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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

LASHIFY, INC., a Delaware corporation,

Plaintiff,

v.

PRO LASH, INC., a Utah corporation; and
BELLA LASH EXTENSIONS LLC d/b/a Pro
Lash, a Utah company; ZACHARY
CHIPMAN; HALEY CHIPMAN,

Defendants.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Case No. 2:24-cv-00016

Plaintiff Lashify, Inc. (“Lashify”) hereby files this Complaint against Defendants Pro Lash, Inc., Bella Lash Extensions LLC d/b/a Pro Lash (“Bella Lash”), Zachary Chipman, and Haley Chipman (together “Defendants”), and alleges as follows:

NATURE OF THE ACTION

1. This is an action to stop Defendants’ comprehensive copying of the brand and business that Lashify has built around its revolutionary, award-winning DIY luxury lash extension

system. Lashify seeks to stop Defendants from unlawfully making, using, selling, offering for sale, marketing, importing, and distributing knock-off application devices for DIY artificial eyelash extensions that infringe Lashify’s intellectual property and from engaging in willful infringement of Lashify’s distinctive trade dress and unfair competition.

2. Lashify was founded by Ms. Sahara Lotti, the inventor of numerous patents and products, including the Lashify system: a pioneering, award-winning DIY luxury lash extension system that creates salon quality lash extensions in record time and in the comfort of one’s home. With Ms. Lotti at the helm, Lashify created and then transformed the DIY lash extension market and industry, developing an extensive array of innovative, safe luxury products to use with the Lashify system. The Lashify system includes Lashify’s Gossamer[®] lashes, adhesives (or “bonds”) and sealers, and, key to this action, an array of innovative, patented Wand applicator tools. Lashify also developed and offers lash preparation and removal solutions, travel and storage accessories, and beloved Lashify-branded merchandise and accessories.

3. Lashify’s patented Wands are a central component of the Lashify system. Ms. Lotti first invented the patented Fuse Control[®] Wand, an applicator employing innovative horizontal clamp technology in an elegant and pleasing fluid design for optimal aesthetic and ergonomic



impact. The Fuse Control[®] Wand lit the path for its trailblazing, travel-sized counterpart: the patented Birdie Wand[®].

4. Defendants, with a background in professional salon lash extension products, saw opportunity in the DIY at-home lash extension market that Lashify had created and took a shortcut to seize it: they built the Pro Lash business by closely watching Lashify grow, studying and monitoring its intellectual property portfolio and success in the market, purchasing its products, and then copying and profiting off its patented lash extension system business, including its innovative Wand applicator tools and distinctive trade dress. Defendants have intentionally copied the innovations and intellectual property of Lashify to profit from the tireless work and ingenuity of Ms. Lotti. Despite Lashify's requests that Defendants cease and desist their unlawful conduct, Defendants have continued their proliferation of copycat products, including two infringing application devices, designed to reap the benefits of Lashify's intellectual property, goodwill, know-how, and ingenuity.

5. Defendants' application device products infringe Lashify's patents, including U.S. Patent Nos. 11,278,102 ("the '102 patent"; attached as **Exhibit A**), and D995,914 ("the '914 patent"; attached as **Exhibit B**) (collectively, the "Patents-in-Suit"). The infringing products include, without limitation, Pro Lash's "Mini Pro Curve Tweezer" product, sold as part of the Mini Kit, and a new full-size, white tweezer applicator product, which, on information and belief, Pro Lash provides to its paid affiliates and/or influencer partners and intends to sell and/or offer to sell to customers (the "Accused Products").



See, e.g., <https://prolash.com/products/mini-kit>. While Lashify has been forced to combat many infringers of the Lashify system, Defendants have gone further in their comprehensive misappropriation and infringement of Lashify's pioneering Wand patents.

6. As further detailed below, Defendants have also willfully infringed Lashify's distinctive trade dress in its product packaging, designing the infringing product packaging to look and feel like Lashify's products. Examples of Pro Lash's infringing trade dress are below.



7. Defendants’ close study and mimicry of Lashify has been comprehensive, copying everything from the look and feel of the Lashify website down to specific, creative Lashify advertising campaigns and marketing slogans. In designing its business and products to copy Lashify, Defendants have infringed the Patents-in-Suit and engaged in both federal and common law trade dress infringement and unfair competition, all of which has caused and is continuing to cause Lashify substantial irreparable harm and damage. Given Defendants’ refusal to stop their infringement, despite a cease-and-desist notice by Lashify, Lashify has no choice but to file this action to protect its innovations and to enjoin Defendants’ ongoing unlawful conduct.

THE PARTIES

8. Plaintiff Lashify, Inc. is a corporation organized under the laws of Delaware, having a place of business in North Hollywood, California.

9. Lashify believes and therefore alleges that Defendant Pro Lash, Inc. is a company organized and existing under the laws of Utah, having a place of business at 374 E 1750 N Unit A, Vineyard, Utah 84059.

10. Lashify believes and therefore alleges that Defendant Bella Lash Extensions LLC d/b/a Pro Lash is a company organized and existing under the laws of Utah, having a place of business at 374 E 1750 N Unit A, Vineyard, Utah 84059—the same business address as Defendant Pro Lash.

11. Lashify believes and therefore alleges that Defendants Zachary Chipman and Haley Chipman (the “Chipmans”) reside in Highland, in Utah county, Utah.

JURISDICTION AND VENUE

12. This action arises under the patent laws of the United States, Title 35, United States Code; the Lanham Act, Title 15, United States Code § 1051 *et seq.*; and the laws of the State of Utah. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) and supplemental jurisdiction over Lashify’s claims arising under the laws of the State of Utah, which form part of the same case or controversy, pursuant to 28 U.S.C. § 1367.

13. This Court has personal jurisdiction over Defendants. Lashify believes and therefore alleges that Defendants are companies organized and existing under the laws of Utah, having a shared place of business in this judicial district, as well as two individuals who reside in Utah county, Utah. This Court also has personal jurisdiction over Defendants because Defendants have committed, aided, abetted, contributed to, and/or participated in the commission of the acts alleged in this Complaint in this judicial district that led to foreseeable harm and injury to Lashify. Defendants sell and offer to sell their infringing products to the public directly through their interactive website <https://prolash.com/>, which is accessible throughout the United States,

including in this district. Defendants have also purposefully availed themselves of the privileges and benefits of the laws of Utah and this judicial district in selling their infringing products.

14. Venue is proper in this district against Defendants pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(b) because Defendants have committed the acts alleged in this Complaint in this judicial district. Venue is also proper under 28 U.S.C. § 1391(b)(1) and 1391(c)(2) because Defendants Bella Lash and Pro Lash maintain their principal place of business in this district and Defendants Zachary Chipman and Haley Chipman reside in this district, and Defendants have infringed the Patents-in-Suit in this District.

