

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

QI CHEN	)	
	)	
Plaintiff,	)	Case No.
	)	
v.	)	
	)	
THE INDIVIDUALS, PARTNERSHIPS,	)	
AND UNINCORPORATED ASSOCIATIONS	)	
IDENTIFIED ON SCHEDULE "A"	)	
	)	
Defendants.	)	
	)	

**COMPLAINT**

Plaintiff, Qi Chen ("Plaintiff" or "Chen" hereinafter), brings this one-count Complaint against The Individuals, Partnerships, and Unincorporated Associations Identified on Schedule "A" (hereinafter, collectively, "Defendants") who are promoting, selling, offering for sale and distributing goods utilizing a series of product photographs covered by Plaintiff's U.S. federal copyright registration No. 2-301-296, (hereinafter, "the Chen Works") for which true and correct copies of the registration records with relevant samples are attached hereto as Exhibit One, within this district through various Internet based e-commerce stores using the seller identities as set forth on Schedule "A," (hereinafter, the "Seller IDs"), Exhibit Two. In support of her claims, Plaintiff alleges as follows:

**SUBJECT MATTER JURISDICTION**

1. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Federal Copyright Act, 17 U.S.C. § 101, et seq., 28 U.S.C. §1338(a) and 28 U.S.C. § 1331.

**PERSONAL JURISDICTION**

2. Defendants are subject to personal jurisdiction in this judicial district because they purposefully direct their activities toward and conduct business with consumers throughout the United States, including within the state of Illinois and the Northern District of Illinois, through at least the internet based e-commerce stores accessible in Illinois and operating under the Seller IDs.

3. Defendants are subject to personal jurisdiction in this judicial district because Plaintiff's claims arise out of the purposeful direction of Defendants towards consumers in the state of Illinois through the advertisement, offer to sell, sale, and/or shipment of goods sold.

4. Alternatively, defendants are subject to personal jurisdiction in this district pursuant to Federal Rule of Civil Procedure 4(k)(2) because (i) defendants are not subject to jurisdiction in any state's court of general jurisdiction; and (ii) exercising jurisdiction is consistent with the United States Constitution and laws.

**VENUE**

5. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(3) because defendants are subject to the court's personal jurisdiction and not resident in the United States and therefore there is no district in which an action may otherwise be brought.

6. Venue is proper in this court pursuant to 28 U.S.C. § 1391 since defendants are, upon information and belief, aliens who are engaged in infringing activities and causing harm within this district by advertising, offering to sell, selling and/or shipping infringing products to consumers into this District.

7. Venue is proper in this court pursuant to 28 U.S.C. §1400(a) because defendants or their agents are subject to the Court's personal jurisdiction and therefore reside in this District or may be found here.

### **INTRODUCTION**

8. This action has been filed by Plaintiff to combat online copyright infringers who trade upon Plaintiff's reputation, goodwill and valuable copyrights by selling and/or offering for sale products utilizing unauthorized and infringing copies of Plaintiff's federally registered Chen Works.

9. On May 25, 2022, Plaintiff registered a total of one hundred and eight (108) photographs with the United States Copyright Office and received Registration No. VA2-301-296. *See* U.S.C.O. Registration, attached hereto, with relevant samples, as Exh. 1. The Registration is valid, subsisting, and in full force and effect.

10. The Defendants' Seller IDs share substantially similar or identical unique identifiers with each other, including design elements and substantially similar or identical display of products offered for sale. By utilizing unauthorized and infringing copies of the Chen Works, such similarities establish a logical relationship between Defendants and suggest that Defendants' illegal operations arose out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid liability by going to great lengths to conceal both their identities and the full scope and interworking of their illegal operation. Plaintiff is forced to file this action to combat Defendants' acts of copyright infringement.

11. Plaintiff has been and continues to be irreparably damaged through consumer confusion, loss of control over creative content and garnishment of her valuable copyrights as a result of Defendants' actions and seeks injunctive and monetary relief.

### THE PLAINTIFF

12. Plaintiff Qi Chen is a sole proprietor having her principal place of business at #24, Middle Street, Xuao Village, Chuanliao Town, Qingtian County, Li Shui, 323911, China.

13. Plaintiff is the owner of all rights, title and interest in and to the Chen Works, U.S. Copyright Registration Nos. VA 2-301-296. The registration is valid, subsisting, unrevoked and uncanceled. The registration for the Chen Works constitutes prima facie evidence of validity and of Plaintiff's exclusive right to use the Chen Works pursuant to 17 U.S.C. § 410(c).

14. Since March 14, 2022, Plaintiff has utilized the Chen Works in connection with the advertisement, marketing and sale of retail items, as depicted therein, in interstate and foreign commerce, including commerce in the State of Illinois and the Northern District of Illinois.

15. Plaintiff utilizes the Chen Works in connection with the advertisement, marketing and sale of retail items through her Individual Site. In addition, Plaintiff licenses the Chen Works for use in the advertisement, marketing and sale of retail items depicted therein.

