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Attorneys for Plaintiff BALA BANGLES, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

BALA BANGLES INC., a Delaware corporation,

Plaintiff,

v.

EA COMMERCE LLC, a Florida limited liability company; and DOES 1 to 10,

Defendants.

Case No.:

**COMPLAINT FOR:
1) PATENT INFRINGEMENT**

Plaintiff BALA BANGLES INC. (“Plaintiff” or “BALA”), by and through its undersigned attorneys, for its Complaint against EA COMMERCE LLC (“Defendant” or “EA”), herein allege:

THE PARTIES

1. Plaintiff is and at all times relevant to the Complaint hereto was, a

1 Delaware corporation, with its principal place of business at 2801 Hyperion Ave
2 #102, Los Angeles, California 90027.

3 2. Plaintiff is informed and believes, and thereon alleges, that Defendant
4 is and at all times mentioned herein was a Florida limited liability company doing
5 business through Amazon.

6 3. The true names and capacities, whether an individual, corporate,
7 associate, partner, or otherwise, of DOES 1 through 10, inclusive, are unknown to
8 Plaintiff, who therefore sues said Defendants by such fictitious names.

9 **JURISDICTION AND VENUE**

10 4. This Court has jurisdiction of Bala’s federal claims pursuant to 28
11 U.S.C. § 1331 and 1338(a).

12 5. Defendant runs a “storefront” through Amazon website platform
13 through which it specifically targets residents in this judicial district by offering to
14 sell and, upon information and belief, shipping infringing and/or counterfeit
15 products to residents within the Central District of California, by selling and/or
16 offering to sell the protected design, and/or using Plaintiff’s design in its products.
17 Therefore, Defendants are committing, *inter alia*, design patent infringement in this
18 district.

19 6. Venue in the Central District of California is proper pursuant to 28
20 U.S.C. § 1391 because a substantial part of the events that give rise to the claim
21 occurred within this District, each Defendant has committed acts of infringement in
22 and has significant contacts within this District and Defendants are infringing
23 Plaintiff’s intellectual property by using, selling, or offering to sell the infringing
24 design in this District. In addition, on information and belief, at least one of the
25 Defendants is a foreign entity or individual and “a defendant not resident in the
26 United States may be sued in any judicial district . . .” 28 U.S.C § 1391(c)(3).
27 Additionally, the jurisdiction monetary amount is in excess of \$75,000, of the
28 above-entitled court.

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GENERAL ALLEGATIONS

BALA BANGLES

7. The Bala weighted exercise band originally launched in 2017 and has become a wildly popular product sold across the United States.

8. Over the past approximately three (3) years, Bala has sold millions of dollars’ worth of Bala-branded fitness products.

9. In 2019, Bala sold approximately \$2 million in Bala branded products, and by the end of 2020, Bala sold approximately \$16 million.

10. The Bala products are distributed and sold to consumers throughout the United States, including California, through Bala’s official website, www.shopbala.com (“Bala’s Website”), as well as through online retailers such as Amazon, and popular brick and mortar stores across the county such as Nordstrom, Dicks Sporting Goods, and Saks.

11. Bala has offered its Bala products on the Bala Website since 2018.

12. Bala also owns and operates its Instagram account, @bala, which boasts 173,000 followers (the “Instagram Account”).

13. Both Bala’s Website and Instagram Account feature proprietary content including the Bala trademark, copyrighted imagery, and the Bala weighted exercise band that is protected by the design patent for the purpose of marketing and selling its products to consumers.