LASHIFY’S INNOVATIVE LASH EXTENSION SYSTEM AND WANDS

15. Lashify is a start-up founded by Ms. Lotti, who invented the most natural-looking DIY lash extension system in the industry. The Lashify system is a revolutionary award-winning DIY luxury lash extension system that creates salon quality lash extensions in record time and in the comfort of one’s home. The system is easy to use, and, unlike salon extensions, is damage-free to natural lashes; it creates infinite possibilities for all eye shapes in minutes. As a result, the Lashify system has been recognized, used, and touted by Oscar-winning celebrities, world-renowned beauticians, popular magazines, online publications, and its many users and customers.

16. When Ms. Lotti invented the Lashify system in 2016, there was nothing like it in the artificial lash marketplace at that time. In existence, for example, were individual lash extensions done at a salon—attached in a time-consuming process one at a time to each single lash with glue. Individual lash extensions require a time-consuming, costly process that needs to be repeated at the salon every few weeks to maintain the desired results and, due to their ingredients, can be damaging to the wearer’s lashes. Also in existence before the Lashify system were strip lash extensions: a single band of lashes the length of a natural eye designed to be applied with a

removable adhesive over a natural top lash line. But strip lashes weigh heavily on the natural lashes, appear “faux,” and are not comfortable to be worn for long periods of time. Another option was single cluster lash extensions: solitary units of closely grouped individual lashes designed to be applied with a hard glue. But this design makes them similarly heavy to the eyes, difficult to apply, time consuming, and damaging if worn for extended periods or when sleeping.

17. Against this backdrop, the Lashify system was born in a true example of the “American Dream.” Ms. Lotti, a frequent wearer of salon lash extensions, was frustrated by the lack of options and recognized the need for innovation in the lash industry. She set out to design a product that would meet her high standards. Ms. Lotti, herself a relentless innovator, put aside her career in the entertainment industry at the time to fully devote herself to a new enterprise and passion: changing the lash game. She created a lash lab in her living room. She immersed herself in extensive studies of the human eyelid, the shape of lash lines, and various chemical compositions. She tested various prototypes and potential new product options on her own eyelashes. After working tirelessly toward her goal, Ms. Lotti had created the Gossamer[®] lash: the lightest, flattest, and most natural-looking artificial lash extension that, when applied using Lashify’s Wand tools, merges with natural lashes like a coat of mascara—all without the skill of a professional lash artist or the time-consuming and damaging process offered by salons or inferior at-home options.

18. Ms. Lotti thus invented the four components of the Lashify system in Lashify’s Control Kit[®]: (1) the Gossamer[®] lashes in sterile lash cartridges, (2) the Fuse Control[®] Wand for applying the lashes, (3) the Whisper Light[™] flexible bond, and (4) the Glass lash extender that seals the lashes in the event of tackiness following application.

19. The Lashify Control Kit[®] comes with each of the four components of the Lashify system. It includes two sets of Gossamer[®] lashes set in Lashify's innovative cartridge, a patented wand for fusing the lashes underneath the natural lash line, a bond, a sealer, and a luxury case featuring a mirror for application, shown below.

20. Gossamer[®] lashes are comprised of synthetic fibers, such as polybutylene terephthalate ("PBT")—the best quality synthetic silk in the world sourced from Korea—to which heat has been applied, resulting in delicate artificial lash sections, which upon application seamlessly blend with the natural lashes. The Gossamer[®] lashes are designed to fit underneath the natural lashes, including because of their thin band and lightweight structure. They come in a variety of lengths, fluffiness, curvatures, and colors, and thus can be applied in virtually unlimited positions and arrangements.

21. The Fuse Control[®] Wand is used to apply the Gossamer[®] lashes underneath the natural lashes. It has a pleasing fluid design and comes in a variety of colors. It is used to fuse the Gossamer[®] lashes to the natural lash line for a stable and proper placement for up to 10 days.



Ms. Lotti spent extensive time, resources, and creative energy in her design of the Fuse Control[®] Wand. She envisioned a fluid design featuring elegant curves that evoked the curvature of a person's body, delivering not just any groundbreaking tool, but a beautiful one that brings joy and luxury to its users.

22. Recently, in February 2023, building on the success of its much loved, patented Fuse Control[®] Wand, Lashify introduced the patented Birdie Wand[™]: a travel-sized counterpart

to the Fuse Control[®] Wand featuring Lashify's patented applicator technology in a smaller, unique flowing design, for Gossamer[®] wearers who are on the go or otherwise prefer a smaller application tool. Ms. Lotti and Lashify went through a similarly arduous creative process to perfect the Birdie Wand[™], expending extensive time, resources, and energy to perfect its aesthetic impact while ensuring customers would find it enjoyable, luxe, and easy to use.



23. The Whisper Light[™] Dual-Sided bond is a flexible, hypoallergenic adhesive designed exclusively to hold Gossamer[®] lashes. Its Biotin and Micro-flex technology create a flexible and nourishing cushion underneath the lash line, protecting the roots and ensuring damage-free wear. Similarly, Lashify's popular Bondage[®] Extra Strength Bond provides an even stronger hold for multiple-day wear, while at the same time nourishing the lashes and remaining flexible and extremely comfortable.

24. Ms. Lotti also invented a new method of applying the new Gossamer[®] lashes underneath the natural upper eyelash using the Lashify system. This technique would have caused significant discomfort, an unnatural appearance, and risk of harm to the wearer's eyes before Ms. Lotti introduced the innovative components of the Lashify system.

25. Today, because of Ms. Lotti's hard work and ingenuity, Lashify is recognized as a market leader in the design of revolutionary DIY lash extension products. Artists and influential figures use the Lashify system. The Lashify system has "walked" the red carpets at the Golden Globes, Grammys, Emmys, Met Gala, and other globally followed events. It has been used by influential makeup artists. It has been featured in publications such as In-Style, Elle, Glamour,

Vogue, Allure, The Knot, Shape, and many others. And it has received numerous industry awards, including: 2022 InStyle Beauty Editors' Pick; 2021-2022 The Beauty Authority NewBeauty Award Winner; 2021 Cosmopolitan Holy Grail Beauty Award; 2019 Glamour Beauty Award Winner; The Knot Beauty Awards 2019 Winner; and 2019 Shape Editor Pick. Thus, unsurprisingly, customers of the Lashify system call it a game changer. To date, the Lashify system has been used by hundreds of thousands of customers, enjoying over 1 million followers on Instagram.

