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Attorney for Plaintiff
ANIMACCORD LTD.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ANIMACCORD LTD., a Cyprus	)	Case No.: 1:23-cv-173
limited company,	)	(Trademark)
Plaintiff,)	
v.	)	VERIFIED COMPLAINT;
	)	EXHIBITS “1”-“5”; AFFIDAVIT
THE INDIVIDUALS,	)	OF INNA GOLOVLOVA
CORPORATIONS, LIMITED)	
LIABILITY COMPANIES,	)	(1) TRADEMARK
PARTNERSHIPS AND	)	INFRINGEMENT
UNINCORPORATED	)	(2) FEDERAL UNFAIR
ASSOCIATIONS IDENTIFIED ON	)	COMPETITION
SCHEDULE “A,”	)	(3) DILUTION
Defendants.	)	(4) H.R.S. §480-2 UNFAIR
	)	COMPETITION
	)	(5) COPYRIGHT
	)	INFRINGEMENT

VERIFIED COMPLAINT

Plaintiff ANIMACCORD LTD, by and through its counsel, bring this Complaint against the Individuals, Corporations, Limited Liability Companies, Partnerships, and Unincorporated Associations identified in the caption, which are

set forth on Schedule “A” hereto (collectively, “Defendants”) and alleges as follows:

I. INTRODUCTORY STATEMENT

1. Defendants are promoting, selling, reproducing, offering for sale, and distributing goods using counterfeits and confusingly similar imitations of Plaintiff’s famous trademarks and copyrighted works within this District through various Internet based e-commerce stores and fully interactive commercial Internet websites operating under the seller identification names set forth on Schedule “A” hereto (the “Seller IDs”).

2. Like many other famous trademark and copyright owners, Plaintiff suffers ongoing daily and sustained violations of its trademark rights and copyrights at the hands of counterfeiters and infringers, such as Defendants herein, who wrongfully reproduce and counterfeit Plaintiff’s trademarks and copyrights for the twin purposes of (i) duping and confusing the consuming public and (ii) earning substantial profits. The natural and intended byproduct of Defendants’ actions is the erosion and destruction of the goodwill associated with Plaintiff’s trademarks and copyrights, as well as the destruction of the legitimate market sector in which it operates.

3. In order to combat the indivisible harm caused by the combined actions of Defendants and others engaging in similar conduct, Plaintiff has expended significant amounts of resources in connection with trademark and copyright

enforcement efforts, including legal fees, investigative fees, and support mechanisms for law enforcement. The exponential growth of counterfeiting over the Internet, particularly through online marketplace platforms, has created an environment that requires companies, such as Plaintiff, to expend significant time and money across a wide spectrum of efforts in order to protect both consumers and itself from the negative effects of confusion and the erosion of the goodwill connected to Plaintiff's brand and copyrighted works.

III. NATURE OF THE ACTION

4. Plaintiff brings this action for infringement of its federally registered trademarks in violation of Section 32(1) of the Lanham Act (15 U.S.C. § 1114) and for unfair competition in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)) and alleges that Defendants are liable for counterfeiting, trademark infringement, unfair competition and dilution.

5. Plaintiff brings this action under Haw. Rev. Stat. § 480-2 and allege that Defendants are liable for unfair competition.

6. Plaintiff brings this action under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101, *et seq.* (the "Copyright Act"), and allege that Defendants are liable for copyright infringement in violation of 17 U.S.C. §§ 106 and 501.

III. JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 17 U.S.C. §§ 101, *et seq.*, (the Copyright Act), 15 U.S.C. § 1121, 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338 (patents, copyrights, trademarks, and unfair competition), and 28 U.S.C. § 1367 (supplemental jurisdiction).

8. Defendants regularly solicit, transact, or do business within this jurisdiction, and have committed unlawful and tortious acts both within and outside this jurisdiction with the full knowledge that their acts would cause injury in this jurisdiction.

