

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BURBERRY LIMITED, A UNITED  
KINGDOM COMPANY, and BURBERRY  
LIMITED, A NEW YORK CORPORATION,

Plaintiffs,

v.

THE PARTNERSHIPS AND  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE “A,”

Defendants.

Case No. 19-cv-07415

**COMPLAINT**

Plaintiffs Burberry Limited, a United Kingdom company, and Burberry Limited, a New York corporation, (collectively, “Burberry” or “Plaintiffs”) hereby bring the present action against the partnerships and unincorporated associations identified on Schedule A attached hereto (collectively, “Defendants”) and allege as follows:

**I. JURISDICTION AND VENUE**

1. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, the Copyright Act 17 U.S.C. § 501, *et seq.*, 28 U.S.C. § 1338(a)–(b) and 28 U.S.C. § 1331. This Court has jurisdiction over the claims in this action that arise under the laws of the State of Illinois pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

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

targets business activities toward consumers in the United States, including Illinois, through at least the fully interactive commercial Internet stores operating under the Defendant Domain Names and/or the Online Marketplace Accounts identified in Schedule A attached hereto (collectively, the “Defendant Internet Stores”). Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products using infringing and counterfeit versions of Burberry’s trademarks. Each of the Defendants has targeted sales from Illinois residents by operating online stores that offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, has sold products using infringing and counterfeit versions of Burberry’s trademarks to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Burberry substantial injury in the State of Illinois.

## **II. INTRODUCTION**

3. This action has been filed by Burberry to combat Internet Store operators who trade upon Burberry’s reputation and goodwill by selling and/or offering for sale unauthorized and unlicensed products using infringing and counterfeit versions of Burberry’s registered trademarks and/or unauthorized copies of Burberry’s federally registered copyrighted design (collectively, the “Unauthorized Burberry Products”). The Defendants create the Defendant Internet Stores by the hundreds and design them to appear to be selling genuine Burberry products, while actually selling Unauthorized Burberry Products to unknowing consumers. The Defendant Internet Stores share unique identifiers, such as design elements and similarities of the counterfeit products offered for sale, establishing a logical relationship between them and suggesting that Defendants’ counterfeiting operation arises out of the same transaction,

occurrence, or series of transactions or occurrences. Defendants attempt to avoid liability by going to great lengths to conceal both their identities and the full scope and interworking of their counterfeiting operation. Burberry is forced to file these actions to combat Defendants' counterfeiting of Burberry's registered trademarks and infringement of its registered copyrighted design, as well as to protect unknowing consumers from purchasing Unauthorized Burberry Products over the Internet. Burberry has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademarks and infringement of its copyrighted design as a result of Defendants' actions and seeks injunctive and monetary relief.

### **III. THE PARTIES**

#### **Plaintiffs**

4. Burberry is an internationally recognized luxury brand involved in the design, manufacture, advertising, distribution, and sale of high-quality apparel, handbags, scarves, footwear, eyewear, luggage and wallets, jewelry and watches, fragrances and cosmetics, and other furnishings (collectively, the "Burberry Products").

5. For more than 80 years, Burberry has continuously used its distinctive check trademark (the "BURBERRY CHECK"), the BURBERRY® trademark, and the EQUESTRIAN KNIGHT DEVICE trademark (collectively, along with Burberry's other trademarks, the "BURBERRY Trademarks") in connection with the Burberry Products. Burberry has devoted substantial resources to promoting the goodwill of the BURBERRY Trademarks. As a result, the BURBERRY Trademarks have become famous and serve to symbolize Burberry and its reputation as a manufacturer of luxury goods of the highest quality.

6. The United States Patent and Trademark Office has granted Burberry numerous federal registrations for the BURBERRY Trademarks, including, but not limited to, the following registrations:

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
260,843	BURBERRY	08/27/1929	For: clothing – namely, coats and topcoats for men, women, and children; jackets for men, women, and children; breeches for boys; suits for men and boys; waistcoats for men, women, and children; overalls for women and children; skirts for outer wear for women and children; capes for men, women, and children; hats and caps for men, women and children; bonnets for children; hoods and toques for men, women, and children; neckties for men, women, and children; stockings and socks for men, women, and children; braces and suspenders for men and children; belts for outer wear for men, women, and children; boots of rubber and fabric or combinations of these materials for men, women and children; shoes and slippers of leather, rubber, and fabric or combinations of these materials for men, women, and children; gloves for men, women, and children, of leather and fabric in class 025.
1,133,122	BURBERRY	04/15/1980	For: handbags, travelling bags, leather travelling cases, attaché cases, leather briefcases, purses, pocket wallets, umbrellas in class 018.

