

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

BERLUTI SA,

Plaintiff,

vs.

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

Defendants.

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**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

Plaintiff, Berluti SA (“Plaintiff” or “Berluti”), hereby sues Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule “A” hereto (collectively “Defendants”). Defendants are promoting, offering for sale, selling, and/or distributing goods bearing and/or using counterfeits and confusingly similar imitations of Berluti’s trademarks within this district through various Internet based e-commerce stores operating under the seller names set forth on Schedule “A” (the “Selling E-commerce Store Names”). Additionally, Defendants have set up a transaction laundering scheme with intermediary or “middleman” e-commerce stores, including at least the intermediary e-commerce stores identified on Schedule “A” hereto (the “Intermediary E-commerce Store Names”), re-routing the payment processing for purchases of counterfeit Berluti-branded goods from the Selling E-commerce Store Names to the Intermediary E-commerce Store Names (the Selling E-commerce Store Names and the Intermediary E-commerce Store Names are collectively referred to herein as the “E-commerce Store Names”). In support of its claims, Berluti 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, cybersquatting, common law unfair competition, and common law trademark infringement pursuant to 15 U.S.C. §§ 1114, 1116, and 1125(a), and 1125(d), The All Writs Act, 28 U.S.C. § 1651(a), and Florida's common law. Accordingly, this Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Berluti'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, e-commerce stores 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-residents 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. Berluti is a société anonyme organized under the laws of the Republic of France with its principal place of business located at 120 rue du Faubourg Saint-Honoré, F-75008 Paris, France. Berluti and its affiliated companies are, in part, engaged in the business of designing, manufacturing, marketing, and distributing throughout the world, including within this district, a variety of high-quality luxury goods under multiple world famous common law and federally registered trademarks, including those identified in Paragraph 14 below. Berluti offers for sale and sells its trademarked goods within the State of Florida, including this district, through its boutiques and online retail website. Defendants, through the offer to sell and sale of counterfeit and infringing Berluti branded products, are directly, and unfairly, competing with Berluti's economic interests in the United States, including within the State of Florida and causing Berluti irreparable harm and damage within this jurisdiction.

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

6. To combat the indivisible harm caused by the concurrent actions of Defendants and others engaging in similar conduct, each year Berluti expends significant monetary resources in connection with trademark enforcement efforts, including legal fees, investigative fees, and support mechanisms for law enforcement. The exponential growth of counterfeiting over the

Internet, including through online marketplace and social media platforms, has created an environment that requires Berluti to expend significant resources across a wide spectrum of efforts to protect both consumers and it from confusion and erosion of the goodwill embodied in Berluti's brand.

### **THE DEFENDANTS**

7. Defendants are individuals, business entities of unknown makeup, or unincorporated associations each of whom, upon information and belief, either reside and/or operate in foreign jurisdictions, redistribute products from the same or similar sources in those locations, and/or ship their goods from the same or similar sources in those locations to consumers as well as shipping and fulfillment centers within the United States to redistribute their products from those locations. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendants target their business activities towards consumers throughout the United States, including within this district, through the simultaneous operation of, at least, their commercial Internet based e-commerce stores under the Selling E-commerce Store Names and using the Intermediary E-commerce Store Names in connection therewith.

8. Defendants operate the Selling E-commerce Store Names in tandem with the payment Intermediary E-commerce Store Names thereby creating an interconnected ecosystem.

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

10. Defendants are the past and/or present controlling forces behind the operation of the E-commerce Store Names and the sale of products using counterfeits and infringements of Berluti's trademarks as described herein.

11. Defendants directly engage in unfair competition with Berluti by advertising, offering for sale, and selling goods each bearing and/or using counterfeits and infringements of

one or more of Berluti's trademarks to consumers within the United States and this district through 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 Berluti. Defendants have purposefully directed some portion of their unlawful activities toward consumers in the State of Florida through the advertisement, offer to sell, sale, and/or shipment of counterfeit and infringing Berluti branded 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 or maintenance 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. Defendants have registered and/or maintained the E-commerce Store Names for the sole purpose of engaging in unlawful infringing, counterfeiting, and phishing activities.

