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

GAG GIFTS FOR GOOD CAUSES, LLC, dba POOPING POOCHES, Plaintiff, v. THE INDIVIDUALS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, AND UNINCORPORATED ASSOCIATIONS IDENTIFIED ON SCHEDULE A HERETO, Defendants.	Case No.:

MEMORANDUM IN SUPPORT OF PLAINTIFF'S *EX PARTE* MOTION FOR ENTRY OF A TEMPORAARY RESTRAINING ORDER, INCLUDING A TEMPORARY INJUNCTION, A TEMPORARY ASSET RESTRAINT, AND EXPEDITED DISCOVERY

Plaintiff, GAG GIFTS FOR GOOD CAUSES, LLC, dba POOPING POOCHES ("Plaintiff" or "Pooping Pooches") submits this Memorandum in support of its *Ex Parte* Motion for Entry of a Temporary Restraining Order ("TRO") including a temporary injunction, a temporary asset restraint, and expedited discovery (the "*Ex Parte* Motion").

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiff Pooping Pooches is requesting temporary *ex parte* relief based on its action for trademark infringement and counterfeiting, false designation of origin, and violation of the Illinois Deceptive Trade Practices Act against the defendants identified on Schedule "A" to the Complaint (collectively, the "Defendants"). As alleged in Pooping Pooches' Complaint, Plaintiff is the rightful owner and lawful assignee of all right, title, and interest in and to U.S. Trademark Registration Nos. 6,197,383 and 7,071,501 (collectively, the "Pooping Pooches Trademarks"). Plaintiff is in the business of developing, marketing, selling, and distributing Pooping Pooches calendars, which display high quality images of animals relieving themselves in aesthetically pleasing natural backgrounds. The calendars are original to Pooping Pooches and feature photography protected by copyright.

Pooping Pooches' calendars are intended to appreciate and celebrate humor and playfulness through their amusing subject matter. However, Pooping Pooches has also prioritized and maintained a charitable purpose, having been engaged in a partnership with the Maui Humane Society since 2013 to pledge $1 from the sale of each calendar to support animals in need. This principle is a significant part of Pooping Pooches' business, is advertised on the Pooping Pooches website, and most consumers would likely find it a material aspect of their purchasing decision to know that part of their financial contributions go towards helping animals in need.

Defendants are individuals and businesses who infringe on the Pooping Pooches Trademarks by manufacturing, selling, and distributing counterfeit versions of Pooping Pooches' Products. Defendants offer these products for sale on several e-commerce websites and social media accounts; further, they facilitate sales by designing their storefronts to appear to be authorized online retailers, outlet stores, or wholesalers selling genuine and authentic Pooping Pooches Products. In reality, the Defendants have never been authorized and licensed to sell any Pooping Pooches Products and do so in violation of Plaintiff's exclusive intellectual property rights. The infringing products are extremely similar in appearance and function to the original product; an ordinary observer or purchaser would find the overall design of the products substantially similar and easily purchase the infringing product over Plaintiff's. This in turn harms consumers who set out to purchase an authentic product from Pooping Pooches and would find it material to their purchasing decision to discover that they are purchasing an inauthentic product.

This activity thereby harms Plaintiff by usurping its sales and threatening its brand reputation amongst consumers that it has worked tirelessly to cultivate.

This Court has personal jurisdiction over Defendants because each Defendant targets Illinois residents and has offered to sell and, on information and belief, has sold and continues to sell in Illinois. Defendants are individuals and business entities who, upon information and belief, reside in foreign jurisdictions and manufacture their infringing products in those jurisdictions for sale in the United States, including in Illinois and in this Judicial District. Defendants conduct business throughout the United States through the operation of the fully interactive, commercial online marketplaces operating under the Defendants' Internet Stores. Each Defendant targets the United States through their infringing conduct.

