

UNITED STATES DISTRICT COURT

for the

Southern District of New York

ALLSTAR MARKETING GROUP, LLC,

Plaintiff(s)

v.

4UTOTO, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) See Attachment A

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Danielle S. Yamali
Epstein Drangel LLP
60 East 42nd Street, Suite 2520
New York, NY 10165

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

RUBY J. KRAJICK

CLERK OF COURT

Handwritten signature of Ruby J. Krajick

Signature of Clerk or Deputy Clerk

Date: OCT 08 2019

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLSTAR MARKETING GROUP, LLC,

Plaintiff

v.

4UTOTO, ABRABABR_0,
ACELECTRONIC11 , BESTTOOL2019,
CATHYHAIR, DIRECTIMPORTS1899,
DITQKYG_6 , DONGMAKJHG,
EASYBUYING368, EAWORLDSTORE,
EXCELLBUYING, FUNNYATMOSPHERE,
GRACEFULVARA, GUODHSHOP,
GZY1_2706, HANIAMAHMUD,
JEWELRYZHANG888, JINSHAN2013, JOIN-
28 , LAIXIAOQING2012, LILYBEIBEI ,
LWSTORE2013 , LYNNLYNNSEVEN,
MNY19-53, NEWLIVEHAPPY, NEWST12,
NIUBI11, NY1994CHUHANYAO1 ,
NYLIYAN, PASINDUTM, PRIESTLYY,
QIANGW21, RED_STAR1689 , S-2344,
SAKURA9582, SALEFEEL, SC_STORE9999,
SGOSTORE, SHZH_7, STARTINGLINE59,
STAYREAL999, ST-EC, SUPER-
POWERFUL2019, SXY1_20, TGSBUYS,
TITANAHOP, TOPBOSSS, TRADEUS8,
TSBUYNOW, WHOLESALFORCLOTHES ,

CIVIL ACTION No. 20-cv-8401

COMPLAINT

Jury Trial Requested

FILED UNDER SEAL

WINEDYA622, WWWON28, XEN-9233,
XOVO1894, YANG_KENT, YHXCLX2010 and
YOYOMODEL,

Defendants

GLOSSARY

Term	Definition
Plaintiff or Allstar	Allstar Marketing Group, LLC
Defendants	4utoto, abrababr_0, acelectronic11, besttool2019, cathyhair, directimports1899, ditqkyg_6, dongmakjhg, easybuying368, eaworldstore, excellbuying, funnyatmosphere, gracefulvara, guodhshop, gzy1_2706, haniamahmud, jewelryzhang888, jinshan2013, join-28, laixiaoqing2012, lilybeibei, lwstore2013, lynnlynnseven, mny19-53, newlivehappy, newst12, niubi11, ny1994chuhanyaol, nyliyan, pasindutm, priestlyy, qiangw21, red_star1689, s-2344, sakura9582, salefeel, sc_store9999, sgostore, shzh_7, startlingline59, stayreal999, st-ec, super-powerful2019, sxy1_20, tgsbuys, titanahop, topbosss, tradeus8, tsbuynow, wholesaleforclothes, winedya622, wwwon28, xen-9233, xovo1894, yang_kent, yhxclx2010 and yoyomodel
eBay	eBay.com, a San Jose, California-based online marketplace and e-commerce platform owned by eBay Inc., a Delaware corporation, that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale and/or sell in what it characterizes as either auction-style or fixed-price formats and ship their retail products, which, upon information and belief, originate from China, among other locations, directly to consumers worldwide and specifically to consumers residing in the U.S., including in New York
Epstein Drangel	Epstein Drangel LLP, counsel for Plaintiff
New York Address	224 Madison Ave, Suite 411, New York, New York 10016
Complaint	Plaintiff's Complaint filed on October 8, 2020
Application	Plaintiff's <i>Ex Parte</i> Application for: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts (as defined <i>infra</i>) and Defendants' Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery filed on October 8, 2020
De Marco Dec.	Declaration of Jennifer De Marco in Support of Plaintiff's Application

Yamali Dec.	Declaration of Danielle S. Yamali in Support of Plaintiff's Application
Socket Shelf Mark	U.S. Trademark Registration No. 6,153,908 for "SOCKET SHELF" for electronic docking station and charging station for electronic devices in Class 9
Socket Shelf Works	U.S. Copyright Reg. Nos.: PAu 4-030-375 covering the Socket Shelf Commercial, VAu 1-365-330 covering the Socket Shelf Deluxe Packaging, VAu 1-402-004 covering the Socket Shelf Instruction Manual, VAu 1-347-375 covering the Socket Shelf Packaging, VA 2-135-992 covering the Socket Shelf Website and VAu 1-365-333 covering the Socket Shelf Packaging
Socket Shelf Product	A unique surge protector device that provides six (6) power outlets and adds two (2) USB charging stations and a shelf to most three-prong outlets
Counterfeit Products	Products bearing or used in connection with the Socket Shelf Mark and/or Socket Shelf Works, and/or products in packaging and/or containing labels and/or hang tags bearing the Socket Shelf Mark and/or Socket Shelf Works, and/or bearing or used in connection with marks and/or artwork that are confusingly or substantially similar to the Socket Shelf Mark and/or Socket Shelf Works and/or products that are identical or confusingly or substantially similar to the Socket Shelf Product
Infringing Listings	Defendants' listings for Counterfeit Products
User Accounts	Any and all websites and any and all accounts with online marketplace platforms such as eBay, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
Merchant Storefronts	Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
Defendants' Assets	Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad)

Defendants' Financial Accounts	Any and all financial accounts associated with or utilized by any Defendants or any Defendants' User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad)
Financial Institutions	Any and all banks, financial institutions, credit card companies and payment processing agencies, such as PayPal Inc. ("PayPal"), Payoneer Inc. ("Payoneer") and PingPong Global Solutions, Inc. ("PingPong") and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of Defendants
Third Party Service Providers	Online marketplace platforms, including, without limitation, those owned and operated, directly or indirectly by eBay, as well as any and all as yet undiscovered online marketplace platforms and/or entities through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them manufacture, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in Counterfeit Products which are hereinafter identified as a result of any order entered in this action, or otherwise

Plaintiff, a New York corporation, by and through its undersigned counsel, alleges as follows:¹

NATURE OF THE ACTION

1. This action involves claims for trademark infringement of Plaintiff's federally registered trademark in violation of § 32 of the Federal Trademark (Lanham) Act, 15 U.S.C. §§ 1051 *et seq.*; counterfeiting of Plaintiff's federally registered trademark in violation of 15 U.S.C. §§ 1114(1)(a)-(b), 1116(d) and 1117(b)-(c); false designation of origin, passing off and unfair competition in violation of Section 43(a) of the Trademark Act of 1946, as amended (15 U.S.C. §1125(a)); copyright infringement of Plaintiff's federally registered copyrights in violation of the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.* and related state and common law claims, arising from the infringement of the Socket Shelf Mark and Socket Shelf Works, including, without limitation, by manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling unlicensed, counterfeit and infringing versions of Plaintiff's Socket Shelf Product by Defendants.

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction over the claims asserted in this Action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as well as pursuant to 15 U.S.C. § 1121 as an action arising out of violations of the Lanham Act, 15 U.S.C. §§ 1051 *et seq.* and the Copyright Act, 17 U.S.C. §§ 101 *et seq.*; pursuant to 28 U.S.C. §1338(b) as an action arising out of claims for false designation of origin and unfair competition and pursuant to 28 U.S.C. § 1332, as there is diversity between the parties and the matter in controversy exceeds, exclusive of interests and costs, the sum of seventy-five thousand dollars. This Court has supplemental jurisdiction pursuant to 28 U.S.C.

¹ Where a defined term is referenced herein but not defined, it should be understood as it is defined in the Glossary.

§§1367(a), as the claims asserted thereunder are so closely related to the federal claims brought in this Action as to form part of the same case or controversy.

3. Personal jurisdiction exists over Defendants in New York pursuant to N.Y.C.P.L.R. § 302(a)(1) and N.Y.C.P.L.R. § 302(a)(3), or in the alternative, Federal Rule of Civil Procedure 4(k), because, upon information and belief, Defendants regularly conduct, transact and/or solicit business in New York, and/or derive substantial revenue from their business transactions in New York and/or otherwise avail themselves of the privileges and protections of the laws of the State of New York such that this Court's assertion of jurisdiction over Defendants does not offend traditional notions of fair play and due process, and/or Defendants' illegal counterfeiting and infringing actions caused injury to Plaintiff in New York such that Defendants should reasonably expect such actions to have consequences in New York, for example:

a. Upon information and belief, Defendants were and/or are systematically directing and/or targeting their business activities at consumers in the U.S., including New York, through accounts with online marketplace platforms such as eBay as well as any and all as yet undiscovered User Accounts, through which consumers in the U.S., including New York, can view one or more of Defendants' Merchant Storefronts that each Defendant operates, uses to communicate with Defendants regarding their listings for Counterfeit Products and to place orders for, receive invoices for and purchase Counterfeit Products for delivery in the U.S., including New York, as a means for establishing regular business with the U.S., including New York.

b. Upon information and belief, Defendants are sophisticated sellers, each operating one or more commercial businesses through their respective User Accounts, using their Merchant Storefronts to manufacture, import, export, advertise, market, promote,

distribute, offer for sale and/or otherwise deal in products, including the Counterfeit Products at significantly below-market prices to consumers worldwide, including to those in the U.S., and specifically New York.

c. Upon information and belief, all Defendants accept payment in U.S. Dollars and offer shipping to the U.S., including to New York and specifically to the New York Address.

d. Upon information and belief, Defendants have transacted business with consumers located in the U.S., including New York, for the sale and shipment of Counterfeit Products.

e. Upon information and belief, Defendants are aware of Plaintiff, its Socket Shelf Product, Socket Shelf Mark and Socket Shelf Works, and are aware that their illegal counterfeiting and infringing actions alleged herein are likely to cause injury to Plaintiff in the U.S. and specifically, in New York, as Plaintiff conducts business in, and is headquartered in, New York.

4. Venue is proper, *inter alia*, pursuant to 28 U.S.C. § 1391 because, upon information and belief, Defendants conduct, transact and/or solicit business in New York.

THE PARTIES

5. Plaintiff is a New York corporation, with a principal place of business at 2 Skyline Drive, Hawthorne, NY 10532.

6. Upon information and belief, Defendants are merchants on the eBay online marketplace platform, which, upon information and belief, is owned and operated by eBay Inc., a Delaware corporation with a principal place of business at 2025 Hamilton Avenue, San Jose, California 95125, through which Defendants offer for sale and/or sell Counterfeit Products.

