

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

BLUE SPRING PARTNERS, LLC,

Plaintiff,

v.

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

Defendants.

Case No.: 24-cv-24197

COMPLAINT

Plaintiff Blue Spring Partners, LLC (“Plaintiff”), by and through undersigned counsel, hereby alleges as follows against the individuals, corporations, limited liability companies, partnerships, and unincorporated associations and foreign entities identified on Schedule A¹ (collectively, “Defendants”):

INTRODUCTION

1. This action has been filed by Plaintiff to combat online counterfeiters who trade upon Plaintiff’s reputation and goodwill by selling and/or offering for sale products in connection with Plaintiff’s FIN FUN trademarks, which are covered by U.S. Trademark Registration Nos. 4,913,258 and 4,949,791 (the “FIN FUN Trademarks”); and copyrights, which are covered by at

¹ Because Plaintiff seeks to seal Schedule A and not the Complaint, Plaintiff intends to file Schedule A, containing the seller name and URL for all Defendants, under seal, upon the Court’s entry of an Order granting leave to do so. *See* Plaintiff’s Motion to Seal, forthcoming. A place holder for Schedule A is attached as **Exhibit 4**.

least U.S. Copyright Office Registration Nos. VAu 1-320-470, VA 2-034-595, VA 2-034-569, VA 2-165-671, VA 2-174-603, VA, 174,604, VA 2-156-990, VA 2-034-596, VAu 1-297-712, VA 2-120-230, VA 2-203-914, VA 2-078-689, VAu 1-354-331, VAu 1-375-826, VA 2-034-589, VA 2-078-690, VA 2-203-910, VAu 1-422-233, VA 2-158-718, VA 2-078-693, VAu 1-362-491, VA 2-203-918, VA 1-361-372, VA 2-095-344, VAu 1-395-674, VA 2-156-991. VA 2-154-671, VAu 1-267-341, VA 2-078-695, VA 2-034-586, VA 2-165-670, VA 2-203-912, VA 2-203-569, VAu 1-422-235, VA 2-203-908, VAu 1-414-473, VA 2-034-584, VAu 1-267-327, VAu 1-267-329, VA 2-165-646, VA 2-034-579, VA 2-034-580, VAu 1-328-899, VAu 1-387-110, VAu 1-311-801, VAu 1-328-896, VAu 1-415-191, VA 2-095-300, VA 2-034-602, VA 2-078-696, VA 2-034-594, VAu 1-297-714, VA 2-034-576, and VA 2-095-296 (the “FIN FUN Copyright Registrations”). The registrations are valid, subsisting, and in full force and effect. A true and correct copy of the federal trademark registration certificates for the FIN FUN Trademarks are attached as **Exhibit 1**. True and correct copies of the federal copyright registration certificates for the FIN FUN Copyrights are attached as **Exhibit 2**.

2. This is also an action for patent infringement to combat e-commerce store operators who trade upon Plaintiff’s reputation and goodwill by making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use, unauthorized and unlicensed products that infringe Plaintiff’s design patents, Patent Nos. D9,162,110 B1 and D979,694 S (the “FIN FUN Patents”). The FIN FUN Patents are valid, subsisting, and in full force and effect. Plaintiff is the owner and lawful assignee of all right, title, and interest in and to the FIN FUN Patents, which were duly and legally issued by the United States Patent and Trademark Office. True and correct copies of the FIN FUN Patents are attached as **Exhibit 3**.

3. Defendants are improperly advertising, marketing, and/or selling unauthorized and

noncompliant products by reference to marks identical or substantially identical to the FIN FUN Trademarks; and/or images that are substantially similar to the FIN FUN Copyrights; and/or that embody the design(s) depicted in the FIN FUN Patents (the “Counterfeit and Infringing Products”).

4. The Defendants have created numerous fully interactive commercial Internet stores operating under the online marketplace accounts (the “Defendant Internet Stores”) and using the account names identified in Schedule A (collectively, the “Defendants”).

5. The Defendants design the online marketplace accounts to appear to be selling Plaintiff’s genuine FIN FUN Products (the “FIN FUN Products”), while selling inferior imitations of such products.

6. The Defendants’ online marketplace accounts also share unique identifiers, such as design elements and similarities of the Counterfeit and 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.

7. 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. Plaintiffs are forced to file this action to combat Defendants’ infringement and counterfeiting of the FIN FUN Trademarks, FIN FUN Copyrights, and FIN FUN Patents, as well as to protect unknowing consumers from purchasing Counterfeit and Infringing Products.

