

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

KENDRA SCOTT, LLC,

Plaintiff,

v.

THE PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A",

Defendants.

Case No. 19-cv-07891

COMPLAINT

Kendra Scott, LLC ("Kendra Scott" or "Plaintiff") hereby brings the present action against The Partnerships and Unincorporated Associations identified on Schedule A attached hereto (collectively, "Defendants") and alleges as follows:

I. 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 business activities toward consumers in the United States, including Illinois, through at least the fully interactive, commercial Internet stores operating under the Defendant Domain

Names 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 Defendant Internet Stores through which Illinois residents can purchase products using infringing and counterfeit versions of Kendra Scott’s trademarks. Each of the Defendants has targeted sales from Illinois residents by operating online stores that offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, has sold products using infringing and counterfeit versions of Kendra Scott’s 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 Kendra Scott substantial injury in the State of Illinois.

II. INTRODUCTION

3. This action has been filed by Kendra Scott to combat Internet Store operators who trade upon Kendra Scott’s reputation and goodwill by selling and/or offering for sale unauthorized and unlicensed imitations of Kendra Scott luxury fashion products, including fashion jewelry, using infringing and counterfeit versions of Kendra Scott’s federally registered trademarks (the “Counterfeit Kendra Scott Products”). The Defendants create the Defendant Internet Stores by the hundreds and design them to appear to be selling genuine Kendra Scott products, while actually selling Counterfeit Kendra Scott Products to unknowing consumers. The Defendant Internet Stores share unique identifiers, such as design elements and similarities of the Counterfeit Kendra Scott Products offered for sale, establishing a logical relationship between them and suggesting that Defendants’ counterfeiting operation arises 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 counterfeiting operation.

Kendra Scott is forced to file this action to combat Defendants' counterfeiting of its registered trademarks, as well as to protect unknowing consumers from purchasing Counterfeit Kendra Scott Products over the Internet. Kendra Scott has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademarks as a result of Defendants' actions and seeks injunctive and monetary relief.

III. THE PARTIES

Plaintiffs

4. Plaintiff Kendra Scott, LLC is a limited liability company organized and existing under the laws of the State of Delaware with a principal place of business at 3800 North Lamar Blvd, Suite 400, Austin, TX 78756. Kendra Scott is an American fashion and accessories designer and entrepreneur. Kendra Scott founded Kendra Scott, LLC in 2002, designing her first collection of jewelry in the spare bedroom of her home. The Kendra Scott brand has since grown into a billion-dollar fashion brand loved globally. Known for her unique use of color and quality materials, Kendra Scott has created collections of timeless pieces that have won over loyal fans, media and celebrities alike. Kendra Scott designs, manufactures, distributes, and sells a wide variety of products including fashion jewelry, fine jewelry, home accessories, and nail lacquer (collectively, the "Kendra Scott Products"). The Kendra Scott Products are renowned for their high quality and style and are identified and recognized by the use of the Kendra Scott name and trademarks.

5. Kendra Scott Products are highly sought after and Kendra Scott's designs have been chosen to accessorize major runway shows including Oscar de la Renta's spring 2006 runway show and Randolph Duke's 2007 runway show. Multiple celebrities have also worn Kendra Scott Products, including, for example, Simone Biles, Taylor Swift, Bella Hadid, Gigi Hadid, Blake

Lively, Gayle King, and Nina Dobrev. *People Magazine* pointed out that “Celebrities are obsessed with Kendra Scott’s jewelry line” in a 2019 article.

6. Kendra Scott also has been featured in numerous publications, including but limited to 2018 *Forbes* article titled “How Kendra Scott Built a Billion-Dollar Jewelry Company,” a 2015 *Chicago Tribune* article titled “Kendra Scott gives new meaning to statement jewelry,” and a 2013 CNBC article titled “Kendra Scott: How a small business owner turned \$500 into millions.” In particular, the *Chicago Tribune* stated that “Jewelry designer Kendra Scott’s little yellow box has become the stalked commodity at gift exchanges during the holidays.”

7. Kendra Scott Products have become enormously popular and even iconic, driven by the brand’s arduous quality standards and innovative design. Among the purchasing public, genuine Kendra Scott Products are instantly recognizable as such. In the United States and around the world, the Kendra Scott brand has come to symbolize high quality, and Kendra Scott Products are among the most recognizable in the world. Kendra Scott Products are distributed and sold to consumers throughout the United States, Canada and the United Kingdom through over 95 Kendra Scott retail stores, boutiques, and luxury-brand retailers, including through authorized retailers in Illinois such as Nordstrom, Neiman Marcus, Von Maur, Bloomingdales, and hundreds of other specialty boutiques. Kendra Scott Products are also sold through the official kendrascott.com website, which was launched in 2010 and began e-commerce sales in 2010.


