

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

GS HOLISTIC, LLC,

Plaintiff,

v.

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

Defendants.

Case No. 21-cv-06685

COMPLAINT

Plaintiff GS Holistic, LLC (“Plaintiff”) hereby brings the present action against the Partnerships and Unincorporated Associations identified on Schedule A attached hereto (collectively, “Defendants”) and alleges as follows:

I. JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendants since each of the Defendants directly targets business activities toward consumers in the United States, including Illinois, through at least the fully interactive e-commerce stores¹ operating under the seller aliases identified in Schedule A attached hereto (the “Seller Aliases”). Specifically, Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States

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

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 Plaintiff's 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 Plaintiff substantial injury in the State of Illinois.

II. INTRODUCTION

3. This action has been filed by Plaintiff to combat e-commerce store operators who trade upon Plaintiff's reputation and goodwill by offering for sale and/or selling unauthorized and unlicensed products, including portable vaporizers, gravity infusers, and related accessories using infringing and counterfeit versions of Plaintiff's 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. Plaintiff is forced to file this action to combat Defendants' counterfeiting of its registered trademarks, as well as to protect unknowing consumers from purchasing Counterfeit 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 seeks injunctive and monetary relief.

III. THE PARTIES


Plaintiff

4. Plaintiff is a limited liability company organized and existing under the laws of the State of Delaware with a principal place of business at 7162 Beverly Boulevard, #207, Los Angeles, California 90036. Grenco Science, Inc. (“Grenco Science”) and Stündenglass Technologies LLC (“Stündenglass”) are subsidiaries of GS Holistic, LLC.

5. Since 2012, Plaintiff has been engaged in the design, distribution, and sale of user-friendly portable vaporizers, gravity infusers, and related accessories (collectively, “Plaintiff’s Products”). Plaintiff engineers the most advanced, user-friendly portable vaporizers and gravity infusers in the world.

6. The Grenco Science and Stündenglass brands are multi-million-dollar brands, and Plaintiff spends considerable resources marketing and protecting them.

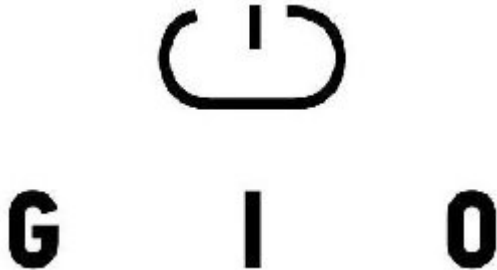
7. Plaintiff has registered several of its trademarks with the United States Patent and Trademark Office. Plaintiff’s Products typically include at least one of Plaintiff’s registered trademarks. Plaintiff uses its trademarks in connection with the marketing of Plaintiff’s Products, including the following marks, collectively referred to as “Plaintiff’s Trademarks.”


Registration Number	Trademark	Goods and Services
4,466,586		For: Medical apparatus, namely, electronic vaporizer for personal use that emits vapor for treatment of a variety of medical conditions in class 010.



Registration Number	Trademark	Goods and Services
4,616,071	GRENCO	For: Medical apparatus, namely, electronic vaporizer for personal use that emits vapor for treatment of cancers, pain disorders, skin disease, diseases of the ear, nose and throat, psychiatric disorders, nutritional deficiencies, and diseases of the cardiovascular, respiratory, metabolic, immune, central nervous, endocrine, glandular, musculoskeletal, digestive, excretory, and reproductive systems in class 010.
4,470,963	GRENCO SCIENCE	For: Medical apparatus, namely, electronic vaporizer for personal use that emits vapor for treatment of cancers, pain disorders, skin disease, diseases of the ear, nose and throat, psychiatric disorders, nutritional deficiencies, and diseases of the cardiovascular, respiratory, metabolic, immune, central nervous, endocrine, glandular, musculoskeletal, digestive, excretory, and reproductive systems in class 010.
4,462,090	MICROG	For: Vaporizers for medical purposes in class 010.
4,390,645	G PEN	For: Medical apparatus, namely, electronic vaporizer for personal use that emits vapor for treatment of a variety of medical conditions in class 010.
5,264,986	G PEN ELITE	For: Electric oral vaporizers for smoking purposes; Structural parts for oral electronic vaporizers for smoking purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; refilling tools for