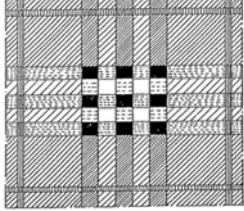
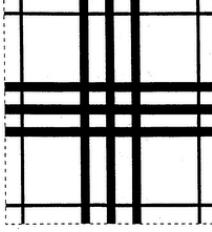
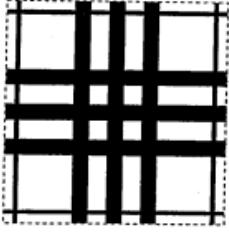
REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
1,607,316	BURBERRY	07/24/1990	For: spectacles, sunglasses fitted cases, frames and lenses, all for sunglasses, for spectacles in class 009.
1,747,765	BURBERRY	01/19/1993	For: wrist watches and straps and bracelets therefor, and cuff links in class 014.
2,624,684	BURBERRY	09/24/2002	For: retail store services featuring clothing, watches, sunglasses, accessories, shoes, luggage, leather goods and fragrances in class 035.
2,875,336	BURBERRY	08/17/2004	For: sunglasses, combined sunglasses, spectacles, optical glasses, fitted frames and lenses for the aforesaid goods; cases and holders for the aforesaid goods; parts and fittings for all the aforesaid goods; cases and holders for portable computers and mobile telephones in class 009.  For: watches, clocks and parts and fittings for all the aforesaid goods, wrist watches and straps and bracelets therefor and pocket watches, jewelry, imitation jewellery, tie-pins and cuff links; and jewelry boxes, hat and shoe ornaments all made of precious metal or coated therewith in class 014.
3,879,249	BURBERRY	11/23/2010	For: articles of outer clothing, namely, coats, jackets, rainwear, ponchos, gilets, detachable coat linings, raincoats; blousons; casual coats; polo shirts; blouses; dresses; pyjamas; knitwear,

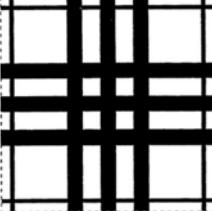
REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			namely, jerseys, jumpers, cardigans, sweaters, knitted leggings; shorts; trousers; suits; skirts; jackets; articles of underclothing, namely, boxer shorts, lingerie, loungewear, nightwear, underwear, undergarments; hosiery; headwear; footwear; sports clothing, namely, sweat pants, sweat shirts, swimwear; sports footwear; tracksuits; ready-made linings, namely, finished textile linings for garments; ties; clothing belts; wraps; scarves; shawls and stoles; gloves in class 025.
3,898,440	BURBERRY	01/04/2011	For: articles made from material and textile, namely, bed blankets, blanket throws, children's blankets, lap blankets, towels, handkerchiefs, cushion covers in class 024.
4,702,550	BURBERRY	03/17/2015	For: candles in class 004.  For: metal key holders; metal key rings in class 006.  For: goods made of paper or cardboard, namely, paper labels, cardboard boxes, paper bags, paper gift tags; catalogues and pamphlets in the field of fashion; posters, photo albums; photographs; stationery; writing implements; wrapping and packaging materials, namely, gift wrapping paper, gift bags; paper ribbon; greeting cards, notelets; pen holders; book covers; notebooks for writing; paperweights; paper napkins;

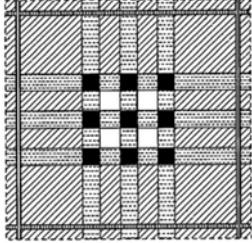
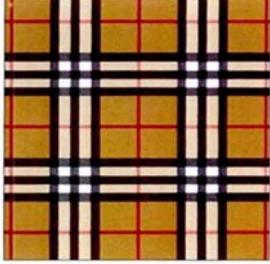
REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			<p>passport and document covers and holders in class 016.</p> <p>For: all-purpose carrying bags, trunks, valises, suitcases, travelling bags, garment bags for travel, vanity cases sold empty, rucksacks, satchels, holdalls, handbags, shoulder bags, attaché-cases, briefcases, credit card holders, briefcase-type portfolios, athletic and sports bags, beach bags, carry-on bags, clutch bags, duffel and gym bags, overnight bags, school book bags, tote bags, reusable shopping bags; purses, leather pouches, wallets; pochettes; luggage label holders; cosmetic cases and bags sold empty; cosmetic cases for manicure sets sold empty, jewelry rolls for travel; umbrellas, parasols; walking sticks and canes; clothing for pets; horse blankets, collars and leashes for animals in class 018.</p> <p>For: furniture; mirrors; picture frames; paper photo frames; ornaments of wood, horn, bone, shell, mother-of-pearl, and substitutes for all these materials; three dimensional plastic ornaments; mattresses, air mattresses for use when camping, bean bag chairs and beds, pet beds; cushions; window blinds; clothes hangers; fitted furniture coverings; deck chairs and folding chairs in class 020.</p> <p>For: buttons, hooks and eyes,</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			<p>snap fasteners, press studs, zip fasteners, haberdashery in the nature of fabric appliques, decorative ribbons, buckles for clothing, belts and shoes; ornamental novelty badges; articles for hair, namely, hair ties, hair bands, hair ribbons, hair clips in class 026.</p> <p>For: games, namely, board games, playing cards and card games, dice games, dominoes; playthings, namely, toy dolls, toy figurines, toy vehicles, stuffed toy animals including teddy bears, clothing for toys; Christmas tree decorations; sports equipment and covers and holders therefor, namely, covers for golf clubs, skis and tennis sports equipment in the nature of tennis racquets in class 028.</p>
3,202,484	BURBERRY LONDON	01/23/2007	For: articles of outer clothing, namely, coats, trench coats, casual coats, jackets, shirts, dresses, ties in class 025.
2,610,329	PRORSUM	08/20/2002	For: clothing, namely, footwear, raincoats, blousons, casual coats, polo shirts, blouses, dresses, skirts, jackets, trousers, suits, shirts in class 025.
2,654,697	PRORSUM	11/26/2002	For: articles of luggage, namely, suitcases, carry-on bags, clutch bags, overnight bags, shoulder bags, tote bags, carryall bags, traveling bags, hand bags, wallets and purses in class 018.

