



ENO specializes in the manufacture and worldwide distribution of outdoor gear and hammock products, including patented hammock straps sold under federally-registered trademarks.

2. Upon information and belief, Defendant Taomore, Inc. ("Taomore") is a California corporation and has its principal place of business at 13941 Norton Avenue, Suite C, Chino, California 91710.

3. Upon information and belief, Defendant Jie Zou is an individual who resides in Chino, California. Upon information and belief, Defendant Jie Zou is a citizen of California. Upon information and belief, Defendant Jie Zou serves as Taomore's sole shareholder/president and its Registered Agent.

4. Upon information and belief, Defendant WECRO, Inc. ("WECRO") is a California corporation and has its principal place of business at 2001 West Mission Boulevard, Suite A, Pomona, California 91766.

5. Upon information and belief, Defendant Yubin He is an individual who resides in Pomona, California. Upon information and belief, Defendant Yubin He is a citizen of California. Upon information and belief, Defendant Yubin He serves as WECRO's sole shareholder/president and its Registered Agent.

6. Upon information and belief, Defendants jointly own, operate, and/or do business under the name "NY Yes Hi Go Shop" but NY Yes Hi Go Shop does not appear to be a legal entity incorporated in the United States.

7. Upon information and belief, Defendants jointly acquire goods from individuals and/or business entities residing in the People's Republic of China, or other foreign jurisdictions with lax trademark and patent enforcement systems, and import them into the United States.

8. Upon information and belief, Defendants conduct pervasive business throughout the United States, including within this judicial district, by offering to sell and selling those goods acquired overseas under the name "NY Yes Hi Go Shop," on online retail platforms such as Amazon.com.

9. Upon information and belief, Defendants do business in the Western District of North Carolina and nationally through online sales, including through Amazon.com.

10. Upon information and belief, after an online sale is made, WECRO and Yubin He coordinate the distribution of all purchased goods from the WECRO corporate address in Pomona, California, to their ultimate destinations across the country, including within this judicial district.

11. As a result, Defendants have committed acts of counterfeiting, trademark infringement, patent infringement, and various other unfair and deceptive trade practices within this judicial district. Specifically, Defendants have offered for sale and sold their counterfeit and infringing goods in the judicial district.

**JURISDICTION AND VENUE**

12. This is primarily an action for trademark counterfeiting and infringement of ENO's federally-registered trademarks under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1); for unfair competition, specifically false advertising and false designation of origin, under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); for substantial and related claims arising under North Carolina's Unfair and Deceptive Trade Practices Act ("UDTPA"), N.C. Gen. Stat. § 75-1.1. It is also an action for infringement of ENO's patents under 35 U.S.C. §§ 271, 281, 283, 284 and 285.

13. This action stems from Defendants' unauthorized sale of counterfeit goods and use of spurious designations identical to or substantially indistinguishable from ENO's federally-registered trademarks in connection with the manufacture, distribution, marketing, promotion, offering for sale, and/or sale of Defendants' counterfeit hammock straps.

14. This Court has subject-matter jurisdiction over the federal claims of this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b). This Court has supplemental jurisdiction over ENO's state-law claim pursuant to 28 U.S.C. § 1367(a) because that claim is so related to the federal claims that it forms part of the same case or controversy.

15. This Court has personal jurisdiction over the Defendants because they direct business activities toward and conduct business within the

State of North Carolina, and this judicial district in particular, through at least one Internet website, namely Amazon.com. Defendants have further committed acts of counterfeiting and infringement within the State of North Carolina by actually having sold and shipped the counterfeit and infringing products to consumers in the State of North Carolina. These actions establish such minimum contacts that jurisdiction comports with both the North Carolina Long-Arm statute, N.C. Gen. Stat. § 1-75.4, and the United States Constitution.

16. Defendants have committed acts of trademark counterfeiting, trademark infringement, unfair competition, violating the UDTPA, and patent infringement within the State of North Carolina and, more particularly, within this judicial district.

17. Defendants have purposefully and voluntarily placed one or more counterfeit and infringing products into the stream of commerce with the expectation that they will be purchased and used by consumers in this judicial district.

18. Venue is proper in the Western District of North Carolina pursuant to 28 U.S.C. § 1391(b)(2) since Defendants have advertised, sold, and shipped counterfeit and infringing products into this judicial district. Defendants have also caused harm within this judicial district.