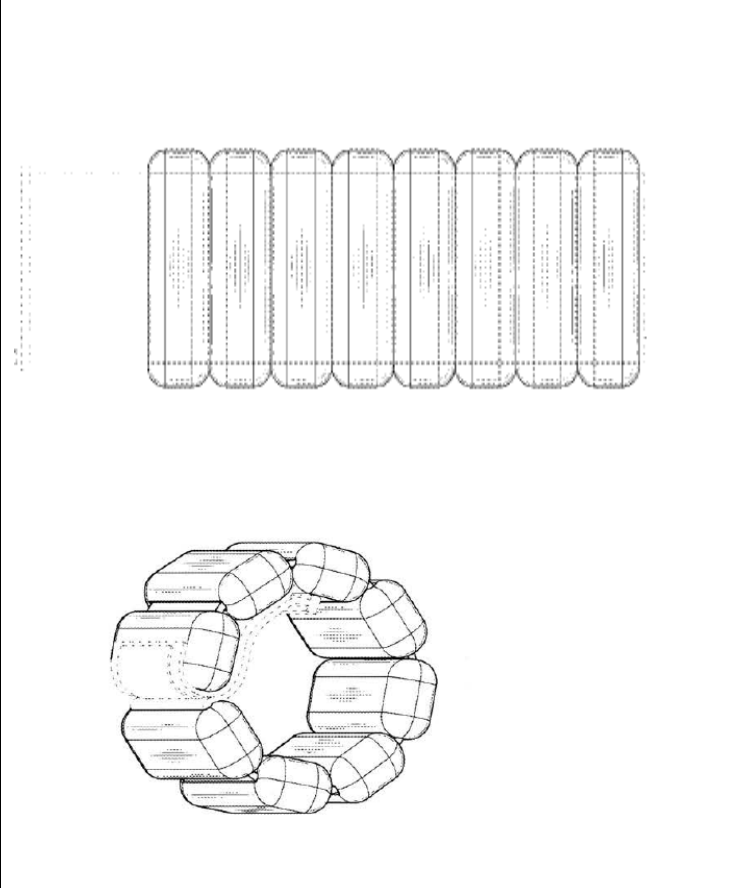

14. In order to protect its goodwill and valuable brand, Bala federally registered its unique design for its weighted exercise band.

15. The following chart lists the design patent asserted by Bala in this action (the “167 Patent”). A copy of the design patent registration is attached hereto as Exhibit A.

Title	Status	Reg. No.	Reg. Date
Weighted Exercise Band	Registered	D 888,167	6/23/2020

1 16. Bala is the assignee, and the sole and exclusive owner of all rights,
 2 title, and interest in the '167 Patent entitled, "Weighted Exercise Band." The '167
 3 Patent was duly and legally issued by the United States Patent and Trademark
 4 Office on June 23, 2020.

5 17. Bala's design covered by the '167 Patent is a weighted exercise band.
 6 A photo of the design protected by the Design Patent ("Design") and Bala's product
 7 are shown below:

Design Patent Figures	Bala's Product
	

18. The Bala products have also been the subject of unsolicited publicity
 26 resulting from their innovative design.

19. Among the unsolicited coverage, some of the publications that have
 28 featured the Bala products are vogue, Cosmopolitan, Magazine, Forbes, Goop,

1 Shape Magazine, CCN, and more.

2 20. Bala has also been featured on the popular U.S. television show Shark
3 Tank.

4 21. In view of Bala’s efforts and consumers’ response to Bala’s products,
5 Bala’s Design have become known throughout the United States, uniquely
6 signifying to consumers that the products come from Bala.

7 22. Because Bala’s products have become popular and the Bala
8 intellectual property is recognized by consumers, the Bala products have been
9 subject to widespread counterfeiting. Similarly, because Bala uses its Design in its
10 legitimate advertisements and product listings for genuine Bala products,
11 counterfeiters have also used the intellectual property. Bala’s investigation has
12 revealed Defendants offer for sale, and on information and belief, sell counterfeit
13 Bala goods to consumers in California and offers to ship those products to
14 California.