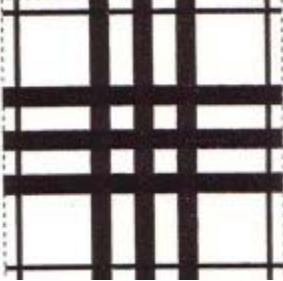
REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
510,077		05/24/1949	For: clothing – namely, coats and topcoats for men, women, and children; jackets for men, women and children; breeches for boys; suits for men and boys; waistcoats for men, women, and children; skirts for outer wear for women and children; capes for men, women, and children; hats and caps for men, women, and children; bonnets for children; hoods, and toques for men, women, and children; neckties for men, women and children; stockings and socks for men, women, and children; braces and suspenders for men, and children; belts for outer wear for men, women, and children; boots for men, women, and children, of leather and rubber or combinations of these materials; shoes and slippers for men, women, and children; of leather, rubber, and fabric or combinations of these materials; gloves for men, women, and children of leather and fabric in class 025.
1,241,222		06/07/1983	For: coats, top coats, jackets, trousers, slacks, waistcoats, skirts, capes, hats, bonnets, berets, shirts, scarves, shawls and blouses in class 025.
1,855,154		09/20/1994	For: watches, and parts therefor; straps, bracelets for wrist watches; cuff links in class 014.

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
2,022,789		12/17/1996	<p>For: suitcases, traveling bags, holdalls, suit and garment carriers for travel, attaché cases, document cases, briefcases, purses, drawstring pouches, wallets, billfolds, passport holders, key cases, handbags, shoulder bags, credit card cases, business card cases, toilet bags sold empty, toilet cases sold empty, shaving bags sold empty, tie cases for travel, umbrellas and parasols in class 018.</p> <p>For: traveling comforter, namely, fabric blanket-like articles for keeping warm, e.g., when traveling in cold climates, or for use as a stadium blanket in class 024.</p> <p>For: clothing for men and women, namely, scarves, pullovers, cardigans, sweaters, overcoats, raincoats, shirts, belts; slippers for men in class 025.</p>
2,612,272		08/27/2002	For: retail store services in the fields of clothing, accessories, shoes, luggage, leather goods and fragrances in class 035.
2,728,709		06/24/2003	For: fabrics for use in the manufacture of clothing, underclothes, swimwear, headwear, footwear, hosiery, socks; and belts; fabrics for use in the manufacture of cosmetics cases and bags, toiletry cases and bags, and shaving cases and

