

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 22-60457-CIV-SINGHAL**

WHIRLPOOL CORPORATION, *et al.*,

Plaintiffs,

vs.

THE INDIVIDUALS, BUSINESS ENTITIES,
AND UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

**DECLARATION OF PATRICK HALL IN SUPPORT OF
PLAINTIFFS’ *EX PARTE* APPLICATION FOR ENTRY OF TEMPORARY
RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND
ORDER RESTRAINING TRANSFER OF ASSETS**

I, Patrick Hall, state and declare as follows:

1. I am over 18 years of age and have personal knowledge of the truth of the matters set forth herein. I submit this declaration in support of Plaintiffs’ *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (the “Application for Temporary Restraining Order”) against Defendants, the Individuals, Business Entities, and Unincorporated Associations Identified on Schedule “A” (“Defendants”). If called as a witness, I could and would testify competently to the following facts set forth below.

2. I am employed by Plaintiff, Whirlpool Corporation, as Brand & Product Manager. Whirlpool Corporation is a corporation duly organized under the laws of the State of Delaware

with its principal place of business in the United States located at 2000 North M-63, Benton Harbor, Michigan.

3. In my capacity as Brand & Product Manager, I coordinate intellectual property matters and help manage the trademark and anti-counterfeiting efforts in the United States on behalf of Whirlpool Corporation, Whirlpool Properties, Inc., and Maytag Properties, LLC (collectively, “Plaintiffs”). Whirlpool Properties, Inc. is a wholly-owned subsidiary of Whirlpool Corporation and Whirlpool Corporation is one of the parent companies of Maytag Properties, LLC.

4. As a result, I am fully familiar with most aspects of the manufacture, sale, and distribution of genuine versions of Plaintiffs’ products, and I have the ability to identify the distinctions between Plaintiffs’ genuine merchandise and counterfeit copies of the same.

5. Plaintiff Whirlpool Corporation is a leading global manufacturer and highly regarded appliance company, making and selling many home appliances and accessories including, refrigerator related accessories, such as refrigerator water filters, under the Whirlpool®, KitchenAid®, Maytag®, and EveryDrop® brands using multiple world famous common law and federally registered trademarks, including those identified below. Plaintiffs Whirlpool Properties, Inc. and Maytag Properties, LLC license certain trademark rights to Plaintiff Whirlpool Corporation, including the federal trademark registrations at issue herein.

Whirlpool Properties, Inc.’s Trademark Rights

6. Plaintiff Whirlpool Properties, Inc. (“Whirlpool”) is the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively the “Whirlpool Marks”):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
KITCHENAID	2,520,284	December 18, 2001	IC 037 – installation, repair and maintenance of hand and stand electric beating and mixing machines, coffee making machines, toasters, food processors, blenders, clothes washing and drying machines, dishwashers, refrigerators, freezers, combination refrigerator/freezers, ranges, ovens and surface units, microwave ovens, cooktops, exhaust hoods, ventilating fans, air conditioners, dehumidifiers, wine cellars, water supply units for dispensing cold water and ice from refrigerators, food waste disposers, food waste and trash compactors, ice makers, electrically operated hot water dispensers, and compressors for refrigerators.
KitchenAid	2,520,285	December 18, 2001	IC 037 – installation, repair and maintenance of hand and stand electric beating and mixing machines, coffee making machines, toasters, food processors, blenders, clothes washing and drying machines, dishwashers, refrigerators, freezers, combination refrigerator/freezers, ranges, ovens and surface units, microwave ovens, cooktops, exhaust hoods, ventilating fans, air conditioners, dehumidifiers, wine cellars, water supply units for dispensing cold water and ice from refrigerators, food waste disposers, food waste and trash compactors, ice makers, electrically operated hot water dispensers, and compressors for refrigerators.
WHIRLPOOL	4,983,312	June 21, 2016	IC 011 – water filtration and purification units and replacement cartridges and filters therefor for refrigerators.
EVERYDROP	5,232,741	June 27, 2017	IC 011 – refrigerator water filters; water filtration pitchers sold empty and portable water filter bottles sold empty.

	5,921,312	November 26, 2019	IC 011 – heating, cooling and ventilating apparatus, namely, furnaces, gas water heaters, conversion burners, heat pumps, air conditioning units, condensing units, evaporator units, evaporator coils, central humidifiers, central air cleaners, furnace boilers and heat exchangers; Clothes drying machines; Refrigerators, freezers, combination refrigerator-freezers; Water softening apparatus and installations, air conditioners, dehumidifiers, cooking ovens, cooking ranges, gas and electric cooktops, microwave ovens for cooking and range exhaust hoods; Freezer chests; Water purification and delivery systems comprising standalone water cabinets; Built-in bottled water dispensing apparatus for hot or chilled water; Domestic water filtration units; Reverse osmosis units for purification of water; Appliances for domestic and commercial use, namely, combination garment wrinkle and odor remover and garment dryer; Apparatus and appliances for domestic use, namely, air purifying units, air filters; Gas and electric water heaters; Water conditioning units, water softening apparatus and installations, water coolers, water chillers, countertop water filtration devices, home water filtration devices and water faucet filters; Refrigerator water filters.
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The Whirlpool Marks are used in connection with the manufacture and distribution of quality goods in the categories identified above. True and correct copies of the Federal Registrations for the Whirlpool Marks listed above are attached to the Complaint as Composite Exhibit “1.”

