

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

LUXOTTICA GROUP S.p.A., OAKLEY, INC.,
EYE SAFETY SYSTEMS, INC., and COSTA
DEL MAR, INC.,

Case No. 21-cv-03966

Plaintiffs,

v.

THE PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A,"

Defendants.

COMPLAINT

Plaintiffs Luxottica Group S.p.A., Oakley, Inc., Eye Safety Systems, Inc., and Costa Del Mar, Inc. (collectively, "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.*, 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 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 Plaintiffs’ federally registered trademarks to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Plaintiffs substantial injury in the State of Illinois.

II. INTRODUCTION

3. This action has been filed by Plaintiffs to combat e-commerce store operators who trade upon Plaintiffs’ reputations and goodwill by offering for sale and/or selling unauthorized and unlicensed products, including eyewear, using infringing and counterfeit versions of Plaintiffs’ federally registered trademarks (the “Counterfeit Products”). Defendants create e-commerce stores operating under one or more Seller Aliases that are advertising, offering for sale and selling Counterfeit 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. Plaintiffs are forced to file this action to combat Defendants’ counterfeiting of their registered trademarks, as well as to protect unknowing consumers from purchasing Counterfeit Products over the Internet. Plaintiffs have been and

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

continue to be irreparably damaged through consumer confusion, dilution, and tarnishment of their valuable trademarks as a result of Defendants' actions and seek injunctive and monetary relief.

III. THE PARTIES

Plaintiffs

4. Plaintiff Luxottica Group S.p.A. is a subsidiary of EssilorLuxottica (collectively, "Luxottica"). Plaintiffs Oakley, Inc., Eye Safety Systems, Inc., and Costa Del Mar, Inc. are subsidiaries of Luxottica.

Plaintiff Luxottica Group S.p.A.

5. Plaintiff Luxottica Group S.p.A. is a corporation duly organized under the laws of Italy with its principal place of business in Milan, Italy and an office located at 4000 Luxottica Place, Mason, Ohio 45040-8114. Luxottica is, in part, engaged in the business of producing, manufacturing and distributing throughout the world, including within this judicial district, premium, luxury and sports eyewear products under federally registered trademarks, including, but not limited to, the RAY-BAN® family of marks.

6. For generations, the Ray-Ban brand has been the undisputed world leader in the field of sun and prescription eyewear products, including those which prominently display the famous, internationally recognized, and federally registered RAY-BAN trademarks (collectively, the "Ray-Ban Products").

7. Ray-Ban Products have become enormously popular and even iconic, driven by the brand's arduous quality standards and innovative design. Among the purchasing public, genuine Ray-Ban Products are instantly recognizable as such. In the United States and around the world, the Ray-Ban brand has come to symbolize high quality, and Ray-Ban Products are among the most recognizable eyewear in the world. Ray-Ban Products are distributed and sold to

consumers through retailers throughout the United States, including through authorized retailers in Illinois such as Sunglass Hut and high-end department stores, and through the official Ray-Ban.com website, which was launched in 1995 and began e-commerce sales in 2009.

8. Luxottica and its predecessors began using the RAY-BAN trademarks in 1937 and have continuously sold eyewear under the RAY-BAN and other trademarks (collectively, the “RAY-BAN Trademarks”). As a result of this long-standing use, strong common law trademark rights have amassed in the RAY-BAN Trademarks. Luxottica’s use of the marks has also built substantial goodwill in and to the RAY-BAN Trademarks. The RAY-BAN Trademarks are famous marks and valuable assets of Luxottica. Ray-Ban Products typically include at least one of the registered RAY-BAN Trademarks.

9. Several of the RAY-BAN Trademarks are registered with the United States Patent and Trademark Office, a non-exclusive list of which is included below.

Registration Number	Trademark	Goods and Services
1,080,886	RAY-BAN	For: Ophthalmic products and accessories-namely, sunglasses; eyeglasses; spectacles; lenses and frames for sunglasses, eyeglasses, and spectacles in class 9.
2,718,485	RAY-BAN	For: Goods made of leather and imitation leather, namely, wallets, card cases for business cards, calling cards, name cards and credit cards in class 18. For: Clothing for men and women, namely, polo shirts; headgear, namely, berets and caps in class 25.
595,513	WAYFARER	For: Sunglasses in class 9.
1,537,974	CLUBMASTER	For: Sunglasses in class 9.

650,499		For: Sunglasses, shooting glasses, and ophthalmic lenses in class 9.
1,093,658		For: Ophthalmic products and accessories-namely, sunglasses; eyeglasses; spectacles; lenses and frames for sunglasses, eyeglasses, spectacles; and cases and other protective covers for sunglasses, eyeglasses, and spectacles in class 9.
1,726,955		For: Bags; namely, tote, duffle and all purpose sports bags in class 18. For: Cloths for cleaning ophthalmic products in class 21. For: Clothing and headgear; namely, hats in class 25.
1,320,460		For: Sunglasses and carrying cases therefor in class 9.
3,522,603		For: Sunglasses, eyeglasses, lenses for eyeglasses, eyeglasses frames, and cases for eyeglasses in class 9.

10. The above U.S. registrations for the RAY-BAN Trademarks are valid, subsisting, in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. The registrations for the RAY-BAN Trademarks constitute *prima facie* evidence of their validity and of Luxottica's exclusive right to use the RAY-BAN Trademarks pursuant to 15 U.S.C. § 1057

(b). True and correct copies of the United States Registration Certificates for the above-listed RAY-BAN Trademarks are attached hereto as Exhibit 1.

