

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

UBISOFT ENTERTAINMENT AND
UBISOFT, INC.,

Plaintiff,

v.

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

Defendants.

Case No.:

COMPLAINT

Plaintiffs Ubisoft Entertainment And Ubisoft, Inc., (collectively, “Ubisoft” or “Plaintiff”) brings this action against the Individuals, Corporations, Limited Liability Companies, Partnerships and Unincorporated Associations identified in Schedule A hereto (collectively, “Defendants”). In support of this Complaint, Plaintiff alleges as follows:

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. and pursuant to 28 U.S.C. § 1338(a)–(b) and 28 U.S.C. § 1331.

2. 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.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendants, as Defendants directly target consumers in the United States, including in Illinois and in this District, through acts of counterfeiting and trademark infringement, as described herein.

4. Specifically, Defendants, under the cover of aliases, operate Internet enterprises, online marketplaces, profiles, stores and/or accounts (collectively, “Defendant Internet Stores”), through which Defendants use counterfeit or infringing versions of Plaintiff’s trademarks to sell infringing products to consumers in Illinois and in this District. Schedule A identifies the aliases Defendant’s use (“Defendant Aliases”) and URLs associated with each Defendant Internet Store.

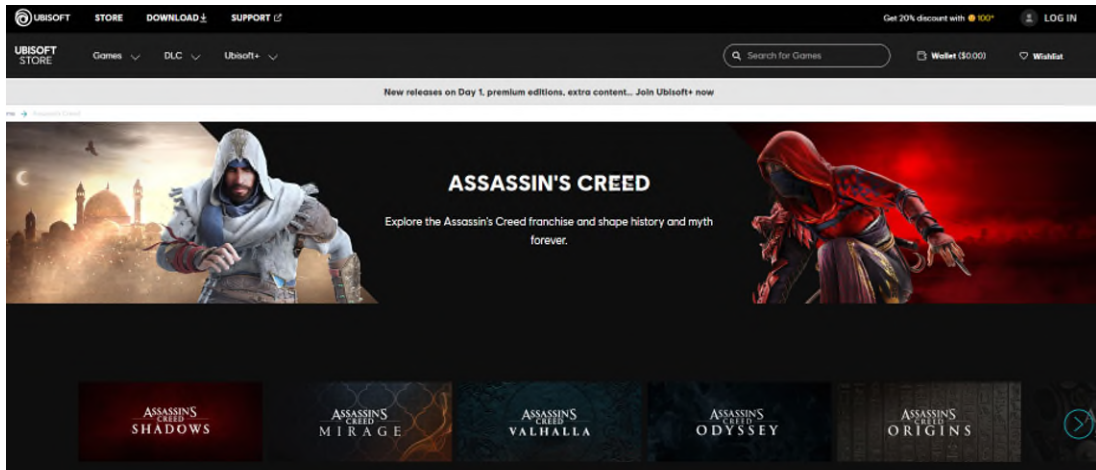
5. Defendants have targeted and sought sales from Illinois residents by operating online stores that offer infringing products and shipping to the United States, including to addresses in Illinois and in this District in exchange for payments in U.S. dollars.

PLAINTIFF

6. Plaintiff owns and manages the licensing, sale, and marketing of ASSASSIN’S CREED products.

7. Ubisoft Entertainment is a French corporation with its registered address at 2, rue du Chêne Heleuc, Carentoir, 56910, France. Ubisoft Entertainment is the parent company of Ubisoft, Inc. Ubisoft, Inc. is a California corporation with its principal place of business at 300 Mission St 20th floor, San Francisco, California 94105.

8. Plaintiff is in the business of developing, marketing, selling, distributing and licensing ASSASSIN’S CREED branded products.



https://store.ubisoft.com/us/assassins-creed?lang=en_US

9. ASSASSIN'S CREED is a multimedia franchise comprising a trademarked video game series of the same name developed and published by Plaintiff. The first video game, the eponymous ASSASSIN'S CREED, was released in 2007. Since then, ASSASSIN'S CREED has gone on to release more than twelve main series videogames that have sold more than 100 million copies worldwide, making ASSASSIN'S CREED one of the best-selling video game series of all time. The ASSASSIN'S CREED brand of products has expanded beyond video games to a variety of other media, including: movies, novels, comic books, toys, apparel and other types of products.

