

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

TOYOTA MOTOR SALES, U.S.A., INC.,

Plaintiff,

v.

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

Defendants.

Case No. 23-cv-01031

COMPLAINT

Plaintiff Toyota Motor Sales, U.S.A., Inc. (“Toyota Motor Sales” or “Plaintiff”) hereby brings the present action against the Partnerships and Unincorporated Associations identified on Schedule A attached hereto (collectively, the “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/or funds from U.S. bank accounts, 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, namely automotive accessory products, using infringing and counterfeit versions of the federally registered Toyota trademarks (the "Counterfeit Toyota Products"). Defendants create e-commerce stores operating under one or more Seller Aliases that are advertising, offering for sale, and selling Counterfeit Toyota 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 the registered Toyota trademarks, as well as to protect unknowing consumers from purchasing Counterfeit Toyota Products over the Internet. Plaintiff has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of the valuable Toyota trademarks as a result of Defendants' actions and seeks injunctive and monetary relief.

III. THE PARTIES

Plaintiff

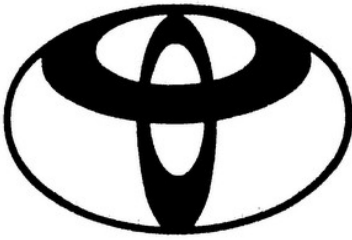
4. Toyota Motor Sales is the exclusive importer and authorized distributor of Toyota-branded vehicles, parts and accessories for sale in the continental United States and Alaska, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Toyota Motor Sales has been granted a license to distribute Toyota-branded vehicles, parts and accessories in the United States in association or in connection with the trademarks and tradenames, registered and unregistered, of Toyota Motor Corporation, and has the right to enforce those rights and sublicense those rights to dealers, distributors, and others. Plaintiff Toyota Motor Sales, U.S.A., Inc. and Toyota Motor Corporation are referred to herein together or individually as “Toyota.”

5. Toyota was founded in 1937 and has risen to be one of the most preeminent automotive brands in the world. Toyota is one of the largest producers of automotive vehicles in the world, with millions of vehicles sold in the United States and globally, resulting in billions of dollars in revenue.

6. Toyota is associated with some of the most famous brands in the automotive industry, including Corolla, Prius, 4Runner, Rav4, Land Cruiser, and Camry.

7. Propelled by its reputation and recognizable trademarks, which are carefully curated and monitored, consumers recognize Plaintiff and the Toyota brand as a source of reliable and quality vehicles, vehicle parts, and accessories (collectively, the “Toyota Products”). Toyota has registered many of its trademarks with the United States Patent and Trademark Office. Toyota Products typically include at least one of Toyota’s registered trademarks. Toyota uses its

trademarks in connection with the marketing of its Toyota Products, including the following marks which are collectively referred to as the “Toyota Trademarks.”²

Registration No.	Mark	Goods and Services
1,797,716		For: Automobiles and structural parts thereof in class 012.
843,138	TOYOTA	For: Automobiles and motor trucks in class 012.
1,589,552	TOYOTA	For: Brake fluid and transmission fluid for use in motor vehicles in class 001. For: Lubricating oils and lubricating greases for use in motor vehicles in class 004.
1,721,365	TOYOTA	For: Parts and components made of metal for automobiles, trucks, and automotive vans; namely, lock cylinder and key sets, key blanks, cylinder head gaskets for internal combustion engines, bolts, nuts, washers, pulleys, brackets, shrouds, spacers, rivets, screws, metallic plates, clips, plugs, tubing, springs, elbows for piping and tubing, motion limiting stops, cotter pins, shaft pins, shafts, housings, covers, hangers, clamps, supports, baffles, snap rings, shaft keys, collars, grommets, unions, shims, drain cocks, grease fittings in class 006.

² Some of the Toyota Trademarks were granted to “Toyota Jidosha Kabushiki Kaisha,” which translates to English as “Toyota Motor Corporation.”