GENERAL ALLEGATIONS

Plaintiff and Its Well-Known Socket Shelf Product

7. Plaintiff is a leading developer, producer, marketer, and distributor of quality, innovative consumer products that Plaintiff promotes and sells throughout the United States and the world through major retailers and well-known mass retail outlets, including, but not limited to: Wal-Mart, Target and Bed Bath & Beyond, as well as through its retail customers' websites and a network of international distributors, among other channels of trade.

8. One of Plaintiff's most popular and successful products is Socket Shelf, a unique surge protector device that provides six (6) power outlets and adds two (2) USB charging stations and a shelf to most three-prong outlets.

9. In addition to the channels described above, Plaintiff also markets and sells the Socket Shelf Product through its website entirely dedicated to the Socket Shelf Product, <https://www.socketshelf.com/>. Images of the Socket Shelf Product are attached hereto as **Exhibit A** and incorporated herein by reference.

10. The Socket Shelf Product has achieved great success and generally retails for \$29.99.

11. While Plaintiff has gained significant common law trademark and other rights in its Socket Shelf Product, through use, advertising and promotion, Plaintiff has also protected its valuable rights by filing for and obtaining a federal trademark registration.

12. For example, Plaintiff owns the Socket Shelf Mark, including U.S. Trademark Registration 6,153,908 for "SOCKET SHELF" for electronic docking station and charging station for electronic devices in Class 9. A true and correct copy of the registration for the Socket Shelf Mark is attached hereto as **Exhibit B** and incorporated herein by reference.

13. The Socket Shelf Mark is currently in use in commerce in connection with the Socket Shelf Product. The Socket Shelf Mark was first used in commerce on or before the date of first use as reflected in the registration attached hereto as Exhibit B.

14. In addition, Plaintiff also owns the registered copyrights related to the Socket Shelf Product.

15. For example, Plaintiff owns the Socket Shelf Works, including U.S. Copyright Reg. Nos.: PAu 4-030-375 covering the Socket Shelf Commercial, VAu 1-365-330 covering the Socket Shelf Deluxe Packaging, VAu 1-402-004 covering the Socket Shelf Instruction Manual, VAu 1-347-375 covering the Socket Shelf Packaging, VA 2-135-992 covering the Socket Shelf Website and VAu 1-365-333 covering the Socket Shelf Packaging. True and correct copies of the U.S. Copyright registration certificates for the Socket Shelf Works are hereto as **Exhibit C** and incorporated herein by reference.

16. Plaintiff has spent substantial time, money and effort in building up and developing consumer recognition, awareness and goodwill in its Socket Shelf Product, Socket Shelf Mark and Socket Shelf Works.

17. The success of the Socket Shelf Product is due in part to Plaintiff's marketing and promotional efforts. These efforts include advertising and promotion through television, Plaintiff's website, retailer websites, print and Internet-based advertising and placement of the Socket Shelf Product at dozens of authorized major retail outlets, both domestically and abroad, including New York.

18. The success of the Socket Shelf Product is also due to its use of high-quality designs, materials and processes in making Socket Shelf Product.

19. Additionally, Plaintiff owes a substantial amount of the success of the Socket Shelf Product to its consumers and word-of-mouth buzz that its consumers have generated.

20. Plaintiff's efforts, the quality of its Socket Shelf Product, its marketing, promotion and distribution efforts as well as the word-of-mouth buzz generated by its consumers have made the Socket Shelf Product, Socket Shelf Mark and Socket Shelf Works prominently placed in the minds of the public. Retailers, retail buyers, consumers and members of the public have become familiar with the Socket Shelf Product and associate it exclusively with Plaintiff.

21. As a result of such associations, Plaintiff, its Socket Shelf Mark, Socket Shelf Works and Socket Shelf Products have acquired a valuable reputation and goodwill among the public.

22. Plaintiff has gone to great lengths to protect its interests to the Socket Shelf Product, Socket Shelf Mark and Socket Shelf Works. No one other than Plaintiff and its authorized licensees and distributors is authorized to manufacture, import, export, advertise, offer for sale, or sell any goods utilizing the Socket Shelf Mark or Socket Shelf Works without the express permission of Plaintiff.

eBay and Defendants' User Accounts

23. eBay.com is an online marketplace and e-commerce platform that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale and/or sell in what it characterizes as either auction-style or fixed-price formats and ship their retail products originating from China,² among other locations, directly to consumers worldwide and specifically those residing in the U.S., including New York.

24. A significant number of third-party merchants that have User Accounts with and

² See Andy Goldman, *The World's Top eBay Sellers*, WEBRETAILER (Sept. 18, 2017), <https://www.webretailer.com/lean-commerce/worlds-top-ebay-sellers/>.

operate Merchant Storefronts on eBay, like Defendants, are located in China.³ Of the top third-party merchants selling on eBay, 85% are based in China or Hong Kong.⁴ Currently, eBay claims that it has a base of 25 million third-party merchants and 168 million active buyers.⁵ Over the past 21 years, eBay has become one of the most popular e-commerce platforms in the world, currently placing it as the sixth most popular website in the U.S.⁶ At any given time, eBay contains some 100 million listings and more than 6 million new listings are posted on it daily.⁷

25. eBay aggressively uses the Internet, including Facebook, Tumblr, Twitter and Instagram, to market itself and the products offered for sale and/or sold by its third-party merchant users to potential customers, particularly those in the U.S.⁸ For example, 10% of the traffic eBay sends from its Facebook page to eBay.com converts into bids and/or purchases.

26. As recently addressed in news reports⁹ as well as reflected in the federal lawsuits filed against third-party merchants offering for sale and selling infringing and/or counterfeit products on eBay,¹⁰ an astronomical number of counterfeit and infringing products are offered for sale and sold on eBay at a rampant rate.¹¹ For example, a consumer watchdog organization found that eBay¹²

³ See *id*

⁴ See *id*.

⁵ See Michael Guta, *There are 168 Million Active Buyers on eBay Right Now (INFOGRAPHIC)*, SMALL BUSINESS TRENDS (Mar. 23, 2018), <https://smallbiztrends.com/2018/03/ebay-statistics-march-2018.html>.

⁶ See *id*.

⁷ See *Tiffany (NJ) Inc. v. eBay Inc.*, 600 F.3d 93 (2d Cir. 2010).

⁸ See Christopher Ratcliff, *How eBay uses social media: Tumblr, Twitter and Instagram*, ECONSULTANCY (Jan. 22, 2015), <https://econsultancy.com/blog/66000-how-ebay-uses-social-media-tumblr-twitter-and-instagram>.

⁹ See *10 WAYS IN WHICH EBAY IS DRIVING SALES THROUGH SOCIAL MEDIA*, INTERNET OF THINGS EVENTS, <https://www.iotevents.org/10-ways-in-which-ebay-is-driving-sales-through-social-media/>.

¹⁰ See Andi Sykes, *Specialized Wages Ware on Counterfeiters* (Dec. 9, 2016), <http://singletrackworld.com/2016/12/specialized-wages-war-on-counterfeiters/>.

¹¹ See, e.g., *Cartier Int'l A.G. v. Replicapaneraiwatches*, 2018 U.S. Dist. LEXIS 8190, Case No. 17-62401-CIV-MOORE/SNOW (S.D. Fla. Jan. 17, 2018); *Gucci Am., Inc. v. BerryArt*, 2016 U.S. Dist. LEXIS 190557, Case No. 16-60771-CIV-WILLIAMS (S.D. Fla. May 12, 2016) and *Michael Kors L.L.C. v. Alwaysmylove*, 2016 U.S. Dist. LEXIS 190599, Case No. 16-CIV-60011-DIMITROULEAS/SNOW (S.D. Fla. Feb. 3, 2016).

¹² See Christina Warren, *Ebay Is Finally Doing Something About Counterfeit Goods*, GIZMODO (Jan. 12, 2017), <https://gizmodo.com/ebay-is-finally-doing-something-about-counterfeit-goods-1791138822>; see also United States Government Accountability Office, Report to the Chairman, Committee on Finance, U.S. Senate, Intellectual Property: Agencies Can Improve Efforts to Address Risks Posed by Changing Counterfeits Market (2018) and *eBay, Amazon Cracking Down on Counterfeit Goods Sold on their Sites*, WSB Radio (Mar. 5, 2018), <https://www.wsbradio.com/video/local->

accounts for 61% of the 25 million counterfeit products that the organization has removed from various e-commerce platforms, including Amazon, Alibaba/AliExpress and Walmart.¹³ eBay spends approximately \$5 million per year to attempt to alleviate its counterfeiting issues.¹⁴

27. Defendants are individuals and/or businesses, who, upon information and belief, are located in China but conduct business in the U.S. and other countries by means of their User Accounts and Merchant Storefronts on eBay as well as potential yet undiscovered additional online marketplace platforms.

28. Through their Merchant Storefronts, Defendants offer for sale and/or sell consumer products, including Counterfeit Products, and target and ship such products to customers located in the U.S., including New York, and throughout the world.

29. Defendants' Merchant Storefronts share unique identifiers, such as design elements along with similarities in price, description of the goods offered and of the Counterfeit Products themselves offered for sale.

30. Defendants are in constant communication with each other and regularly participate in online chatroom discussions involving illegal counterfeiting activities, pending litigation and potential new lawsuits.

Defendants' Wrongful and Infringing Conduct

31. Particularly in light of Plaintiff's success with its Socket Shelf Product, as well as the reputation it has gained, Plaintiff and its Socket Shelf Product have become targets for unscrupulous

[video/eBay-amazon-cracking-down-counterfeit-goods-sold-their-sites/wSlkAYC27NEnMp61rRpKaJ/](#) (discussing an undercover study by the United States Government Accountability Office which found that nearly half of the products bought from third party sellers on Amazon and eBay were fake).

¹³ See Ben Unglesbee, *Can Amazon and its marketplace rivals fix their counterfeits problem?*, RETAIL DIVE (April 9, 2018), <https://www.retaildive.com/news/can-amazon-and-its-marketplace-rivals-fix-their-counterfeits-problem/520301/>; see also THE COUNTERFEIT REPORT, <https://www.thecounterfeitreport.com/>.

¹⁴ See Declan McCullagh, *eBay wins counterfeit-sales suit filed by Tiffany*, CNET (July 15, 2008), <https://www.cnet.com/news/eBay-wins-counterfeit-sales-suit-filed-by-tiffany>.

individuals and entities who wish to capitalize on the goodwill, reputation and fame that Plaintiff has amassed in its Socket Shelf Product, Socket Shelf Works and Socket Shelf Mark and Plaintiff investigates and enforces against such activities.

