

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

[REDACTED]

Plaintiff,

v.

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

Defendants.

Case No. 1:24-cv-

**DECLARATION OF [REDACTED] IN SUPPORT OF PLAINTIFF'S
MOTION FOR TEMPORARY RESTRAINING ORDER**

[REDACTED] of Hong Kong, a special administrative region of the People's Republic of China, declare as follows:

1. Except as otherwise expressly stated to the contrary, this declaration is based upon my personal knowledge of the following facts and, if called as a witness, I could and would competently testify to the statements made herein.

2. I make this declaration in support of Plaintiff's Motion for Entry of a Temporary Restraining Order, including a temporary injunction, a temporary asset restraint, expedited discovery, and service of process by email and/or electronic publication (the "Motion").

3. I am [REDACTED]

[REDACTED] I am personally knowledgeable of, or have access to business records concerning, all information referenced herein including, but not limited to, Plaintiff's trademarks, copyrights, other intellectual property, sales, on-line sales, advertising, marketing, and media

coverage. I make this declaration from matters within my own knowledge save where otherwise stated.

[REDACTED]

5. Plaintiff was founded on [REDACTED] for the purpose of creating and offering innovative fashion solutions and designs for women's clothing, accessories, and related merchandise (such as swimwear, dresses, tops, bottoms, jewelry, accessories, and clothing) that is sold to consumers through the company's branded products (the "Brand") through the use, display, and advertisement of its federally registered trademark (the "Brand Trademark"), which was been issued [REDACTED] by the United States Patent and Trademark Office (the "USPTO") on [REDACTED]

6. Plaintiff's Products are distributed and sold to consumers throughout the United States, including in Illinois through Plaintiff's official website.

7. Plaintiff incorporates its distinctive mark in the design of its Brand products. The Brand products typically include Plaintiff's Brand Trademark.

8. I originally sought and obtained registration of the Brand Trademark for the USPTO as an individual. The Brand Trademark was granted registration by the USPTO on [REDACTED]. Attached hereto as Exhibit "1" is a true and correct copy of the USPTO's registration of the Brand Trademark.

9. After obtaining registration, I assigned all rights, title, and interest in and to the Brand Trademark to Plaintiff on or about [REDACTED] which was recorded with the USPTO on [REDACTED]. The USPTO issued a Notice of Recordation of Assignment

Document for the Brand Trademark, a true and correct copy of which is attached hereto as Exhibit "2".

10. The Brand Trademark is valid, subsisting in full force and effect. The Asserted Brand Trademark has been used exclusively and continuously by Plaintiff for many years and has never been abandoned.

11. The Brand Trademark is exclusive to Plaintiff and is displayed extensively on the Brand products, marketing, and promotional materials. Plaintiff's Brand has long been among the most popular women's clothing brands in the world and has been extensively promoted and advertised at great expense. In fact, Plaintiff typically expends more than \$10,000,000 USD annually to advertise, market, and promote the Brand and products bearing the Brand Trademark in the United States through such online advertising channels as Google Ads, Facebook, and Bing. These advertising efforts have allowed Plaintiff to recognize annual Brand-related gross revenues in excess of \$25,000,000 from United States sales, which includes over \$1,500,000 in annual gross sales revenue from the State of Illinois. Simply put, Plaintiff's Brand and Brand Trademark have become famous throughout the United States and around the world and they represent significant, highly valued company assets.

12. The Brand Trademark is distinctive when applied to the Brand products by signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff's quality standards. The Brand Trademark has achieved tremendous fame and recognition, which has only added to the inherent distinctiveness of the marks. As such, the goodwill associated with the Brand Trademark is of incalculable and inestimable value to Plaintiff.

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13. Plaintiff promotes and sells its Brand products through its own e-commerce website, which specifically incorporates the Brand Trademark in its URL address (the “Brand Website”). Sales of the Brand products via the Brand Website represent a substantial portion of Plaintiff’s business. The Brand Website features proprietary content, images, and designs exclusive to the Brand and incorporates the Brand Trademark.

14. Plaintiff does not license the Brand Trademark or license, authorize, or otherwise consent to the sale of Brand Products or display of the Brand Trademark to any third-party, which the exception of a related corporate entity that exclusively sells products through its own branded website incorporating the company’s trade name/trademark in its URL. Neither Plaintiff, nor its related corporate entity, sell any Brand products or display the Brand Trademark on any third-party online sales platform, such as Amazon, eBay, AliExpress, Alibaba, Wish.com, Walmart, Etsy, DHgate, Temu, and the platform at issue in this case as listed in Schedule “A” to the Complaint (the “Platform”).

15. The Brand’s success has resulted in significant counterfeiting of the Brand products and use of the Brand Trademark to advertise, market, display, offer to sell, and sell counterfeit women’s clothing, merchandise, and related products (the “Counterfeit Products”) at issue in this case. Consequently, Plaintiff has identified numerous fully interactive e-commerce stores, including those operating under the seller aliases identified in Schedule “A” to the Complaint (the “Defendants”), which were offering for sale and/or selling Counterfeit Products using, without authorization, the Brand Trademark, to do so for the purpose of soliciting consumers in the State of Illinois, in the City of Chicago, and throughout the United States. Defendants could not, individually manufacture and fulfill consumer orders for the Counterfeit Products. Rather, Defendants would necessarily be required to employ a common manufacturing source and/or

common supply chains to fulfill consumer orders for the Counterfeit Products. This, along with other identified circumstances, demonstrate that the Defendants are operating, in concert, through a sophisticated counterfeit network.

