

State of Tennessee

IN THE CIRCUIT COURT OF HAMILTON COUNTY

FILED IN OFFICE
2020 JUN 30 AM 10:56
LARRY L. HENRY, CLERK
BY [Signature] DC

S & J Wholesale, LLC
Plaintiff

v.

No. 200697

Niome Direct (Amazon Seller 1), et al.
Defendant

SUMMONS

TO: houseshop-2019 (Ebay Seller 23)
Defendant Address

You are hereby summoned to answer and make defense to a bill of complaint which has been filed in the Circuit Court of Hamilton County, Tennessee in the above styled case. Your defense to this complaint must be filed in the office of the Circuit Court Clerk of Hamilton County, Tennessee on or before thirty (30) days after service of this summons upon you. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

WITNESSED and Issued this 30 day of June, 20 20

Larry Henry, Circuit Court Clerk

By [Signature]
Deputy Circuit Court Clerk

Attorneys for Plaintiff Mathew D. Brownfield, Grant Konvalinka & Harrison, P.C.
633 Chestnut Street, Suite 900, Chattanooga, TN 37450

Plaintiff's Address _____
Address

Received this _____ day of _____, 20__.

/S/ _____
Deputy Sheriff

State of Tennessee,
County of Hamilton

I, Larry Henry, Clerk of the Circuit Court, in and for the State and County aforesaid, hereby certify that the within and foregoing is a true and correct copy of the original writ of summons issued in this case.

Larry Henry, Circuit Court Clerk

By _____ D.C.

OFFICER'S RETURN

I certify that I served this summons together with the complaint as follows:

Q On _____, 20_____, I delivered a copy of the summons and complaint to the defendant, _____

Q Failed to serve this summons within 30 days after its issuance because: _____

Jim Hammond, Sheriff

Deputy Sheriff

CLERK'S RETURN

I hereby acknowledge and accept service of the within summons and receive copy of same, this _____ day of _____, 20_____.

Defendant

Larry Henry, Circuit Court Clerk

By _____ D.C.

TO THE DEFENDANT(S): Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exemption from execution or seizure to satisfy a judgment. The amount of the homestead exemption depends upon your age and the other factors which are listed in TCA § 26-2-301. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer. Please state file number on list.

12. Defendant Amazon Seller 11 is an internet seller identified as Newlife Outdoors, with an address yet to be identified.

13. Defendant Amazon Seller 12 is an internet seller identified as Smilequeen, with an address yet to be identified.

14. Defendant Amazon Seller 13 is an internet seller identified as Socialme, with an address yet to be identified.

15. Defendant Amazon Seller 14 is an internet seller identified as Fitness Girl LLC, with an address yet to be identified.

16. Defendant Amazon Seller 15 is an internet seller identified as JUMP-store, with an address yet to be identified.

17. Defendant Amazon Seller 16 is an internet seller identified as Holiday Beach, with an address yet to be identified.

18. Defendant Amazon Seller 17 is an internet seller identified as Magwen226, with an address yet to be identified.

19. Defendant Ebay Seller 1 is an internet seller identified as jovana3100, with an address yet to be identified.

20. Defendant Ebay Seller 2 is an internet seller identified as hk3czone, with an address yet to be identified.

21. Defendant Ebay Seller 3 is an internet seller identified as trg886, with an address yet to be identified.

22. Defendant Ebay Seller 4 is an internet seller identified as beckford5525, with an address yet to be identified.

23. Defendant Ebay Seller 5 is an internet seller identified as hittime_hk, with an address yet to be identified.

24. Defendant Ebay Seller 6 is an internet seller identified as mingczone, with an address yet to be identified.

25. Defendant Ebay Seller 7 is an internet seller identified as shcfstore, with an address yet to be identified.

26. Defendant Ebay Seller 8 is an internet seller identified as fvja6588, with an address yet to be identified.

27. Defendant Ebay Seller 9 is an internet seller identified as buyincoins_au, with an address yet to be identified.

28. Defendant Ebay Seller 10 is an internet seller identified as shop1288, with an address yet to be identified.

29. Defendant Ebay Seller 11 is an internet seller identified as gogogo2017, with an address yet to be identified.

30. Defendant Ebay Seller 12 is an internet seller identified as homend-top, with an address yet to be identified.

31. Defendant Ebay Seller 13 is an internet seller identified as pcgally, with an address yet to be identified.

32. Defendant Ebay Seller 14 is an internet seller identified as huggiecart.dogwheelchair, with an address yet to be identified.