Plaintiff's well-pleaded factual allegations, which must be accepted as true, and evidence submitted through declarations, establish that issuing a Temporary Restraining Order against Defendants is necessary and proper. Defendants' ongoing unlawful activities should be restrained, and Plaintiff respectfully requests that this Court issue an *ex parte* Temporary Restraining Order. Specifically, Plaintiff seeks an order: (1) temporarily restraining Defendants' continued importation, distribution, offering for sale, and sale of infringing products that violate Plaintiffs' exclusive ownership rights in its Pooping Pooches Trademarks; and (2) temporarily restraining Defendants' assets to preserve Plaintiff's right to an equitable accounting. Ancillary to and as part of the TRO, Plaintiff respectfully requests that this Court authorize expedited discovery allowing Plaintiff to inspect and copy Defendants' records relating to the acquisition, distribution, offering for sale, and sale of the infringing products and Defendants' financial accounts, and authorize service by electronic mail and/or electronic publication.

Furthermore, Defendants have and continue to irreparably harm Plaintiff through diminished goodwill and damage to Plaintiff's reputation. Monetary damages are inadequate to compensate Plaintiff for these damages, which makes injunctive relief particularly appropriate in this matter.

Per Federal Rule of Civil Procedure 65(d)(2)(C), this Court has the power to bind any third parties, such as financial institutions, who are in active concert with the Defendants or who aid and abet Defendants and are given actual notice of the order. Similarly, a prejudgment asset freeze is also proper since Plaintiff seeks an equitable remedy in and accounting of Defendants' profits and sales. Finally, an order authorizing service of process by email and/or electronic publication is proper as a result of Defendants' intentional efforts to conceal their identities and operate their businesses online. Thus, serving Defendants electronically is the best method for notifying them of this action and providing them with the opportunity to defend themselves and present any objections.

II. STATEMENT OF FACTS

Plaintiff is a corporation formed under the laws of the State of California with its principal place of business in California. It is the inventor, developer, and retailer of its Trademarked Pooping Pooches calendar containing copyrighted photographs. Plaintiff is the owner and lawful assignee of all right, title, and interest in and to the Pooping Pooches Trademarks and is the official source for Pooping Pooches calendars. Plaintiff has spent over a decade operating its business and building its brand.

Defendants operate a variety of e-commerce storefronts on Amazon where they sell counterfeit and infringing versions of Plaintiff's Product. Upon information and belief, Defendants primarily reside in China where they manufacture these inferior products and ship them for sale into the United States. Defendants intend to make their products look similar to the original product to cause consumer confusion; the inferior and infringing calendars will often feature low quality scans of Plaintiff's photographs. The Defendants' activities thereby suggests a concerted effort by Defendants to commit infringement of the original Pooping Pooches calendars.

A. **Defendants' Unlawful Activities**

Defendants are individuals and business entities who, upon information and belief, primarily reside in foreign jurisdictions, namely in the People's Republic of China. Defendants conduct business throughout the United States, including within Illinois and in this Judicial District, through the operation of 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, upon information and belief, has sold and continues to sell infringing calendars that violate Plaintiff's exclusive ownership rights in its Pooping Pooches Trademarks within the United States, including Illinois and in this Judicial District.

Defendants' Internet Stores are linked to fully interactive websites and marketplace listings offering for sale, selling, and importing infringing wall mounts that violate Pooping Pooches' exclusive ownership rights in its Pooping Pooches Trademarks to consumers in this Judicial District and throughout the United States. Defendants have created products that are so similar to Plaintiff's original product that the average purchaser could easily become confused as to the origin, affiliation, or source of the goods. Defendants aim to facilitate sales by designing their Internet stores, product appearance, and marketing materials so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers selling an authentic

Pooping Pooches calendar. In reality, these Defendants are not authorized to use Pooping Pooches' intellectual property or sell these products.

Upon information and belief, Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate a network of Internet Stores. Further, the infringing products that each of the Defendants sell are nearly identical or at least bear similarities and indicia of being related to one another, suggesting that these products were manufactured by and come from a common source and that the Defendants are interrelated. Defendants employ a variety of tactics to continue their infringement and evade law enforcement, including moving website hosting to rogue servers located outside the United States, maintaining offshore bank accounts, and registering new online marketplace accounts once notice of a lawsuit is received, making it nearly impossible for Plaintiff to attempt to combat the infringing activities on its own without injunctive relief.

Defendants are aware of their illegal and infringing activities but, nevertheless, continue to engage in counterfeiting and infringement of Plaintiff's original product. Defendants have done so knowingly, intentionally, and with reckless disregard for Plaintiff's Pooping Pooches Trademarks for the purpose of trading on the goodwill and reputation that Plaintiff has worked tirelessly to build up and maintain. Because of the lack of quality controls and safety regulations for the infringing products, Plaintiff has suffered and will continue to suffer harm to its brand for which monetary damages cannot adequately compensate; thus, injunctive relief is appropriate.

