

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

SNEAKER MATCH, LLC,
an Arizona Limited Liability Company,

Plaintiff,

Case No.: 1:20-cv-06563

v.

JOHN DOES 1-10,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

For this Complaint and Demand for Jury Trial in this matter, Plaintiff Sneaker Match, LLC, by and through its attorneys Revision Legal, PLLC, states as follows:

I. PARTIES

1. Plaintiff Sneaker Match, LLC (“Sneaker Match”) is an Arizona Limited Liability Company;
2. Upon information and belief, Defendants John Does 1-10 (“Defendants”) are residents of Vietnam and China.

II. JURISDICTION AND VENUE

3. 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.*, the Copyright Act 17 U.S.C. § 501, *et seq.*, 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.
4. Personal jurisdiction is proper over Defendants because exercise thereof would not offend traditional notions of fair play or substantial justice because Defendants have purposefully availed themselves of this forum state, the cause of action arises from

Defendants' activities here, and the Defendants' actions have caused damage to an Sneaker Match in the state of Illinois.

5. Specifically, Defendants purposefully and intentionally availed themselves of this forum state by manufacturing, importing, distributing, offering for sale, displaying, advertising, and selling counterfeit goods bearing Sneaker Match's creative works, by manufacturing, importing, distributing, offering for sale, displaying, advertising, and selling counterfeit goods bearing Sneaker Match's trademark, by creating and operating interactive websites that reveal specifically intended interactions with residents of the State of Illinois, and by creating and running social media and Google advertisements selling counterfeit goods specifically to residents of the State of Illinois.
6. 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 stores operating under several aliases. Specifically, Defendants have targeted sales to Illinois residents by setting up and operating e-commerce 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 products using infringing and counterfeit versions of Sneaker Match's federally registered trademarks, copyrighted designs, or both to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Sneaker Match substantial injury in the State of Illinois.

III. STATEMENT OF FACTS

Plaintiff's Business

7. The Sneaker Match business began in June of 2014 based on the unique business concept of selling t-shirts customized to coordinate with popular sneakers online via the www.sneakermatchtees.com website.
8. The Sneaker Match business model has been a wild success. Sneaker Match has sold products including t-shirts, sweatshirts, hats, and recently, face masks, on its website throughout the United States and internationally via its online retail store services.
9. The Sneaker Match business has grown based on its online presence and reputation. The majority of Sneaker Match's site traffic is a result of organic search traffic as opposed to paid advertising.
10. Sneaker Match is a global business with online retail services via a state-of-the-art website and marketing and advertising online across social media channels.

Plaintiff's Intellectual Property Rights

11. Sneaker Match's brand was built on the trademark and service marks SNEAKER MATCH TEES and SNEAKER MATCH ("Sneaker Match Character Marks") and the



logo design ("Sneaker Match Design Mark") (Collectively, "Sneaker Match Marks").

12. Sneaker Match has used the Sneaker Match Marks continuously and exclusively on online retail store services as well as goods including apparel since at least as early as June 2014.
13. Sneaker Match has taken significant steps to protect and register its trademark rights with the United States Patent and Trademark Office ("USPTO").

14. Sneaker Match is the owner of a trademark registrations with the USPTO for the Sneaker Match Character Marks (Registration Nos. 5,010,674 and 5,784,852), which have been registered on the principal register since August 2, 2016 and June 25, 2019 respectively.
15. Sneaker Match is the owner of an application for registration with the USPTO of the Sneaker Match Design Mark (Serial No. 88,814,212), which is pending registration for use in association with On-line retail store services featuring apparel, t-shirts, hoodies, Hats, and accessories.
16. Sneaker Match has expended significant efforts and sums in developing the Sneaker Match brand, business, and advertising under the Sneaker Match Marks.
17. As a result of Sneaker Match's consistent, continuous, and exclusive use of the Sneaker Match Marks in commerce, the marks have become well and favorably known across the United States and internationally and Sneaker Match has obtained common law trademark rights in and to the Sneaker Match Marks.
18. Sneaker Match owns the below copyright registrations for its designs below:
 - a. Misfit Teddy, US Copyright Registration no. VA0002200361
 - b. Young & Heartless Bear, US Copyright Registration no. VA0002200728
19. Sneaker Match has five additional applications for Copyright registration pending with the US Copyright Office.
20. Sneaker Match frequently releases new collections of t-shirt design and sneaker matches throughout the year. Since March of 2020, Sneaker Match has released 17 new collections.
21. Sneaker Match sells its unique designs under several trademarks including MISUNDERSTOOD PUPPY, MISUNDERSTOOD TIGER, MISUNDERSTOOD