8. As a result of Defendants’ actions, Plaintiff has been and continues to be irreparably damaged from the loss of its exclusivity of its intellectual property rights, as well as by and through consumer confusion, dilution, and tarnishment of its valuable trademarks, and, therefore, seeks injunctive and monetary relief.

9. This Court has personal jurisdiction over each Defendant, in that each Defendant conducts significant business in Florida and in this Judicial District, and the acts and events giving rise to this lawsuit of which each Defendant stands accused were undertaken in Florida and in this Judicial District.

10. In addition, each Defendant has offered to sell and ship and/or sold and shipped Counterfeit and Infringing products into this Judicial District.

SUBJECT MATTER JURISDICTION

11. This Court has original subject matter jurisdiction over the trademark infringement and false designation of origin 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 original subject matter jurisdiction over the copyright claims 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. This Court has original subject matter jurisdiction over the patent infringement claims arising under the patent laws of the United States pursuant to 35 U.S.C. § 1 *et seq.*, 28 U.S.C. § 1338(a), and 28 U.S.C. § 1331.

PERSONAL JURISDICTION AND VENUE

12. Personal jurisdiction exists over Defendants in this Judicial District pursuant to Florida Statutes §§ 48.193(1)(a)(1)–(2) and FRCP § 48.193(1)(a)(6), or in the alternative, Fed. R. Civ. P. 4(k) because, upon information and belief, Defendants regularly conduct, transact, and/or solicit business in Florida and in this Judicial District, and/or derive substantial revenue from business transactions in Florida and in this Judicial District and/or otherwise avail themselves of the privileges and protections of the laws of the State of Florida such that this Court’s assertion of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice,

and/or Defendants' illegal counterfeiting and infringing actions caused injury to Plaintiff in Florida and in this Judicial District such that Defendants should reasonably expect such actions to have consequences in Florida and this judicial District, for example:

a. Upon information and belief, Defendants were and/or are systematically directing and/or targeting their business activities at consumers in the U.S., including those in Florida, in this Judicial District, through accounts with online marketplace platforms such as Alibaba, Aliexpress, Amazon, DHgate, eBay, Shein, Temu, Walmart, and Wish (collectively, the "Marketplace Platforms") as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants, and all persons in active concert or participation with any of them ("User Account(s)"), through which consumers in the U.S., including Florida (and more particularly, in this Judicial District), can view the one or more of Defendants' online marketplace accounts that each Defendant operates ("Defendant Internet Stores"), uses to communicate with Defendants regarding their listings for Counterfeit and Infringing Products (as defined *infra*), and to place orders for, receive invoices for, and purchase Counterfeit and Infringing Products for delivery in the United States, including Florida (and more particularly, in this Judicial District), as a means for establishing regular business with the United States, including Florida (and more particularly, in this Judicial District).

b. Upon information and belief, Defendants have transacted business with consumers located in the United States, including Florida (and more particularly, in this Judicial District), for the sale and shipment of Counterfeit and Infringing Products.

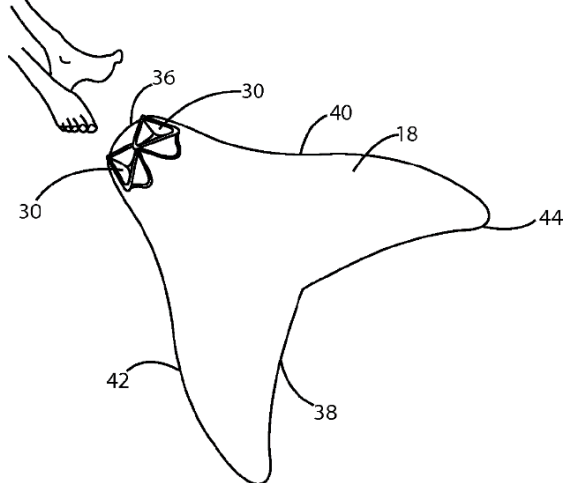
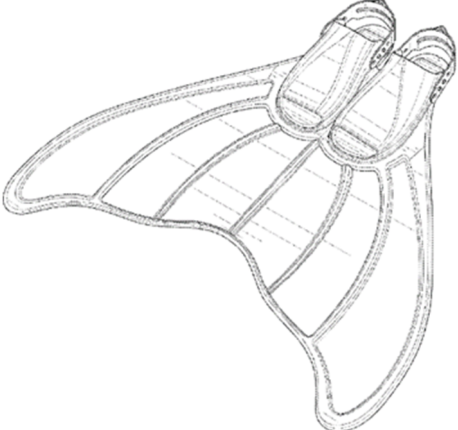
13. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400 because Defendants have committed acts of copyright, trademark, and/or patent infringement in this

Judicial District and do substantial business in the Judicial District.