16. Plaintiff has expended substantial time, money and other resources developing, advertising and otherwise promoting the Chen Works.

17. Plaintiff has held the registration of the Chen Works for only a matter of months and already Defendants have extensively infringed the Chen Works, thereby decreasing the market value if Plaintiff were to license the use of the Chen Works to other e-commerce stores. In addition, the heavy concentration of Defendants' infringing activities on a single e-commerce platform detracts from sales and customers otherwise directed to Plaintiff's Individual Site.

18. Since March of 2022, Plaintiff has utilized the Chen Works to sell the retail items depicted therein. In addition, Plaintiff has licensed the Chen Works to market, advertise and offer for sale the retail items depicted therein. The use of the Chen Works for marketing, advertising,

and offering for sale has proven to be successful for the selling of products, thus demonstrating and establishing the value of the Chen Works.

19. Revenues and profits generated through utilization of the Chen Works to market the items depicted therein have been significant.

20. Each image contained in the Chen Works has independent economic value and has generated revenue in relation to the retail items depicted therein. In addition, the Chen Works have an economic value and have generated revenue in relation to the income generated from licensing the Chen Works.

21. Plaintiff controls the content, designs, and images displayed in the Chen Works.

22. The Chen Works have never been assigned or licensed to any of the Defendants in this matter.

#### **THE DEFENDANTS**

23. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).

24. Defendants are individuals and businesses who conduct business throughout the United States, including within Illinois and in this Judicial District, through the operation of the fully interactive commercial websites and online marketplaces identified in Schedule "A." Each Defendant targets the United States, including Illinois, and has solicited, marketed, promoted, and advertised their products in a manner that violates Plaintiff's rights in her federally protected Chen Works.

25. While the Defendants' true identities and locations are now unknown to Plaintiff, upon information and belief, Defendants are individuals and business entities who reside in the People's Republic of China or other foreign jurisdictions. Tactics used by Defendants to conceal

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

### **THE DEFENDANTS' UNLAWFUL CONDUCT**

26. Plaintiff's success in utilizing the Chen Works to market and promote sales of the retail items depicted therein has resulted in widespread infringement. Plaintiff has identified numerous domain names linked to marketplace listings on platforms such as Walmart.com, including the Defendant's Seller ID's, which were offering, marketing, soliciting, and advertising to consumers in this Judicial District and throughout the United States in a manner that violates Plaintiff's exclusive copyright in the Chen Works.

27. Upon information and belief, Defendants facilitate sales by designing the Seller ID's with photographs, words, depictions, and details either identical or substantially similar to the Chen Works. The Defendants' Seller IDs accept payment in U.S. dollars via credit cards and/or third party processors such as Paypal.

28. Defendants solicit, market, and advertise their products in depictions, presentations, photographs, and/or images that are identical or substantially similar to Plaintiff's protected Chen Works.

29. Defendants often go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their network of online stores. For example, to avoid detection, Defendants register their online stores using names and physical addresses that are incomplete, contain randomly typed letters, or fail to include cities or states. Upon information and belief, Defendants regularly create new websites and online marketplace

accounts on various platforms using the Seller IDs listed in Schedule “A” to the Complaint, as well as other unknown fictitious names and addresses. Such registration patterns are one of many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their network, and to avoid being shut down.

30. There are also similarities among the Defendants’ online stores. For example, some of the Defendant websites have virtually identical layouts. In addition, the infringing depictions on the Defendants’ online stores bear similarities and indicia of being related to one another. Defendants in this case also use the same e-commerce platform, Walmart.com.

31. Defendants in this case and defendants in other similar cases against online copyright infringers use a variety of other common tactics to evade enforcement efforts. For example, pirating copyright infringers like Defendants will often register new domain names or online marketplace accounts under new aliases once they receive notice of a lawsuit and will engage in spoliation of evidence by deleting or modifying registration data and other evidence showing identity and infringement.

32. Further, pirating copyright infringers such as Defendants typically operate multiple credit card merchant accounts and PayPal accounts behind layers of payment gateways so that they can continue operation in spite of Plaintiff’s enforcement efforts. Upon information and belief, the foreign Defendants maintain off-shore bank accounts and regularly move funds from their PayPal or Payoneer accounts to off-shore bank accounts outside the jurisdiction of this Court.

33. Defendants, without any authorization or license from Plaintiff, have knowingly and willfully used and continue to use Plaintiff’s Chen Works in connection with advertisement, distribution and offering for sale of the products depicted therein without Plaintiff’s consent or

authorization. Each of the Defendants' online stores offers shipping and the sale of retail items into Illinois and this judicial district, with the use of the unauthorized and infringing display of Plaintiff's Chen Works.

34. Defendants' use of the unauthorized and infringing copies of the Chen Works in connection with the advertising, distribution, offering for sale, and sale of the retail products depicted in the Chen Works causes irreparable harm to Plaintiff by price erosion and devaluation of her goodwill.