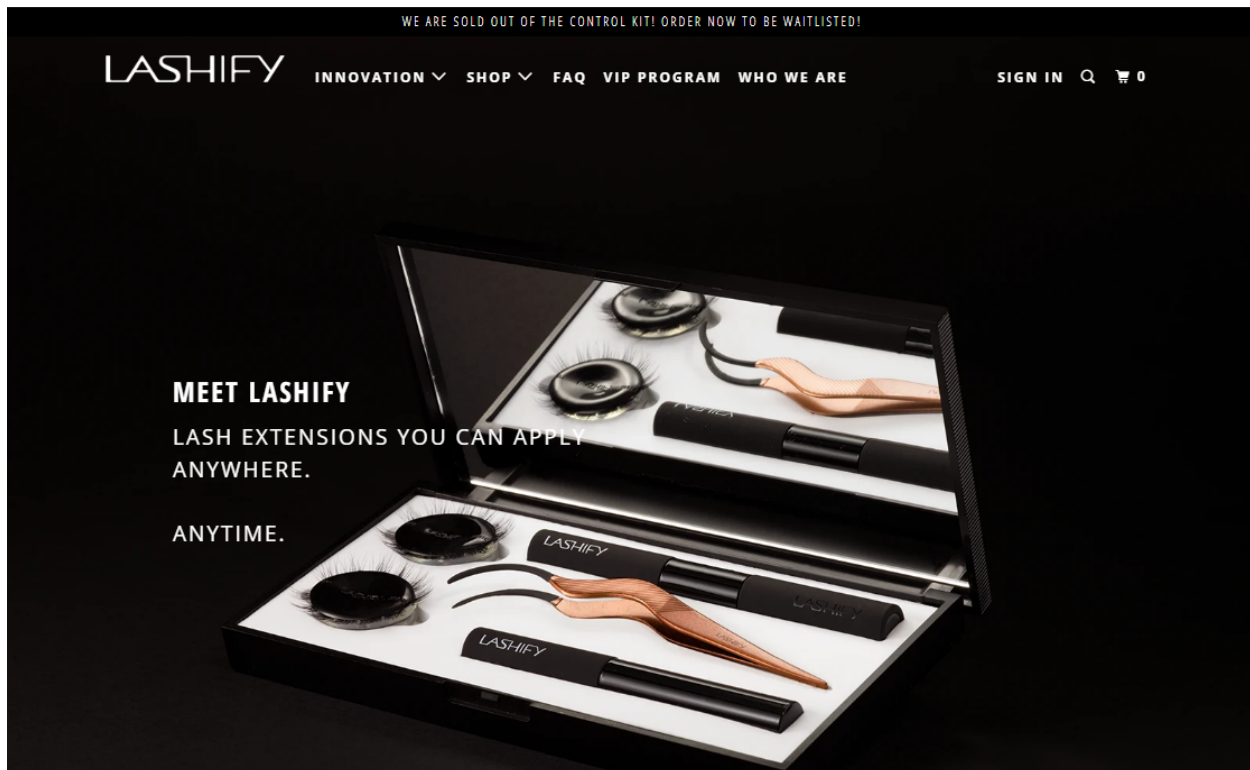
26. A testament to its innovation and the strength of its brand is Lashify's extensive worldwide intellectual property portfolio, including United States and foreign patents, federally registered trademarks, distinctive trade dress, and many pending patent and trademark applications.

27. Lashify has spent considerable time and expense on the creation, development, promotion, and enforcement of its innovative products and its intellectual property rights.

LASHIFY'S BRANDING, WEBSITE, AND DISTINCTIVE TRADE DRESS

28. Lashify has also expended significant time and resources to develop the unique and distinctive look and feel of its brand, showcasing that aesthetic on its website, social media, and in its distinctive trade dress in its product packaging.

29. Lashify launched its website in late 2017, www.lashify.com (the Lashify Website). From the outset, Lashify's aesthetic, as shown on the Lashify Website, was distinct and consistent: a sleek and dramatic black-and-white interface, splashed with images of Lashify products. Primarily black backgrounds display white text in minimalist, capitalized sans serif fonts.



Lashify Website in January 2018¹

As Lashify continued to build out its business and the Lashify Website, it added elements beyond the pages dedicated to selling the Lashify products, including: an “About” page telling the story of Ms. Lotti’s inspiration, invention, and launch of the revolutionary Lashify system; a robust “How To” page showing wearers how to apply their Gossamer® lashes using the Lashify system; and a “Patents” listing the patents in Lashify’s extensive worldwide intellectual property portfolio.

30. Lashify’s aesthetic, as displayed on the Lashify Website, has been consistent and distinct since the company’s inception. Ms. Lotti envisioned a brand built on black packaging with minimalist white, capitalized stylized fonts; a bold, sophisticated and chic look that would evoke high fashion and stand out in comparison to products in the cosmetic space emphasizing, for example and without limitation, pink hues and cursive fonts. This vision is showcased in the

¹ <https://web.archive.org/web/20180119053338/https://lashify.com/>, last accessed January 4, 2024.

Lashify Website and in the configuration and packaging of Lashify’s products, examples of which are shown below.



31. Lashify’s product packaging—including without limitation for its Gossamer® lashes, lash cleansers and removers, adhesives and sealers, and merchandise and other accessories—combines various unique and distinctive elements, including without limitation: (1) a minimalist design with little text appearing in capitalized white sans serif font; (3) an all-black background produced in a sophisticated matte, suede-like “soft-touch” finish; and (4) prominent display of the stylized LASHIFY® logo, in white, capitalized font against a black background (the “Lashify Trade Dress”).

32. Lashify's products bearing the Lashify Trade Dress have been manufactured, distributed, and sold in interstate commerce in their original and distinctive packaging since at least November 2017, including but not limited to as follows:

- a. The Control Kit[®] – since at least November 2017;
- b. Gossamer[®] lashes – since at least November 2017;
- c. Whisper Light[™] Dual-Sided bond – since at least November 2017;
- d. Glass Finishing Coat – since at least November 2017;
- e. Beauty Clutch – since at least January 2020;
- f. Fluffer brush tool – since at least March 2018;
- g. Blow tool – since at least March 2018;
- h. Night Bond[®] Sealer – since at least July 2018;
- i. Melt Away Remover – since at least July 2018;
- j. Pre-Cleanse Cleansing Water – since at least September 2018;
- k. Gossamer Storage Case – since at least September 2018;
- l. Bondage[®] Extra Strength Bond with Charcoflex[®] – since at least September 2019;
- m. Release Lash Remover – since at least December 2020;
- n. Lashicurl – since at least October 2020;
- o. Control Wax Sealer – since at least August 2020;

33. Thus, since at least November 2017, Lashify continuously has marketed and sold its products under the Lashify Trade Dress. Lashify sells its products under the Lashify Trade Dress in multiple sales channels, including the Lashify Website and Amazon.

34. Lashify's products sold under the Lashify Trade Dress are presented in original and distinctive packaging that communicates to consumers that they are unique and different from other lash and beauty products.

35. The Lashify Trade Dress is thus distinctive, inherently and/or by having acquired distinctiveness, and is not functional.

36. Lashify has devoted enormous resources to marketing, advertising, and promotion of its products sold under the Lashify Trade Dress. Lashify's investment has resulted in its products under the Lashify Trade Dress enjoying successful sales across the United States (and beyond).

