

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

AARDMAN ANIMATIONS LIMITED and
WALLACE & GROMIT LIMITED,

Plaintiffs,

v.

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

Defendants.

Case No. 23-cv-04561

COMPLAINT

Plaintiffs Aardman Animations Limited and Wallace & Gromit Limited (collectively, “Aardman” 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 Aardman’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 Aardman substantial injury in the state of Illinois.

II. INTRODUCTION

3. Aardman filed this case to prevent e-commerce store operators who trade upon Aardman'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 Aardman'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. Aardman 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. Aardman 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. Plaintiffs are private United Kingdom based corporations having their principal places of business at Gas Ferry Road, Bristol BS1 6UN, United Kingdom. Plaintiffs are wholly owned subsidiaries of Aardman Holdings Limited. Plaintiffs own the copyrights asserted in this action. Plaintiff Aardman Animations Limited, Plaintiff Wallace & Gromit Limited, and Aardman Holdings Limited are referred to herein together or individually as “Aardman.”

5. Founded in 1972, Aardman began with short, animated sketches for the BBC’s *Vision On* series. Today, Aardman is a world-renowned animation studio, known for its unique brand of “classic stop-motion style” of animation, with several feature films under its belt, including its production of *Chicken Run* in the year 2000. To date, Aardman has won four Oscars, including one for its October 2005 feature film *Wallace & Gromit: the Curse of the Were-Rabbit*, which also won a BAFTA for best British Film from the British Academy of Film and Television Arts. Aardman’s award-winning and innovative animation style and beloved characters, has made it one of the most accomplished animation studios to date. It has worked with Dreamworks, Sony, and was one of nine studios working with Disney on *Star Wars: Visions Volume 2*. Two of Aardman’s most iconic and celebrated properties are the subject of this action – Wallace & Gromit and Shaun the Sheep.

6. One of Aardman’s most beloved and iconic duos is Wallace and Gromit, pictured below. Wallace is a cheese loving inventor whose home is filled with various gadgets designed to reduce work. Wallace is depicted with his anthropomorphic dog, Gromit, who spends much of his time saving his owner from crazy scenarios and mysterious characters. Since their introduction in 1989 in the Academy Award nominated film *Wallace & Gromit: A Grand Day Out*, the pair have starred in six additional films under the *Wallace & Gromit* moniker: *The Wrong Trousers*, *A Close*





Shave, *Cracking Contraptions*, *Curse of the Were-Rabbit*, *A Matter of Loaf and Death*, and *World of Invention*, with a seventh film scheduled to be released in 2024. The Wallace & Gromit franchise was so successful that it led to the creation of a second franchise for Aardman – Shaun the Sheep.




7. Shaun the Sheep, pictured below, is one of Aardman’s most famous characters. Since his introduction in the film *Wallace & Gromit: A Close Shave*, Shaun the Sheep has become an iconic entry in Aardman’s catalog of unique and vivid characters. Shaun is a boisterous, curious, and adventure loving sheep that leads the rest of the flock on the farm. While he loves to cause mischief and make it difficult on the farmer’s dog, Bitzer, to keep the flock in line, Shuan is well natured, cares for his friends on the farm, and uses his intelligence and resourcefulness to get the flock out of situations he puts them in. Aardman has created six series of *Shaun the Sheep*, with its most recent series being titled *Shaun the Sheep: Adventures from Mossy Bottom*.

8. Some of the characters and character names made famous by the Wallace & Gromit and Shaun the Sheep franchises include, but are not limited to:¹

<p style="text-align: center;">Wallace</p>	
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¹ The characters contained within the table are not an exhaustive list of the characters embodied in Aardman’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 Aardman’s copyrighted works, have always maintained their distinctive qualities and unique elements of expression.

Gromit	
Feathers McGraw	
Shaun the Sheep	
Bitzer	

The Farmer	
Pidsley	
The Naughty Pigs	

9. Before Defendants’ acts described herein, Aardman launched the Wallace & Gromit and Shaun the Sheep franchises (“Aardman Franchises”) and their related line of products. Aardman has also registered a multitude of works related to the Aardman Franchises and the distinctive characters embodied therein with the United States Copyright Office (the “Aardman Copyrighted Works”).

10. The Aardman Copyrighted Works are registered with the United States Copyright Office. True and correct copies of the records from the U.S. Copyright Office website for the Aardman Copyrighted Works are attached hereto as **Exhibit 1**. The Aardman Copyrighted Works embody the distinctive characters found in paragraph 8 above.