THE PLAINTIFF

14. Plaintiff Blue Spring Partners, LLC t/as Fin Fun (“Plaintiff”) is a limited liability company organized under the laws of Idaho with offices in Idaho Falls, ID and is the owner of the FIN FUN Trademarks and FIN FUN Copyright Registrations, with its federal registrations attached as Exhibits 1 and 2.

15. Plaintiff is the owner and lawful assignee of all right, title, and interest in and to the FIN FUN Patents, attached as Exhibit 3:

U.S. Patent Number	Claim	Issue Date
D9,162,110 B1		October 20, 2015
D979,694 S		February 28, 2023

16. In September 2010, Plaintiff designed, caused to subsist in material form, and first

published the original FIN FUN product, originally published on eBay, and instantly attracted substantial international media attention and success. Shortly after, in early 2012, Plaintiff began selling the FIN FUN products on its website <https://www.finfunmermaid.com/>, and by 2014 FIN FUN products were also available for purchase on Amazon. In November 2016, Plaintiff began applying for the registrations of the now federally registered FIN FUN Copyright Registrations in respect of the copyrights embodied by the many FIN FUN products (The “FIN FUN Products”). The effective date of the first FIN FUN Copyright Registration is November 2, 2016. Exemplary copies of the FIN FUN Products were deposited with the United States Copyright Office and remain available for inspection there.

17. From September 2010 to the present, Plaintiff has been the official course of genuine FIN FUN products in the United States, which include the following:



Tidal Teal Mermaid Tail

SKU: TLX-TT

★★★★★ 175 Reviews [Add Your Review](#)

- Mermaid Tail Skin Only
- Mermaid Tail Skin + Swim Monofin
[What is a Swim Monofin?](#)

\$39.95

All prices in USD

Size:

[Size Chart](#)

YOUTH

ADULT



Viridian Calypso Elite Mermaid Tail

SKU: TLE3-VIR

[Be the first to review this product](#)

- Mermaid Tail Skin Only
- Mermaid Tail Skin + **Elite Monofin**

[Why choose the Elite Monofin?](#)

\$350.00

All prices in USD

Size: [Size Chart](#)

ADULT

- XS
- S
- M
- L
- XL
- 2XL

Add to Cart



Riptide Atlantis Mermaid Tail

SKU: TLA-RIP

★★★★★ 3 Reviews [Add Your Review](#)

- Mermaid Tail Skin Only
- Mermaid Tail Skin + **Swim Monofin**

[What is a Swim Monofin?](#)

~~\$64.95~~

\$54.95

All prices in USD

Size: [Size Chart](#)

YOUTH

- 06
- 08
- 10
- 12

ADULT

Cuddle Tails Mermaid Tail Blanket in Aqua Dream

SKU: CT-M3AD

★★★★★ 3 Reviews [Add Your Review](#)

\$34.95

All prices in USD

Size:

- Kids
- Large

Add to Cart

FREE SHIPPING On all orders \$100 or more. Continental U.S. Only





Blue Trim Monofin

SKU: MF-05

★★★★★ 60 Reviews [Add Your Review](#)

\$39.95

All prices in USD

Size:

[Size Chart](#)

JR PRO

Add to Cart

FREE SHIPPING 
On all orders \$100 or more.
Continental U.S. Only

Oasis Elite Monofin

SKU: MF-ED1-OAS-M

★★★★★ 4 Reviews [Add Your Review](#)

~~\$125.00~~

\$99.95

Add to Cart

For use ONLY with Elite Mermaid Tails. Not compatible with other Fin Fun mermaid tails.

Please note that Elite Monofins take 2-3 weeks to ship.

Elite Monofin and Tails are excluded from Free Shipping promotions.

Upgrade your mermaid experience to Elite with the Oasis Elite Monofin that's specially crafted for the Elite mermaid tail.



18. Since at least 2015, the FIN FUN Trademarks are and have been the subject of substantial and continuous marketing and promotion by Plaintiff. Plaintiff has and continues to widely market and promote the FIN FUN Trademarks in the industry and to consumers. Plaintiff's promotional efforts include – by way of example but not limitation – substantial print media, the FIN FUN Products' website and social media sites, and point of sale materials.

19. The FIN FUN Trademarks are distinctive and identify the merchandise as goods from Plaintiff. The FIN FUN Trademarks are valid and subsisting and in full force and effect and constitute conclusive evidence of Plaintiff's exclusive right to use the FIN FUN Trademarks throughout the United States pursuant to 15 U.S.C. § 1057(b).

