

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

AUTOMOBILI LAMBORGHINI AMERICA,
LLC,

Plaintiff,

v.

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

Defendants.

Case No. 21-cv-01310

COMPLAINT

Plaintiff Automobili Lamborghini America, LLC (“Plaintiff”) brings the present action against the Partnerships and Unincorporated Associations identified on Schedule A attached hereto (collectively, “Defendants”) to enforce Lamborghini trademarks and alleges 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.*, 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.

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, e-commerce stores¹ operating under the seller aliases identified in Schedule A attached hereto (the “Seller Aliases”). Specifically, Defendants have targeted sales to

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

Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, have sold products using infringing and counterfeit versions of the federally registered Lamborghini trademarks to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Lamborghini substantial injury in the State of Illinois.

II. INTRODUCTION

3. This action has been filed by Lamborghini to combat e-commerce store operators who trade upon Lamborghini's reputation and goodwill by offering for sale and/or selling unauthorized and unlicensed products, including vehicle parts and accessories and related lifestyle products, using infringing and counterfeit versions of the federally registered Lamborghini trademarks (the "Counterfeit Lamborghini Products"). Defendants create e-commerce stores operating under one or more Seller Aliases that are advertising, offering for sale and selling Counterfeit Lamborghini Products to unknowing consumers. E-commerce stores operating under the Seller Aliases share unique identifiers establishing a logical relationship between them and that Defendants' counterfeiting operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid and mitigate liability by operating under one or more Seller Aliases to conceal both their identities and the full scope and interworking of their counterfeiting operation. Lamborghini is forced to file this action to combat Defendants' counterfeiting of its registered trademarks, as well as to protect unknowing consumers from purchasing Counterfeit Lamborghini Products over the Internet. Lamborghini has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademarks as a result of Defendants' actions and seeks injunctive and monetary relief.

III. THE PARTIES

The Plaintiff

4. Plaintiff Automobili Lamborghini America, LLC is a wholly owned subsidiary of Volkswagen Group of America, Inc. and, under agreement with Automobili Lamborghini S.p.A., Plaintiff polices and enforces Automobili Lamborghini S.p.A.’s trademarks in the United States. Plaintiff Automobili Lamborghini America, LLC and Automobili Lamborghini S.p.A. are referred to herein together or individually as “Lamborghini.”

5. Lamborghini is a world famous automobile manufacturer that, through Plaintiff, sells Lamborghini automobiles and genuine parts and accessories (“Lamborghini Products”) through a network of licensed Lamborghini dealerships throughout the United States. Lamborghini Products have become enormously popular, driven, in part, by Lamborghini’s quality standards and innovative design. Among the purchasing public, genuine Lamborghini Products are instantly recognizable as such and symbolize high quality.

6. Plaintiff distributes and sells Lamborghini Products to consumers through a network of licensed Lamborghini dealerships throughout the United States, including through several licensed Lamborghini dealerships in Illinois. Since at least as early as 1996, Lamborghini also operates websites, including lamborghini.com and lamborghinistore.com, through which consumers can purchase genuine Lamborghini parts, automotive accessories, and personal goods and accessories directly from Lamborghini or its licensed Lamborghini dealerships.

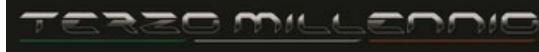
7. Lamborghini incorporates a variety of distinctive marks in the design of its various Lamborghini Products. Lamborghini uses its trademarks in connection with the marketing of its Lamborghini Products, and is the exclusive owner of numerous federally-registered trademarks for automobiles, parts, accessories, and a long list of related services and merchandise, including

the following marks which are collectively referred to as the “Lamborghini Trademarks.” The Lamborghini Trademarks cover automobile parts and accessories, including, but not limited to, automobile emblems and floor mats, and related lifestyle products.

Registration No.	Mark
1,622,382	LAMBORGHINI
3,707,401	LAMBORGHINI
1,705,816	DIABLO
4,311,978	HURACAN
4,075,599	SUPERVELOCE
3,482,973	SV
3,727,187	URUS
5,280,428	URUS
4,468,668	CARBONSKIN
4,815,513	CARBONFLEX
5,619,573	AVENTADOR
4,619,301	AVENTADOR
4,168,131	AVENTADOR
4,677,418	SESONUM
4,834,674	ANIMA
4,972,040	REACTIVE ENGINEERING
4,912,046	LAMBORGHINI AVENTADOR VENENO
5,062,323	CENTENARIO LP 770-4
5,080,609	EGOISTA
5,494,853	FORGEDSKIN
5,500,180	LM-FUSELAGE
5,582,734	#SINCEWEMADEITPOSSIBLE
1,624,722	
1,375,514	
3,671,571	

3,717,346	
5,677,550	
5,567,640	
4,986,530	
5,107,432	
4,912,047	
2,793,439	

5,603,696	
4,835,156	
5,089,879	
5,712,018	
4,879,901	
5,076,907	
5,207,994	
5,677,551	
5,718,539	
5,964,996	
5,809,752	

5,718,857	
5,847,550	

8. The Lamborghini Trademarks have been used exclusively and continuously by Lamborghini for many years, and have never been abandoned. The above U.S. registrations for the Lamborghini Trademarks are valid, subsisting, in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. True and correct copies of the United States Registration Certificates for the above-listed Lamborghini Trademarks are attached hereto as **Exhibit 1**. The registrations for the Lamborghini Trademarks constitute *prima facie* evidence of their validity and of Lamborghini's exclusive right to use the Lamborghini Trademarks pursuant to 15 U.S.C. § 1057(b).

