

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

██████████,

Plaintiff,

v.

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

Defendants.

No. 24-cv- 04913

DEMAND FOR JURY TRIAL

COMPLAINT

██████████ (“Plaintiff”), by and through its undersigned counsel, hereby files this Complaint for design patent infringement under the Patent Act and civil conspiracy against the Partnerships and Unincorporated Associations Identified in Schedule “A” (together, “Defendants”). In support hereof, Plaintiff states 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 Patent Act, 35 U.S.C. § 1, 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 Defendants directly targets business activities toward consumers in the United States, including Illinois, through their operation of or assistance in the operation of the fully interactive, commercial internet stores operating under the Defendant domain names and/or the Defendant Internet Stores identified in Schedule A. Specifically, each of the Defendants directly reaches out to do business with Illinois residents by

operating or assisting in the operation of one or more commercial, interactive e-commerce stores that sell products featuring Plaintiff's patented design. In short, each Defendant is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Illinois.

II. INTRODUCTION

3. Plaintiff filed this action to combat online infringers and counterfeiters 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 patent (U.S. Patent No. [REDACTED]) (the "[REDACTED]"). See **Exhibit 1**. The Defendants created internet stores (the "Defendant Internet Stores" or the "Stores") that are making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use infringing products to unknowing consumers. E-commerce stores operating under the Seller Aliases share unique identifiers establishing a logical relationship between them, suggesting that Defendants' 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 operation. Plaintiff is forced to file this action to combat Defendant's willful infringement of Plaintiff's patented design, as well as to protect unknowing consumers from purchasing infringing products over the Internet. Plaintiff has been and continues to be irreparably damaged through loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing its patented design as a result of Defendants' actions and seeks injunctive and monetary relief.

III. THE PARTIES

[REDACTED]

4. Plaintiff is a [REDACTED] limited liability company and is the creator and seller of high-quality, unique [REDACTED] [REDACTED] (collectively, the “[REDACTED] Products”). Plaintiff sells these designs through its brand [REDACTED], which allows consumers to purchase the product through the company’s e-commerce marketplaces. The [REDACTED] Products have become enormously popular, driven by Plaintiff’s exacting quality standards and innovative designs. Among the purchasing public, genuine [REDACTED] Products are instantly recognizable as such. In the United States and around the world, the [REDACTED] brand has come to symbolize high quality, and the [REDACTED] Products are among the most recognizable socks in the United States.

5. Plaintiff is the manufacturer, distributor, and retailer of [REDACTED]. The Company is engaged in the business of distributing and retailing its high-quality [REDACTED] [REDACTED] within the Northern District of Illinois. [REDACTED] are distributed and sold to consumers through its own website¹ and Amazon storefront.² Defendant’s sales of the counterfeit product in violation of Plaintiff’s intellectual property rights are irreparably damaging Plaintiff.

6. The [REDACTED] Products are known for their distinctive patented design. [REDACTED] that use this design are associated with the quality and innovation that the public has come to expect from [REDACTED] Products. Plaintiff uses this design in connection with its [REDACTED] branded products, including, but not limited to, the following patented design.

¹ [REDACTED]

² [REDACTED]

Patent Number: [REDACTED]		Issue Date: [REDACTED]	
CLAIM			
Figure 1	[REDACTED]	Figure 2	[REDACTED]
Figure 3	[REDACTED]	Figure 4	[REDACTED]
Figure 5	[REDACTED]	Figure 6	[REDACTED]

7. [REDACTED] is the lawful assignee of all rights to, title in, and interest in the [REDACTED]: US Patent No. [REDACTED] ([REDACTED], issued [REDACTED]) (the “Patent”).

8. Plaintiff has expended substantial time, money, and other resources to develop, advertise, and otherwise promote the [REDACTED]. As a result, customers recognize that products bearing the distinctive [REDACTED] originate exclusively from the Plaintiff.

The Defendants

9. Defendants are individuals and 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 in this Judicial District, through the operation of fully interactive commercial websites and online commercial 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 infringing products to consumers within the United States, including Illinois and in this Judicial District.