		<p>For: Parts and components for automobiles, trucks, and automotive vans; namely, alternators, and parts thereof, and mounting hardware therefor; generators, and parts thereof, and mounting hardware therefor; starter parts and components; namely, clutch assemblies and parts thereof; housing assemblies and parts thereof; ignition parts for internal combustion engines; namely, glow plugs, cables, spark plugs, coils, points, condensers, rotors, distributors and parts thereof, distributor caps, vacuum advances; internal combustion engine parts; namely, pistons, piston sets, piston rings, piston ring sets, piston connecting rod subassemblies and parts thereof, piston subassemblies with pins, intake valves, exhaust valves; carburetors and parts thereof and mounting hardware therefor; throttle linkage parts; idle adjustment parts; fuel injection pumps and parts thereof and housing therefor; throttle body assemblies and parts thereof; turbocharger assemblies, fuel injector assemblies, carburetor kits, governor covers, journal bearings, thrust bearings, roller bearings, ball bearings, bushings; compressors for air conditioners and parts thereof; compressor clutches and parts thereof in class 007.</p> <p>For: Hand tools; namely, body compressors for motor vehicles, wheel lug wrenches, fuse pullers, screwdrivers, extension bars, pliers, hammers, offset wrenches, hub nut wrenches, socket wrenches, spark plug wrenches, wrenches; hand operated lifting jacks for land vehicles, and parts thereof, and carriers therefor in class 008.</p>
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		<p>For: Parts and components for automobiles, trucks, and automotive vans; namely, thermostatic valves, computers and computer assemblies; speedometer assemblies, and parts thereof, and cables therefor; speedometer driven gears, speed sensors, combination meters, tachometer assemblies and parts thereof; oil level gauges; fuel gauge assemblies and receivers therefor, temperature gauge assemblies and receivers therefor; ammeter assemblies; pressure gauge assemblies and receivers therefor; pressure switch assemblies, voltage meter assemblies, clinometers, audio components for automobiles; antennas, and cords therefor, and mounting hardware therefor; speakers, and grilles therefor, and mounting hardware therefor; speaker kits, tape players, tape player kits; radio receivers and mounting hardware therefor; radio receivers combined with tape players, audio amplifiers, batteries, electrical cables, wiring harnesses; starter parts and components; namely, yoke assemblies and parts thereof, starter coils, commutator frame assemblies and parts thereof, brushes, brush holder assemblies and parts thereof, starter switch assemblies, armature assemblies and parts thereof; electric current rectifiers, voltage regulators, preheating timers, glow plug sensors, electrical fuses; electrical fuse blocks and covers therefor; turn signal switch assemblies; electrical switch assemblies and parts thereof; rheostats, fuel regulators, air flow meters, electric relays, solenoid assemblies, solenoid valves, automatic control valves, temperature</p>
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		<p>sensors, fluid pressure sensors, fluid level sensors, tachometer input sensors, throttle position sensors, oxygen sensors, knock control sensors, magnet switch assemblies, signal generators; cigarette lighter assemblies and parts therefor in class 009.</p> <p>For: Parts and components for automobiles, trucks, and automotive vans; namely, cool boxes, and accessories therefor; air conditioning systems; components and parts of air conditioning systems; namely, cooler/accessory assemblies, coolers, condensers, cooling fans, evaporators, cooling unit assemblies, blower motor assemblies and parts thereof; air conditioner kits; parts and components for cabin heating and ventilation; namely, cowl panel subassemblies, cowl vent doors, cowl vent louvers, air duct screens, air duct assemblies and parts thereof, ventilation control assemblies and parts thereof, heater control assemblies and parts thereof, control cable subassemblies and parts thereof, blower assemblies and parts thereof, radiator assemblies and parts thereof, heater cores, rear heaters and accessories therefor, heater valve assemblies; lamp housing assemblies and parts thereof; lamps; sealed beam housing assemblies and parts thereof; sealed beams, headlamp kits, fog lamp covers, lens kits, headlamp doors, rear window defoggers in class 011.</p> <p>For: Parts and components for automobiles, trucks, and automotive vans; namely, main bodies and components thereof; rear short body</p>
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		assemblies, rear long body assemblies; mouldings, being body parts; RR L/guard body assemblies, short L/guard bed assemblies, long L/guard bed assemblies, long bed body assemblies, short bed bodies, complete bed assemblies; tailgates and parts thereof, and mounting hardware therefor; mirrors, and actuators therefor, and mounting hardware therefor, and covers therefor; consoles and parts thereof; and mounting hardware therefor; interior trim panels and parts thereof; seat assemblies, and parts thereof, and mounting hardware therefor; seat covers, body panels, deck lids, trunk panels, hood windows and mounting hardware therefor; windshields and mounting hardware therefor; frames and parts thereof; spare wheel carriers and parts thereof; bumpers, and parts thereof, and mounting hardware therefor; radiator grilles; ornaments; radiators, and parts thereof, and caps therefor; radiator support assemblies and parts thereof; radiator baffle assemblies and parts thereof; radiator reserve tanks and parts thereof; hood front protectors; locks, and parts thereof, and releases therefor; splash shields, stone deflectors, instrument panels, dash panels, safety pads; glove compartment doors and parts thereof; silencer pads, roof rails, roof channels, body trim; sunshade trim assemblies and parts thereof; sliding roofs, and parts thereof, and mounting hardware therefor; roof headlining assemblies and parts thereof; removable roofs and mounting hardware therefor; luggage compartment covers; package trays and parts thereof; tonneau covers and holders therefor; luggage compartment doors and parts thereof;