37. As a result of Lashify's long and continuous use of the Lashify Trade Dress in connection with its products, and as a consequence of Lashify's extensive advertising, promotion, distribution, and sales of its products under the Lashify Trade Dress, the consuming public has come to recognize the Lashify Trade Dress as used by Lashify and to associate and identify the goods and services offered and sold under the Lashify Trade Dress exclusively with Lashify. Lashify consequently derives invaluable goodwill from this recognition, association, and identification by the consuming public and those in the trade.

DEFENDANTS' STUDYING OF LASHIFY

38. Unsurprisingly, albeit unfortunately, Lashify's innovative system and application method has attracted not just a loyal customer base, but also copycats seeking to profit from the fruits of Ms. Lotti's hard work and dedication. Among these copycats are Defendants—the Chipmans, Bella Lash, and Pro Lash—who blatantly copied Lashify from top to bottom, including Lashify's patented Wands and distinctive trade dress, claiming Lashify's innovation to be their own.

39. Defendants launched their Accused Products and infringing product packaging several years after Lashify first offered its system to the public. Lashify believes and therefore alleges that the Chipmans, who own and operate Defendants Bella Lash and Pro Lash, had watched Lashify's success in the DIY lash extension market—a market that Lashify created—and set out to take that success for themselves. Together, Defendants built the entire Pro Lash business by infringing Lashify's intellectual property and copying Lashify at every turn. Lashify believes and therefore alleges that Defendants willfully copied Lashify's technology and the Lashify Trade Dress without license, permission, or authorization to create their knock-off products.

40. Before founding Pro Lash, Lashify believes and therefore alleges that the Chipmans had no experience in the DIY lash extension market. Instead, they worked in the professional (salon) lash extension industry—where lash extensions are attached by salon professionals in a time-consuming process one at a time to each single lash with glue. Lashify believes and therefore alleges that since approximately 2011, the Chipmans have owned and operated Defendant Bella Lash, selling products to professionals for use in providing in-salon lash extension services. Lashify believes and therefore alleges that Ms. Chipman is or was herself a provider of in-salon lash extension services.

41. Lashify believes and therefore alleges that, upon learning of Lashify's success, the Chipmans decided to study and duplicate Lashify's business and use their personal resources and those of their existing business, Defendant Bella Lash, to launch a copycat DIY lash extension business.

42. Lashify believes and therefore alleges that, at least as early as March 2021, Defendant Zachary Chipman began purchasing several Lashify products so that Defendants could study and copy them.

43. First, in March 2021, before Defendant Pro Lash existed, Mr. Chipman purchased the Lashify Control Kit[®], thereby obtaining two sets of Gossamer[®] lashes, a Lashify's Fuse Control[®] Wand, as well as one each of Lashify's Whisper Light[™] flexible bond and Glass sealant bearing the Lashify Trade Dress. With that order, Mr. Chipman also received samples of Lashify's Melt Away and Pre-Cleanse products.

44. Next, in November 2021, before Defendant Pro Lash existed, Mr. Chipman made another Lashify order. This time, he purchased Release Lash Remover, as well as "The Perfect Start and Finish Set"—a set containing Lashify's Pre-Cleanse lash preparation product, Melt Away remover product, Black Magic Cleansing Puff, and Lashify's signature black neoprene beauty clutch bearing the LASHIFY[®] logo. Each of these products are sold under the Lashify Trade Dress.

45. In January 2022, before Defendant Pro Lash existed, Mr. Chipman again made another Lashify order. This time, Mr. Chipman purchased another Release Lash Remover, another Melt Away, and "The Tool Set"—a set containing Lashify's Fluffer tool (used to fluff the Gossamers[®] once applied), Blow tool (a lash drying tool), lash comb, Gossamer[®] storage case, and terry cloth headband, again included in Lashify's signature black neoprene beauty clutch. Each of these products are sold under the Lashify Trade Dress.

46. In March 2022, before Defendant Pro Lash existed, Mr. Chipman made yet another Lashify order. This time he purchased another Tool Set and "The Level 2 Set"—a set containing a wide variety of application products and tools like Bondage, Night Bond, Control Wax, as well as the Lashicurl heated lash curling device, precision lash comb, and wandoms (silicone applicator tip protectors for tack-free application and use), all in the signature neoprene beauty clutch. These products are also sold under the Lashify Trade Dress.

47. Other Bella Lash employees also made Lashify purchases. From August 2021 into early 2022, leading up to Pro Lash’s social media and website launch (but still before Defendant Pro Lash existed), Bella Lash’s Engineering Team Lead for Bella Lash and VP of Operations and People Development likewise purchased Lashify products, including products sold under the Lashify Trade Dress.

**DEFENDANTS’ LAUNCH OF THE INFRINGING PRO LASH BUSINESS AND
INFRINGEMENT OF LASHIFY’S INTELLECTUAL PROPERTY**

48. Lashify believes and therefore alleges that, after making the first Lashify purchase in March 2021 and studying Lashify’s products and technology for nearly a year, Defendants publicly launched what they called Pro Lash in or around early 2022 (before Defendant Pro Lash existed).

49. Lashify believes and therefore alleges that, in or around January 2022, Defendants opened an Instagram account using the handle @pro_lash_official. On or around January 5, 2022, Defendants posted a series of 3 images to the Instagram account that together spelled out “Pro Lash,” each bearing the caption “Coming 2022! #lashesjustgotreal”.

50. Lashify believes and therefore alleges that Defendants also launched the Pro Lash website, www.prolash.com, in or around March 2022.

51. From the outset, Defendants built the Pro Lash business by painting its founders, the Chipmans, as pioneering inventors who created Pro Lash’s products by virtue of their own creativity and vision—an audacious narrative that not only masks Defendants’ infringing products as “innovative” but coopts and free rides on the story of the true innovator and inventor of the DIY lash extension system: Lashify and Ms. Lotti.

52. For example, the earliest iteration of the Pro Lash website featured an “about us” page that perpetuates the false narrative of Pro Lash’s innovation. *See*

<https://web.archive.org/web/20230129001302/https://prolash.com/pages/about-us;>
[https://prolash.com/pages/about-us.](https://prolash.com/pages/about-us)

53. The “about us” page describes Ms. Chipman as “a kind, driven, and brilliant entrepreneur with a knack for lashes.” It states that Mr. Chipman, “as an engineer . . . is able to build the products of Haley’s dreams.” The page suggests that, “[t]ogether this couple has transformed and innovated the Professional lash industry for over a decade” and now “their focus is set on making professional lashes available to every woman so they too can experience that first first [*sic*] look feeling.” Mr. Chipman is quoted as explaining that the Chipmans “are innovators at heart, constantly collaborating with engineers, manufacturers and creative minds to push the limits of our industry and create never-before-seen products. With Pro Lash, I think we just changed the game.”

54. In reality, Lashify believes and therefore alleges that Defendants built Pro Lash not through their own innovation, but by studying and misappropriating Lashify’s intellectual property, goodwill, know-how, and ingenuity.

