

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

C-B, INC.,)	
)	
)	
Plaintiff,)	
)	Civil Action No. 21-cv-2352
)	
v.)	
)	
)	
THE PARTNERSHIPS AND)	
UNINCORPORATED ASSOCIATIONS)	<u>DEMAND FOR JURY TRIAL</u>
IDENTIFIED IN SCHEDULE "A",)	
)	
)	
Defendants.)	

COMPLAINT

Plaintiff, C-B, Inc., a corporation, ("Plaintiff"), by and through its undersigned counsel, hereby files this Complaint against the partnerships and unincorporated associations identified in Schedule "A" (together, "Defendants"). In support thereof, Plaintiff states 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. 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 Defendant directly targets business activities toward consumers in the United States, including Illinois, through their

operation of or assistance in the operation of the fully interactive, commercial Internet stores operating under the Defendant domain names and/or the Defendant Internet Stores identified in Schedule A. Specifically, each of the Defendants are directly reaching out to do business with Illinois residents by operating or assisting in the operation of one or more commercial, interactive e-commerce stores that sell products using counterfeit versions of Plaintiff's federally registered trademarks directly to Illinois consumers. In short, each Defendant is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the state of Illinois.

II. INTRODUCTION

3. This action has been filed by Plaintiff to combat online counterfeiters and infringers who trade upon Plaintiff's reputation and goodwill by selling and/or offering for sale unauthorized and unlicensed counterfeit and infringing products, including magnetic organizational products, using counterfeit versions of Plaintiff's federally trademarked product (Registration attached as **Exhibit 1 (redacted)**). The Defendants create Internet stores ("the Defendant Internet Stores") by the dozens and design them to appear to be selling genuine copies of Plaintiff's C-B product, while actually selling counterfeit versions to unknowing consumers.

4. The Defendant Internet Stores share unique identifiers, such as design elements and similarities of the counterfeit Plaintiff product offered for sale and, on information and belief, these similarities suggest that the Defendant Internet Stores share common manufacturing sources, thereby establishing that Defendants' counterfeiting and infringement 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, including changing the names of their

stores multiple times, opening new stores, helping their friends open stores, and making subtle changes to their products. Plaintiff is forced to file this action to combat Defendants' counterfeiting and willful infringement of Plaintiff's registered trademarks, as well as to protect unknowing consumers from purchasing counterfeit C-B products over the Internet. Plaintiff 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 seek injunctive and monetary relief.

III. THE PARTIES

Plaintiff Conti-Bros, Inc.

5. Plaintiff is a North Carolina corporation and is the creator and seller of high-quality organizational magnetic products. Plaintiff sells these organizational magnetic products through its brand BRAND. Plaintiff's most unique product is the product at issue.

6. Plaintiff started its brand Strong Like Bull Magnets and product C-B through the Kickstarter fundraising platform. Plaintiff's founder and innovator created the unique C-B design. The Kickstarter website page for initial product and brand funding details Plaintiff's founder's original design, idea, and inspiration behind the C-B product. Plaintiff's unique product has been advertised with its federally registered trademark for several years. Plaintiff continues to heavily advertise its unique C-B product through advertisements demonstrating both its technology and trademarked name through several social media distribution channels. Its advertisements feature original content and reviews for the C-B product.

7. The Product is a recognized product that has been featured in nationally distributed media sources. Plaintiff's trademarked Product is also regularly featured on "must buy" lists for unique gift ideas and other storage solutions from nationally distributed media

sources. C-B has been positively reviewed on numerous sites that sell its genuine and federally trademarked product.

8. Plaintiff is engaged in the business of manufacturing, distributing and retailing these high-quality magnetic organizational products, such as the Product, within the Northern District of Illinois under the Federally registered trademark MARK. Defendants' sales of the counterfeit C-B product in violation of Plaintiff's intellectual property rights are irreparably damaging Plaintiff.

9. Plaintiff's brand, symbolized by the MARK trademark, is a recognized brand of high-quality and unique organizational magnets. The MARK trademark is distinctive and identifies the merchandise as goods from Plaintiff. The registration for the MARK trademark constitutes *prima facie* evidence of its validity and of Plaintiff's exclusive right to use the MARK trademark pursuant to 15 U.S.C. § 1057(b). The MARK trademark has been continuously used and never abandoned since its 2019 registration.