BEAR, MISUNDERSTOOD MONKEY, YOUNG & HEARTLESS BEAR, YOUNG AND HEARTLESS, HEARTLESS, MISFIT TEDDY, GOAT TOON, DRIPPY PENGUIN, STACKIN GRIZZLY, MISFIT RABBIT, MISFIT TIGER, VOODOO SNEAKER BEAR, THE CAT WITH THE STACKS, PAPER CHASER, and SHOOTIN BEAR (“Collection Trademarks”).

22. Sneaker Match began using the Collection Trademarks on the below dates and has exclusively used each in commerce since the dates listed below:

- a. Misfit Teddy - December 8, 2018
- b. Young and Heartless Bear - July 18, 2019
- c. Heartless Bear - September 20, 2019
- d. Misunderstood Monkey - September 22, 2020
- e. Misunderstood Bear - September 27, 2020
- f. Misunderstood Tiger - September 25, 2020
- g. Misunderstood Puppy - September 27, 2020
- h. Goat Toon - Dec 8, 2018
- i. Drippy Penguin - September 12, 2020
- j. Stackin Grizzly - September 19, 2020
- k. Misfit Rabbit - June 6, 2020
- l. Misfit Tiger - May 25, 2019
- m. Voodoo Sneaker Bear - September 11, 2020
- n. The Cat With The Stacks - September 10, 2020
- o. Paper Chaser - September 12, 2020
- p. Shootin Bear - April 27, 2018

23. Sneaker Match uses the TM indicator along with its use of the Collection Marks on its website and products.
24. Sneaker Match uses the Collection Trademarks as a source indicator of its collections and products within specific collections in the descriptions of the collections including actually within the designs, in the descriptions of the specific goods in its product listings and as categories on its website.

Defendants' Willful Infringement

25. Defendants John Does 1-10 ("Defendants") are online retailers of clothing goods, including t-shirts, sweatshirts, and masks sold to coordinate with various famous shoes.
26. Defendants operate under a variety of names, including, but not limited to, FunkieWithBurbie, FZPremium Store, Fire Red Bull, Padolux Store, Zanomas Store, Recorder Tee, Sneaker Tee Supply, MisfitTeddy.com, etc.
27. Upon information and belief, Defendants are residents of Vietnam and China who operate under a scheme of common ownership and control to create numerous online retail stores under false names and payment accounts to sell clothing products and offer online retail services under a false indication of origin.
28. Defendants utilize various methods and aliases in their common scheme and infringing actions. A list of the currently identified aliases of Defendants is provided as Schedule A to this Complaint ("Defendant Aliases").
29. Upon information and belief, Defendants also own and operate websites, run online advertisements, run social media accounts, and own and operate seller accounts on popular marketplaces such as Esty, eBay, and Amazon.

30. Defendants have created e-commerce stores under a variety of names through popular e-commerce platforms such as Shopify and BigCommerce, upload the stolen images to those stores, and then advertise their counterfeit products directly to United States residents through social media platforms such as Facebook.
31. Defendants spend significant time, effort, and funds to run targeted advertisements geared toward US consumers including Illinois residents on social media including Facebook and Instagram as well as via Google Ads.
32. When a US-based customer purchases one of these clothing items from Defendants, and if the customers are lucky, Defendants send a request to print the stolen images on low-quality clothing products and then ship them to the customer. However, in many cases Defendants send nothing at all.
33. On or about April 30, 2020, Sneaker Match noticed that a number of sellers were operating online ecommerce stores and advertising apparel using the Sneaker Match Marks through the Facebook and Instagram platforms as well as via purchased Google Ads.
34. Upon investigation, Sneaker Match discovered that these sellers had created online retail stores that display, advertise, offer for sale, and sell clothing items using the Sneaker Match Marks as a source indicator.
35. Defendants have often posted wholesale copies of Plaintiff's listings and new collections on their own retail websites; often adding Plaintiff's newly released listings within days of each release.
36. Defendants often publish an exact copy of Plaintiff's entire listings including Plaintiff's product descriptions and copy and Plaintiff's product images containing Plaintiff's t-

shirt/sneaker match design showing Plaintiff's t-shirt hang tag bearing the Sneaker Match Mark and the Sneaker Match Design mark in the upper left corner.