**STATEMENT OF FACTS**

**ENO's Has Substantial Goodwill in its Well-Known and Award-Winning Brand**

19. ENO was founded in 1999 by two brothers who, at first, designed and sold hammocks out of a van.

20. Over the past twenty-three years, through hard work and the expenditure of substantial resources and time, ENO has evolved into a worldwide brand specializing in a myriad of outdoor relaxation gear.

21. For example, ENO is well known for designing and patenting the very first knotless hammock suspension system.

22. In addition, consumers and others in the industry have come to know ENO for supporting and partnering with nonprofit organizations that protect and preserve the outdoors, which ENO refers to our "wild places." ENO does this, in part, by donating a portion of annual sales to its nonprofit partners. ENO takes its commitment to sustainability seriously from the materials and ingredients they use in the manufacturing process to the thoughtful design of their products, protecting the environment they come in contact with.

23. Based on its innovative and effective product designs and its commitment to the environment, ENO has been repeatedly recognized for its philanthropic work and for its products.

24. For example, in 2013, ENO was honored by the North American Retail Hardware Association ("NRHA") for having one of the most innovative

products on the market. This prestigious award is given by a panel of acclaimed retailers to the best of the best products at the National Hardware Show.

25. And just this summer, ENO received REI Co-op Editors' Choice Award. This award is given by REI's in-house editorial team as a way to honor the top-performing products based on rigorous field tests conducted by REI staff and member—testers, sustainability attributes, and co-op member and customer feedback.

26. These are but a few of ENO's many recognitions, which also include honors from: *Popular Mechanics* (Best Camping Hammock, Outdoor Awards, 2021); gearpartrol.com (The 2021 Summer Gear Awards); and *Vogue* (2020, *The 17 Best Hammocks and Swing Chairs to Lounge in This Summer*).

27. Accordingly, ENO is now very well known to both consumers and retailers as a producer of high-quality, innovative, environmentally-friendly products.

28. Therefore, there is significant consumer recognition and goodwill associated with the ENO name and its products.


29. Because of this significant consumer goodwill, and ENO's innovative and high-quality products, numerous competitors—including a well-known national retailer—have attempted to wrongfully copy ENO's product designs. ENO has, on a number of occasions, been forced to file successful lawsuits to stop that copying. *See, e.g., Eagles Nest Outfitters, Inc. v. Hewlett*, No. 16-cv-165-

MR (W.D.N.C.) (patent infringement); *Eagles Nest Outfitters, Inc. v. Harden d/b/a Nature's Hangout*, No. 16-cv-261-MR (W.D.N.C.) (patent infringement); *Eagles Nest Outfitters, Inc. v. Hussein*, No. 16-cv-381-MR (W.D.N.C.) (patent infringement); *Eagles Nest Outfitters, Inc. v. Dick's Sporting Goods, Inc.*, No. 18-cv-82-MR (W.D.N.C.) (patent infringement).

30. However, as described in more detail herein, Defendants' conduct goes beyond wrongfully copying ENO's designs. Instead, Defendants are selling counterfeit ENO products.

**ENO's Trademarks**

31. ENO is, and has been at all relevant times, 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 "ENO Marks"):

ENO Marks	Registration No.	Registration Date	Class/Goods
	3,839,644	Aug. 31, 2010	Hammocks; straps used for hammock suspension; insect protection nets and tarpaulins for use with hammocks
ENO*  *Standard characters	5,391,144	Jan. 30, 2018	Hammocks; polyester straps used for hammock suspension; tarpaulins for use with hammocks;



without claim to any particular font style, size, or color			insect protection nets for use with hammocks
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The ENO Marks are used in connection with the manufacture and distribution of quality goods in the categories identified above. True and correct copies of the registration certificates for ENO Marks are attached as **Exhibits 1 and 2**.

32. The ENO Marks have been used in interstate commerce to identify and distinguish ENO's quality goods, including outdoor gear, hammocks, and hammock straps for an extended period of time and serve as symbols of ENO's quality, reputation, and goodwill, which have never been abandoned.

33. ENO has spent substantial time, money, and other resources developing, advertising, and otherwise promoting the ENO Marks in connection with the sale of quality outdoor gear and hammocks, including hammock straps. In recent years, annual sales of products bearing the ENO Marks have totaled in the millions of dollars within the United States alone.