**COUNT ONE**  
**INFRINGEMENT OF COPYRIGHT**  
**(17 U.S.C §101 ET SEQ.)**

35. Plaintiff incorporates the allegations of paragraphs 1 through 34 of this Complaint as if fully set forth herein.

36. Plaintiff has complied in all respects with the Copyright Act of the United States and all other laws governing copyright, and secured the exclusive rights and privileges in and to the copyright protected images at issue in this action.

37. Pursuant to 17 U.S.C. § 411 (a), Plaintiff registered her copyright for her advertising and marketing photographs, the Chen Works. The registration for the Chen Works is valid, subsisting, unrevoked and uncanceled.

38. Defendants directly infringed one or more of Plaintiff's exclusive rights in her federally registered Chen Works under 17 U.S.C. § 106.

39. Defendants copied, displayed, and distributed Plaintiff's copyright protected Chen Works and/or prepared derivative works based upon Plaintiff's copyright protected Chen Works in violation of Plaintiff's exclusive rights under 17 U.S.C. §106(1), (2) and/or (5).

40. Defendants' conduct constitutes willful and direct copyright infringement of Plaintiff's copyright protected Chen Works.

41. Defendants profited from the direct infringement of the exclusive rights of Plaintiff in the Chen Works at issue in this case under the Copyright Act.

42. Defendants' infringement is not limited to the copyright infringement listed above. Plaintiff will identify such additional infringement after discovery.

43. On information and belief, there is a business practice of infringement by Defendants.

44. On information and belief, defendants routinely and intentionally infringe the intellectual property rights of others, including but not limited to, acting with willful blindness and/or reckless disregard.

45. Plaintiff has been damaged by the Defendants' acts of copyright infringement.

46. The harm to Plaintiff is irreparable.

47. Plaintiff is entitled to temporary and permanent injunctive relief from Defendants' willful infringement.

48. As a result of Defendants' infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to actual and/or statutory damages, including any profits obtained by Defendants attributable to the infringements, pursuant to 17 U.S.C. §504 for Defendants' infringement of the Chen Works.

49. Plaintiff is further entitled to recover her reasonable costs and attorneys' fees incurred in prosecuting this action.

#### **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 concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:

a. using Plaintiff's copyrighted works in marketing, advertising, soliciting, or display, derivative or directly, which is not directly authorized by Plaintiff;

b. further infringing on the Chen Works;

2) Entry of an Order that, upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including, without limitation, any online marketplace platforms such as Walmart, sponsored search engine or ad-word providers, credit cards, banks, merchant account providers, third party processors and other payment processing service providers, and Internet search engines such as Google, Bing and Yahoo (collectively, the "Third Party Providers"), shall:

a. disable and cease providing services to engage in the advertisements using the Chen Works or derivative works thereof;

b. take all steps necessary to prevent links to the Seller IDs identified in Schedule A, attached hereto as Exhibit Two, from displaying in search results, including but not limited to, removing links to the Defendants' sites displaying the Chen Works from any search index;

3) For Judgment in favor of Plaintiff against Defendants that they have:

a. willfully infringed Plaintiff's rights in her federally registered copyrights pursuant to 17 U.S.C. §501; and

b. otherwise injured the business of Plaintiff by Defendants' acts and conduct set forth in this Complaint;

4) Entry of an Order requiring Defendants to account to and pay Plaintiff for all profits and damages resulting from Defendants' copyright infringement, or statutory damages, at Plaintiff's election, for all infringements involved in the action, with respect to any one work, for which any one defendant is liable individually, or for which defendants are liable jointly and severally with another, in a sum of not less than \$750 or more than \$30,000 as the court considers just pursuant to 17 U.S. C. §504(c)(1), or to the extent the court finds that infringement was committed willfully, an award of statutory damages to a sum of not more than \$150,000 per violation, pursuant to 17 U.S.C. §504(c)(2);

5) Entry of an award, pursuant to 17 U.S.C. § 505, of Plaintiff's costs and reasonable attorneys' fees and investigative fees, associated with bringing this action;

6) Entry of an Order that, upon Plaintiff's request, Defendants and any financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, and their related companies and affiliates, identify and restrain all funds, up to and including the total amount of judgment, in all financial accounts and/or sub-accounts used in connection with the Seller IDs, or other alias seller identification or ecommerce store names used by Defendants presently or in the future, as well as any other related accounts of the same customer(s) and any other accounts which transfer funds into the same financial institution account(s) and remain restrained until such funds are surrendered to Plaintiff in partial satisfaction of the monetary judgment entered herein;

7) Entry of an award of prejudgment interest on the judgment amount;

8) Entry of an Order for any further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted this 10th day of October, 2022.

/s/ Lydia Pittaway  
Fla. Bar No: 0044790  
Of Counsel, Ford Banister IP  
305 Broadway - Floor 7  
New York NY 10007  
Telephone: +1 212-500-3268  
Fax: +1 212-500-3269  
[lpittaway@fordbanister.com](mailto:lpittaway@fordbanister.com)  
*Attorney for Plaintiff*