55. Lashify believes and therefore alleges that the Chipmans, Defendant Bella Lash and Defendant Pro Lash all manufacture, sell, market, and/or distribute the Accused Products. Lashify believes and therefore alleges that Defendant Pro Lash did not exist until it was incorporated in or around August 2022, months after launch of the Pro Lash business, and that prior to its existence, the Chipmans and Defendant Bella Lash manufactured, sold, marketed, and/or distributed the Accused Products.

56. Lashify believes and therefore alleges that, prior to and/or concurrent with Defendant Pro Lash’s existence, the Accused Products were distributed by Defendant Bella Lash

at the direction of the Chipmans, as provided on product packaging for the Accused Products, and/or by the Chipmans in their individual capacities.

57. Lashify believes and therefore alleges that, prior to and/or concurrent with Defendant Pro Lash's existence, the Chipmans personally acted to develop, manufacture, market, sell and/or distribute the Accused Products and infringing product packaging, including because the Pro Lash business launched before Defendant Pro Lash existed. Accordingly, Lashify believes and therefore alleges that Defendants have collectively worked together and acted as a joint enterprise with respect to the infringing conduct alleged herein.

58. Just as Lashify offers the Control Kit with a set of lashes, applicator, bond, and sealer, Defendants designed the Pro Lash Starter Kit including Gossamer[®]-like lash extensions, an applicator, and bond.

59. Indeed, Lashify believes and therefore alleges that the similarity of the products was Defendants' intent. Defendants set as their goal to copy Lashify's products and design, unlawfully taking advantage of Lashify's innovation in the industry.

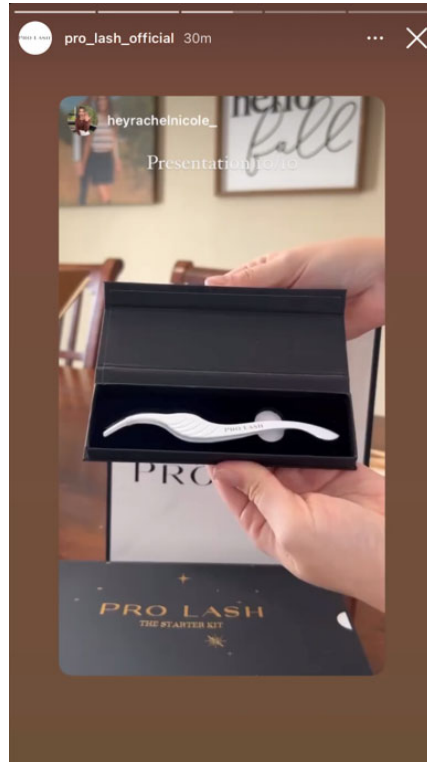
60. For example, Lashify believes and therefore alleges that each of the Defendants knew about Lashify for years, purchasing and studying Lashify's products before starting to sell their own Accused Products that are strikingly similar to Lashify's innovative and patented products.

61. There can hardly be a clearer example of Defendants' intentional copying of Lashify than the Accused Applicator it calls the Pro Lash Mini Pro Curve Tweezers. Lashify believes and therefore alleges that, just a few short months after Lashify debuted its patented Birdie Wand[™], Defendants introduced this Accused applicator, a blatant copycat product (sold as part of Defendants' Pro Lash Mini Kit).



The Mini Pro Curve Tweezer Accused Applicator mimics the distinctive, flowing curvature of, and is substantially the same as, the Birdie Wand™ it copies.

62. Lashify believes and therefore alleges that, in addition to its Mini Pro Curve Tweezers product, Defendants are also making, using, and distributing, and are offering to sell, and selling or intending to offer to sell within the United States and/or importing into the United States a new full-sized, white applicator product, that infringes Lashify's patents.



For instance, this infringing product has appeared in social media posts, including Instagram stories and/or reels, of influencers and/or affiliates who are partners (*i.e.*, agents) of Pro Lash, and have in turn been re-posted by Pro Lash's official Instagram account. Lashify believes and therefore alleges that Pro Lash is thus already offering this product in commerce through discrete channels and intends to introduce it for sale on the market to the public.

63. Defendants sell their infringing Accused Products not only through the Pro Lash website, but also through other sales channels including without limitation Amazon.

DEFENDANTS' COPYING OF LASHIFY'S AESTHETIC AND TRADE DRESS

64. As further confirmation that the similarities between Defendants' new products and Lashify's earlier products are no mistake, Defendants also adopted the look and feel of the Lashify logo, the Lashify Website and the Lashify Trade Dress.

65. As an initial matter, Defendants' have stylized the PRO LASH logo to mimic the appearance of Lashify's registered LASHIFY logo. While the companies bear different names, Lashify believes and therefore alleges that their striking similarity of appearance is no accident, as Defendants' employees and agents had repeatedly visited the Lashify Website and purchased Lashify products bearing the LASHIFY logo long before launching the Pro Lash website or selling a single Pro Lash product.