34. As a result of ENO's efforts, members of the consuming public and ENO's trade readily identify merchandise bearing the ENO Marks as being quality merchandise sponsored and approved by ENO.

35. ENO has carefully monitored and policed the use of the ENO Marks.

36. ENO has never assigned or licensed the ENO Marks to any of the Defendants.

### ENO's Patents

37. On September 11, 2012, the United States Patent and Trademark Office duly and legally issued United States Design Patent No. D666,896 ("the ENO design patent"), titled "Hammock Strap," to Peter Pinholster, Paul Pinholster, and Brendan Garvey, who immediately thereafter assigned the patent to ENO. A true and correct copy of the ENO design patent is attached as **Exhibit 3**.

38. On April 14, 2015, United States Patent No. 9,003,579 ("the '579 Patent"), titled "Multiple-Loop Support Strap and Method for Hanging a Hammock," was duly and legally issued to Peter Pinholster, Paul Pinholster, and Brendan Garvey by the United States Patent and Trademark Office, and immediately thereafter assigned to ENO. A true and correct copy of the '579 Patent is attached as **Exhibit 4**.

39. On April 26, 2016, United States Patent No. 9,320,343 ("the '343 Patent"), titled "Multiple-Loop Support Strap and Method for Hanging a Hammock," was duly and legally issued to Peter Pinholster, Paul Pinholster, and Brendan Garvey by the United States Patent and Trademark Office, and immediately thereafter assigned to ENO. A true and correct copy of the '343 Patent is attached as **Exhibit 5**.

40. On February 25, 2020, the United States Patent and Trademark Office duly and legally issued United States Design Patent No. D876,206 ("the ENO design patent 2.0"), titled "Hammock Strap With 3-Stitch Line Pattern," to Peter Pinholster, Ryan Klinger, and Bridget Stephas, who immediately thereafter assigned the patent to ENO. A true and correct copy of the ENO design patent 2.0 is attached as **Exhibit 6**.

41. On August 10, 2021, the United States Patent and Trademark Office duly and legally issued United States Design Patent No. D927,199 ("the ENO design patent 3.0"), titled "Hammock Strap With Pattern," to Peter Pinholster, Ryan Klinger, and Bridget Stephas, who immediately thereafter assigned the patent to ENO. A true and correct copy of the ENO design patent 3.0 is attached as **Exhibit 7**.

42. ENO is the owner of the entire right, title, and interest in and to the ENO design patent, the '579 Patent, the '343 Patent, the ENO design patent 2.0, and the ENO design patent 3.0 (together, "the Asserted Patents"), and has owned the entire right, title, and interest in and to the Asserted Patents continuously from the date the patents were issued to the present.

43. The Asserted Patents are valid and enforceable.

44. ENO has carefully monitored and policed the use of the Asserted Patents, including filing lawsuits against patent infringers.

45. ENO has never assigned or licensed the Asserted Patents to any of the Defendants.

**ENO's Use of the ENO Marks and Asserted Patents in the Outdoor-Gear-and-Hammock Industry**

46. ENO was founded in 1999 by brothers Peter and Paul Pinholster to introduce the general public to the joys of the outdoors through hammocking. A true and correct copy of ENO's history, as depicted on its website and including samples of its use of the ENO Marks, is attached as **Exhibit 8**.

47. The ENO Marks and the inventions disclosed and claimed in the Asserted Patents were developed, designed, invented, registered, and/or patented by the Pinholster brothers and current and former members of ENO's Design Team.

48. Since its founding, ENO has been a leader in the outdoor industry. Under the ENO Marks, ENO manufactures top-of-the-line outdoor camping hammocks and associated hammock accessories and distributes them all over the world.

49. ENO has been selling its hammocks, hardware, and associated gear since at least 1999.

50. ENO has been using the ENO Marks since at least 2000. *See* Exs. 1 & 2 (indicating first-use dates).

51. One of ENO's most successful products is its patented Atlas strap, which revolutionized the hammock industry. The current model features the distinctive three-stitch line pattern, uses reflective thread to improve nighttime

visibility, and retails for approximately \$30.00. A true and correct copy of this current product listing from eaglesnestoutfittersinc.com is attached as **Exhibit 9**.