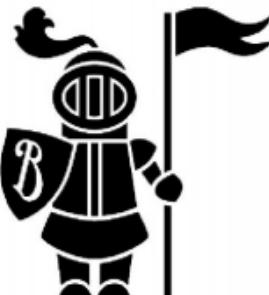
REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			bags; fabrics for use in the manufacture of purses, pouches, bags, luggage, carriers, travel bags, and suit and garment bags; fabrics for use in the manufacture of cases and holders for money, documents, keys, glasses, and ties; fabrics for use in the manufacture of umbrellas and parasols and cases thereof; fabrics for use in the manufacture of straps and bracelets for watches, and straps for shoes and bags; fabrics for use in the manufacture of lining for all the foregoing goods; comforters and blankets in class 024.
2,732,617		07/01/2003	<p>For: perfumes, eau de toilettes, eau de parfums; body lotion, soaps; personal deodorants; aftershave; shampoo for the hair and for the body; shower gels; bath gels in class 003.</p> <p>For: articles of luggage, namely, suitcases, athletic and sport bags, beach bags, carry-on bags, clutch bags; duffel and gym bags; overnight bags; school book bags, shoulder bags, tote bags, garment bags for travel, carryall bags, traveling bags, hand bags, leather bags for computers and cameras; wallets and purses; toiletry bags sold empty and cosmetics bags sold empty; brief cases, satchels and portfolios; parasols, umbrellas, walking sticks; leather key fobs, leather key holders in class 018.</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			For: articles of outerclothing, namely, coats, overcoats, trench coats, casual coats, raincoats, jackets and blousons, poloshirts, blouses, dresses, pyjamas, knitwear namely, jumpers, sweaters, gilets, knitted shirts, knitted skirts and knitted scarves; and shorts, trousers, suits, skirts, underclothes, hosiery, headwear, footwear, sports clothing namely, sports trousers, sports shorts, sports shirts, sports jackets, sports footwear; tracksuits; garments that can be attached to or detached from coats, raincoats, trench coats, or casual coats for additional warmth; ties, belts, wraps, serapes, scarves, shawls and stoles, gloves in class 025.
2,845,852		05/25/2004	For: sunglasses, spectacles, optical glasses; fitted frames and lenses for the aforesaid goods; cases and holders for the aforesaid goods; carrying cases and holders for portable computers and mobile telephones in class 009.
3,529,814		11/11/2008	For: non-metal key fobs in class 020.  For: blankets, throws, handkerchiefs, textile used as linings for clothing and accessories, fabrics for use in the manufacture of clothing, footwear, headwear, hosiery, belts, bags, cases, holders and key rings, umbrellas, watches, jewelry, towels, blankets,

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			<p>throws in class 024.</p> <p>For: coats, detachable coat linings, rainwear, ponchos, jackets, gilets, jerseys, jumpers, sweaters, blouses, shirts, polo shirts, t-shirts, vests, dresses, skirts, trousers, jeans, shorts, ski wear, sports shirts, sports trousers, sweat shirts, waterproof clothing, namely, coats, jackets, and bikinis, sarongs, swimwear, bathrobes, boxer shorts, loungewear, nightwear, undergarments, ties, cravats, footwear, shoes, boots, athletic footwear, slippers, ballet slippers, socks, leggings, caps, hats, head scarves, belts, gloves, mufflers, scarves, shawls, stoles, pashminas, children's and infant's clothing, namely, coats, jackets, ponchos, jerseys, sweaters, blouses, shirts, t-shirts, singlets, vests, tank tops, waistcoats, suits, dresses, skirts, trousers, jeans, shorts, children's headwear, children's swimwear, children's nightwear, children's undergarments, and one-piece clothing, headwear, footwear; cloth bibs in class 025.</p> <p>For: teddy bears in class 028.</p> <p>For: retail store services in the fields of clothing, accessories, footwear, headgear, luggage, leather goods, timepieces, jewelry, eyewear and fragrances in class 035.</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
4,441,542		11/26/2013	<p>For: sunglasses, camera cases, spectacles, optical glasses, mobile phone accessories, namely, mobile phone covers charms and lanyards for mobile phones; fitted frames and lenses for the aforesaid goods; cases and holders for the aforesaid goods; parts and fittings for all the aforesaid goods; cases and holders for portable electronic devices, namely, PDAs (personal digital assistants), smart phones, electronic book readers, tablet computers, netbooks, electronic notebooks, handheld computers and portable digital audio and/or video players, mobile telephones, portable audio and video systems and computers in class 009.</p> <p>For: watches, watch straps and bracelets therefor; jewelry, imitation jewelry, tie-pins, tie clips and cuff links; articles made of precious metals or coated therewith, namely, key rings in class 014.</p>
863,179		01/07/1969	For: coats, topcoats, jackets, suits, trousers, slacks, shorts, overalls, skirts, capes, hats, caps, bonnets, hoods, berets, neckties, stockings, socks, belts, boots, shoes, slippers, sandals, gloves, shirts, collars, pajamas, dressing gowns, cardigans, sweaters, pullovers, scarves, blouses, beach robes, dresses, skiwear, and handkerchiefs in class 025.

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
1,622,186		11/13/1990	For: sunglasses, spectacles; frames and lenses in class 009.
1,903,508		07/04/1995	For: watches and parts therefor; straps, bracelets for wrist watches; jewelry costume jewelry; tie pins and cuff links in class 014.
2,512,119		11/27/2001	For: non-medicated toilet preparations, namely, perfumes, eau de cologne, and toilet water, shampoos, shower gels and bath gels; deodorants; shaving preparations in class 003.  For: articles of luggage, namely, suitcases, athletic and sport bags, beach bags, carry-on bags, clutch bags, overnight bags, shoulder bags, tote bags, carryall bags, traveling bags, hand bags, leather bags for computers and cameras; wallets and purses; toiletry bags sold empty and cosmetic bags sold empty; brief cases, satchels and portfolios; cases for personal organizers and for mobile telephones; umbrellas, leather key fobs, leather key holders, and dog coats in class 018.