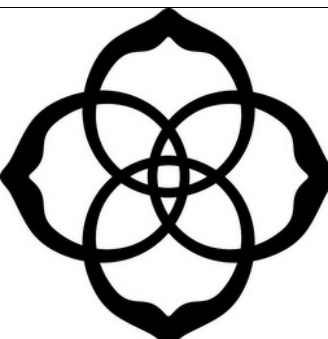
8. Kendra Scott launched the Color Bar[®] by Kendra Scott in 2010. The Color Bar by Kendra Scott is an in-store and online experience by which consumers can customize their jewelry or home accessories by interchanging the styles of jewelry or accessories with different metal tones and stone colors. Inspired by her stepfather’s battle with brain cancer, Kendra Scott introduced the Color Bar to hospitals around the country, hoping that patients could take their minds off grueling

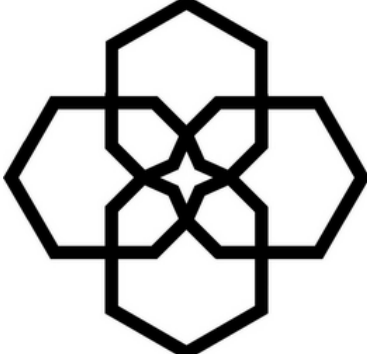
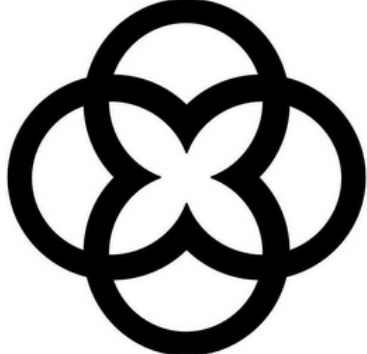
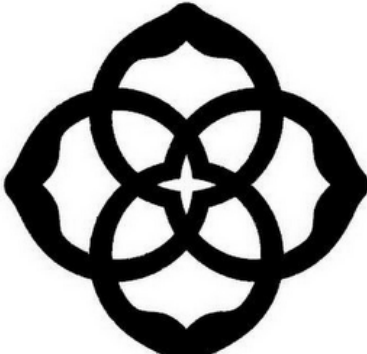
cancer treatments, at least momentarily, by customizing a piece of jewelry for themselves or as a gift. Recently, the Color Bar experience was featured at Coachella in 2019. The Color Bar is also prominently featured on the kendrascott.com website.

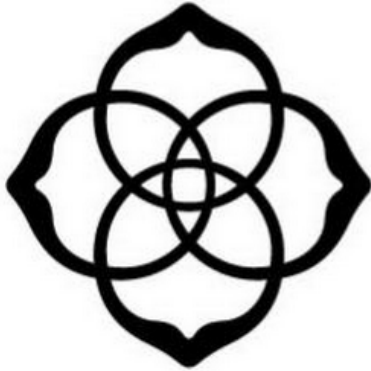


9. Kendra Scott began using the KENDRA SCOTT trademark in U.S. commerce at least as early as 2002 in connection with jewelry, and other goods, and has continuously sold Kendra Scott Products under the KENDRA SCOTT mark since then. In addition to the KENDRA SCOTT word mark, Kendra Scott has used several distinctive and well-known design marks which are set forth in the table below (collectively, the “Kendra Scott Trademarks”). As a result of this long-standing use, strong common law trademark rights have amassed in the Kendra Scott Trademarks. Kendra Scott’s use of the marks has also built substantial goodwill in and to the Kendra Scott Trademarks. The Kendra Scott Trademarks are famous marks and valuable assets of Kendra Scott.

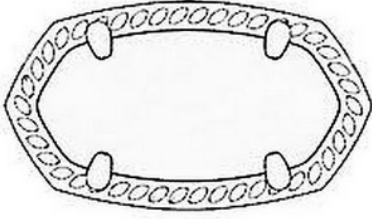
10. Many of the Kendra Scott Trademarks are registered with the United States Patent and Trademark Office, a non-exclusive list of which is included below.