11. The RAY-BAN Trademarks are distinctive when applied to the Ray-Ban Products, signifying to the purchaser that the products come from Luxottica and are manufactured to Luxottica's quality standards. Whether Luxottica manufactures the products itself or contracts with others to do so, Luxottica has ensured that products bearing the RAY-BAN Trademarks are manufactured to the highest quality standards.

12. The RAY-BAN Trademarks are famous marks, as that term is used in 15 U.S.C. § 1125(c)(1), and have been continuously used and never abandoned. The innovative marketing and product designs of the Ray-Ban Products have enabled the Ray-Ban brand to achieve widespread recognition and fame and have made the RAY-BAN Trademarks some of the most well-known marks in the sun and prescription eyewear industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Ray-Ban brand have made the RAY-BAN Trademarks valuable assets of Luxottica.

13. Luxottica has expended substantial time, money, and other resources in advertising and promoting the RAY-BAN Trademarks. In fact, Luxottica has expended millions of dollars annually in advertising, promoting and marketing featuring the RAY-BAN Trademarks. Ray-Ban Products have also been the subject of extensive unsolicited publicity resulting from their high-quality, innovative designs. As a result, products bearing the RAY-BAN Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Luxottica. Ray-Ban Products have become among the most popular of their kind in the U.S. and the world. The RAY-BAN Trademarks have achieved tremendous fame and recognition which has only added to the inherent distinctiveness of the marks. *Id.* As such, the goodwill associated with the RAY-BAN Trademarks is of incalculable and inestimable value to Luxottica.

14. Genuine Ray-Ban Products are sold only through authorized retail channels and are recognized by the public as being exclusively associated with the Ray-Ban brand.

15. Since at least as early as 2009, Ray-Ban Products have been promoted and sold at the Ray-Ban.com website. Sales of Ray-Ban Products via the Ray-Ban.com website are significant. The Ray-Ban.com website features proprietary content, images and designs exclusive to the Ray-Ban brand.

16. Luxottica is also engaged in the business of producing, manufacturing and distributing throughout the world, including within this judicial district, premium, luxury and sports eyewear products under the federally registered PERSOL marks.

17. For over 100 years, the Persol brand has been a symbol of Italian design, quality, and timeless elegance—the gold standard for eyewear products for aviators and sports drivers, including those which prominently display the famous, internationally recognized, and federally registered PERSOL trademarks (collectively, the “Persol Products”).

18. Persol Products have become enormously popular and even iconic, driven by the brand’s arduous quality standards and innovative design. Among the purchasing public, genuine Persol Products are instantly recognizable as such. In the United States and around the world, the Persol brand has come to symbolize high quality, and Persol Products are among the most recognizable eyewear in the world. Persol Products are distributed and sold to consumers through retailers throughout the United States, including through authorized retailers in Illinois, and through the official Persol.com website.

19. Luxottica and its predecessors began using the PERSOL trademarks in 1917 and have continuously sold eyewear under the PERSOL and other trademarks (collectively, the “PERSOL Trademarks”). As a result of this long-standing use, strong common law trademark rights have amassed in the PERSOL Trademarks. Luxottica’s use of the marks has also built

substantial goodwill in and to the PERSOL Trademarks. The PERSOL Trademarks are famous marks and valuable assets of Luxottica. Persol Products typically include at least one of the registered PERSOL Trademarks.

20. The PERSOL Trademarks are registered with the United States Patent and Trademark Office, a non-exclusive list of which is included below.

Registration Number	Trademark	Goods and Services
1,696,835	PERSOL	For: Spectacles, spectacle frames, spectacle cases, sunglasses, spectacle glasses, eye shades in class 009.
913,166	 The Persol logo consists of the word "Persol" in a stylized, italicized serif font. The letters are dark, and the "o" has a small horizontal bar through it. A thick, dark, diagonal line starts from the bottom left and slopes upwards to the right, crossing the letters "e", "r", "s", and "o".	For: Spectacles, spectacle frames, spectacle glasses, eye shades in classes 001, 009, and 010.

21. The above U.S. registrations for the PERSOL Trademarks are valid, subsisting, in full force and effect, and incontestable pursuant to 15 U.S.C. § 1065. The registrations for the PERSOL Trademarks constitute *prima facie* evidence of their validity and of Luxottica's exclusive right to use the PERSOL Trademarks pursuant to 15 U.S.C. § 1057(b). True and correct copies of the United States Registration Certificates for the above-listed PERSOL Trademarks are attached hereto as **Exhibit 2**.

22. The PERSOL Trademarks are distinctive when applied to the Persol Products, signifying to the purchaser that the products come from Luxottica and are manufactured to Luxottica's quality standards. Whether Luxottica manufactures the products itself or contracts with others to do so, Luxottica has ensured that products bearing the PERSOL Trademarks are manufactured to the highest quality standards.

23. The PERSOL Trademarks have been continuously used and never abandoned. The innovative marketing and product designs of the Persol Products have enabled the Persol

brand to achieve widespread recognition and fame and have made the PERSOL Trademarks some of the most well-known marks in the eyewear industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Persol brand have made the PERSOL Trademarks valuable assets of Luxottica.

24. Luxottica has expended substantial time, money, and other resources in advertising and promoting the PERSOL Trademarks. In fact, Luxottica has expended millions of dollars annually in advertising, promoting and marketing featuring the PERSOL Trademarks. Persol Products have also been the subject of extensive unsolicited publicity resulting from their high-quality, innovative designs. As a result, products bearing the PERSOL Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Luxottica. Persol Products have become among the most popular of their kind in the U.S. and the world. The PERSOL Trademarks have achieved tremendous fame and recognition which has only added to the inherent distinctiveness of the marks. *Id.* As such, the goodwill associated with the PERSOL Trademarks is of incalculable and inestimable value to Luxottica.