13. Defendants 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 selling and/or offering for sale goods bearing and/or using counterfeit and confusingly similar imitations of one or more of Berluti's trademarks unless preliminarily and permanently enjoined.

14. Defendants' E-commerce Store Names, Intermediary E-commerce Store Names, 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 Berluti's trademarks are essential components of Defendants' online activities and are one of the means by which Defendants further their counterfeiting and infringement schemes and cause harm to Berluti. Moreover, Defendants are using Berluti's famous name and/or trademarks to drive Internet consumer traffic to at least one of their e-commerce stores operating under the E-


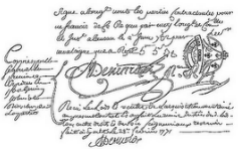
commerce Store Names, thereby increasing the value of the E-commerce Store Names and decreasing the size and value of Berluti's legitimate marketplace and intellectual property rights at Berluti's expense.


### **COMMON FACTUAL ALLEGATIONS**

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


15. Berluti 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 "Berluti Marks"):

<b>Trademark</b>	<b>Registration Number</b>	<b>Registration Date</b>	<b>Class(es) / Relevant Goods</b>
BERLUTI	1,871,385	January 3, 1995	IC 025. shoes.
BERLUTI	3,502,025	September 16, 2008	IC 018. Goods made of leather and imitation leather, namely, handbags, purses, briefcases, business card cases, credit card cases, document cases, toiletry cases sold empty, overnight cases; small goods made of leather or imitation leather, namely, wallets, key cases; suitcases
BERLUTI	4,255,851	December 11, 2012	IC 003. boot creams; creams for leather; leather preserving polishes. IC 009. Bags and valises for photographic and cinematographic apparatus; accessories, namely, covers, for devices, namely, mobile telephones, laptop computers, spectacles; sunglasses; spectacle cases. IC 014. costume jewelry; jewelry, namely, cufflinks, key rings of precious metal; boxes and cases for watches. IC 021. non-electric wax-polishing appliances for shoes, namely, shoe polish applicators not containing shoe polish; shoe horns; shoe trees; brushes for footwear; shoe brushes. IC 025. Clothing and underclothing, namely, shirts, tee-shirts, jumpers, vests, trousers, coats, jackets, belts for clothing, scarves, sashes for wear, gloves, neckties, socks, bathing suits, footwear; headwear.

BERLUTI	4,970,845	June 7, 2016	IC 035. Retail store services and online retail store services featuring clothing, footwear, headwear, leather goods, optical goods, jewelry, watches and luggage; presentation of goods, namely, clothing, footwear, headwear, optical goods, leather goods, jewelry, watches and luggage, on all communication media for retail purposes.
	5,980,810	February 11, 2020	IC 018. Leather and imitations of leather; trunks and suitcases; travel bags, bags for sports; handbags, backpacks; beach bags, school bags, school satchels, textile shopping bags; travelling trunks; garment and footwear bags for travel; attaché cases and briefcases; purses, pocket wallets, note card cases, purses not of precious metal, leatherware key cases; boxes of leather or leatherboard; leatherware travelling bag sets, vanity cases, not fitted; pouches of leather, pouches, namely, evening handbags; parasols; umbrellas.  IC 025. Clothing, namely, pullovers, vests, shirts, tee-shirts, trousers, jackets, suits, coats, raincoats, overcoats, parkas, skirts, dresses, shorts; pajamas, house coats, night shirts, dressing gowns; hats, caps, bonnets, clothing, namely, gloves, neckties, clothing, namely, belts, leather belts, scarves, clothing, namely, pocket squares, shawls, stockings, socks, tights, suspenders, stoles; underwear, lingerie; bathing suits; footwear, slippers, boots and half-boots.
	5,980,812	February 11, 2020	IC 018. Leather and imitations of leather; trunks and suitcases; travel bags, bags for sports; handbags, backpacks; beach bags, school bags, school satchels, textile shopping bags; travelling trunks; garment and footwear bags for travel; attaché cases and briefcases; purses, pocket wallets, note card cases, purses not of precious metal, leatherware key cases; boxes of leather or leatherboard; leatherware travelling bag sets, vanity cases, not fitted; pouches of leather, pouches, namely, evening handbags; parasols; umbrellas.  IC 025. Clothing, namely, pullovers, vests, shirts, tee-shirts, trousers, jackets, suits, coats, raincoats, overcoats, parkas, skirts, dresses, shorts; pajamas, house coats, night shirts, dressing gowns; hats, caps, bonnets, clothing, namely, gloves, neckties, clothing, namely, belts, leather belts, scarves, clothing, namely, pocket squares, shawls, stockings, socks, tights, suspenders, stoles; underwear, lingerie; bathing suits; footwear, slippers, boots and half-boots.