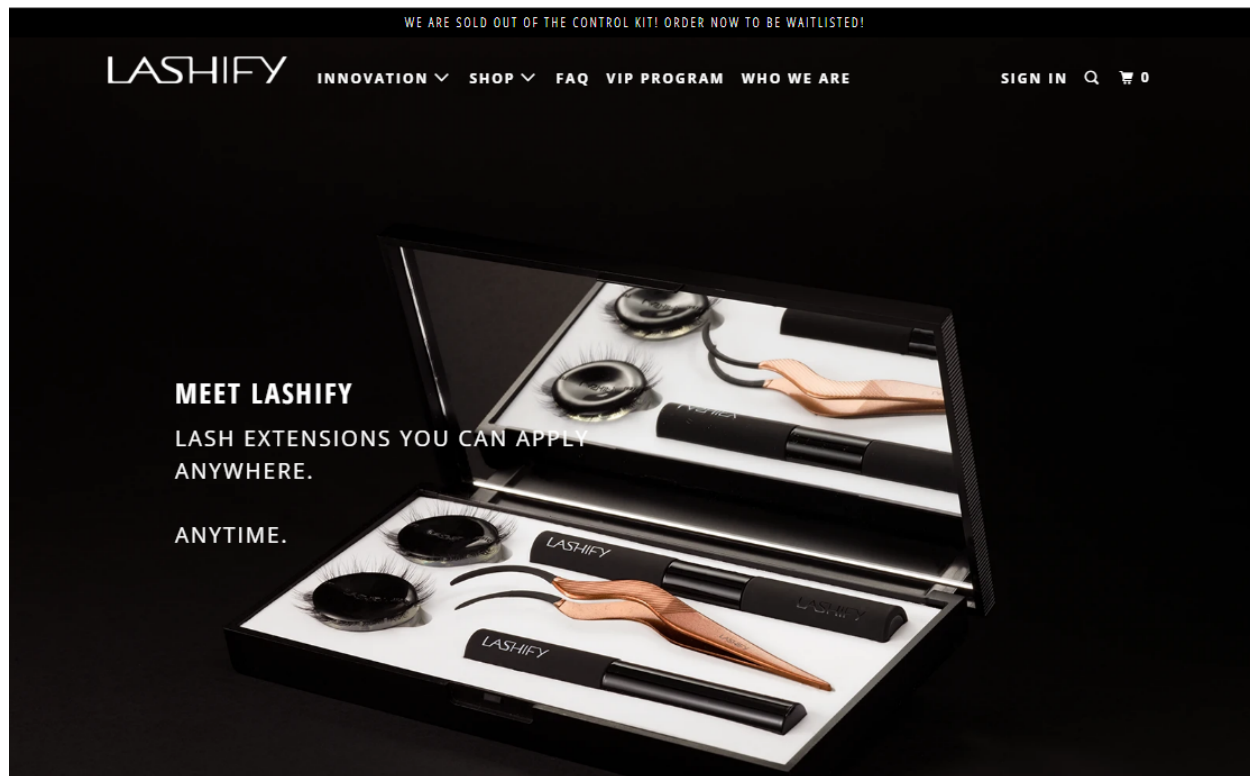


The Stylized LASHIFY Logo

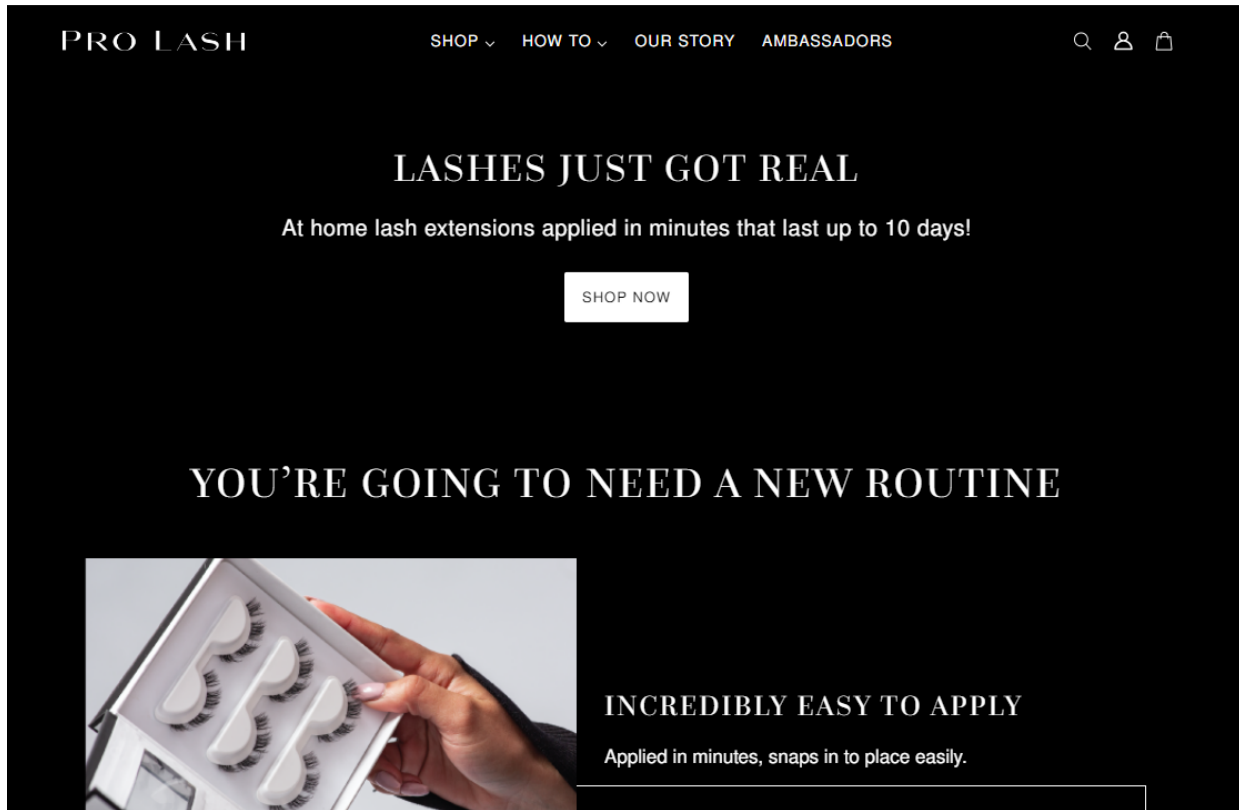


Copycat Pro Lash Logo

66. Upon its launch, Defendants' Pro Lash website likewise mimicked the Lashify Website's black-and-white interface splashed with product images, logo display, website headings, and clean design of website banners and drop-down menus.



The Lashify Website – 2018



Pro Lash Website – March 2022

67. Likewise, Defendants adopted the Lashify Trade Dress and continue to use it in connection with the product configurations for their own products, including without limitation the packaging for the Pro Lash Pro Lock Adhesive, Lash Remover, Adhesive Remover, Erase Remover, Foaming Prep Cleanser, Lash Cleanser, tweezers, and mini scissors (the Unlawful Packaging), which each bear a striking similarity to the packaging for Lashify’s many adhesive, sealer, and remover products, tools, and accessories sold under the Lashify Trade Dress.

68. For example, Pro Lash markets and offers a neoprene black bag that is virtually identical to Lashify’s signature beauty clutch—the very clutch Mr. Chipman repeatedly purchased months before Defendants launched the Pro Lash business or began offering their infringing version.



69. Defendants market and sell several other products that blatantly copy the Lashify Trade Dress. Examples of Defendants' infringing products bearing the Unlawful Packaging are shown below.



70. Defendants' copying of Lashify has been so thorough and complete that they have even coopted specific marketing strategies and slogans in an effort to free ride on Lashify's

success, further compounding the likelihood of confusion created by their infringement of the Lashify Trade Dress. For example, Lashify believes and therefore alleges that Defendants coopted one of Lashify's distinctive marketing slogans, "Be Your Own Lash Tech", see, e.g., <https://www.instagram.com/p/BwsZXsEHQVB/>, making a minimal update to use the slogan "Be your own Lash Pro" in their own marketing and website. See, e.g., <https://prolash.com/pages/about-us>. Lashify believes and therefore alleges that Defendants similarly coopted other marketing slogans, including "Mascara is Dead" and "Can your mascara do this?," merely swapping the word "lashes" for "mascara" in the latter. Lashify believes and therefore alleges that Defendants took Lashify's "Lockdown Method" technique for lash application and bonding, see e.g. <https://www.facebook.com/watch/?v=1793627264123434>, to use it for their own purposes in naming their adhesive application and supposed technique "Pro Lock." See, e.g., <https://prolash.com/collections/adhesive/products/prolock%E2%84%A2-adhesive-4ml>.

