

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

██████████,

Plaintiff,

v.

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

Defendants.

Case No. 22-cv-07079

COMPLAINT

Plaintiff ██████████ (“Plaintiff”)¹ 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 Plaintiff’s claims pursuant to the provisions of the Copyright Act 17 U.S.C. § 501, *et seq.*, 28 U.S.C. § 1338(a) 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 because Defendants directly target

¹ Since it is unknown when Plaintiff’s forthcoming (1) Motion for Leave to File Certain Documents Under Seal and Temporarily Proceed Under Pseudonyms and (2) *Ex Parte* Motion for Entry of a Temporary Restraining Order, including a Temporary Injunction, a Temporary Asset Restraint, and Expedited Discovery will be ruled on, Plaintiff’s name has been redacted to prevent Defendants from getting advanced notice. **Exhibit 1** to the Complaint showing Plaintiff’s Copyrighted Works, Schedule A to the Complaint listing the Defendants by their Seller Aliases, and Plaintiff’s Notification of Affiliates will be filed under seal accordingly.

business activities at consumers in the United States, including Illinois, through at least the fully interactive e-commerce stores operating under the aliases identified on 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; offering shipping to the United States, including Illinois; accepting payment in U.S. dollars; and, on information and belief, selling products using unauthorized copies of Plaintiff’s federally registered copyrighted works (collectively, the “Unauthorized Products”) 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. Plaintiff filed this case to prevent e-commerce store operators who trade upon Plaintiff’s reputation and goodwill from further selling and/or offering for sale Unauthorized Products. Defendants create e-commerce stores under one or more Seller Aliases and then advertise, offer for sale, and/or sell Unauthorized Products to unknowing consumers. E-commerce stores operating under the Seller Aliases share identifiers, such as design elements and similarities of the Unauthorized Products offered for sale, establishing that a logical relationship exists between them, and that Defendants’ operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Defendants take advantage of a set of circumstances, including the anonymity and mass reach afforded by the Internet and the cover afforded by international borders, to violate Plaintiff’s intellectual property rights with impunity. Defendants attempt to avoid and mitigate liability by operating under one or more Seller Aliases to conceal their identities, locations, and the full scope and interworking of their operation. Plaintiff is forced to file this action to combat Defendants’ infringement of its registered copyrighted works, as well

as to protect consumers from purchasing Unauthorized Products over the Internet. Plaintiff has been, and continues to be, irreparably damaged through infringement of its copyrighted works and therefore seeks injunctive and monetary relief.

III. THE PARTIES

4. Plaintiff [REDACTED]
[REDACTED] and is the owner of the
copyrights asserted in this action. [REDACTED]
[REDACTED] are referred
to herein together or individually as “[REDACTED]”.

5. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

6. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]:²

| | |
|------------|------------|
| [REDACTED] | [REDACTED] |
| [REDACTED] | |
| [REDACTED] | |

² The characters contained within the table are not an exhaustive list of the characters embodied in Plaintiff's copyrighted works. This table is included only to provide examples of the characters found on the infringing products offered for sale or sold by Defendants. Regardless of any changes in their design, each of these characters, among others contained within Plaintiff's copyrighted works, have always maintained their distinctive qualities and unique elements of expression.

| | |
|---|---|
| <div data-bbox="334 361 639 407"></div> | <div data-bbox="789 180 1435 1726"></div> |
| <div data-bbox="305 743 670 789"></div> | |
| <div data-bbox="396 1125 578 1171"></div> | |
| <div data-bbox="349 1507 625 1554"></div> | |

| | |
|---|---|
| <div data-bbox="417 361 558 407"></div> | <div data-bbox="792 186 1437 1724"></div> |
| <div data-bbox="406 745 570 791"></div> | |
| <div data-bbox="449 1127 524 1173"></div> | |
| <div data-bbox="391 1512 584 1558"></div> | |

| | |
|---|---|
| <div data-bbox="396 361 578 407"></div> | <div data-bbox="781 186 1437 1722"></div> |
| <div data-bbox="409 743 565 789"></div> | |
| <div data-bbox="363 1125 610 1171"></div> | |
| <div data-bbox="363 1507 610 1554"></div> | |

7. [REDACTED]