9. Defendants are subject to personal jurisdiction in Hawaii per H.R.S. § 634-35 because they knowingly sell counterfeit goods to Hawaii residents, knowingly transact business within Hawaii, knowingly contract with Hawaii residents to supply things in Hawaii, and/or caused tortious injury of at least trademark infringement in Hawaii by their acts outside Hawaii through at least the Internet based e-commerce stores and fully interactive commercial Internet websites accessible in Hawaii and operating under the Seller IDs through which Hawaii residents are misled to purchase counterfeit products using Plaintiff's trademarks. Upon information and belief, Defendants infringe Plaintiff's trademarks and copyrights in this District by advertising, using, selling, promoting and distributing counterfeit trademark goods and unauthorized reproductions of Plaintiff's copyrighted works.

10. For those Defendants that falsely publish information that they are in the US but reside in a foreign country, in the alternative, the Court has jurisdiction over these Defendants pursuant to Fed. R. Civ. P. 4(k)(2), the so-called federal long-arm statute, for at least the following reasons: (1) Plaintiff's copyright and trademark claims arise under federal law; (2) these Defendants purposely directs his/her electronic activity into the United States and targets and attracts a substantial number of users in the United States and, more particularly, this district by using the e-commerce marketplaces in the US; (3) these Defendants do so with the manifest intent of engaging in business or other interactions with the United States by falsely promoting a US address as the residence; (4) these Defendants are not subject to jurisdiction in any state's courts of general jurisdiction; and (5) exercising jurisdiction is consistent with the United States' Constitution and laws.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a) - (c) because: (a) all or a substantial part of the events or omissions giving rise to the claims occurred in this District; and/or (c) Defendants are subject to the court's personal jurisdiction with respect to the present action. Defendants are advertising, offering to sell, selling and/or shipping infringing products into this District. Additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases), because the Defendants or Defendants' agents resides and/or can be found in this District.

IV. PARTIES

A. The Plaintiff

12. Plaintiff Animaccord Ltd. is a Cyprus limited company with a principal place of business located in Limassol, Cyprus.

13. Plaintiff is an international licensing company and studio which specializes in worldwide distribution of content, consumer products rights, and brand management.

14. Plaintiff is the owner of all rights, title, and interest in the hit family animated series titled, “Masha and The Bear”.

15. The Masha and The Bear series is loosely based on an oral children’s folk story originating in Russia. The show focuses on the adventures of a little girl named Masha and a fatherly bear that always keeps her safe from disasters.

16. The Masha and The Bear series is broadcast and streamed throughout the world, including in this District, under multiple world-famous common law and federally registered trademarks and copyrights. Indeed, the series has been translated into twenty-five (25) languages and has been broadcast and streamed in over one hundred (100) countries through multiple platforms, including but not limited to Netflix and YouTube.

17. The Masha and The Bear series was included in a list of “TV Shows Destined to be Classics,” which was compiled by the cartoon industry’s periodical

Animation Magazine to mark its 250th issue. The series has won the *Kidscreen Award* (regarded as the cartoon world's Oscars) for Best Animation in the Creative Talent category. *Kidscreen Magazine* named Animaccord as one of the top 50 leaders in the world of animation and one of the top 10 production companies of the year. Further, one of the series' episodes titled, "Recipe for disaster," received over 4.3 billion views on YouTube, making the episode the site's fifth most viewed video of all (thus earning the site's *Diamond Creator Award*). By the tenth anniversary of the series' first release, the series was included in the *Guinness World Records 2019* book as the most watched cartoon on YouTube with over fifty billion views and over sixty million subscribers.

18. Masha and The Bear's popularity was properly summarized by the Director of the multinational travel media publishing and technology company, *Ink Global*, as follows: "Millions of children know and love Masha thanks to a simple recipe, funny, original and engaging storylines combined with beautiful animation. This makes a show that works in any culture and language The whole world wants Masha!".

19. In addition to the widely popular series, goods bearing and reproducing the Masha and The Bear trademarks and copyrights, are sold through authorized retailers throughout the United States, including within Hawaii and this District.

20. Genuine and authorized products bearing and reproducing the Masha and The Bear trademarks and copyrights are widely legitimately advertised, promoted, and distributed by and through Plaintiff and its authorized partners, including but not limited to Amazon.com. Over the course of the past several years, visibility on the Internet, particularly via Internet search engines such as Google and Bing, has become increasingly important to Plaintiff's overall marketing and consumer education efforts. Thus, Plaintiff expends significant monetary resources on Internet marketing and consumer education, including search engine optimization ("SEO") strategies. Those strategies allow Plaintiff and its authorized partners to educate consumers fairly and legitimately about the value associated with the Masha and The Bear brand.