	6,248,060	January 19, 2021	<p>IC 009. Photographic apparatus and instruments, namely, cameras; cinematographic machines and apparatus; apparatus for recording, transmission or reproduction of sound or images; virtual reality headsets; smart watches; holders, bags, satchels, and cases for cameras, video cameras, tablets, computers, laptops, portable phones, smartphones; electronic book readers; data processing equipment, computers and computer equipment, namely, computer mice, computer keyboards, computer screens, webcams, and computer peripherals; mouse pads; headphones; loudspeakers; digital photo frames; blank USB flash drives; electronic agendas; downloadable and recorded electronic game software; downloadable computer software and mobile application programs for connecting users to e-commerce sites; downloadable electronic publications in the nature of multimedia content in the fields of travel, shoes, leather goods, luxury goods, fashion, clothing, sports, art, design, and lifestyle; telephones; mobile telephones; accessories for telephones, namely, mobile phone holders; smartphones; computers; portable computers; tablet computers; personal digital assistants; MP3 players; batteries; bags, cases, covers, shells for tablets, computers, laptops, portable phones, and smartphones; facades for mobile phones, tablets, and computers; chargers, namely, mobile phone, tablet, and computer chargers; straps or neck cords for mobile phones and tablet computers; earphones.</p> <p>IC 014. Works of art of precious metal; jewelry boxes; jewelry and costume jewelry, especially earrings, rings, cuff links, bracelets, charms, brooches, chains, watch chains, necklaces, tie pins, lockets, and fancy key chains; timekeepers and chronometric instruments, in particular watches, wristwatches, watch cases and watch straps, wall clocks, table clocks, pendulum clocks, chronographs, chronometers, alarm clocks, and clock cases.</p> <p>IC 018. Leather and imitations of leather; trunks being luggage and suitcases; traveling bags, sports bags; handbags, backpacks; beach bags, school bags, satchels, and reusable shopping bags; traveling trunks; travel bags for clothing and shoes; attaché cases and document cases, attaché cases for documents, leather briefcases; purses, wallets, card holders being wallets, coin purses not of precious metal, and leather key</p>
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			<p>cases; boxes of leather or imitation leather; leather traveling bag sets; vanity cases sold empty; pouches of leather, clutch bags being evening handbags; parasols; umbrellas.</p> <p>IC 025. Clothing, namely, pullovers, vests, shirts, tee-shirts, trousers, jackets, suits, coats, raincoats, overcoats, parkas, skirts, dresses, shorts; pajamas, house coats, nightgowns and nightshirts, dressing gowns; hats, caps being headwear, gloves, neckties, belts, leather belts, scarves, pocket squares, sashes for wear, shawls, stockings, socks, tights, suspenders, stoles; underwear, lingerie; bathing suits; footwear, slippers, boots, and half-boots.</p>
	6,248,067	January 19, 2021	<p>IC 009. Photographic apparatus and instruments, namely, cameras; cinematographic machines and apparatus; apparatus for recording, transmission or reproduction of sound or images; virtual reality headsets; smart watches; holders, bags, satchels, and cases for cameras, video cameras, tablets, computers, laptops, portable phones, smartphones; electronic book readers; data processing equipment, computers and computer equipment, namely, computer mice, computer keyboards, computer screens, webcams, and computer peripherals; mouse pads; headphones; loudspeakers; digital photo frames; blank USB flash drives; electronic agendas; downloadable and recorded electronic game software; downloadable computer software and mobile application programs for connecting users to e-commerce sites; downloadable electronic publications in the nature of multimedia content in the fields of travel, shoes, leather goods, luxury goods, fashion, clothing, sports, art, design, and lifestyle; telephones; mobile telephones; accessories for telephones, namely, mobile phone holders; smartphones; computers; portable computers; tablet computers; personal digital assistants; MP3 players; batteries; bags, cases, covers, shells for tablets, computers, laptops, portable phones, and smartphones; facades for mobile phones, tablets, and computers; chargers, namely, mobile phone, tablet, and computer chargers; straps or neck cords for mobile phones and tablet computers; earphones.</p> <p>IC 014. Works of art of precious metal; jewelry boxes; jewelry and costume jewelry, especially earrings, rings, cuff links, bracelets, charms, brooches, chains, watch</p>