11. Among the exclusive rights granted to Aardman under the U.S. Copyright Act are the exclusive rights to reproduce, prepare derivative works of, distribute copies of, and display the Aardman Copyrighted Works to the public. Since first publication, the Aardman Copyrighted Works have been used on Aardman's products and are featured on Aardman's official websites.

12. Aardman markets and sells a variety of Wallace & Gromit and Shaun the Sheep products, including homeware, clothing, apparel and accessories, art prints, jewelry, gardening ornaments and supplies, plushies, games, and stationary (collectively, "Aardman Products").

13. Aardman Products have become enormously popular. Among the purchasing public, Aardman Products are instantly recognizable as such. The Wallace & Gromit and Shaun the Sheep brands (hereinafter collectively referred to as the "Aardman Brands") have become global successes and Aardman Products are among the most recognizable in the world. Aardman Products are distributed and sold to consumers through its official shop: <https://gromitunleashedshop.org.uk/>.

14. 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 Aardman. 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).

15. 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

16. The success of the Aardman Brands has resulted in significant copying of the Aardman Copyrighted Works. Because of this, Aardman has implemented a brand protection program that involves investigating suspicious websites and online marketplace listings identified in proactive Internet sweeps. Recently, Aardman has identified many fully interactive e-commerce stores offering Unauthorized Products on online marketplace platforms like AliExpress.com ("AliExpress"), Amazon.com, Inc. ("Amazon"), DHgate.com ("DHgate"), Etsy, Inc. ("Etsy"), Pixels.com, LLC d/b/a Fine Art America ("Fine Art America"), Printerval.com ("Printerval"), Redbubble Limited ("Redbubble"), 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**).

17. 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.*

18. 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.

19. 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.

20. 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. Aardman has not licensed or authorized Defendants to copy or distribute the Aardman Copyrighted Works, and none of the Defendants are authorized retailers of Aardman Products.

21. 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.

22. 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.

23. 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.

24. E-commerce store operators like Defendants communicate with each other through QQ.com chat rooms and utilize websites, like sellerdefense.cn, that provide tactics for operating multiple online marketplace accounts and evading detection by brand owners. Websites like sellerdefense.cn also tip off e-commerce store operators, like Defendants, of new intellectual property infringement lawsuits filed by brand owners, such as Plaintiff, 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.

25. 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.

26. 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 Aardman, have jointly and severally, knowingly, and willfully used and continue to use unauthorized copies of the Aardman 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.

27. Defendants' unauthorized copying of the Aardman 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 Aardman Copyrighted Works and is irreparably harming Aardman.

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

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

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

30. Aardman is the owner of the Aardman Copyrighted Works. Aardman has complied with the registration requirements of 17 U.S.C. § 411(a) for the Aardman Copyrighted Works. The Aardman Copyrighted Works are protected by copyright registration numbers which were duly

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

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

32. Without authorization from Aardman, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced, and/or made derivative works incorporating the Aardman 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 Aardman Copyrighted Works. Such conduct infringes and continues to infringe the Aardman Copyrighted Works in violation of 17 U.S.C. § 501(a) and 17 U.S.C. §§ 106(1)–(3), (5).

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

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

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

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

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

PRAYER FOR RELIEF

WHEREFORE, Aardman 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 Aardman Copyrighted Works in any manner without the express authorization of Aardman;
- b. passing off, inducing, or enabling others to sell or pass off products as Aardman Products or any other product produced by Aardman, that is not Aardman's or not produced under the authorization, control, or supervision of Aardman and approved by Aardman for sale bearing the Aardman 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 Aardman, or are sponsored by, approved by, or otherwise connected with Aardman;

- d. further infringing the Aardman Copyrighted Works and damaging Aardman'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 Aardman, nor authorized by Aardman to be sold or offered for sale, and which bear any of the Aardman Copyrighted Works;
- 2) Entry of an Order that, upon Aardman's request, those with notice of the injunction, including without limitation, any websites and/or online marketplace platforms like AliExpress, Amazon, DHgate, Etsy, Fine Art America, Printerval, Redbubble, 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 Aardman Copyrighted Works;
- 3) As a direct and proximate result of Defendants' infringement of the Aardman Copyrighted Works, Aardman is entitled to damages as well as Defendants' profits, pursuant to 17 U.S.C. § 504(b);
- 4) Alternatively, and at Aardman's election prior to any final judgment being entered, Aardman 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) Aardman 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 14th day of July 2023.

Respectfully submitted,

/s/ Martin F. Trainor

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