III. ARGUMENT

Defendants' purposeful, intentional, and unlawful conduct is causing and will continue to cause irreparable harm to Pooping Pooches' reputation and the goodwill symbolized by the

Pooping Pooches Brand. Plaintiff respectfully requests that this Court issue a Temporary Restraining Order ordering, among other things, to provide notice of these proceedings and to freeze Defendants' assets by sending emails to the email addresses Defendants used to register and maintain their seller accounts on each platform they sell. Without the relief requested by Plaintiff's instant Motion, Defendants' unlawful activity will continue, and Plaintiff and its consumers will suffer harm.

Federal Rule of Civil Procedure 65(b) provides that the Court may issue an *ex parte* TRO where immediate and irreparable injury, loss, or damages will result to the applicant before the adverse party or that party's attorney can be heard in opposition. Fed. R. Civ. P. 65(b). The Defendants in this case fraudulently promote, advertise, offer to sell, and sell goods through their Defendant Internet Stores and are thus creating a false association in the minds of consumers between the Defendants' infringing products and Plaintiff's original product by deceiving consumers into believing that the products for sale on Defendants' websites are manufactured, sponsored, or endorsed by Plaintiff. The entry of a TRO is appropriate because it would immediately stop the Defendants from benefiting from their wrongful sales and preserve the status quo until such time as a hearing can be held.

In the absence of a TRO without notice, the Defendants can and likely will modify registration data and content, change hosts, redirect traffic to other websites in their control, and move any assets from accounts based in the United States, including PayPal or similar accounts, to offshore bank accounts. As a result, Plaintiff respectfully requests that this Court issue the requested *ex parte* TRO.

A. **This Court May Exercise Personal Jurisdiction Over Defendants**

This Court may properly exercise personal jurisdiction over Defendants since Defendants directly target business activities toward consumers in the United States, including Illinois, by directly offering for sale products into this Judicial District as well as through at least the fully interactive, commercial 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 infringing Pooping Pooches Products. Each Defendant has targeted sales from Illinois residents by operating online stores that offer shipping to the United States, including Illinois, and has offered to sell and, on information and belief, has sold and continues to sell infringing Pooping Pooches Products to unknowing consumers within the United States, including in the State of Illinois. *See* Complaint [DE 1].

Plaintiff bears only the burden of making a prima facie case for personal jurisdiction; all of Plaintiff's asserted facts should be accepted as true and any factual determinations should be resolved in its favor. *See uBID, Inc. v. GoDaddy Group, Inc.*, 623 F.3d 421, 423 (7th Cir. 2010); *Purdue Research Found v. Sanofi-Sythelabo, S.A.*, 338 F.3d 773, 782 (7th Cir. 2003) (discussing whether a plaintiff has met his burden and stating jurisdictional allegations pleaded in the complaint are accepted as true unless proven otherwise by defendants' affidavits or exhibits).

Illinois courts regularly exercise personal jurisdiction over Internet stores infringing on intellectual property rights in connection with the offering for sale and selling of infringing merchandise to Illinois residents over the Internet. 735 ILCS 5/2-209(a)(2). The Seventh Circuit held that personal jurisdiction is proper when a defendant purposefully directs its actions to Illinois via third-party online retailers such as Amazon.com. *NBA Properties, Inc. v. HANWJH*, No. 21 2909, 2022 WL 3367823, at *7 (7th Cir. Aug. 16, 2022) ("[Defendant's] actions certainly can be characterized as purposeful. It established an online store, using a third-party retailer, Amazon.com. Through this online store, it unequivocally asserted a willingness to ship goods to Illinois and established the capacity to do so. When an order was placed, it filled the order, intentionally shipping an infringing product to the customer's designated Illinois address"). *See also Curry v. Revolution Labs., LLC*, 949 F.3d 385, 399 (7th Cir. 2020); *Tommy Hilfiger Licensing LLC, et al. v. calvinklein.us.org, et al.*, No. 20-cv-07477, at *46 (N.D. Ill. March 24, 2021); *Mori Lee v. Lei Liu et al.*, No. 19-cv-07555, at *60 (N.D. Ill. May 14, 2020).