16. Plaintiff has filed this action to stop Defendants' unauthorized use of the Brand Trademark to promote and sell their Counterfeit Products and continue their scheme of misleading consumers, including the citizens of the State of Illinois.

17. I perform, supervise, and/or direct investigations related to Internet-based infringement of the Brand Trademark. Our investigation shows that Defendants are individuals from the People's Republic of China ("China") or are Chinese-based entities using their e-commerce stores to sell the Counterfeit Products to consumers in the United States and elsewhere. I, or someone working under my direction, analyzed each of the e-commerce stores operating under the Defendants' control and determined that Counterfeit Products were being offered for sale to residents of the United States, including to residents of the State of Illinois. This conclusion was reached through visual inspection of the Counterfeit Products listed for sale on each e-commerce store, the price at which the Counterfeit Products were offered for sale, other features commonly associated with e-commerce stores selling counterfeit products, and because Defendants and their e-commerce stores do not conduct authorized business with the company's Brand and do not have the right or authority to use the company's Brand Trademark for any reason. In addition, each e-commerce store offered shipping to the United States, including to the State of Illinois. The e-commerce stores operating that were reviewed are attached as Schedule "A" to the Complaint.

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18. Specifically, Defendants create numerous e-commerce stores on online sales platforms, including on the Platform, to sell their Counterfeit Products through the unauthorized use, employment, digital incorporation, or other online display of the Brand Trademark. These tactics include incorporating, without authorization, Plaintiff's Brand Trademark in Search Engine Optimization ("SEO") terms, the descriptions of Counterfeit Products, meta tags, hyperlinks, and other digital assets to direct consumers to their Online Marketplaces under the auspices that they are selling authentic Brand products when they are not doing so.

19. Monetary damages cannot adequately compensate Plaintiff for ongoing infringement because monetary damages fail to address the loss of control of and damage to Plaintiff's reputation and goodwill. Furthermore, monetary damages are difficult, if not impossible, to ascertain due to the inability to calculate measurable damage in dollars and cents caused to Plaintiff's reputation and goodwill by acts of infringement

20. Plaintiff's goodwill and reputation are irreparably damaged when the company's Brand Trademark is used in connection with the offering for sale or sale of Counterfeit Products not authorized, produced, or manufactured by Plaintiff. Moreover, Brand confidence is damaged which can result in a loss of future sales and market share. The extent of harm to Plaintiff's reputation and goodwill, and the possible diversion of customers due to loss in Brand confidence, are largely unquantifiable

21. Plaintiff is further irreparably harmed by the unauthorized use of the Brand Trademark because Defendants' sale of Counterfeit Products by using, without authorization, the Brand Trademark eliminates the company's ability to control the nature and quality of the products received by consumers expecting authentic, genuine Brand products. Loss of quality

control over goods offered for sale or sold under the Brand Trademark and, in turn, loss of control over Plaintiff's reputation, is neither calculable nor precisely compensable.

22. The use of the Brand Trademark in connection with the offering for sale or sale of goods not authorized, produced, or manufactured by Plaintiff is likely causing and will continue to cause consumer confusion which weakens Plaintiff's brand recognition and reputation. Consumers who mistakenly believe that the Counterfeit Products they have purchased originated from Plaintiff will come to believe that Plaintiff offers low-quality products. Inferior quality products will result in increased skepticism and hesitance in consumers presented with genuine Brand products, resulting in a loss or undermining of Plaintiff's reputation and goodwill. Indeed, there is damage to Plaintiff's reputation and goodwill even if consumers know that the goods they are purchasing are counterfeit. Prospective consumers who see inferior Counterfeit Products worn or used by others may mistakenly believe such goods to be genuine and may consequently develop a poor impression of Plaintiff, its Brand, and the Brand Trademark. Such post-sale confusion results in damage to Plaintiff's reputation and correlates to a loss of unquantifiable future sales.

23. Plaintiff is further irreparably damaged due to a loss of exclusivity. The Asserted Brand products are meant to be exclusive. Plaintiff's extensive marketing efforts and innovative designs are aimed at growing and sustaining sales. The Brand Trademarks are distinctive and signify to consumers that the products originate from Plaintiff and are manufactured to Plaintiff's high-quality standards. When counterfeiters use the Brand Trademark to offer for sale or sell goods without Plaintiff's authorization, the exclusivity of the Brand products and Plaintiff's reputation are damaged and eroded, resulting in a loss of unquantifiable future sales.

24. Plaintiff will suffer immediate and irreparable injury, loss, or damage if a Temporary Restraining Order is not issued in accordance with Federal Rule of Civil Procedure 65(b)(1).

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct.

Executed on December 4, 2024 in Hong Kong, a special administrative region of the People's Republic of China.

Respectfully Submitted

A black rectangular redaction box covering the signature of the declarant.