9. Since at least as early as 1996, Lamborghini also operates websites, including lamborghini.com and lamborghinistore.com, through which consumers can purchase genuine Lamborghini parts, automotive accessories, and personal goods and accessories directly from Lamborghini or its licensed Lamborghini dealerships. The lamborghini.com and lamborghinistore.com websites feature proprietary Lamborghini content, images and designs.

10. Lamborghini uses the Lamborghini Trademarks to identify the source of its goods and services. Lamborghini Products have long been among the most popular vehicles, vehicle parts and accessories in the world and have been extensively promoted and advertised at great expense. Lamborghini Products are also known for their engineering, quality, and innovative designs. Because of these and other factors, the Lamborghini name and the Lamborghini Trademarks have become famous throughout the United States.

11. The Lamborghini Trademarks are distinctive when applied to Lamborghini Products, signifying to the purchaser that the products come from Lamborghini and are manufactured to Lamborghini's quality standards. Whether Lamborghini manufactures the products itself or licenses others to do so, Lamborghini Products bearing the Lamborghini Trademarks are manufactured to high quality standards. The Lamborghini Trademarks have achieved tremendous fame and recognition, which has only added to the inherent distinctiveness of the marks. As such, the goodwill associated with the Lamborghini Trademarks is of incalculable and inestimable value to Lamborghini.

12. Lamborghini has expended substantial time, money, and other resources in developing, advertising and otherwise promoting the Lamborghini Trademarks. As a result, products bearing the Lamborghini Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being quality Lamborghini Products.

The Defendants

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

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

impossible for Lamborghini to learn Defendants' true identities and the exact interworking of their counterfeit network. If Defendants provide additional credible information regarding their identities, Lamborghini will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

15. The success of the Lamborghini brand has resulted in its significant counterfeiting. Consequently, Lamborghini has a worldwide anti-counterfeiting program and investigates suspicious e-commerce stores identified in proactive Internet sweeps. Lamborghini, or someone working in support of Lamborghini's anti-counterfeiting program, has identified many fully interactive e-commerce stores, including those operating under the Seller Aliases, which were offering for sale and/or selling Counterfeit Lamborghini Products to consumers in this Judicial District and throughout the United States. E-commerce sales, including through e-commerce stores like those of Defendants, have resulted in a sharp increase in the shipment of unauthorized products into the United States. **Exhibit 2**, 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.

16. Third party service providers like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing counterfeiters to "routinely use false or inaccurate names and addresses when registering with these e-commerce platforms." **Exhibit 3**, Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the*

Internet, 40 NW. J. INT'L L. & BUS. 157, 186 (2020); see also report on “Combating Trafficking in Counterfeit and Pirated Goods” prepared by the U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans (Jan. 24, 2020) attached as **Exhibit 4** and finding that on “at least some e-commerce platforms, little identifying information is necessary for a counterfeiter to begin selling” and recommending that “[s]ignificantly enhanced vetting of third-party sellers” is necessary. Counterfeitors hedge against the risk of being caught and having their websites taken down from an e-commerce platform by preemptively establishing multiple virtual store-fronts. **Exhibit 4** at p. 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, counterfeitors can have many different profiles that can appear unrelated even though they are commonly owned and operated. **Exhibit 4** at p. 39. Further, “E-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of counterfeits and counterfeiters.” **Exhibit 3** at 186-187.

17. Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, have sold Counterfeit Lamborghini Products to residents of Illinois.

18. On information and belief, Defendants concurrently employ and benefit from substantially similar advertising and marketing strategies. For example, Defendants facilitate sales by designing e-commerce stores operating under the Seller Aliases so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. E-commerce stores operating under the Seller Aliases appear sophisticated and accept payment in U.S. dollars via credit cards, Alipay, Amazon Pay, Western Union and/or PayPal. E-commerce stores operating under the Seller Aliases often include content and images that make it very difficult for

consumers to distinguish such stores from an authorized retailer. To the best of my knowledge, Lamborghini has not licensed or authorized Defendants to use any of the Lamborghini Trademarks, and none of the Defendants are authorized retailers of genuine Lamborghini Products.

19. On information and belief, many Defendants also deceive unknowing consumers by using the Lamborghini Trademarks without authorization within the content, text, and/or meta tags of their online stores in order to attract various search engines crawling the Internet looking for websites relevant to consumer searches for Lamborghini Products. On information and belief, other e-commerce stores operating under Seller Aliases omit using Lamborghini Trademarks in the item title to evade enforcement efforts, while using strategic item titles and descriptions that will trigger their listings when consumers are searching for Lamborghini Products.