37. Sometimes, Defendants slightly alter some of the copy, trademarks, or other aspects of the listing, but the copying and likelihood of confusion is obvious.
38. Defendants changes to Plaintiff's trademark logo design are insufficient to avoid trademark infringement liability because the marks are nearly identical, used on exactly the same products, sold in the same stream of commerce, advertised to the same customers, and the infringement is intentional. Therefore, despite these slight alterations, even mark slightly different from Plaintiff's marks are likely to cause confusion among the relevant consumers.
39. Not only do Defendants paste exact or nearly exact copies of Plaintiff's t-shirt match listings, often, the copy contains links that link back to Plaintiff's own website, proving that Defendants did actually and intentionally copy and paste the listings from Plaintiff's site.
40. Defendants' use of the exact or substantially similar marks to Plaintiff's Marks including its Sneaker Match Marks and Collection Marks on the same goods and services sold in the same stream of commerce to consumers is highly likely to cause confusion as to the origin of the goods and services among consumers.
41. Through counsel, Sneaker Match performed test buys of products bearing his Works, and Sneaker Match's attempts to purchase these products sold under the Sneaker Match Marks were successful.
42. After investigating these stores, Sneaker Match found commonalities between the sellers.

43. The sellers used the same or similar website templates, most had direct copies or edited copies of Sneaker Match's website product photos containing the Sneaker Match Marks, and sellers also largely copied Sneaker Match's red, black, and white trade dress.
44. Defendants use privacy services such as Cloudflare and BigCommerce to hide their identities and avoid identification in association with the infringing domains.
45. Defendants registered and use several domain names that link to websites which sell and display the infringing products and are identical or confusingly similar to Plaintiff's distinctive trademarks SNEAKER MATCH TEES, SNEAKER MATCH, and MISFIT TEDDY ("Cybersquatting Domains").
46. The Cybersquatting Domains were registered on the below dates, after Plaintiff's SNEAKER MATCH TEES, SNEAKER MATCH, and MISFIT TEDDY marks became distinctive of its products.
- a. Misfitteddy.com registered on October 03, 2020
 - b. Sneakermatchstuff.com registered on September 20, 2020
 - c. Sneakermatchings.com registered on May 22, 2020
 - d. Sneakermatchpros.com registered on June 19, 2020
 - e. Sneakermatchtips.com registered on June 6, 2020
47. Thus, there are common elements to all of these links that indicate a concerted scheme to infringe upon Sneaker Match's rights and defraud US consumers.
48. To this day, Defendants continue to infringe upon Sneaker Match's rights.

Injury to Plaintiff and Consumers

49. Defendants' actions described above have damaged and irreparably harmed Sneaker Match.

50. Consumers have already been confused due to Defendant's use of Plaintiff's trademarks and copyrighted designs. Plaintiff has received several contacts from confused consumers via its customer service line with complaints regarding orders they intended to place with Sneaker Match but were actually placed via Defendants' websites.
51. If allowed to continue advertising and providing retail store services and online retail store services under the Sneaker Match Marks, Defendants will further damage and injure Sneaker Match's reputation and the goodwill associated with the Sneaker Match Marks, which are well-known to the relevant consumers as source identifiers for high-quality services.
52. If allowed to continue advertising and offering products and services under the Sneaker Match Marks, Defendants will continue to create significant likelihood of consumer confusion that will irreparably harm the public and its interest in being free from confusion.
53. Sneaker Match has no adequate remedy at law.
54. Defendants knew or should have known that its activities described above constitute trademark infringement, trade dress infringement, copyright infringement, and unfair competition.
55. Defendants acted knowingly and willfully in reckless disregard for Sneaker Match's rights.
56. Defendants intentionally monitored Plaintiff's website for new product listings and directly copied and pasted Plaintiff's listings onto their own websites.

FIRST CLAIM FOR RELIEF
Trademark Infringement
Under § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A)

57. Sneaker Match restates all prior paragraphs as if fully restated herein.
58. Defendants' actions as described above are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendants' products and commercial activities, and therefore constitute trademark infringement, false designation of origin, and unfair competition in violation of § 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).
59. Defendants' actions described above have, at all times relevant to this action, been willful.
60. As a foreseeable, direct, and proximate cause of Defendants' above-described actions, Sneaker Match and consumers have been and will continue being irreparably damaged.
61. Sneaker Match has no adequate remedy at law.