15 EA COMMERCE, LLC

16 23. On information and belief, Defendant is a business entity conducting
17 business in the United States, including California, through its operation as an
18 Amazon storefront which uses Bala’s intellectual property in advertising and selling
19 counterfeit products. Defendant’s merchant store is
20 [https://www.amazon.com/stores/
21 FOREVAFIT/FOREVAFIT/page/73216E6D-
EE43-4D63-826B-AE38AD3F3FE7](https://www.amazon.com/stores/FOREVAFIT/FOREVAFIT/page/73216E6D-EE43-4D63-826B-AE38AD3F3FE7).

22 24. Defendant intentionally deceives and misleads consumers by creating
23 a storefront that sells products using Bala’s Design. This website uses Bala’s Design
24 without Bala’s permission.

25 25. On or about May 12, 2021, Bala reported Defendants’ infringement to
26 Amazon.

27 26. On or about March 4, 2022, counsel for Bala sent a cease-and-desist
28 letter to Defendants demanding compliance by March 11, 2022. A true and correct

1 copy of the letter is attached hereto as Exhibit B and incorporated herein by
 2 reference. To date, Defendants have not responded.

3 **FIRST CAUSE OF ACTION**

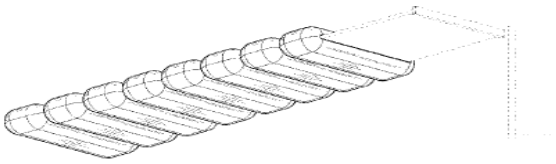

4 **Infringement of the '167 Design Patent Against All Defendants**

5 27. Plaintiff incorporates all preceding paragraphs as though fully set forth
 6 herein.

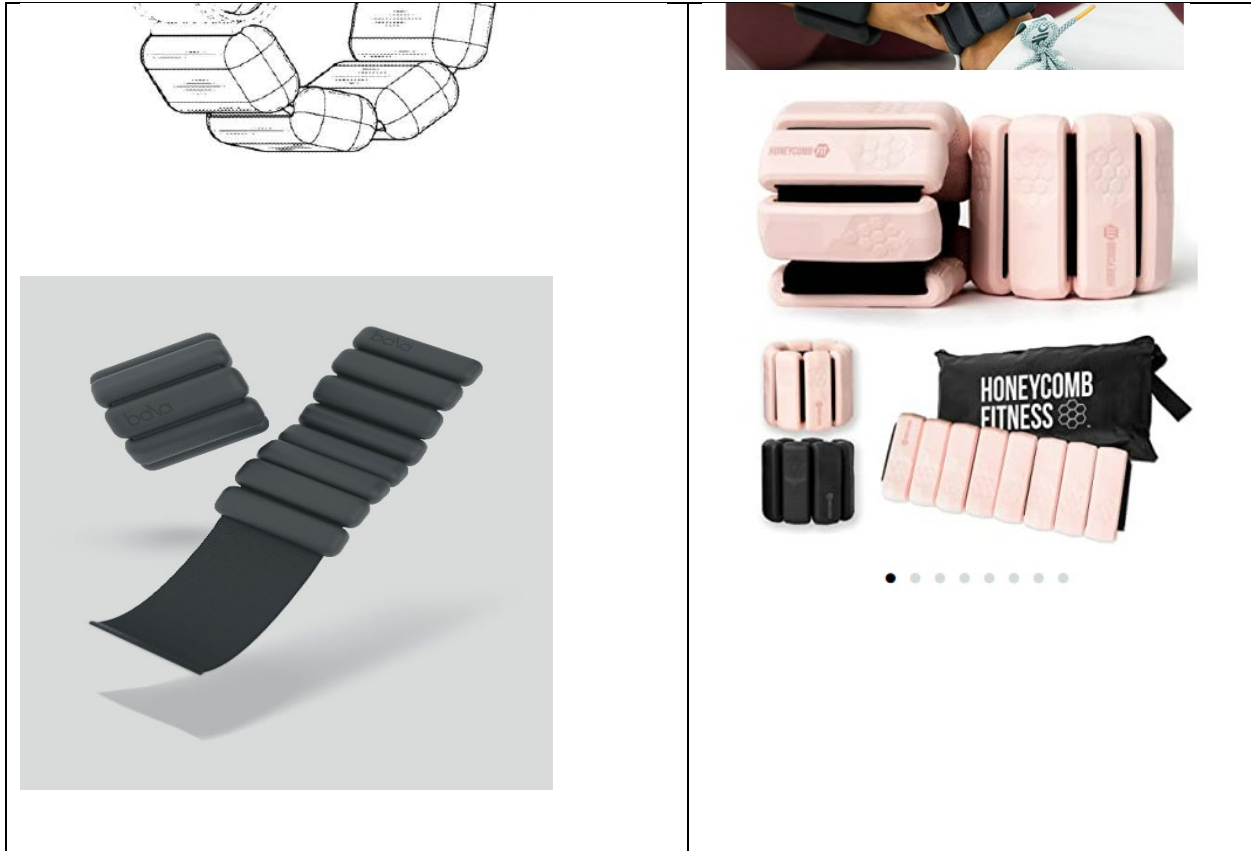
7 28. Defendant has infringed and/or are currently infringing, and unless
 8 enjoined will continue to infringe the '167 Patent.