32. As part of these efforts, Plaintiff retained Epstein Drangel to investigate and research manufacturers, wholesalers, retailers and/or other merchants offering for sale and/or selling Counterfeit Products on eBay.

33. Through Epstein Drangel's investigative and enforcement efforts, Plaintiff learned of Defendants' actions which vary and include, but are not limited to: manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling Counterfeit Products to U.S. consumers, including those located in the state of New York, through Defendants' User Accounts and Merchant Storefronts. Printouts of listings for Counterfeit Products from Defendants' User Accounts and Merchant Storefronts are included in **Exhibit D** attached hereto and incorporated herein by reference.

34. Defendants are not, and have never been, authorized by Plaintiff or any of its authorized agents, authorized licensees or authorized distributors to copy, manufacture, import, export, advertise, distribute, offer for sale or sell the Socket Shelf Product or to use the Socket Shelf Mark and Socket Shelf Works, or any marks or artwork that are confusingly or substantially similar to the Socket Shelf Mark or Socket Shelf Works.

35. Defendants' Counterfeit Products are nearly indistinguishable from Plaintiff's Socket Shelf Product, only with minor variations that no ordinary consumer would recognize.

36. During its investigation, Epstein Drangel identified Defendants as offering for sale and/or selling Counterfeit Products and specified a shipping address located at the New York Address and verified that each Defendant provides shipping to the New York Address. Printouts of

the checkout pages for the Counterfeit Products and pages from Defendants' Merchant Storefronts reflecting that the Defendants ship the Counterfeit Products to the New York Address are included in **Exhibit D** attached hereto and incorporated herein by reference.

37. Epstein Drangel confirmed that each Defendant was and/or is still currently offering for sale and/or selling Counterfeit Products through their respective User Accounts and/or Merchant Storefronts, accepting payment for such Counterfeit Products in U.S. Dollars through various payment processing services and that each Defendant provides shipping and/or has actually shipped Counterfeit Products to the U.S., including to customers located in New York. Epstein Drangel's findings are supported by Defendants' listings for Counterfeit Products and/or the checkout pages for the Counterfeit Products, which are included in **Exhibit D** attached hereto and incorporated herein by reference.

38. For example, below on the left is an image of Plaintiff's Socket Shelf Product, which typically retails for \$29.99. Depicted further below is a listing for Defendant `abrababr_0`'s Counterfeit Product ("abrababr_0 Infringing Listing" and "abrababr_0 Counterfeit Product," respectively). The `abrababr_0` Infringing Listing appears on Defendant `abrababr_0`'s Merchant Storefront, https://www.ebay.com/usr/abrababr_0, and offers the `abrababr_0` Counterfeit Product for \$25.66 per item, using, featuring and/or incorporating the Socket Shelf Mark, the Socket Shelf Works, and/or confusingly or substantially similar marks or artwork in the listing title "Genuine **Socket Shelf** Sharper Image 8 Ports Surge Protector (6 Wall Outlet 2USB)" (emphasis added) and in the descriptions and/or product images in the body of the listing. Further, the `abrababr_0` Counterfeit Product is virtually identical to Plaintiff's Socket Shelf Product and features and/or incorporates one or more of the Socket Shelf Works and Socket Shelf Mark. There is no question that the `abrababr_0` Counterfeit Product is designed to confuse and mislead consumers into

believing that they are purchasing Plaintiff's Socket Shelf Product or that the abrababr_0 Counterfeit Product is otherwise approved by or sourced from Plaintiff, thereby trading off of the goodwill and reputation of Plaintiff by engaging in the unauthorized use of the Socket Shelf Works and Socket Shelf Mark:

Socket Shelf Product



Defendant's Counterfeit Product



39. By way of another example, below on the left is an image of Plaintiff's Socket Shelf Product, which typically retails for \$29.99. Depicted further below is a listing for Defendant cathyhair's Counterfeit Product ("cathyhair Infringing Listing" and "cathyhair Counterfeit Product," respectively). The cathyhair Infringing Listing appears on Defendant cathyhair's Merchant Storefront, <https://www.ebay.com/usr/cathyhair>, and offers the cathyhair Counterfeit Product for \$17.65 per item, using, featuring and/or incorporating the Socket Shelf Mark, the Socket Shelf Works, and/or confusingly or substantially similar marks or artwork in the listing title "Multi-function Storage Holder 2 USB Port **Socket Shelf** 8 Charging Ports US Plug" (emphasis added) and in the descriptions and/or product images in the body of the listing. Further, the cathyhair Counterfeit Product is virtually identical to Plaintiff's Socket Shelf Product and features and/or incorporates one or more of the Socket Shelf Works and Socket Shelf Mark. There is no question that the cathyhair Counterfeit Product is designed to confuse and mislead consumers into believing that they are purchasing Plaintiff's Socket Shelf Product or that the cathyhair Counterfeit Product

is otherwise approved by or sourced from Plaintiff, thereby trading off of the goodwill and reputation of Plaintiff by engaging in the unauthorized use of the Socket Shelf Works and Socket Shelf Mark:

Socket Shelf Product



Defendant's Counterfeit Product



40. As another example, below on the left is an image of Plaintiff's Socket Shelf Product, which typically retails for \$29.99. Depicted further below is a listing for Defendant stayreal999's Counterfeit Product ("stayreal999 Infringing Listing" and "stayreal999 Counterfeit Product," respectively). The stayreal999 Infringing Listing appears on Defendant stayreal999's Merchant Storefront, <https://www.ebay.com/usr/stayreal999>, and offers the stayreal999 Counterfeit Product for \$18.49 per item, using, featuring and/or incorporating the Socket Shelf Mark, the Socket Shelf Works, and/or confusingly or substantially similar marks or artwork in the listing title "US Plug Electrical 8 Port Wall **Socket Shelf** Surge Protector 6 Outlet Extender" (emphasis added) and in the descriptions and/or product images in the body of the listing. Further, the stayreal999 Counterfeit Product is virtually identical to Plaintiff's Socket Shelf Product and features and/or incorporates one or more of the Socket Shelf Works and Socket Shelf Mark. There is no question that the stayreal999 Counterfeit Product is designed to confuse and mislead consumers into believing that they are purchasing Plaintiff's Socket Shelf Product or that the stayreal999 Counterfeit Product is otherwise approved by or sourced from Plaintiff, thereby trading off of the

goodwill and reputation of Plaintiff by engaging in the unauthorized use of the Socket Shelf Works and Socket Shelf Mark:

Socket Shelf Product



Defendant's Counterfeit Product



41. By these dealings in Counterfeit Products (including, without limitation, copying, manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling Counterfeit Products), Defendants violated Plaintiff's exclusive rights in the Socket Shelf Mark and Socket Shelf Works, and have used marks, images and artwork that are confusingly and/or substantially similar to, identical to and/or constitute counterfeiting and/or infringement of the Socket Shelf Mark and Socket Shelf Works in order to confuse consumers into believing that such Counterfeit Products are the Socket Shelf Product and aid in the promotion and sales of their Counterfeit Products. Defendants' conduct began long after Plaintiff's adoption and use of the Socket Shelf Mark and Socket Shelf Works, after Plaintiff obtained the federal registrations in the Socket Shelf Mark and Socket Shelf Works, as alleged above, and after Plaintiff's Socket Shelf Product, Socket Shelf Mark and Socket Shelf Works became well-known to the purchasing public.

42. Prior to and contemporaneous with their counterfeiting and infringing actions alleged herein, Defendants had knowledge of Plaintiff's ownership of the Socket Shelf Mark and Socket

Shelf Works, of the fame and incalculable goodwill associated therewith and of the popularity and success of the Socket Shelf Product, and in bad faith adopted the Socket Shelf Mark and Socket Shelf Works.

43. Defendants have been engaging in the illegal counterfeiting and infringing actions, as alleged herein, knowingly and intentionally, or with reckless disregard or willful blindness to Plaintiff's rights, or in bad faith, for the purpose of trading on the goodwill and reputation of Plaintiff, the Socket Shelf Mark, Socket Shelf Works and Socket Shelf Product.

44. Defendants' dealings in Counterfeit Products, as alleged herein, has caused, and will continue to cause confusion, mistake, economic loss, and has, and will continue to deceive consumers, the public and the trade with respect to the source or origin of Defendants' Counterfeit Products, thereby causing consumers to erroneously believe that such Counterfeit Products are licensed by or otherwise associated with Plaintiff, thereby damaging Plaintiff.

45. By engaging in these actions, Defendants have, jointly and severally, among other things, willfully and in bad faith committed the following, all of which have and will continue to cause irreparable harm to Plaintiff: infringed and counterfeited the Socket Shelf Mark, infringed the Socket Shelf Works, committed unfair competition and unfairly and unjustly profited from such activities at Plaintiff's expense.

46. Unless enjoined, Defendants will continue to cause irreparable harm to Plaintiff.

CAUSES OF ACTION

FIRST CAUSE OF ACTION (Trademark Counterfeiting)

[15 U.S.C. § 1114(1)(b)/Lanham Act § 32; 15 U.S.C. § 1116(d)/Lanham Act § 34; 15 U.S.C. § 1117(b)-(c)/Lanham Act § 35]

47. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

48. Plaintiff is the exclusive owner of all right and title to the Socket Shelf Mark.

49. Plaintiff has continuously used the Socket Shelf Mark in interstate commerce since on or before the dates of first use as reflected in the registration attached hereto as **Exhibit B**.

50. Without Plaintiff's authorization or consent, with knowledge of Plaintiff's well-known and prior rights in its Socket Shelf Mark and with knowledge that Defendants' Counterfeit Products bear counterfeit marks, Defendants intentionally reproduced, copied and/or colorably imitated the Socket Shelf Mark and/or used spurious designations that are identical with, or substantially indistinguishable from, the Socket Shelf Mark on or in connection with the manufacturing, import, export, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products.

51. Defendants have manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale and/or sold their Counterfeit Products to the purchasing public in direct competition with Plaintiff, in or affecting interstate commerce, and/or have acted with reckless disregard of Plaintiff's rights in and to the Socket Shelf Mark through their participation in such activities.

52. Defendants have applied their reproductions, counterfeits, copies and colorable imitations of the Socket Shelf Mark to packaging, point-of-purchase materials, promotions and/or advertisements intended to be used in commerce upon, or in connection with the manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of Defendants' Counterfeit Products, which is likely to cause confusion, mistake, and deception among the general purchasing public as to the origin of the Counterfeit Products, and is likely to deceive consumers, the public and the trade into believing that the Counterfeit Products

sold by Defendants originate from, are associated with or are otherwise authorized by Plaintiff, thereby making substantial profits and gains to which they are not entitled in law or equity.