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
2,952,399		05/17/2005	<p>For: sunglasses, combined sunglasses, spectacles, optical glasses, fitted frames and lenses for the aforesaid goods; cases and holders for the aforesaid goods; parts and fittings for all the aforesaid goods; computer carrying cases and specialty holsters and cases for carrying mobile telephones in class 009.</p> <p>For: watches, and parts and fittings for all the aforesaid goods, wrist watches and straps and bracelets therefor and jewelry, imitation jewelry, tie-pins and cuff links; and jewelry boxes, all made of precious metal or coated therewith in class 014.</p>
3,766,097		03/30/2010	For: textiles and textile goods, namely, household linen, bed linen, bath linen, bed blankets, blanket throws, children's blankets, beach towels, handkerchiefs, unfitted fabric furniture covers, fabrics for textile use and textile used as lining for clothing, cushion covers in class 024.
4,065,311		12/6/2011	For: clothing, namely, baby layettes for clothing, shirts, polo shirts, blouses, dresses, shorts, trousers, skirts, jerseys, jumpers, sweaters, vests, t-shirts, tank tops, jeans, pajamas, coats, overcoats, jackets, raincoats in class 025.

7. The above registrations for the BURBERRY Trademarks are valid, subsisting, in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. The registrations for the BURBERRY Trademarks constitute *prima facie* evidence of their validity and of Burberry's exclusive right to use the BURBERRY Trademarks pursuant to 15 U.S.C. § 1057 (b). True and correct copies of the United States Registration Certificates for the above-listed BURBERRY Trademarks are attached hereto as **Exhibit 1**.

8. The BURBERRY Trademarks are unique and distinctive and identify the merchandise as high-quality goods from Burberry.

9. The BURBERRY Trademarks qualify as famous marks, as that term is used in 15 U.S.C. §1125 (c)(1), and have been continuously used and never abandoned.

10. Burberry has used the BURBERRY Trademarks on and in connection with the advertising and sale of a wide variety of luxury goods, including, but not limited to, the Burberry Products. Burberry has sold and advertised its luxury goods in interstate and intrastate commerce, including commerce in the State of Illinois, and in this judicial district. As a result of their widespread use, these trademarks have become a symbol of modern luxury and synonymous with Burberry. The BURBERRY Trademarks are inherently distinctive or have acquired secondary meaning and, as such, have come to be known as source identifiers for authentic Burberry products.

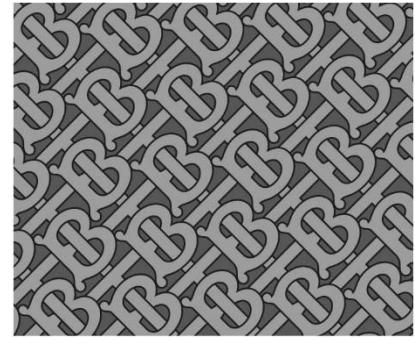
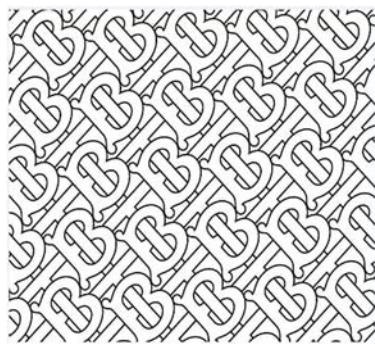
11. As of March 2019, Burberry globally had 233 retail stores, 146 concessions, 52 outlets and 44 franchise stores, with e-commerce in over 25 countries. In the United States, Burberry Products are sold in 66 Burberry-operated retail and outlet stores, and at well-known department stores such as Saks Fifth Avenue, Neiman Marcus and Nordstrom.

12. Since approximately 2004, Burberry has operated a website where it promotes and sells genuine Burberry Products at Burberry.com. Sales of Burberry Products via the Burberry.com website represent a significant portion of Burberry's business. The Burberry.com website features proprietary content, images and designs exclusive to Burberry.

13. Burberry has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting the BURBERRY Trademarks. As a result, products bearing the BURBERRY Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Burberry. Burberry Products have also become among the most popular of their kind in the world.

14. Because of Burberry's advertising and promotional efforts and its continuous use of the BURBERRY Trademarks for many years, Burberry has attained one of the highest levels of recognition among luxury brands in the United States, and the BURBERRY Trademarks have become famous.

15. Burberry Products include at least one of the BURBERRY Trademarks and/or Burberry's copyrighted design titled "TB Pattern", which was issued by the U.S. Register of Copyrights on September 13, 2018 as U.S. Copyright Registration No. VA 2-145-324 (the "Burberry Copyrighted Design").





A true and correct copy of the U.S. federal copyright registration certificate for the Burberry Copyrighted Design is attached hereto as **Exhibit 2**.

