

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SPORT DIMENSION, INC.,)	
)	Case No. 22-cv-6945
Plaintiff,)	
)	Judge
v.)	
)	
THE INDIVIDUALS, CORPORATIONS, LIMITED)	
LIABILITY COMPANIES, PARTNERSHIPS AND)	
UNINCORPORATED ASSOCIATIONS IDENTIFIED)	
ON SCHEDULE "A",)	
)	
Defendants.)	

COMPLAINT

Plaintiff SPORT DIMENSION, INC. ("SPORT DIMENSION" or "Plaintiff"), through undersigned counsel, hereby complains of the Partnerships, Unincorporated Associations and others identified in Schedule A attached hereto (collectively, "Defendants"), and for its Complaint hereby alleges as follows:

JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Patent Act, 35 U.S.C. § 1, *et. seq.*, 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendants since each of the Defendants directly targets consumers in the United States, including Illinois, through at least the fully interactive commercial Internet stores operating under the Defendant Domain Names and/or the Online Marketplace Accounts identified in Schedule A attached hereto (collectively, the "Defendant Internet Stores"). Specifically, Defendants are reaching out to do business with Illinois residents

by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products infringing Plaintiff's Patented Design, namely personal flotation devices that infringe U.S. Design Patent No. D744,603 entitled "Personal Flotation Device" (the "Patented Design"). Each of the Defendants has targeted sales from Illinois residents by operating online stores that offer shipping to the United States, including Illinois, accepts payment in U.S. dollars and, on information and belief, has sold products infringing Plaintiff's Patented Design to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Illinois.

INTRODUCTION

3. This action has been filed by Plaintiff to combat e-commerce store operators who trade upon Plaintiff's reputation and goodwill by making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use the same unauthorized and unlicensed products (collectively, the "Infringing Products").

4. The Defendants create numerous Defendant Internet Stores and design them to appear to be selling genuine Plaintiff's products, while selling inferior imitations of Plaintiff's products. The Defendant Internet Stores share unique identifiers, such as design elements and similarities of the infringing products offered for sale, establishing a logical relationship between them and suggesting that Defendants' illegal operations arise out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid liability by going to great lengths to conceal both their identities and the full scope and interworking of their illegal infringing operation. Plaintiff is forced to file this action to combat Defendants' infringement of Plaintiff's Patented Design, and to protect unknowing consumers from purchasing unauthorized

products over the Internet. Plaintiff has been and continues to be irreparably damaged by infringement of its valuable Patented Design by Defendants and seeks injunctive and monetary relief.

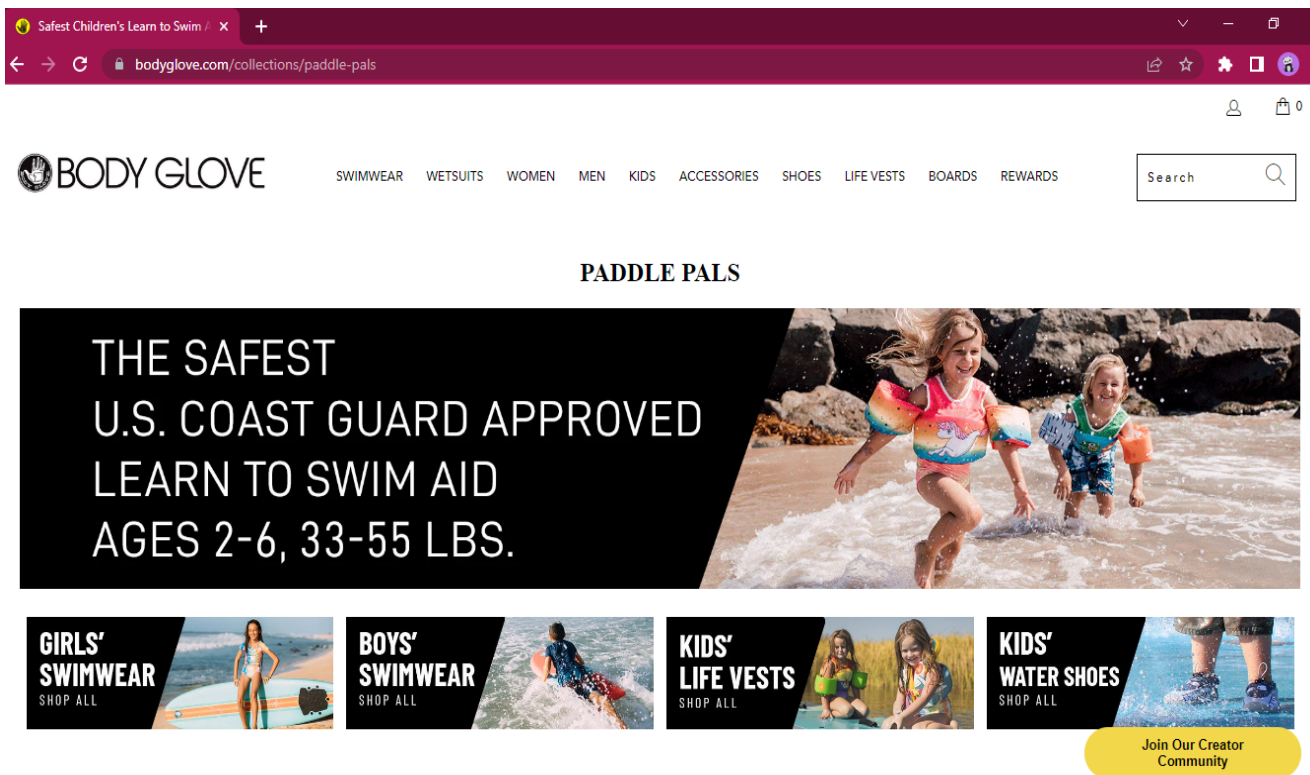
5. This Court has personal jurisdiction over each Defendant, in that each Defendant conducts business in Illinois and in this Judicial District, and the acts and events giving rise to this lawsuit of which each Defendant stands accused were undertaken in Illinois and in this Judicial District. In addition, each Defendant has offered to sell and ship infringing products into this Judicial District.

