

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

KHARA INC. and GROUND WORKS CO.,
LTD.,

Plaintiffs,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON
SCHEDULE A HERETO,

Defendants.

Case No. 25-cv-820

Judge

COMPLAINT

Plaintiffs, KHARA INC. and GROUND WORKS CO., LTD., (“GWC” or “Plaintiffs”), hereby file this Complaint against the Partnerships and Unincorporated Associations identified on Schedule A attached hereto (collectively, “Defendants”), and hereby allege as follows:

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. This Court has jurisdiction over the claims in this action that arise under the laws of the State of Illinois pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

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 consumers in the United States, including Illinois, through at least the fully interactive commercial internet stores operating under at least the aliases and/or the online marketplace accounts identified in Schedule A attached hereto (collectively, the “Defendant Internet Stores”). Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive internet stores through which Illinois residents can purchase products bearing counterfeit versions of Plaintiffs’ trademarks. Each of the Defendants has targeted sales from Illinois residents by targeted sales from Illinois residents by operating internet stores that offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, has sold products bearing counterfeit versions of Plaintiffs’ 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 Plaintiffs substantial injury in the State of Illinois.

3. This Court has personal jurisdiction over each Defendant, in that each Defendant conducts significant business in Illinois and in this judicial district, and the acts and events giving rise to this lawsuit of which each Defendant stands accused were undertaken in Illinois and in this judicial district.

INTRODUCTION

4. This action has been filed by Plaintiffs to combat online counterfeiters who trade upon Plaintiffs’ reputation and goodwill by selling and/or offering for sale products in connection with Plaintiffs’ NEON GENESIS EVANGELION Trademarks, which are covered by U.S. Trademark Registration Nos. 2,923,657; 6,166,928; 6,187,814; and 6,193,482; (collectively the “NEON GENESIS EVANGELION Trademarks”). The registrations are valid, subsisting,

unrevoked, and uncancelled. Trademark registration Nos. 2,923,657; 6,166,928; 6,187,814; and 6,193,482 are incontestable. The registrations for the trademarks constitute prima facie evidence of validity and of Plaintiffs' exclusive right to use the trademarks pursuant to 15 U.S.C. § 1057(b). Genuine and authentic copies of the U.S. federal trademark registration certificates for the NEON GENESIS EVANGELION Trademarks are attached as **Exhibit 1**.

5. The Defendants create numerous Defendant Internet Stores and design them to appear to be selling genuine Plaintiffs' products, while selling inferior imitations of Plaintiffs' products. The Defendant Internet Stores share unique identifiers, such as design elements and similarities of the counterfeit products offered for sale, establishing a logical relationship between them and suggesting that Defendants' illegal operations arise out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid liability by going to great lengths to conceal both their identities and the full scope and interworking of their illegal counterfeiting operation. Plaintiff is forced to file this action to combat Defendants' counterfeiting of Plaintiffs' registered trademarks, as well as to protect unknowing consumers from purchasing unauthorized NEON GENESIS EVANGELION products over the Internet. Plaintiffs have been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of their valuable trademarks as a result of Defendants' actions and seeks injunctive and monetary relief.

6. This Court has personal jurisdiction over each Defendant, in that each Defendant conducts significant business in Illinois and in this Judicial District, and the acts and events giving rise to this lawsuit of which each Defendant stands accused were undertaken in Illinois and in this Judicial District. In addition, each Defendant has offered to sell and ship infringing products into this Judicial District.

THE PLAINTIFFS

7. Plaintiff, KHARA INC., is an animation studio company that produced the animated film arising out of the EVANGELION franchise and has a place of business at 3-35-18 Shoan, Suginami-ku, Tokyo 167-0054, Japan. KHARA INC. is the owner of the Trademark Registrations that protect the creative content of the NEON GENESIS EVANGELION anime series. KHARA INC. is a foreign company organized and existing under the laws of Japan.

8. Plaintiff, GROUND WORKS CO., LTD., on behalf of Plaintiff KHARA INC., exclusively manages the licensing of NEON GENESIS EVANGELION merchandise worldwide, with an exclusive license to NEON GENESIS EVANGELION Trademark Registration Nos. 2,923,657; 6,166,928; 6,187,814; and 6,193,482.