71. Indeed, Lashify believes and therefore alleges that Defendants' intent to emulate the overall impression and appearance of the Lashify Trade Dress (and Lashify's overall business) is evident in Defendants' efforts to interfere with Lashify's contracts with its suppliers and leverage those suppliers to create its own knock-off products.

72. For example, Lashify believes and therefore alleges that Defendants have attempted to affiliate themselves with, and divert business from, Lashify by ordering products through Lashify's exclusive supplier, Interwork Korea Co., Ltd. ("Interwork"), that mimic the Lashify Trade Dress, interfering with Lashify's exclusive supplier agreement with Interwork.

73. Lashify believes and therefore alleges that Defendant Bella Lash, on behalf of Defendants, made multiple orders from Interwork of a product called "Pro Lash Prep Cleanser"

that they market as the Pro Lash “Foam Prep Cleanser” in the Unlawful Packaging that mimics the look and feel of the Lashify Trade Dress, including as to Lashify’s Pre-Cleanse Cleansing Water. Defendants similarly ordered from Interwork and a product called “Pro Lash Lash Cleanser,” which they market under the same name and similarly sell under the Unlawful Packaging.



74. Lashify believes and therefore alleges that Defendant Bella Lash, on behalf of Defendants have also made multiple orders from Interwork of a product called “Pro Lash Adhesive Remover” that they market under the same name bearing the Unlawful Packaging.

75. Defendants’ extensive infringement of Lashify’s intellectual property, including the Lashify Trade Dress and Lashify’s patents, is particularly troubling in view of the fact that as Pro Lash’s co-founders, the Chipmans tout themselves as “innovators at heart.” They claim that they have used “every ounce of [their] engineering and lash expertise” to develop the products— but these products were invented by Lashify’s founder and protected by Lashify’s patents. Lashify

believes and therefore alleges that Defendants have used this false narrative to solicit and secure industry recognition. They market and advertise their receipt of Allure’s “Best of Beauty” award for their lash products, despite having copied Lashify’s products and misappropriating Lashify’s efforts as their own. Defendants have gone so far as to advertise that they have patents relating to their lash products. But it is Lashify, not Defendants, that owns extensive patent rights in the technology that Defendants are exploiting without authorization.

76. Defendants undertook all of their conduct—ultimately plucking the finished products from Lashify after Ms. Lotti had dedicated substantial resources and years of her life to their development—with full knowledge that they were not the rightful inventor or owner of the Accused Products or the Lashify Trade Dress.

DEFENDANTS REFUSE TO CEASE INFRINGEMENT DESPITE THEIR ADMITTED KNOWLEDGE OF LASHIFY’S INTELLECTUAL PROPERTY

77. Defendants are fully aware of their track record of closely following Lashify and have admitted they monitor Lashify’s robust intellectual property portfolio. As one example, at a trade show in July 2023, where Defendants marketed and displayed the Accused Products, Defendant Zachary Chipman told Ms. Lotti that he had spent thousands of dollars looking at Lashify’s patents. But instead of acknowledging Defendants’ infringement, Mr. Chipman dismissed Ms. Lotti and disparaged her.

78. Lashify sent a letter to Defendant Pro Lash on October 6, 2023, identifying Lashify’s intellectual property rights and providing several examples of the ways in which Defendants’ products infringe those rights. Lashify requested that Defendants cease their unlawful conduct. Defendants refused, giving Lashify no choice but to file the instant action.

FIRST CAUSE OF ACTION

(Infringement of United States Patent No. 11,278,102)

79. Lashify incorporates herein by reference its allegations contained in the preceding paragraphs.

80. On March 22, 2022, the '102 patent, entitled "Applicator for Artificial Lash Extensions," was duly and legally issued to Lashify. Lashify is the lawful owner by assignment of all right, title, and interest in the '102 patent, including the rights to exclude others and to sue and recover damages for infringement.

81. A true and correct copy of the '102 patent is attached as **Exhibit A**.

82. Defendants have been placed on actual notice of the '102 patent by a cease-and-desist letter sent from Lashify on October 6, 2023 and, upon information and belief, as a result of Defendants' systematic copying and following of Lashify. Defendants have also been placed on actual notice by the filing of this Complaint. Defendant also has constructive notice of the '102 patent at least by virtue of Lashify's marking of its patented products.

83. Defendants have infringed and continue to infringe at least claim 1 of the '102 patent directly by making, using, offering to sell, and selling within the United States and/or importing into the United States products that, when used as instructed and according to their intended purpose, infringe the '102 patent.

84. The Accused Applicators meet each and every limitation of at least claim 1 of the '102 patent, either literally or under the doctrine of equivalents. For example, the Accused Applicators are applicators comprising a pair of opposing arms that are joined to each other at one end of each arm to form a hinge. As shown below, each arm of each of the Accused Applicators comprises: (1) a first section comprising the end of the arm; (2) a second section positioned

between and connected to the first section of the arm and a third section of the arm; and (3) a third section comprising a first end portion and a second end portion.



Third Section

Second Section

First Section



The third section of each of the Accused Applicators comprises a first end portion and a second end portion and defines a curvature between the first and second end portions, wherein part of the first end portion forms a tip of the applicator. The first section, second section, and third section of each of the Accused Applicators longitudinally extend toward the tip. The curvature of the third section of each of the Accused Applicators is contoured to align substantially flush with the shape of a tightline, and the third sections of the arms of each of the Accused Applicators are designed to grasp hairs of an artificial lash extension responsive to an application of pressure to the arms.

85. Lashify believes and therefore alleges that Defendants are acting and/or have acted as a joint enterprise, and the infringement, conduct, and actions by one alleged herein are directly attributable to another. Lashify believes and therefore alleges that each Defendant also individually committed acts of direct infringement complained of herein in their individual capacities. For example and without limitation, the Chipmans undertook and were primarily responsible for, or otherwise participated in, the development, design, manufacture, marketing, distribution, sale, and offer for sale of the Accused Products. Defendants claim that Mr. Chipman personally developed the manufacturing process for Pro Lash's lash products. Ms. Chipman is found throughout Pro Lash's social media and website teaching use of the Pro Lash products, including using the Accused Products for application. And Defendant Bella Lash is or was, at some point in time, involved in the distribution of Defendants' products, as set forth on certain product packaging. Lashify further believes and therefore alleges that the Chipmans have personally directed, controlled, ratified, participated in, and are the moving force behind, all infringing activity, conduct, and actions alleged herein. Accordingly, all of the Defendants have collectively worked together and acted as a joint enterprise with respect to the infringement, conduct, and actions set forth herein. Alternatively, to the extent individuals Zachary Chipman and/or Haley Chipman did not directly commit any infringing acts complained of herein in their individual capacities, Lashify believes and therefore alleges that Zachary Chipman and/or Haley Chipman nonetheless actively induced and/or contributed to the infringement complained of herein in their individual capacities, such as direct acts of infringement committed by Pro Lash and/or Bella Lashes.