			<p>chains, necklaces, tie pins, locket, and fancy key chains; timekeepers and chronometric instruments, in particular watches, wristwatches, watch cases and watch straps, wall clocks, pendulum clocks, chronographs, chronometers, alarm clocks, and clock cases.</p> <p>IC 018. Leather and imitations of leather; trunks being luggage and suitcases; traveling bags, sports bags; handbags, backpacks; beach bags, school bags, satchels, and reusable shopping bags; traveling trunks; travel bags for clothing and shoes; attaché cases and document cases, attaché cases for documents, leather briefcases; purses, wallets, card holders being wallets, coin purses not of precious metal, and leather key cases; boxes of leather or imitation leather; leather traveling bag sets; vanity cases sold empty; pouches of leather, clutch bags being evening handbags; parasols; umbrellas.</p> <p>IC 025. Clothing, namely, pullovers, vests, shirts, tee-shirts, trousers, jackets, suits, coats, raincoats, overcoats, parkas, skirts, dresses, shorts; pajamas, house coats, nightgowns and nightshirts, dressing gowns; hats, caps being headwear, gloves, neckties, belts, leather belts, scarves, pocket squares, sashes for wear, shawls, stockings, socks, tights, suspenders, stoles; underwear, lingerie; bathing suits; footwear, slippers, boots, and half-boots.</p>
<p><b>1895</b> <b>BERLUTI</b> <b>PARIS</b></p>	6,908,862	November 29, 2022	<p>IC 018. Leather and imitations of leather; trunks being luggage and suitcases; traveling bags, sports bags; handbags; backpacks; beach bags; school bags; satchels; shopping bags, namely, reusable shopping bags, leather shopping bags; traveling trunks; travel bags for clothing and shoes; attaché cases and document cases; attaché cases for documents; briefcases, namely, leather briefcases; purses, wallets, card cases, in the nature of wallets; coin purses not of precious metal; key cases of leather; boxes of leather or imitation leather; traveling sets, in the nature of leather travelling bags; unfitted vanity cases; pouches of leather; clutch bags, in the nature of evening handbags; parasols; umbrellas.</p> <p>IC 025. Clothing, namely, pullovers, vests, shirts, tee-shirts, trousers, jackets, suits, coats, raincoats, overcoats, parkas, skirts, dresses, shorts; pajamas; house coats; nightgowns, and nightshirts; dressing</p>

			gowns; hats, caps being headwear; gloves for clothing; neckties, belts for clothing; leather belts, scarves, pocket squares in the nature of clothing; sashes for wear; shawls; stockings; socks; tights; suspenders; stoles; underwear; lingerie; bathing suits; footwear, slippers, boots and half-boots.
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The Berluti 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 Berluti Marks are attached hereto as Composite Exhibit “1.”

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

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

18. The Berluti Marks are symbols of Berluti’s quality, reputation and goodwill and have never been abandoned. Berluti has continuously used the Berluti Marks since registration.

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

20. Further, Berluti and its affiliated companies extensively use, advertise, and promote the Berluti Marks in the United States in association with the sale of high-quality goods and carefully monitor and police the use of the Berluti Marks.

21. As a result of Berluti’s efforts, consumers readily identify merchandise bearing or sold using the Berluti Marks as being high quality goods sponsored and approved by Berluti.

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

23. Genuine goods bearing and/or using the Berluti Marks are widely legitimately advertised, promoted, and offered for sale by Berluti and its affiliated companies and authorized distributors via the Internet. Visibility on the Internet, particularly via Internet search engines and social media platforms, is important to Berluti's overall marketing and consumer education efforts. Thus, Berluti and its affiliated companies expend significant monetary and other resources on Internet marketing and consumer education regarding its products, including search engine optimization ("SEO"), search engine marketing ("SEM"), and social media strategies. Those strategies allow Berluti and its authorized retailers to educate consumers fairly and legitimately about the value associated with the Berluti brand and the goods sold thereunder, and the problems associated with the counterfeiting of Berluti's trademarks.