Registration Number	Trademark	Goods and Services
		<p>electronic vaporizers for smoking purposes, namely, eye droppers for liquid that is vaporizable for smoking purposes, syringes for liquid that is vaporizable for smoking purposes; Cartomizers, namely, combination electronic vaporizer refill cartridges sold empty and atomizers, sold as a component of electronic vaporizers; Cases for electronic oral vaporizers for smoking purposes; Kits for electronic oral vaporizers for smoking purposes comprising electronic oral vaporizers for smoking purposes and refill cartridges for electronic oral vaporizers for smoking purposes sold empty in class 034.</p>
5,368,591	G SLIM	<p>For: Electric vaporizers for aromatherapy purposes; Structural parts for electronic vaporizers for aromatherapy purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; Refilling tools for electronic vaporizers for aromatherapy purposes, namely, eye droppers for liquid that is vaporizable for aromatherapy purposes, syringes for liquid that is vaporizable for aromatherapy purposes; Cartomizers, namely, combination electronic vaporizer refill cartridges sold empty and atomizers, sold as a component of electronic vaporizers; Cases for electronic vaporizers for aromatherapy purposes; Kits for electronic vaporizers for aromatherapy purposes comprising electronic vaporizers for aromatherapy purposes and refill</p>


Registration Number	Trademark	Goods and Services
		cartridges for electronic vaporizers for aromatherapy purposes sold empty in class 010.
5,363,581	GIO	For: Electric vaporizers for aromatherapy purposes; Structural parts for electronic vaporizers for aromatherapy purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; Refilling tools for electronic vaporizers for aromatherapy purposes, namely, eye droppers for liquid that is vaporizable for aromatherapy purposes, syringes for liquid that is vaporizable for aromatherapy purposes; Cartomizers, namely, combination electronic vaporizer refill cartridges sold empty and atomizers, sold as a component of electronic vaporizers; Cases for electronic vaporizers for aromatherapy purposes; Kits for electronic vaporizers for aromatherapy purposes comprising electronic vaporizers for aromatherapy purposes and refill cartridges for electronic vaporizers for aromatherapy purposes sold empty in class 010.
5,405,361	<p style="text-align: center;">GRENCO SCIENCE</p>	For: Electric vaporizers for aromatherapy purposes; Structural parts for electronic vaporizers for aromatherapy purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; Refilling tools for electronic vaporizers for aromatherapy purposes, namely, eye droppers for liquid that is vaporizable for aromatherapy purposes, syringes for liquid that is

Registration Number	Trademark	Goods and Services
		vaporizable for aromatherapy purposes; Cases specially adapted for electronic vaporizers for aromatherapy purposes; Kits for electronic vaporizers for aromatherapy purposes comprising electronic vaporizers for aromatherapy purposes and refill cartridges for electronic vaporizers for aromatherapy purposes sold empty in class 010.
5,363,580		For: Electric vaporizers for aromatherapy purposes; Structural parts for electronic vaporizers for aromatherapy purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; Refilling tools for electronic vaporizers for aromatherapy purposes, namely, eye droppers for liquid that is vaporizable for aromatherapy purposes, syringes for liquid that is vaporizable for aromatherapy purposes; Cartomizers, namely, combination electronic vaporizer refill cartridges sold empty and atomizers, sold as a component of electronic vaporizers; Cases for electronic vaporizers for aromatherapy purposes; Kits for electronic vaporizers for aromatherapy purposes comprising electronic vaporizers for aromatherapy purposes and refill cartridges for electronic vaporizers for aromatherapy purposes sold empty in class 010.

Registration Number	Trademark	Goods and Services
5,405,360	 <p>The logo features a large, bold, black letter 'G' on the left. To its right, the word 'GRENCO' is written in a bold, black, sans-serif font. Below 'GRENCO', the word 'SCIENCE' is written in a smaller, bold, black, sans-serif font.</p>	<p>For: Electric vaporizers for aromatherapy purposes; Structural parts for electronic vaporizers for aromatherapy purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; Refilling tools for electronic vaporizers for aromatherapy purposes, namely, eye droppers for liquid that is vaporizable for aromatherapy purposes, syringes for liquid that is vaporizable for aromatherapy purposes; Cases specially adapted for electronic vaporizers for aromatherapy purposes; Kits for electronic vaporizers for aromatherapy purposes comprising electronic vaporizers for aromatherapy purposes and refill cartridges for electronic vaporizers for aromatherapy purposes sold empty in class 010.</p>