53. Defendants' unauthorized use of the Socket Shelf Mark on or in connection with the Counterfeit Products was done with notice and full knowledge that such use was not authorized or licensed by Plaintiff or its authorized agents and with deliberate intent to unfairly benefit from the incalculable goodwill inherent in the Socket Shelf Mark.

54. Defendants' actions constitute willful counterfeiting of the Socket Shelf Mark in violation of 15 U.S.C. §§ 1114(1)(a)-(b), 1116(d) and 1117(b)-(c).

55. As a direct and proximate result of Defendants' illegal actions alleged herein, Defendants have caused substantial monetary loss and irreparable injury and damage to Plaintiff, its business, its reputation and its valuable rights in and to the Socket Shelf Mark and the goodwill associated therewith, in an amount as yet unknown, but to be determined at trial, for which Plaintiff has no adequate remedy at law, and unless immediately enjoined, Defendants will continue to cause such substantial and irreparable injury, loss and damage to Plaintiff and its valuable Socket Shelf Mark.

56. Based on Defendants' actions as alleged herein, Plaintiff is entitled to injunctive relief, damages for the irreparable harm that Plaintiff has sustained, and will sustain, as a result of Defendants' unlawful and infringing actions, as alleged herein, and all gains, profits and advantages obtained by Defendants as a result thereof, enhanced discretionary damages, treble damages and/or statutory damages of up to \$2,000,000 per counterfeit mark per type of goods sold, offered for sale or distributed and reasonable attorneys' fees and costs.

**SECOND CAUSE OF ACTION
(Infringement of Registered Trademarks)
[115 U.S.C. § 1114/Lanham Act § 32(a)]**

57. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

58. Plaintiff has continuously used the Socket Shelf Mark in interstate commerce since on or before the dates of first use as reflected in the registration certificates attached hereto as **Exhibit B**.

59. Plaintiff, as owner of all right, title and interest in and to the Socket Shelf Mark, has standing to maintain an action for trademark infringement under 15 U.S.C. § 1114.

60. Defendants were, at the time they engaged in their actions as alleged herein, actually aware that Plaintiff is the owner of the federal trademark registration for the Socket Shelf Mark.

61. Defendants did not seek and thus inherently failed to obtain consent or authorization from Plaintiff, as the registered trademark owner of the Socket Shelf Mark, to deal in and commercially manufacture, import, export, advertise, market, promote, distribute, display, retail, offer for sale and/or sell Socket Shelf Product and/or related products bearing the Socket Shelf Mark into the stream of commerce.

62. Defendants knowingly and intentionally manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale and/or sold Counterfeit Products, bearing and/or utilizing marks that are reproductions, counterfeits, copies and/or colorable imitations of the Socket Shelf Mark and/or which are identical or confusingly similar to the Socket Shelf Mark.

63. Defendants knowingly and intentionally reproduced, copied and colorably imitated the Socket Shelf Mark and applied such reproductions, copies or colorable imitations to packaging,

wrappers, receptacles, online listings and/or advertisements used in commerce upon, or in connection with the manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Defendants' Counterfeit Products.

64. Defendants were, at the time they engaged in their illegal and infringing actions as alleged herein, actually aware that Plaintiff is the owner of all rights in and to the Socket Shelf Mark.

65. Defendants' egregious and intentional use of the Socket Shelf Mark in commerce on or in connection with Defendants' Counterfeit Products has caused, and is likely to continue to cause, actual confusion and mistake, and has deceived, and is likely to continue to deceive, the general purchasing public as to the source or origin of the Counterfeit Products, and is likely to deceive the public into believing that Defendants' Counterfeit Products are Plaintiff's Socket Shelf Product or are otherwise associated with, or authorized by, Plaintiff.

66. Defendants' actions have been deliberate and committed with knowledge of Plaintiff's rights and goodwill in the Socket Shelf Mark, as well as with bad faith and the intent to cause confusion, mistake and deception.

67. Defendants' continued, knowing, and intentional use of the Socket Shelf Mark without Plaintiff's consent or authorization constitutes intentional infringement of Plaintiff's federally registered Socket Shelf Mark in violation of §32 of the Lanham Act, 15 U.S.C. § 1114.

68. As a direct and proximate result of Defendants' illegal and infringing actions as alleged herein, Plaintiff has suffered substantial monetary loss and irreparable injury, loss and damage to its business and its valuable rights in and to the Socket Shelf Mark and the goodwill associated therewith in an amount as yet unknown, but to be determined at trial, for which Plaintiff has no adequate remedy at law, and unless immediately enjoined, Defendants will continue to cause such substantial and irreparable injury, loss and damage to Plaintiff and the valuable Socket Shelf

Mark.

69. Based on Defendants' actions as alleged herein, Plaintiff is entitled to injunctive relief, damages for the irreparable harm that Plaintiff has sustained, and will sustain, as a result of Defendants' unlawful and infringing actions as alleged herein, and all gains, profits and advantages obtained by Defendants as a result thereof, enhanced discretionary damages, as well as other remedies provided by 15 U.S.C. §§ 1116, 1117, and 1118, and reasonable attorneys' fees and costs.

THIRD CAUSE OF ACTION
(False Designation of Origin, Passing Off & Unfair Competition)
[15 U.S.C. § 1125(a)/Lanham Act § 43(a)]

70. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

71. Plaintiff, as the owner of all right, title and interest in and to the Socket Shelf Mark has standing to maintain an action for false designation of origin and unfair competition under the Federal Trademark Statute, Lanham Act § 43(a) (15 U.S.C. § 1125).

72. The Socket Shelf Mark is inherently distinctive and/or has acquired distinctiveness.

73. Defendants knowingly and willfully used in commerce products and/or packaging designs that are identical or confusingly or substantially similar to, and constitute reproductions of the Socket Shelf Mark and Socket Shelf Works and affixed, applied and used false designations of origin and false and misleading descriptions and representations on or in connection with the manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Counterfeit Products with the intent to cause confusion, to cause mistake and to deceive the purchasing public into believing, in error, that Defendants' substandard Counterfeit Products are the Socket Shelf Product or related products, and/or that Defendants' Counterfeit Products are authorized, sponsored, approved, endorsed or licensed by Plaintiff and/or

that Defendants are affiliated, connected or associated with Plaintiff, thereby creating a likelihood of confusion by consumers as to the source of such Counterfeit Products, and allowing Defendants to capitalize on the goodwill associated with, and the consumer recognition of, the Socket Shelf Mark, to Defendants' substantial profit in blatant disregard of Plaintiff's rights.

74. By manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products that are identical to, confusingly similar to or which constitute colorable imitations of Plaintiff's Socket Shelf Product using marks that are identical and/or confusingly similar to, or which constitute colorable imitations of the Socket Shelf Mark, Defendants have traded off the extensive goodwill of Plaintiff and its Socket Shelf Product and did in fact induce, and intend to, and will continue to induce customers to purchase Defendants' Counterfeit Products, thereby directly and unfairly competing with Plaintiff. Such conduct has permitted and will continue to permit Defendants to make substantial sales and profits based on the goodwill and reputation of Plaintiff and its Socket Shelf Mark, which Plaintiff has amassed through its nationwide marketing, advertising, sales and consumer recognition.

75. Defendants knew, or by the exercise of reasonable care should have known, that their adoption and commencement of and continuing use in commerce of marks that are identical or confusingly similar to and constitute reproductions of the Socket Shelf Mark would cause confusion, mistake or deception among purchasers, users and the public.

76. Upon information and belief, Defendants' aforementioned wrongful actions have been knowing, deliberate, willful, intended to cause confusion, to cause mistake and to deceive the purchasing public and with the intent to trade on the goodwill and reputation Plaintiff, its Socket Shelf Product and Socket Shelf Mark.

77. As a direct and proximate result of Defendants' aforementioned actions, Defendants have caused irreparable injury to Plaintiff by depriving Plaintiff of sales of its Socket Shelf Product and by depriving Plaintiff of the value of its Socket Shelf Mark as commercial assets in an amount as yet unknown, but to be determined at trial, for which it has no adequate remedy at law, and unless immediately restrained, Defendants will continue to cause substantial and irreparable injury to Plaintiff and the goodwill and reputation associated with the value of Socket Shelf Mark.

78. Based on Defendants' wrongful conduct, Plaintiff is entitled to injunctive relief as well as monetary damages and other remedies as provided by the Lanham Act, including damages that Plaintiff has sustained and will sustain as a result of Defendants' illegal and infringing actions as alleged herein, and all gains, profits and advantages obtained by Defendants as a result thereof, enhanced discretionary damages and reasonable attorneys' fees and costs.

**FOURTH CAUSE OF ACTION
(Federal Copyright Infringement)
[17 U.S.C. § 501(a)]**

79. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

80. Plaintiff is the exclusive owner of the Socket Shelf Works.

81. Defendants had actual notice of Plaintiff's exclusive rights in and to the Socket Shelf Works.

82. Defendants did not attempt and therefore inherently failed to obtain Plaintiff's consent or authorization to use, manufacture, reproduce, copy, display, prepare derivative works of, distribute, sell, transfer, rent, perform and/or market Plaintiff's Socket Shelf Product and/or Socket Shelf Works.

83. Without permission, Defendants knowingly and intentionally reproduced, copied,

and displayed the Socket Shelf Works by manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling infringing products which bear such Socket Shelf Works, or artwork that is, at a minimum, substantially similar to the Socket Shelf Works.

84. Defendants' unlawful and willful actions as alleged herein constitute infringement of the Socket Shelf Works, including Plaintiff's exclusive rights to reproduce, distribute and/or sell such Socket Shelf Works in violation of 17 U.S.C. § 501(a).

85. Defendants' knowing and intentional copyright infringement, as alleged herein, has caused substantial and irreparable harm to Plaintiff in an amount as yet unknown but to be proven at trial, for which Plaintiff has no adequate remedy at law, and unless enjoined, Defendants will continue to cause, substantial and irreparable harm to Plaintiff.

86. Based on Defendants' wrongful conduct, Plaintiff is entitled to injunctive relief, Plaintiff's actual damages and Defendants' profits in an amount to be proven at trial and enhanced discretionary damages for willful copyright infringement, and reasonable attorneys' fees and costs.