20. The FIN FUN Trademarks each qualify as a famous mark, as that term is used in 15 U.S.C. §1125 (c)(1), and have been continuously used and never abandoned.

21. Plaintiff has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting the FIN FUN Products. As a result, products bearing the name and mark “FIN FUN” are widely recognized and exclusively associated by consumers, the public, and the trade as being products sourced from Plaintiff.

22. Plaintiff also owns all exclusive rights, including without limitation, the rights to reproduce the copyrighted works in copies, to prepare derivative works based upon the copyrighted works, and to distribute copies of the copyrighted works to the public by sale or other transfer of ownership, or by rental, lease, or lending, in various copyrights for the FIN FUN Products as the owner of the FIN FUN copyrights, including without limitation copyrights covered by the FIN FUN Copyright Registrations, as set out above.

23. Plaintiff is the owner and lawful assignee of all right, title, and interest in and to the FIN FUN Patents (attached as Exhibit 3).

24. The FIN FUN Products in many instances embody at least a portion of the design depicted in the FIN FUN Patents.

THE DEFENDANTS

25. Defendants are individuals and business entities who, upon information and belief, reside mainly in the People’s Republic of China or other foreign jurisdictions.

26. Defendants are merchants on online e-commerce platforms, including the Marketplace Platforms.

THE DEFENDANTS’ UNLAWFUL CONDUCT

27. The success of the FIN FUN Products has resulted in significant counterfeiting.

28. Plaintiff has identified numerous domain names linked to fully interactive websites and marketplace listings on platforms such as Alibaba, Aliexpress, Amazon, DHgate, eBay, Shein, Temu, Walmart, and Wish, including the Defendant Internet Stores, which were offering for sale, selling, and importing counterfeit FIN FUN Products to consumers in this Judicial District and throughout the United States.

29. Defendants have persisted in creating such online marketplaces and internet stores, like the Defendant Internet Stores. In fact, such online marketplaces and 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 the United States Department of Homeland Security, the manufacturer's suggested retail price of goods seized by the U.S. government in fiscal year 2021 was over \$3.3 billion. Internet websites like the Defendant Internet Stores are also estimated to contribute to tens of thousands of lost jobs for legitimate businesses and broader economic damages such as lost tax revenue every year.

30. On personal knowledge 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 FIN FUN Products.

31. Many of the Defendant Internet Stores look sophisticated and accept payment in U.S. dollars via credit cards, Western Union, and PayPal. 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.

32. 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.

33. Plaintiff has not licensed or authorized Defendants to use the FIN FUN Trademarks, FIN FUN Copyrights, or FIN FUN Patents, and none of the Defendants are authorized retailers of genuine FIN FUN Products.

34. On personal knowledge and belief, Defendants deceive unknowing consumers by using the FIN FUN Trademarks, FIN FUN Copyrights, and/or FIN FUN Patents without authorization within the product descriptions of their Defendant Internet Stores to attract customers, as well as embodied by the Counterfeit and Infringing Products themselves.

35. On personal knowledge and belief, Defendants also deceive unknowing consumers by using the FIN FUN 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 FIN FUN Products. Additionally, upon information and belief, Defendants use other unauthorized search engine optimization (“SEO”) tactics and social media spamming so that the Defendant Internet Stores listings show up at or near the top of relevant search results and misdirect consumers searching for genuine FIN FUN Products. Further, Defendants utilize similar illegitimate SEO tactics to propel new domain names to the top of search results after others are shut down. As such, Plaintiff also seeks to disable Defendant Internet Stores owned by Defendants that are the means by which the Defendants could continue to sell counterfeit FIN FUN Products into this District.

36. On information and belief, 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.

37. For example, it is common practice for counterfeiters to register their domain names and/or User Accounts with incomplete information, randomly typed letters, or omitted cities or states.

38. And many Defendant Internet Stores use privacy services that conceal the owners' identity and contact information. On personal knowledge and belief, Defendants regularly create new websites and online marketplace accounts on various platforms using the identities listed in Schedule A, as well as other unknown fictitious names and addresses.

39. On personal knowledge and belief, even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. For example, some of the Defendant marketplace websites have virtually identical layouts, even though different aliases were used to register the respective domain names.

40. In addition, the Counterfeit and Infringing Products for sale in the Defendant Internet Stores bear similarities and indicia of being related to one another, suggesting that the Counterfeit and Infringing Products were manufactured by and come from a common source and that, upon information and belief, Defendants are interrelated.

