in the POPPY PLAYTIME Trademarks and are willfully infringing and intentionally using infringing and counterfeit versions of the POPPY PLAYTIME Trademarks. Defendants' willful,

intentional, and unauthorized use of the POPPY PLAYTIME Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Unauthorized Poppy Playtime Products among the general public.

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

39. Plaintiff has no adequate remedy at law and, if Defendants' actions are not enjoined, Plaintiff will continue to suffer irreparable harm to its reputation and the goodwill of its POPPY PLAYTIME Trademarks.

40. The injuries and damages sustained by Plaintiff have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of Unauthorized Poppy Playtime Products.

COUNT II
FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

41. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs 1 through 33.

42. Defendants' promotion, marketing, offering for sale, and sale of Unauthorized Poppy Playtime Products has created and is creating a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with Plaintiff or the origin, sponsorship, or approval of Defendants' Unauthorized Poppy Playtime Products by Plaintiff.

43. By using the POPPY PLAYTIME Trademarks in connection with the sale of Unauthorized Poppy Playtime Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Unauthorized Poppy Playtime Products.

44. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Unauthorized Poppy Playtime Products to the general public involves the use of counterfeit marks and is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

45. Plaintiff has no adequate remedy at law and, if Defendants' actions are not enjoined, Plaintiff will continue to suffer irreparable harm to its reputation and the associated goodwill of its Poppy Playtime brand.

COUNT III
COPYRIGHT INFRINGEMENT OF UNITED STATES COPYRIGHT
REGISTRATIONS (17 U.S.C. §§ 106 AND 501)

46. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs 1 through 33.

47. The Poppy Playtime Copyrighted Works constitute original works and copyrightable subject matter pursuant to the Copyright Act, 17 U.S.C. §§ 101, *et seq.*

48. Plaintiff has complied with the registration requirements of 17 U.S.C. § 411(a) for the Poppy Playtime Copyrighted Works. The Poppy Playtime Copyrighted Works are protected by the U.S. Copyright Registration Nos. listed in Paragraph 15, which were duly issued to Plaintiff by the United States Copyright Office. At all relevant times, Plaintiff has been and still is the owner of all rights, title, and interest in the Poppy Playtime Copyrighted Works, which have never been assigned, licensed, or otherwise transferred to Defendants.

49. The Poppy Playtime Copyrighted Works are published on the internet and available to Defendants online. As such, Defendants had access to the Poppy Playtime Copyrighted Works via the internet.

50. Without authorization from Plaintiff, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced, and/or made derivative works incorporating the Poppy Playtime Copyrighted Works on e-commerce stores operating under the Seller Aliases and the corresponding Unauthorized Poppy Playtime Products. Defendants' derivative works are virtually identical to and/or are substantially similar to the look and feel of the Poppy Playtime Copyrighted Works. Such conduct infringes and continues to infringe the Poppy Playtime Copyrighted Works in violation of 17 U.S.C. § 501(a) and 17 U.S.C. §§ 106(1)–(3), (5).

51. Defendants reap the benefits of the unauthorized copying and distribution of the Poppy Playtime Copyrighted Works in the form of revenue and other profits that are driven by the sale of Unauthorized Poppy Playtime Products.

52. Defendants have unlawfully appropriated Plaintiff's protectable expression by taking material of substance and value and creating Unauthorized Poppy Playtime Products that capture the total concept and feel of the Poppy Playtime Copyrighted Works.

53. On information and belief, Defendants' infringement has been willful, intentional, purposeful, and in disregard of and with indifference to Plaintiff's rights.

54. Defendants, by their actions, have damaged Plaintiff in an amount to be determined at trial.

55. Defendants' conduct is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot fully be compensated or measured in money. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a preliminary and permanent injunction prohibiting further infringement of the Poppy Playtime Copyrighted Works.

PRAYER FOR RELIEF

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

1) Entry of temporary, preliminary, and permanent injunctions pursuant to 15 U.S.C. § 1116, 17 U.S.C. § 502, 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:

- a. using the POPPY PLAYTIME Trademarks or any reproductions, counterfeit copies, or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine Poppy Playtime Product or is not authorized by Plaintiff to be sold in connection with the POPPY PLAYTIME Trademarks;
- b. reproducing, distributing copies of, making derivative works of, or publicly displaying the Poppy Playtime Copyrighted Works in any manner without the express authorization of Plaintiff;
- c. passing off, inducing, or enabling others to sell or pass off any product as a genuine Poppy Playtime Product or any other product produced by Plaintiff, that is not Plaintiff's or not produced under the authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale under the POPPY PLAYTIME Trademarks and/or the Poppy Playtime Copyrighted Works;
- d. committing any acts calculated to cause consumers to believe that Defendants' Unauthorized Poppy Playtime Products are those sold under the authorization, control,

- or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
- e. further infringing the POPPY PLAYTIME Trademarks and/or the Poppy Playtime Copyrighted Works and damaging Plaintiff's goodwill; and
 - f. manufacturing, shipping, delivering, holding for sale, transferring, or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of Plaintiff's trademarks, including the POPPY PLAYTIME Trademarks, or any reproductions, counterfeit copies, or colorable imitations thereof and/or which bear the Poppy Playtime Copyrighted Works;
- 2) 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 those with notice of the injunction, including, without limitation, any online marketplace platforms such as eBay, AliExpress, Alibaba, Amazon, Wish.com, Walmart, Etsy, Temu, TikTok, and DHgate (collectively, the "Third Party Providers") from participating in, including providing financial, technical, and advertising services or other support to, Defendants in connection with the sale of counterfeit and infringing goods using the POPPY PLAYTIME Trademarks and/or which bear the Poppy Playtime Copyrighted Works;
- 3) 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 Third Party Providers who have notice of the injunction, cease hosting, facilitating access to, or providing any supporting service to any and all e-commerce stores, including but not limited to the Seller Aliases, through which

Defendants engage in the promotion, offering for sale and/or sale of goods using the POPPY PLAYTIME Trademarks and/or which bear the Poppy Playtime Copyrighted Works;

- 4) 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 Third Party Providers for the Seller Aliases who are provided with notice of an injunction issued by the Court, identify any e-mail address known to be associated with Defendants' Seller Aliases;
- 5) Entry of an order requiring Defendants account for and pay to Plaintiff all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of the POPPY PLAYTIME Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
- 6) In the alternative, entry of an order that Plaintiff be awarded statutory damages for willful trademark counterfeiting pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every use of the POPPY PLAYTIME Trademarks;
- 7) Entry of an order that, as a direct and proximate result of Defendants' infringement of the Poppy Playtime Copyrighted Works, Plaintiff is entitled to damages as well as Defendants' profits, pursuant to 17 U.S.C. § 504(b);
- 8) Alternatively, and at Plaintiff's election prior to any final judgment being entered, entry of an order that Plaintiff is entitled to the maximum amount of statutory damages provided by law, \$150,000 per work infringed pursuant to 17 U.S.C. § 504(c), or for any other such amount as may be proper pursuant to 17 U.S.C. § 504(c);
- 9) Entry of an order that Plaintiff is further entitled to recover its attorneys' fees and full costs for bringing this action pursuant to 17 U.S.C. § 505 and 17 U.S.C. § 1117(a); and
- 10) Award any and all other relief that this Court deems just and proper.

Dated this 8th day of February 2025.

Respectfully submitted,

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-and-

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SCHEDULE A

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