B. The Defendants

21. Defendants are individuals and/or business entities of unknown legal basis, each of whom, upon information and belief, 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 shipping and fulfillment centers within the United States to redistribute their products from those locations. Defendants have the capacity to be sued pursuant to Fed. R. Civ. P. 17(b).

22. Defendants target their business activities towards consumers throughout the United States, including within this District through the operation of

Internet based e-commerce stores via Internet marketplace websites under the Seller IDs.

23. Defendants are the past and present controlling forces behind the sale of products under counterfeits and infringements of Plaintiff's trademarks and copyrights as described herein using at least the Seller IDs.

24. Upon information and belief, Defendants directly engage in unfair competition by advertising, offering for sale, and selling goods bearing one or more of Plaintiff's trademarks and copyrights to consumers within the United States and this District through Internet based e-commerce stores using, at least, the Seller IDs and additional seller identification aliases and domain names not yet known to Plaintiff. Defendants have purposefully directed some portion of their illegal activities towards consumers in Hawaii through the advertisement, offer to sell, sale, and/or shipment of counterfeit and infringing goods into Hawaii.

25. Defendants have registered, established or purchased, and maintained their Seller IDs. Upon information and belief, Defendants may have engaged in fraudulent conduct with respect to the registration of the Seller IDs.

26. Upon information and belief, some Defendants have registered and/or maintained their Seller IDs for the sole purpose of engaging in illegal counterfeiting activities.

27. Upon information and belief, Defendants will continue to register or acquire new seller identification aliases and domain names for the purpose of selling and offering for sale goods bearing counterfeit and confusingly similar imitations and unauthorized reproductions or derivative works of one or more of Plaintiff's trademarks or copyrights unless preliminarily and permanently enjoined.

28. Defendants use their Internet-based businesses in order to infringe the intellectual property rights of Plaintiff.

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

30. Plaintiff is informed and believes that the e-commerce stores and payment providers are in possession of identification information or information that will lead to the identities of Defendants. However, further discovery may be

necessary in some circumstances in order to be certain of the identity of the proper Defendant. Plaintiff believes that information obtained in discovery will lead to the identification of Defendants' true names and permit the Plaintiff to amend this Complaint to state the same. Plaintiff further believes that the information obtained in discovery may lead to the identification of additional infringing parties to be added to this Complaint as defendants. Plaintiff will amend this Complaint to include the proper names and capacities when they have been determined. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants participated in and is responsible for the acts described in this Complaint and damages resulting therefrom.


V. JOINDER

31. Pursuant to Fed. R. Civ. P. 20(a)(2), each of the Defendants are properly joined because, as set forth in more detail below, Plaintiff asserts that the infringements complained of herein by each of the Defendants (a) upon information and belief based upon Defendants' sale of counterfeit products, arise out of the same transaction, occurrence, or series of transactions or occurrences, and (b) there are common questions of law and fact. That is, each of Defendants used e-commerce providers to infringe Plaintiff's trademarks and likely are sourcing their counterfeit goods from the same suppliers.

VI. FACTUAL BACKGROUND

A. Plaintiff Owns Valid Trademarks

32. Plaintiff is the owner of the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively the “Masha and The Bear Marks”) true and accurate copies of which are attached as Exhibits “1” – “4” and listed below: Referring to above, the incontestability of trademarks 1-2 and 4 (Registrations 4,790,909, 4,790,906 and 4,800,025) has been acknowledged by the USPTO after Plaintiff submitted §15 declarations.

No.	Trademark	Registration Number	Registration Date	First Use Date	Class
1		4,790,909	08/11/2015	4/15/2015	Classes: IC 9, 16, 18, 25, 28 and 30
2	MASHA AND THE BEAR	4,790,906	08/11/2015	08/04/2012	Classes: IC 9 and 41
3	MASHA AND THE BEAR	5,420,550	03/13/2018	06/16/2016	Classes: IC 3, 12, 14, 15, 20, and 21
4	MASHA AND THE BEAR	4,800,025	08/25/2015	04/15/2015	Classes: IC 16, 18, 25, 28 and 30

33. The foregoing registrations for the Masha and The Bear Marks constitute presumptive evidence of their ownership and validity. The Masha and The Bear Marks are used in connection with the design, marketing, and distribution of high-quality goods in at least the classes identified above.