33. Defendant Ebay Seller 15 is an internet seller identified as wfxpress, with an address yet to be identified.

34. Defendant Ebay Seller 16 is an internet seller identified as zherache_0, with an address yet to be identified.

35. Defendant Ebay Seller 17 is an internet seller identified as labwork, with an address yet to be identified.

36. Defendant Ebay Seller 18 is an internet seller identified as auss32, with an address yet to be identified.

37. Defendant Ebay Seller 19 is an internet seller identified as columbiadream, with an address yet to be identified.

38. Defendant Ebay Seller 20 is an internet seller identified as cutebbshop, with an address yet to be identified.

39. Defendant Ebay Seller 21 is an internet seller identified as hexi-novelties, with an address yet to be identified.

40. Defendant Ebay Seller 22 is an internet seller identified as 2017gloriousbuy, with an address yet to be identified.

41. Defendant Ebay Seller 23 is an internet seller identified as houseshop-2019, with an address yet to be identified.

42. Defendant Ebay Seller 24 is an internet seller identified as sunshinesalesco, with an address yet to be identified.

43. Defendant Ebay Seller 25 is an internet seller identified as sundaycube, with an address yet to be identified.

44. Defendant Ebay Seller 26 is an internet seller identified as tyllq, with an address yet to be identified.

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

S & J WHOLESALE, LLC,)
)
 Plaintiff,)
)
 v.)
)
 NIOME DIRECT (Amazon Seller 1),)
 RUNMIND (Amazon Seller 2),)
 RJ-MODINI (Amazon Seller 3),)
 KINBELLE (Amazon Seller 4),)
 EXGIZMO (Amazon Seller 5),)
 ZHUOTOP (Amazon Seller 6),)
 HONGTAI, LLC (Amazon Seller 7),)
 HUAYAO (Amazon Seller 8),)
 OSTORE (Amazon Seller 9),)
 HOMEND (Amazon Seller 10),)
 NEWLIFE OUTDOORS (Amazon)
 Seller 11),)
 SMILEQUEEN (Amazon Seller 12),)
 SOCIALME (Amazon Seller 13),)
 FITNESS GIRL, LLC (Amazon Seller 14),)
 JUMP-STORE (Amazon Seller 15),)
 HOLIDAY BEACH (Amazon Seller 16),)
 MAGWEN226 (Amazon Seller 17),)
 JOVANA3100 (Ebay Seller 1),)
 HK3CZONE (Ebay Seller 2),)
 TRG886 (Ebay Seller 3),)
 BECKFORD5525 (Ebay Seller 4),)
 HITTIME_HK (Ebay Seller 5),)
 MINGCZONE (Ebay Seller 6),)
 SHCFSTORE (Ebay Seller 7),)
 FVJA6588 (Ebay Seller 8),)
 BUYINCOINS_AU (Ebay Seller 9),)
 SHOP1288 (Ebay Seller 10),)
 GOGOGO2017 (Ebay Seller 11),)
 HOMEND-TOP (Ebay Seller 12),)
 PCGALLY (Ebay Seller 13),)
 HUGGIECART.DOGWHEELCHAIR)
 (Ebay Seller 14),)
 WFXPRESS (Ebay Seller 15),)
 ZHERACHE_0 (Ebay Seller 16),)
 LABWORK (Ebay Seller 17),)
 AUSS32 (Ebay Seller 18),)
 COLUMBIADREAM (Ebay Seller 19),)

Case No. 20C697

Division I

FILED IN OFFICE
2020 JUL 20 PM 3:26
LARRY L. HENRY, CLERK
BY LS

CUTEBBSHOP (Ebay Seller 20),)
 HEXI-NOVELTIES (Ebay Seller 21),)
 2017GLORIOUSBUY (Ebay Seller 22),)
 HOUSESHOP-2019 (Ebay Seller 23),)
 SUNSHINESALESCO (Ebay Seller 24),)
 SUNDAYCUBE (Ebay Seller 25),)
 TYLLG (Ebay Seller 26),)
 FINDBIG (Ebay Seller 27),)
 GLAD-GIRL (Ebay Seller 28),)
 and J. DOES 1-50,)
 Defendants.)