52. A prior model of ENO's Atlas strap was narrower than the current model but still included a three-stitch line pattern. However, all three lines were grouped together in the middle of the strap instead of being spread out across the width of the strap as in the current model.

### **Defendants Violate ENO's Intellectual-Property Rights**

53. Upon information and belief, Defendants are manufacturing, causing the manufacture of, importing, promoting, advertising, offering to sell, selling, and distributing in interstate commerce goods, counterfeit hammock straps which contain copies of the ENO Marks and are modeled upon the Asserted Patents.

54. Upon information and belief, Defendants have specifically offered for sale and sold two versions of ENO's trademarked and patented Atlas hammock straps through Amazon.com, and potentially other online retailers.

55. The first listing is for an "ENO – Eagles Nest Outfitters Atlas Hammock Straps, Suspension System" (hereinafter "Counterfeit Atlas Product"). The listing incorporates seven pictures, including one with the trademarked ENO logo (the letters "ENO" to the left of an image of an eagle inside a circle). Five of the pictures reflect step-by-step instructions on how to use the hammock-suspension system. A review of the product details reveals words, terms, and phrases that ENO

actively uses in its product advertising, including "ENO GIVES BACK: ENO loves the outdoors and shows it by donating to organizations that preserve our wild places." An unsuspecting buyer would not realize that this is not a genuine ENO product. Two things in particular reveal that it is not: first the retail price is approximately \$10.00 less expensive than a genuine ENO product and second the ships-from and sold-by categories list "NY Yes Hi Go Shop" as the seller. A true and correct copy of this product listing from Amazon.com is attached as **Exhibit 10**.

56. The second listing is for an "ENO, Eagles Nest Outfitters Atlas Hammock Straps, Suspension System with Storage Bag, 400 LB Capacity, 9' x 1.5/.75", Black/Royal" (hereinafter "Counterfeit Atlas 2.0 Product"; collectively with Counterfeit Atlas Product, "Counterfeit Atlas Products"). The listing incorporates seven pictures. Two pictures reflect that both the strap itself and its storage case include the trademarked ENO logo (the letters "ENO" to the left of an image of an eagle inside a circle). One pictures displays new reflective stitching, which provides enhanced visibility at night. A review of the product details reveals words, terms, and phrases that ENO actively uses in its product advertising, including "ENO GIVES BACK: As a proud partner of Leave No Trace we support their efforts toward teaching responsible enjoyment of our wild places." An unsuspecting buyer would not realize that this is not a genuine ENO product. Two things in particular reveal that it is not: first the retail price is approximately \$10.00 less expensive than a genuine ENO product and second the ships-from and sold-by categories list

"NY Yes Hi Go Shop" as the seller. A true and correct copy of this product listing from Amazon.com is attached as **Exhibit 11**.

57. ENO discovered that "NY Yes Hi Go Shop" was selling two versions of the Atlas hammock straps on Amazon.com. ENO purchased the Counterfeit Atlas Products through Amazon.com and had them delivered to Asheville, North Carolina. True and correct copies of receipts for the purchase of the Counterfeit Atlas Products from Defendants through Amazon.com are attached as **Exhibit 12**.

58. ENO undertook a thorough inspection of the product samples depicted in Exhibit 12. ENO confirmed that the Counterfeit Atlas Products are counterfeit reproductions of ENO's current and prior-model Atlas hammock straps sold under the ENO Marks.

59. Specifically, ENO's inspection confirmed that the Defendants were not simply reselling hammock straps that were manufactured by or for ENO. Instead, ENO's inspection confirmed that the Counterfeit Atlas Products were *not* manufactured by or for ENO.

60. ENO also determined that Counterfeit Atlas Products are inferior in quality to ENO's current and prior-model Atlas hammock straps sold under the ENO Marks because, by way of example and not limitation, they use alternative materials and construction techniques with no evidence of undergoing

the appropriate testing to ensure consumer safety. Samples of Counterfeit Atlas Products remain at the ENO's headquarters in Asheville.

61. Upon information and belief, ENO used the ENO Marks and the Asserted Patents extensively, exclusively, and continuously before Defendants began offering counterfeit and confusingly similar imitations of ENO's products.

62. Upon information and belief, Defendants have been offering for sale and selling counterfeit and confusingly similar imitations of ENO's products since as early as 2015.

63. Upon information and belief, Defendants distribute the Counterfeit Atlas Products throughout the United States, including in the Western District of North Carolina.