25. Genuine Persol Products are sold only through authorized retail channels and are recognized by the public as being exclusively associated with the Persol brand.

26. For many years, Persol Products have been promoted and sold at the Persol.com website. Sales of Persol Products via the Persol.com website are significant. The Persol.com website features proprietary content, images and designs exclusive to the Persol brand.

Plaintiff Oakley, Inc.

27. Plaintiff Oakley, Inc. (“Oakley”) is a corporation organized and existing under the laws of the State of Washington, having its principal place of business at One Icon, Foothill Ranch, California 92610.

28. Oakley is an internationally recognized manufacturer, distributor and retailer of sports eyewear, apparel, footwear, outerwear, jackets, accessories and other merchandise, all of which prominently display its famous, internationally-recognized and federally-registered trademarks, including OAKLEY and various Icon logos (collectively, the “Oakley Products”). Oakley Products have become enormously popular and even iconic, driven by Oakley’s arduous quality standards and innovative design. Among the purchasing public, genuine Oakley Products are instantly recognizable as such. In the United States and around the world, the Oakley brand has come to symbolize high quality, and Oakley Products are among the most recognizable eyewear, headwear, footwear, outerwear, jackets and apparel in the world.

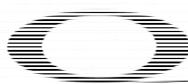
29. Oakley Products are distributed and sold to consumers through retailers throughout the United States, including through authorized retailers in Illinois, the official oakley.com website which was launched in 1995, and Oakley O Stores, including one located at 835 N. Michigan Avenue in Chicago, Illinois.

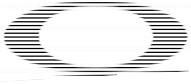
30. Oakley incorporates a variety of distinctive marks in the design of its various Oakley Products. As a result of its long-standing use, Oakley owns common law trademark rights in its OAKLEY trademarks. Oakley has also registered its trademarks with the United States Patent and Trademark Office. Oakley Products typically include at least one of Oakley’s registered trademarks. Often several Oakley marks are displayed on a single Oakley Product. Oakley has registered its trademarks with the United States Patent and Trademark Office. Oakley uses its trademarks in connection with the marketing of its Oakley Products, including the following registered marks which are collectively referred to as the “OAKLEY Trademarks.”

Registration Number	Trademark	Good and Services
1,521,599	OAKLEY	For: Sunglasses and accessories for sunglasses, namely, replacement lenses, ear stems and nose pieces in class 9.

1,522,692	OAKLEY	For: Clothing, namely, shirts and hats in class 25.
1,552,583	OAKLEY	For: Goggles in class 9.
2,293,046	OAKLEY	For: Clothing, headwear and footwear and footwear, namely, sport shirts, jerseys, shirts, jackets, vests, sweatshirts, pullovers, coats, ski pants, headwear, caps, shoes, athletic footwear, all purpose sports footwear and socks in class 25.
3,153,943	OAKLEY	For: Prescription eyewear, namely, sunglasses and spectacles; eyewear containing electronics devices, namely, protective eyewear, eyeglasses, sunglasses and spectacles; electronics, namely portable digital electronic devices for recording, organizing, and reviewing text, data and audio files; computer software for use in recording, organizing, and reviewing text, data and audio files on portable digital electronic devices; transmitters, receivers, speakers and parts thereof for use with cellular, wireless computer and telephone communication systems; communication devices for use on eyewear, namely earpieces, transmitters, receivers, speakers and parts thereof for use with cellular, wireless computer and telephone communication systems; wearable audio visual display, namely, protective eyewear, eyeglasses, sunglasses and spectacles containing an audio visual display; wireless telecommunications modules in class 9.
3,771,517	OAKLEY	For: Retail store services and on-line retail store services featuring eyewear, replacement lenses, eyewear nosepiece kits, clothing, headwear, footwear, watches, decals, electronics devices, posters, athletic bags, handbags, backpacks and luggage in class 35.
1,980,039		For: Protective and/or anti-glare eyewear, namely sunglasses, goggles, spectacles and their parts and

		accessories, namely replacement lenses, earstems, frames, nose pieces and foam strips; cases specially adapted for protective and/or anti-glare eyewear and their parts and accessories in class 9.
1,356,297		<p>For: Goggles, sunglasses, and protective pads for elbows, feet and knees in class 9.</p> <p>For: Clothing - namely t-shirts; gloves; racing pants; hats; sweatshirts; sport shirts, jackets, jeans, jerseys and ski pants, jackets, hats, gloves and socks in class 25.</p>
1,519,596		For: Sunglasses and accessories for sunglasses, namely, replacement lenses, ear stems and nose pieces in class 9.
3,496,633		For: Clothing, namely, t-shirts, beachwear, blouses, sports shirts, jerseys, swimwear, swimtrunks, shorts, underwear, shirts, pants, racing pants, ski and snowboard pants and jackets, jeans, vests, jackets, wetsuits, sweaters, pullovers, coats, sweatpants, headwear, namely, hats, caps, visors and footwear, namely, wetsuit booties, shoes, sandals, athletic footwear, all purpose sports footwear, thongs and boots in class 25.
3,331,124		<p>For: Protective eyewear, namely spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories; and protective clothing, namely, racing pants in class 9.</p> <p>For: Clothing, namely, t-shirts, beachwear, blouses, sports shirts, jerseys, swimwear, swimtrunks, shorts, underwear, shirts, pants, ski and snowboard pants and jackets, jeans, vests, jackets, wetsuits, sweaters, pullovers, coats, sweatpants, headwear, namely, hats, caps, visors and footwear,</p>