10. Plaintiff uses the MARK trademark to identify its goods. The MARK trademark is distinct when it is applied to Plaintiff's organizational magnet product, signaling to the purchaser and consumer that the products are from Plaintiff and are made and manufactured to Plaintiff's original specificity and standards. Further, the use of the word elements "bottle" and "loft" together in advertising of the C-B product are unique to Plaintiff.

11. Since its initial launch of the original C-B product as of its claimed first use, Plaintiff's trademark and works have been the subject of substantial and continuous marketing and promotion by the Plaintiff throughout the United States and, due to its strong internet presence, throughout the entire world. Plaintiff has and continues to widely promote and market its trademark to customers and the general public, and on Plaintiff's website.

12. Plaintiff has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting the MARK trademark. As a result, customers and consumers recognize that products bearing the distinctive MARK trademark originate exclusively with Plaintiff.

THE DEFENDANTS

13. Defendants are individuals and 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 in this Judicial District, through the operation of the fully interactive commercial websites and online commercial 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 counterfeit C-B products to consumers within the United States, including Illinois and in this Judicial District.

14. Defendants are an interrelated group of counterfeiters and infringers, who create numerous Defendant Internet Stores and design these stores to appear to be selling genuine Plaintiff Products, while they actually sell inferior imitations of Plaintiff's Product. The Defendant Internet Stores share unique identifiers, such as common design elements, the same or similar counterfeit C-B product that they offer for sale, similar counterfeit C-B product descriptions, the same or substantially similar shopping cart platforms, accepted payment methods, check-out methods, lack of contact information, identically or similarly priced counterfeit C-B product and volume sale discounts, establishing a logical relationship between them and suggesting that Defendants' illegal operations arise out of the same transaction or occurrence. Tactics used by Defendants to conceal their identities and the full scope of their

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

THE DEFENDANTS' UNLAWFUL CONDUCT

15. The success of Plaintiff's brand has resulted in significant counterfeiting and infringement. Consequently, Plaintiff has identified numerous marketplace listings on eCommerce platforms such as, but not limited to, eBay, WISH, Amazon, DHGate, AliExpress, Alibaba, and Newegg, including the Defendant Aliases, which have been offering for sale, selling, and exporting illegal products to consumers in this Judicial District and throughout the United States. Defendants have persisted in creating the Defendant Aliases. eCommerce sales, including eCommerce Internet Stores like those of Defendants, have resulted in a sharp increase in the shipment of unauthorized products into the United States. *See Exhibit 2 (Redacted)*. Counterfeit and pirated products account for billions of dollars in economic losses, resulting in tens of thousands of lost jobs for legitimate businesses and broader economic losses, including lost tax revenue.

16. Counterfeiting rings are able to take advantage of the anonymity provided by the Internet which allows them to evade enforcement efforts to combat counterfeiting. For example, counterfeiters take advantage of the fact that marketplace platforms 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 Internet platforms." *See Exhibit 3 (Redacted)*, With the absence of regulation, Defendants may and do garner sales from Illinois residents by setting up and operating eCommerce Internet Stores that

target United States consumers using one or more aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars, and, on information and belief, have sold counterfeit products to residents of Illinois.

17. Upon information and belief, at all times relevant hereto, the Defendants in this action have had full knowledge of Plaintiff's ownership of the MARK trademark, including its exclusive right to use and license such intellectual property and the goodwill associated therewith. Defendants Internet Stores also use the same pictures to advertise their counterfeit C-B product that Plaintiff uses on its webpage to sell and advertise its genuine and original C-B product.

18. Defendants often go to great lengths to conceal their identities by using multiple fictitious names and addresses to register and operate their massive network of Defendant Internet Stores. Other Defendant domain names often use privacy services that conceal the owners' identity and contact information. Upon information and belief, Defendants regularly create new websites and online marketplace accounts on various platforms using the identities listed in Schedule A of the Complaint, as well as other unknown fictitious names and addresses. Such Defendant Internet Store registration patterns are one of the many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their massive counterfeiting operation, and to avoid being shut down.

19. The counterfeit C-B products for sale in the Defendant Internet Stores bear similarities and indicia of being related to one another, suggesting that the counterfeit C-B products were manufactured by and come from a common source and that, upon information and belief, Defendants are interrelated.