10. Defendants are an interrelated group of infringers and counterfeiters who create numerous Defendant Internet Stores and design these stores to appear to be selling genuine [REDACTED] Products, while they actually sell inferior imitations of Plaintiff's [REDACTED] Products. Defendants also knowingly and willfully manufacture, import, distribute, offer for sale, and sell infringing products. The Defendant Internet Stores share unique identifiers, such as common design elements, the same or similar counterfeit products that they offer for sale, similar counterfeit product descriptions, the same or substantially similar shopping cart platforms, accepted payment methods, check-out methods, lack of contact information, and identically or similarly priced counterfeit products and volume sale discounts. As such, the Defendant Internet Stores establish a logical relationship between them and suggest that Defendants' illegal operations arise out of the same transaction or occurrence. The tactics used by Defendants to conceal their identities and the full scope of their counterfeiting operation make it virtually impossible for Plaintiff to learn the precise scope and the exact interworking of their counterfeit network. If Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

IV. THE DEFENDANTS' UNLAWFUL CONDUCT

11. The success of Plaintiff's design has resulted in significant infringement of the [REDACTED] Design. Consequently, Plaintiff has identified numerous marketplace listings on eCommerce platforms such as, but not limited to, [REDACTED] [REDACTED] which include Defendant Aliases and which have been offering for sale, completing sales, and exporting illegal products to consumers in this Judicial District and throughout the United States. Defendants have persisted in creating the Defendant Aliases. E-commerce sales, including e-commerce internet stores like those of Defendants, have resulted in a sharp increase in the shipment of unauthorized products into the United States. See **Exhibit 2** (ECF No. 1-3), U.S. Customs and Border Protection, *Intellectual Property Rights Seizure Statistics, Fiscal Year 2021*. According to Customs and Border Patrol's ("CBP") report, over 90% of all CBP intellectual property seizures were smaller international mail and express shipments (as opposed to large shipping containers). *Id.* Approximately 60% of CBP seizures originated from mainland China and Hong Kong. *Id.* Counterfeit and pirated products account for billions of dollars in economic losses, resulting in tens of thousands of lost jobs for legitimate businesses and broader economic losses, including lost tax revenue.

12. Groups of counterfeiters, such as Defendants here, are typically in communication with each other. They regularly participate in QQ.com chat rooms and also communicate through websites such as sellerdefense.cn, kaidianyao.com, and kuajingvs.com, where they discuss tactics for operating multiple accounts, evading detection, pending litigation, and potential new lawsuits.

13. Counterfeiting rings take advantage of the anonymity provided by the internet, which allows them to evade enforcement efforts to combat counterfeiting. For example, counterfeiters take advantage of the fact that marketplace platforms 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 Internet platforms.” *See Exhibit 3* (ECF No. 1-4), Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 41 Nw. J. Int’l. L. & Bus. 24 (2020). Additionally, “Internet commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of counterfeits and counterfeiters.” *Id.* at 25. Therefore, with the absence of regulation, Defendant may and does garner sales from Illinois residents by setting up and operating e-commerce internet stores that target United States consumers using one or more aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars, and, on information and belief, have sold counterfeit products to residents of Illinois.

14. Upon information and belief, at all times relevant hereto, Defendants have had full knowledge of Plaintiff’s ownership of the design patent, including its exclusive right to use and license such intellectual property.

15. Defendants go to great lengths to conceal their identities by using multiple fictitious names and addresses to register and operate their massive network of Defendant Internet Stores. Other Defendant domain names often use privacy services that conceal the owners’ identity and contact information. Upon information and belief, Defendants regularly create new websites and online marketplace accounts on various platforms using the identities listed in Schedule A of this Complaint, as well as other unknown fictitious names and addresses. Such Defendant Internet Store registration patterns are one of the many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their massive counterfeiting operation, and to avoid being shut down.

16. The infringing products for sale in the Defendant Internet Stores bear similarities and indicia of being related to one another, suggesting that the infringing products were manufactured by and come from a common source and that, upon information and belief, Defendants are interrelated.

17. Upon information and belief, Defendants are an interrelated group of infringers working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell Infringing Products in the same transaction, occurrence, or series of transactions or occurrences. Defendants, without any authorization or license from Plaintiff, have jointly and severally, knowingly and willfully offered for sale, sold, and/or imported into the United States for subsequent resale or use products that directly and/or indirectly infringe the [REDACTED] Design. Each e-commerce store operating under the Seller Aliases offers shipping to the United States, including Illinois, and, on information and belief, each Defendant has sold Infringing Products in the United States and Illinois over the Internet.

18. Defendants' infringement of the [REDACTED] Design in making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use of the Infringing Products was willful and without any authorization or license from Plaintiff.

19. Defendants' infringement of the [REDACTED] Design in connection with making, using, offering for sale, selling, and/or importing into the United States for the subsequent sale or use of the Infringing Products, including the making, using, offering or sale, selling, and/or importing into the United States for the subsequent sale or use of Infringing Products into Illinois, is irreparably harming Plaintiff.

20. The infringing products are not [REDACTED] branded products of the Plaintiff. Plaintiff did not manufacture, inspect, or package the infringing products and did not approve the

infringing products for sale or distribution. Defendant's Internet Stores offers shipping to the United States, including Illinois, and, on information and belief, Defendant has sold counterfeit products into the United States, including Illinois.