7. Whirlpool is engaged in the manufacture, promotion, distribution, and sale in interstate commerce, including within this judicial district, of quality products under the Whirlpool Marks.

8. The Whirlpool Marks have been used in interstate commerce to identify and distinguish its quality goods for an extended period of time and serve as symbols of Whirlpool's quality, reputation, and goodwill.

9. Further, Whirlpool and its related companies expend substantial resources developing, advertising and otherwise promoting the Whirlpool Marks. The Whirlpool Marks qualify as famous marks as that term is used in 15 U.S.C. §1125(c)(1).

10. Genuine goods bearing the Whirlpool Marks are sold in the United States by Whirlpool and by third party retailers and distributors via retail locations and via the Internet. Whirlpool and its related companies extensively use, advertise, and promote the Whirlpool Marks in the United States in connection with the sale of quality goods, including appliances, parts and accessories. As a result, the Whirlpool Marks are among the most widely recognized trademarks in the United States, and the trademarks have achieved secondary meaning as identifiers of quality goods.

11. The Whirlpool Marks have never been abandoned. Whirlpool has carefully monitored and policed the use of the Whirlpool Marks and has never assigned or licensed the Whirlpool Marks to any Defendant in this matter.

12. The Whirlpool Marks are vital to Whirlpool's business, as the trademarks represent a significant value to Whirlpool's overall business and associated image. Whirlpool suffers irreparable harm to its goodwill, as well as a direct monetary loss, any time any third

parties, including Defendants, sell counterfeit and infringing goods bearing identical or substantially similar trademarks.

Maytag Properties, LLC's Trademark Rights

13. Plaintiff Maytag Properties, LLC ("Maytag") is the owner of all rights in and to the following trademark, which is valid and registered on the Principal Register of the United States Patent and Trademark Office (the "Maytag Mark"):

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
MAYTAG	5,777,058	June 11, 2019	IC 011 – water treatment equipment, namely, water filtration units and reverse osmosis units; water softening apparatus and installations; water purification and filtration apparatus and replacement cartridges and filters therefor.

The Maytag Mark is used in connection with the manufacture and distribution of quality goods in the categories identified above. A true and correct copy of the Certificate of Registration for the Maytag Mark listed above is attached to the Complaint as Exhibit "2."

14. Maytag is engaged in the manufacture, promotion, distribution, and sale in interstate commerce, including within this judicial district, of quality products under the Maytag Mark.

15. The Maytag Mark has been used in interstate commerce to identify and distinguish its quality goods for an extended period of time and serves as a symbol of Maytag's quality, reputation, and goodwill.

16. Further, Maytag and its related companies expend substantial resources developing, advertising and otherwise promoting the Maytag Mark.

17. Genuine goods bearing the Maytag Marks are sold in the United States by Maytag and by third party retailers and distributors via retail locations and via the Internet. Maytag and its related companies extensively use, advertise, and promote the Maytag Mark in the United States in connection with the sale of quality goods, including appliances, parts and accessories. As a result, the Maytag Mark is a widely recognized trademark in the United States, and the trademark has achieved secondary meaning as an identifier of quality goods.

18. The Maytag Mark has never been abandoned. Maytag has carefully monitored and policed the use of the Maytag Mark and has never assigned or licensed the Maytag Mark to any Defendant in this matter.

19. The Maytag Mark is vital to Maytag's business, as the trademark represents a significant value to Maytag's overall business and associated image. Maytag suffers irreparable harm to its goodwill, as well as a direct monetary loss, any time any third parties, including Defendants, sell counterfeit and infringing goods bearing identical or substantially similar trademarks.

Investigation of Defendants' Counterfeiting Activities

20. Plaintiffs learned Defendants are promoting, advertising, offering for sale and/or selling various products bearing counterfeit and infringing trademarks that are exact copies of at least one of the Whirlpool Marks and/or the Maytag Mark (collectively, "Plaintiffs' Marks"), without authorization, via at least the Internet based e-commerce stores and websites operating under their seller identification names and domain names identified on Schedule "A" hereto (the "Seller IDs and Subject Domain Names"). Defendants do not have, nor have they ever had, the right or authority to use Plaintiffs' Marks for any purpose. Further, Plaintiffs' Marks have never

been assigned or licensed to be used in connection with any of the Seller IDs or Subject Domain Names.

