

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

DIKE INTERNATIONAL CO., LIMITED,

Plaintiff,

v.

**THE PARTNERSHIPS and
UNINCOPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”**

Defendants.

Civil Action No. 6:24-cv-394

COMPLAINT

Plaintiff Dike International Co., Limited, (“Plaintiff” or “Dike”) hereby brings the present action against the Partnerships and Unincorporated Associations identified in Schedule A attached hereto (collectively, “Defendants”) for trademark and copyright infringement and alleged as follows:

JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over the trademark claim in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.

2. This Court has original subject matter jurisdiction over the copyright claim pursuant to the Copyright Laws of the United States, 17 U.S.C. § 101 *et seq.*, 28 U.S.C. § 1338(a)–(b), and 28 U.S.C. § 1331.

3. This Court may properly exercise personal jurisdiction over Defendants since each of the Defendants directly targets business activities toward consumers in the United States, including Texas, through at least the fully interactive, commercial Internet stores operating under

the Online Marketplace Accounts identified in Schedule A attached hereto (collectively, the “Defendant Internet Stores”). Specifically, Defendants are reaching out to do business with Texas residents by operating one or more commercial, interactive Defendant Internet Stores through which Texas residents can purchase products featuring Plaintiff’s designs. Each of the Defendants has targeted sales from Texas residents by operating online stores that offer shipping to the United States, including Texas, accept payment in U.S. dollars and, on information and belief, has sold products featuring Plaintiff’s designs to residents of Texas. Each of the Defendants is committing tortious acts in Texas, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Texas.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(c)(3) because Defendants are foreign entities residing in China and have committed acts of trademark and copyright infringement in this judicial district, do substantial business in the judicial district.

INTRODUCTION

5. This action has been filed by Plaintiff to combat online infringers who trade upon Plaintiff’s reputation and goodwill by selling and/or offering for sale unauthorized and unlicensed products, shown in **Exhibit 1**, that infringe Plaintiff’s trademark and/or copyrights (the “Infringing Products”). The Defendants create the Defendant Internet Stores and design them to appear to be selling genuine products, while actually selling Infringing Products to unknowing consumers. Defendants attempt to avoid liability by going to great lengths to conceal both their identities and the full scope and interworking of their operation. The Defendant Internet Stores share unique identifiers, such as design elements and similarities of the infringing 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.

6. Plaintiff is forced to file this action to combat Defendants' infringement of Plaintiff's trademark and copyright rights. Plaintiff has been and continues to be irreparably damaged through loss of ability to license, loss of future sales, and loss of control over the creative content of the valuable copyrights, the quality of products sold in connection with Plaintiff's copyrighted material, ability to license these products, and damage to Plaintiff's reputation and good will as a result of Defendants' actions and seeks injunctive and monetary relief. Plaintiff has been further and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademark and copyright as a result of Defendants' actions and seek injunctive and monetary relief.

THE PARTIES

Plaintiff Dike International Co., Limited

7. Plaintiff is a Hong Kong corporation. Plaintiff is the rightful owner by assignment of the attached U.S. registered trademark, true and correct copy of which is attached hereto as **Exhibit 2** (the "Trademark").

8. Plaintiff is also the rightful owner by assignment, i.e., work for hire, of all rights of the artworks attached hereto as **Exhibit 3** (the "Artworks").

9. Plaintiff sells creative products that practicing its Artworks via its online platforms such as its <https://oasisdream.shop/> platform, under its Trademark, since at least 2020. Plaintiff has established its products as the first to market and has an established reputation and quality reviews. Its uniquely Artworks have been highly welcomed by the market as of the date of the filing of the Complaint.

10. As a result, in 2023 alone, Plaintiff's sales revenue was approximately \$150,000 U.S. dollars.

11. Plaintiff has not granted a license or any other form of permission to Defendants with respect to the Trademark and Copyright.

The Defendants

12. Defendants are individuals and business entities who, upon information and belief, reside in the People's Republic of China. Defendants conduct business throughout the United States, including within the State of Texas and this Judicial District, through the operation of the fully interactive, commercial online marketplaces operating under the Defendant Internet Stores. Each Defendant targets the United States, including Texas, and has offered to sell, ready to ship, and, on information and belief, has sold and continues to sell Infringing Products to consumers within the United States, including the State of Texas.

13. On information and belief, Defendants are an interrelated group of infringers working in active concert to knowingly and willfully make, use, offer for sale, sell, and/or import into the United States for subsequent sale or use products that infringe directly and/or indirectly the Trademark and Artworks in the same transaction, occurrence, or series of transactions or occurrences. Tactics used by Defendants to conceal their identities and the full scope of their operation make it virtually impossible for Plaintiff to learn Defendants' true identities and the exact interworking of their network. In the event that Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

14. Plaintiff has not licensed or authorized Defendants to use the Artworks, and none of the Defendants are authorized retailers of Plaintiff's Products.

15. Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their network of Defendant Internet Stores. On information and belief, Defendants regularly create new online marketplace accounts on

various platforms, 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 operation, and to avoid being shut down.

16. Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. The Defendant Internet Stores include notable common features beyond selling the same or substantially similar infringing products, including the same product images, lack of reliable contact information, and the use of the same or substantially similar text, images, product descriptions, some even including content copied from Plaintiff's original product listings.

17. In addition to operating under multiple fictitious names, Defendants in this case and defendants in other similar cases against online infringers use a variety of other common tactics to evade enforcement efforts. For example, infringers like Defendants will often register new online marketplace accounts under new aliases once they receive notice of a lawsuit. Infringers also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection.

18. Further, infringers such as Defendants typically operate multiple credit card merchant accounts behind layers of payment gateways so that they can continue operation in spite of Plaintiff's enforcement efforts, such as take down notices. On information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their online marketplace accounts or other financial accounts to off-shore bank accounts outside the jurisdiction of this Court. Indeed, analysis of transaction histories from previous similar cases

indicates that offshore infringers regularly move funds from U.S.-based accounts to China-based bank accounts outside the jurisdiction of this Court.

19. Defendants, without any authorization or license from Plaintiff, have knowingly and willfully offered for sale, sold, and/or imported into the United States for subsequent resale or use products that infringe directly and/or indirectly the Trademark and Artworks, and continue to do so via the Defendant Internet Stores. Each Defendant Internet Store offers shipping to the United States, including Texas, and, on information and belief, each Defendant has sold Infringing Products into the United States, including Texas.

20. Defendants' infringement of the Trademark and Artworks in the offering to sell, selling, or importing of the Infringing Products was willful.

21. Defendants' infringement of the Trademark and Artworks in connection with the offering to sell, selling, or importing of the Infringing Products, including the offering for sale and sale of Infringing Products into Texas, is likely to cause and has caused confusion, mistake and deception by and among consumers and is irreparably harming Plaintiff.

COUNT I
TRADEMARK INFRINGEMENT AND COUNTERFEITING (15 U.S.C. § 1114)
[Against Defendants Nos. 1, 15, 18, 22 and 23]

22. Plaintiff repeats and incorporates by reference herein its allegations contained in the above paragraphs of this Complaint.

23. Plaintiff is the exclusive owner of the Trademark. The Registration for the Trademark is in full force and effect.

24. The marks used by Defendants Nos. 1, 15, 18, 22 and 23 in their promotion, advertising, marketing, offers for sale, and sale of the Infringing Products are identical with, or substantially indistinguishable from, the registered Trademark.

25. Upon information and belief, Defendants Nos. 1, 15, 18, 22 and 23 have knowledge of Plaintiff's rights in the Trademark, and is willfully infringing and intentionally using the Trademark. Defendants Nos. 1, 15, 18, 22 and 23's willful, intentional and unauthorized use of the Trademark is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of its infringing product(s) among the general public.

26. Defendants Nos. 1, 15, 18, 22 and 23's activities constitute willful trademark infringement and counterfeiting under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

27. Plaintiff has no adequate remedy at law, and if Defendants Nos. 1, 15, 18, 22 and 23's actions are not enjoined, Plaintiff will continue to suffer irreparable harm to its reputation and the goodwill of the Trademark.

COUNT II

FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(A))

[Against Defendants Nos. 1, 15, 18, 22 and 23]

28. Plaintiff repeats and incorporates by reference herein its allegations contained in the above paragraphs of this Complaint.

29. Defendants Nos. 1, 15, 18, 22 and 23's promotion, marketing, offering for sale, and sale of Infringing Products has created and is creating a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with Plaintiff or the origin, sponsorship, or approval of Defendants Nos. 1, 15, 18, 22 and 23's Infringing Products by Plaintiff.

30. By using the Trademark on the Infringing Products, Defendants Nos. 1, 15, 18, 22 and 23 create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Infringing Products.

31. Defendants Nos. 1, 15, 18, 22 and 23's false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Infringing Products to the general public involves the use of Plaintiff's Trademark while falsely claiming a registered mark of this own is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

32. Plaintiff has no adequate remedy at law and, if Defendants Nos. 1, 15, 18, 22 and 23's actions are not enjoined, Plaintiff will continue to suffer irreparable harm to their reputations and the goodwill of Plaintiff's brand.

COUNT III
COPYRIGHT INFRINGEMENT (17 U.S.C. § 101, et seq.)
[Against Defendants Designated in Schedule A]

33. Plaintiff repeats and incorporates by reference herein its allegations contained in the above paragraphs of this Complaint.

34. Plaintiff owns all exclusive rights in the Copyrights as provided by 17 U.S.C. §§ 106 through 122, including without limitation the rights to reproduce the Copyrights in copies, to prepare derivative works based upon the Copyrights, and to distribute copies of the Copyrights to the public by sale or other transfer of ownership, or by rental, lease, or lending.

35. Defendants have violated these exclusive rights by reproducing and distributing copies of the Artworks to the public by sale and/or preparing derivate works based upon the Artworks. For example, Defendants are reproducing, selling, offering to sell, marketing, distributing, and advertising copies and/or derivate works of the Artworks without Plaintiff's permission.