Through at least the fully interactive commercial Internet websites operating under the Defendant Internet Stores, each of the Defendants has targeted sales from Illinois residents by offering shipping to the United States, including Illinois, and, on information and belief, has sold or offered to sell infringing Pooping Pooches Products to residents of the United States, including Illinois. Each of the Defendants is committing tortious acts in Illinois, engaging in interstate commerce, and wrongfully causing Plaintiff substantial injury in the State of Illinois.

B. **Standard for Temporary Restraining Order and Preliminary Injunction**

District Courts within this Circuit have held that the standard for granting a temporary restraining order and the standard for granting a preliminary injunction are identical. *See Charter Nat'l Bank & Trust v. Charter One Fin., Inc.*, No. 1:01-cv-00905, 2001 WL 527404, at *1 (N.D. Ill. May 15, 2001). A party seeking to obtain a preliminary injunction must demonstrate: (1) that its case has some likelihood of success on the merits; (2) that no adequate remedy at law exists; and (3) that it will suffer irreparable harm if the injunction is not granted. *See Ty, Inc. v. The Jones Group, Inc.*, 237 F.3d 891, 895 (7th Cir. 2001).

If the Court is satisfied that these three conditions have been met, then it must consider the harm that the nonmoving party will suffer if preliminary relief is granted balanced against the irreparable harm the moving party will suffer if relief is denied. *Id.* Finally, the Court must consider the potential effect on the public interest, or non-parties, in denying or granting the injunction. *Id.* The Court then weighs all of these factors "sitting as would a chancellor in equity" when it decides whether to grant the injunction. *Id.* (quoting *Abbott Labs v. Mead Johnson & Co.*, 971 F.2d 6, 11 (7th Cir. 1992)). This process involves engaging in what the Court has deemed "the sliding scale approach," which illustrates the principle that the more likely it is that the plaintiff will succeed on the merits, the less the balance of harms must favor the plaintiff's position. *Id.* The sliding scale approach is not mathematical in nature; rather, "it is more properly characterized as subjective and intuitive, one which permits district courts to weigh the competing considerations and mold appropriate relief." *Id.* at 895-896. The greater the movant's likelihood of succeeding on the merits, the less the balance of harms need be in his favor. *See Eli Lilly & Co. v. Natural Answers, Inc.*, 233 F.3d 456, 461 (7th Cir. 2000).

C. There Is No Adequate Remedy At Law, and Pooping Pooches Will Suffer Irreparable Harm in the Absence of Preliminary Relief

Irreparable injury "almost inevitably follows" when there is a high probability of confusion because such injury "may not be fully compensable in damages." *Helene Curtis Industries, Inc. v. Church & Dwight Co., Inc.*, 560 F.2d 1325, 1332 (7th Cir. 1977).

Defendants are causing diminished goodwill, reputation, and brand confidence to Plaintiff and its brand by the sales of products that infringe on Plaintiff's Pooping Pooches calendars. This irreparable harm is unquantifiable and not likely to be able to be fully compensable with a monetary award. Courts have held that the loss of goodwill is an irreparable harm wherein an injunction is necessary. *7-Eleven, Inc. v. Violet Spear Vianna, Inc.*, Case No. 10-cv-6697 (N.D. Ill. Mar. 3, 2011). As such, monetary damages are likely to be inadequate compensation for such harm. *Ideal Indus, Inc. v. Gardner Bender, Inc.*, 612 F.2d 1018, 1026 (7th Cir. 1979). Because Plaintiff has shown a likelihood of success on the merits, Plaintiff is entitled to a rebuttable presumption of irreparable harm.

Defendants' illegal and infringing activities continue to irreparably harm Pooping Pooches through diminished goodwill and brand confidence, damage to Pooping Pooches' reputation, loss of exclusive ownership rights in its Pooping Pooches Trademark, and loss of current and future sales. The extent of the harm to Pooping Pooches' reputation and goodwill and the possible diversion of customers due to loss in brand confidence are both irreparable and incalculable, thus warranting an immediate halt to Defendants' infringing activities through injunctive relief. *See Promatek Industries, Ltd. v. Equitrac Corp.*, 300 F.3d 808, 813 (7th Cir. 2002) (finding that damage to the plaintiff's goodwill was irreparable harm for which the plaintiff had no adequate remedy at law). Pooping Pooches will suffer immediate and irreparable injury, loss, or damage if an *ex parte* Temporary Restraining Order is not issued in accordance with Federal Rule of Civil Prcoedure 65(b)(1).