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

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

25. Defendants' Counterfeit Goods are of a quality substantially different than that of Berluti's genuine goods. Defendants are actively using, promoting and otherwise advertising, distributing, offering for sale and/or selling substantial quantities of their Counterfeit Goods with the knowledge and intent that such goods will be mistaken for the genuine high-quality goods offered for sale by Berluti, despite Defendants' knowledge that they are without authority to use the Berluti 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 Berluti.

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

27. Defendants are concurrently employing and benefiting from substantially similar advertising and marketing strategies based, in large measure, upon an unauthorized use of counterfeits and infringements of the Berluti Marks. Specifically, Defendants are using counterfeits and infringements of Berluti's famous name and the Berluti Marks to make their e-commerce stores selling unauthorized goods appear more relevant and attractive to consumers searching for both Berluti and non-Berluti 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 Berluti's genuine goods. Defendants are causing individual, concurrent, and indivisible harm to Berluti and the consuming public by (i) depriving Berluti and other third parties of their right to fairly compete for space online and within

search engine results and reducing the visibility of Berluti's genuine goods on the World Wide Web, (ii) causing an overall degradation of the value of the goodwill associated with the Berluti Marks by viewing inferior products in either the pre or post sale setting, and (iii) increasing Berluti's overall cost to market its goods and educate consumers about its brand via the Internet.

28. Additionally, Defendants are using their Intermediary E-commerce Store Names to reroute the payment processing for the sale of goods bearing counterfeits and confusingly similar imitations of Berluti's trademarks purchased through the Selling E-commerce Store Names. Because the Intermediary E-commerce Store Names themselves do not show counterfeit Berluti branded goods offered for sale, Defendants can create an aura of legitimacy and evade detection of payment origination to provide payment processors and related financial institutions with the appearance that the goods they are selling are non-infringing items. Ultimately, the Intermediary E-commerce Store Names allow Defendants to circumvent financial regulations by creating a separate payment microecosystem for the sole purpose of managing payment processing for the Selling E-commerce Store Names.

29. Defendants are concurrently conducting and targeting their counterfeiting and infringing activities toward consumers and likely causing unified harm within this district and elsewhere throughout the United States. As a result, Defendants are defrauding Berluti, the relevant payment processors and financial institutions, and the consuming public for Defendants' own benefit.

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

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

32. Defendants are engaging in the above-described unlawful counterfeiting and infringing activities knowingly and intentionally or with reckless disregard or willful blindness to Berluti's rights for the purpose of trading on Berluti's goodwill and reputation.

33. 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 consumers, the public, and the trade into believing there is a connection or association between Berluti's genuine goods and Defendants' Counterfeit Goods, which there is not.

34. Further, Defendants are using Berluti's name and trademarks to falsely represent their websites operating under the E-commerce Store Names as Berluti or associated with Berluti, and are, upon information and belief, using the E-commerce Store Names and associated websites as phishing websites and wrongfully using the Berluti Marks in combination with the collection Personally Identifiable Information (PII), including names, addresses, buying information, payment information, and other important data.

35. Additionally, at least one of the Selling E-commerce Store Names is incorporating marks that are identical to at least one of the Berluti Marks, (the "Cybersquatted E-commerce Store Name").

36. Defendants have registered and/or used the Cybersquatted E-commerce Store Name with the bad faith intent to profit from the Berluti Marks.

37. Defendants do not have, nor have they ever had, the right or authority to use the Berluti Marks. Further, the Berluti Marks have never been assigned or licensed to be used on any of the e-commerce stores operating under the Cybersquatted E-commerce Store Name.

38. Upon information and belief, Defendants have provided false and/or misleading contact information when applying for the registration of the Cybersquatted E-commerce Store Name or have intentionally failed to maintain accurate contact information with respect to the registration of the Cybersquatted E-commerce Store Name.

39. Defendants have never used the Cybersquatted E-commerce Store Name in connection with a bona fide offering of goods or services.