10. Plaintiff owns Trademark Registrations for the ASSASSIN'S CREED brand, including those at reg. nos. 3438083, 3438084, 4006661, 4006694, 4127977, 4178998, 4516085, 4597881, 4682475, 4704227, 5300715, 5551163 (collectively, the "Asserted Trademarks").

11. The above registrations for the Asserted Trademarks are valid, subsisting, and in full force and effect. True and correct copies of the federal trademark registration certificates for the above-referenced marks are attached hereto as Ex. 1.

12. The Asserted Trademarks are distinctive and identify merchandise as goods from Plaintiffs or their duly authorized licensees.

13. The Asserted Trademarks have been continuously used and never abandoned.

14. Plaintiff's Asserted Trademarks are exclusive to Plaintiff and are displayed extensively on Plaintiff's products and in Plaintiff's marketing and promotional materials. Plaintiff's Asserted Trademarks have been the subject of substantial and continuous marketing and promotion by Plaintiffs at great expense. In fact, Plaintiff has expended significant resources annually in advertising, promoting and marketing featuring Plaintiff's Asserted Trademarks. Plaintiff's promotional efforts include — by way of example, but not limitation — substantial print media, a website, social media sites and point of sale materials. Because of these and other factors, Plaintiff's Asserted Trademarks have become famous worldwide.

15. Plaintiff's Asserted Trademarks are distinctive when applied to Plaintiff's products, signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff's quality standards. Whether Plaintiff manufactures the products themselves or license others to do so, Plaintiff has ensured that products bearing its Trademarks are manufactured to the highest quality standards. Plaintiff's Asserted Trademarks have achieved fame and recognition, which has only added to the inherent distinctiveness of the marks. As such, the goodwill associated with Plaintiff's Asserted Trademarks is incalculable and of inestimable value to Plaintiff.

16. Plaintiff's Asserted Trademarks qualify as famous marks, as used in 15 U.S.C. §1125 (c)(1), and have been continuously used and never abandoned.

17. Plaintiffs have expended substantial time, money, and other resources in developing, advertising, and otherwise promoting their Trademarks. As a result, products

bearing the Asserted Trademarks are widely recognized and exclusively associated by consumers, the public and the trade as products sourced from Plaintiff.

18. Plaintiff also owns the rights to valuable copyrighted content (the “ASSASSIN’S CREED Works”). The ASSASSIN’S CREED Works are protected by copyright registrations, including, those at registration nos. PA 1-595-842, PA 1-726-395, PA 1-812-598, PA 1-843-135, PA 1-886-998, PA 1-952-351, PA 1-981-987, PA 2-097-643 and PAu 2-921-921.

19. Plaintiff has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting the ASSASSIN’S CREED Works. As a result, products associated with the ASSASSIN’S CREED Works are recognized and exclusively associated by consumers, the public, and the trade as products authorized by Plaintiff.

20. The Copyright Registrations are valid, subsisting, and in full force and effect.

DEFENDANTS

21. Defendants are individuals and business entities who, on information and belief, reside outside the United States. Defendants conduct business throughout the United States, including within Illinois and in this District, through the operation of online enterprises such as the Defendant Internet Stores.

22. Tactics used by Defendants to conceal their identities and the full scope of their infringing operations and relatedness make it virtually impossible for Plaintiff to learn Defendants’ true identities and the precise interworking of their counterfeit network.

THE DEFENDANTS’ UNLAWFUL CONDUCT

23. Plaintiff has identified numerous marketplace profiles associated with the Defendant Internet Stores on third-party platforms, such as Amazon or Walmart.com. *See*, Schedule A. Defendants use the Defendant Aliases and the Defendant Internet Stores to advertise,

offer for sale, sell, and import infringing products to consumers in this District and throughout the United States.

24. According to an intellectual property rights seizures statistics report issued by U.S. Customs and Border Protection (“CBP”), the manufacturer’s suggested retail price (MSRP) of goods seized by the U.S. government in fiscal year 2021 was over \$3.3 billion, an increase of 152% over the previous Fiscal Year. *See*, Exhibit 2 (Intellectual Property Rights Seizure Statistics, Fiscal Year 2021), p. 5.

25. CBP reports that the vast majority of its intellectual property seizures correspond to smaller international mail and express shipments, such as those used by Defendants. *See*, Exhibit 3 at p. 37. CPB also reports that “[t]rade in counterfeit and pirated goods threatens America’s innovation economy, the competitiveness of our businesses, the livelihoods of U.S. workers, and, in some cases, national security and the health and safety of consumers.” Exhibit 3, p. 1.