64. Upon information and belief, Defendants are using, promoting and otherwise advertising, distributing, selling and/or offering for sale substantial quantities of the Counterfeit Atlas Products with the knowledge and intent that such goods will be mistaken for the genuine-quality goods offered for sale by ENO.

65. Upon information and belief, Defendants advertise the Counterfeit Atlas Products for sale to the consuming public via Amazon.com, and potentially other online retailers, using the ENO name, ENO Marks, and words and phrases regularly used by ENO in its advertising, but at a reduced price thereby diverting potential customers away from ENO's genuine products.



66. ENO has never licensed, permitted, or authorized Defendants to use the ENO Marks to make, use, offer to sell, or sell any hammock strap within the United States, or to import any hammock strap, or component constituting a material part thereof, into the United States.

67. The Counterfeit Atlas Products were not manufactured by or for ENO.

68. Upon information and belief, the Counterfeit Atlas Product that Defendants have sold and continue to sell, infringe the ENO design patent and infringe the '579 Patent and/or the '343 Patent.

69. Upon information and belief, the Counterfeit Atlas 2.0 Product that Defendants have sold and continue to sell, infringe the ENO design patent 2.0, the ENO design patent 3.0, and infringe the '579 Patent and/or the '343 Patent.

70. Upon information and belief, Defendants have had actual knowledge of the Asserted Patents since prior to their decision to manufacture, cause the manufacture of, offer to sell, sell, and distribute the Counterfeit Atlas Products.

71. Upon information and belief, Defendants used genuine trademarked and patented ENO Atlas hammock straps as models and samples when designing, manufacturing, or commissioning the design or manufacture of the Counterfeit Atlas Products.

72. ENO's trademarked and patented Atlas hammock straps are marked with the ENO Marks and Asserted Patents.

73. Therefore, in having ENO's trademarked and patented Atlas hammock straps in their possession, Defendants were aware that the Atlas hammock straps were covered by the ENO Marks and Asserted Patents.

74. Upon information and belief, notwithstanding this knowledge, Defendants chose to manufacture or cause the manufacture of the Counterfeit Atlas Products and then offer to sell and sell the Counterfeit Atlas Products bearing copies of the ENO Marks.

75. ENO has never licensed, permitted, or authorized Defendants to practice the inventions of the Asserted Patents to make, use, offer to sell, or sell any hammock strap within the United States, or to import any hammock strap, or component constituting a material part thereof, into the United States.

76. Upon information and belief, at all times relevant, Defendants had full knowledge of ENO's ownership of the ENO Marks and the Asserted Patents, including ENO's exclusive right to use and license such intellectual property and the goodwill associated with it.

77. The net effect of Defendants' unlawful actions will cause confusion of consumers, at the time of initial interest, sale, and in the post-sale setting, who will believe the Counterfeit Atlas Products are genuine goods originating from, associated with, and approved by ENO.

78. As a result, Defendants are not only defrauding ENO but the consuming public for their own pecuniary gain.

79. Defendants are engaging in the above-described unlawful actions knowingly and intentionally or with reckless disregard or willful blindness to ENO's rights for the purpose of trading on ENO's goodwill and reputation. If Defendants' unlawful actions are not preliminarily and permanently enjoined by this Court, ENO and the consuming public will continue to be harmed.

80. ENO has no adequate remedy at law.

81. ENO is suffering irreparable and indivisible injury and has suffered substantial damages as a result of Defendants' unlawful actions.

82. The harm and damages ENO has sustained have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, sale, and distribution of the Counterfeit Atlas Products.

#### **COUNT 1 – FEDERAL TRADEMARK COUNTERFEITING**

83. The preceding paragraphs are incorporated by reference.

84. Defendants are counterfeiting the ENO Marks and applying such counterfeits to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of the Counterfeit Atlas Products.

85. Defendants' indivisible and coordinated counterfeiting activities are likely to cause and actually are causing confusion, mistake, and deception

among members of the general consuming public as to the origin and quality of the Counterfeit Atlas Products.

86. Upon information and belief, Defendants' have committed the foregoing acts of counterfeiting with full knowledge of ENO's prior rights in the ENO Marks and with the willful intent to cause confusion and trade on ENO's goodwill.