9. NEON GENESIS EVANGELION is a Japanese animated cartoon produced by Gainax that aired on TV in Japan from October 1995 through March 1996 and a feature film in July 1997. In 2007, a four-part series launched in theaters, with the aim of remaking and reinventing the TV show's stories.

10. Plaintiffs' brand, symbolized by the NEON GENESIS EVANGELION Trademarks, is a recognized symbol of high-quality merchandise. The NEON GENESIS EVANGELION Trademarks are distinctive and identify the merchandise as goods from Plaintiffs. The registrations for the NEON GENESIS EVANGELION Trademarks constitute prima facie evidence of their validity and of Plaintiffs' exclusive right to use the NEON GENESIS EVANGELION Trademarks pursuant to 15 U.S.C. § 1057 (b).

11. The NEON GENESIS EVANGELION Trademarks have been the subject of substantial and continuous marketing and promotion by Plaintiffs. Plaintiffs have and continue to widely market and promote the NEON GENESIS EVANGELION Trademarks in the industry and to consumers. Plaintiffs' promotional efforts include — by way of example, but not limitation —

substantial print media, the NEON GENESIS EVANGELION website and social media sites, and point of sale materials.

12. The NEON GENESIS EVANGELION Trademarks are distinctive and identify the merchandise as goods from Plaintiffs. The registrations for the NEON GENESIS EVANGELION Trademarks constitute prima facie evidence of their validity and of Plaintiffs’ exclusive right to use the NEON GENESIS EVANGELION Trademarks pursuant to 15 U.S.C. § 1057(b).

13. The NEON GENESIS EVANGELION Trademarks qualify as famous marks, as that term is used in 15 U.S.C. §1125 (c)(1) and has been continuously used and never abandoned.

14. Plaintiffs have expended substantial time, money, and other resources in developing, advertising, and otherwise promoting the NEON GENESIS EVANGELION Trademarks. As a result, products bearing the NEON GENESIS EVANGELION Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being products sourced from Plaintiffs. Examples of Plaintiffs’ products sold under the Trademarks include:



THE DEFENDANTS

15. Defendants are individuals and business entities who, upon information and belief,

primarily reside in the People's Republic of China or other foreign jurisdictions. Defendants conduct business throughout the United States, including within Illinois and in this judicial district, through the operation of the fully interactive commercial websites and online marketplaces operating under the Defendant Internet Stores. Defendants facilitate sales by designing the Defendant Internet Stores so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers selling genuine NEON GENESIS EVANGELION Products. Each Defendant targets the United States, including Illinois, and offered to sell and, on information and belief, sold and continues to sell counterfeit NEON GENESIS EVANGELION Products to consumers within the United States, including Illinois and in this judicial district.

THE DEFENDANTS' UNLAWFUL CONDUCT

16. The success of the NEON GENESIS EVANGELION brand has resulted in its counterfeiting. Plaintiffs have identified numerous online marketplace account names linked to fully interactive websites and marketplace listings on platforms such as iOffer, eBay, PayPal, DHgate, Alibaba, Etsy, Temu and Shopify, including the Defendant Internet Stores, which were offering for sale, selling, and importing counterfeit NEON GENESIS EVANGELION products to consumers in this Judicial District and throughout the United States. Defendants have persisted in creating the Defendant Internet Stores. Internet websites like the Defendant Internet Stores are estimated to receive tens of millions of visits per year and to generate over \$135 billion in annual online sales. According to an intellectual property rights seizures statistics report issued by Homeland Security, the manufacturer's suggested retail price (MSRP) of goods seized by the U.S. government in fiscal year 2021 was over \$3.3 billion. According to a 2021 study on the impact of the sale of fraudulent goods entitled "The Counterfeit Silk Road - Impact of Counterfeit Consumer Products Smuggled into the United States" (the 2021 study), Internet websites like the Defendant

Internet Stores are also estimated to contribute to over 653,000 lost jobs for legitimate businesses and broader economic damages such as lost wages in an amount over \$36 billion and a loss of federal and state tax revenue of over \$13.5 billion every year.

