

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

SEGA CORPORATION and SEGA OF
AMERICA, INC.,

Plaintiffs,

v.

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

Defendants.

Case No. 23-cv-02942

COMPLAINT

Plaintiffs Sega Corporation and Sega of America, Inc. (collectively, “Sega” or “Plaintiffs”) hereby bring the present action against the Partnerships and Unincorporated Associations Identified on Schedule A attached hereto (collectively, “Defendants”) and allege as follows:

I. JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over Sega’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 exercise personal jurisdiction over Defendants because Defendants structure their business activities so as to target 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; offer shipping to the

United States, including Illinois; accept payment in U.S. dollars; and, on information and belief, sell products using unauthorized copies of Plaintiffs' 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 Sega substantial injury in the state of Illinois.

II. INTRODUCTION

3. Sega filed this case to prevent e-commerce store operators who trade upon Sega'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' infringing 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 Sega's intellectual property rights with impunity. Defendants attempt to avoid liability by operating under one or more Seller Aliases to conceal their identities, locations, and the full scope and interworking of their operation. Sega 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. Sega has been, and continues to be, irreparably damaged through infringement of its copyrighted works and therefore seeks injunctive and monetary relief.

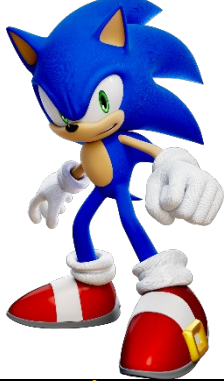
III. THE PARTIES

4. Plaintiff Sega Corporation is a Japanese corporation having its principal place of business at Sumitomo Fudosan Osaki Garden Tower, 1-1-1 Nishi-Shinagawa-ku, Tokyo 141-0033, Japan. Plaintiff Sega of America, Inc. is a California corporation having its principal place of business at 6400 Oak Canyon, Suite 100, Irvine, California 92618. Plaintiffs are wholly owned subsidiaries of Sega Sammy Holdings, Inc., a publicly traded company on the Tokyo Stock Exchange. Sega Corporation and/or Sega of America, Inc. own the copyrights asserted in this action. Plaintiff Sega Corporation, Plaintiff Sega of America, Inc. and Sega Sammy Holdings, Inc. are referred to herein together or individually as “Sega.”

5. Sega is a multinational video game, entertainment, and animation company, as well as a former manufacturer of home computers and video game consoles. Sega has developed and manufactured numerous video game consoles, including the famous video game consoles Sega Genesis and Sega Dreamcast, and also provides software as a third-party developer. Known as one of the most iconic developers in the video game industry, Sega has successfully developed and launched multiple video game franchises including *Sonic the Hedgehog*.

6. Sonic the Hedgehog, pictured below, is Sega’s most famous video game character. Since the 1991 release of the first *Sonic the Hedgehog* game, the *Sonic the Hedgehog* video game series has gained worldwide popularity, with Sega generating at least 1.38 billion downloads of the series to date. The *Sonic the Hedgehog* video game series includes *Sonic the Hedgehog*, *Sonic the Hedgehog 2*, *Sonic Chaos*, *Sonic Mania*, and many others. In addition to the *Sonic the Hedgehog* video game series, Sega has developed a variety of Sonic the Hedgehog initiatives globally, including movies, animation, music, and merchandising. Some of the characters and

character names made famous by the Sonic the Hedgehog franchise include, but are not limited to:¹

Sonic the Hedgehog	
Miles “Tails” Prower	
Knuckles the Echidna	

¹ The characters contained within the table are not an exhaustive list of the characters embodied in Sega’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 Sega’s copyrighted works, have always maintained their distinctive qualities and unique elements of expression.

Shadow the Hedgehog	 A 3D render of Shadow the Hedgehog, a black hedgehog with red stripes on his head and limbs, standing in a confident pose.
Dr. Robotnik/ Dr. Eggman	 A 3D render of Dr. Robotnik/ Dr. Eggman, a large, round, red robot with a black body and yellow accents, standing with arms outstretched.
Jet the Hawk	 A 3D render of Jet the Hawk, a green hawk-like character with a red and white racing suit, shown in a dynamic pose as if performing a stunt.
Silver the Hedgehog	 A 3D render of Silver the Hedgehog, a white hedgehog with blue shoes and yellow rings, standing in a confident pose.