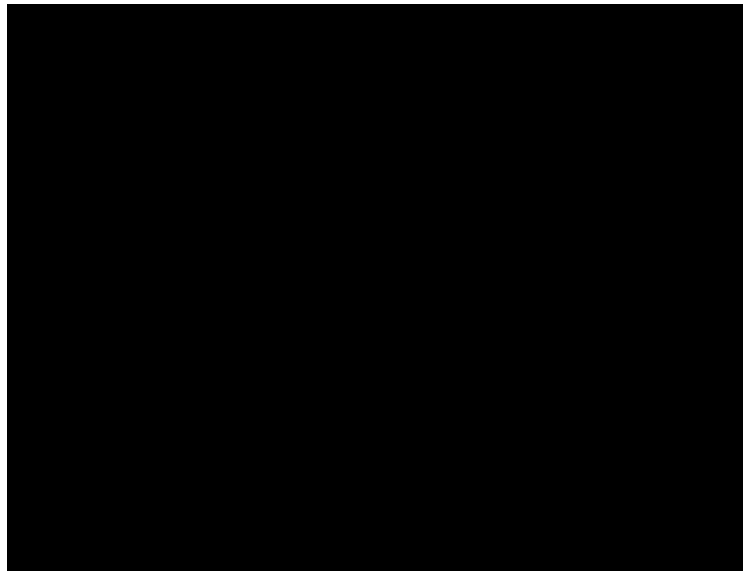
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



8. Before Defendants' acts described herein, [REDACTED] launched the [REDACTED] franchise and its related line of products. [REDACTED] has also registered over 150 works related to the [REDACTED] franchise and the characters embodied therein with the United States Copyright Office, including at least: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED], respectively (the "[REDACTED] Copyrighted Works").

9. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. [REDACTED] markets and sells a variety of products that feature the [REDACTED] Copyrighted Works, including video games and video game consoles; accessories like key chains; backpacks; face masks; cell phone covers; apparel including t-shirts and sweatshirts; household items such as water bottles, mugs, blankets, and pillows; and other collectibles such as plush toys, comics, and toys (collectively, “[REDACTED] Products”).

11. [REDACTED] Products have become enormously popular and even iconic, driven by [REDACTED]’s quality standards and innovative designs. Among the purchasing public, [REDACTED] Products are instantly recognizable as such. The [REDACTED] brand (hereinafter referred to as the “[REDACTED] Brand”) has become a global success and [REDACTED] Products are among the most recognizable in the world. [REDACTED] Products are distributed and sold to consumers through retailers throughout the United States, including through authorized retailers in Illinois such as Amazon, Old Navy, Target, Walmart, Best Buy, GameStop, and Kohls, and through the official [REDACTED] website. [REDACTED] Products are sold only through authorized retail channels and are recognized by the public as being exclusively associated with [REDACTED] and the [REDACTED] Brand.

³ See [REDACTED]

⁴ See [REDACTED]

12. The [REDACTED] Copyrighted Works are registered with the United States Copyright Office. The registrations include, but are not limited to: [REDACTED]

[REDACTED]. A true and correct copy of the records from the U.S. Copyright Office website for the above-referenced [REDACTED] Copyrighted Works, in addition to the records for all [REDACTED] Copyrighted Works obtained from the U.S. Copyright Office website, is attached hereto as **Exhibit 1**. The [REDACTED] Copyrighted Works embody the distinctive characters found in paragraph 6 above.

13. Among the exclusive rights granted to Plaintiff under the U.S. Copyright Act are the exclusive rights to reproduce, prepare derivative works of, distribute copies of, and display the [REDACTED] Copyrighted Works to the public.

14. Since first publication, the [REDACTED] Copyrighted Works have been used on [REDACTED] Products and are featured on [REDACTED]'s official websites.

15. Defendants are unknown individuals and business entities who own and/or operate one or more of the e-commerce stores under the Seller Aliases identified on Schedule A and/or other seller aliases not yet known to [REDACTED]. On information and belief, Defendants reside and/or operate in primarily Asian countries or other foreign jurisdictions or redistribute products from the same or similar sources in those locations. Defendants have the capacity to be sued pursuant to Federal Rules of Civil Procedure 17(b).