**FIFTH CAUSE OF ACTION
(Unfair Competition)
[New York Common Law]**

87. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

88. By manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products, Defendants have traded off the extensive goodwill of Plaintiff and its Socket Shelf Product to induce, and did induce and intend and will continue to induce, customers to purchase their Counterfeit Products, thereby directly competing with Plaintiff. Such conduct has permitted and

will continue to permit Defendants to make substantial sales and profits based on the goodwill and reputation of Plaintiff, which Plaintiff has amassed through its nationwide marketing, advertising, sales and consumer recognition.

89. Defendants' advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products was and is in violation and derogation of Plaintiff's rights and is likely to cause confusion and mistake, and to deceive consumers and the public as to the source, origin, sponsorship or quality of Defendants' Counterfeit Products.

90. Defendants knew, or by the exercise of reasonable care should have known, that their advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products and their continuing advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products would cause confusion and mistake, or deceive purchasers, users and the public.

91. Upon information and belief, Defendants' aforementioned wrongful actions have been knowing, deliberate, willful, intended to cause confusion and mistake, and to deceive, in blatant disregard of Plaintiff's rights, and for the wrongful purpose of injuring Plaintiff, and its competitive position while benefiting Defendants.

92. As a direct and proximate result of Defendants' aforementioned wrongful actions, Plaintiff has been and will continue to be deprived of substantial sales of its Socket Shelf Product in an amount as yet unknown but to be determined at trial, for which Plaintiff has no adequate remedy at law, and Plaintiff has been and will continue to be deprived of the value of its Socket Shelf Mark and Socket Shelf Works as commercial assets in an amount as yet unknown but to be

determined at trial, for which Plaintiff has no adequate remedy at law.

93. As a result of Defendants' actions alleged herein, Plaintiff is entitled to injunctive relief, an order granting Plaintiff's damages and Defendants' profits stemming from their infringing activities, and exemplary or punitive damages for Defendants' intentional misconduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, inclusive, and each of them, as follows:

- A. For an award of Defendants' profits and Plaintiff's damages pursuant to 15 U.S.C. § 1117(a), enhanced discretionary damages under 15 U.S.C. § 1117(a)(3) and treble damages in the amount of a sum equal to three (3) times such profits or damages, whichever is greater, pursuant to 15 U.S.C. § 1117(b) for willfully and intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark in violation of 15 U.S.C. § 1114(1)(a);
- B. In the alternative to Defendants' profits and Plaintiff's actual damages, enhanced discretionary damages and treble damages for willful use of a counterfeit mark in connection with the sale, offering for sale or distribution of goods or services, for statutory damages pursuant to 15 U.S.C. § 1117(c) in the amount of not more than \$2,000,000 per counterfeit mark per type of goods or services sold, offered for sale or distributed, as the Court considers just, which Plaintiff may elect prior to the rendering of final judgment;
- C. For an award of Defendants' profits and Plaintiff's damages in an amount to be proven at trial for willful trademark infringement of Plaintiff's federally registered Socket Shelf Mark, and such other compensatory damages as the Court determines to be fair and appropriate pursuant to 15 U.S.C. § 1117(a);

D. For an award of Defendants' profits and Plaintiff's damages pursuant to 15 U.S.C. § 1117(a) in an amount to be proven at trial and such other compensatory damages as the Court determines to be fair and appropriate pursuant to 15 U.S.C. § 1117(a) for false designation of origin and unfair competition under 15 U.S.C. §1125(a);

E. For an award of Plaintiff's actual damages and Defendants' profits, pursuant to 17 U.S.C. § 504(b), in an amount to be proven at trial for willful copyright infringement of the Socket Shelf Works under 17 U.S.C. § 501(a);

F. In the alternative to Plaintiff's actual damages and Defendants' profits for copyright infringement of the Socket Shelf Works pursuant to 17 U.S.C. § 504(b), for statutory damages of up to \$150,000 per infringement pursuant to 17 USC § 504(c) for willful copyright infringement, which Plaintiff may elect prior to the rendering of final judgment

G. For an award of damages to be proven at trial for common law unfair competition;

H. For a preliminary and permanent injunction by this Court enjoining and prohibiting Defendants, or their agents, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns and entities owned or controlled by Defendants, and all those in active concert or participation with Defendants, and each of them who receives notice directly or otherwise of such injunction from:

- i. manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products;
- ii. directly or indirectly infringing in any manner any of Plaintiff's Socket Shelf Mark and Socket Shelf Works;
- iii. using any reproduction, counterfeit, copy or colorable imitation of Plaintiff's

Socket Shelf Mark and Socket Shelf Works, to identify any goods or services not authorized by Plaintiff;

- iv. using any of Plaintiff's Socket Shelf Mark or Socket Shelf Works, or any other marks or artwork that are confusingly or substantially similar to the Socket Shelf Mark or Socket Shelf Works, on or in connection with Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products;
- v. using any false designation of origin or false description, or engaging in any action which is likely to cause confusion, cause mistake and/or to deceive members of the trade and/or the public as to the affiliation, connection or association of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants with Plaintiff, and/or as to the origin, sponsorship or approval of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants and Defendants' commercial activities by Plaintiff;
- vi. engaging in the unlawful, unfair or fraudulent business acts or practices, including, without limitation, the actions described herein, including the of advertising and/or dealing in any Counterfeit Products;
- vii. engaging in any other actions that constitute unfair competition with Plaintiff;
- viii. engaging in any other act in derogation of Plaintiff's rights;
- ix. from secreting, concealing, destroying, altering, selling off, transferring or

otherwise disposing of and/or dealing with: (i) Counterfeit Products; (ii) any computer files, data, business records, documents or any other records or evidence relating to Defendants' User Accounts or Merchant Storefronts, Defendants' Assets from or to Defendants' Financial Accounts and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products;

- x. from secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying any of Defendants' Assets from or Defendants' Financial Accounts until further ordered by this Court;
- xi. 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 any final judgment or order in this action;
- xii. providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts; and
- xiii. instructing, assisting, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in subparagraphs (i) through (xii) above; and

I. For an order of the Court requiring that Defendants recall from any distributors and retailers and deliver up to Plaintiff for destruction any and all Counterfeit Products and any and all packaging, labels, tags, advertising and promotional materials and any other materials in the possession, custody or control of such distributors and retailers that infringe any of Plaintiff's Socket Shelf Mark or Socket Shelf Works, or bear any marks and/or artwork that

are confusingly or substantially similar to the Socket Shelf Mark or Socket Shelf Works;

J. For an order of the Court requiring that Defendants deliver up for destruction to Plaintiff any and all Counterfeit Products and any and all packaging, labels, tags, advertising and promotional materials and any other materials in the possession, custody or control of Defendants that infringe any of Plaintiff's Socket Shelf Mark or Socket Shelf Works, or bear any marks and/or artwork that are confusingly or substantially similar to the Socket Shelf Mark or Socket Shelf Works pursuant to 15 U.S.C. § 1118;

K. For an order from the Court requiring that Defendants provide complete accountings for any and all monies, profits, gains and advantages derived by Defendants from their manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, sale and/or otherwise dealing in the Counterfeit Products as described herein, including prejudgment interest;

L. For an order from the Court that an asset freeze or constructive trust be imposed over any and all monies, profits, gains and advantages in Defendants' possession which rightfully belong to Plaintiff;

M. For an award of exemplary or punitive damages in an amount to be determined by the Court;

N. For Plaintiff's reasonable attorneys' fees;

O. For all costs of suit; and

P. For such other and further relief as the Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands a trial by jury on all claims.

Dated: October 8, 2020

Respectfully submitted,

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLSTAR MARKETING GROUP, LLC,

Plaintiff

v.

4UTOTO, ABRABABR_0, ACELECTRONIC11 ,
BESTTOOL2019, CATHYHAIR,
DIRECTIMPORTS1899, DITQKYG_6 ,
DONGMAKJHG, EASYBUYING368,
EAWORLDSTORE, EXCELLBUYING,
FUNNYATMOSPHERE, GRACEFULVARA,
GUODHSHOP, GZY1_2706, HANIAMAHMUD,
JEWELRYZHANG888, JINSHAN2013, JOIN-28 ,
LAIXIAOQING2012, LILYBEIBEI ,
LWSTORE2013 ,LYNNLYNNSEVEN, MNY19-53,
NEWLIVEHAPPY, NEWST12, NIUBI11,
NY1994CHUHANYAO1 , NYLIYAN,
PASINDUTM, PRIESTLYY, QIANGW21,
RED_STAR1689 , S-2344, SAKURA9582,
SALĒFEEL, SC_STORE9999, SGOSTORE,
SHZH_7, STARTINGLINE59, STAYREAL999, ST-
EC, SUPER-POWERFUL2019, SXY1_20,
TGSEBUYS, TITANAHOP, TOPBOSS,
TRADEUS8, TSBUYNOW,
WHOLESALEFORCLOTHES , WINEDYA622,
WWWON28, XEN-9233, XOVO1894,
YANG_KENT, YHXCLX2010 and YOYOMODEL,

Defendants

Civil Case No. 20-cv-8401

~~{PROPOSED}~~ PAC

1)TEMPORARY
RESTRAINING ORDER; 2)
ORDER RESTRAINING
MERCHANT STOREFRONTS
AND DEFENDANTS' ASSETS
WITH THE FINANCIAL
INSTITUTIONS; 3) ORDER TO
SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE; 4)
ORDER AUTHORIZING
BIFURCATED AND
ALTERNATIVE SERVICE;
AND 5) ORDER
AUTHORIZING EXPEDITED
DISCOVERY

FILED UNDER SEAL

GLOSSARY

Term	Definition
Plaintiff or Allstar	Allstar Marketing Group, LLC
Defendants	4utoto, abrababr_0, acelectronic11, besttool2019, cathyhair, directimports1899, ditqkyg_6, dongmakjhg, easybuying368, eaworldstore, excellbuying, funnyatmosphere, gracefulvara, guodhshop, gzy1_2706, haniamahmud, jewelryzhang888, jinshan2013, join-28, laixiaoqing2012, lilybeibei, lwstore2013, lynnylnseven, mny19-53, newlivehappy, newst12, niubi11, ny1994chuhanyaol, nyliyan, pasindutm, priestlyy, qiangw21, red_star1689, s-2344, sakura9582, salefeel, sc_store9999, sgostore, shzh_7, startingline59, stayreal999, st-ec, super-powerful2019, sxy1_20, tgsbuys, titanahop, topboss, tradeus8, tsbuynow, wholesaleforclothes, winedy622, wwwon28, xen-9233, xovo1894, yang_kent, yhxclx2010 and yoyomodel
eBay	eBay.com, a San Jose, California-based online marketplace and e-commerce platform owned by eBay Inc., a Delaware corporation, that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale and/or sell in what it characterizes as either auction-style or fixed-price formats and ship their retail products, which, upon information and belief, originate from China, among other locations, directly to consumers worldwide and specifically to consumers residing in the U.S., including in New York
Epstein Drangel	Epstein Drangel LLP, counsel for Plaintiff
New York Address	224 Madison Ave, Suite 411, New York, New York 10016
Complaint	Plaintiff's Complaint filed on October 8, 2020
Application	Plaintiff's <i>Ex Parte</i> Application for: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts (as defined <i>infra</i>) and Defendants' Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery filed on October 8, 2020
De Marco Dec.	Declaration of Jennifer De Marco in Support of Plaintiff's Application
Yamali Dec.	Declaration of Danielle S. Yamali in Support of

