

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

BOSE CORPORATION,

Plaintiff,

v.

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

Defendants.

Case No. 21-cv-02721

COMPLAINT

Plaintiff Bose Corporation (“Plaintiff” or “Bose”) 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.

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 e-commerce stores¹ operating under the seller aliases identified in Schedule A attached hereto (the “Seller Aliases”). Specifically, Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States

¹ The e-commerce store urls are listed on Schedule A hereto under the Online Marketplaces.

consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, have sold products using infringing and counterfeit versions of Bose'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 Bose substantial injury in the State of Illinois.

II. INTRODUCTION

3. This action has been filed by Bose to combat e-commerce store operators who trade upon Bose's reputation and goodwill by offering for sale and/or selling unauthorized and unlicensed products, including headphones, speakers, and related audio components, using infringing and counterfeit versions of Bose's federally registered trademarks (the "Counterfeit Bose Products"). Defendants create e-commerce stores operating under one or more Seller Aliases that are advertising, offering for sale and selling Counterfeit Bose Products to unknowing consumers. E-commerce stores operating under the Seller Aliases share unique identifiers establishing a logical relationship between them and that Defendants' counterfeiting operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid and mitigate liability by operating under one or more Seller Aliases to conceal both their identities and the full scope and interworking of their counterfeiting operation. Bose is forced to file this action to combat Defendants' counterfeiting of the registered Bose trademarks, as well as to protect unknowing consumers from purchasing Counterfeit Bose Products over the Internet. Bose 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



Plaintiff



4. Plaintiff is a corporation organized and existing under the laws of the State of Delaware with its corporate headquarters at 100 The Mountain Road, Framingham, Massachusetts 01701.

5. Since 1964, Bose has been engaged in the design, distribution, and sale of high-performance electronic audio products for consumers and professionals, including professional loudspeakers, bookshelf speakers, factory-installed sound systems custom-designed for specific automobiles, portable home CD/FM/AM radio sound systems, portable digital music systems, home theater systems, aviation headsets, around-ear and over-ear noise cancelling headphones, in-ear and around-ear sport headphones, audio and mobile headphones, including Bluetooth headsets, and related components (collectively, the “Bose Products”).

6. The Bose brand is a billion-dollar brand, and Bose spends considerable resources marketing and protecting it. Bose Products have become enormously popular and even iconic, driven by the brand’s arduous quality standards and innovative design. Among the purchasing public, genuine Bose products are instantly recognizable as such. In the United States and around the world, the Bose brand has come to symbolize high quality, and the Bose Products are renowned for their quality, performance, and reliability.

7. Bose has registered several of its trademarks with the United States Patent and Trademark Office. Bose Products typically include at least one of Bose’s registered trademarks. Bose uses its trademarks in connection with the marketing of its Bose Products, including the following marks which are collectively referred to as the “BOSE Trademarks.”

Registration Number	Trademark	Goods and Services
991,271	BOSE	For: loudspeaker systems; electrical power processors-namely, power amplifiers, and battery chargers in classes 007, 009, 011, 012, 015.
1,727,482	BOSE	For: printed matter; namely, catalogs, newsletters and brochures in the field of electronic and electroacoustical equipment in class 016. For: repair of electronic and electroacoustical equipment in class 037.
1,828,700	BOSE	For: retail store services in the field of electronic and electro-acoustical products in class 042.
2,288,004	BOSE	For: computerized on-line retail services in the field of sound reproduction products, and shopping information related thereto in class 035.
3,863,254	BOSE	For: Batteries; Communications headsets for use with communication radios, intercom systems, or other communications network transceivers; Headphones; Headsets for cellular or mobile phones; Microphones in class 009.
829,402		For: acoustical transducer systems for reproducing sound in class 009.
1,738,278		For: printed matter; namely, catalogs, newsletters, and brochures all in the field of electronics and electroacoustical equipment in class 016. For: services and repair of electronic and electroacoustical equipment in class 037.

Registration Number	Trademark	Goods and Services
1,830,727		For: retail store services in the field of electronic and electro-acoustical products in class 042.
3,554,078		For: On-line retail store services featuring consumer electronic products in class 035.
5,955,893	SLEEPBUDS	For: Ear plugs for soundproofing; Ear plugs for sleeping in class 010.
3,716,864	SOUNDLINK	For: Loudspeaker systems; USB (universal serial bus) hardware in class 009.
4,709,104	SOUNDLINK	For: Headphones; Headsets for mobile telephones in class 009.
4,672,804	SOUNDSPORT	For: Headphones; Headsets for mobile telephones in class 009.