SECOND CLAIM FOR RELIEF
Trademark Infringement
Under § 32(1) of the Lanham Act, 15 U.S.C. § 1114(1)

62. Sneaker Match restates all prior paragraphs as if fully restated herein.
63. Defendants' actions as described above are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendants' products and commercial activities, and therefore constitute trademark infringement, false designation of origin, and unfair competition in violation of § 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).
64. Defendants' actions described above have, at all times relevant to this action, been willful.
65. As a foreseeable, direct, and proximate cause of Defendants' above-described actions, Sneaker Match and consumers have been and will continue being irreparably damaged.

66. Sneaker Match has no adequate remedy at law.

THIRD CLAIM FOR RELIEF
Anticybersquatting Consumer Protection Act (ACPA)
Under 15 U.S.C.S. § 1125(d)

67. Sneaker Match restates all prior paragraphs as if fully restated herein.

68. Defendants' willfully copied Plaintiff's business, website, and intellectual property with the intent to steal website traffic from Plaintiff's website to their own websites selling inferior products by deceiving consumers.

69. Defendants filed domain names Sneakermatching.com; sneakermatchpros.com; sneakermatchtips.com; and sneakermatchstuff.com (Cybersquatting Domains) after Plaintiff obtained its SNEAKER MATCH TEES registration and Sneakermatchtees.com domain name.

70. Defendants filed and used the domain name misfitteddy.com.

71. The Cybersquatting Domains are confusingly similar to Plaintiff's registered trademark.

72. Defendants had a bad faith intent to profit from the Cybersquatting Domains.

73. Defendants' actions described above have, at all times relevant to this action, been willful.

74. As a foreseeable, direct, and proximate cause of Defendants' above-described actions, Sneaker Match and consumers have been and will continue being irreparably damaged.

75. Sneaker Match has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF
Copyright Infringement
Under 17 U.S.C. §§ 106 AND 501

76. Sneaker Match incorporates all foregoing paragraphs as if fully restated herein.

77. Sneaker Match also owns a copyright registration for the following works:

- a. Misfit Teddy, US Copyright Registration no. VA0002200361;
 - b. Young & Heartless Bear, US Copyright Registration no. VA0002200728;
78. Sneaker Match's Works are widely disseminated through its own website and on physical products.
79. Defendants had access to Sneaker Match's Works.
80. Defendants downloaded Sneaker Match's Works from the Sneaker Match website for use in their infringement scheme.
81. Defendants have reproduced, prepared derivative works of, distributed copies of, and displayed publicly works that are identical copies of, and substantially similar to, Sneaker Match's Works.
82. As a result of Defendants' infringement, Sneaker Match has suffered monetary damages.
83. Sneaker Match is entitled to the recovery of, at its election, statutory damages, actual damages, Defendants' profits, and the costs of this action.
84. Sneaker Match is also entitled to preliminary and permanent injunctive relief pursuant to 17 U.S.C. § 502 and 17 U.S.C § 106.
85. And Sneaker Match is also entitled its attorneys' fees pursuant to 17 U.S.C. § 505 and 17 U.S.C § 106.

PRAYER FOR RELIEF

Sneaker Match respectfully requests that the Court enter the following judgment against

Defendants:

1. That the Court preliminarily and permanently enjoin and restrain Defendants, as well as their heirs, successors, assigns, officers, agents, and employees from:

- a. Reproducing, preparing derivative works of, distributing copies of, and displaying publicly Plaintiff Sneaker Match's Works;
 - b. Manufacturing, importing, advertising, promoting, offering to sell, selling, distributing, or transferring any products bearing Plaintiff Sneaker Match's trademarks or any confusingly similar trademark; and
 - c. Aiding or assisting any other third party in subsections (a) and (b) above;
2. That the Court order the transfer of the cybersquatting domain registrations to Plaintiff;
 3. That the Court award Sneaker Match, at his election, his actual damages, lost profits, consequential damages, exemplary damages, statutory damages, and any other damages allowable under law;
 4. That the Court award Sneaker Match costs and attorneys' fees, and;
 5. That the Court award Sneaker Match any other relief to which he is entitled.

Respectfully submitted,

Date: November 17, 2020 Sneaker Match, LLC

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JURY DEMAND

Plaintiff hereby requests a trial by jury for all eligible counts contained within this Complaint.

Respectfully submitted,

Date: November 17, 2020 Sneaker Match, LLC

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