16. Among the exclusive rights granted to Burberry under the U.S. Copyright Act are the exclusive rights to reproduce, prepare derivative works of, distribute copies of, and display the Burberry Copyrighted Design to the public.

### **The Defendants**

17. Defendants are individuals and business entities who, upon information and belief, reside in the People's Republic of China or other foreign jurisdictions. Defendants conduct business throughout the United States, including within the State of Illinois and this Judicial District, through the operation of the fully interactive commercial websites and online marketplaces operating under the Defendant Internet Stores. Each Defendant targets the United States, including Illinois, and has offered to sell, and, on information and belief, has sold and continues to sell Unauthorized Burberry Products to consumers within the United States, including the State of Illinois.

18. On information and belief, Defendants are an interrelated group of counterfeiters working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell products using infringing and counterfeit versions of the BURBERRY Trademarks and/or unauthorized copies of the federally registered Burberry Copyrighted Design in the same transaction, occurrence, or series of transactions or occurrences. Tactics used by Defendants to

conceal their identities and the full scope of their counterfeiting operation make it virtually impossible for Burberry to learn Defendants' true identities and the exact interworking of their counterfeit network. In the event that Defendants provide additional credible information regarding their identities, Burberry will take appropriate steps to amend the Complaint.

#### **IV. DEFENDANTS' UNLAWFUL CONDUCT**

19. The success of the Burberry brand has resulted in its significant counterfeiting. Consequently, Burberry has a worldwide anti-counterfeiting program and regularly investigates suspicious websites and online marketplace listings identified in proactive Internet sweeps and reported by consumers. In recent years, Burberry has identified thousands of domain names linked to fully interactive websites and marketplace listings on platforms such as iOffer, eBay, AliExpress, Alibaba, Amazon, Wish.com, and Dhgate, including the Defendant Internet Stores, which were offering for sale and selling Unauthorized Burberry Products to consumers in this Judicial District and throughout the United States. Despite Burberry's enforcement efforts, Defendants have persisted in creating the Defendant Internet Stores. E-commerce sales, including through Internet stores like those of Defendants, have resulted in a sharp increase in the shipment of unauthorized products into the United States. **Exhibit 3**, Excerpts from Fiscal Year 2018 U.S. Customs and Border Protection ("CBP") Intellectual Property Seizure Statistics Report. Over 90% of all CBP intellectual property seizures were smaller international mail and express shipments (as opposed to large shipping containers). *Id.* Over 85% of CBP seizures originated from mainland China and Hong Kong. *Id.* Counterfeit and pirated products account for billions in economic losses, resulting in tens of thousands of lost jobs for legitimate businesses and broader economic losses, including lost tax revenue.

20. Defendants facilitate sales by designing the Defendant Internet Stores so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. Many of the Defendant Internet Stores look sophisticated and accept payment in U.S. dollars via credit cards, Alipay, Amazon Pay, Western Union and/or PayPal. The Defendant Internet Stores often include content and design elements that make it very difficult for consumers to distinguish such counterfeit sites from an authorized website. Many Defendants further perpetuate the illusion of legitimacy by offering customer service and using indicia of authenticity and security that consumers have come to associate with authorized retailers, including the Visa®, MasterCard®, and/or PayPal® logos. Burberry has not licensed or authorized Defendants to use its BURBERRY Trademarks or copy or distribute the Burberry Copyrighted Design, and none of the Defendants are authorized retailers of genuine Burberry Products.

21. Many Defendants also deceive unknowing consumers by using the BURBERRY Trademarks without authorization within the content, text, and/or meta tags of their websites in order to attract various search engines crawling the Internet looking for websites relevant to consumer searches for Burberry Products. Additionally, upon information and belief, Defendants use other unauthorized search engine optimization (SEO) tactics and social media spamming so that the Defendant Internet Stores listings show up at or near the top of relevant search results and misdirect consumers searching for genuine Burberry Products. Other Defendants only show the BURBERRY Trademarks and/or the Burberry Copyrighted Design in product images while using strategic item titles and descriptions that will trigger their listings when consumers are searching for Burberry Products.

22. Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their network of Defendant Internet Stores.

For example, many of Defendants' names and physical addresses used to register the Defendant Domain Names are incomplete, contain randomly typed letters, or fail to include cities or states. Other Defendant Domain Names use privacy services that conceal the owners' identity and contact information. On information and belief, Defendants regularly create new websites and online marketplace accounts on various platforms using the identities listed in Schedule A to the Complaint, as well as other unknown fictitious names and addresses. Such Defendant Internet Store registration patterns are one of many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

23. Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. For example, many of the Defendant websites have virtually identical layouts, even though different aliases were used to register the respective domain names. In addition, Unauthorized Burberry Products for sale in the Defendant Internet Stores bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Unauthorized Burberry Products were manufactured by and come from a common source and that Defendants are interrelated. The Defendant Internet Stores also include other notable common features, including use of the same domain name registration patterns, shopping cart platforms, accepted payment methods, check-out methods, meta data, illegitimate SEO tactics, HTML user-defined variables, domain redirection, lack of contact information, identically or similarly priced items and volume sales discounts, the same incorrect grammar and misspellings, similar hosting services, similar name servers, and the use of the same text and images.