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

9. The BOSE Trademarks are distinctive when applied to the Bose Products, signifying to the purchaser that the products come from Bose and are manufactured to Bose's quality standards. Whether Bose manufactures the products itself or contracts with others to do

so, Bose has ensured that products bearing the BOSE Trademarks are manufactured to the highest quality standards.

10. The BOSE 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 Bose Products have enabled the Bose brand to achieve widespread recognition and fame and have made the BOSE Trademarks some of the most well-known marks in the audio industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Bose brand have made the BOSE Trademarks valuable assets of Bose.

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

12. Genuine Bose Products are sold only through authorized retail channels, including through authorized retailers in Illinois, such as Best Buy, Target, Nordstrom, and Abt Electronics, and are recognized by the public as being exclusively associated with the Bose brand.

13. Since at least as early as 1997, genuine Bose Products have been promoted and sold at the official bose.com website. Sales of Bose Products via the bose.com website are significant.

The bose.com website features proprietary content, images and designs exclusive to the Bose brand.

The Defendants

14. Defendants are individuals and business entities of unknown makeup who own and/or operate one or more of the e-commerce stores under at least the Seller Aliases identified on Schedule A and/or other seller aliases not yet known to Bose. On information and belief, Defendants reside and/or operate in the People's Republic of China or other foreign jurisdictions with lax trademark enforcement systems, or redistribute products from the same or similar sources in those locations. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).

15. On information and belief, Defendants, either individually or jointly, operate one or more e-commerce stores under the Seller Aliases listed in Schedule A attached hereto. Tactics used by Defendants to conceal their identities and the full scope of their operation make it virtually impossible for Bose to discover Defendants' true identities and the exact interworking of their counterfeit network. If Defendants provide additional credible information regarding their identities, Bose will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

16. The success of the Bose brand has resulted in its significant counterfeiting. Consequently, Bose has a worldwide anti-counterfeiting program and regularly investigates suspicious e-commerce stores identified in proactive Internet sweeps and reported by consumers. In recent years, Bose has identified many fully interactive e-commerce stores, including those operating under the Seller Aliases, which were offering for sale and/or selling Counterfeit Bose Products to consumers in this Judicial District and throughout the United States. E-commerce

sales, including through e-commerce stores like those of 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.

17. Third party service providers like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing counterfeiters to “routinely use false or inaccurate names and addresses when registering with these e-commerce platforms.” **Exhibit 3**, Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 40 NW. J. INT’L L. & BUS. 157, 186 (2020); *see also*, report on “Combating Trafficking in Counterfeit and Pirated Goods” prepared by the U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans (Jan. 24, 2020) attached as **Exhibit 4** and finding that on “at least some e-commerce platforms, little identifying information is necessary for a counterfeiter to begin selling” and recommending that “[s]ignificantly enhanced vetting of third-party sellers” is necessary. Counterfeiters hedge against the risk of being caught and having their websites taken down from an e-commerce platform by preemptively establishing multiple virtual store-fronts. **Exhibit 4** at p. 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, counterfeiters can have many different profiles that can appear unrelated even though they are commonly owned and operated. **Exhibit 4** at p. 39. Further,

“E-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of counterfeits and counterfeiters.” **Exhibit 3** at 186-187.

18. Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, have sold Counterfeit Bose Products to residents of Illinois.

19. Defendants concurrently employ and benefit from substantially similar advertising and marketing strategies. For example, Defendants facilitate sales by designing the e-commerce stores operating under the Seller Aliases so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. E-commerce stores operating under the Seller Aliases appear sophisticated and accept payment in U.S. dollars via credit cards, Alipay, Amazon Pay, Western Union and/or PayPal. E-commerce stores operating under the Seller Aliases often include content and images that make it very difficult for consumers to distinguish such stores from an authorized retailer. Bose has not licensed or authorized Defendants to use any of BOSE Trademarks, and none of the Defendants are authorized retailers of genuine Bose Products.

20. Many Defendants also deceive unknowing consumers by using the BOSE Trademarks without authorization within the content, text, and/or meta tags of their e-commerce stores in order to attract various search engines crawling the Internet looking for websites relevant to consumer searches for Bose Products. Other e-commerce stores operating under the Seller Aliases omit using BOSE Trademarks in the item title to evade enforcement efforts while using strategic item titles and descriptions that will trigger their listings when consumers are searching for Bose Products.