20. Upon information and belief, Defendants also deceive unknowing customers by using the MARK trademark without authorization within the content, text, and/or meta tags of their websites to attract various search engines on the Internet looking for websites relevant to consumer searches for Plaintiff's C-B product. Additionally, upon information and belief, Defendants use other unauthorized search engine optimization tactics and social media spamming to ensure that the Defendant Internet Stores listings show up at or near the top of relevant search results after others are shut down. As such, Plaintiff also seeks to disable Defendant domain names owned by Defendants that are the means by which the Defendants could continue to sell counterfeit C-B products.

21. Defendants' use of the trademark on or in connection with the advertising, marketing, distribution, offering for sale, and sale of the counterfeit C-B products is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Plaintiff. Defendants have manufactured, imported, distributed, offered for sale, and sold counterfeit C-B products using the MARK trademark and continue to do so.

22. Defendants, without authorization or license from Plaintiff, knowingly and willfully used and continue to use the MARK trademark in connection with the advertisement, offer for sale, and sale of the counterfeit C-B products, through, inter alia, the Internet. The counterfeit C-B products are not genuine Products of the Plaintiff. The Plaintiff did not manufacture, inspect, or package the counterfeit C-B products and did not approve the counterfeit C-B products for sale or distribution. Each of the Defendants Internet Stores offers shipping to the United States, including Illinois, and, on information and belief, each Defendant has sold counterfeit C-B products into the United States, including Illinois.

23. Upon information and belief, Defendants will continue to register or acquire listings for the purpose of selling counterfeit C-B products that infringe upon the MARK trademark unless preliminarily and permanently enjoined.

24. Defendants' use of the MARK trademark in connection with the advertising, distribution, offering for sale, and sale of counterfeit C-B products, including the sale of counterfeit C-B products into Illinois, is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Plaintiff.

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

25. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 24.

26. This is a trademark infringement and counterfeit action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the federally registered MARK Trademark in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The MARK Trademark is a distinctive mark. Consumers have come to expect the highest quality from Plaintiff's products provided under Plaintiff's Trademark.

27. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and advertising products in connection with Plaintiff's Trademark without Plaintiff's permission.

28. Plaintiff is the exclusive owner of Plaintiff's Trademark. Plaintiff's United States Registration for Plaintiff's Trademark (**Exhibit 1**) is in full force and effect. Upon information and belief, Defendants have knowledge of Plaintiff's rights in Plaintiff's Trademark and are willfully infringing and intentionally using counterfeits of Plaintiff's Trademark. Defendants' willful, intentional, and unauthorized use of Plaintiff's Trademark are likely to cause and is

causing confusion, mistake, and deception as to the origin and quality of the counterfeit goods among the general consuming public.

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

30. Plaintiff has no adequate remedy at law, and if Defendants' actions are not enjoined, Plaintiff will continue to suffer irreparable harm to its reputation and the goodwill of its well-known Plaintiff's Trademark.

31. The injuries sustained by Plaintiff have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of counterfeit Plaintiff's C-B product.

COUNT II
FALSE DESIGNATION OF ORIGIN

32. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 31.

33. Defendants' promotion, marketing, offering for sale, and sale of infringing and counterfeit C-B branded product has created and is creating a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with Plaintiff or the origin, sponsorship, or approval of Defendants' counterfeit version of Plaintiff's C-B product.

34. By using Plaintiff's Trademark in connection with the sale of counterfeit C-B product, Defendants create a false designation of origin and a misleading representation of the fact as to the origin and sponsorship of the counterfeit Plaintiff's C-B product.

35. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the counterfeit C-B product to the general public is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

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

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

37. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 36.

38. Defendants have engaged in acts violating Illinois law including, but not limited to, passing off their counterfeit C-B product as those of Plaintiff, 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 Plaintiff's genuine C-B product, representing that their products have Plaintiff's approval when they do not, and engaging in other conduct which creates a likelihood of confusion or misunderstanding among the public.

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

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

COUNT IV
CIVIL CONSPIRACY

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

42. Plaintiff is informed and believe and thereon alleges that Defendants knowingly and voluntarily entered into a scheme and agreement to engage in a combination of unlawful acts and misconduct including, without limitation, a concerted and collaborated effort to maintain the distribution, marketing, advertising, shipping, offering for sale, or sale of counterfeit C-B products in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510, et seq.

43. The intent, purpose, and objective of the conspiracy and the underlying combination of unlawful acts and misconduct committed by the Defendants was to undermine Plaintiff and its business by unfairly competing against it as described above.