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

IV. DEFENDANT'S UNLAWFUL CONDUCT

17. The success of the [REDACTED] Brand has resulted in significant copying of the [REDACTED] Copyrighted Works. Because of this, [REDACTED] investigates suspicious websites and online marketplace listings identified in proactive Internet sweeps. Recently, [REDACTED] has identified many fully interactive e-commerce stores offering Unauthorized Products on online marketplace platforms such as AliExpress, Amazon.com, Inc. ("Amazon"), DHgate.com ("DHgate"), ecrater.com ("eCRATER"), Fruugo.com ("Fruugo"), and Walmart, Inc. ("Walmart"), 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 a report prepared for The Buy Safe America Coalition, most infringing products now come through international mail and express courier services because of increased sales from foreign online infringers. *The Counterfeit Silk Road: Impact of Counterfeit Consumer Products Smuggled Into the United States*, prepared by John Dunham & Associates (**Exhibit 2**).

18. Because the infringing products do not enter normal retail distribution channels, the US economy lost an estimated 300,000 or more full-time jobs in the wholesale and retail sectors alone in 2020. *Id.* When accounting for lost jobs from suppliers that would serve these retail and wholesale establishments, and the lost jobs that would have been induced by employees re-

spending their wages in the economy, the total economic impact resulting from the sale of infringing products was estimated to cost the United States economy over 650,000 full-time jobs that would have paid over \$33.6 billion in wages and benefits. *Id.* Additionally, it is estimated that the importation of infringing goods cost the United States government nearly \$7.2 billion in personal and business tax revenues in the same period. *Id.*

19. Furthermore, online marketplace platforms like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing infringers 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 [an infringer] to begin selling” and that “[t]he ability to rapidly proliferate third-party online marketplaces greatly complicates enforcement efforts, especially for intellectual property rights holders”. Infringers hedge against the risk of being caught and having their websites taken down from an e-commerce platform by establishing multiple virtual storefronts. **Exhibit 4** at p. 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, infringers 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 [infringing products] and [infringers].” **Exhibit 3** at 186-187. Specifically, brand

owners are forced to “suffer through a long and convoluted notice and takedown procedure only [for the infringer] to reappear under a new false name and address in short order”. *Id.* at p. 161.

20. 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; offering shipping to the United States, including Illinois; accepting payment in U.S. dollars; and, on information and belief, selling and/or offering for sale Unauthorized Products to residents of Illinois.

21. 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 they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. E-commerce stores operating under the Seller Aliases appear sophisticated and accept payment in U.S. dollars via numerous methods, including 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. [REDACTED] has not licensed or authorized Defendants to copy or distribute the [REDACTED] Copyrighted Works, and none of the Defendants are authorized retailers of [REDACTED] Products.

22. 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.

23. E-commerce store operators like Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Unauthorized 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 operation, and to avoid being shut down.

24. Even though Defendants operate under multiple fictitious aliases, the e-commerce stores operating under the Seller Aliases often share 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, Unauthorized Products for sale by the Seller Aliases bear similar irregularities and indicia of being unauthorized to one another, suggesting that the Unauthorized Products were manufactured by and come from a common source and that Defendants are interrelated.

25. 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.

26. Infringers, such as Defendants, typically operate under multiple seller aliases and payment accounts so that they can continue operation despite 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 transaction

logs from previous similar cases indicates that off-shore infringers regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

27. Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell Unauthorized 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 unauthorized copies of the [REDACTED] Copyrighted Works in connection with the advertisement, distribution, offering for sale, and sale of Unauthorized Products into the United States and Illinois over the Internet.

28. Defendants' unauthorized copying of the [REDACTED] Copyrighted Works in connection with the advertising, distribution, offering for sale, and sale of Unauthorized Products, including the sale of Unauthorized 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 [REDACTED].