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

22. On information and belief, Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Counterfeit Bose Products. Such seller alias registration patterns are one of many common tactics used by the Defendants to conceal their identities and the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

23. Even though Defendants operate under multiple fictitious aliases, the e-commerce stores operating under the Seller Aliases often share unique identifiers, such as templates with common design elements that intentionally omit any contact information or other information for identifying Defendants or other Seller Aliases they operate or use. E-commerce stores operating under the Seller Aliases include other notable common features, such as use of the same registration patterns, accepted payment methods, check-out methods, keywords, illegitimate search engine optimization (SEO), advertising tactics, similarities in price and quantities, the same incorrect grammar and misspellings, and/or the use of the same text and images. Additionally, Counterfeit Bose Products for sale by the Seller Aliases bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Counterfeit Bose Products were manufactured by and come from a common source and that Defendants are interrelated.

24. On information and belief, Defendants are in constant communication with each other and regularly participate in QQ.com chat rooms and through websites such as

sellerdefense.cn, kaidianyo.com and kuajingvs.com regarding tactics for operating multiple accounts, evading detection, pending litigation, and potential new lawsuits.

25. Counterfeiters such as Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation in spite of Bose's enforcement efforts. On information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their financial accounts to off-shore accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to Bose. Indeed, analysis of financial account transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

26. 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 Counterfeit Bose Products in the same transaction, occurrence, or series of transactions or occurrences. Defendants, without any authorization or license from Bose, have jointly and severally, knowingly and willfully used and continue to use BOSE Trademarks in connection with the advertisement, distribution, offering for sale, and sale of Counterfeit Bose Products into the United States and Illinois over the Internet.

27. Defendants' unauthorized use of the BOSE Trademarks in connection with the advertising, distribution, offering for sale, and sale of Counterfeit Bose Products, including the sale of Counterfeit Bose 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 Bose.

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

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

29. This is a trademark infringement action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the federally registered BOSE Trademarks in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The BOSE Trademarks are distinctive marks. Consumers have come to expect the highest quality from Bose Products offered, sold or marketed under the BOSE 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 BOSE Trademarks without Bose's permission.

31. Bose is the exclusive owner of the BOSE Trademarks. Bose's United States Registrations for the BOSE Trademarks (Exhibit 1) are in full force and effect. On information and belief, Defendants have knowledge of Bose's rights in the BOSE Trademarks, and are willfully infringing and intentionally using counterfeits of the BOSE Trademarks. Defendants' willful, intentional and unauthorized use of the BOSE Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Counterfeit Bose 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. Bose has no adequate remedy at law, and if Defendants' actions are not enjoined, Bose will continue to suffer irreparable harm to its reputation and the goodwill of its well-known BOSE Trademarks.

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

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

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

36. Defendants' promotion, marketing, offering for sale, and sale of Counterfeit Bose 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 Bose or the origin, sponsorship, or approval of Defendants' Counterfeit Bose Products by Bose. By using the BOSE Trademarks in connection with the sale of Counterfeit Bose Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Counterfeit Bose Products.

37. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Counterfeit Bose 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.

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

PRAYER FOR RELIEF

WHEREFORE, Bose 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 BOSE 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 Bose Product or is not authorized by Bose to be sold in connection with the BOSE Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Bose Product or any other product produced by Bose that is not Bose's or not produced under the authorization, control, or supervision of Bose and approved by Bose for sale under the BOSE Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' Counterfeit Bose Products are those sold under the authorization, control, or supervision of Bose, or are sponsored by, approved by, or otherwise connected with Bose;
 - d. further infringing the BOSE Trademarks and damaging Bose'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 Bose, nor authorized by Bose to be sold or offered for sale, and which bear any of Bose's trademarks, including the BOSE Trademarks, or any reproductions, counterfeit copies, or colorable imitations thereof;
- 2) Entry of an Order that, upon Bose's request, those with notice of the injunction, including, without limitation, any online marketplace platforms such as eBay, AliExpress, Alibaba,

Amazon, Wish.com, and Dhgate (collectively, the “Third Party Providers”) shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the BOSE Trademarks;

- 3) That Defendants account for and pay to Bose all profits realized by Defendants by reason of Defendants’ unlawful acts herein alleged, and that the amount of damages for infringement of the BOSE Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
- 4) In the alternative, that Bose 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 BOSE Trademarks;
- 5) That Bose be awarded its reasonable attorneys’ fees and costs; and
- 6) Award any and all other relief that this Court deems just and proper.

Dated this 19th day of May 2021.

Respectfully submitted,

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