Registration Number	Trademark	Goods and Services
2,850,550	KENDRA SCOTT DESIGN	For: jewelry in class 14.
3,125,314	KENDRA SCOTT	For: jewelry in class 14.
4,955,259	KENDRA SCOTT	For: cosmetic carrying cases sold empty; purses; handbags; wallets; train cases; travel cases; wristlet bags; toiletry bags sold empty in class 18.
4,963,203	KENDRA SCOTT	For: retail jewelry store services; online retail jewelry store services; retail and online retail store services featuring jewelry, jewelry bags and cases, jewelry pouches, jewelry organizer pouches and rolls, cosmetic cases, train cases, travel cases, toiletry bags sold empty, hand bags, and purses; presentation of jewelry,

		jewelry bags and cases, jewelry pouches, jewelry organizer pouches and rolls, travel cases, toiletry bags sold empty, cosmetic cases, train cases, hand bags, purses, on communication media, for retail purposes; sales promotion of jewelry; administrative processing of purchase orders for jewelry in class 35.
5,074,644	KENDRA SCOTT	For: nail polish and nail enamel in class 3.
5,233,977	KENDRA SCOTT	For: jewelry; jewelry rolls; cuff links; jewelry cases; jewelry boxes; jewelry organizer cases; jewelry organizer rolls for travel; charms; earlobe support patch for earrings in class 14.
3,529,344	KENDRA	For: jewelry in class 14.
4,927,238	KS	For: jewelry in class 14.
4,159,941	COLOR BAR	For: jewelry in class 14.
5,570,678	#STRIKEAMOOD	For: retail and online retail store services featuring candles in class 35.
4,297,566		For: jewelry in class 14.
4,838,307		For: jewelry; jewelry, namely, key chains, key rings, trinkets or fobs; jewelry cases in class 14.

<p>4,838,297</p>		<p>For: jewelry organizer rolls for travel in class 14.</p> <p>For: Jewelry pouches; cosmetic carrying cases sold empty; purses; handbags; wallets; train cases; wristlet bags in class 18.</p>
<p>5,175,007</p>		<p>For: on-line retail store services featuring headwear, hats, handbags, wallets, cosmetics and perfumes, books, clutches, purses, scarves, sunglasses, swimwear, belts for clothing, jeans, shoes, boots, footwear, blouses, shirts, t-shirts, tank tops, sweaters, sweatshirts, blazers, jackets, coats, pants, leggings, shorts, crop pants, Capri pants, dresses, skirts, tights, lingerie, undergarments, and bras; Retail store services featuring headwear, hats, handbags, wallets, cosmetics and perfumes, books, clutches, purses, scarves, sunglasses, swimwear, belts for clothing, jeans, shoes, boots, footwear, blouses, shirts, t-shirts, tank tops, sweaters, sweatshirts, blazers, jackets, coats, pants, leggings, shorts, crop pants, Capri pants, dresses, skirts, tights, lingerie, undergarments, and bras in class 35.</p>
<p>5,486,678</p>		<p>For: jewelry in class 14.</p>

<p>5,514,030</p>		<p>For: retail and online retail jewelry store services; retail and online retail store services featuring jewelry, jewelry display trees and stands, jewelry bags and cases, jewelry pouches, tote bags, hand bags, purses, picture frames, display cases, display stands, display racks, display boards, candle holders, protective cases for wireless mobile devices, nail polish; presentation of jewelry, jewelry display trees and stands, jewelry bags and cases, jewelry pouches, tote bags, hand bags, purses, picture frames, display cases, display stands, display racks, display boards, candle holders, protective cases for wireless mobile devices, nail polish, on communication media, for retail purposes; sales promotion of jewelry; administrative processing of purchase orders for jewelry in class 35.</p>
<p>4,967,469</p>		<p>For: jewelry in class 14.</p>
<p>4,967,470</p>		<p>For: jewelry in class 14.</p>

5,399,800		For: jewelry in class 14.
-----------	---	---------------------------

11. Kendra Scott is the exclusive licensee of certain Kendra Scott Trademarks owned by Kendra Scott the individual. The above U.S. registrations for the Kendra Scott Trademarks are valid, subsisting, in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. The registrations for the Kendra Scott Trademarks constitute *prima facie* evidence of their validity and of Kendra Scott’s exclusive right to use the Kendra Scott Trademarks pursuant to 15 U.S.C. § 1057 (b). True and correct copies of the United States Registration Certificates for the above-listed Kendra Scott Trademarks are attached hereto as **Exhibit 1**.