**PLAINTIFF’S AMENDED VERIFIED COMPLAINT AND REQUEST FOR
 RESTRAINING ORDER, TEMPORARY INJUNCTION,
 AND PERMANENT INJUNCTION**

INTRODUCTION

Plaintiff S & J Wholesale, LLC (“S & J”) is a designer of various products, including but not limited to portable hand controls for disabled drivers, dog wheelchairs, and teleprompters (the “Products”). The Defendants in this lawsuit have unlawfully stolen and utilized S & J’s trade secret information and are using that information to sell competing products at a greatly reduced price through Amazon and Ebay. The Defendants operate under pseudonyms on Amazon and Ebay, and their true identities presently are unknown. S & J asks the Court to stop these illegal sales, enter injunctive relief and award S & J its damages from Defendants’ unlawful acts. The actions of the Defendants have damaged and continue to damage S & J.

Plaintiff, S & J Wholesale, LLC, by and through its attorneys, Grant Konvalinka & Harrison, P.C., for complaint against Defendants state as follows:

1. Plaintiff S & J Wholesale, LLC (“S & J”) is a Tennessee LLC based in Hamilton County, Tennessee, with an address of 7335 Royal Harbour Circle, Ooltewah, Tennessee 37363. S & J develops, markets, and sells various goods and products, including throughout the United

States and Hamilton County, Tennessee. Those products include, but are not limited to, portable hand controls for disabled drivers, dog wheelchairs, and teleprompters (the "Products").

2. Defendant Amazon Seller 1 is an internet seller identified as Niome Direct, with an address yet to be identified.

3. Defendant Amazon Seller 2 is an internet seller identified as RUNMIND, with an address yet to be identified.

4. Defendant Amazon Seller 3 is an internet seller identified as RJ-Modini, with an address yet to be identified.

5. Defendant Amazon Seller 4 is an internet seller identified as Kinbelle, with an address yet to be identified.

6. Defendant Amazon Seller 5 is an internet seller identified as ExGizmo , with an address yet to be identified.

7. Defendant Amazon Seller 6 is an internet seller identified as ZHUOTOP, with an address yet to be identified.

8. Defendant Amazon Seller 7 is an internet seller identified as Hongtai LLC, with an address yet to be identified.

9. Defendant Amazon Seller 8 is an internet seller identified as huayao, with an address yet to be identified.

10. Defendant Amazon Seller 9 is an internet seller identified as odstore, with an address yet to be identified.

11. Defendant Amazon Seller 10 is an internet seller identified as Homend, with an address yet to be identified.

those funds, and (3) ordering that the proceeds in those settlement accounts be paid to the registry of the Court to prevent them from being irretrievably disbursed and lost to the anonymity of the internet, until further Order from the Court.

71. Upon the conclusion of this matter, Plaintiff is entitled to a permanent injunction mandating that Defendants cease selling all goods or Products wrongfully provided to them and utilizing Plaintiff's trade secrets and proprietary and confidential information.

COUNT III THEFT OF TRADE SECRETS

72. All previous allegations of this Complaint are incorporated by reference as if fully set forth herein.

73. The information of Plaintiff that Defendants wrongfully used for its own benefit derived independent economic value from not being generally known and could allow others to obtain economic value from its disclosure or use. *See* Tenn. Code Ann. § 47-25-1702.

74. Plaintiff has taken reasonable efforts to maintain the secrecy of its trade secret information. *Id.*

75. Plaintiff communicated its trade secrets to NYRLIL in a position of trust and confidence pursuant to and/or in connection with their contract.

76. Ningbo and its principals now have used the trade secrets information originally communicated in confidence to NYRLIL.

77. Ningbo's willful and malicious use of the trade secrets information of S & J has resulted in damages to Plaintiff.

78. Upon information and belief, Ningbo and Defendants named herein have willfully, intentionally, and with full knowledge violated the rights of Plaintiff with regard to Plaintiff's Products, as set forth herein.

79. As a result of Defendant's willful and malicious misappropriation of Plaintiff's trade secrets, Plaintiff is entitled to injunctive relief and/or damages, as well as attorneys' fees pursuant to the Tennessee Uniform Trade Secrets Act. Tenn. Code Ann. § 47-25-1701 et seq.