21. Upon information and belief, Defendant will continue to register or acquire listings for the purpose of selling infringing products that infringe upon the [REDACTED] design patent unless preliminarily and permanently enjoined.

COUNT I

INFRINGEMENT OF UNITED STATES DESIGN PATENT (35 U.S.C. § 271)

22. Plaintiff hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 21.

23. Plaintiff is the lawful assignee of all right, title, and interest in and to the [REDACTED] Design (the [REDACTED] Patent). *See Exhibit 1.*

24. Defendants are making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use Infringing Products that infringe the ornamental design claimed in the Plaintiff's design patent either directly or under the doctrine of equivalents.

25. Defendants have been and are infringing Plaintiff's design patent by making, using, selling, or offering for sale in the United States, or importing into the United States, including within this judicial district, the accused products in violation of 35 U.S.C. § 271(a).

26. Defendants have infringed Plaintiff's design patent 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 design. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

27. Defendants have infringed Plaintiff's design patent because, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the ornamental designs of Plaintiff's Design Patents and the overall design features of Defendants' products are substantially the same, if not identical, with resemblance such as to deceive an ordinary observer, inducing such observer to purchase an Infringing Product supposing to be Plaintiff's product protected by Plaintiff's Design Patent.

28. Plaintiff is entitled to recover damages adequate to compensate for the infringement, including Defendants' profits pursuant to 35 U.S.C § 289. Plaintiff is entitled to recover any other damages that are appropriate pursuant to 35 U.S.C. § 284.

COUNT II

CIVIL CONSPIRACY

29. Plaintiff hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 28.

30. Plaintiff is informed and believes and thereon alleges that Defendants knowingly and voluntarily entered into a scheme and agreement to engage in a combination of unlawful acts and misconduct including, without limitation, a concerted and collaborated effort to maintain the distribution, marketing, advertising, shipping, offer for sale, or sale of counterfeit products in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510, et seq.

31. The intent, purpose, and objective of the conspiracy and the underlying combination of unlawful acts and misconduct committed by the Defendants was to undermine Plaintiff and its business by unfairly competing against it as described above.

32. The Defendants each understood and accepted the foregoing scheme and agreed to do their respective part, to further accomplish the foregoing intent, purpose, and objective. Thus,

by entering the conspiracy, each Defendant has deliberately, willfully, and maliciously permitted, encouraged, and/or induced all the foregoing unlawful acts and misconduct.

33. As a direct and proximate cause of the unlawful acts and misconduct undertaken by each Defendant in furtherance of the conspiracy, Plaintiff has sustained, and unless each Defendant is restrained and enjoined, will continue to sustain severe, immediate, and irreparable harm, damage, and injury for which Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

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

i. 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, copy or colorable imitation of the design claimed in the [REDACTED] Design;

ii. aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon the [REDACTED] Design; and

iii. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (a) and (b).

B. Entry of an Order that, upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including, without limitation, any online marketplace platforms such as [REDACTED],

██████████; payment processors such as: PayPal, Stripe, Payoneer, and LianLian; social media platforms such as: Facebook, Instagram, Snapchat, TikTok, YouTube, LinkedIn, and Twitter; Internet search engines such as Google, Bing, and Yahoo; webhosts for the Defendants Domain Names; and domain name registrars shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of goods that infringe the ornamental design claimed in the ██████████ Design;

C. That Plaintiff be awarded such damages as it shall prove at trial against Defendants that are adequate to compensate Plaintiff for Defendant' infringement of Plaintiff's Design, 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;

D. That the amount of damages awarded to Plaintiff to compensate Plaintiff for infringement of the ██████████ Design be increased by three times the amount thereof, as provided by 35 U.S.C. § 284;

E. In the alternative, that Plaintiff be awarded complete accounting of all revenue and profits realized by Defendants from Defendants' infringement of the ██████████ Design, pursuant to 35 U.S.C. § 289;

F. That Plaintiff be awarded its reasonable attorneys' fees and costs; and,

G. That Plaintiff be awarded any and all other relief that this Court deems equitable and just.

Plaintiff demands trial by jury as to all causes of action so triable.

Dated: June 13, 2024

Respectfully submitted,

/s/ James E. Judge

Zareefa B. Flener (IL Bar No. 6281397)

James E. Judge (IL Bar No. 6243206)

Ying Chen (IL Bar No. 6346961)

Flener IP Law, LLC

77 W. Washington St., Ste. 800

Chicago, IL 60602

(312) 724-8874

jjudge@fleneriplaw.com