Amy Rose	 A 3D render of Amy Rose, a pink hedgehog character, standing in a dynamic pose. She is wearing a red dress with white trim and red shoes with white stripes. She has her signature yellow piko rings on her wrists and is holding a red heart.
Metal Sonic	 A 3D render of Metal Sonic, a blue robotic hedgehog. He has a metallic blue body with red shoes and yellow claw-like hands. He is holding a blue ring.
Chao	 A 3D render of a Chao, a small, blue, egg-shaped creature with large eyes and a small mouth. It has yellow piko rings on its head and is holding a yellow ring.
Rogue the Bat	 A 3D render of Rogue the Bat, a white bat character with blue markings on her face and chest. She is wearing a black and pink outfit with white gloves and shoes. She has purple bat wings and is holding a pink heart.

Blaze the Cat	
Big the Cat	
Tangle the Lemur	
Cream the Rabbit	

7. Since the release of the first *Sonic the Hedgehog* game in 1991, Sega has released twenty-five *Sonic the Hedgehog* video games and has developed numerous spin-off TV shows,

comic books, and movies. In 2020, Sega partnered with Paramount Pictures Corporation to produce the feature film *Sonic The Hedgehog*. The movie grossed nearly \$320 million worldwide and became the domestic top-grossing video game adaptation film at the time. A second film, *Sonic the Hedgehog 2*, was released in 2022.



Figure 1

8. Before Defendants’ acts described herein, Sega launched the *Sonic the Hedgehog* video game franchise and its related line of products. Sega has also registered a multitude of works related to the Sonic the Hedgehog franchise and the characters embodied therein with the United States Copyright Office, including at least: (1) episodes of animated television shows based on the *Sonic the Hedgehog* video game series, including *Adventures of Sonic the Hedgehog* and *Sonic Boom*; (2) *Sonic the Hedgehog* video games; (3) *Sonic the Hedgehog* comic books; and (4) the two *Sonic the Hedgehog* films produced in 2020 and 2022, respectively (the “Sonic Copyrighted Works”).

9. In 2019, Sega released the Sega Genesis Mini – a slick, miniaturized version of its famous Genesis video game console that was first released in the 1980s.² The Genesis Mini,

² See <https://genesismini.sega.com/>.

designed to be ready to plug and play right out of the box, comes pre-loaded with 40 legendary Genesis games, including *Sonic the Hedgehog*, *Sonic the Hedgehog 2*, *Tetris*, and *Gunstar Heroes*. Due to the success of the Sega Genesis Mini, Sega released the Sega Genesis Mini 2 in October 2022.³ The Sega Genesis Mini 2 is based on the Sega Genesis Model 2, a smaller version of the original Sega Genesis that was released in 1994.

10. Sega markets and sells a variety of products that feature the Sonic 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, “Sonic Products”).

11. Sonic Products have become enormously popular and even iconic, driven by Sega’s quality standards and innovative designs. Among the purchasing public, Sonic Products are instantly recognizable as such. The Sonic the Hedgehog brand (hereinafter referred to as the “Sonic Brand”) has become a global success and Sonic Products are among the most recognizable in the world. Sonic 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 shop.sega.com website. Sonic Products are sold only through authorized retail channels and are recognized by the public as being exclusively associated with Sega and the Sonic Brand.

12. The Sonic Copyrighted Works are registered with the United States Copyright Office. A true and correct copy of the record from the U.S. Copyright Office website for the Sonic

³ See <https://sega.jp/genesismini2/>.

Copyrighted Works is attached hereto as **Exhibit 1**. The Sonic Copyrighted Works embody the distinctive characters found in paragraph 6 above.

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

14. Since first publication, the Sonic Copyrighted Works have been used on Sonic Products and are featured on Sega'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 Sega. 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 Plaintiffs to learn Defendants' true identities and the exact interworking of their network. If Defendants provide additional credible information regarding their identities, Plaintiffs will take appropriate steps to amend the Complaint.