9 29. Defendant infringed the '167 Patent by importing, making, using,
 10 selling, and offering for sale nearly identical versions of the protected Bala design.

11 30. An ordinary observer, giving such attention as a purchaser usually
 12 gives, would be so deceived by resemblance between the design of the accused
 13 products and the '167 Patent as to be induced to purchase the accused products
 14 believing they embody the design of the '167 Patent.

Bala '167 Patent	Exemplary Images of Product Offered by Defendants
	

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31. Plaintiff is entitled to recover damages sustained as a result of Defendant’s wrongful acts in an amount to be proven at trial.

32. Defendant’s deliberate and willful actions in infringing the design of the ’167 patent have caused and will continue to cause irreparable harm to Bala unless preliminarily and permanently enjoined pursuant to 35 U.S.C. § 283.

33. Defendant has profited from, and Bala has suffered damages as a result of Defendant’s infringement of the ’167 patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. That, upon Bala’s request, all in privity with Defendants and with notice of the injunction, including Amazon, and vendors of sponsored search terms or online ad-word providers, financial services providers, including but not limited to credit card providers, banks, merchant account providers, and third-party

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payment processors shall:

- a. Cease providing services used by Defendants, currently or in the future, to sell or offer for sale goods under the Bala’167 Patent;
- b. Cease displaying any advertisements in any form, connected or associated with Defendants in connection with the sale of infringing goods under the Bala ’167 Patent; and
- c. Disable all links to the Amazon account from displaying in search results.

2. For damages and excess of \$75,000;

3. That Defendants, and each of them, account to Bala for their profits and any damages sustained by Bala arising from their acts of counterfeiting and infringement;

4. An award to Bala for past and future damages, costs, expenses, together with prejudgment and post-judgment interest to compensate for Defendants’ infringement of the ’167 Patent provided under 35 U.S.C. § 284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

5. A determination that this is an exceptional case within the meaning of 35 U.S.C. § 285 and an award to Bala its costs, expenses, and reasonable attorney’s fees incurred in this action;

6. That Defendants disgorge any profits earned by their tortious activities;

7. That Bala be awarded punitive damages;

8. That Bala be awarded pre-judgment interest as allowed by law;

9. That Bala be awarded the costs of this action;

10. That Bala be awarded its reasonable attorney’s fees incurred in connection with this action; and

1 11. That Bala be awarded such further legal and equitable relief as the
2 Court deems just and proper.

3 DEMAND FOR JURY TRIAL

4 Plaintiff Bala Bangles, Inc., demands a trial by jury as to all issues so triable.
5

6 Dated: March 21, 2022

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8
9 By: /s/ Darrell P. White
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11 Michelle E. Soon, Esq.
12 David J. Steadmon, Esq.
13 Attorneys for Plaintiff BALA BANGLES
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