87. Defendants' unlawful actions have individually and jointly caused and are continuing to cause unquantifiable damages to ENO and are unjustly enriching the Defendants at ENO's expense.

88. Defendants' above-described unlawful actions constitute counterfeiting of the ENO Marks in violation of Section 32(1)(b) of the Lanham Act, 15 U.S.C. § 1114(1)(b).

89. Defendants' unlawful actions are causing immediate and irreparable harm and injury to ENO, and to its goodwill and reputation, and will continue to both damage ENO and confuse the public unless enjoined by this Court. ENO has no adequate remedy at law.

90. ENO is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, statutory damages, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116 and 1117, together with prejudgment and post-judgment interest.

91. ENO specifically reserves its right to elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages from each Defendant in the amount of two million dollars (\$2,000,000.00) for each counterfeit trademark used and product sold pursuant to 15 U.S.C. § 1117(c).

**COUNT 2 – FEDERAL TRADEMARK INFRINGEMENT**

92. The preceding paragraphs are incorporated by reference.

93. Defendants are using in commerce counterfeits of the ENO Marks in connection with the sale, offering for sale, distribution, or advertising of the Counterfeit Atlas Products.

94. Defendants' indivisible and coordinated infringement activities are likely to cause and actually are causing confusion, mistake, and deception among members of the general consuming public as to the origin and quality of the Counterfeit Atlas Products.

95. Upon information and belief, Defendants' have committed the foregoing acts of infringement with full knowledge of ENO's prior rights in the ENO Marks and with the willful intent to cause confusion and trade on ENO's goodwill.

96. Defendants' unlawful actions have individually and jointly caused and are continuing to cause unquantifiable damages to ENO and are unjustly enriching the Defendants at ENO's expense.

97. Defendants' above-described unlawful actions constitute infringement of the ENO Marks in violation of Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1)(a).

98. Defendants' unlawful actions are causing immediate and irreparable harm and injury to ENO, and to its goodwill and reputation, and will continue to both damage ENO and confuse the public unless enjoined by this Court. ENO has no adequate remedy at law.

99. ENO is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, statutory damages, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116 and 1117, together with prejudgment and post-judgment interest.

**COUNT 3 – FEDERAL UNFAIR COMPETITION: FALSE ADVERTISING**

100. The preceding paragraphs are incorporated by reference.

101. The Counterfeit Atlas Products, bearing and sold under copies of the ENO Marks, have been widely advertised and distributed throughout the United States.

102. Defendants have used false advertising in connection with the Counterfeit Atlas Products. The Counterfeit Atlas Products, bearing and sold under the copies of the ENO Marks, use words, terms, and slogans that are virtually identical to those that appear in connection with the sale of ENO's genuine goods.

However, the Counterfeit Atlas Products are different and inferior in quality and the claims Defendants' make are misleading at best. By way of example, and not limitation, descriptions of the Counterfeit Atlas Products that appear on Amazon.com

- a. adopt the ENO name, ENO product names, and ENO product descriptions;
- b. borrow images of ENO products;
- c. mimic ENO's use of the term "wild places" to refer to the outdoors;
- d. imply that a portion of proceeds will be donated to nonprofit organizations; and
- e. specifically list Leave No Trace, one of ENO's partner organizations.

103. Defendants' indivisible and coordinated false-advertising activities are likely to cause and actually are causing confusion, mistake, and deception among members of the general consuming public as to the origin and quality of the Counterfeit Atlas Products.

104. Upon information and belief, Defendants' conduct as alleged herein is willful and is intended to and is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with ENO.

105. Defendants' unlawful actions have individually and jointly caused and are continuing to cause unquantifiable damages to ENO and are unjustly enriching the Defendants at ENO's expense.

106. Defendants' above-described unlawful actions constitute unfair competition, specifically false advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

107. Defendants' unlawful actions are causing immediate and irreparable harm and injury to ENO, and to its goodwill and reputation, and will continue to both damage ENO and confuse the public unless enjoined by this Court. ENO has no adequate remedy at law.

108. ENO is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, statutory damages, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116 and 1117, together with prejudgment and post-judgment interest.

**COUNT 4 – FEDERAL UNFAIR COMPETITION: FALSE DESIGNATION OF ORIGIN**

109. The preceding paragraphs are incorporated by reference.

110. The Counterfeit Atlas Products, bearing and sold under copies of the ENO Marks, have been widely advertised and distributed throughout the United States.