34. Long before Defendants began their infringing activities complained of herein, the Masha and The Bear Marks have been used by Plaintiff in interstate commerce to identify and distinguish Plaintiff's series and associated merchandise for an extended period.

35. The Masha and The Bear Marks are well-known and famous and have been for many years. Plaintiff has expended substantial time, money, and other resources developing, advertising, and otherwise promoting the Masha and The Bear Marks and products bearing the Masha and The Bear Marks. The Masha and The Bear Marks qualify as famous marks as that term is used in 15 U.S.C. §1125(c)(1) and were qualified as such prior to Defendants' infringements.

36. Plaintiff has extensively used, advertised, and promoted the Masha and The Bear Marks in the United States in association with its animated series and associated merchandise.

37. As a result of Plaintiff's efforts, members of the consuming public readily identify products and merchandise bearing or sold under the Masha and The Bear Marks as being high quality goods sponsored and approved by Plaintiff.



38. The Masha and The Bear Marks serve as symbols of Plaintiff's quality, reputation and goodwill and have never been abandoned.

B. Plaintiff Owns Valid Copyrights

39. Plaintiff is also the owner of the following copyrights registered in the United States of America as shown in Exhibit "5" (hereafter, "Works").

40. Upon information and belief, Plaintiff's registration of the Works identified herein pre-dates Defendants' infringement thereof.

41. Plaintiff's Works feature the characters Masha and The Bear.

Masha (from <i>First Day of School</i>)	The Bear (from <i>First Day of School</i>)
	

42. The characters Masha and The Bear are constitute elements of the Works.

43. The characters Masha and The Bear are well developed artistically, especially distinctive and display consistent and widely identifiable traits. For

example, the proportional shape of Masha's head to her body, her eye color and her clothing are especially distinctive and widely identifiable traits.

44. Plaintiff has all exclusive rights in and to the Copyrighted Works and controls all licenses to reproduce, distribute, perform, and enforce its rights to the Copyrighted Works.

45. Plaintiff has expended substantial time, money, and other resources developing, advertising and distributing the Copyrighted Works.

C. Defendants directly infringe Plaintiff's Trademarks and Copyrights

46. Upon information and belief, Defendants are promoting and advertising, distributing, selling, and/or offering for sale counterfeit and infringing goods in interstate commerce using exact copies and confusingly similar copies of the Masha and The Bear Marks and Copyrighted Works through at least the Internet based e-commerce stores operating under the Seller IDs (collectively, the "Counterfeit Goods"). Plaintiff has used the Masha and The Bear Marks and Copyrighted Works extensively and continuously before Defendants began offering counterfeit and confusingly similar imitations of Plaintiff's merchandise.

47. Upon information and belief, Defendants' Counterfeit Goods are of a quality substantially and materially different than that of Plaintiff's genuine goods. Defendants, upon information and belief, are actively using, promoting and otherwise advertising, distributing, selling and/or offering for sale substantial

quantities of their Counterfeit Goods with the knowledge and intent that such goods will be mistaken for the genuine high quality goods offered for sale by Plaintiff under the Masha and The Bear Marks and Copyrighted Works despite Defendants' knowledge that they are without authority to use the Masha and The Bear Marks and Copyrighted Works. The effect of Defendants' actions will cause confusion of consumers, at the time of initial interest, sale, and in the post-sale setting, who will believe Defendants' Counterfeit Goods are genuine goods originating from, associated with, or approved by Plaintiff.

48. Defendants advertise their Counterfeit Goods for sale to the consuming public via e-commerce stores on Internet marketplace websites using at least the Seller IDs. In advertising these goods, Defendants improperly and unlawfully use one or more of the Masha and The Bear Marks and Copyrighted Works without Plaintiff's permission.