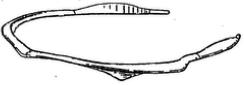
		namely wetsuit booties, shoes, sandals, athletic footwear, all purpose sports footwear, thongs and boots in class 25.
3,151,994		For: Protective eyewear, namely spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
3,771,516		For: Retail store services and on-line retail store services featuring eyewear, replacement lenses, eyewear nosepiece kits, clothing, headwear, footwear, watches, decals, electronics devices, posters, athletic bags, handbags, backpacks and luggage in class 35.
2,300,245		For: Clothing, namely, T-shirts, beachwear, blouses, sports shirts, jerseys, shorts, shirts, pants, racing pants, ski pants, vests, jackets, sweaters, pullovers, coats, sweatpants, sweatshirts, headwear, namely, hats, caps, and footwear, namely, shoes, athletic footwear, all purpose sports footwear in class 25.
1,927,106		For: Printed material, namely decals and stickers in class 16.
1,984,501		For: Protective and/or anti-glare eyewear, namely sunglasses, goggles, spectacles and their parts and accessories, namely replacement lenses, earstems, frames, nose pieces and foam strips; cases specially adapted for protective and/or anti-glare eyewear and their parts and accessories in class 9. For: Clothing and headwear, namely T-shirts, sweatshirts, jackets, hats, and caps in class 25.

5,109,790		For: Gloves in class 25.
4,407,750	CROSSLINK	For: Eyewear, namely, sunglasses, sports goggles, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specially adapted for eyewear and their parts and accessories in class 9.
3,733,882	IRIDIUM	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
4,827,569	JAWBREAKER	For: Eyewear, namely, sunglasses, goggles, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specifically adapted for eyewear and their parts and accessories in class 9.
4,407,749	RADARLOCK	For: Eyewear, namely, sunglasses, sports goggles, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specially adapted for eyewear and their parts and accessories in class 9.
3,489,952	OIL RIG	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
4,194,197	FROGSKINS	For: Eyewear, namely sunglasses and accessories for sunglasses, namely, replacement lenses, ear stems and nose pieces in class 9.
4,847,461	FLAK	For: Eyewear, namely, sunglasses, goggles, spectacles and their parts and

		accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specifically adapted for eyewear and their parts and accessories in class 9.
3,379,110	RADAR	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
5,026,399	LATCH	For: Eyewear, namely, sunglasses, goggles, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specifically adapted for eyewear and their parts and accessories in class 9.
4,822,664	SI TOMBSTONE	For: Protective and anti-glare eyewear, namely, sunglasses, goggles, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specifically adapted for protective and anti-glare eyewear in class 9.
3,245,494	GASCAN	For: Protective eyewear, namely spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
4,956,691	TRIGGERMAN	For: Eyewear, namely, sunglasses in class 9.
3,680,975	FIVES SQUARED	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
2,900,432	VALVE	For: Protective eyewear, namely

		spectacles, prescription eyewear, namely, spectacles and sunglasses, anti-glare glasses and sunglasses and parts thereof, namely replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses in class 9.
3,941,018	PATH	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
5,026,407	JUPITER SQUARED	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
4,136,113	BATWOLF	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, ear stems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
1,701,476	M FRAME	For: Protective eyewear; namely, goggles, anti-glare glasses; sunglasses and their parts; namely, lenses, replacement lenses, frames, earstems and nose pieces; cases specially adapted for sunglasses and their parts in class 9.
2,054,810	STRAIGHT JACKET	For: Protective and/or anti-glare eyewear, namely, sunglasses, goggles, spectacles and their parts and accessories including replacement lenses, earstems, frames, nose pieces and foam strips; cases specially adapted for protective and/or anti-glare eyewear and their parts and accessories in class 9.

3,379,109	FLAK JACKET	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.
4,756,605	BADMAN	For: Eyewear, namely, sunglasses, goggles, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specifically adapted for eyewear and their parts and accessories in class 9.
4,618,566	TINCAN	For: Eyewear, namely, sunglasses, goggles, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specifically adapted for eyewear and their parts and accessories in class 9.
2,106,614	SQUARE WIRE	For: Protective and/or antiglare eyewear, namely, sunglasses, goggles, spectacles and their parts and accessories, namely, replacement lenses, earstems, frames, nose pieces, and foam strips; cases specially adapted for protective and/or antiglare eyewear and their parts and accessories in class 9.
1,952,697	JACKET	For: Protective and/or anti-glare eyewear, namely sunglasses, goggles, spectacles and their parts and accessories, namely replacement lenses, earstems, frames, nose pieces and foam strips; cases specially adapted for protective and/or anti-glare eyewear in class 9.
3,468,824	HIJINX	For: Protective eyewear, namely, spectacles, prescription eyewear, anti glare glasses and sunglasses and their parts and accessories, namely, replacement lenses, frames, earstems, and nose pieces; cases specially adapted for spectacles and sunglasses and their parts and accessories in class 9.

2,087,464	O FRAME	For: Protective eyewear, namely, goggles and replacement parts for goggles in class 9.
2,087,466	E FRAME	For: Protective eyewear, namely, goggles and replacement parts for goggles in class 9.
3,126,622	CROWBAR	For: Sporting goods, namely goggles and replacement parts for goggles for skiing, snowboarding and motocross in class 9.
1,778,325	HYBRID	For: Protective eyewear; namely, spectacles, goggles, antiglare glasses and sunglasses, and their parts and accessories; namely, replacement lenses, frames, earstems and nose pieces; cases specially adapted to hold spectacles and sunglasses and their parts and accessories in class 9.
2,250,767	ROMEO	For: Protective and/or anti-glare eyewear, namely, sunglasses, and spectacles in class 9.
5,636,292	HOLBROOK	For: Eyewear, namely, sunglasses, goggles for sports, spectacles and their parts and accessories, namely, replacement lenses, ear stems, frames, nose pieces and foam strips; cases specifically adapted for eyewear and their parts and accessories in class 9.
2,393,107		For: Protective eyewear, namely, spectacles, anti-glare glasses and sunglasses and parts thereof, namely frames and earstems in class 9.
2,403,609		For: Protective eyewear, namely, spectacles, anti-glare glasses, and sunglasses and parts thereof, namely, frames and earstems in class 9.
2,388,070	JULIET	For: Protective and/or anti-glare eyewear, namely, sunglasses, spectacles, and their parts and accessories, namely, replacement lenses, earstems, frames, nose pieces and foam strips; cases specially adapted for protective and/or anti-glare eyewear and their parts and accessories in class 9.