26. The Department of Homeland Security (“DHS”) has reported that commonly owned and/or interrelated enterprises have many online marketplace profiles that appear unrelated:

Platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, nor to link one seller profile to other profiles owned by that same business, or by related businesses and owners. In addition, the party that appears as the seller on the invoice and the business or profile that appears on the platform to be the seller, may not always be the same. This lack of transparency allows one business to have many different profiles that can appear unrelated.

Exhibit 4, p. 39 (Combating Trafficking in Counterfeit and Pirated Goods).

27. Defendants go to great lengths to operate anonymously and often use multiple Defendant Aliases to register and operate their networks of Defendant Internet Stores.

28. Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. For example, some or all of the Defendant Internet Stores use substantially identical or equivalent language and/or imagery to sell infringing products.

29. In addition, 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, many Defendants are interrelated.

30. E-commerce store operators, like Defendants, communicate with each other and regularly participate in and/or access websites, such as sellerdefense.cn, to aid in engaging in tactics to avoid detection and/or judgment in pending litigation.

31. The Defendant Internet Stores also include other notable common features, including common payment methods, lack of contact information, identically or similarly-appearing products, identical or similarly priced items and volume sales discounts, and the use of the same text and images.

32. Defendants' unauthorized use and counterfeiting of the Asserted Trademarks in connection with the advertising, distribution, offering for sale, and sale of infringing products, including the sale of infringing products into Illinois, is likely to cause and has caused confusion, mistake, and deception by and among consumers and has irreparably harmed Plaintiff.

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

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

34. Plaintiff is the exclusive owner of the Asserted Trademarks. The Registrations for the Asserted Trademarks (attached as Exhibit 1) are in full force and effect.

35. The marks used by Defendants in their promotion, advertising, marketing, offers for sale, and sale of the infringing products are identical with, or substantially indistinguishable from, the registered Asserted Trademarks.

36. Defendants have engaged in unauthorized uses in commerce of counterfeit imitations of the registered Asserted Trademarks in connection with the sales, offers for sale, distribution, and/or advertising of infringing goods.

37. The Asserted Trademarks are highly distinctive marks. Consumers have come to expect the highest quality from Plaintiff's products provided under the Asserted Trademarks.

38. 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 Asserted Trademarks without Plaintiff's authorization or permission.

39. Upon information and belief, Defendants have knowledge of Plaintiff's rights in the Asserted Trademarks, and are willfully infringing and intentionally using counterfeits of the Asserted Trademarks despite such knowledge.

40. Defendants' willful, intentional and unauthorized use of the Asserted 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.

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

42. 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 Asserted Trademarks.

43. 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 infringing products.

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

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

45. Defendants' promotion, advertising, marketing, offering for sale, and sale of infringing products has created and is creating a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with Plaintiff or the origin, sponsorship, or approval of Defendants' infringing products by Plaintiff.

46. By using the Asserted Trademarks in connection with the sale of infringing products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the infringing products.

47. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the infringing products to the general public is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

48. 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.

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

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

50. Defendants have engaged in acts violating Illinois law including, but not limited to, passing off their infringing products as those of Plaintiff, 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 products,

representing that their products have Plaintiff's approval when they do not, and engaging in other conduct which creates a likelihood of confusion or misunderstanding among the public.

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

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

COUNT IV COPYRIGHT INFRINGEMENT

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

54. At all relevant times, Plaintiff is, and has been, the owner of all valid and enforceable rights to the ASSASSIN'S CREED Works, which contain copyrightable subject matter under 17 U.S.C. §§ 101 and 501, et seq.

55. The ASSASSIN'S CREED Works have significant value and have been produced at considerable expense.

56. The ASSASSIN'S CREED Works are the subject of valid certificates of copyright registrations for the ASSASSIN'S CREED Works. Plaintiff has complied with the registration requirements of 17 U.S.C. § 411(a) for the ASSASSIN'S CREED Works.