COUNT I
COPYRIGHT INFRINGEMENT OF UNITED STATES COPYRIGHT
REGISTRATIONS (17 U.S.C. §§ 106 and 501)

29. [REDACTED] hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

30. The [REDACTED] Copyrighted Works constitute original works and copyrightable subject matter pursuant to the Copyright Act, 17 U.S.C. § 101, *et seq.*

31. [REDACTED] is the owner of the [REDACTED] Copyrighted Works. [REDACTED] has complied with the registration requirements of 17 U.S.C. § 411(a) for the [REDACTED] Copyrighted Works. The [REDACTED] Copyrighted Works are protected by copyright registration numbers which were duly issued to

████ by the United States Copyright Office. At all relevant times, █████ has been, and still is, the owner of all rights, title, and interest in the █████ Copyrighted Works, which have never been assigned, licensed, or otherwise transferred to Defendants.

32. The █████ Copyrighted Works are published on the internet and available to Defendants online. As such, Defendants had access to the █████ Copyrighted Works via the internet.

33. Without authorization from █████, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced, and/or made derivative works incorporating the █████ Copyrighted Works on e-commerce stores operating under the Seller Aliases and the corresponding Unauthorized Products. Defendants' derivative works are virtually identical to and/or are substantially similar to the look and feel of the █████ Copyrighted Works. Such conduct infringes and continues to infringe the █████ Copyrighted Works in violation of 17 U.S.C. § 501(a) and 17 U.S.C. §§ 106(1)–(3), (5).

34. Defendants reap the benefits of the unauthorized copying and distribution of the █████ Copyrighted Works in the form of revenue and other profits that are driven by the sale of Unauthorized Products.

35. Defendants have unlawfully appropriated █████'s protectable expression by taking material of substance and value and creating Unauthorized Products that capture the total concept and feel of the █████ Copyrighted Works.

36. On information and belief, the Defendants' infringement has been willful, intentional, purposeful, and in disregard of and with indifference to █████'s rights.

37. The Defendants, by their actions, have damaged █████ in an amount to be determined at trial.

38. Defendants' conduct is causing and, unless enjoined and restrained by this Court, will continue to cause [REDACTED] great and irreparable injury that cannot fully be compensated or measured in money. [REDACTED] has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, [REDACTED] is entitled to a preliminary and permanent injunction prohibiting further infringement of the [REDACTED] Copyrighted Works.

PRAYER FOR RELIEF

WHEREFORE, [REDACTED] 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. reproducing, distributing copies of, making derivative works of, or publicly displaying the [REDACTED] Copyrighted Works in any manner without the express authorization of [REDACTED];
- b. passing off, inducing, or enabling others to sell or pass off products as [REDACTED] Products or any other product produced by [REDACTED], that is not [REDACTED]'s or not produced under the authorization, control, or supervision of [REDACTED] and approved by [REDACTED] for sale under the [REDACTED] Copyrighted Works;
- c. committing any acts calculated to cause consumers to believe that Defendants' Unauthorized Products are those sold under the authorization, control, or supervision of [REDACTED], or are sponsored by, approved by, or otherwise connected with [REDACTED];
- d. further infringing the [REDACTED] Copyrighted Works and damaging [REDACTED]'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 [REDACTED], nor authorized by [REDACTED] to be sold or offered for sale, and which bear any of the [REDACTED] Copyrighted Works;
- 2) Entry of an Order that, upon [REDACTED]'s request, those with notice of the injunction, including without limitation, any websites and/or online marketplace platforms such as AliExpress, Amazon, DHgate, ECrater, Fruugo, and Walmart (collectively, the "Third Party Providers") shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of infringing goods which bear the [REDACTED] Copyrighted Works;
- 3) As a direct and proximate result of Defendants' infringement of the [REDACTED] Copyrighted Works, [REDACTED] is entitled to damages as well as Defendants' profits, pursuant to 17 U.S.C. § 504(b);
- 4) Alternatively, and at [REDACTED]'s election prior to any final judgment being entered, [REDACTED] is entitled to the maximum amount of statutory damages provided by law, \$150,000 per work infringed pursuant to 17 U.S.C. § 504(c), or for any other such amount as may be proper pursuant to 17 U.S.C. § 504(c);
- 5) [REDACTED] is further entitled to recover its attorney's fees and full costs for bringing this action pursuant to 17 U.S.C. § 505 and 17 U.S.C. § 1117(a); and
- 6) Award any and all other relief that this Court deems just and proper.

Dated this 15th day of December 2022.

Respectfully submitted,

/s/ Martin F. Trainor

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