D. The Balance of Harms Tips in Pooping Pooches' Favor and the Public Interest is Served By Entry of the Injunction

As noted above, if the Court is satisfied that Pooping Pooches has demonstrated (1) a likelihood of success on the merits; (2) no adequate remedy at law; and (3) the threat of irreparable harm if preliminary relief is not granted, then it must next consider the harm that Defendants will suffer if preliminary relief is granted balanced against the irreparable harm Plaintiff will suffer if relief is denied. *Ty, Inc.*, 237 F.3d at 895.

As Pooping Pooches has demonstrated, Defendants have been profiting from the sale of counterfeit Pooping Pooches Products that infringe Plaintiff's Pooping Pooches Trademark. Thus, the balance of equities tips decisively in Pooping Pooches' favor. The public is currently under the false impression that Defendants are operating their e-commerce stores and selling products affiliated with and approved by Pooping Pooches. In this case, the injury to Pooping Pooches is significant, and the injunctive relief that Plaintiff seeks is specifically intended to remedy that injury by dispelling the public confusion created by Defendants' actions. As such, equity requires that Defendants be ordered to cease their unlawful conduct.

E. **Issuance of the Injunction is in the Public Interest**

In this case, Defendants' actions cause confusion and deceive the public because a consumer may believe that they are purchasing an authentic Pooping Pooches calendar that contributes to a good cause. In reality, they may be purchasing a counterfeit calendar that has no charitable interest contrary to the consumers' intentions. The public has the right not to be confused and defrauded as to the source and mission of the goods offered by Defendants because most Pooping Pooches consumers would likely find the charitable promise to be material to their purchasing decision. Unless Defendants' unauthorized sales are enjoined, the public will continue to be confused, misled, and deceived by Defendants' conduct. For these reasons, it is respectfully submitted that granting Plaintiff's Motion for Entry of a Temporary Restraining Order is in the public interest.

IV. **THE EQUITABLE RELIEF SOUGHT IS APPROPRIATE**

Rule 65(b) of the Federal Rules of Civil Procedure provides that a court may issue a temporary restraining order without notice where facts show that the movant will suffer immediate and irreparable injury, loss, or damage before the adverse party can be heard in opposition. Moreover, under Federal Rule of Civil Procedure 65(d)(2)(C), this Court has the power to bind any third parties, such as financial institutions, who are in active concert with the Defendants or who aid and abet and are given actual notice of the order. Fed. R. Civ. P. 65. The facts in this case warrant such relief.

A. A Temporary Restraining Order Immediately Enjoining Defendants' Unauthorized and Unlawful Sales of Infringing Pooping Pooches Products

Pooping Pooches requests a temporary injunction requiring the Defendants to immediately cease all sales of infringing Pooping Pooches Products on or in connection with all e-commerce stores operating under the Seller Aliases. Such relief is necessary to stop the ongoing harm to Pooping Pooches and associated goodwill with its brand, as well as harm to consumers, and to prevent the Defendants from continuing to benefit from their unauthorized sales of the illegal and infringing products. The need for *ex parte* relief is magnified in today's global economy where counterfeiters can operate anonymously over the Internet. Pooping Pooches is currently unaware of both the true identities and locations of all Defendants, as well as other e-commerce stores used to distribute, sell, and offer to sell infringing products.

B. Preventing the Fraudulent Transfer of Assets is Appropriate

Pooping Pooches requests an *ex parte* restraint of Defendants' assets so that Pooping Pooches' right to an *ex parte* restraint will ensure Defendants' compliance. If such a restraint is not granted in this case, Defendants may disregard their responsibilities and fraudulently transfer financial assets to overseas accounts before a restraint is ordered. Specifically, on information and belief, the Defendants in this case hold most of their assets in offshore accounts, making it easy to hide or dispose of assets, which will render an accounting by Pooping Pooches meaningless.