17. Upon information and belief, Defendants facilitate sales by designing the Defendant Internet Stores so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers selling genuine NEON GENESIS EVANGELION products. Many of the Defendant Internet Stores look sophisticated and accept payment in U.S. dollars via credit cards or through eBay, PayPal, DHgate, Alibaba, Etsy, Temu and Shopify. Defendant Internet Stores often include images and design elements that make it very difficult for consumers to distinguish such counterfeit sites from an authorized website. Defendants further perpetuate the illusion of legitimacy by offering “live 24/7” customer service and using indicia of authenticity and security that consumers have come to associate with authorized retailers, including the McAfee® Security, VeriSign®, Visa®, MasterCard®, and PayPal® logos.

18. Plaintiffs have not licensed or authorized Defendants to use the NEON GENESIS EVANGELION Trademarks and none of the Defendants are authorized retailers of genuine NEON GENESIS EVANGELION products.

19. Upon information and belief, Defendants also deceive unknowing consumers by using the NEON GENESIS EVANGELION Trademarks without authorization within the content, text, and/or meta tags of their websites to attract various search engines crawling the Internet looking for websites relevant to consumer searches for NEON GENESIS EVANGELION products. Additionally, upon information and belief, Defendants use other unauthorized search engine optimization (SEO) tactics and social media spamming so that the Defendant Internet Store listings show up at or near the top of relevant search results and misdirect consumers searching for genuine

NEON GENESIS EVANGELION products. Further, Defendants utilize similar illegitimate SEO tactics to propel new domain names to the top of search results after others are shut down.

20. Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their massive network of Defendant Internet Stores. For example, many of Defendants' names and physical addresses used to register the Defendant Online Marketplace Accounts are incomplete, contain randomly typed letters, or fail to include cities or states. Other Online Marketplace Accounts use privacy services that conceal the owners' identity and contact information. Upon information and belief, Defendants regularly create new websites and online marketplace accounts on various platforms using the identities listed in Schedule A to the Complaint, as well as other unknown fictitious names and addresses. Such Defendant Internet Store registration patterns are one of many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their massive counterfeiting operation, and to avoid being shut down.

21. Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. For example, some of the Defendant websites have virtually identical layouts, even though different aliases were used to register the respective online marketplace account names. In addition, the counterfeit NEON GENESIS EVANGELION products for sale in the Defendant Internet Stores bear similarities and indicia of being related to one another, suggesting that the counterfeit NEON GENESIS EVANGELION products were manufactured by and come from a common source and that, upon information and belief, Defendants are interrelated. The Defendant Internet Stores also include other notable common features, including use of the same online marketplace accounts name registration patterns, unique shopping cart platforms, accepted payment methods, check-out methods, meta data, illegitimate SEO tactics, HTML user-defined

variables, domain redirection, lack of contact information, identically or similarly priced items and volume sales discounts, similar hosting services, similar name servers, and the use of the same text and images.

22. In addition to operating under multiple fictitious names, Defendants in this case and defendants in other similar cases against online counterfeiters use a variety of other common tactics to evade enforcement efforts. For example, counterfeiters like Defendants will often register new online marketplace accounts under new aliases once they receive notice of a lawsuit. Counterfeiters also often move website hosting to rogue servers located outside the United States once notice of a lawsuit is received. Rogue servers are notorious for ignoring take down demands sent by brand owners. Counterfeiters also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection. The 2021 study indicated that the Internet has fueled explosive growth in the number of small packages of counterfeit goods shipped through the mail and express carriers. This growth closely correlates to the growth of the ecommerce industry which now make up 15.4% of all retail transactions as reported by the Census Bureau of the U.S. Department of Commerce.