2,155,819	X-METAL	For: Protective and/or anti-glare eyewear, namely sunglasses, spectacles, goggles and their parts and accessories, namely replacement lenses, earstems, frames, nose pieces and foam strips; glasses specially adapted for protective and/or anti-glare eyewear, and their parts and accessories in class 9.
4,813,708	PRIZM	For: Protective and/or anti-glare eyewear, namely, sunglasses, spectacles and their parts and accessories, namely, replacement lenses, earstems, frames, nose pieces and foam strips; cases specially adapted for protective and/or anti-glare eyewear, their parts and their accessories, namely, replacement lenses, earstems, frames, nose pieces and foam strips in class 9.

31. The above registrations for the OAKLEY Trademarks are valid, subsisting, in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. The OAKLEY Trademarks have been used exclusively and continuously by Oakley, some since at least as early as 1975, and have never been abandoned. Attached hereto as Exhibit 3 are true and correct copies of the United States Registration Certificates for the OAKLEY Trademarks included in the above table. The registrations for the OAKLEY Trademarks constitute *prima facie* evidence of their validity and of Oakley's exclusive right to use the OAKLEY Trademarks pursuant to 15 U.S.C. § 1057(b).

32. The OAKLEY Trademarks are exclusive to Oakley, and are displayed extensively on Oakley Products and in Oakley's marketing and promotional materials. Typically, at least one of the OAKLEY Trademarks are included on Oakley Products. Oakley Products have long been among the most popular eyewear in the world and have been extensively promoted and advertised at great expense. In fact, Oakley has expended millions of dollars annually in advertising, promoting and marketing featuring the OAKLEY Trademarks. Oakley Products

have also been the subject of extensive unsolicited publicity resulting from their high-quality, innovative designs and renown as desired luxury items. Because of these and other factors, the Oakley name and the OAKLEY Trademarks have become famous throughout the United States.

33. The OAKLEY Trademarks are distinctive when applied to the Oakley Products, signifying to the purchaser that the products come from Oakley and are manufactured to Oakley's quality standards. Whether Oakley manufactures the products itself or licenses others to do so, Oakley has ensured that products bearing its trademarks are manufactured to the highest quality standards. The OAKLEY 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 OAKLEY Trademarks is of incalculable and inestimable value to Oakley.

34. Since at least as early as 1995, Oakley has operated a website where it promotes and sells Oakley Products at oakley.com. Sales of Oakley Products via the oakley.com website represent a significant portion of Oakley's business. The oakley.com website features proprietary content, images and designs exclusive to Oakley.

35. Oakley's innovative marketing and product designs have enabled Oakley to achieve widespread recognition and fame and have made the OAKLEY Trademarks some of the most well-known marks in the eyewear and apparel industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Oakley brand have made the OAKLEY Trademarks valuable assets of Oakley.

36. Oakley has expended substantial time, money, and other resources in developing, advertising and otherwise promoting the OAKLEY Trademarks. As a result, products bearing the OAKLEY Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Oakley. Oakley is a multi-

million-dollar operation, and Oakley Products have become among the most popular of their kind in the world.

Plaintiff Eye Safety Systems, Inc.

37. Plaintiff Eye Safety Systems, Inc. (“ESS”) is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at One Icon, Foothill Ranch, California 92610.

38. ESS is one of the world's largest suppliers of military, law enforcement, and firefighting protective eyewear including those which prominently display the famous, internationally recognized, and federally registered ESS trademarks (collectively, the “ESS Products”). ESS Products have become enormously popular and even iconic, driven by ESS's arduous quality standards and innovative design. Among the purchasing public, genuine ESS Products are instantly recognizable as such. In the United States and around the world, the ESS brand has come to symbolize high quality, and ESS Products are among the most recognizable protective eyewear in the world.

39. ESS Products are distributed and sold to consumers through approved dealers throughout the United States, including through authorized dealers in Illinois, and the esseyepro.com website.

40. ESS incorporates a variety of distinctive marks in the design of its various ESS Products. As a result of its long-standing use, ESS owns common law trademark rights in its ESS trademarks. ESS has also registered its trademarks with the United States Patent and Trademark Office. ESS Products typically include at least one of ESS's registered trademarks. Often several ESS marks are displayed on a single ESS Product. ESS uses its trademarks in connection with the marketing of its ESS Products, including the following registered marks which are collectively referred to as the “ESS Trademarks.”