41. The Defendant Internet Stores also include other notable common features, including 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.

42. In addition, 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

User Accounts once they receive notice of a lawsuit.²

43. 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.³

44. Counterfeiters also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection. A 2012 U.S. Customs and Border Protection report on seizure statistics indicated that the Internet has fueled “explosive growth” in the number of small packages of counterfeit goods shipped through the mail and express carriers.

45. Further, counterfeiters such as Defendants typically operate multiple credit card merchant accounts and PayPal accounts behind layers of payment gateways so that they can continue operation in spite of Plaintiffs’ enforcement efforts.

46. On personal knowledge and belief, Defendants maintain off-shore bank accounts and regularly move funds from their PayPal accounts to off-shore bank accounts outside the jurisdiction of this Court. Indeed, analysis of PayPal transaction logs from previous similar cases indicates that offshore counterfeiters regularly move funds from U.S.-based PayPal accounts to foreign-based bank accounts outside the jurisdiction of this Court.

47. Defendants, without any authorization or license from Plaintiff, have knowingly and willfully used and continue to use the FIN FUN Trademarks, FIN FUN Copyrights, and FIN FUN Patents in connection with the advertisement, distribution, offering for sale, sale, and import

² <https://www.ice.gov/news/releases/buyers-beware-ice-hsi-and-cbp-boston-warn-consumers-about-counterfeit-goods-during> (noting counterfeiters are adept at “setting up online stores to lure the public into thinking they are purchasing legitimate good on legitimate websites”).

³ While discussed in the context of false pharma supply chains, rogue internet servers and sellers are a well-known tactic that have even been covered in congressional committee hearings. <https://www.govinfo.gov/content/pkg/CHRG-113hrg88828/html/CHRG-113hrg88828.htm>.

of Counterfeit and Infringing Products into the United States and Florida over the Internet.

48. Each Defendant Internet Store offers shipping to the United States, including Florida (in this Judicial District) and, on information and belief, each Defendant has offered to sell counterfeit FIN FUN Products into the United States, including Florida (in this Judicial District), which is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Plaintiff.

FIRST CAUSE OF ACTION
TRADEMARK INFRINGEMENT AND COUNTERFEITING (15 U.S.C. § 1114)

49. Plaintiff repeats and incorporates by reference herein its allegations contained in paragraphs 1–48 of this Complaint.

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

51. 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 FIN FUN Trademarks without Plaintiff's permission.

52. Plaintiff is the registered owner of the FIN FUN Trademarks and official source of FIN FUN Products. The United States Registrations for the FIN FUN Trademarks (Exhibit 1) are in full force and effect. Upon information and belief, Defendants have knowledge of Plaintiff's rights in the FIN FUN Trademarks and are willfully infringing and intentionally using counterfeits of the FIN FUN Trademarks. Defendants' willful, intentional, and unauthorized use of the FIN FUN 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. As just one example, Defendants deceive unknowing consumers by using the FIN FUN Trademarks without authorization within the product descriptions of their Defendant Online Store to attract customers as follows:



Exemplary Picture of FIN FUN Trademark Reg. No. 4,913,258 compared to



Mark Used in Listing for Counterfeit FIN FUN Product sold on Defendant Online Store

53. Defendants' activities constitute willful trademark infringement and counterfeiting under 15 U.S.C. §§ 1114, 1117.

54. The injuries and damages sustained by Plaintiff have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of counterfeit FIN FUN Products.

55. 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 FIN FUN Trademarks.

SECOND CAUSE OF ACTION
FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

56. Plaintiff repeats and incorporates by reference herein its allegations contained in paragraphs 1–55 of this Complaint.

57. Defendants’ promotion, marketing, offering for sale, and sale of counterfeit FIN FUN 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’ counterfeit FIN FUN Products by Plaintiff.

58. By using the FIN FUN Trademarks in connection with the sale of counterfeit FIN FUN Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the counterfeit FIN FUN Products.

59. Defendants’ conduct constitutes willful false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the counterfeit FIN FUN Products to the general public under 15 U.S.C. §§ 1114, 1125.

60. 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 brand.

THIRD CAUSE OF ACTION
COPYRIGHT INFRINGEMENT (17 U.S.C. § 101, et seq.)

61. Plaintiff repeats and incorporate by reference herein its allegations contained in paragraphs 1–60 of this Complaint.