Registration Number	Trademark	Goods and Services
5,264,988		<p>For: Electric oral vaporizers for smoking purposes; Structural parts for oral electronic vaporizers for smoking purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; refilling tools for electronic vaporizers for smoking purposes, namely, eye droppers for liquid that is vaporizable for smoking purposes, syringes for liquid that is vaporizable for smoking purposes; Cartomizers, namely, combination electronic vaporizer refill cartridges sold empty and atomizers, sold as a component of electronic vaporizers; Cases for electronic oral vaporizers for smoking purposes; Kits for electronic oral vaporizers for smoking purposes comprising electronic oral vaporizers for smoking purposes and refill cartridges for electronic oral vaporizers for smoking purposes sold empty in class 034.</p>
5,368,593		<p>For: Electric vaporizers for aromatherapy purposes; Structural parts for electronic vaporizers for aromatherapy purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; Refilling tools for electronic vaporizers for aromatherapy purposes, namely, eye droppers for liquid that is vaporizable for aromatherapy purposes, syringes for liquid that is vaporizable for aromatherapy purposes; Cartomizers, namely, combination electronic vaporizer</p>

Registration Number	Trademark	Goods and Services
		<p>refill cartridges sold empty and atomizers, sold as a component of electronic vaporizers; Cases for electronic vaporizers for aromatherapy purposes; Kits for electronic vaporizers for aromatherapy purposes comprising electronic vaporizers for aromatherapy purposes and refill cartridges for electronic vaporizers for aromatherapy purposes sold empty in class 010.</p>
<p>5,368,594</p>		<p>For: Electric vaporizers for aromatherapy purposes; Structural parts for electronic vaporizers for aromatherapy purposes, namely, atomizers, electronic vaporizer caps, vaporizer refill cartridges sold empty, clearomizers, coils, cones, drip tips, tanks; Refilling tools for electronic vaporizers for aromatherapy purposes, namely, eye droppers for liquid that is vaporizable for aromatherapy purposes, syringes for liquid that is vaporizable for aromatherapy purposes; Cartomizers, namely, combination electronic vaporizer refill cartridges sold empty and atomizers, sold as a component of electronic vaporizers; Cases for electronic vaporizers for aromatherapy purposes; Kits for electronic vaporizers for aromatherapy purposes comprising electronic vaporizers for aromatherapy purposes and refill cartridges for electronic vaporizers for aromatherapy purposes sold empty in class 010.</p>

Registration Number	Trademark	Goods and Services
6,174,291	STÜNDEGLASS	For: Gravity water pipes for smoking purposes in class 034.
6,174,292		For: Gravity water pipes for smoking purposes in class 034.

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

9. Plaintiff has built substantial goodwill in and to Plaintiff’s Trademarks. Plaintiff’s Trademarks are well-known trademarks and valuable assets of Plaintiff.

10. Plaintiff has continuously used Plaintiff’s Trademarks in interstate commerce in connection with the sale, distribution, promotion, and advertising of genuine Plaintiff’s Products since their respective dates of first use as noted on the federal trademark registration certificates.

11. Genuine Plaintiff’s Products have become enormously popular, driven by the brand’s arduous quality standards and innovative designs. Among the purchasing public, genuine

Plaintiff's Products are instantly recognizable as such. Plaintiff's Trademarks identify, in the United States and throughout the world, high quality vaporizers and gravity infusers designed by Grenco Science and Stündenglass.

12. Genuine Plaintiff's Products have been promoted and sold at Plaintiff's gpen.com and stundenglass.com websites. Sales of Plaintiff's Products via the gpen.com and stundenglass.com websites are significant. The gpen.com and stundenglass.com websites feature proprietary content, images and designs exclusive to Plaintiff's brand.

13. Plaintiff's Products have been praised and recognized by numerous online publications, as well as publications directed to the general public, including articles in *NewsWeek*, *Complex*, *TechCrunch*, *NY Times*, *USA Today*, *LA Weekly*, *Fortune Magazine*, and *SFGate*.

14. Plaintiff has collaborated with numerous celebrities and companies to create Plaintiff's Products including B-Real, *FADER*, Snoop-Dogg, Blvck Scvle, Burton Snowboards, Taylor Gang, Primitive Apparel, DGK, The Game, HUF Worldwide, Badwood and Phil Frost.

15. Due to Plaintiff's longstanding use of its marks, extensive sales, and significant advertising and promotional activities, Plaintiff's Trademarks have achieved widespread acceptance and recognition among the consuming public and trade throughout the United States.

16. Plaintiff's Trademarks are exclusive to Plaintiff and appear clearly on Plaintiff's Products, as well as on the packaging and advertisements related to such products. Plaintiff has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting and protecting Plaintiff's Trademarks. As a result, products bearing Plaintiff's Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Plaintiff. Plaintiff's Products have become some of the most popular of their kind in the world, and have also been the subject of extensive

unsolicited publicity resulting from their high-quality and innovative designs. Because of these and other factors, the Grenco Science and Stündenglass brands and Plaintiff's Trademarks are famous throughout the United States.