	Plaintiff's Application
Socket Shelf Mark	U.S. Trademark Registration No. 6,153,908 for "SOCKET SHELF" for electronic docking station and charging station for electronic devices in Class 9
Socket Shelf Works	U.S. Copyright Reg. Nos.: PAu 4-030-375 covering the Socket Shelf Commercial, VAu 1-365-330 covering the Socket Shelf Deluxe Packaging, VAu 1-402-004 covering the Socket Shelf Instruction Manual, VAu 1-347-375 covering the Socket Shelf Packaging, VA 2-135-992 covering the Socket Shelf Website and VAu 1-365-333 covering the Socket Shelf Packaging
Socket Shelf Product	A unique surge protector device that provides six (6) power outlets and adds two (2) USB charging stations and a shelf to most three-prong outlets
Counterfeit Products	Products bearing or used in connection with the Socket Shelf Mark and/or Socket Shelf Works, and/or products in packaging and/or containing labels and/or hang tags bearing the Socket Shelf Mark and/or Socket Shelf Works, and/or bearing or used in connection with marks and/or artwork that are confusingly or substantially similar to the Socket Shelf Mark and/or Socket Shelf Works and/or products that are identical or confusingly or substantially similar to the Socket Shelf Product
Infringing Listings	Defendants' listings for Counterfeit Products
User Accounts	Any and all websites and any and all accounts with online marketplace platforms such as eBay, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
Merchant Storefronts	Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
Defendants' Assets	Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad)
Defendants' Financial Accounts	Any and all financial accounts associated with or utilized by any Defendants or any Defendants' User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad)

Financial Institutions	Any and all banks, financial institutions, credit card companies and payment processing agencies, such as PayPal Inc. ("PayPal"), Payoneer Inc. ("Payoneer") and PingPong Global Solutions, Inc. ("PingPong") and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of Defendants
Third Party Service Providers	Online marketplace platforms, including, without limitation, those owned and operated, directly or indirectly by eBay, as well as any and all as yet undiscovered online marketplace platforms and/or entities through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them manufacture, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in Counterfeit Products which are hereinafter identified as a result of any order entered in this action, or otherwise

On this day, the Court considered Plaintiff's *ex parte* application for the following: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts and Defendants' Assets with the Financial Institutions; 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery against Defendants, Third Party Service Providers and Financial Institutions in light of Defendants' intentional and willful offerings for sale and/or sales of Counterfeit Products.¹ A complete list of Defendants is attached hereto as **Schedule A**, which also includes links to Defendants' Merchant Storefronts and Infringing Listings. Having reviewed the Application, Declarations of Jennifer De Marco and Danielle S. Yamali, along with exhibits attached thereto and other evidence submitted in support thereof, the Court makes the following findings of fact and conclusions of law:

FACTUAL FINDINGS & CONCLUSIONS OF LAW

1. Plaintiff is a leading developer, producer, marketer, and distributor of quality, innovative consumer products that Plaintiff promotes and sells throughout the United States and the world through major retailers and well-known mass retail outlets, including, but not limited to: Wal-Mart, Target and Bed Bath & Beyond, as well as through its retail customers' websites and a network of international distributors, among other channels of trade.

2. One of Plaintiff's most popular and successful products is Socket Shelf, a unique surge protector device that provides six (6) power outlets and adds two (2) USB charging stations and a shelf to most three-prong outlets.

¹ Where a defined term is referenced herein and not defined herein, the defined term should be understood as it is defined in the Complaint, Application or Glossary.

3. While Plaintiff has gained significant common law trademark and other rights in its Socket Shelf, through use, advertising and promotion, Plaintiff has also protected its valuable rights by filing for and obtaining a federal trademark registration.

4. For example, Plaintiff owns the Socket Shelf Mark, including U.S. Trademark Registration 6,153,908 for "SOCKET SHELF" for electronic docking station and charging station for electronic devices in Class 9.

5. The Socket Shelf Mark is currently in use in commerce in connection with the Socket Shelf Product.

6. In addition, Plaintiff also owns the registered copyrights related to the Socket Shelf Product. For example, Plaintiff owns the Socket Shelf Works, including U.S. Copyright Reg. Nos.: PAu 4-030-375 covering the Socket Shelf Commercial, VAu 1-365-330 covering the Socket Shelf Deluxe Packaging, VAu 1-402-004 covering the Socket Shelf Instruction Manual, VAu 1-347-375 covering the Socket Shelf Packaging, VA 2-135-992 covering the Socket Shelf Website and VAu 1-365-333 covering the Socket Shelf Packaging.

7. Defendants are manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale or Counterfeit Product through Defendants' User Accounts and Merchant Storefronts with eBay (*see Schedule A* for links to Defendants' Merchant Storefronts and Infringing Listings);

8. eBay is an online marketplace and e-commerce platform that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale and/or sell in what it characterizes as either auction-style or fixed-price formats and ship their retail products originating from China, among other locations, directly to consumers worldwide and specifically to consumers residing in the U.S., including New York;

9. Defendants are not, nor have they ever been, authorized distributors or licensees of the Socket Shelf Product. Neither Plaintiff, nor any of Plaintiff's authorized agents, have

consented to Defendants' use of the Socket Shelf Works and/or Socket Shelf Mark, nor has Plaintiff consented to Defendants' use of marks and/or artwork that are confusingly and/or substantially similar to, identical to and constitute a counterfeiting or infringement of the Socket Shelf Works and/or Socket Shelf Mark;

10. Plaintiff is likely to prevail on its Lanham Act, copyright and related common law claims at trial;

11. As a result of Defendants' infringements, Plaintiff, as well as consumers, are likely to suffer immediate and irreparable losses, damages and injuries before Defendants can be heard in opposition, unless Plaintiff's Application for *ex parte* relief is granted:

- a. Defendants have offered for sale and sold substandard Counterfeit Products that infringe the Socket Shelf Works and/or Socket Shelf Mark;
- b. Plaintiff has well-founded fears that more Counterfeit Products will appear in the marketplace; that consumers may be misled, confused and disappointed by the quality of these Counterfeit Products, resulting in injury to Plaintiff's reputation and goodwill; and that Plaintiff may suffer loss of sales for its Socket Shelf Product; and
- c. Plaintiff has well-founded fears that if it proceeds on notice to Defendants on this Application, Defendants will: (i) secret, conceal, destroy, alter, sell-off, transfer or otherwise dispose of or deal with Counterfeit Products or other goods that infringe the Socket Shelf Works and/or Socket Shelf Mark, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto that are in their possession or under their control, (ii) inform their suppliers and others of Plaintiff's claims with the result being that those suppliers and others may also secret, conceal, sell-off or otherwise dispose of Counterfeit Products or other goods infringing the Socket Shelf Works and/or Socket Shelf Mark, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto that are in their

possession or under their control, (iii) secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from its sales of Counterfeit Products or other goods infringing the Socket Shelf Works and/or Socket Shelf Mark and records relating thereto that are in their possession or under their control and/or (iv) open new User Accounts and Merchant Storefront under new or different names and continue to offer for sale and sell Counterfeit Products with little to no consequence;

12. The balance of potential harm to Defendants of being prevented from continuing to profit from their illegal and infringing activities if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiff, its business, the goodwill and reputation built up in and associated with the Socket Shelf Works and/or Socket Shelf Mark and to its reputations if a temporary restraining order is not issued;

13. Public interest favors issuance of the temporary restraining order in order to protect Plaintiff's interests in and to its Socket Shelf Works and/or Socket Shelf Mark, and to protect the public from being deceived and defrauded by Defendants' passing off of their substandard Counterfeit Products as Socket Shelf Product;

14. Plaintiff has not publicized its request for a temporary restraining order in any way;

15. Service on Defendants via electronic means is reasonably calculated to result in proper notice to Defendants.

16. If Defendants are given notice of the Application, they are likely to secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Counterfeit Products or other goods infringing the Socket Shelf Works and/or Socket Shelf Mark. Therefore, good cause exists for granting Plaintiff's request for an asset restraining order. It typically takes the Financial Institutions a minimum of five (5) days after service of the Order to locate, attach and freeze Defendants' Assets and/or Defendants' Financial Accounts and it is anticipated that it will take the Third Party Service Providers a minimum of five (5) days to freeze Defendants' Merchant

Storefronts. As such, the Court allows enough time for Plaintiff to serve the Financial Institutions and Third Party Service Providers with this Order, and for the Financial Institutions and Third Party Service Providers to comply with the Paragraphs I(B)(1) through I(B)(2) and I(C)(1) of this Order, respectively, before requiring service on Defendants.

17. Similarly, if Defendants are given notice of the Application, they are likely to destroy, move, hide or otherwise make inaccessible to Plaintiff the records and documents relating to Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Counterfeit Products. Therefore Plaintiff has good cause to be granted expedited discovery.

ORDER

Based on the foregoing findings of fact and conclusions of law, Plaintiff's Application is hereby **GRANTED** as follows:

I. Temporary Restraining Order

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Defendants are hereby restrained and enjoined from engaging in any of the following acts or omissions for ^{ten}~~fourteen~~ **(10)** (~~14~~) days from the date of this order, and for such further period as may be provided by order of the Court:

- 1) manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Counterfeit Products, or any other products bearing the Socket Shelf Works and/or Socket Shelf Mark and/or marks and/or artwork that are confusingly and/or substantially similar to, identical to and constitute a counterfeiting or infringement of the Socket Shelf Works and/or Socket Shelf Mark;
- 2) directly or indirectly infringing in any manner Plaintiff's Socket Shelf Works and/or Socket Shelf Mark;

- 3) using any reproduction, counterfeit, copy or colorable imitation of Plaintiff's Socket Shelf Works and Socket Shelf Mark, to identify any goods or service not authorized by Plaintiff;
- 4) using Plaintiff's Socket Shelf Works and/or Socket Shelf Mark and/or any other marks that are confusingly similar to the Socket Shelf Marks and/or any other artwork that is substantially similar to the Socket Shelf Works, on or in connection with Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, offering for sale, selling and/or otherwise dealing in Counterfeit Products;
- 5) using any false designation of origin or false description, or engaging in any action which is likely to cause confusion, cause mistake and/or to deceive members of the trade and/or the public as to the affiliation, connection or association of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants with Plaintiff, and/or as to the origin, sponsorship or approval of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants and Defendants' commercial activities and Plaintiff;
- 6) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products and/or (ii) any computer files, data, business records, documents or any other records or evidence relating to their User Accounts, Merchant Storefronts or Defendants' Assets and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products;
- 7) effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other means of importation, exportation, advertising, marketing, promotion, distribution,

display, offering for sale and/or sale of Counterfeit Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order; and

- 8) knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(7) above and I(B)(1) through I(B)(2) and I(C)(1) below.