THE PLAINTIFF

6. Plaintiff SPORT DIMENSION, INC. is a California corporation with a place of business at 966 Sandhill Ave, Carson, California 90746.

7. SPORT DIMENSION, INC. is in the business of developing, marketing, selling and distributing PADDLE PALS Products. The PADDLE PALS personal flotation device (PFD) is a U.S. Coast Guard-approved learn-to-swim aid or life jacket with attached arm bands and is used to teach children how to swim. A safety shoulder harness prevents the vest from sliding off during use and keeps the child from removing the life jacket without help. A quick-release rear safety buckle is adjustable for a secure fit. The PADDLE PALS personal flotation device is manufactured from a durable polyester material and includes a multi-panel design for superior comfort. It is approved by the U.S. Coast Guard as a Child's Type III PFD for recreational boating. SPORT DIMENSION, INC. is the official source of PADDLE PALS Products:

<https://www.bodyglove.com/collections/paddle-pals>



8. The Patented Design sold under the PADDLE PALS name/mark is and has been the subject of substantial and continuous marketing and promotion by Plaintiff (the “PADDLE PALS Patented Design”). Plaintiff has and continues to widely market and promote the PADDLE PALS Patented Design in the industry and to consumers. Plaintiff’s promotional efforts include — by way of example, but not limitation — website and social media sites, and point of sale materials.

9. Among the purchasing public, genuine PADDLE PALS Products are instantly recognizable as such. In the United States and around the world, the PADDLE PALS brand has come to symbolize high quality, and PADDLE PALS Products are among the most recognizable personal flotation devices in the world.

10. PADDLE PALS Products are known for their distinctive patented design. This design is broadly recognized by consumers. Personal flotation devices embodying this design are associated with the quality and innovation that the public has come to expect from PADDLE PALS Products.

15. Plaintiff is the lawful assignee of all right, title, and interest in and to the PADDLE PALS Patented Design.

16. Plaintiff has not granted a license or any other form of permission to Defendants with respect to the PADDLE PALS Patented Design.

17. Plaintiff's Patented Design is distinctive when applied to Plaintiff's Products, signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff's quality standards. Whether Plaintiff manufactures the products itself or licenses others to do so, Plaintiff has ensured that products bearing its Patented Design are manufactured to the highest quality standards. As such, the goodwill associated with the PADDLE PALS Patented Design is incalculable and of inestimable value to Plaintiff.

18. Plaintiff has expended substantial time, money and other resources in developing, advertising, and otherwise promoting its Patented Design. As a result, products bearing the Patented Design are widely recognized and exclusively associated by consumers, the public and the trade as being products sourced from Plaintiff. Plaintiff's Products have become famous worldwide.

THE DEFENDANTS

19. Defendants are individuals and business entities who, upon information and belief, reside primarily in the People's Republic of China or other foreign jurisdictions. Defendants conduct business throughout the United States, including within Illinois and in this

Judicial District, through the operation of fully interactive commercial websites and online marketplaces operating under the Defendant Internet Stores. Each Defendant targets the United States, including Illinois, and has offered to sell and, on information and belief, has sold and continues to sell infringing PADDLE PALS Products to consumers within the United States, including Illinois and in this Judicial District.