21. Plaintiffs retained Invisible Inc, a licensed private investigative firm, to investigate the suspected sales of counterfeit versions of Plaintiffs' products by Defendants, and to obtain the available payment account data for receipt of funds paid to Defendants for the sale of counterfeit branded products.

22. Invisible Inc collectively accessed the Internet based e-commerce stores and websites operating under Defendants' Seller IDs and Subject Domain Names, and placed orders for the purchase of a product bearing counterfeits of, at least, one of Plaintiffs' Marks at issue in this action from each Seller ID and Subject Domain Name. Thereafter, Invisible Inc received the packages from Defendants containing the product purchased from the respective Defendant via their Seller ID and Subject Domain Name. Following receipt, each good purchased from these Defendants were sent to me for inspection, together with the respective Chains of Custody.

23. I conducted a review of the goods bearing Plaintiffs' Marks purchased by Invisible Inc. I concluded the products to be non-genuine, unauthorized versions of Plaintiffs' branded products. I reached this conclusion through visual inspection of the products themselves, including the packaging and labels of the goods at issue, and the observation of certain product and marking characteristics that are not consistent with those found on genuine versions of Plaintiffs' products. Moreover, I personally know Plaintiffs do not conduct business with Defendants, their Seller IDs, or their Subject Domain Names, nor have Plaintiffs' Marks ever been assigned or licensed to be used by Defendants or the Internet e-commerce stores and websites operating using the Seller IDs and Subject Domain Names.

24. In view of the foregoing, I can confirm the products bearing Plaintiffs' Marks purchased by Invisible Inc via the Internet based e-commerce stores and websites operating under the Seller IDs and Subject Domain Names are non-genuine versions of Plaintiffs' products.

Harm Caused To Plaintiffs By Defendants' Activities

25. Plaintiffs' genuine branded goods are widely legitimately advertised, promoted, offered for sale, and discussed by Plaintiffs, their authorized distributors, and unrelated third parties via the Internet.

26. Visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing, has become increasingly important to each of the Plaintiffs' overall marketing and consumer education efforts. Thus, Plaintiffs expends significant monetary resources on Internet marketing and consumer education regarding its products, including search engine optimization ("SEO") strategies and search engine marketing ("SEM") strategies, which allow Plaintiffs and their authorized retailers to educate consumers fairly and legitimately about the value associated with Plaintiffs' brands and the goods sold thereunder and the problems associated with the counterfeiting of Plaintiffs' trademarks.

27. By benefitting from advertising and marketing strategies based upon an illegal use of Plaintiffs' Marks, including leveraging the SEO and SEM power of online marketplace platforms, Defendants are obliterating the otherwise open and available marketplace space in which Plaintiffs have the right to fairly market their goods and associated message. Specifically, Defendants use unauthorized counterfeits of one or more of Plaintiffs' trademarks to make their e-commerce stores and websites selling illegal goods appear more relevant and attractive to

consumers searching for Plaintiffs' goods and information online. Such illegal use results in unfair competition for Plaintiffs when competing for visibility on the World Wide Web, including search engine results space.

28. As a result of the availability of the non-genuine branded goods offered for sale by Defendants, Plaintiffs are highly likely to experience irreparable damage to their reputations among consumers absent the entry of an appropriate injunction.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct. Executed the 28 of February, 2022, at St. Joseph, Michigan.

Patrick Hall _____
Patrick Hall

SCHEDULE “A”
DEFENDANTS BY NUMBER, SELLER ID, AND SUBJECT DOMAIN NAME

Def. No.	Defendant / Seller ID or Subject Domain Name
1	benjcl-3375
2	cliei_0
3	dajac-704307
4	eleliz-98
5	fritze1395
6	hissingr_34
7	jo-378419
8	madys-84
9	mageo-8247
10	mahi219404
11	mbnleuoq9
12	merrill5057
13	northernwaters2
14	papal-8759
15	patrhump-4
16	sahibl_32
17	savanna-8638
18	silveirau_33
19	spillane-15
20	stabrad-6681
21	stylecreations2012
22	tanwi_93
23	yllonn96
24	adtriadllc
25	alvpholdingsllc
26	ammonettpharmallc
27	bncwx-a
28	bronislaws44
29	deroko_63
30	hongyu-77
31	teamjulia34
32	tmkasz-3
33	baiyifty.com
34	everydropfilterforfridge.com
35	filtersonlinesale.com
36	fridgewaterfiltration.com
37	goodfilters1998.com
38	morefiltersonsale.com
39	us.searsfilter.store