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers and Financial Institutions are hereby restrained and enjoined from engaging in any of the following acts or omissions for ~~fourteen (14) days~~ **ten (10) days** from the date of this order, and for such further period as may be provided by order of this Court:

- 1) secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defendants' Assets from or to Defendants' Financial Accounts until further ordered by this Court;
- 2) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with any computer files, data, business records, documents or any other records or evidence relating to Defendants' Assets and Defendants' Financial Accounts; and
- 3) knowingly instructing, aiding or abetting any person or business entity in engaging in any of the activities referred to in subparagraphs I(A)(1) through I(A)(7) and I(B)(1) through I(B)(2) above and I(C)(1) below.

C. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers are hereby restrained and enjoined from engaging in any of the following acts or omissions for ~~fourteen (14) days~~ **ten (10) days** from the date of this order, and for such further period as may be provided by order of this Court:

- 1) within five (5) days after receipt of service of this Order, providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without

limitation, continued operation of Defendants' User Accounts and Merchant Storefronts;
and

- 2) knowingly instructing, aiding, or abetting any other person or business entity in engaging in any of the activities referred to in subparagraphs I(A)(1) through I(A)(4), I(B)(1) through I(B)(2) and I(C)(1) above.

II. Order to Show Cause Why A Preliminary Injunction Should Not Issue And Order Of Notice

- A. Defendants are hereby ORDERED to show cause before this Court in Judge Nathan's courtroom of the United States District Court for the Southern District of New York at 500 Pearl Street/40 Foley Square, New York, New York on Monday, October 19, 2020 at 10 AM ~~am~~ or at such other time that this Court deems appropriate, why a preliminary injunction, pursuant to Fed. R. Civ. P. 65(a), should not issue.
- B. IT IS FURTHER ORDERED that opposing papers, if any, shall be filed electronically with the Court and served on Plaintiff's counsel by delivering copies thereof to the office of Epstein Drangel LLP at 60 East 42nd Street, Suite 2520, New York, NY 10165, Attn: Jason M. Drangel on or before Thursday, October 15, 2020 @ 5 PM. Plaintiff shall file any Reply papers on or before Monday, October 19, 2020.
- C. IT IS FURTHER ORDERED that Defendants are hereby given notice that failure to appear at the show cause hearing scheduled in **Paragraph II(A)** above may result in the imposition of a preliminary injunction against them pursuant to Fed. R. Civ. P. 65, which may take effect immediately upon the expiration of this Order, and may extend throughout the length of the litigation under the same terms and conditions set forth in this Order.

III. Asset Restraining Order

- A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 64 and 65 and N.Y. C.P.L.R. 6201 and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, as sufficient cause has been shown, that within five (5) days

of receipt of service of this Order, the Financial Institutions shall locate and attach Defendants' Financial Accounts and shall provide written confirmation of such attachment to Plaintiff's counsel.

IV. Order Authorizing Bifurcated and Alternative Service by Electronic Means

- A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 4(f)(3), as sufficient cause has been shown, that service may be made on, and shall be deemed effective as to Defendants if it is completed by the following means:
- 1) delivery of: (i) PDF copies of this Order together with the Summons and Complaint, or (ii) a link to a secure website (including NutStore.com, a large mail link created through Rmail.com and via website publication through a specific page dedicated to this Lawsuit accessible through ipcounselorslawsuit.com) where each Defendant will be able to download PDF copies of this Order together with the Summons and Complaint, and all papers filed in support of Plaintiff's Application seeking this Order to Defendants' e-mail addresses to be determined after having been identified by eBay pursuant to **Paragraph V(C)**.
- B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means ordered herein shall be deemed effective as to Defendants, Third Party Service Providers and Financial Institutions through the pendency of this action.
- C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means ordered herein shall be made within five (5) days of the Financial Institutions and Third Party Service Providers' compliance with **Paragraphs III(A) and V(C)** of this Order.
- D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that the Clerk of the Court shall issue a single original summons directed to all Defendants as listed in an attachment to the summons that will apply to all Defendants.

E. IT IS FURTHER ORDERED, as sufficient cause has been shown, that service may be made and shall be deemed effective as to the following if it is completed by the below means:

- 1) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where PayPal Inc. will be able to download a PDF copy of this Order via electronic mail to EE Omaha Legal Specialist at EEOMALegalSpecialist@paypal.com;
- 2) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where eBay, via eBay's Registered Agent, will be able to download a PDF copy of this Order via electronic mail at copyright@ebay.com, to Bryce Baker at brybaker@ebay.com and to Joanna Lahtinen at jlahtinen@ebay.com;
- 3) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where Payoneer Inc. will be able to download a PDF copy of this Order via electronic mail to Payoneer Inc.'s Customer Service Management at customerservicemanager@payoneer.com and Edward Tulin, counsel for Payoneer Inc., at Edward.Tulin@skadden.com; and
- 4) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where PingPong Global Solutions Inc. will be able to download a PDF copy of this Order via electronic mail to Zeng Ni of PingPong Global Solutions Inc.'s Legal Department legal@pingpongx.com.

V. Order Authorizing Expedited Discovery

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:
ten (10)

- 1) Within ~~fourteen (14)~~ days after receiving service of this Order, each Defendant shall serve upon Plaintiff's counsel a written report under oath providing:
 - a. their true name and physical address;
 - b. the name and location and URL of any and all websites that Defendants own and/or operate and the name, location, account numbers and URL for any and all User Accounts and Merchant Storefronts on any Third Party Service Provider platform that Defendants own and/or operate;

- c. the complete sales records for any and all sales of Counterfeit Products, including but not limited to number of units sold, the price per unit, total gross revenues received (in U.S. dollars) and the dates thereof;
- d. the account details for any and all of Defendants' Financial Accounts, including, but not limited to, the account numbers and current account balances; and
- e. the steps taken by each Defendant, or other person served to comply with **Section I**, above.

2) Plaintiff may serve interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure as well as Local Civil Rule 33.3 of the Local Rules for the Southern and Eastern Districts of New York and Defendants who are served with this Order shall provide ~~fourteen (14)~~ **ten (10)** written responses under oath to such interrogatories within ~~fourteen (14)~~ days of service to Plaintiff's counsel.

3) Plaintiff may serve requests for the production of documents pursuant to Fed. R. Civ. P. 26 and 34, and Defendants who are served with this Order and the requests for the production of documents shall produce all documents responsive to such requests within ~~fourteen (14)~~ **ten (10)** days of service to Plaintiff's counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order the Financial Institutions shall identify any and all of Defendants' Financial Accounts, and provide Plaintiff's counsel with a summary report containing account details for any and all such accounts, which shall include, at a minimum, identifying information for Defendants, including contact information for Defendants (including, but not limited to, mailing addresses and e-mail addresses), account numbers and account balances for any and all of Defendants' Financial Accounts and confirmation of said compliance with this Order.

C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order, the Third Party Service Providers shall identify any and all of Defendants' User Accounts and Merchant Storefronts, and provide Plaintiff's counsel with a summary report containing account details for any and all User Accounts and Merchant Storefronts, which shall include, at a minimum, identifying information for Defendants and Defendants' User Accounts and Defendants' Merchant Storefronts, contact information for Defendants (including, but not limited to, mailing addresses and e-mail addresses) and confirmation of said compliance with this Order.

D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

ten (10)

- 1) Within ~~fourteen (14)~~ days of receiving actual notice of this Order, all Financial Institutions who are served with this Order shall provide Plaintiff's counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to any and all of Defendants' Financial Accounts, including, but not limited to, documents and records relating to:
 - a. account numbers;
 - b. current account balances;
 - c. any and all identifying information for Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, names, addresses and contact information;
 - d. any and all account opening documents and records, including, but not limited to, account applications, signature cards, identification documents and if a business entity, any and all business documents provided for the opening of each and every of Defendants' Financial Accounts;
 - e. any and all deposits and withdrawals during the previous year from each and every one of Defendants' Financial Accounts and any and all supporting documentation,

including, but not limited to, deposit slips, withdrawal slips, cancelled checks and account statements; and

- f. any and all wire transfers into each and every one of Defendants' Financial Accounts during the previous year, including, but not limited to, documents sufficient to show the identity of the destination of the transferred funds, the identity of the beneficiary's bank and the beneficiary's account number.

E. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within ^{ten (10)} ~~fourteen (14)~~ days of receipt of service of this Order, the Third Party Service Providers shall provide to Plaintiff's counsel all documents and records in its possession, custody or control (whether located in the U.S. or abroad) relating to Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, documents and records relating to:
 - a. any and all User Accounts and Defendants' Merchant Storefronts and account details, including, without limitation, identifying information and account numbers for any and all User Accounts and Defendants' Merchant Storefronts that Defendants have ever had and/or currently maintain with the Third Party Service Providers that were not previously provided pursuant to Paragraph V(C);
 - b. the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided pursuant to Paragraph V(C);
 - c. the nature of Defendants' businesses and operations, methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendants' User Accounts and Defendants' Merchant Storefronts, a full accounting of Defendants' sales history and listing history under such accounts and Defendants' Financial Accounts with

any and all Financial Institutions associated with Defendants' User Accounts and Defendants' Merchant Storefronts; and

- d. Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of Counterfeit Products, or any other products bearing the Socket Shelf Mark and/or Socket Shelf Works and/or marks and/or artwork that are confusingly and/or substantially similar to, identical to and constitute an infringement of the Socket Shelf Mark and/or Socket Shelf Works.

VI. Security Bond

- A. IT IS FURTHER ORDERED that Plaintiff shall place security in the amount of One Hundred Thousand Dollars (\$ 100,000) with the Court which amount is determined adequate for the payment of any damages any person may be entitled to recover as a result of an improper or wrongful restraint ordered hereunder.