WHEREFORE, Plaintiff prays as follows:

1. That Defendants be served and required to answer this Complaint within the time allowed by law;

2. That Plaintiff be allowed to effect service through the alternative service provisions of Tenn. R. Civ. P. 4A(4), or otherwise, due to the Defendants' ability to mask their identities through the anonymity afforded by the internet, which has prevented locating physical addresses for Defendants for the effectuation of traditional service;

3. That the Court provide relief against all Defendants in the form of a temporary restraining order, a temporary injunction and a permanent injunction, as previously set forth, prohibiting Defendants and all persons or entities related thereto, and all those in active concert with them, (1) from continuing to sell any goods or Products utilizing Plaintiff's trade secrets and proprietary and confidential information, and (2) freezing the seller settlement accounts of Defendants to prevent the Defendants from accessing those funds, and (3) ordering that the proceeds in those settlement accounts be paid to the registry of the Court to prevent them from being irretrievably disbursed and lost to the anonymity of the internet, until further Order from the Court in order to prevent the immediate and irreparable injury, loss and/or damage to Plaintiff's business operations, goodwill and protected confidential and proprietary information. Such relief is necessary in order to prevent immediate and irreparable injury;

4. That the Court enter an order requiring all Defendants to surrender to Plaintiff any and all goods or products, including but not limited to portable hand controls for disabled drivers,

dog wheelchairs and teleprompters, and any other goods wrongfully produced utilizing Plaintiff's trade secrets and proprietary and confidential information;

5. That at a hearing on the temporary restraining order, the Court issue a temporary injunction;

6. That at the final hearing in this case, the Court issue a permanent injunction prohibiting Defendants from further selling any goods or Products utilizing Plaintiff's trade secrets and proprietary and confidential information;

7. That at a final hearing in this case, the Court award judgment in favor of Plaintiff and against all Defendants for all damages resulting from their wrongful sale of the goods and Products set forth above, and ordering the release to Plaintiff of any funds held by the Court to be applied to Plaintiff's damages;

8. That the Court award Plaintiff all attorney's fees, costs and expenses related to this Complaint and all attendant litigation, including those allowed under the provisions of T.C.A. § 47-25-1705; and


9. That the Court grant such other and further relief as the Court deems equitable and appropriate.

THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY PROCESS.

Respectfully submitted,

GRANT, KONVALINKA & HARRISON, P.C.

By:


Mathew D. Brownfield, BPR #010921

Attorney for Plaintiff

633 Chestnut Street, Suite 900

Chattanooga, TN 37450

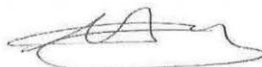
Telephone: (423) 756-8400

Facsimile: (423) 756-6518

Mbrownfield@gkhpc.com

VERIFICATION

Pursuant to Tenn. R. Civ. P. 72, I declare under penalty of perjury that the foregoing is true and correct.



Printed Name: Sylvan Newby

Title; Member

45. Defendant Ebay Seller 27 is an internet seller identified as findbig, with an address yet to be identified.

46. Defendant Ebay Seller 28 is an internet seller identified as glad-girl, with an address yet to be identified.

47. Defendants J. Does 1-50 are wrongful sellers who have not yet been identified, but whose discovery is anticipated.

48. Jurisdiction and venue are proper in this Court where S & J is located and suffering harm and where Defendants have wrongfully marketed and sold counterfeit and wrongfully copied goods. Each Defendant operates an interactive website through Amazon or Ebay in which they advertise, sell, promote, and allow the interactive ordering of the counterfeit and wrongfully copied Products of Plaintiff, including in Hamilton County, Tennessee.

49. On or about **January 2006**, S & J entered into a business relationship with Ningbo Yinzhou RMAO Leisure Industry Ltd. (“NYRLIL”) for the production of the Products.

50. As part of the business relationship, NYRLIL agreed that it would maintain S & J’s confidential, proprietary and trade secret information in strict confidence and use such information solely for the benefit of S & J. The agreement also provided that technology and information developed by NYRLIL while doing work for S & J would belong to S & J. The trade secret, confidential, and proprietary information included, in particular, S & J’s manufacturing methods, bills of materials, cost information, specifications, CAD, and sources of supply – all of which were closely held secrets of S & J and not publicly available.

51. On or about **January, 2019** certain principals of NYRLIL formed a new company, Ningbo Yonk Machinery Co., Ltd. (“Ningbo”).