23. Further, counterfeiters such as Defendants typically operate multiple credit card merchant accounts and eBay, PayPal, DHgate, Alibaba, Etsy, Temu and Shopify accounts behind layers of payment gateways so that they can continue operation in spite of Plaintiffs' enforcement efforts. Upon information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their eBay, PayPal, DHgate, Alibaba, Etsy, Temu and Shopify accounts to off-shore bank accounts outside the jurisdiction of this Court. Indeed, analysis of eBay, PayPal, DHgate, Alibaba, Etsy, Temu and Shopify transaction logs from previous similar cases indicates that offshore

counterfeiters regularly move funds from U.S.-based eBay, PayPal, DHgate, Alibaba, Etsy, Temu and Shopify accounts to China-based bank accounts outside the jurisdiction of this Court.

24. Defendants, without any authorization or license from Plaintiffs, have knowingly and willfully used and continue to use the NEON GENESIS EVANGELION Trademarks in connection with the advertisement, distribution, offering for sale, and sale of counterfeit NEON GENESIS EVANGELION products into the United States and Illinois over the Internet. Each Defendant Internet Store offers shipping to the United States, including Illinois and, on information and belief, each Defendant has offered to sell counterfeit NEON GENESIS EVANGELION products into the United States, including Illinois.

25. Defendants' use of the NEON GENESIS EVANGELION Trademarks in connection with the advertising, distribution, offering for sale, and sale of counterfeit NEON GENESIS EVANGELION products, including the sale of counterfeit NEON GENESIS EVANGELION products into Illinois, is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Plaintiffs.

COUNT I
TRADEMARK INFRINGEMENT AND COUNTERFEITING (15 U.S.C. § 1114)

26. Plaintiffs repeat and incorporate by reference herein their allegations contained in paragraphs 1-25 of this Complaint.

27. This is a trademark infringement action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the registered NEON GENESIS EVANGELION Trademarks in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The NEON GENESIS EVANGELION Trademarks are highly distinctive. Consumers have come to expect the highest quality from Plaintiffs' products provided under the NEON GENESIS EVANGELION Trademarks.

28. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and advertising products in connection with the NEON GENESIS EVANGELION Trademarks without Plaintiffs' permission.

29. Plaintiffs are the owner and exclusive licensee of the NEON GENESIS EVANGELION Trademarks. Plaintiffs' United States Registrations for the NEON GENESIS EVANGELION Trademarks (**Exhibit 1**) are in full force and effect. Upon information and belief, Defendants have knowledge of Plaintiffs' rights in the NEON GENESIS EVANGELION Trademarks and are willfully infringing and intentionally using counterfeits of the NEON GENESIS EVANGELION Trademarks. Defendants' willful, intentional and unauthorized use of the NEON GENESIS EVANGELION Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the counterfeit goods among the general public.

30. Defendants' activities constitute willful trademark infringement and counterfeiting under Section 32 of the Lanham Act, 15 U.S.C. §§ 1114, 1117.

31. The injuries and damages sustained by Plaintiffs have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of counterfeit NEON GENESIS EVANGELION Products.

32. Plaintiffs have no adequate remedy at law, and if Defendants' actions are not enjoined, Plaintiffs will continue to suffer irreparable harm to their reputation and the goodwill of their well-known NEON GENESIS EVANGELION Trademarks.

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

33. Plaintiffs repeat and incorporate by reference herein the allegations contained in paragraphs 1-32 of this Complaint.

34. Defendants' promotion, marketing, offering for sale, and sale of counterfeit NEON GENESIS EVANGELION Products created and is creating a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with Plaintiffs or the origin, sponsorship, or approval of Defendants' counterfeit NEON GENESIS EVANGELION Products by Plaintiffs.

35. By using the NEON GENESIS EVANGELION Trademarks in connection with the sale of counterfeit NEON GENESIS EVANGELION Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the counterfeit NEON GENESIS EVANGELION Products.

36. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the counterfeit NEON GENESIS EVANGELION Products to the general public is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

37. Plaintiffs have no adequate remedy at law and, if Defendants' actions are not enjoined, Plaintiffs will continue to suffer irreparable harm to its reputation and the goodwill of its brand.

COUNT III
VIOLATION OF ILLINOIS UNIFORM DECEPTIVE TRADE PRACTICES ACT
(815CS § 510/1, et seq.)