40. Defendants have not made any bona fide non-commercial or fair use of the Berluti Marks on a website accessible under the Cybersquatted E-commerce Store Name.

41. Defendants have intentionally incorporated at least one of the Berluti Marks in the Cybersquatted E-commerce Store Name to divert consumers looking for Berluti's genuine website to their own Internet e-commerce store for commercial gain

42. 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 Berluti and the overall consumer market in which they operate because of Defendants' concurrent actions.

43. 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 Berluti.

44. 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 store names being used and/or controlled by them.

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

46. Berluti has no adequate remedy at law.

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

48. The harm and damage sustained by Berluti 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)**

49. Berluti hereby adopts and re-alleges the factual allegations set forth in Paragraphs 1 through 48 above.

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

51. Defendants are promoting and otherwise advertising, selling, offering for sale and distributing goods bearing and/or using counterfeits and/or infringements of one or more of the

Berluti Marks. Defendants are continuously infringing and inducing others to infringe the Berluti Marks by using one or more of them to advertise, promote, offer to sell and/or sell counterfeit and infringing Berluti branded goods.

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

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

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

55. Berluti has no adequate remedy at law. Berluti has suffered and will continue to suffer irreparable injury and damage due to Defendants' above-described activities if Defendants are not preliminarily and permanently enjoined, and Defendants will continue to wrongfully profit from their unlawful activities.

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

56. Berluti hereby adopts and re-alleges the factual allegations set forth in Paragraphs 1 through 48 above.

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

58. Defendants' Counterfeit Goods bearing, offered for sale, and sold using copies of one or more of the Berluti Marks are virtually identical in appearance to Berluti's genuine goods. However, Defendants' Counterfeit Goods are different in quality. Accordingly, Defendants' activities are likely to cause confusion among consumers as to at least the origin or sponsorship of their Counterfeit Goods.

59. 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 falsely describe or represent such goods and have caused such goods to enter into commerce in the United States with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Berluti's detriment.

60. Defendants have each authorized infringing uses of one or more of the Berluti Marks in Defendants' advertisement and promotion of their counterfeit and infringing branded goods. Defendants have also misrepresented to members of the consumer public that the Counterfeit Goods they advertise and sell are genuine, non-infringing goods.

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

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

63. Berluti has no adequate remedy at law. Berluti has suffered and will continue to suffer irreparable injury and damage due to Defendants' above-described activities if Defendants are not preliminarily and permanently enjoined, and Defendants will continue to wrongfully profit from their unlawful activities.

**COUNT III - CLAIM FOR RELIEF FOR CYBERSQUATTING  
PURSUANT TO §43(d) OF THE LANHAM ACT (15 U.S.C. §1125(d))**

64. Berluti hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 48 above.

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

66. Defendants have acted with bad faith intent to profit from the Berluti Marks and the goodwill associated with the Berluti Marks by registering and using the Cybersquatted E-commerce Store Name.

67. The Berluti Marks were already distinctive and famous at the time Defendants registered the Cybersquatted E-commerce Store Name.

68. Defendants have no intellectual property rights in or to the Berluti Marks.

69. The Cybersquatted E-commerce Store Name is identical to, confusingly similar to or dilutive of one or more of the Berluti Marks.

70. Defendants' conduct is done with knowledge and constitutes a willful violation of Berluti's rights in the Berluti Marks. At a minimum, Defendants' conduct constitutes reckless disregard for and willful blindness to Berluti's rights.

71. Defendants' actions constitute cybersquatting in violation of §43(d) of the Lanham Act, 15 U.S.C. §1125(d).

72. Berluti has no adequate remedy at law. Berluti has suffered and will continue to suffer irreparable injury and damage due to Defendants' above-described activities if Defendants are not preliminarily and permanently enjoined, and Defendants will continue to wrongfully profit from their unlawful activities.

#### **COUNT IV - COMMON LAW UNFAIR COMPETITION**

73. Berluti hereby adopts and re-alleges the factual allegations set forth in Paragraphs 1 through 48 above.

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

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

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

77. Berluti has no adequate remedy at law. Berluti has suffered and will continue to suffer irreparable injury and damage due to Defendants' above-described activities if Defendants are not preliminarily and permanently enjoined, and Defendants will continue to wrongfully profit from their unlawful activities.