24. In addition to operating under multiple fictitious names, Defendants in this case and defendants in other similar cases against online counterfeiters use a variety of other common tactics to evade enforcement efforts. For example, counterfeiters like Defendants will often register new domain names or online marketplace accounts under new aliases once they receive notice of a lawsuit. Counterfeiters also often move website hosting to rogue servers located outside the United States once notice of a lawsuit is received. Rogue servers are notorious for ignoring take down demands sent by brand owners. Counterfeiters also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection.

25. Further, counterfeiters such as Defendants typically operate multiple credit card merchant accounts and PayPal accounts behind layers of payment gateways so that they can continue operation in spite of Burberry's enforcement efforts. On information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their PayPal accounts or other financial accounts to off-shore bank accounts outside the jurisdiction of this Court. Indeed, analysis of PayPal transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based PayPal accounts to China-based bank accounts outside the jurisdiction of this Court.

26. Defendants, without any authorization or license from Burberry, have knowingly and willfully used and continue to use the BURBERRY Trademarks and/or copies of the Burberry Copyrighted Design in connection with the advertisement, distribution, offering for sale, and sale of Unauthorized Burberry Products into the United States and Illinois over the Internet. Each Defendant Internet Store offers shipping to the United States, including Illinois,

and, on information and belief, each Defendant has sold Unauthorized Burberry Products into the United States, including Illinois.

27. Defendants' use of the BURBERRY Trademarks in connection with the advertising, distribution, offering for sale, and sale of Unauthorized Burberry Products, including the sale of Unauthorized Burberry Products into the United States, including Illinois, is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Burberry.

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

28. Burberry hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 27.

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

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

31. Burberry is the exclusive owner of the BURBERRY Trademarks. Burberry's United States Registrations for the BURBERRY Trademarks (Exhibit 1) are in full force and effect. Upon information and belief, Defendants have knowledge of Burberry's rights in the BURBERRY Trademarks, and are willfully infringing and intentionally using counterfeits of the

BURBERRY Trademarks. Defendants' willful, intentional and unauthorized use of the BURBERRY Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Unauthorized Burberry Products among the general public.

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

33. Burberry has no adequate remedy at law, and if Defendants' actions are not enjoined, Burberry will continue to suffer irreparable harm to its reputation and the goodwill of its well-known BURBERRY Trademarks.

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

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

35. Burberry hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 34.

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

37. By using the BURBERRY Trademarks on the Unauthorized Burberry Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Unauthorized Burberry Products.

38. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Unauthorized Burberry Products to the general public involves

the use of counterfeit marks and is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

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

**COUNT III**  
**VIOLATION OF ILLINOIS UNIFORM DECEPTIVE TRADE PRACTICES ACT**  
**(815 ILCS § 510, *et seq.*)**

40. Burberry hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 39.

41. Defendants have engaged in acts violating Illinois law including, but not limited to, passing off their Unauthorized Burberry Products as those of Burberry; causing a likelihood of confusion and/or misunderstanding as to the source of their goods; causing a likelihood of confusion and/or misunderstanding as to an affiliation, connection, or association with genuine Burberry Products; representing that their products have Burberry's approval when they do not; and engaging in other conduct which creates a likelihood of confusion or misunderstanding among the public.

42. The foregoing Defendants' acts constitute a willful violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510, *et seq.*

43. Burberry has no adequate remedy at law, and Defendants' conduct has caused Burberry to suffer damage to its reputation and goodwill. Unless enjoined by the Court, Burberry will suffer future irreparable harm as a direct result of Defendants' unlawful activities.

**COUNT IV**  
**COPYRIGHT INFRINGEMENT OF UNITED STATES COPYRIGHT REGISTRATION**  
**(17 U.S.C. §§ 106 and 501)**

44. Burberry hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 43.

45. Burberry is the owner of a valid and enforceable Burberry Copyrighted Design, which contains certain copyrightable subject matter under 17 U.S.C. §§ 101 and 501, *et seq.*

46. Burberry has complied with the registration requirements of 17 U.S.C. § 411(a) for the Burberry Copyrighted Design and has obtained Copyright Registration No. VA 2-145-324.

47. Defendants do not have any ownership interest in the Burberry Copyrighted Design. Defendants had access to the Burberry Copyrighted Design via the internet.

48. Without authorization from Burberry, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced and/or made derivate works incorporating the Burberry Copyrighted Design on the Defendant Internet Stores and the corresponding Unauthorized Burberry Products. Defendants' derivative works are virtually identical to and/or substantially similar to the look and feel of the Burberry Copyrighted Design. Such conduct infringes and continues to infringe the Burberry Copyrighted Design in violation of 17 U.S.C. § 501(a) and 17 U.S.C. §§ 106(1)–(3), (5).