VII. Sealing Order

- A. IT IS FURTHER ORDERED that Plaintiff's Complaint and exhibits attached thereto, and Plaintiff's *ex parte* Application and the Declarations of Jennifer De Marco and Danielle S. Yamali in support thereof and exhibits attached thereto and this Order shall remain sealed until the Financial Institutions and Third Party Service Providers comply with **Paragraphs I(B)-(C), III(A) and V(C)** of this Order.

SO ORDERED.

SIGNED this 9 day of October, 2020, at 1 PM mm.


PART I
UNITED STATES DISTRICT JUDGE

SCHEDULE A

No.	Item	Description	Unit	Quantity	Rate	Total	Remarks
1	Autocro	https://www.ebay.com/itm/Regulations-Socket-Multifunctional-8-Port-with-Storage-Rack-Shelf-6-Outlet-2-USB/184398405572					
2	abrababr_0	https://www.ebay.com/itm/Genuine-Socket-Shelf-Surge-Protector-6-Port-Surge-Protector-6-Wall-Outlet-2-USB/402143241893					
3	acelectronic11	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender-W-Phone-Stand/14373130098					
4	besttool2019	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender-2-USB-Ports/13689045868					
5	ceathfair	https://www.ebay.com/itm/Storage-Holder-Switch-Rack-Socket-Shelf-2-USB-Port-US-Plug-8-Charging-Ports/114431351924					
6	directports1889	https://www.ebay.com/itm/Switch-Socket-Rack-Socket-Shelf-6-Electrical-Outlet-Extenders-2-USB-Charge-RTM6/26478759329					
7	ditqy6_6	https://www.ebay.com/itm/Wall-Storage-Holder-Extender-US-Plug-Socket-Shelf-6-Electrical-Outlet-Extenders-2-USB-Port-8-Charging-Ports/28400959820					
8	dongmaking	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-Extenders-ss-D7E8/30367604342					
9	easybuying368	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-Extenders-2-USB-Charging-Port/242627147116					
10	earworldstore	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-Outlet-Extender-New/512876319454					
11	excellbuying	https://www.ebay.com/itm/Multifunctional-8-Port-Storage-Rack-Shelf-8-Outlet-USA-Regulations-Socket-Fine/203074775951					
12	funnyatmosphere	https://www.ebay.com/itm/USA-Regulations-Socket-Multifunctional-8-Port-with-Shelf-Back-Storage-D5H8/26486809920					
13	gracefulvara	https://www.ebay.com/itm/Storage-Holder-Bathroom-Wall-2-USB-Port-US-Plug-Socket-Shelf-8-Charging-Ports/174421911367					
14	goodshop	https://www.ebay.com/itm/USA-Regulations-Socket-Multifunctional-8-Port-with-Storage-Rack-Shelf-6-Outlet/164339791483					
15	gzv1_2706	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/153747831773					
16	haniamahmud	https://www.ebay.com/itm/New-8-Port-Electrical-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/2337375193809					
17	jewelryhang888	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/372851511926					
18	jinshan2013	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/333936974163					
19	join-28	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Electrical-Outlet-ss-V6S2/143649846885					
20	kaikaoqing2012	https://www.ebay.com/itm/US-8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extenders-Electrical/133401934788					
21	liyibeibei	https://www.ebay.com/itm/Holder-Extender-Multi-Function-2-USB-Port-US-Plug-8-Charging-Ports-Socket-Shelf/154088300239					
22	lwstore2013	https://www.ebay.com/itm/USA-Regulations-Socket-Multifunctional-8-Port-with-Storage-Rack-Shelf-6-Outlet/164339791483					
23	lynnymseven	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/153747831773					
24	my19_53	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/372851511926					
25	newlivehappy	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/333936974163					
26	news12	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extenders/363024701174					
27	niubill1	https://www.ebay.com/itm/Wall-Extender-Switch-Rack-US-Plug-8-Charging-Ports-2-USB-Port-Socket-Shelf/224723653117					
28	ny1994chuhanyao1	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-Outlet-Extenders/283687656831					
29	nylijian	https://www.ebay.com/itm/Electrical-8-Port-Socket-for-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/383657846154					
30	pasindutn	https://www.ebay.com/itm/8-Port-Surge-Protector-Wall-Outlet-Socket-Charger-Holder-Shelf-6-Electrical-USB/264711970060					
31	priestly	https://www.ebay.com/itm/8-Port-Surge-Protector-Wall-Outlet-Socket-Holder-Holder-Shelf-6-Electrical-USB/264711970060					
32	qiangw21	https://www.ebay.com/itm/8-Port-Surge-Protector-Wall-Outlet-Socket-Surge-Protector-Wall-Outlet-6-Outlet-Extender-US/313024633822					
33	red_star1689	https://www.ebay.com/itm/Electrical-8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/35288590468					
34	s-2344	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender-Phone-Holder/174237237179					
35	sakura9582	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender-Phone-Holder/174237237179					
36	salefeel	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-2-USB-Port-6-Electrical-Outlet/3728340637942					
37	sc_store999	https://www.ebay.com/itm/Genuine-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/113397054709					
38	sgstore	https://www.ebay.com/itm/USA-Regulations-Socket-Multifunctional-8-Port-with-Storage-Rack-Shelf-6-Outlet-2-USB/402143241893					
39	shih_7	https://www.ebay.com/itm/8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/113397054709					
40	startingline59	https://www.ebay.com/itm/US-Plug-Electrical-8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/113397054709					
41	stayca1999	https://www.ebay.com/itm/US-Plug-Electrical-8-Port-Socket-Shelf-Surge-Protector-Wall-Outlet-6-Outlet-Extender/113397054709					
42	st-ec	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Outlet-Extender/113397054709					
43	super-powerful2019	https://www.ebay.com/itm/Multifunctional-Wall-Shelf-Socket-8-Port-Surge-Protector-6-Outlet-Extender/278626455303					
44	svy1_20	https://www.ebay.com/itm/Multifunctional-Extender-US-Plug-2-USB-Port-Socket-Shelf-8-Charging-Ports/254559990803					
45	tgabays	https://www.ebay.com/itm/Rack-Multi-Function-Extender-US-Plug-2-USB-Port-Socket-Shelf-8-Charging-Ports-6-File/184406886793					
46	titanahop	https://www.ebay.com/itm/Wall-Socket-Shelf-Bathroom-Shelf-Socket-Holder-US-Plug-Switch-Socket-Rack-6-File/184406886793					
47	topboss	https://www.ebay.com/itm/Bathroom-Charging-Socket-Shelf-Power-Perch-Outlet-Cover-Mobile-Organizer-Ho-TBC/143713819715					
48	tradeus	https://www.ebay.com/itm/Storage-Holder-Multi-Function-Socket-Shelf-2-USB-Port-8-Charging-Ports/154290925329					
49	tbodynow	https://www.ebay.com/itm/Storage-Holder-Multi-Function-Socket-Shelf-2-USB-Port-8-Charging-Ports/154290925329					
50	wholesaleforclothes	https://www.ebay.com/itm/Switch-Rack-Storage-Holder-Socket-Shelf-8-Charging-Ports-2-USB-Port-US-Plug/114422645834					
51	winedya622	https://www.ebay.com/itm/Regulations-Socket-Multifunctional-8-Port-with-Storage-Rack-6-Outlet-C619/274449785361					
52	wwwon28	https://www.ebay.com/itm/US-8-Port-Shelf-Socket-Surge-Protector-Wall-Outlet-6-Outlet-Extender/2-USB-Ports/193451829170					

53	ken-9233	https://www.ebay.com/itm/NEW-Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-Electrical-Outlet-Extenders/392957920378	https://www.ebay.com/usr/ken-9233
54	xovo1894	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-Outlet-ss-HOH9/264830733285	https://www.ebay.com/usr/xovo1894
55	yang_kent	https://www.ebay.com/itm/1X-Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-Outlet-Extenders/133253908088	https://www.ebay.com/usr/yang_kent
56	yhxck2010	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-ss-Extenders-RON1/184461413503	https://www.ebay.com/usr/yhxck2010
57	yoyomodel	https://www.ebay.com/itm/Socket-Shelf-8-Port-Surge-Protector-Wall-Outlet-6-Electrical-Outlet-Extend-2020/223793242342	https://www.ebay.com/usr/yoyomodel



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October 14, 2020

VIA E-MAIL

Hon. Alison J. Nathan
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Allstar Marketing Group, LLC v. Autoto, et al.*, Case No. 20-cv-8401
~~*Allstar Marketing Group, LLC v. *Warm Your House* Store, et al.*,~~
~~Case No. 20-cv-8405~~
~~*Allstar Marketing Group, LLC v. afcai, et al.*, Case No. 20-cv-8406~~
Request to Modify Temporary Restraining Orders

Dear Judge Nathan,

We represent Plaintiff Allstar Marketing Group, LLC (“Plaintiff”), in the above-referenced matters.¹ On October 8, 2020, Plaintiff filed these actions and its Applications under seal. Thereafter, on October 9, 2020, Judge Crotty granted Plaintiff’s Applications and entered the Temporary Restraining Orders (“TROs”). Plaintiff respectfully requests modification of Section II(B) of the TROs, specifically the briefing schedules.

Plaintiff respectfully requests that the Court modify the briefing schedules to allow enough time for Plaintiff to serve Defendants in each of the actions. As the TROs currently stand, the Defendants’ deadline to file an opposition is tomorrow, October 15, 2020, therefore Plaintiff must serve Defendants by today, October 14, 2020. However, Plaintiff is currently waiting for the Third Party Service Providers’ compliance with the expedited discovery ordered in the TROs, specifically Defendants’ email addresses for Plaintiff to effect service on Defendants. Therefore, Plaintiff respectfully requests that the Court modify the briefing schedules in the TROs.

We thank the Court for its time and attention to this matter.

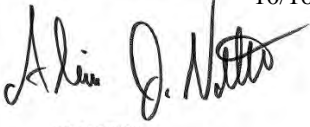
¹ Where a defined term is referenced herein but not defined, it should be understood as it is defined in the Glossary in Plaintiff’s Complaints or Applications.

The request to modify the scheduling of service and briefing is hereby granted. The deadline to serve Defendants is October 20, 2020. Defendants must file with the Court and serve on Plaintiff any opposition on or before October 23, 2020. Plaintiff's reply, if any, is due October 26, 2020. The Show Cause Hearing is hereby adjourned. The Court will decide the issue on the briefing. Plaintiff shall serve this Order on Defendants.
SO ORDERED.

Respectfully submitted,

EPSTEIN DRANGEL LLP

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10/16/20

SO ORDERED.
ALISON J. NATHAN, U.S.D.J.