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		luggage compartment trays, parcel covers, safety belt assemblies; seat adjuster assemblies and parts thereof; sun visor assemblies and parts thereof; battery carriers and parts thereof; license plate bracket assemblies and parts thereof; emblems; ornaments; spoiler assemblies, and parts thereof, and covers therefor, and protectors therefor; mudguard assemblies and parts thereof; fuel tank assemblies and parts thereof; fuel tank cover assemblies, fuel caps, fuel expansion tanks, charcoal canisters, engine block heaters, cargo covers, vehicle covers, masks, cargo screens, foot rests; deck board assemblies and parts thereof; ash receptacles, foot pedals; foot pedal linkage assemblies and parts thereof; foot pedal cable assemblies and parts thereof; automatic drive cable assemblies, choke cable assemblies, choke rod assemblies, choke openers, breakers; water pumps and parts thereof; oil cooler assemblies and parts thereof; engine cooling fans and shrouds therefor; trim Tings; transaxles and parts thereof; torque converters and parts thereof; transmissions and parts thereof; shift assemblies and parts thereof; transfer assemblies and parts thereof; differential carrier assemblies, differentials and parts thereof; axle housing assemblies and parts thereof; drive shaft assemblies and parts thereof; brake drums, wheel hubs, disc wheels, wheel caps, hub caps, wheel covers, wheel cap rings; clutch parts; namely, housings, forks, pressure plates, release bearings, discs, pedal assemblies and parts thereof, cables, cylinders and parts thereof; brake parts; namely, caliper assemblies and parts thereof, pads,
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		<p>pad wear indicating assemblies and parts thereof, shoes and parts thereof and lining therefor, pedal assemblies and parts thereof, cylinders, boosters and parts thereof, proportioning valve assemblies, parking brake assemblies and parts thereof; steering system components; namely, steering wheels and parts thereof, steering column assemblies and parts thereof, steering wheel tilting assemblies and parts thereof, tie rod assemblies and parts thereof, idler arm assemblies and parts thereof, worm assemblies and parts thereof, steering racks and rack assemblies, steering pinions, ball joint assemblies and parts thereof, steering knuckles and parts thereof, valve assemblies and parts thereof, pumps and parts thereof; oil reservoirs and parts thereof; suspension components; namely, arm assemblies and parts thereof, spring assemblies and parts thereof, shock absorber assemblies and parts thereof including shock absorbers and strut cartridges, stabilizer bars; engine assemblies, short block assemblies, partial engine assemblies, cylinder head assemblies; engine parts and components; namely, cylinder heads, cylinder head housings, cylinder head cover subassemblies and parts thereof, valve seats, valve guides, valve lifters, valve push rods, rocker arm assemblies and parts thereof, engine blocks, crankshafts, camshafts, camshaft housings, combustion chambers, cylinder liners, connecting rods, flywheel sub-assemblies and parts thereof, oil pumps and parts thereof; oil filters and holders therefor; timing gear case sub-assemblies and parts thereof; timing chains, timing belts, timing gears, timing sprockets, timing tensioners,</p>
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		<p>timing vibration dampers, flywheel covers, oil pans, oil filler caps, positive crankcase ventilation valves, engine-driven belts; catalytic converters and mounting hardware therefor; engine exhaust manifolds; exhaust pipes and mounting hardware therefor; tail pipes and mounting hardware therefor and baffles therefor; mufflers and mounting hardware therefor; fuel pumps and parts thereof; fuel filter elements and holders therefor; engine intake manifolds, engine intake air valve assemblies, engine intake injection manifolds; air pumps and parts thereof; engine vacuum switch valve assemblies; air cleaner elements and holders therefor; transmission overhaul kits, stripes kits, timing kits, bearing kits, mudguard kits, worm kits for power steering, transaxle overhaul kits, theft kits, bumper kits, drop hitch receivers and brackets therefor; motor/pump assemblies, intake air surge tanks; vacuum pumps and parts thereof; cooling unit assemblies, air switch valve assemblies, joint shaft assemblies; floor pan assemblies and parts thereof; garnishes, cover retractor assemblies, cover tops; turn signal flasher assemblies and parts thereof; wiper motor/link assemblies and parts thereof; wiper arm/blade assemblies and parts thereof; windshield washers and parts thereof; motor assemblies and parts thereof for operating movable vehicle body components; electric horns, electric buzzers, vacuum speed control pump assemblies, tow hitches, racks for carrying items; starter assemblies and housing therefor; fitted covers for vehicles in class 012.</p>
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		<p>For: Parts and components for automobiles, trucks, and automotive vans; namely, clocks and parts thereof in class 014.</p> <p>For: Parts and components for automobiles, trucks, and automotive vans; namely, gaskets, gasket kits, boots, boot kits, seals, tubing, o-rings, diaphragms, thermal insulators, hoses, plastic knobs, packing coil in class 017.</p> <p>For: Parts and components for automobiles, trucks, and automotive vans; namely, floor mats, carpets in class 027.</p>
2,115,623	TOYOTA	For: Vehicle anti-theft systems comprising radio frequency transmitters, radio frequency receivers, status monitors, glass breakage sensor units, electronic control units, dashboard signal lights, vehicular horn activators, vehicular light activators, and dashboard control switches, in various combinations of components, sold as a unit and individually as repair or replacement parts in class 012.
1,262,925	CAMRY	For: Automobiles and structural parts thereof in class 012.
5,256,854	C-HR	For: Automobiles and structural parts thereof in class 012.
867,434	<i>COROLLA</i>	For: Motorcars and parts thereof in class 012.
2,249,838	HIGHLANDER	For: Automobiles and structural parts thereof in class 012.
2,590,587	LAND CRUISER	For: Automobiles in class 012.
2,485,614	PRIUS	For: Automobiles and structural parts therefor in class 012.