THE DEFENDANTS' UNLAWFUL CONDUCT

20. The success of the PADDLE PALS brand has resulted in its infringement. Plaintiff has identified numerous domain names linked to fully interactive websites and marketplace listings on platforms such as iOffer and eBay, Wish, Amazon, Alipay, Alibaba, Walmart and Joom, including the Defendant Internet Stores, which were offering for sale, selling, and importing infringing PADDLE PALS Products to consumers in this Judicial District and throughout the United States. Defendants have persisted in creating the Defendant Internet Stores. Internet websites like the Defendant Internet Stores are estimated to receive tens of millions of visits per year and to generate over \$135 billion in annual online sales. According to an intellectual property rights seizures statistics report issued by Homeland Security, the manufacturer's suggested retail price (MSRP) of goods seized by the U.S. government in fiscal year 2017 was over \$1.21 billion. Internet websites like the Defendant Internet Stores are also estimated to contribute to tens of thousands of lost jobs for legitimate businesses and broader economic damages such as lost tax revenue every year.

21. Upon information and belief, Defendants facilitate sales by designing the Defendant Internet Stores so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers selling genuine PADDLE PALS Products. Many of the Defendant Internet Stores look sophisticated and accept payment in U.S. dollars via credit cards,

eBay, Wish, Amazon, Alipay, Alibaba, Walmart and Joom. Defendant Internet Stores often include images and design elements that make it very difficult for consumers to distinguish such infringing sites from an authorized website. Defendants further perpetuate the illusion of legitimacy by offering “live 24/7” customer service and using indicia of authenticity and security that consumers have come to associate with authorized retailers, including the McAfee® Security, VeriSign®, Visa®, MasterCard®, and PayPal® logos.

22. Plaintiff has not licensed or authorized Defendants to use the PADDLE PALS Patented Design, and none of the Defendants are authorized retailers of genuine PADDLE PALS Products.

23. Upon information and belief, Defendants also deceive unknowing consumers by using the PADDLE PALS Patented Design without authorization within the content, text, and/or meta tags of their websites to attract various search engines crawling the Internet looking for websites relevant to consumer searches for PADDLE PALS Products. Additionally, upon information and belief, Defendants use other unauthorized search engine optimization (SEO) tactics and social media spamming so that the Defendant Internet Store listings show up at or near the top of relevant search results and misdirect consumers searching for genuine PADDLE PALS Products. Further, Defendants utilize similar illegitimate SEO tactics to propel new domain names to the top of search results after others are shut down. As such, Plaintiff also seeks to disable Defendant Domain Names owned by Defendants that are the means by which the Defendants could continue to sell infringing PADDLE PALS Products.

24. Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their massive network of Defendant Internet Stores. For example, many of Defendants’ names and physical addresses used to register the

Defendant Domain Names are incomplete, contain randomly typed letters, or fail to include cities or states. Other Defendant Domain Names use privacy services that conceal the owners' identity and contact information. Upon information and belief, Defendants regularly create new websites and online marketplace accounts on various platforms using the identities listed in Schedule A to the Complaint, as well as other unknown fictitious names and addresses. Such Defendant Internet Store registration patterns are one of many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their massive infringing operation, and to avoid being shut down.

25. Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. For example, some of the Defendant websites have virtually identical layouts, even though different aliases were used to register the respective domain names. In addition, the infringing products for sale in the Defendant Internet Stores bear similarities and indicia of being related to one another, suggesting that the infringing products were manufactured by and come from a common source and that, upon information and belief, Defendants are interrelated. The Defendant Internet Stores also include other notable common features, including use of the same domain name registration patterns, unique shopping cart platforms, accepted payment methods, check-out methods, meta data, illegitimate SEO tactics, HTML user-defined variables, domain redirection, lack of contact information, identically or similarly priced items and volume sales discounts, similar hosting services, similar name servers, and the use of the same text and images.

26. In addition to operating under multiple fictitious names, Defendants in this case and defendants in other similar cases against online infringers use a variety of other common tactics to evade enforcement efforts. For example, infringers like Defendants will often register

new domain names or online marketplace accounts under new aliases once they receive notice of a lawsuit. Infringers also often move website hosting to rogue servers located outside the United States once notice of a lawsuit is received. Rogue servers are notorious for ignoring take down demands sent by brand owners. Infringers also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection. A 2012 U.S. Customs and Border Protection report on seizure statistics indicated that the Internet has fueled “explosive growth” in the number of small packages of infringing goods shipped through the mail and express carriers.

27. Further, infringers such as Defendants typically operate multiple credit card merchant accounts and eBay, Wish, Amazon, Alipay, Alibaba, Walmart and Joom accounts behind layers of payment gateways so that they can continue operation in spite of Plaintiff’s enforcement efforts. Upon information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their eBay, Wish, Amazon, Alipay, Alibaba, Walmart and Joom accounts to off-shore bank accounts outside the jurisdiction of this Court. Indeed, analysis of eBay, Wish, Amazon, Alipay, Alibaba, Walmart and Joom transaction logs from previous similar cases indicates that offshore infringers regularly move funds from U.S.-based eBay, Wish, Amazon, Alipay, Alibaba, Walmart and Joom accounts to China-based bank accounts outside the jurisdiction of this Court.

