

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

JH,

Plaintiff,

v.

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

Defendants.

Case No.: 1:24-cv-07758

COMPLAINT

Plaintiff, JH (“Plaintiff” or “JH”), hereby sues Defendants, the Partnerships and Unincorporated Associations identified on Schedule “A” (collectively “Defendants”) for copyright infringement. Defendants are promoting, distributing, advertising, offering for sale, and selling products bearing Plaintiff’s exclusive copyrighted works without authorization within this District through various Internet based e-commerce stores and fully interactive commercial Internet websites operating under the seller aliases identified on Schedule “A”.

This action has been filed by Plaintiff to combat e-commerce store operators who copy and trade upon Plaintiff’s reputation and goodwill by directly copying and/or using derivative and/or using compilation works of Plaintiff’s copyrighted photos without authorization. Defendants attempt to circumvent and mitigate liability by operating under one or more Seller Aliases to conceal their identities and the full scope and interworking of their infringing activities. Plaintiff is forced to file this action to protect unknowing consumers from purchasing products over the Internet that are mistakenly believed to emanate from Plaintiff. Plaintiff has been and continues to be irreparably damaged through consumer confusion and dilution of its valuable copyrighted works as a result of

Defendants' actions and seeks injunctive and monetary relief. In support of its claims, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This is an action for federal copyright pursuant to 17 U.S.C. § 501, *et seq.* Accordingly, this Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C §§ 1331 and 1338.

2. Defendants are subject to personal jurisdiction in this district, because they direct business activities toward and conduct business with consumers throughout the United States, including within the State of Illinois and this District through, at least, the Internet based e-commerce stores and fully interactive Internet websites accessible in Illinois and operating under their seller aliases. Alternatively, Defendants are subject to personal jurisdiction in this District pursuant to Federal Rule of Civil Procedure 4(k)(2), because (i) Defendants are not subject to jurisdiction in any state's court of general jurisdiction; and (ii) exercising jurisdiction is consistent with the United States Constitution and laws.

3. Venue is proper in this Court pursuant to 28 U.S.C § 1391 since Defendants are, upon information and belief, aliens who are engaged in infringing activities and causing harm within this District by advertising, offering for sale, selling, and shipping infringing products into this District.

THE PLAINTIFF

4. Plaintiff, JH, is the owner of the federal copyright registration that protects the creative content of Plaintiff's images and illustrations. JH creates art featuring fruits with a humorous twist that can quickly bring comfort to your soul.

5. Plaintiff is the owner of United States Copyright Registration [REDACTED] (the "JH Works"), and the registration is attached hereto as **Exhibit 1**. Upon information and belief, the copyrights have an effective date that predates the Defendants' acts of copyright infringement.

THE DEFENDANTS

6. On information and belief, Defendants are partnerships and business entities who own and operate one or more of the e-commerce stores under at least the seller aliases identified in Schedule A and/or other seller aliases not yet known to Plaintiff.

7. On information and belief, Defendants regularly conduct, transact and/or solicit business, and/or derive substantial revenue from their business transactions in the U.S. including this district. Defendants were and/or are systematically directing and targeting their business activities at consumers in the U.S., including Illinois, through accounts with online marketplace platforms as well as any and all as yet undiscovered user accounts, through which consumers in the United States can view Defendants' merchant storefronts, uses to communicate with Defendants regarding their listings for and to place orders for, receive invoices for and purchase infringing products for delivery in the U.S., including this district, as a means for establishing regular business with the U.S., including Illinois.

8. On information and belief, Defendants are sophisticated sellers, each operating one or more commercial businesses through their respective user accounts, using their merchant storefronts to manufacture, import, export, advertise, market, promote, distribute, offer for sale products, including the infringing products at below-market prices to consumers in this district.

9. Upon information and belief, all Defendants accept payment in U.S. Dollars and offer shipping to the U.S., including to Illinois.

10. On information and belief, Defendants reside and/or operate and/or maintain strong connections with entities in the Peoples Republic of China or other foreign jurisdictions with lax intellectual property enforcement systems. All Defendants advertise and sell products bearing infringing version of JH Works without Plaintiff's authorization. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b)(1).

11. 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 are used by Defendants to conceal their identities and the full scope of their operation to make it virtually impossible for Plaintiff to learn Defendants' true identities. If Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

DEFENDANTS' INFRINGING CONDUCT

12. The unique content and character of JH Works has resulted in significant theft of JH Works. Defendants advertise, offer for sale, and sell products bearing infringing version of JH Works to mislead the public that Defendants' products emanate from Plaintiff. Plaintiff regularly investigates suspicious e-commerce stores identified in proactive Internet sweeps and reported by consumers. Recently, Plaintiff has identified numerous fully interactive e-commerce stores, including those operating under the seller aliases, which are offering for sale and are selling products using JH Works without authorization to consumers throughout the United States. E-commerce sales, including through e-commerce stores like those of the Defendants, have resulted in a sharp increase in sales for those stores unlawfully using JH Works in 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 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 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 Kong. *Id.*

13. Third-party service providers, such as, for example, Amazon, eBay, PayPal, AliExpress, etc., 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, attached as **Exhibit 4**, and finding that on “at least some e-commerce platforms, little identifying information is necessary for counterfeiters to begin selling” and recommending that “[s]ignificant enhanced vetting of third-party sellers” is necessary. Those misappropriating intellectual property hedge against the risk of being caught and having their websites/advertisements taken down from an e-commerce platform by preemptively establishing multiple 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.