17. Plaintiff's Trademarks are distinctive when applied to the Plaintiff's Products, signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff's exacting quality standards. Whether Plaintiff manufactures the products itself or licenses others to do so, Plaintiff has ensured that products bearing its trademarks are manufactured to the highest quality standards. Plaintiff's Products branded under Plaintiff's Trademarks have been widely accepted by the public and are enormously popular. The widespread fame, outstanding reputation, and significant goodwill associated with the Plaintiff brands have made Plaintiff's Trademarks invaluable assets of Plaintiff.

The Defendants

18. 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 Plaintiff. 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).

19. 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 Plaintiff to discover Defendants' true identities and the exact interworking of their

counterfeit network. If Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

20. The success of Plaintiff's brands has resulted in significant counterfeiting of Plaintiff's trademarks. In recent years, Plaintiff has identified many fully interactive, e-commerce stores offering Counterfeit Products on online marketplace platforms such as Amazon, eBay, AliExpress, Alibaba, Wish.com, and DHgate, including the e-commerce stores operating under the Seller Aliases. The Seller Aliases target consumers in this Judicial District and throughout the United States. According to U.S. Customs and Border Protection (CBP), most counterfeit products now come through international mail and express courier services (as opposed to containers) due to increased sales from offshore online counterfeiters. *The Counterfeit Silk Road: Impact of Counterfeit Consumer Products Smuggled Into the United States*, prepared for The Buy Safe America Coalition by John Dunham & Associates (**Exhibit 2**). The bulk of counterfeit products sent to the United States "come from China and its dependent territories," accounting for over 90.6% of all cargo with intellectual property rights (IPR) violations. *Id.* Of the \$1.23 billion in total IPR violations intercepted, \$1.12 billion was from China. *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. *Id.*

21. Third party service providers like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing counterfeiters to "routinely use false or inaccurate names and addresses when registering with these e-commerce platforms." **Exhibit 3**, Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 40 NW. J. INT'L L. & BUS. 157, 186 (2020); *see also* report on "Combating Trafficking

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

22. 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.

23. 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. Plaintiff has not licensed or authorized Defendants to use Plaintiff's Trademarks, and none of the Defendants are authorized retailers of genuine Plaintiff's Products.

24. Many Defendants also deceive unknowing consumers by using Plaintiff's 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 e-commerce stores relevant to consumer searches for Plaintiff's Products. Other e-commerce stores operating under the Seller Aliases omit using Plaintiff's 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 Plaintiff's Products.

25. 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.

26. 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.

27. 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.

28. 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.

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

30. 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 Plaintiff, have jointly and severally, knowingly and willfully used and continue to use Plaintiff's

Trademarks in connection with the advertisement, distribution, offering for sale, and sale of Counterfeit Products into the United States and Illinois over the internet.

31. Defendants' unauthorized use of Plaintiff's 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 Plaintiff.

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

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

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

34. 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 Plaintiff's Trademarks without Plaintiff's permission.

35. Plaintiff is the exclusive owner of Plaintiff's Trademarks. Plaintiff's United States Registrations for Plaintiff's Trademarks (Exhibit 1) are in full force and effect. On information and belief, Defendants have knowledge of Plaintiff's rights in Plaintiff's Trademarks, and are willfully infringing and intentionally using counterfeits of Plaintiff's Trademarks. Defendants' willful, intentional and unauthorized use of Plaintiff's 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.

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

37. 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 Plaintiff's Trademarks.

38. The injuries and damages sustained by Plaintiff 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))

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

40. 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 Plaintiff or the origin, sponsorship, or approval of Defendants' Counterfeit Products by Plaintiff.

41. By using Plaintiff's 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.

42. 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.

43. 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 associated goodwill of Plaintiff's Trademarks.

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 persons acting for, with, by, through, under, or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:
 - a. using Plaintiff's 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 Plaintiff's Product or is not authorized by Plaintiff to be sold in connection with Plaintiff's Trademarks;
 - 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 authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale under Plaintiff's 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 Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
 - d. further infringing Plaintiff's Trademarks and damaging Plaintiff's goodwill; and
 - e. manufacturing, shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or

inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of Plaintiff's trademarks, including Plaintiff's Trademarks, or any reproductions, counterfeit copies, or colorable imitations thereof;

- 2) Entry of an Order that, upon Plaintiff's 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 Plaintiff's Trademarks;
- 3) 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 Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
- 4) In the alternative, that Plaintiff 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 Plaintiff's Trademarks;
- 5) That Plaintiff be awarded its reasonable attorneys' fees and costs; and
- 6) Award any and all other relief that this Court deems just and proper.

Dated this 15th day of December 2021.

Respectfully submitted,

/s/ Justin R. Gaudio

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