111. Defendants have used in connection with the Counterfeit Atlas Products, a false designation of origin. The Counterfeit Atlas Products, bearing and sold under the copies of the ENO Marks, are virtually identical in appearance to ENO's genuine goods. However, the Counterfeit Atlas Products are different and inferior in quality.

112. Defendants' indivisible and coordinated false-designation-of-origin activities are likely to cause and actually are causing confusion, mistake, and deception among members of the general consuming public as to the origin and quality of the Counterfeit Atlas Products.

113. Upon information and belief, Defendants' conduct as alleged herein is willful and is intended to and is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with ENO.

114. Defendants' unlawful actions have individually and jointly caused and are continuing to cause unquantifiable damages to ENO and are unjustly enriching the Defendants at ENO's expense.

115. Defendants' above-described unlawful actions constitute unfair competition, specifically the false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

116. Defendants' unlawful actions are causing immediate and irreparable harm and injury to ENO, and to its goodwill and reputation, and will

continue to both damage ENO and confuse the public unless enjoined by this Court. ENO has no adequate remedy at law.

117. ENO is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, statutory damages, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116 and 1117, together with prejudgment and post-judgment interest.

**COUNT 5 – N.C. UNFAIR AND DECEPTIVE TRADE PRACTICES ACT**

118. The preceding paragraphs are incorporated by reference.

119. Defendants' manufacture, promotion, advertisement, sale, offer for sale, and/or distribution of hammock straps which bear counterfeits of and infringe the ENO Marks constitutes an unfair method of competition within the purview of the UDTPA. *See, e.g., Harrington Mfg. Co. v. Powell Mfg. Co.*, 38 N.C. App. 393, 404-05, 248 S.E.2d 739, 746 (1978) (passing off constitutes an unfair method of competition within the purview of the UDTPA); *Carolina Aniline & Extract Co. v. Ray*, 221 N.C. 269, 20 S.E.2d 59, 62 (1942) ("Unfair competition is not confined to the palming off by one competitor of his goods as the goods of another."); *McDonald v. Scarboro*, 91 N.C. App. 13, 20, 370 S.E.2d 680, 685 (1988) (pirating a plaintiff's product is both unfair and deceptive).

120. Defendants' unlawful actions are in or affecting commerce in the State of North Carolina because the unlawful actions are actually causing

confusion, mistake, and deception among the general consuming public as to the origin and quality of the Counterfeit Atlas Products.

121. Defendants' unlawful actions have proximately caused and are causing actual injury to ENO.

122. ENO is therefore entitled to recover from Defendants its damages in an amount to be proved at trial.

123. Moreover, ENO's actual damages should be trebled pursuant to N.C. Gen. Stat. § 75-16.

124. Moreover, or alternatively, Defendants' unlawful actions were fraudulent, willful, wanton, and egregious. ENO is therefore entitled to an award of punitive damages as determined by a jury pursuant to N.C. Gen. Stat. § 1D-15.

125. Furthermore, Defendants willfully engaged in the aforesaid unlawful actions and there has been an unwarranted refusal by Defendants to fully resolve this controversy, thereby entitling ENO to attorneys' fees pursuant to N.C. Gen. Stat. § 75-16.1.

#### **COUNT 6 – FEDERAL PATENT INFRINGEMENT**

126. The preceding paragraphs are incorporated by reference.

127. Defendants have directly infringed and continue to directly infringe the Asserted Patents by making, using, testing, selling, offering for sale, or importing into the United States products and/or methods covered by one or more claims of the Asserted Patents. Defendants' products that infringe one or more

claims of the Asserted Patents include, but are not limited to, the Counterfeit Atlas Products.

128. In particular, because the Counterfeit Atlas Products mimic the design of genuine ENO Atlas products, they infringe each of the design patents included in the Asserted Patents. Similarly, as a result of the copied design, the Counterfeit Atlas Products infringe each claim of the utility patents included in the Asserted Patents.

129. Defendants have induced and continue to induce infringement of the Asserted Patents by intending that others use in the United States, products and/or methods covered by one or more claims of the Asserted Patents, including, but not limited to the Counterfeit Atlas Products. Defendants provide the Counterfeit Atlas Products to others, such as customers and end-use consumers who, in turn, use, offer for sale, or sell in the United States the Counterfeit Atlas Products that infringe one or more claims of the Asserted Patents.