49. As part of their overall infringement and counterfeiting scheme, Defendants are, upon information and belief, employing and benefitting from substantially similar, advertising and marketing strategies based, in large measure, upon an illegal use of counterfeits and infringements of the Masha and The Bear Marks and Copyrighted Works. Specifically, Defendants are using counterfeits and infringements of Plaintiff's famous Masha and The Bear Marks and Copyrighted Works in order to make their e-commerce stores and websites selling illegal goods

appear more relevant, authentic, and attractive to consumers searching for Plaintiff's related goods and information online. By their actions, Defendants are contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for Plaintiff's genuine goods. Defendants are causing individual, concurrent and indivisible harm to Plaintiff and the consuming public by (i) depriving Plaintiff and other third parties of their right to fairly compete for space within search engine results and reducing the visibility of Plaintiff's genuine goods on the World Wide Web, (ii) causing an overall degradation of the goodwill associated with the Masha and The Bear Marks and Copyrighted Works, and/or (iii) increasing Plaintiff's overall cost to market the Masha and The Bear Marks and Copyrighted Works and educate consumers about its brand via the Internet.

50. Upon information and belief, Defendants are concurrently targeting their counterfeiting and infringing activities toward consumers and causing harm within Hawaii and this District. As a result, Defendants are defrauding Plaintiff and the consuming public for Defendants' own benefit.

51. At all times relevant hereto, Defendants in this action had full knowledge of Plaintiff's ownership of the Masha and The Bear Marks through valid published registrations, including its exclusive right to use and license such intellectual property and the goodwill associated therewith.

52. Upon information and belief, at all times relevant hereto, Defendants in this action had full knowledge of Plaintiff's ownership of the Copyrighted Works which feature the characters Masha and The Bear as constituent elements, including its exclusive right to use and license such intellectual property and the goodwill associated therewith.

53. Defendants' use of the Masha and The Bear Marks and Copyrighted Works, including the promotion and advertisement, reproduction, distribution, sale and offering for sale of their Counterfeit Goods, is without Plaintiff's consent or authorization.

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

55. Defendants' above identified infringing activities are likely to cause confusion, deception, and mistake in the minds of consumers before, during and after the time of purchase. Moreover, Defendants' wrongful conduct is likely to create a false impression and deceive customers, the public, and the trade into believing there

is a connection or association between Plaintiff's genuine goods and Defendants' Counterfeit Goods, which there is not.

56. Upon information and belief, Defendants' payment and financial accounts are being used by Defendants to accept, receive, and deposit profits from Defendants' trademark counterfeiting and infringing and unfairly competitive activities connected to their Seller IDs and any other alias seller identification names being used and/or controlled by them.

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

58. Plaintiff has no adequate remedy at law.

59. Plaintiff is suffering irreparable injury and has suffered substantial damages as a result of Defendants' unauthorized and wrongful use of the Masha and The Bear Marks and Copyrighted Works.

60. The harm and damages sustained by Plaintiff have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of their Counterfeit Goods.

VII. FIRST CLAIM FOR RELIEF
(Trademark Counterfeiting and Infringement)

61. Plaintiff re-alleges and incorporates by reference the allegations contained in each of the foregoing paragraphs.

62. Plaintiff is the owner of the registered trademarks shown in Exhibits “1”-“4” (collectively: “Masha and The Bear Marks”).

63. Without Plaintiff’s consent, Defendants used and continue to use the infringing Masha and The Bear Marks in connection with the sale, offering for sale, distribution and advertising of goods and/or services in the United States.

64. Defendants have engaged in their infringing activity despite having actual or constructive knowledge of Plaintiff’s federal registration rights.

65. Defendants’ actions are likely to mislead the public into concluding that their goods and or services originate with or are authorized by Plaintiff, which will damage both Plaintiff and the public. Plaintiff has no control over the quality of goods and services sold by Defendants and because of the source confusion caused by Defendants, Plaintiff has lost control over its valuable goodwill.

66. Upon information and belief, Defendants have advertised and offered its goods and services for sale using Plaintiff’s Masha and The Bear Marks with the intention of misleading, deceiving or confusing consumers as to the origin of its goods and of trading on Plaintiff’s reputation and goodwill. Defendants’ use of the Masha and The Bear Marks constitutes willful, deliberate and intentional trademark infringement.

67. Defendants' activities constitute willful trademark infringement and counterfeiting of Plaintiff's Masha and The Bear Marks in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

68. As a direct and proximate result of Defendants' counterfeiting and trademark infringement, Plaintiff has suffered and will continue to suffer irreparable loss of income, profits and goodwill and Defendants has and will continue to unfairly acquire income, profits and goodwill.