49. Defendants reap the benefits of the unauthorized copying and distribution of the Burberry Copyrighted Design in the form of revenue and other profits that are driven by the sale of Unauthorized Burberry Products.

50. The Defendants have unlawfully appropriated Burberry's protectable expression by taking material of substance and value and creating Unauthorized Burberry Products that capture the total concept and feel of the Burberry Copyrighted Design.

51. Upon information and belief, the Defendants' infringement has been willful, intentional, and purposeful, and in disregard of and with indifference to, Burberry's rights.

52. The Defendants, by their actions, have damaged Burberry in an amount to be determined at trial.

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

#### **PRAYER FOR RELIEF**

WHEREFORE, Burberry prays for judgment against Defendants as follows:

- 1) That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under, or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:
  - a. using the BURBERRY Trademarks or any reproductions, counterfeit copies, or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine Burberry Product or is not authorized by Burberry to be sold in connection with the BURBERRY Trademarks;

- b. reproducing, distributing copies of, making derivative works of, or publicly displaying the Burberry Copyrighted Design in any manner without the express authorization of Burberry;
- c. passing off, inducing, or enabling others to sell or pass off any product as a genuine Burberry Product or any other product produced by Burberry that is not Burberry's or not produced under the authorization, control, or supervision of Burberry and approved by Burberry for sale under the BURBERRY Trademarks and/or the Burberry Copyrighted Design;
- d. committing any acts calculated to cause consumers to believe that Defendants' Unauthorized Burberry Products are those sold under the authorization, control, or supervision of Burberry, or are sponsored by, approved by, or otherwise connected with Burberry;
- e. further infringing the BURBERRY Trademarks and/or the Burberry Copyrighted Design and damaging Burberry's goodwill; and
- f. manufacturing, shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Burberry, nor authorized by Burberry to be sold or offered for sale, and which bear any of Burberry's trademarks, including the BURBERRY Trademarks, or any reproductions, counterfeit copies, or colorable imitations thereof and/or which bear the Burberry Copyrighted Design;

2) Entry of an Order that, at Burberry's choosing, the registrant of the Defendant Domain Names shall be changed from the current registrant to Burberry, and that the domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc.,

Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, shall unlock and change the registrar of record for the Defendant Domain Names to a registrar of Burberry's selection, and that the domain name registrars, including, but not limited to, GoDaddy Operating Company, LLC ("GoDaddy"), Name.com, PDR LTD. d/b/a PublicDomainRegistry.com ("PDR"), and Namecheap Inc. ("Namecheap"), shall take any steps necessary to transfer the Defendant Domain Names to a registrar account of Burberry's selection; or that the same domain name registries shall disable the Defendant Domain Names and make them inactive and untransferable;

- 3) Entry of an Order that, upon Burberry's request, those in privity with Defendants and those with notice of the injunction, including, without limitation, any online marketplace platforms such as iOffer, eBay, AliExpress, Alibaba, Amazon, Wish.com, and Dhgate, web hosts, sponsored search engine or ad-word providers, credit cards, banks, merchant account providers, third party processors and other payment processing service providers, Internet search engines such as Google, Bing and Yahoo, and domain name registrars, including, but not limited to, GoDaddy, Name.com, PDR, and Namecheap, (collectively, the "Third Party Providers") shall:
  - a. disable and cease providing services being used by Defendants, currently or in the future, to engage in the sale of goods using the BURBERRY Trademarks and/or which bear the Burberry Copyrighted Design;
  - b. disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the BURBERRY Trademarks and/or which bear the Burberry Copyrighted Design; and

- c. take all steps necessary to prevent links to the Defendant Domain Names identified on Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Domain Names from any search index;
- 4) That Defendants account for and pay to Burberry all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged and that the amount of damages for infringement of the BURBERRY Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
- 5) In the alternative, that Burberry be awarded statutory damages for willful trademark counterfeiting pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every use of the BURBERRY Trademarks;
- 6) As a direct and proximate result of Defendants' infringement of the Burberry Copyrighted Design, Burberry is entitled to damages, as well as Defendants' profits, pursuant to 17 U.S.C. § 504(b);
- 7) Alternatively, and at Burberry's election prior to any final judgment being entered, Burberry is entitled to the maximum amount of statutory damages provided by law, \$150,000 per work infringed pursuant to 17 U.S.C. § 504(c), or for any other such amount as may be proper pursuant to 17 U.S.C. § 504(c);
- 8) That Burberry be awarded its reasonable attorneys' fees and costs; and
- 9) Award any and all other relief that this Court deems just and proper.

Dated this 8th day of November 2019.

Respectfully submitted,

/s/ Justin R. Gaudio

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