12. The Kendra Scott Trademarks are distinctive when applied to the Kendra Scott Products, signifying to the purchaser that the products come from Kendra Scott and are manufactured to Kendra Scott’s quality standards. Whether Kendra Scott manufactures the products itself or contracts with others to do so, Kendra Scott has ensured that products bearing the Kendra Scott Trademarks are manufactured to the highest quality standards.

13. The Kendra Scott Trademarks are famous marks, as that term is used in 15 U.S.C. § 1125(c)(1), and have been continuously used and never abandoned. The innovative marketing and product designs of the Kendra Scott Products have enabled the Kendra Scott brand to achieve widespread recognition and fame and have made the Kendra Scott Trademarks some of the most well-known marks in the fashion world. The widespread fame, outstanding reputation, and significant goodwill associated with the Kendra Scott brand have made the Kendra Scott Trademarks valuable assets of Kendra Scott.

14. Kendra Scott has expended substantial time, money, and other resources in advertising and promoting the Kendra Scott Trademarks. In fact, Kendra Scott has expended millions of dollars annually in advertising, promoting and marketing featuring the Kendra Scott Trademarks. Kendra Scott Products have also been the subject of extensive unsolicited publicity resulting from their high-quality, innovative designs. As a result, products bearing the Kendra Scott Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Kendra Scott. Kendra Scott Products have become among the most popular of their kind in the U.S., the U.K., and the world. The Kendra Scott Trademarks have achieved tremendous fame and recognition which has only added to the inherent distinctiveness of the marks. As such, the goodwill associated with the Kendra Scott Trademarks is of incalculable and inestimable value to Kendra Scott.

15. Genuine Kendra Scott Products are sold through authorized retail channels and are recognized by the public as being exclusively associated with the Kendra Scott brand.

16. Since at least as early as 2010, genuine Kendra Scott Products have been promoted and sold at the official kendrascott.com website. Sales of Kendra Scott Products via the kendrascott.com website are significant. The kendrascott.com website features proprietary content, images and designs exclusive to the Kendra Scott brand.

The Defendants

17. Defendants are individuals and business entities who, upon information and belief, reside in the People's Republic of China or other foreign jurisdictions. Defendants conduct business throughout the United States, including within the State of Illinois and this Judicial District, through the operation of the fully interactive, commercial websites and online marketplaces operating under the Defendant Internet Stores. Each Defendant targets the United

States, including Illinois, and has offered to sell, and, on information and belief, has sold and continues to sell Counterfeit Kendra Scott Products to consumers within the United States, including the State of Illinois.

18. On information and belief, Defendants are an interrelated group of counterfeiters working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell products using infringing and counterfeit versions of the Kendra Scott Trademarks 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 counterfeiting operation make it virtually impossible for Kendra Scott to learn Defendants' true identities and the exact interworking of their counterfeit network. In the event that Defendants provide additional credible information regarding their identities, Kendra Scott will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

19. The success of the Kendra Scott brand has resulted in its significant counterfeiting. Consequently, Kendra Scott has a worldwide anti-counterfeiting program and regularly investigates suspicious websites and online marketplace listings identified in proactive Internet sweeps and reported by consumers. In recent years, Kendra Scott has identified many domain names linked to fully interactive websites and online marketplace listings on platforms such as iOffer, eBay, AliExpress, Alibaba, Amazon, Wish.com, and Dhgate, including the Defendant Internet Stores, which were offering for sale and selling Counterfeit Kendra Scott Products to consumers in this Judicial District and throughout the United States. Despite Kendra Scott's enforcement efforts online and on the ground, Defendants have persisted in creating the Defendant Internet Stores. E-commerce sales, including those through Internet stores like

Defendants, have resulted in a sharp increase in the shipment of unauthorized products into the United States. **Exhibit 2**, Excerpts from Fiscal Year 2018 U.S. Customs and Border Protection (“CBP”) Intellectual Property Seizure Statistics Report. Over 90% of all CBP intellectual property seizures were smaller international mail and express shipments (as opposed to large shipping containers). *Id.* Over 85% of CBP seizures originated from mainland China and Hong Kong. *Id.* Counterfeit and pirated products account for billions in economic losses, resulting in tens of thousands of lost jobs for legitimate businesses and broader economic losses, including lost tax revenue.