38. Plaintiffs repeat and incorporate by reference herein the allegations contained in paragraphs 1-37 of this Complaint.

39. Defendants have engaged in acts violating Illinois law including, but not limited to, passing off their counterfeit NEON GENESIS EVANGELION products as those of Plaintiffs, causing a likelihood of confusion and/or misunderstanding as to the source of their goods, causing a likelihood of confusion and/or misunderstanding as to an affiliation, connection, or association

with genuine NEON GENESIS EVANGELION products, representing that their products have Plaintiffs' approval when they do not, and engaging in other conduct which creates a likelihood of confusion or misunderstanding among the public.

40. The foregoing Defendants' acts constitute a willful violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510/1, et seq.

41. Plaintiffs have no adequate remedy at law, and Defendants' conduct has caused Plaintiffs to suffer damage to their reputation and goodwill. Unless enjoined by the Court, Plaintiffs will suffer future irreparable harm as a direct result of Defendants' unlawful activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 1) That Defendants, their affiliates, officers, agents, 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. using the NEON GENESIS EVANGELION Trademarks or any reproductions, counterfeit copies, or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine NEON GENESIS EVANGELION product or is not authorized by Plaintiffs to be sold in connection with the NEON GENESIS EVANGELION Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine NEON GENESIS EVANGELION product or any other product produced by Plaintiffs that is not Plaintiffs' or not produced under the authorization, control, or supervision of Plaintiffs and approved by Plaintiffs for sale under the NEON

GENESIS EVANGELION Trademarks;

- c. committing any acts calculated to cause consumers to believe that Defendants' counterfeit NEON GENESIS EVANGELION Products are those sold under the authorization, control, or supervision of Plaintiffs, or are sponsored by, approved by, or otherwise connected with Plaintiffs;
- d. further infringing the NEON GENESIS EVANGELION Trademarks and damaging Plaintiffs' goodwill;
- e. otherwise competing unfairly with Plaintiffs in any manner;
- f. 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 Plaintiffs, nor authorized by Plaintiffs to be sold or offered for sale, and which bear any Plaintiffs' trademarks, including the NEON GENESIS EVANGELION Trademarks, or any reproductions, counterfeit copies, or colorable imitations thereof; and
- g. using, linking to, transferring, selling, exercising control over, or otherwise owning the Defendant Internet Stores, or any other online marketplace account that is being used to sell or is the means by which Defendants could continue to sell counterfeit NEON GENESIS EVANGELION Products.

2) That Defendants, within fourteen (14) days after service of judgment with notice of entry thereof upon them, be required to file with the Court and serve upon Plaintiffs a written report under oath setting forth in detail the manner and form in which Defendants have complied with paragraph 1, a through g, above;

3) Entry of an Order that, upon Plaintiffs' request, those in privity with Defendants and

those with notice of the injunction, including any online marketplaces, social media platforms, Facebook, YouTube, LinkedIn, Twitter, internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Internet Stores, and online marketplace account registrars, shall:

- a. disable and cease providing services for any accounts through which Defendants engage in the sale of counterfeit NEON GENESIS EVANGELION Products using the NEON GENESIS EVANGELION Trademarks, including any accounts associated with the Defendants listed on Schedule A;
- b. disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit NEON GENESIS EVANGELION Products using the NEON GENESIS EVANGELION Trademarks; and
- c. take all steps necessary to prevent links to the Defendant Internet Stores identified on Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Internet Stores from any search index;

4) That Defendants account for and pay to Plaintiffs all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of the NEON GENESIS EVANGELION Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;

5) In the alternative, that Plaintiffs be awarded statutory damages pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every use of the NEON GENESIS EVANGELION Trademarks;

- 6) That Plaintiffs be awarded their reasonable attorneys' fees and costs;

7) Award any and all other relief that this Court deems just and proper.

Respectfully submitted,

Dated: January 24, 2025

By: s/Michael A. Hierl
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KHARA INC. and
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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the foregoing Complaint was filed electronically with the Clerk of the Court and served on all counsel of record and interested parties via the CM/ECF system on January 24, 2025.

s/Michael A. Hierl