Registration Number	Trademark	Good and Services
4,181,665	ESS	For: Eyewear; Spectacles in class 009.
2,449,579	ESS	For: Heavy-duty protective eyewear, namely, googles, and protective facemasks all for industrial use in class 009.
2,994,352	EYE SAFETY SYSTEMS	For: Heavy-duty protective eyewear, namely, goggles, spectacles, glasses, protective facemasks, all for industrial military, law enforcement and firefighting use in class 009.
4,304,852		For: protective eyewear and component parts thereof and accessories therefor, namely, eyeglasses, sunglasses, eyeshields, goggles, cases, protective eye shields in class 009.
4,384,991	TOUGH FOR LIFE	For: protective eyewear and component parts thereof and accessories therefor, namely, eyeglasses, sunglasses, eyeshields, goggles, ophthalmic frames; protective eye shields and face shields for use with protective helmets; protective face masks for non-medical purposes in class 009.
4,384,990	BUILT FOR BATTLE	For: protective eyewear and component parts thereof and accessories therefor, namely, eyeglasses, sunglasses, eyeshields, goggles, ophthalmic frames, cases, and prescription lens carriers and prescription lenses therefor; protective eye shields and face shields for use with protective helmets; protective face masks for non-medical purposes; throat protectors for use with goggles and protective helmets; protective work gloves in class 009.
4,384,989	BUILT FOR BATTLE. TOUGH FOR LIFE	For: protective eyewear and component parts thereof and accessories therefor, namely, eyeglasses, sunglasses, eyeshields, goggles, ophthalmic frames, protective eye shields and face shields for use with protective helmets; protective face masks for non-medical purposes; throat protectors for use with goggles and protective helmets in class 009.
4,377,127	CREDENCE	For: Eyewear; Sunglasses in class 009.

3,130,949	ADVANCER	For: Goggles having moveable lenses for sports and for protective uses in class 009.
5,291,145	CROSSBOW	For: Protective eyewear, namely, spectacles, eyeshields, goggles, eyeglasses and sunglasses in class 009.
5,291,146	CROSSBOW	For: Protective eyewear, namely, spectacles, eyeshields, goggles, eyeglasses and sunglasses in class 009.
4,704,192	InFlux	For: Eyewear; safety goggles; goggles for sports in class 009.

41. The above U.S. registrations for the ESS Trademarks are valid, subsisting, in full force and effect, and some are incontestable pursuant to 15 U.S.C. § 1065. The registrations for the ESS Trademarks constitute *prima facie* evidence of their validity and of ESS's exclusive right to use the ESS Trademarks pursuant to 15 U.S.C. § 1057(b). The ESS Trademarks have been used exclusively and continuously by ESS, some since at least as early as 1998, and have never been abandoned. True and correct copies of the United States Registration Certificates for the above-listed ESS Trademarks are attached hereto as **Exhibit 4**.

42. The ESS Trademarks are exclusive to ESS, and are displayed extensively on ESS Products and in ESS's marketing and promotional materials. Typically, at least one of the ESS Trademarks are included on ESS Products. ESS Products have long been among the most popular protective eyewear in the world and have been extensively promoted and advertised at great expense. In fact, ESS has expended significant resources annually in advertising, promoting and marketing featuring the ESS Trademarks. Because of these and other factors, the ESS name and the ESS Trademarks have become famous throughout the United States.

43. The ESS Trademarks are distinctive when applied to the ESS Products, signifying to the purchaser that the products come from ESS and are manufactured to ESS's quality standards. Whether ESS manufactures the products itself or licenses others to do so, ESS has

ensured that products bearing its trademarks are manufactured to the highest quality standards. The ESS 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 ESS Trademarks is of incalculable and inestimable value to ESS.

44. ESS operates a website where it promotes and sells ESS Products at esseyepro.com. Sales of ESS Products via the esseyepro.com website represent a significant portion of ESS's business. The esseyepro.com website features proprietary content, images and designs exclusive to ESS.

45. ESS's innovative marketing and product designs have enabled ESS to achieve widespread recognition and fame and have made the ESS Trademarks some of the most well-known marks in the eyewear industry. The widespread fame, outstanding reputation, and significant goodwill associated with the ESS brand have made the ESS Trademarks valuable assets of ESS.

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

Plaintiff Costa Del Mar, Inc.

47. Plaintiff Costa Del Mar, Inc. ("Costa") is a corporation duly organized under the laws of Florida with its principal place of business in Daytona Beach, Florida and an office located at 2361 Mason Avenue, Suite 100, Daytona Beach, Florida, 32117-5166.

48. The Costa brand was born in Daytona Beach, Florida in 1983. Costa has continuously sold Costa branded products, including eyewear, apparel and other merchandise,

which prominently display the well-known and federally registered COSTA Trademarks (collectively, the “Costa Products”).

49. Costa Products have become enormously popular, driven by the brand’s arduous quality standards and innovative design. Among the purchasing public, genuine Costa Products are instantly recognizable as such. Costa Products are distributed and sold to consumers through retailers throughout the United States and through the costadelmar.com website.

50. Costa incorporates a variety of distinctive marks in the design of its various Costa Products. As a result of its long-standing use, Costa owns common law trademark rights in its COSTA Trademarks. Costa has also registered several of its trademarks with the United States Patent and Trademark Office. The Costa Products often include at least one of Costa’s registered trademarks. Costa uses its trademarks in connection with the marketing of the Costa Products, including the following registered marks, collectively referred to as the “COSTA Trademarks.”

Registration Number	Trademark	Good and Services
3,857,379	COSTA	For: sunglasses and sunglass frames in class 009.
5,653,368	COSTA	For: eyeglasses and related accessories, namely, eyeglass lenses, eyeglass cases in class 009.
4,163,647	COSTA	For: On-line retail store services featuring sunglasses and related accessories, namely, sunglass lenses, retention cords, and clothing, namely shirts and hats in class 035.
3,773,612	COSTAS	For: sunglasses and sunglass frames in class 009.
1,723,449	COSTA DEL MAR	For: sunglasses in class 009.