20. 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. Many of the Defendant Internet Stores look sophisticated and accept payment in U.S. dollars via credit cards, Alipay, Amazon Pay, Western Union and PayPal. The Defendant Internet Stores often include content and design elements that make it very difficult for consumers to distinguish such counterfeit sites from an authorized website. Many Defendants further perpetuate the illusion of legitimacy by offering customer service and using indicia of authenticity and security that consumers have come to associate with authorized retailers, including the Visa®, MasterCard®, and/or PayPal® logos. Kendra Scott has not licensed or authorized Defendants to use any of the Kendra Scott Trademarks, and none of the Defendants are authorized retailers of genuine Kendra Scott Products.

21. Many Defendants also deceive unknowing consumers by using the Kendra Scott Trademarks without authorization within the content, text, and/or meta tags of their websites in order to attract various search engines crawling the Internet looking for websites relevant to consumer searches for Kendra Scott 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 Kendra Scott Products. Other Defendants only show the Kendra Scott Trademarks in product images while using strategic item titles and descriptions that will trigger their listings when consumers are searching for Kendra Scott Products.

22. 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. For example, many of Defendants' names and physical addresses used to register the Defendant Domain Names are incomplete, contain randomly typed letters, or fail to include cities or states. Other Defendant Domain Names use privacy services that conceal the owners' identity and contact information. On 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 counterfeiting operation, and to avoid being shut down.

23. Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. For example, many of the Defendant websites have virtually identical layouts, even though different aliases were used to register the respective domain names. In addition, Counterfeit Kendra Scott Products for sale in the Defendant Internet Stores bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Counterfeit Kendra Scott Products were manufactured by and come from a common source

and that Defendants are interrelated. The Defendant Internet Stores also include other notable common features, including use of the same domain name registration patterns, 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, the same incorrect grammar and misspellings, similar hosting services, similar name servers, and the use of the same text and images, including content copied from Kendra Scott's official kendrascott.com website.

24. 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 domain names or 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.

25. 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 Kendra Scott's enforcement efforts. On information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their PayPal accounts or other financial accounts to off-shore bank accounts outside the jurisdiction of this Court. Indeed, analysis of PayPal transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based PayPal accounts to offshore bank accounts outside the jurisdiction of this Court.

26. Defendants, without any authorization or license from Kendra Scott, have knowingly and willfully used and continue to use the Kendra Scott Trademarks in connection with the advertisement, distribution, offering for sale, and sale of Counterfeit Kendra Scott 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 sold Counterfeit Kendra Scott Products into the United States, including Illinois.

27. Defendants' use of the Kendra Scott Trademarks in connection with the advertising, distribution, offering for sale, and sale of Counterfeit Kendra Scott Products, including the sale of Counterfeit Kendra Scott Products into the United States, including Illinois, is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Kendra Scott.

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

28. Kendra Scott hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 26.

29. This is a trademark infringement action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the federally registered Kendra Scott Trademarks in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The Kendra Scott Trademarks are highly distinctive marks. Consumers have come to expect the highest quality from Kendra Scott Products offered, sold or marketed under the Kendra Scott Trademarks.

30. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and advertising products using counterfeit reproductions of the Kendra Scott Trademarks without Kendra Scott's permission.

31. Kendra Scott is the exclusive owner of the Kendra Scott Trademarks. Kendra Scott's United States Registrations for the Kendra Scott Trademarks (Exhibit 1) are in full force and effect. Upon information and belief, Defendants have knowledge of Kendra Scott's rights in the Kendra Scott Trademarks, and are willfully infringing and intentionally using counterfeits of the Kendra Scott Trademarks. Defendants' willful, intentional and unauthorized use of the Kendra Scott Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Counterfeit Kendra Scott Products among the general public.

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

33. Kendra Scott has no adequate remedy at law, and if Defendants' actions are not enjoined, Kendra Scott will continue to suffer irreparable harm to its reputation and the goodwill of the Kendra Scott Trademarks.

34. The injuries and damages sustained by Kendra Scott has been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of Counterfeit Kendra Scott Products.

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

35. Kendra Scott hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 33.

36. Defendants' promotion, marketing, offering for sale, and sale of Counterfeit Kendra Scott 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 Kendra Scott or the origin, sponsorship, or approval of Defendants' Counterfeit Kendra Scott Products by Kendra Scott.

37. By using the Kendra Scott Trademarks in connection with the sale of Counterfeit Kendra Scott Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Counterfeit Kendra Scott Products.

38. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Counterfeit Kendra Scott Products to the general public involves the use of counterfeit marks and is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

39. Kendra Scott has no adequate remedy at law and, if Defendants' actions are not enjoined, Kendra Scott will continue to suffer irreparable harm to its reputation and the goodwill of the Kendra Scott brand.

COUNT III
VIOLATION OF ILLINOIS UNIFORM DECEPTIVE TRADE PRACTICES ACT
(815 ILCS § 510, *et seq.*)

40. Kendra Scott hereby re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 38.

41. Defendants have engaged in acts violating Illinois law including, but not limited to, passing off their Counterfeit Kendra Scott Products as those of Kendra Scott, 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 Kendra Scott Products, representing that their products have Kendra Scott's approval when they do not, and engaging in other conduct which creates a likelihood of confusion or misunderstanding among the public.

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

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

PRAYER FOR RELIEF

WHEREFORE, Kendra Scott prays for judgment against Defendants as follows:

- 1) That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:
 - a. using the Kendra Scott 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 Kendra Scott Product or is not authorized by Kendra Scott to be sold in connection with the Kendra Scott Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Kendra Scott Product or any other product produced by Kendra Scott, that is not Kendra Scott's or not produced under the authorization, control, or supervision of Kendra Scott and approved by Kendra Scott for sale under the Kendra Scott Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' Counterfeit Kendra Scott Products are those sold under the authorization, control or supervision of Kendra Scott, or are sponsored by, approved by, or otherwise connected with Kendra Scott;

- d. further infringing the Kendra Scott Trademarks and damaging Kendra Scott'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 Kendra Scott, nor authorized by Kendra Scott to be sold or offered for sale, and which bear any of Kendra Scott's trademarks, including the Kendra Scott Trademarks, or any reproductions, counterfeit copies or colorable imitations thereof;
- 2) Entry of an Order that, upon Kendra Scott's choosing, the registrant of the Defendant Domain Names shall be changed from the current registrant to Kendra Scott, and that the domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afiliac Limited, CentralNic, Nominet, and the Public Interest Registry, shall unlock and change the registrar of record for the Defendant Domain Names to a registrar of Kendra Scott's selection, and that the domain name registrars, including, but not limited to, GoDaddy Operating Company, LLC ("GoDaddy"), Name.com, PDR LTD. d/b/a PublicDomainRegistry.com ("PDR"), and Namecheap, Inc. ("Namecheap"), shall take any steps necessary to transfer the Defendant Domain Names to a registrar account of Kendra Scott's selection; or that the same domain name registries shall disable the Defendant Domain Names and make them inactive and untransferable;
- 3) Entry of an Order that, upon Kendra Scott's request, those in privity with Defendants and those with notice of the injunction, including, without limitation, any online marketplace platforms such as iOffer, eBay, AliExpress, Alibaba, Amazon, Wish.com, and Dhgate, web hosts, sponsored search engine or ad-word providers, credit cards, banks, merchant account

providers, third party processors and other payment processing service providers, Internet search engines such as Google, Bing and Yahoo, and domain name registrars, including, but not limited to, GoDaddy, Name.com, PDR, and Namecheap, (collectively, the “Third Party Providers”) shall:

- a. disable and cease providing services being used by Defendants, currently or in the future, to engage in the sale of goods using the Kendra Scott Trademarks;
 - b. disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the Kendra Scott Trademarks; and
 - c. take all steps necessary to prevent links to the Defendant Domain Names identified on Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Domain Names from any search index;
- 4) That Defendants account for and pay to Kendra Scott all profits realized by Defendants by reason of Defendants’ unlawful acts herein alleged, and that the amount of damages for infringement of the Kendra Scott 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 Kendra Scott be awarded statutory damages for willful trademark counterfeiting pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every use of the Kendra Scott Trademarks;
 - 6) That Kendra Scott be awarded its reasonable attorneys’ fees and costs; and
 - 7) Award any and all other relief that this Court deems just and proper.

Dated this 2nd day of December 2019.

Respectfully submitted,

/s/ Justin R. Gaudio

Paul G. Juettner

Justin R. Gaudio

RiKaleigh C. Johnson

Greer, Burns & Crain, Ltd.

300 South Wacker Drive, Suite 2500

Chicago, Illinois 60606

312.360.0080

312.360.9315 (facsimile)

pjuettner@gbc.law

jgaudio@gbc.law

rjohnson@gbc.law

Counsel for Plaintiff Kendra Scott, LLC