2,171,261	RAV4	For: Automobiles and structural parts thereof in class 012.
1,854,126	4RUNNER	For: Automobiles and structural parts thereof in class 012.
2,462,106	SEQUOIA	For: Motor cars and structural parts thereof in class 012.
2,145,102	SIENNA	For: Automobiles and structural parts thereof in class 012.
5,932,399	SUPRA	For: Automobiles and structural parts thereof in class 012.
2,650,486	TACOMA	For: Pick-up trucks and structural parts thereof in class 012.
3,247,860	TUNDRA	For: Automobiles and structural parts thereof in class 012.
3,159,930	YARIS	For: Motorcars and structural parts thereof in class 012.
2,823,668	TRD	<p>For: Metallic parts of automobiles, namely, metal fasteners for use in automobiles, namely, nuts, bolts, screws and washers in class 006.</p> <p>For: Automobile exhaust manifolds and engine mufflers; mechanical parts of automobile engines; oil filters for engines; metal gaskets for use in retaining and sealing fluids in automobile engines in class 007.</p> <p>For: Electrical and electronic parts of automobiles, namely, pressure gauges, vehicle throttle position sensors, and electric wiring harnesses in class 009.</p> <p>For: Structural parts of automobiles in class 012.</p> <p>For: Pens in class 016.</p> <p>For: Clothing, namely, t-shirts, sweatshirts, hats, and caps in class 025.</p>
1,574,718	LEXUS	For: Automobiles in class 012.
5,810,473	LEXUS	For: Drinkware in class 021.