69. Defendants' acts of counterfeiting and trademark infringement will cause further irreparable injury to Plaintiff if Defendants are not restrained by this Court from further violation of Plaintiff's rights. Plaintiff has no adequate remedy at law.

VIII. SECOND CLAIM FOR RELIEF

(Federal Unfair Competition)

70. Plaintiff re-alleges and incorporate by reference the allegations contained in each of the foregoing paragraphs.

71. Defendants engages in unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

72. Defendants' unauthorized marketing and sale of their products in interstate commerce using Plaintiff's Masha and The Bear Marks constitutes a use of a false designation of origin or false representation that wrongfully and falsely

designates Defendants' products and/or services as originating from or connected with Plaintiff and constitutes the use of false descriptions or representations in interstate commerce. The actions of Defendants as alleged herein constitute intentional, willful, knowing and deliberate unfair competition.

73. Defendants' actions constitute federal unfair competition and violate 15 U.S.C. § 1125(a).

74. As a direct and proximate result of Defendants' unfair competition, Plaintiff has suffered and will continue to suffer irreparable loss of income, profits and goodwill and Plaintiff has and will continue to unfairly acquire income, profits and goodwill.

75. Defendants' acts of unfair competition will cause further irreparable injury to Plaintiff if they are not restrained by this Court from further violation of Plaintiff's rights. Plaintiff has no adequate remedy at law.

IX. THIRD CLAIM FOR RELIEF

(Dilution)

76. Plaintiff re-alleges and incorporate by reference the allegations contained in each of the foregoing paragraphs.

77. Plaintiff's Masha and The Bear Marks have become famous and are distinctive worldwide inherently and/or also distinctive worldwide through years of exclusive use in connection with various products.

78. Plaintiff's Masha and The Bear Marks have become famous since prior to Defendants' infringements.

79. Defendants willfully and intentionally use, and continue to use, Plaintiff's Masha and The Bear Marks in connection with the advertisement, promotion and sale of Defendants' products.

80. Defendants' use of Plaintiff's Masha and The Bear Marks has caused, and continues to cause, irreparable injury to and actual dilution of the distinctive quality of Plaintiff's Masha and The Bear Marks in violation of 15 U.S.C. §1125(c). Defendants' wrongful use of Plaintiff's Masha and The Bear Marks dilutes, blurs, tarnishes, and whittles away the distinctiveness of Plaintiff's Masha and The Bear Marks.

81. Defendants have used and continue to use Plaintiff's Masha and The Bear Marks willfully and with the intent to dilute Plaintiff's Masha and The Bear Marks, and with the intent to trade on Plaintiff's reputation and goodwill inherent in Plaintiff's Masha and The Bear Marks.

82. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered irreparable harm to the Masha and The Bear Marks.

83. Unless Defendants are enjoined, Plaintiff's Masha and The Bear Marks will continue to be irreparable harmed and diluted. Plaintiff has no adequate remedy

at law that will compensate for the continued and irreparable harm it will suffer if Defendants' actions are allowed to continue.

84. Defendants' conduct makes this case exceptional within the meaning of 15 U.S.C. §1117(a).

85. As a direct and proximate result of Defendants' conduct, Plaintiff is entitled to the equitable remedy of an accounting for, and a disgorgement of, all revenues and/or profits wrongfully derived by Defendants from their infringing and diluting use of Plaintiff's Masha and The Bear Marks pursuant to 15 U.S.C. §1117.

X. FOURTH CLAIM FOR RELIEF

(H.R.S. §480-2 Unfair Competition)

86. Plaintiff re-alleges and incorporate by reference the allegations contained in each of the foregoing paragraphs.

87. Defendants promote, advertise, distribute, sale and/or offer for sale goods using marks which are virtually identical to Plaintiff's Masha and The Bear Marks in violation of H.R.S. §480-2(e).

88. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale and distributing goods bearing counterfeits and infringements of the Masha and The Bear Marks.

89. Defendants are also using counterfeits and infringements of the Masha and The Bear Marks to unfairly compete with Plaintiff for (i) space in search engine results across an array of search terms and/or (ii) visibility on the World Wide Web.

90. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public in Hawaii as to the origin and quality of Defendants' products by their use of the Masha and The Bear Marks.

91. Defendants' infringing activities are unlawful under H.R.S. §480-2.

92. Plaintiff has no adequate remedy at law and is suffering irreparable injury and damages as a result of Defendants' actions.

93. As a direct and proximate result of Defendants' conduct, Plaintiff is entitled to the equitable remedy of an accounting for, and a disgorgement of, all revenues and/or profits wrongfully derived by Defendants from their infringing and diluting use of Plaintiff's Masha and The Bear Marks.

XI. FIFTH CLAIM FOR RELIEF

(Copyright Infringement)

94. Plaintiff re-alleges and incorporate by reference the allegations contained in each of the foregoing paragraphs.

95. Plaintiff is the owner of the Copyrighted Works shown in Exhibit "5", each of which contains an original work of authorship.

96. Defendants reproduced, distributed, displayed or made derivatives of the constituent elements of these Works in violation of 17 U.S.C. §§ 106 and 501 for commercial gain.

97. For example, Defendants reproduced, distributed, displayed or made derivative Works of Copyrighted Masha or The Bear characters in the Copyrighted Works for commercial gain.

98. Plaintiff did not authorize, permit, or provide consent to Defendants to reproduce, distribute, display or make derivatives of its Works.

99. As a result of the foregoing, Defendants violated the Plaintiff's exclusive rights to reproduce, prepare derivatives, distribute, or display copies of the Works in copies, in violation of 17 U.S.C. §§ 106 and 501.

100. Defendants' infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

101. Plaintiff has suffered damages that were proximately caused by the Defendants' copyright infringements including, but not limited to lost sales, price erosion, and a diminution of the value of its copyrights.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Court:

(A) Enter a judgment that Plaintiff's registered Masha and The Bear Marks have been and continue to be counterfeited and infringed by the Defendants in violation of 15 U.S.C. § 1114(1);

(B) Enter a judgment that Defendants' use of the Plaintiff's registered Masha and The Bear Marks constitutes unfair competition in violation of 15 U.S.C. § 1125(a) and H.R.S. §480-2;

(C) Temporarily, Permanently enjoin and restrain Defendants and each of their agents, representatives, employees, officers, attorneys, successors, assigns, affiliates, and any persons in privity or active concert or participation with any of them from using Plaintiff's Masha and The Bear Marks, alone or in combination with other words or symbols, as a trademark or trade name component or otherwise, to market, advertise, distribute or identify products or services where that designation would create a likelihood of confusion, mistake or deception that Defendants' products are affiliated with or authorized by Plaintiff;

(D) Order Defendants to pay statutory damages of \$2,000,000 pursuant to 15 U.S.C. § 1117(c)(2) for willful infringement of each of Plaintiff's registered Masha and The Bear Marks for total of \$8,000,000 against each Defendant;

(E) Order the Defendants pay Plaintiff a sum not less than \$1,000 or threefold damages by the Plaintiff sustained, whichever sum is the greater by reason of Defendants' unlawful acts pursuant to H.R.S. §480-13(a)(1);

(F) Enter a judgment that Plaintiff's copyrighted Works have been and continue to be infringed by Defendants in violation of 17 U.S.C. §§ 101 and 501;

(G) Temporarily and permanently enjoin Defendants from continuing to infringe the Plaintiff's copyrighted Works;

(H) Award the Plaintiff actual damages and Defendants' profits in such amount as may be found; alternatively, at Plaintiff's election, for maximum statutory damages of \$150,000 pursuant to 17 U.S.C. § 504 for total of \$1,350,000 against each Defendant;

(I) Award the Plaintiff their reasonable attorneys' fees and costs pursuant to 15 U.S.C. § 1117(a), 17 U.S.C. § 505 and H.R.S. §480-13(1) and (2) against Defendants; and

(J) Grant the Plaintiff any and all other and further relief that this Court deems just and proper.

The Plaintiff hereby demands a trial by jury on all issues properly triable by jury.

DATED: Kailua Kona, Hawaii, April 14, 2023.

Respectfully submitted,

/s/ Kerry S. Culpepper

Kerry S. Culpepper,
Hawaii Bar No. 9837
Counsel for Plaintiff

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