Courts have the inherent authority to issue a prejudgment asset restraint when a plaintiff's complaint seeks relief in equity. *Animale Grp. Inc. v. Sunny's Perfume Inc., 256 F. App'x 707, 709 (5th Cir. 2007).* In addition, Pooping Pooches has shown a strong likelihood of succeeding on the merits. Pooping Pooches' Complaint seeks, among other relief, that Defendants account for and pay to Pooping Pooches all profit and damages, including, but not limited to, the diminution in business value and goodwill realized by Defendants by reason of Defendants' unlawful acts. Therefore, this Court has the inherent equitable authority to grant Pooping Pooches' request for a prejudgment asset freeze to preserve the relief sought by Pooping Pooches.

The Northern District of Illinois in *Lorillard Tobacco Co. v. Montrose Wholesale Candies* entered an asset restraining order in a case brought by a tobacco company against owners of a store selling counterfeit cigarettes. *Lorillard Tobacco Co. v. Montrose Wholesale Candies*, 2005 WL 3115892, at *13 (N.D. Ill. Nov. 8, 200). The Court recognized that it was explicitly allowed to issue a restraint on assets for lawsuits seeking equitable relief. Id. (citing *Group Mexicano, de Desarollo, S.A. v. Aliance Bond Fund*, 527 U.S. 308, 325 (1999)). Because the tobacco company sought a disgorgement of the storeowner's profits, an equitable remedy, the Court found that it had the authority to freeze the storeowner's assets. *Id.*

Pooping Pooches has shown a likelihood of success on the merits, immediate and irreparable harm suffered as a result of Defendants' activities, and that, unless Defendants' assets are frozen, Defendants will likely hide or move their ill-gotten funds to offshore bank accounts. Accordingly, an asset restraint is proper.

C. **Pooping Pooches is Entitled to Expedited Discovery**

The United States Supreme Court has held that "federal courts have the power to order, at their discretion, the discovery of facts necessary to ascertain their competency to entertain the merits." *Vance v. Rumsfeld*, No. 1:06-cv-06964, 2007 WL 4557812, at *6 (N.D. Ill. Dec. 21, 2007) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351, 98 S.Ct. 2380 (1978)). Courts have wide latitude in determining whether to grant a party's request for discovery. Id. (citation omitted). Further, courts have broad power over discovery and may permit discovery in order to aid in the identification of unknown defendants. *See* Fed. R. Civ. P. 26(b)(2).

Pooping Pooches respectfully requests expedited discovery to discover bank and payment system accounts Defendants use for their improper sales operations. The expedited discovery requested in Pooping Pooches' Proposed TRO is limited to include only what is essential to prevent further irreparable harm. Discovery of these financial accounts so that they can be frozen is necessary to ensure that these activities will be contained. *See Deckers Outdoor Corporation v. The Partnerships, et al.*, No. 15-cv-3249 (N.D. Ill. April 4, 2015) (unpublished). Pooping Pooches' seizure and asset restraint may have little meaningful effect without the requested relief. Accordingly, Pooping Pooches respectfully requests that expedited discovery be granted.

V. A BOND SHOULD SECURE THE INJUNCTIVE RELIEF

The posting of security upon issuance of a temporary restraining order or preliminary injunction is vested in the Court's sound discretion. *Rathmann Grp. v. Tanenbaum*, 889 F.2d 787, 789 (8th Cir. 1989). Because of the strong and unequivocal nature of Pooping Pooches' evidence of illegal sales of counterfeit goods and harm to Plaintiff and consumers, Pooping Pooches respectfully requests that this Court require Pooping Pooches to post a bond of no more than five thousand dollars.

VI. CONCLUSION

Defendants' operations are irreparably harming Pooping Pooches' business, the Pooping Pooches brand and goodwill, and its consumers. Without entry of the requested relief, Defendants' illegal and infringing sales of counterfeit Pooping Pooches Products will continue to lead prospective purchasers and others to believe that Defendants' products have been manufactured by or emanate from Pooping Pooches when, in fact, they have not. Therefore, entry of an *ex parte* Temporary Restraining Order is necessary. In view of the foregoing and consistent with previous similar cases, Pooping Pooches respectfully requests that this Court enter a Temporary Restraining Order in the form submitted herewith.

Dated: December 20, 2024

Respectfully submitted,

/s/ Cory Jay Rosenbaum
(electronically signed)

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