20. On information and belief, Defendants have engaged in fraudulent conduct when registering the Seller Aliases by providing false, misleading and/or incomplete information to Internet based e-commerce platforms. On information and belief, certain Defendants have anonymously registered and maintained Seller Aliases to prevent discovery of their true identities and the scope of their e-commerce operation.

21. On information and belief, Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Counterfeit Lamborghini Products. Such seller alias registration patterns are one of many common tactics used by the Defendants to conceal their identities and the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

22. Even though Defendants operate under multiple fictitious aliases, the e-commerce stores operating under the Seller Aliases often share unique identifiers, such as templates with common design elements that intentionally omit any contact information or other information for

identifying Defendants or other Seller Aliases they operate or use. E-commerce stores operating under the Seller Aliases include other notable common features such as use of the same registration patterns, accepted payment methods, check-out methods, keywords, illegitimate search engine optimization (SEO), advertising tactics, similarities in price and quantities, the same incorrect grammar and misspellings, and/or the use of the same text and images. Additionally, Counterfeit Lamborghini Products for sale by the Seller Aliases bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Counterfeit Lamborghini Products were manufactured by and come from a common source and that Defendants are interrelated.

23. On information and belief, Defendants are in constant communication with each other and regularly participate in QQ.com chat rooms and through websites such as sellerdefense.cn, kaidianyo.com and kuajingvs.com regarding tactics for operating multiple accounts, evading detection, pending litigation, and potential new lawsuits.

24. On information and belief, counterfeiters such as Defendants typically operate under multiple Seller Aliases and payment accounts so that they can continue operation in spite of Lamborghini's enforcement efforts. On information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their financial accounts to off-shore bank accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to Lamborghini. Indeed, analysis of financial account transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

25. 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 Counterfeit Lamborghini Products in the same transaction, occurrence, or series of

transactions or occurrences. Defendants, without any authorization or license from Lamborghini, have jointly and severally, knowingly and willfully used and continue to use the Lamborghini Trademarks in connection with the advertisement, distribution, offering for sale, and sale of Counterfeit Lamborghini Products into the United States and Illinois over the Internet.

26. Defendants' unauthorized use of the Lamborghini Trademarks in connection with the advertising, distribution, offering for sale, and sale of Counterfeit Lamborghini Products, including the sale of Counterfeit Lamborghini 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 Lamborghini.

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

27. Lamborghini hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

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

29. 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 Lamborghini Trademarks without permission.

30. Lamborghini is the exclusive owner of the Lamborghini Trademarks. Lamborghini's United States Registrations for the Lamborghini Trademarks (Exhibit

1) are in full force and effect. Upon information and belief, Defendants have knowledge of Lamborghini's rights in the Lamborghini Trademarks, and are willfully infringing and intentionally using counterfeits of the Lamborghini Trademarks. Defendants' willful, intentional and unauthorized use of the Lamborghini Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Counterfeit Lamborghini Products among the general public.

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

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

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

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

34. Lamborghini hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

35. Defendants' promotion, marketing, offering for sale, and sale of Counterfeit Lamborghini 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 Lamborghini or the origin, sponsorship, or approval of Defendants' Counterfeit Lamborghini Products by Lamborghini.

36. By using the Lamborghini Trademarks on the Counterfeit Lamborghini Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Counterfeit Lamborghini Products.

37. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Counterfeit Lamborghini 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.

38. There is no adequate remedy at law and, if Defendants' actions are not enjoined, Lamborghini will continue to suffer irreparable harm to its reputation and the goodwill of the Lamborghini brand.

PRAYER FOR RELIEF

WHEREFORE, Lamborghini 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 Lamborghini 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 Lamborghini Product or is not authorized by Lamborghini to be sold in connection with the Lamborghini Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Lamborghini Product or any other product produced by Lamborghini, that is not Lamborghini's or not produced under the authorization, control, or supervision of

Lamborghini and approved by Lamborghini for sale under the Lamborghini Trademarks;

- c. committing any acts calculated to cause consumers to believe that Defendants' Counterfeit Lamborghini Products are those sold under the authorization, control or supervision of Lamborghini, or are sponsored by, approved by, or otherwise connected with Lamborghini;
- d. further infringing the Lamborghini Trademarks and damaging Lamborghini's goodwill; and
- e. 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 Lamborghini, nor authorized by Lamborghini to be sold or offered for sale, and which bear any of Lamborghini's trademarks, including the Lamborghini Trademarks, or any reproductions, counterfeit copies or colorable imitations thereof;

2) Entry of an Order that, upon Lamborghini's request, those with notice of the injunction, including, without limitation, any online marketplace platforms such as eBay, AliExpress, Alibaba, Amazon, Wish.com, and Dhgat (collectively, the "Third Party Providers") shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the Lamborghini Trademarks;

3) That Defendants account for and pay to Lamborghini all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for

infringement of the Lamborghini Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;

- 4) In the alternative, that Lamborghini 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 Lamborghini Trademarks;
- 5) That Lamborghini be awarded its reasonable attorneys' fees and costs; and
- 6) Award any and all other relief that this Court deems just and proper.

Dated this 9th day of March 2021.

Respectfully submitted,

/s/ Justin R. Gaudio

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