52. Ningbo almost immediately began selling counterfeit and wrongfully copied versions of the S & J Products, which originally were being manufactured by NYRLIL under trade secret protection and requiring confidentiality, as set forth above. Upon information and belief, the wrongfully copied Products then were sold to the Defendants herein, either directly or indirectly.

53. Ningbo has wrongfully utilized the trade secrets and confidential and proprietary information of S & J to design and manufacture its products, which are competing with the products of S & J at substantially reduced prices.

54. Ningbo has wrongfully utilized the trade secrets and proprietary and confidential information of S & J to manufacture copycat, competing products, which it has sold at a price undercutting the price of the S & J products.

55. Through its wrongful use of S & J's trade secrets and proprietary and confidential information, Ningbo was able to avoid incurring the usual and standard startup costs for research and development related to a new product. Ningbo thus was able to avoid a lengthy development period and manufacture the Products at lesser cost.

56. Ningbo has wrongfully benefitted from using S & J's trade secrets and confidential and proprietary information and has been unjustly enriched by doing so, causing damage and harm to S & J's sales, reputation, business relationships, and goodwill.

57. Similarly, Defendant Amazon Sellers have wrongfully benefitted from using S & J's trade secrets and confidential and proprietary information and have been unjustly enriched by doing so, causing damage and harm to S & J's sales, reputation, business relationships, and goodwill.

58. Similarly, Defendant Ebay Sellers have wrongfully benefitted from using S & J's trade secrets and confidential and proprietary information and have been unjustly enriched by doing so, causing damage and harm to S & J's sales, reputation, business relationships, and goodwill.

59. Upon information and belief, Ningbo and Defendants named herein have willfully, intentionally, and with full knowledge violated the rights of Plaintiff with regard to Plaintiff's Products, as set forth herein.

60. S&J has sustained, and continues to sustain damage, including but not limited to the lost sales, believed to be at least \$1,000,000.

**COUNT I
UNJUST ENRICHMENT**

61. All previous allegations of this Complaint are incorporated by reference as if fully set forth herein.

62. Defendants herein, either intentionally or innocently, are wrongfully selling the counterfeit and copied Products of S&J and, thus, are benefitting from S&J's trade secret and confidential and proprietary information for their own benefit and to the detriment of S&J.

63. Defendants herein are wrongfully selling goods, which they have no right to sell and which have been wrongfully and illegally been obtained from Nyrilil in violation of Nyrilil's obligations to S&J.

64. The actions of Defendants herein, as set forth above, have resulted in unfair benefit and unjust enrichment to them through their wrongful and unauthorized sale of counterfeit and copied Products being wrongfully manufactured utilizing the S&J's trade secrets and proprietary and confidential information.

65. Defendants herein have wrongfully benefitted from their actions, to the detriment of S&J, entitling S&J to its damages and/or disgorgement of any profits made by them.

**COUNT II
INJUNCTIVE RELIEF**

66. All previous allegations of this Complaint are incorporated by reference as if fully set forth herein.

67. The unlawful actions of Defendants herein have immediately harmed, and continue to harm, Plaintiff's business operations, goodwill, trade secrets and protected confidential and proprietary information.

68. Without the entry of an order immediately enjoining Defendants from further selling counterfeit or copycat products wrongfully manufactured, utilizing the trade secrets and confidential and proprietary information of S&J, S&J has suffered and will continue to suffer immediate irreparable harm for which money damages alone are insufficient.

69. Pursuant to Rule 65.03 of the Tennessee Rules of Civil Procedure, Plaintiff is entitled to obtain from the Court an immediate temporary restraining order enjoining Defendants from (1) further selling any goods or Products utilizing Plaintiff's trade secrets and proprietary and confidential information and (2) freezing the seller settlement accounts of Defendants to prevent the Defendants from accessing those funds, and (3) ordering that the proceeds in those settlement accounts be paid into the registry of the Court to prevent them from being irretrievably disbursed and lost to the anonymity of the internet, until further Order from the Court.

70. Pursuant to Rule 65.04 of the Tennessee Rules of Civil Procedure, Plaintiff is entitled to a temporary injunction enjoining Defendants from (1) further selling any goods or Products utilizing Plaintiff's trade secrets and , proprietary and confidential information and (2) freezing the seller settlement accounts of Defendants to prevent the Defendants from accessing