28. Defendants, without any authorization or license from Plaintiff, have knowingly and willfully used and continue to use the PADDLE PALS Patented Design in connection with the advertisement, distribution, offering for sale, and sale of infringing products into the United States and Illinois over the Internet. Each Defendant Internet Store offers shipping to the United

States, including Illinois and, on information and belief, each Defendant has offered to sell infringing products into the United States, including Illinois.

29. Defendants' use of the PADDLE PALS Patented Design in connection with the advertising, distribution, offering for sale, and sale of infringing products into Illinois, is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Plaintiff.

COUNT I

INFRINGEMENT OF UNITED STATES DESIGN PATENT (35 U.S.C. § 271)

30. Plaintiff repeats and incorporates by reference herein the allegations contained in paragraphs 1-29 of this Complaint.

31. Defendants are making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use products that infringe directly and/or indirectly the ornamental design claimed in the PADDLE PALS Design Patent (No. D744,603).

32. Defendants have infringed the PADDLE PALS Design Patent through the aforesaid acts and will continue to do so unless enjoined by this Court. Defendants' wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing the patented invention. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

33. Plaintiff is entitled to recover damages adequate to compensate for the infringement, including Defendants' profits pursuant to 35 U.S.C. § 289. Plaintiff is entitled to recover any other damages as appropriate pursuant to 35 U.S.C. § 284.

PRAYER FOR RELIEF

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

1) That Defendants, their affiliates, officers, agents, servants, employees, attorneys, and all persons acting for, with, by, through, under, or in active concert with them be temporarily preliminarily, and permanently enjoined and restrained from:

- a. using the PADDLE PALS Patented Design or any reproductions, infringing copies, or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any products that are not genuine PADDLE PALS Products or are not authorized by Plaintiff;
- b. passing off, inducing, or enabling others to sell or pass off any products as genuine PADDLE PALS Products or any other products produced by Plaintiff that are not Plaintiff's or not produced under the authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale;
- c. committing any acts calculated to cause consumers to believe that Defendants' infringing PADDLE PALS Products are those sold under the authorization, control, or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
- d. further infringing the PADDLE PALS Patented Design and damaging Plaintiff's goodwill;
- e. shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any Patented Design of Plaintiff, including the PADDLE

PALS Patented Design, or any reproductions, infringing copies, or colorable imitations thereof;

- f. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, the Defendant Domain Names, or any other domain name or online marketplace account that is being used to sell or is the means by which Defendants could continue to sell infringing PADDLE PALS Products; and
- g. operating and/or hosting websites at the Defendant Domain Names and any other domain names registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product including the PADDLE PALS Patented Design or any reproduction, infringing copy or colorable imitation thereof that is not a genuine PADDLE PALS Product or is not authorized by Plaintiff.

2) That Defendants, within fourteen (14) days after service of judgment with notice of entry thereof upon them, be required to file with the Court and serve upon Plaintiff a written report under oath setting forth in detail the manner and form in which Defendants have complied with paragraph 1, a through g, above;

3) Entry of an Order that, at Plaintiff's choosing, the registrant of the Defendant Domain Names registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry shall disable the Defendant Domain Names and make them inactive and untransferable;

4) Entry of an Order that, upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including any online marketplaces such as iOffer and eBay, Wish, Amazon, Alipay, Alibaba, Walmart and Joom social media platforms, Facebook,

YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Domain Names, and domain name registrars, shall:

- a. disable and cease providing services for any accounts through which Defendants engage in the sale of infringing PADDLE PALS Products including the PADDLE PALS Patented Design, including any accounts associated with the Defendants listed in Schedule A;
- b. disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of infringing PADDLE PALS Products including the PADDLE PALS Patented Design; and
- c. take all steps necessary to prevent links to the Defendant Domain Names identified in Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Domain Names from any search index.

5) That the amount of damages awarded to Plaintiff to compensate Plaintiff for infringement of the PADDLE PALS Patented Design be increased by three times the amount thereof, as provided by 35 U.S.C. § 284;

6) In the alternative, that Plaintiff be awarded all profits realized by Defendants from Defendants' infringement of the PADDLE PALS Design Patent pursuant to 35 U.S.C. § 289;

7) That Plaintiff be awarded its reasonable attorneys' fees and costs; and

8) Award any and all other relief that this Court deems just and proper.

Respectfully submitted,

Dated: December 12, 2022

By: s/Michael A. Hierl
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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the foregoing Complaint was filed electronically with the Clerk of the Court and served on all counsel of record and interested parties via the CM/ECF system on December 12, 2022.

s/Michael A. Hierl