36. Defendants had access to Plaintiff's Artworks as Plaintiff published its Artworks on its online platform and used on its products, before Defendants created their Defendant Internet Stores.

37. Upon information and belief, Defendants have directly copied Plaintiff's Artworks. Alternatively, Defendants' representations of Plaintiff's Artworks in the Defendant Internet Stores are substantial similar, if not identical, to Plaintiff's Artworks and constitute unauthorized copying, reproduction, distribution, creation of a derivative work, and/or public display of Plaintiff's Artworks.

38. Plaintiff has seen significant declines in the sales of its actual products which corresponds with the increased proliferation of cheap knockoffs that have flooded the market. Further, consumers have often been misled into believing that they were buying Plaintiff authorized products only to discover that, in fact, they were receiving inferior imitations.

39. Defendants have infringed Plaintiff's copyright rights over the Artworks through the aforesaid acts and will continue to do so unless enjoined by this Court. Defendants' wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful copyright rights to exclude others from copying, reproduction, distribution, creation of a derivative work, and/or public display of Plaintiff's Artworks.

40. On information and belief, Defendants' infringing acts were willful, deliberate, and committed with prior notice and knowledge of Plaintiff's Artworks. Each Defendant either knew or should have reasonably known Plaintiff's Artworks and their representations infringed on Plaintiff's Artworks. Each Defendant continues to infringe upon Plaintiff's rights in and to the Artworks.

41. As a direct and proximate result of their wrongful conduct, Defendants have realized and continue to realize profits and other benefits rightfully belonging to Plaintiffs. Accordingly, Plaintiffs seek an award of damages pursuant to 17 U.S.C. § 504.

42. In addition to Plaintiff's actual damages, Plaintiff is entitled to receive the profits made by the Defendants from their wrongful acts, pursuant to 17 U.S.C. § 504(b). Each Defendant should be required to account for all gains, profits, and advantages derived by each Defendant from their acts of infringement.

43. Plaintiff is entitled to, and may elect to choose, injunctive relief under 17 U.S.C. § 502, enjoining any use or exploitation by Defendants of their infringing work and for an order under 17 U.S.C. § 503 that any of Defendants' infringing products be impounded and destroyed.

44. Plaintiff seeks and is entitled to recover reasonable attorneys' fees and costs of this suit pursuant to 17 U.S.C. § 505.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1) That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under, or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:

- a. using the Trademark or Artworks 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 product or not authorized by Plaintiff to be sold in connection with Plaintiff's Trademark or Artworks;

- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine product or any other product produced by Plaintiff, that is not Plaintiff's or not produced under the authorization, control or supervision of Plaintiff and approved by Plaintiff for sale under Plaintiff's Trademark;
- c. 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
- d. further infringing Plaintiff's Trademark and/or Artworks and damaging Plaintiff'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 Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of Plaintiff's Trademark, Artworks or any reproductions, counterfeit copies or colorable imitations thereof.

2) Plaintiff further requests 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 Plaintiff a written report under oath setting forth in detail the manner and form in which Defendants have complied with paragraph 1, a through e, above.

3) Plaintiff further seeks entry of an order that, upon Plaintiffs request, any third party receiving notice who is providing, or has provided, services to any of the Defendants, or in connection with any of the Defendant Internet Stores, or other aliases operated by Defendants, including, without limitation, any online marketplace platforms, such as Amazon, or third party

payment processors, such as Amazon Pay (collectively and hereinafter ("Third Party Providers")), shall:

- a. disable and cease providing services for any accounts through which Defendants engage in the sale of Infringing Products using the Trademark or Artworks, 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 Infringing Products using the Trademark or Artworks; and
 - c. cooperate in Plaintiffs enforcement of any judgment in Plaintiffs favor as provided by the Court.
- 4) Plaintiff further requests that Defendants Nos. 1, 15, 18, 22 and 23 account for and pay to Plaintiff all profits realized by Defendants Nos. 1, 15, 18, 22 and 23 by reason of Defendants Nos. 1, 15, 18, 22 and 23's unlawful acts herein alleged, and that the amount of damages for infringement of the Trademark be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
- 5) Alternatively, Plaintiff requests an award of statutory damages pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every counterfeit use of the Asserted Trademark.
- 6) Plaintiff further requests that the Court enter judgment in favor of Plaintiff against Defendants that Defendants have: a) willfully infringed Plaintiffs exclusive rights to the Artworks pursuant to 17 U.S.C. §501; and b) otherwise injured the business reputation and business of Plaintiff by Defendants' acts and conduct set forth in this Complaint; and

7) Plaintiff further requests that Defendants account for and pay to Plaintiff actual damages, and/or all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, as may be proper under 17 U.S.C. §504.

8) Plaintiff also seeks an award of its reasonable attorneys' fees and costs.

9) Plaintiff also seeks an award of any and all other relief that this Court deems just and proper.

DATED July 23, 2024.

Respectfully submitted,

By: /s/ Hao Ni

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