130. Defendants indirectly infringe the Asserted Patents by inducing infringement by others, such as resellers, customers, and end-use consumers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is a result of the activities performed by the resellers, customers, and end-use consumers of the Counterfeit Atlas Products.

131. Defendants had notice of the Asserted Patents as of the date it began selling the Counterfeit Atlas Products.

132. As described herein, Defendants' infringement of the Asserted Patents is willful, intentional, and egregious.

133. Defendants' affirmative acts of selling Defendant's Products, causing the Counterfeit Atlas Products to be manufactured and distributed, and providing instructions for using the Counterfeit Atlas Products, induce Defendants' resellers, customers, and end-use consumers to use the Counterfeit Atlas Products in their normal and customary way to infringe one or more claims of the Asserted Patents. Defendants perform the acts that constitute induced infringement, and induce actual infringement, with the knowledge of the Asserted Patents and with the knowledge or willful blindness that the induced acts constitute infringement.

134. Defendants specifically intend for others, such as resellers, customers, and end-use consumers, to directly infringe one or more claims of the Asserted Patents, or, alternatively, have been willfully blind to the possibility that their inducing acts would cause infringement. By way of example, and not as limitation, Defendants induce such infringement through their affirmative action by, among other things: (a) providing advertising on the benefits of using the Counterfeit Atlas Products, and (b) providing instruction on how to use the Counterfeit Atlas Products.

135. Accordingly, a reasonable inference is that Defendants specifically intend for others, such as resellers, customers, and end-use consumers, to directly infringe one or more claims of the Asserted Patents in the United States

because Defendants have knowledge of the Asserted Patents at least as of the date this lawsuit was filed and Defendants actually induce others, such as resellers, customers, and end-use consumers, to directly infringe the Asserted Patents by using, selling, and/or distributing, within the United States, the Counterfeit Atlas Products.

136. As a result of Defendants' patent infringement, ENO has suffered and will continue to suffer damages in an amount to be proved at trial.

137. Defendants' unlawful actions are causing immediate and irreparable harm and injury to ENO, and to its goodwill and reputation, and will continue to both damage ENO and confuse the public unless enjoined by this Court. ENO has no adequate remedy at law.

138. This is an exceptional case, entitling ENO to recover its attorneys' fees from Defendant pursuant to 35 U.S.C. § 285.

#### **DEMAND FOR JURY TRIAL**

ENO hereby demands a jury trial for all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, ENO requests that this Court enter judgment in its favor on all counts and grant the following relief:

- A. a preliminary injunction against Defendants, and those in active concert with them, from further counterfeiting and infringement of the ENO Marks and

Asserted Patents and engaging in any activity constituting unfair competition with ENO;

- B. a permanent injunction against Defendants, and those in active concert with them, from further counterfeiting and infringement of the ENO Marks and Asserted Patents and engaging in any activity constituting unfair competition with ENO;
- C. direct, upon ENO's request, any Web hosts, including Amazon.com, to cease facilitating access to any or all websites through which Defendants engage in the promotion, offering for sale, and/or sale of goods bearing counterfeits and infringements of the ENO Marks and Asserted Patents;
- D. direct, in accordance with Section 36 of the Lanham Act, 15 U.S.C. § 1118, that Defendants, at their own expense, recall and deliver to ENO's counsel for destruction all of the Counterfeit Atlas Products and any and all other goods, packaging, labels, catalogs, shopping bags, containers, advertisements, signs, displays, and other materials that bear, contain, or display the ENO Marks or any other mark that is a counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of ENO's Mark, that are in Defendants' possession, custody, or control;
- E. award to ENO damages, both compensatory and exemplary (including treble and punitive damages, as permitted by law), in amounts to be determined at

trial in connection with Defendants' unlawful actions and pre- and post-judgment interest;

- F. require Defendants to equitably account for and pay to ENO all profits resulting from Defendants' counterfeiting and infringement of the ENO Marks and Asserted Patents;
- G. permit ENO to recover its reasonable attorneys' fees, to the extent allowed by applicable law;
- H. tax all costs of this action against Defendants; and
- I. grant any such further relief as this Court deems just and proper.

This the 16th day of September, 2022.

*/s/ Joseph A. Schouten*

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*\*Application for admission forthcoming*

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