**COUNT V - COMMON LAW TRADEMARK INFRINGEMENT**

78. Berluti hereby adopts and re-alleges the factual allegations set forth in Paragraphs 1 through 48 above.

79. Berluti is the owner of all common law rights in and to the Berluti Marks.

80. This is an action for common law trademark infringement against Defendants based on their promotion, advertisement, offering for sale, and sale of their Counterfeit Goods using one or more of the Berluti Marks.

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

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

83. Berluti has no adequate remedy at law. Berluti has suffered and will continue to suffer irreparable injury and damage due to Defendants' above-described activities if Defendants are not preliminarily and permanently enjoined, and Defendants will continue to wrongfully profit from their unlawful activities.

**PRAYER FOR RELIEF**

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

a. Entry of temporary, preliminary, and permanent injunctions pursuant to 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Writs Act, and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in

concert or participation therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods; from infringing, counterfeiting, or diluting the Berluti Marks; from using the Berluti 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 Berluti; from falsely representing themselves as being connected with Berluti, 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 Berluti; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of the Berluti 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 Berluti, or in any way endorsed by Berluti and from offering such goods in commerce; from engaging in search engine optimization strategies using colorable imitations of Berluti's name or trademarks; and from otherwise unfairly competing with Berluti.

b. Entry of a temporary, preliminary, and permanent injunctions pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority enjoining Defendants and all third parties with actual notice of an injunction issued by the Court from participating in, including providing financial services, technical services or other support to, Defendants in connection with the sale and distribution of non-genuine goods bearing and/or using counterfeits of the Berluti 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 Berluti's request, those acting in concert or participation as service providers to Defendants, 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 E-commerce Store Names, through which Defendants engage in the promotion, offering for sale and/or sale of goods bearing and/or using counterfeits and/or infringements of the Berluti 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 Berluti's request, any Internet marketplace website operators, administrators, registrars and/or top level domain (TLD) Registries for the E-commerce Store Names and any other alias e-commerce store names being used by Defendants who are provided with notice of an injunction issued by the Court identify any e-mail address known to be associated with Defendants' E-commerce Store Names.

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

f. Entry of an order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority authorizing Berluti to serve the injunction on the e-commerce store's registrar(s) and/or the privacy protection service(s) for the E-commerce Store Names to disclose



to Berluti the true identities and contact information for the registrants of the E-commerce Store Names.

g. Entry of an order pursuant to 15 U.S.C. § 1116, 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority, that upon Berluti's request, Defendants and the top level domain (TLD) Registry for each of the E-commerce Store Names, or their administrators, including backend registry operators or administrators, place the E-commerce Store Names, and any other e-commerce store names being used and/or controlled by Defendants to engage in the business of marketing, offering to sell, and/or selling goods bearing counterfeits and infringements of the Berluti Marks, on Registry Hold status for the remainder of the registration period for any such e-commerce store, thus removing them from the TLD zone files which link the E-commerce Store Names, and any other e-commerce store names used by Defendants to the IP addresses where the associated e-commerce store names are hosted.

h. 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 Berluti's election, transferring the E-commerce Store Names and any other e-commerce store names used by Defendants to engage in their counterfeiting of the Berluti Marks at issue to Berluti's control so they may no longer be used for unlawful purposes.

i. Entry of an order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, and the Court's inherent authority authorizing Berluti to upload new files to the Intermediary E-commerce Store Names for the purpose of preventing further redirections and identifying all of the e-commerce stores used by Defendants in connection with the sale of counterfeit and infringing Berluti-branded goods that reroute to the payment Intermediary E-commerce Store Names.

j. Entry of an order pursuant to 28 U.S.C. § 1651(a), The All Writs Act and the Court's inherent authority authorizing Berluti to request any Internet search engines or service provider referring or linking users to any Uniform Resource Locator ("URL") of the E-commerce Store Names, which are provided with notice of the order, to permanently disable, de-index or delist all URLs of the E-commerce Store Names and/or permanently disable the references or links to all URLs of the E-commerce Store Names used by Defendants to promote, offer for sale and/or sell goods bearing and/or using counterfeits and/or infringements of the Berluti Marks, based upon Defendants' unlawful activities being conducted via the E-commerce Store Names as a whole and via any specific URLs identified by Berluti.