3,002,972	COSTA DEL MAR	For: clothing, namely, hats, shirts in class 025.
5,729,388	DEL MAR	For: eyewear, namely, sunglasses, sunglass frames, and sunglass lenses in class 009.
5,944,853		<p>For: eyewear cleaning solution in class 003.</p> <p>For: eyeglass lanyards; waterproof dry cases for cell phones in class 009.</p> <p>For: stickers, decals, bumper stickers, decorative decals for vehicle windows in class 016.</p> <p>For: bottle openers; drinking glasses, namely, tumblers, insulated containers for beverages, heat-insulated containers for beverages, containers for hot beverages, containers for cold beverages, coffee and tea mugs; microfiber cloths for cleaning in class 021.</p> <p>For: lanyards for holding keys in class 022.</p> <p>For: neck gaiters; knit face masks; bandanas in class 025.</p>
4,520,088		For: clothing, namely, shirts and hats in class 025.
5,646,820		For: eyeglasses and related accessories, namely, eyeglass lenses, eyeglass cases in class 009.
3,273,228		For: sunglasses, sunglass frames, sunglass lenses in class 009.

5,465,884		For: backpacks, beach bags, tote bags, duffle bags in class 018.
5,653,366		For: eyeglasses and related accessories, namely, eyeglass lenses, eyeglass cases in class 009.
3,273,229		For: sunglasses, sunglass frames, sunglass lenses in class 009.
3,420,371	C-MATES	For: combination sunglasses and reading glasses in class 009.
4,599,722	C-WALL	For: sunglass lenses; sunglass lens coatings sold as an integral component of sunglasses in class 009.
3,711,018	COSTA 580	For: sunglasses and sunglass frames, sunglass lenses in class 009.
4,891,374	580	For: sunglass lenses in class 009.
4,771,385	BEYOND POLARIZED	For: sunglasses, sunglass lenses in class 009.
4,767,077	BORN ON THE WATER	For: sunglasses, sunglass frames, sunglass lenses in class 009.
4,767,076	PROTECT OUT THERE	For: sunglasses, sunglass frames, sunglass lenses in class 009.

3,274,581	SEE WHAT'S OUT THERE	For: sunglasses, sunglass frames, sunglass lenses in class 009.
5,446,112	KICK PLASTIC	For: clothing made from recycled materials, namely, t-shirts in class 025. For: providing a website featuring information about recycling in class 040. For: providing a website featuring information about environmental conservation in class 042.
4,768,671	HIGHLINE	For: eyewear, namely, sunglasses, sunglass frames, and sunglass lenses in class 009.
3,274,582	FATHOM	For: sunglasses, sunglass frames, sunglass lenses in class 009.
2,899,507	LIGHTWAVE	For: optical and sunglass lenses in class 009.
3,153,673	SILENCER	For: sunglasses in class 009.
3,729,798	ZANE	For: sunglasses and sunglass frames in class 009.
4,342,211	BLACKFIN	For: sunglasses, sunglass frames, and sunglass lenses in class 009.
3,270,766	HAMMERHEAD	For: sunglasses, sunglass frames, sunglass lenses in class 009.
3,270,765	HARPOON	For: sunglasses, sunglass frames, sunglass lenses in class 009.
3,067,284	HARDTOP	For: sunglasses and frames in class 009.
2,312,428	RHYNO-TUFF	For: sunglasses in class 009.
2,306,527	ANTI-OCULAR INTRUSION SYSTEM	For: sunglasses in class 009.

3,837,688	N	For: sunglasses and related accessories, namely, sunglasses cases, retention cords, replacement parts, and temple-bar release devices; sports goggles for snow sports and motorsports in class 009.
3,837,682		For: sunglasses and related accessories, namely, sunglasses cases, retention cords, replacement parts, and temple-bar release devices; sports goggles for snow sports and motorsports in class 009.
3,581,846	NATIVE	For: eyewear, namely, sports goggles for snow sports and motorsports in class 009.
5,956,148		For: sunglasses and related accessories, namely, sunglasses lenses, sunglass cases and sunglass retention cords; sports goggles for snow sports in class 009. For: online retail store services, featuring sunglasses and related accessories, namely, sunglasses lenses, frames, nose pads, temple boots, and cases in class 035.
5,875,336		For: hats and shirts in class 025.
5,201,379		For: goggles for ski sports; ski goggles; snow goggles in class 009.

4,114,951		For: sports eyewear and sunglasses in class 009.
3,431,239		For: eyewear, namely, sports eyewear and sunglasses in class 009.
3,245,770		For: sports eyewear and sunglasses in class 009.

51. The above U.S. registrations for the COSTA Trademarks are valid, subsisting, in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. The COSTA Trademarks have been used exclusively and continuously by Costa and have never been abandoned. The registrations for the COSTA Trademarks constitute *prima facie* evidence of their validity and of Costa's exclusive right to use the COSTA Trademarks pursuant to 15 U.S.C. § 1057(b). Attached hereto as **Exhibit 5** are true and correct copies of the United States Registration Certificates for the COSTA Trademarks included in the above table.

52. The COSTA Trademarks are exclusive to Costa and are displayed extensively on Costa Products and in Costa's marketing and promotional materials. The COSTA Trademarks have been extensively promoted and advertised at great expense. In fact, over the years, Costa has expended millions of dollars in advertising, promoting and marketing featuring the COSTA Trademarks.

53. The COSTA Trademarks are distinctive when applied to the Costa Products, signifying to the purchaser that the products come from Costa and are manufactured to Costa's

quality standards. The COSTA Trademarks have achieved fame and recognition, which has only added to the distinctiveness of the marks. As such, the goodwill associated with the COSTA Trademarks is of incalculable and inestimable value to Costa.

54. For many years, Costa has operated an e-commerce website where it promotes and sells Costa Products at costadelmar.com. The costadelmar.com website features proprietary content, images and designs exclusive to Costa.