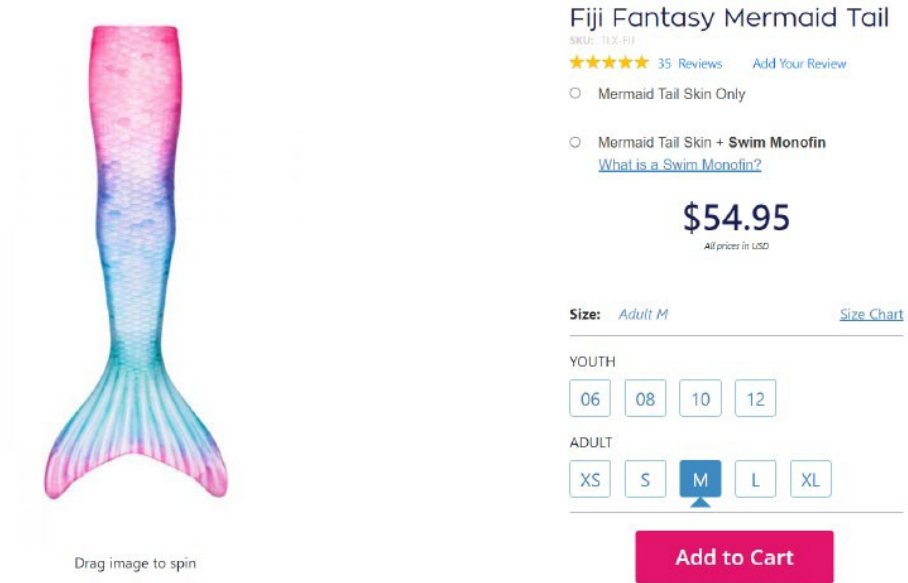
62. Plaintiff owns all exclusive rights, including without limitation the rights to

reproduce the copyrighted work in copies, to prepare derivative works based upon the copyrighted work, and to distribute copies of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending, in various copyrights for the FIN FUN Products, including without limitation copyrights covered by the FIN FUN Copyrights.

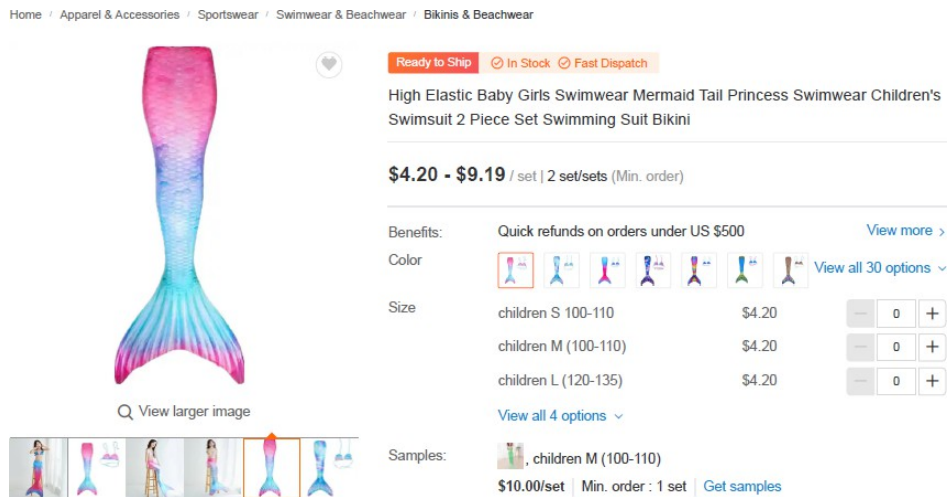
63. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and advertising products in connection with the FIN FUN Copyrights without Plaintiff's permission.

64. Defendants had access to the FIN FUN Products displaying and/or embodying Plaintiff's registered copyrights before Defendants created their Defendant Internet Stores.

65. Upon information and belief, Defendants have directly copied Plaintiff's FIN FUN Copyrights for the FIN FUN Products. Alternatively, Defendants' representations of Plaintiff's FIN FUN Copyrights for the FIN FUN Products in the Defendant Internet Stores are strikingly similar, or at the very least substantially similar, to Plaintiff's FIN FUN Copyrights for the FIN FUN Products and constitute unauthorized copying, reproduction, distribution, creation of a derivative work, and/or public display of Plaintiff's FIN FUN Copyrights for the FIN FUN Products. As just one example, Defendants deceive unknowing consumers by using the FIN FUN Copyrights without authorization within the product descriptions of their Defendant Online Store to attract customers as follows:



Genuine FIN FUN Product the subject of the federally registered FIN FUN Copyright Registrations (see “Fiji Fantasy,” VA 2-158-718) compared to



Counterfeit FIN FUN Product sold on exemplary Defendant Online Store

66. Defendants’ exploitation of Plaintiff’s FIN FUN Copyrights for the FIN FUN Products in the Defendant Internet Stores constitutes infringement of Plaintiff’s FIN FUN Copyrights for the FIN FUN Products.