IV. DEFENDANT'S UNLAWFUL CONDUCT

17. The success of the Sonic Brand has resulted in significant copying of the Sonic Copyrighted Works. Because of this, Sega investigates suspicious websites and online marketplace listings identified in proactive Internet sweeps. Recently, Sega has identified many

fully interactive e-commerce stores offering Unauthorized Products on online marketplace platforms like Alibaba Group Holding Ltd. (“Alibaba”), AliExpress.com (“AliExpress”), Amazon.com, Inc. (“Amazon”), DHgate.com (“DHgate”), eBay, Inc. (“eBay”), Etsy, Inc. (“Etsy”), Fruugo.com Limited (“Fruugo”), and Context Logic, Inc. d/b/a/ Wish.com (“Wish”), 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; offer shipping to the United States, including Illinois; accept payment in U.S. dollars; and, on information and belief, sell 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. Sega has not licensed or authorized Defendants to copy or distribute the Sonic Copyrighted Works, and none of the Defendants are authorized retailers of Sonic 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 communicate with each other through QQ.com chat rooms and through websites such as sellerdefense.cn, ikjzd.com, kaidianyo.com, and kuajingvs.com. These websites provide tactics for operating multiple online marketplace accounts and evading detection by brand owners. The websites also tip off e-commerce store operators like Defendants of new intellectual property infringement lawsuits filed by brand owners, such as Sega, and recommend that e-commerce operators cease their infringing activity, liquidate their associated financial accounts, and change the payment processors that they currently use to accept payments in their online stores.

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 Sega, have jointly and severally, knowingly, and willfully used and continue to use unauthorized copies of the Sonic 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 Sonic Copyrighted Works in connection with the advertising, distribution, offering for sale, and sale of Unauthorized Products, including the sale of Unauthorized Products into the U.S., including Illinois, infringes and continues to infringe the Sonic Copyrighted Works and is irreparably harming Sega.

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

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

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

31. Sega is the owner of the Sonic Copyrighted Works. Sega has complied with the registration requirements of 17 U.S.C. § 411(a) for the Sonic Copyrighted Works. The Sonic Copyrighted Works are protected by copyright registration numbers which were duly issued to Sega by the United States Copyright Office. At all relevant times, Sega has been, and still is, the owner of all rights, title, and interest in the Sonic Copyrighted Works, which have never been assigned, licensed, or otherwise transferred to Defendants.

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

33. Without authorization from Sega, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced, and/or made derivative works

incorporating the Sonic 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 Sonic Copyrighted Works. Such conduct infringes and continues to infringe the Sonic 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 Sonic Copyrighted Works in the form of revenue and other profits that are driven by the sale of Unauthorized Products.

35. Defendants have unlawfully appropriated Sega's protectable expression by taking material of substance and value and creating Unauthorized Products that capture the total concept and feel of the Sonic Copyrighted Works, including the distinctive characters embodied therein.

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

37. The Defendants, by their actions, have damaged Sega 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 Sega great and irreparable injury that cannot fully be compensated or measured in money. Sega has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Sega is entitled to a preliminary and permanent injunction prohibiting further infringement of the Sonic Copyrighted Works.

PRAYER FOR RELIEF

WHEREFORE, Sega 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 Sonic Copyrighted Works in any manner without the express authorization of Sega;
- b. passing off, inducing, or enabling others to sell or pass off products as Sonic Products or any other product produced by Sega, that is not Sega's or not produced under the authorization, control, or supervision of Sega and approved by Sega for sale bearing the Sonic 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 Sega, or are sponsored by, approved by, or otherwise connected with Sega;
- d. further infringing the Sonic Copyrighted Works and damaging Sega'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 Sega, nor authorized by Sega to be sold or offered for sale, and which bear any of the Sonic Copyrighted Works;

- 2) Entry of an Order that, upon Sega's request, those with notice of the injunction, including without limitation, any websites and/or online marketplace platforms like Alibaba, AliExpress, Amazon, DHgate, eBay, Etsy, Fruugo, and Wish, shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of infringing goods which bear the Sonic Copyrighted Works;
- 3) As a direct and proximate result of Defendants' infringement of the Sonic Copyrighted Works, Sega is entitled to damages as well as Defendants' profits, pursuant to 17 U.S.C. § 504(b);
- 4) Alternatively, and at Sega's election prior to any final judgment being entered, Sega 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) Sega is further entitled to recover its attorneys' 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 10th day of May 2023.

Respectfully submitted,

/s/ Martin F. Trainor

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