14. 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 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 via credit cards, Alipay, Amazon Pay, Western Union, and/or PayPal and others. E-commerce stores operating under the seller aliases include content and images that make it very difficult for consumers to distinguish such stores from an authorized retailer. Plaintiff has not authorized any Defendant to use JH Works.

15. Many Defendants also deceive unknowing consumers by using JH Works without authorization within the content and/or photographs of their e-commerce stores in order to attract various consumers. Other e-commerce stores operating under seller aliases attempt to cut off part of JH Works or use photoshop to change the color of JH Works to trigger their listings.

16. On information and belief, Defendants have engaged in fraudulent conduct when registering seller aliases by providing false, misleading and/or incomplete information to Internet-based e-commerce platforms. On information and belief, certain Defendants have anonymously registered and maintained seller aliases to prevent discovery of their true identities and the scope of their e-commerce operation.

17. On information and belief, Defendants regularly register or acquire new seller aliases to sell products using JH Works. Such seller alias registration patterns are one of many common tactics used by the Defendants to conceal their identities and the full scope and interworking of their operation, and to avoid being shut down.

18. Even though Defendants operate under multiple fictitious aliases, the e-commerce stores operating under 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 seller aliases include other notable common features such as use of the same registration patterns, accepted payment methods, check-out methods, keywords, illegitimate search engine optimization (SEO), advertising tactics, similarities in price and quantities, same incorrect grammar and misspellings, and/or the use of the same text and images.

19. On information and belief, Defendants are in constant communication with each other and regularly participate in QQ.com chat rooms, WeChat 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.

20. Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation despite Plaintiff's enforcement efforts. On information and belief, Defendants maintain offshore 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 that may be awarded to Plaintiff.

21. On information and belief, Defendants are an interrelated group of e-commerce sellers misappropriating Plaintiff's valuable intellectual property working in active concert to knowingly and willfully advertise and market their products using JH Works in the same transaction, occurrence, or series of transactions or occurrences. Defendants, without any authorization or license from Plaintiff, have jointly and severally, knowingly, and willfully used and continue to use JH Works in connection with the advertisement, distribution, offering for sale, and sale of infringing products into the United States and this district over the Internet.

22. Defendants' infringing activities has caused confusion, mistake, and deception by and among consumers and is irreparably harming Plaintiff.

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

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

24. At all relevant times, Plaintiff has been the owner of valid and enforceable JH Works, which contain certain copyrightable subject matter under 17 U.S.C. § 101, *et seq.*

25. Plaintiff has complied with the registration requirements of 17 U.S.C. § 411(a).

26. JH Works have significant value and have been created at considerable expense.

27. Defendants do not have any ownership interest in JH Works. Defendants had access to JH Works via the Internet.

28. Without authorization from Plaintiff, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced and/or made derivative works incorporating JH Works on e-commerce stores operating under seller aliases. Defendants' derivative works are

virtually identical to or substantially similar to JH Works. Such conduct infringes and continues to infringe Plaintiff's copyrights in violation of 17 U.S.C. § 501(a) and 17 U.S.C. § 106. Defendants reap the benefits of the unauthorized copying and distribution of the JH Works in the form of revenue and other profits that are driven by the sale of unauthorized products.

29. On information and belief, Defendants' infringement has been willful, intentional, and purposeful, and in disregard of and with indifference to Plaintiff's copyrights.

30. As a result of each Defendant's infringement of Plaintiff's exclusive rights under copyright, Plaintiff is entitled to relief pursuant to 17 U.S.C. § 504 and to attorneys' fees and costs pursuant to 17 U.S.C. § 505.

31. Defendants' conduct is causing, and unless enjoined and restrained by this Court will continue to cause, Plaintiff significant and irreparable injury that cannot fully be compensated or measured in money. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to injunctive relief prohibiting each Defendant from further infringing Plaintiff's copyrights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 1) That Defendants, their affiliates, officers, agents, servants, employees, attorneys, 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. distributing copies of, making derivative works of, or publicly displaying the JH Works in any manner without the express authorization of Plaintiff;
 - b. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff; and
 - c. further infringing Plaintiff's copyright and damaging Plaintiff's goodwill;

- 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, but not limited to, Amazon (collectively, the "Third Party Providers") shall disable and cease displaying any advertisements used by or associated with Defendants in connection with use of JH Works;
- 3) As a direct and proximate result of Defendants' infringement of Plaintiff's copyright, Plaintiff is entitled to damages pursuant to 17 U.S.C. §504;
- 4) Alternatively, and at Plaintiff's election prior to any final judgment being entered, Plaintiff is entitled to statutory damages provided by law pursuant to 17 U.S.C. § 504(c);
- 5) Plaintiff is further entitled to recover its attorneys' fees and full costs for bringing this action pursuant to 17 U.S.C. § 505; and
- 6) Award any and all other relief that this Court deems just and proper.

Dated: August 26, 2024

Respectfully submitted,

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