67. On information and belief, Defendants’ infringing acts were willful, deliberate, and committed with prior notice and knowledge of Plaintiff’s FIN FUN Copyrights. Each Defendant

willfully, wantonly, and in conscious disregard and intentional indifference to the rights of Plaintiff made and distributed in the United States, including this District, caused to be made and distributed in the United States, including this District, and aided, abetted, contributed to, and participated in the unauthorized making and distribution of Counterfeit and Infringing Products.

68. Each Defendant either knew, or should have reasonably known, that Plaintiff's FIN FUN Products were protected by copyright and their representations infringed on Plaintiff's FIN FUN Copyrights. Each Defendant continues to infringe upon Plaintiff's rights in and to the copyrighted work.

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

70. 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.

71. In the alternative, Plaintiff is entitled to, and may elect to choose, statutory damages pursuant to 17 U.S.C. § 504(c), which should be enhanced by 17 U.S.C. § 504(c)(2) because of Defendants' willful copyright infringement.

72. 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.

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

74. 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 FIN FUN Copyrights.

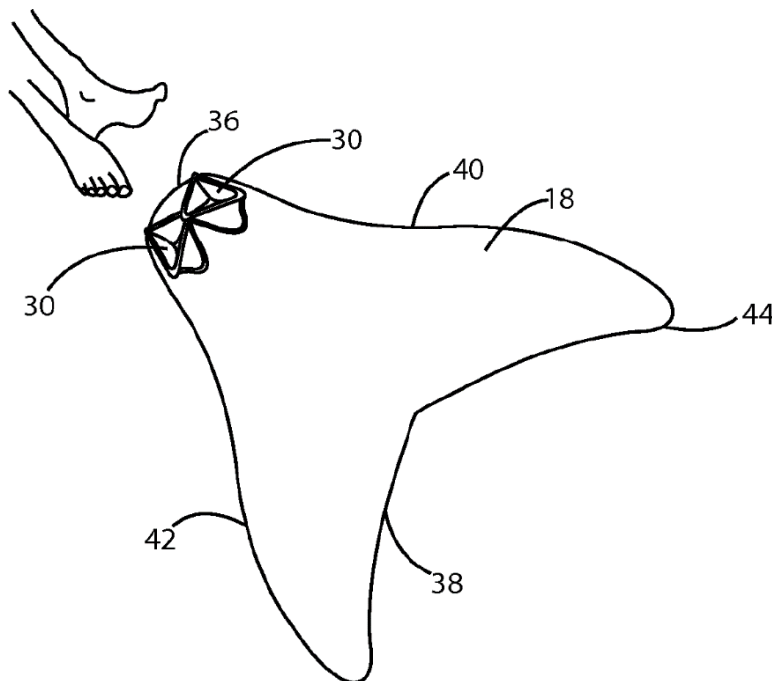
FOURTH CAUSE OF ACTION
DESIGN PATENT INFRINGEMENT (35 U.S.C. § 271)

75. Plaintiff repeats and incorporates by reference herein its allegations contained in paragraphs 1–74 of this Complaint.

76. Defendants are and have been making, using, selling, offering for sale, and/or importing into the United States for subsequent sale or use, without authority, Counterfeit and Infringing Products that infringe directly and/or indirectly the FIN FUN Patents.

77. For example, below is a comparison of figures from Plaintiff's FIN FUN Patents and images of one of Defendants' Counterfeit and Infringing Products sold on a Defendant Internet Store.

Figures from the FIN FUN Patents



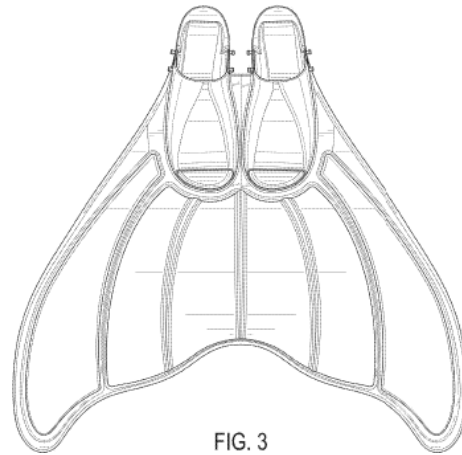


FIG. 3

Exemplary Counterfeit and Infringing Products Sold on Defendant Internet Store



78. Defendants' activities constitute willful patent infringement under 35 U.S.C. § 271.

79. Defendants have infringed the FIN FUN Patents 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 patent rights to exclude others from making, using, selling, offering for sale, and importing the patented invention.

80. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

81. Plaintiff is entitled to recover damages adequate to compensate for the infringement pursuant to 35 U.S.C. §§ 284, 289, including Defendants' profits.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants and each of them 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 FIN FUN Trademarks or FIN FUN Copyrights 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 FIN FUN DESIGN product or is not authorized by Plaintiff to be sold in connection with the FIN FUN Trademarks or FIN FUN Copyrights;

b. passing off, inducing, or enabling others to sell or pass off any product as a genuine FIN FUN 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 the FIN FUN Trademarks or FIN FUN Copyrights;

c. committing any acts calculated to cause consumers to believe that Defendants' counterfeit FIN FUN Products are those sold under the authorization, control, or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;

d. further infringing the FIN FUN Trademarks or FIN FUN Copyrights and damaging Plaintiff's goodwill;

e. 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 Plaintiff trademark or copy any Plaintiff copyright, including the FIN FUN Trademarks or FIN FUN Copyrights or any reproductions, counterfeit copies, or colorable imitations thereof;

f. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, the Defendant Internet Stores, or any other domain name or Online Marketplace Account that is being used to sell or is the means by which Defendants could continue to sell counterfeit FIN FUN Products; and

g. operating and/or hosting websites at the Defendant Internet Stores that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing the FIN FUN Trademarks or FIN FUN Copyrights or any reproduction, counterfeit copy, or colorable imitation thereof that is not a genuine FIN FUN Product or not authorized by Plaintiff to be sold in connection with the FIN FUN Trademarks or FIN FUN Copyrights.

2. 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. making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use any products not authorized by Plaintiff and that include any reproduction, embodiment, copy, or colorable imitation of the designs claimed in the FIN FUN Patents;

b. passing off, inducing, or enabling others to sell or pass off any product as a genuine FIN FUN 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 the FIN FUN Patents;

c. further infringing the FIN FUN Patents and damaging Plaintiff's goodwill;

d. aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon the FIN FUN Patents;

e. 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 infringe the FIN FUN Patents; and

f. operating and/or hosting online marketplace accounts at the Defendant Internet Stores that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product infringing the FIN FUN Patents.

3. Entry of an Order that Alibaba, Aliexpress, Amazon, DHgate, eBay, Shein, Temu Walmart, and Wish, and any other online marketplace account provider:

a. disable and cease providing services for any accounts through which Defendants engage in the sale of Counterfeit and Infringing Products, 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 and Infringing Products; 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 Plaintiff all profits realized by Defendants

by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of the FIN FUN Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;

5. That Plaintiff be awarded such damages as it shall prove at trial against Defendants that are adequate to compensate Plaintiff for Defendants' infringement of the FIN FUN Patents, but in no event less than a reasonable royalty for the use made of the invention by the Defendants, together with interest and costs, pursuant to 35 U.S.C. § 284;

6. That the amount of damages awarded to Plaintiff to compensate Plaintiff for infringement of Plaintiff's FIN FUN Patents be increased by three times the amount thereof, as provided by 35 U.S.C. § 284;

7. In the alternative, that Plaintiff be awarded statutory damages pursuant to 15 U.S.C. § 1117(c) of not less than \$1,000 and not more than \$2,000,000 for each and every use of the FIN FUN Trademarks; statutory damages of not less than \$750 and not more than \$30,000 for each and every infringement of Plaintiff's copyrights pursuant to 17 U.S.C. § 504(c), which should be enhanced to a sum of not more than \$150,000 by 17 U.S.C. § 504(c)(2) because of Defendants' willful copyright infringement; and that Plaintiff be awarded all profits realized by Defendants from Defendants' infringement of Plaintiff's FIN FUN Patents, pursuant to 35 U.S.C. § 289;

//

//

8. That Plaintiff be awarded its reasonable attorneys' fees and costs; and
9. Award any and all other relief that this Court deems just and proper.

Dated: October 28, 2024

Respectfully submitted,

By: /s/Leigh Salomon

Leigh Salomon (FL Bar No. 1054106)
BOIES SCHILLER FLEXNER LLP
100 SE 2nd Street, Suite 2800
Miami, FL 33131
Tel: (305) 539-8400
lsalomon@bsflp.com

Attorney for Plaintiff
BLUE SPRING PARTNERS, LLC