		For: Clothing, namely, t-shirts, shirts, vests, sweatshirts, sweaters, jackets, hats, and caps in class 025.
1,834,147		For: Key rings in class 006. For: Ballpoint pens in class 016. For: Umbrellas in class 018. For: Drinking cups in class 021. For: Jackets, sweat shirts, caps, sweaters, polo shirts, sport shirts, pullovers, windbreakers, golf shirts in class 025. For: Golf balls, golf bags in class 028.
2,852,290		For: Binders in class 016. For: Traveling bags in class 018. For: Bottles sold empty in class 021. For: Stuffed toy animals in class 028.
3,805,350		For: Textiles and textile goods, namely, golf towels in class 024.
5,803,480		For: Drinkware in class 021. For: Clothing, namely, t-shirts, shirts, vests, sweatshirts, sweaters, jackets, hats, and caps in class 025.
5,868,865	CRAFTED FOR LEXUS	For: Sunglasses in class 009. For: Handy lights, namely, hand-held flashlights in class 011. For: Clocks in class 014.

		<p>For: Memo blocks, namely, notepads in class 016.</p> <p>For: Bags, namely, leather bags and hand bags in class 018.</p> <p>For: Candle holders, flower vases, non-electric coffee drippers for brewing coffee in class 021.</p>
6,938,649		<p>For: Oil filters; air filters for automobile engines; spark plugs; fuel filters in class 007.</p> <p>For: Air filters for domestic use in class 011.</p> <p>For: Brake pads for automobiles; disks for clutches for land vehicles; covers for clutches for land vehicles in class 012.</p>

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

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

10. The Toyota Trademarks are famous marks, as that term is used in 15 U.S.C. § 1125(c)(1), and have been used by Toyota for many years. The innovative marketing and product designs of the Toyota Products have enabled the Toyota brand to achieve widespread recognition and fame and have made the Toyota Trademarks some of the most well-known marks in the industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Toyota brand have made the Toyota Trademarks valuable assets of Toyota.

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

12. Toyota Products are sold to consumers through authorized dealerships, including several in the Chicago area. Toyota has a website at Toyota.com which allows customers to search for a dealership near their location. The Toyota.com website features proprietary content, images, and designs exclusive to the Toyota brand.

The Defendants

13. 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, 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).

14. 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 operations make it virtually impossible for Plaintiff to learn 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

15. The success of the Toyota brand has resulted in significant counterfeiting of the Toyota Trademarks. Consequently, Toyota has a worldwide anti-counterfeiting program and regularly investigates suspicious e-commerce stores identified in proactive Internet sweeps and reported by consumers. In recent years, Toyota has identified numerous fully interactive, e-commerce stores offering Counterfeit Toyota Products on online marketplace platforms such as Amazon, eBay, AliExpress, Alibaba, Wish.com, Walmart, Etsy, 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 a U.S. Customs and Border Protection (CBP) report, in 2021, CBP made over 27,000 seizures of goods with intellectual

property rights (IPR) violations totaling over \$3.3 billion, an increase of \$2.0 billion from 2020. *Intellectual Property Rights Seizure Statistics, Fiscal Year 2021*, U.S. Customs and Border Protection (**Exhibit 2**). Of the 27,000 in total IPR seizures, over 24,000 came through international mail and express courier services (as opposed to containers), 51 percent of which originated from China and Hong. *Id.*

16. 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 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 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.

17. 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/or funds from U.S. bank accounts and, on information and belief, have sold Counterfeit Toyota Products to residents of Illinois.

18. Defendants concurrently employ and benefit from substantially similar advertising and marketing strategies. For example, Defendants facilitate sales of Counterfeit Toyota Products 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 appear sophisticated and accept payment in U.S. dollars and/or funds from U.S. bank accounts 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. On information and belief, Toyota has not licensed or authorized Defendants to use any of the Toyota Trademarks, and none of the Defendants are authorized retailers of genuine Toyota Products.

19. Many Defendants also deceive unknowing consumers by using one or more Toyota 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 Toyota Products. Other e-commerce stores operating under Seller Aliases omit using Toyota 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 Toyota Products.

20. 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.

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

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

23. 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.

24. 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 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 Plaintiff. Indeed, analysis of financial account transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

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

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

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

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

29. 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 the Toyota Trademarks without Toyota's permission.

30. Toyota is the exclusive owner of the Toyota Trademarks. Toyota's United States Registrations for the Toyota Trademarks (**Exhibit 1**) are in full force and effect. On information and belief, Defendants have knowledge of Toyota's rights in the Toyota Trademarks and are willfully infringing and intentionally using counterfeits of the Toyota Trademarks. Defendants' willful, intentional, and unauthorized use of the Toyota Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Counterfeit Toyota Products among the general public.

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

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

33. 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 Toyota Products.

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

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

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

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

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

38. There is 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 the Toyota brand.

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 the Toyota Trademarks or any reproductions, counterfeit copies, or colorable imitations thereof in any manner in connection with the distribution, promotion,

- marketing, advertising, offering for sale, or sale of any product that is not a genuine Toyota Product or is not authorized by Toyota to be sold in connection with the Toyota Trademarks;
- b. passing off, inducing, or enabling others to sell or pass off any products as genuine Toyota Products or any other products produced by Toyota that are not Toyota's, or not produced under the authorization, control, or supervision of Toyota and approved by Toyota for sale under the Toyota Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' Counterfeit Toyota Products are those sold under the authorization, control, or supervision of Toyota, or are sponsored by, approved by, or otherwise connected with Toyota;
 - d. further infringing the Toyota Trademarks and damaging Toyota'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 Toyota, nor authorized by Toyota to be sold or offered for sale, and which bear any of Toyota's trademarks, including the Toyota 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, Walmart, Etsy, 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 the Toyota 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 the Toyota 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 the Toyota 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 21st day of February 2023.

Respectfully submitted,

/s/ Justin R. Gaudio

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