55. Costa has expended substantial time, money, and other resources in developing, advertising and otherwise promoting the COSTA Trademarks. As a result, products bearing the COSTA Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Costa. The widespread fame, outstanding reputation, and significant goodwill associated with the Costa Products have made the COSTA Trademarks invaluable assets of Costa.

56. The RAY-BAN Trademarks, PERSOL Trademarks, OAKLEY Trademarks, ESS Trademarks, and COSTA Trademarks are collectively referred to herein as “Plaintiffs’ Trademarks.”

57. The Ray-Ban Products, Persol Products, Oakley Products, ESS Products, and Costa Products are collectively referred to herein as “Plaintiffs’ Products.”

The Defendants

58. 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 Plaintiffs. 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).

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

IV. DEFENDANTS' UNLAWFUL CONDUCT

60. The success of Plaintiffs' brands has resulted in their significant counterfeiting. Consequently, Plaintiffs have a worldwide anti-counterfeiting program and regularly investigate suspicious e-commerce stores identified in proactive Internet sweeps and reported by consumers. In recent years, Plaintiffs have identified numerous fully interactive, e-commerce stores, including those operating under the Seller Aliases, which were offering for sale and/or selling Counterfeit 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 6**, 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.

61. 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 7**, 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 8** 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 8** at p. 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, counterfeiters can have many different profiles that can appear unrelated even though they are commonly owned and operated. **Exhibit 8** 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 7** at 186-187.

62. 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 Products to residents of Illinois.

63. Defendants concurrently employ and benefit from substantially similar advertising and marketing strategies. For example, Defendants facilitate sales by designing the 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 look sophisticated and accept payment in U.S. dollars via credit cards, Alipay, Amazon Pay, 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. Plaintiffs have not licensed or authorized Defendants to use any of the Plaintiffs' Trademarks, and none of the Defendants are authorized retailers of genuine Plaintiffs' Products.

64. Many Defendants also deceive unknowing consumers by using Plaintiffs' Trademarks without authorization within the content, text, and/or meta tags of their e-commerce stores to attract various search engines crawling the Internet looking for websites relevant to consumer searches for Plaintiffs' Products. Other e-commerce stores operating under the Seller Aliases omit using Plaintiffs' 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 Plaintiffs' Products.

65. E-commerce store operators like Defendants commonly engage in fraudulent conduct when registering the Seller Aliases by providing false, misleading and/or incomplete information to e-commerce platforms to prevent discovery of their true identities and the scope of their e-commerce operation.

66. E-commerce store operators like Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Counterfeit Products. Such seller alias registration patterns are one of many common tactics used by e-commerce store operators like Defendants to conceal their identities and the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

67. 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, 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 Products for sale by the Seller Aliases bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Counterfeit Products were manufactured by and come from a common source and that Defendants are interrelated.

68. E-commerce store operators like 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.

69. Counterfeitors such as Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation in spite of Plaintiffs' enforcement. E-commerce store operators like Defendants maintain off-shore bank accounts and regularly move funds from their financial accounts to off-shore accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to Plaintiffs. Indeed, analysis of financial account transaction logs from previous similar cases indicates that off-shore counterfeitors regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

70. Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell Counterfeit Products in the same transaction, occurrence, or series of transactions or occurrences. Defendants, without any authorization or license from Plaintiffs, have jointly and severally, knowingly and willfully used and continue to use Plaintiffs' Trademarks in connection with the advertisement, distribution, offering for sale, and sale of Counterfeit Products into the United States and Illinois over the Internet.

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

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

72. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in the preceding paragraphs.

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

74. 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 Plaintiffs' Trademarks without Plaintiffs' permission.

75. Plaintiffs are the exclusive owners of their respective Plaintiffs' Trademarks. Plaintiffs' United States Registrations for their respective Plaintiffs' Trademarks (Exhibits 1-5) are in full force and effect. Upon information and belief, Defendants have knowledge of Plaintiffs' rights in Plaintiffs' Trademarks, and are willfully infringing and intentionally using counterfeits of Plaintiffs' Trademarks. Defendants' willful, intentional and unauthorized use of Plaintiffs' Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Counterfeit Products among the general public.

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

77. Plaintiffs have no adequate remedy at law, and if Defendants' actions are not enjoined, Plaintiffs will continue to suffer irreparable harm to their reputations and the goodwill of Plaintiffs' Trademarks.

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

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

79. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in the preceding paragraphs.

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

81. By using Plaintiffs' Trademarks in connection with the sale of Counterfeit Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Counterfeit Products.

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

83. Plaintiffs have no adequate remedy at law and, if Defendants' actions are not enjoined, Plaintiffs will continue to suffer irreparable harm to their reputations and the associated goodwill of Plaintiffs' respective brands.

PRAYER FOR RELIEF

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

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

2) Entry of an Order that, at Plaintiffs' choosing, the registrant of the Domain Names shall be changed from the current registrant to Plaintiffs, and that the domain name registries for the 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 Domain Names to a registrar of Plaintiffs' 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 Domain Names to a registrar account of Plaintiffs' selection; or that the same domain name registries shall disable the Domain Names and make them inactive and untransferable;

3) Entry of an Order that, upon Plaintiffs' request, those with notice of the injunction, including, without limitation, any online marketplace platforms such as eBay, AliExpress, Alibaba, Amazon, Wish.com, and Dhgate (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 Plaintiffs' Trademarks;

- 4) That Defendants account for and pay to Plaintiffs all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of Plaintiffs' 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 Plaintiffs 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 Plaintiffs' Trademarks;
- 6) That Plaintiffs be awarded their reasonable attorneys' fees and costs; and
- 7) Award any and all other relief that this Court deems just and proper.

Dated this 26th day of July 2021.

Respectfully submitted,

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