44. The Defendants each understood and accepted the foregoing scheme and agreed to do their respective part, to further accomplish the foregoing intent, purpose, and objective. Thus, by entering into the conspiracy, each Defendant has deliberately, willfully, and maliciously permitted, encouraged, and/or induced all of the foregoing unlawful acts and misconduct.

45. As a direct and proximate cause of the unlawful acts and misconduct undertaken by each Defendant in furtherance of the conspiracy, Plaintiff has sustained, and unless each Defendant is restrained and enjoined, will continue to sustain severe, immediate, and irreparable harm, damage, and injury for which Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all other persons acting for, with, by, through, under, or in active concert with them be temporarily preliminary, and permanently enjoined and restrained from:
 - a. Using Plaintiff's Trademark in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine Plaintiff's product, or is not authorized by Plaintiff to be sold in connection with Plaintiff's Trademark;
 - b. Passing off, inducing, or enabling others to sell or pass off any product as a genuine Plaintiff's product or any other product produced by Plaintiff that is not Plaintiff's or not produced under the authority, control, or supervision of Plaintiff and approved by Plaintiff for sale under Plaintiff's Trademark and associated with or derived from Plaintiff's Trademark;
 - c. Committing any acts calculated to cause consumers to believe that Defendants' counterfeit C-B product is those sold under the authority, control, or supervision of Plaintiff, or are sponsored by, approved of, or otherwise connected with Plaintiff;
 - d. Further infringing Plaintiff's Trademark and damaging Plaintiff's goodwill;
 - e. Otherwise competing unfairly with Plaintiff in any manner;
 - f. Shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any Plaintiff's

Trademark, or any reproductions, counterfeit copies, or colorable imitations thereof;

- g. Selling or transferring control of the Defendant Internet Stores, or any other domain name or online marketplace account that is being used to sell or is the means by which Defendants could continue to sell counterfeit C-B product; and,
- h. Offering for sale, or sale of any product bearing the Plaintiff's mark or reproduction, counterfeit copy or colorable imitation therefor that is not a genuine product or not authorized by Plaintiff to be sold in connection with the Plaintiff's mark; and,
- i. Registering any additional domain names that use or incorporate any of the Plaintiff's mark; and,

2. 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:

- i. Displaying images protected by the Plaintiff's trademark in connection with the distribution, advertising, offer for sale and/or sale of any product that is not a genuine product of Plaintiff's or is not authorized by Plaintiff to be sold in connection with the Plaintiff's trademark; and
- ii. Shipping, delivering, holding for same, distributing, returning, transferring, or otherwise moving, storing, or disposing of in any manner products or inventory not manufactured by or for Plaintiff, not authorized by Plaintiff to

be sold or offered for sale, and protected by the Plaintiff's trademark or any reproductions, counterfeit copies, or colorable imitations thereof; and,

3. That Defendants, within fourteen (14) days after service of judgment with notice of entry thereof upon them, be required to file with the Court and serve upon Plaintiff a written report under oath setting forth in detail the manner and form in which Defendants have complied with any and all injunctive relief ordered by this Court;

4. Entry of an Order that, upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including any online marketplaces such as: Amazon and Alibaba Group Holding Ltd., Alipay.com Co., Ltd. and any related Alibaba entities (collectively "Alibaba"); social media platforms such as: Facebook, YouTube, LinkedIn, Twitter; Internet search engines such as Google, Bing, and Yahoo; webhosts for the Defendants Domain Names, and domain name registrars, that are provided with notice of the injunction, cease facilitating access to any or all webstore product listings through which Defendants engage in the sale of counterfeit C-B products using the Plaintiff's mark;

5. That Defendants account for and pay to Plaintiff all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of Plaintiff's Trademark be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;

6. For Judgment in favor of Plaintiff against Defendants that they have: (a) willfully infringed Plaintiff's rights in its federal registered trademark pursuant to 15 U.S.C. § 1114; and (b) otherwise injured the business reputation and business of Plaintiff by Defendants' acts and conduct set forth in this Complaint;

7. For Judgment in favor of Plaintiff against Defendants for actual damages or statutory damages pursuant to 15 U.S.C. § 1117, at the election of Plaintiffs, in an amount to be determined at trial;

8. In the alternative, that Plaintiff be awarded statutory damages pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every use of Plaintiff's Trademark;

9. That Plaintiff be awarded its reasonable attorneys' fees and costs; and,

10. That Plaintiff be awarded any and all other relief that this Court deems equitable and just.

Dated: May 1, 2021

Respectfully submitted,

/s/James E. Judge/
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