k. Entry of an order pursuant to 28 U.S.C. § 1651(a), The All Writs Act and the Court's inherent authority authorizing Berluti to request any service providers, including specifically CloudFlare, Inc., to permanently cease providing any services to the Defendants in connection with any and all e-commerce store names, including but not limited to the E-commerce Store Names, through which Defendants engage in the promotion, offering for sale and/or sale of goods using counterfeits of the Berluti Marks, and further permanently deleting the E-commerce Store Names from its DNS used for the DoH (1.1.1.1), and identifying the e-commerce store websites operating under the E-commerce Store Name(s) as phishing websites based upon Defendants' unlawful phishing activities being conducted via the E-commerce Store Names, including using Berluti's name and trademarks to falsely represent their e-commerce stores operating under their E-commerce Store Names as Berluti or associated with Berluti, and wrongfully using the Berluti Marks in combination with the collection Personally Identifiable Information (PII), including names, addresses, buying information, payment information, and other important data.

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

m. Entry of an order pursuant to 15 U.S.C. § 1116 and the Court's inherent authority requiring Defendants, their agent(s) or assign(s) to instruct in writing all search engines to permanently delist or deindex the E-commerce Store Name(s), and any other e-commerce store names used by Defendants, and, if within five (5) days of entry of such Order Defendants fails to make such a written instruction, the Court order the act to be done by another person appointed by the Court at Defendants' expense, such as the Clerk of Court, pursuant to Federal Rule of Civil Procedure 70(a).

n. Entry of an order pursuant to 15 U.S.C. § 1116 and the Court's inherent authority, requiring Defendants, their agent(s) or assign(s) to instruct the Registrar(s) for each E-commerce Store Name(s) in writing to permanently close the registration account(s) in which any E-commerce Store Name(s) are located and, if within five (5) days of entry of such Order Defendants fail to make such a written instruction, the Court order the act to be done by another person appointed by the Court at Defendants' expense, such as the Clerk of Court, pursuant to Federal Rule of Civil Procedure 70(a).

o. Entry of an order pursuant to 15 U.S.C. § 1116 and the Court's inherent authority, requiring Defendants, their agent(s) or assign(s), to instruct all of their service providers,

including specifically CloudFlare, Inc., to permanently cease providing all services to Defendants and surrender all records in connection with any and all domain names, including but not limited to the E-commerce Store Names, and e-commerce websites through which Defendants engage in the promotion, offering for sale and/or sale of goods using counterfeits of the Berluti Marks, and further, permanently deleting the E-commerce Store Names from its DNS used for the DoH (1.1.1.1), and identifying the e-commerce websites operating under the E-commerce Store Names as phishing websites based upon Defendants' unlawful phishing activities being conducted via the E-commerce Store Names, including using Berluti's name and trademarks to falsely represent their e-commerce store websites operating under their E-commerce Store Names as Berluti or associated with Berluti, and wrongfully using the Berluti Marks in combination with the collection Personally Identifiable Information (PII), including names, addresses, buying information, payment information, and other important data and, if within five (5) days of entry of such order any Defendant fails to make such a written instruction, the Court order the act to be done by another person appointed by the Court at Defendant's expense, such as the Clerk of Court, pursuant to Federal Rule of Civil Procedure 70(a).

p. Entry of an order requiring, upon Berluti's request, Defendants to request in writing permanent termination of any messaging services, e-commerce store names, usernames, and social media accounts they own, operate, or control on any messaging service, e-commerce marketplace, and social media website.

q. Entry of an order requiring Defendants to account to and pay Berluti for all profits and damages resulting from Defendants' trademark counterfeiting and infringing and unfairly competitive activities and that the award to Berluti be trebled, as provided for under 15 U.S.C. §1117, or that Berluti 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.

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

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

t. 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 Berluti'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, restrain, and be required to surrender to Berluti 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 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 Berluti in partial satisfaction of the monetary judgment entered herein.

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

v. Entry of an order requiring Defendants, at Berluti'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.

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

DATED: March 25, 2025.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

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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)]**