57. Defendants do not have any ownership interest in the ASSASSIN'S CREED Works.

58. Defendants have had access to the ASSASSIN'S CREED Works, including via the internet.

59. Without authorization from Plaintiff, or any right under the law, Defendants have deliberately copied, displayed, distributed, reproduced and/or made derivative works of the ASSASSIN'S CREED Works, as displayed in relation to the Defendant Internet Stores and the corresponding infringing products in violation of 17 U.S.C. § 501 and 17 U.S.C. § 106(1) - (3), (5).

60. Defendants' images, artwork and derivative works are virtually identical to and/or substantially similar to the ASSASSIN'S CREED Works. Such conduct infringes and continues to infringe the ASSASSIN'S CREED Works in violation of 17 U.S.C. § 501 and 17 U.S.C. § 106(1) - (3), (5).

61. Defendants reap the benefits of the unauthorized copying and distribution of the ASSASSIN'S CREED Works in the form of revenue and other profits that are driven by the sale of Infringing Plaintiff Products.

62. The Defendants have unlawfully appropriated Plaintiff's protectable expression by taking material of substance and value and creating Infringing Plaintiff Products that capture the total concept and feel of the ASSASSIN'S CREED Works.

63. Upon information and belief, the Defendants' infringement has been willful, intentional, and purposeful, and in disregard of and with indifference to, Plaintiff's rights.

64. The Defendants, by their actions, have damaged Plaintiff in an amount to be determined at trial.

65. As a result of each Defendants' infringement of Plaintiff's exclusive rights under copyrights, Plaintiff is entitled to relief pursuant to 17 U.S.C. §504 and to its attorneys' fees and costs pursuant to 17 U.S.C. §505.

66. The conduct of each Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot fully be compensated or measured in money. Plaintiff has no adequate remedy at law.

67. Pursuant to 17 U.S.C. §§502 and 503, Plaintiff is entitled to injunctive relief prohibiting each Defendant from further infringing Plaintiff's copyrights and ordering that each Defendant destroy all unauthorized copies.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1) 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:

- a. Using the Asserted Trademarks or ASSASSIN'S CREED Works or any reproductions, 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 an authorized product or is not authorized by Plaintiff to be sold in connection with the ASSASSIN'S CREED Works;
- b. passing off, inducing, or enabling others to sell or pass off any product or not produced under the authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale under the Asserted Trademarks or ASSASSIN'S CREED Works;
- c. further infringing the Asserted Trademarks or ASSASSIN'S CREED Works and damaging Plaintiff's goodwill;
- a. shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory

not authorized by Plaintiff to be sold or offered for sale, and which directly use the Asserted Trademarks or ASSASSIN'S CREED Works, and which are derived from Plaintiff's rights to the Asserted Trademarks or ASSASSIN'S CREED Works; and

- b. using, linking to, transferring, selling, exercising control over, or otherwise owning the Defendant Internet Stores, or any other online marketplace account that is being used to sell products or inventory not authorized by Plaintiff which are derived from Plaintiff's rights to the Asserted Trademarks or ASSASSIN'S CREED Works;

2) Entry of an Order that, upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including any online marketplaces, social media platforms, or web hosts for the Defendant Internet Stores, shall:

- a. disable and cease providing services for any accounts through which Defendants engage in the sale of products not authorized by Plaintiff which reproduce the ASSASSIN'S CREED Works or are derived from the Asserted Trademarks or ASSASSIN'S CREED Works, 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 products not authorized by Plaintiff which are derived from the Asserted Trademarks or ASSASSIN'S CREED Works; and
- c. take all steps necessary to prevent links to the Defendant accounts identified on Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant accounts from any search index;

3) For Judgment in favor of Plaintiff against Defendants that they have: a) willfully infringed Plaintiff's rights in Plaintiff's federally registered copyrights pursuant to 17 U.S.C. §501;

and b) otherwise injured the business reputation and business of Plaintiff by Defendants' acts and conduct set forth in this Complaint;

4) For Judgment in favor of Plaintiff against Defendants for actual damages or statutory damages pursuant to 17 U.S.C. §504, at the election of Plaintiff, in an amount to be determined at trial;

5) Plaintiff further requests that Defendants account for and pay to Plaintiff all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged in relation to the Asserted Trademarks, and that the amount of damages for infringement of the Asserted Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117.

6) Alternatively, Plaintiff requests an award of statutory damages pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every counterfeit use of the Asserted Trademarks.

7) That Plaintiff be awarded Plaintiff's reasonable attorneys' fees and costs; and Award any and all other relief that this Court deems just and proper.