86. As a direct and proximate consequence of Defendants' infringement of the '102 patent, Lashify has suffered irreparable harm, and Lashify will continue to suffer irreparable harm in the future unless Defendants are enjoined from infringing the '102 patent.

87. Defendants have had actual knowledge of the '102 patent and their infringement thereof since at least the date of Lashify's cease-and-desist letter. In addition, Lashify believes and therefore alleges that Defendants knew of Lashify's patented products and the '102 patent, including by analyzing Lashify's products and monitoring Lashify's patent portfolio, and did nothing to stop its blatant use and pirating of Lashify's intellectual property. Accordingly, Defendants' infringement of the '102 patent is willful.

SECOND CAUSE OF ACTION

(Infringement of United States Patent No. D995,914)

88. Lashify incorporates herein by reference its allegations contained in the preceding paragraphs.

89. On August 15, 2023, the '914 patent, titled "Combined Tweezer and Applicator for Artificial Lash Extensions," was duly and legally issued to Lashify. Lashify is the lawful owner by assignment of all right, title, and interest in the '914 patent, including the rights to exclude others and to sue and recover damages for infringement.

90. A true and correct copy of the '914 patent is attached as **Exhibit B**.

91. Defendants have been placed on actual notice of the '914 patent by a cease-and-desist letter sent from Lashify on October 6, 2023 and, upon information and belief, as a result of Defendants' systematic copying and following of Lashify. Defendants have also been placed on actual notice of the '914 patent at least by the filing of this Complaint. Defendant also has constructive notice of the '914 patent at least by virtue of Lashify's marking of its patented products.

92. The '914 patent claims the ornamental design for a combined tweezer and applicator for artificial lash extensions, as shown and described in the patent.

93. Defendants have infringed and continue to infringe at least claim 1 of the '914 patent directly by applying to the Mini Pro Curve Tweezer Accused Applicator the design in the '914 patent and/or a colorable imitation thereof for the purpose of sale and/or selling or exposing for sale the Mini Pro Curve Tweezer Accused Applicator bearing such design or colorable imitation. As shown below, the Mini Pro Curve Tweezer Accused Applicator includes key ornamental features from, and is substantially similar to, the design claimed in the '914 patent.



94. An ordinary observer or purchaser would find the overall design of the '914 patent and the Mini Pro Curve Tweezer Accused Applicator substantially similar and mistakenly purchase the Mini Pro Curve Tweezer Accused Applicator. For example, the Mini Pro Curve Tweezer Accused Applicator has a fluid design that evokes the silhouette of a bird that is substantially similar to the design in the '914 patent and embodied in Lashify's Birdie Wand™.

95. Lashify believes and therefore alleges that Defendants were well aware of the existence of the '914 patent and Birdie Wand™ because, by way of example and without limitation, Defendants introduced the Mini Pro Curve Tweezer Accused Applicator on the market just over three months after Lashify launched the Birdie Wand™.

96. Lashify believes and therefore alleges that Defendants are acting and/or have acted as a joint enterprise, and the infringement, conduct, and actions by one alleged herein are directly attributable to another. Lashify believes and therefore alleges that each Defendant also individually committed acts of direct infringement complained of herein in their individual capacities. For example and without limitation, the Chipmans undertook and were primarily responsible for, or otherwise participated in, the development, design, manufacture, marketing, distribution, sale, and offer for sale of the Accused Products. Defendants claim that Mr. Chipman personally developed the manufacturing process for Pro Lash's lash products. Ms. Chipman is found throughout Pro Lash's social media and website teaching use of the Pro Lash products, including using the Accused Products for application. And Defendant Bella Lash is or was, at some point in time, involved in the distribution of Defendants' products, as set forth on certain product packaging. Lashify further believes and therefore alleges that the Chipmans have personally directed, controlled, ratified, participated in, and are the moving force behind, all infringing activity, conduct, and actions alleged herein. Accordingly, all of the Defendants have collectively worked together and acted as a joint enterprise with respect to the infringement, conduct, and actions set forth herein. Alternatively, to the extent individuals Zachary Chipman and/or Haley Chipman did not directly commit any infringing acts complained of herein in their individual capacities, Lashify believes and therefore alleges that Zachary Chipman and/or Haley Chipman nonetheless actively induced and/or contributed to the infringement complained of herein in their individual capacities, such as direct acts of infringement committed by Pro Lash and/or Bella Lashes.

97. As a direct and proximate consequence of Defendants' infringement of the '914 patent, Lashify has suffered irreparable harm, and Lashify will continue to suffer irreparable harm in the future unless Defendants are enjoined from infringing the '914 patent.

98. Defendants have had actual knowledge of the '914 patent and their infringement thereof since at least the date of Lashify's cease-and-desist letter. In addition, Lashify believes and therefore alleges that Defendants knew of Lashify's patented products and the '914 patent, including by analyzing Lashify's products and monitoring Lashify's patent portfolio, and did nothing to stop its blatant use and pirating of Lashify's intellectual property. Accordingly, Defendants' infringement of the '914 patent is willful.

99. Defendants' infringement of the '914 patent entitles Lashify to damages, including pursuant to 35 U.S.C. §§ 284 and 289.

THIRD CAUSE OF ACTION

(Federal Trade Dress Infringement – 15 U.S.C. § 1125)

100. Lashify incorporates herein by reference its allegations contained in the preceding paragraphs.

101. Lashify has been using the Lashify Trade Dress in commerce in connection with its DIY lash extension system and related products since at least as early as 2017.

102. Lashify has a protectible interest in the Lashify Trade Dress.

103. The Lashify Trade Dress is inherently distinctive.

104. The Lashify Trade Dress has acquired secondary meaning and is nonfunctional.

105. Defendants have unlawfully copied and misappropriated the Lashify Trade Dress by using identical or similar trade dress, the Unlawful Packaging, in commerce in connection with their infringing lash extension products, including without limitation various lash, adhesive, cleanser, accessories, and related products.

106. Defendants' use of their Unlawful Packaging has infringed and continues to infringe the Lashify Trade Dress.

107. Defendants' use of the Unlawful Packaging has caused, is causing, and continues to cause, confusion, mistake, and deception among consumers and the public as to the source, origin, sponsorship, affiliation, nature and/or quality of Defendants' goods, thereby causing loss, damage, and injury to Lashify.

108. Defendants' actions are being committed with the purpose and intent of misappropriating and trading upon, and profiting and otherwise benefitting from, Lashify's goodwill and reputation in the infringed Lashify Trade Dress.

109. Defendants' conduct therefore constitutes trade dress infringement, unfair competition, and false designation of origin, all in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

110. Defendants' violation of Lashify's rights in the Lashify Trade Dress is knowing, deliberate, willful, intended to mislead, and in disregard of Lashify's rights.

111. Lashify believes and therefore alleges that Defendants have acted and/or are acting as a joint enterprise, and the infringement, conduct, and actions by one alleged herein are directly attributable to another. Lashify believes and therefore alleges that each Defendant also individually committed acts of direct infringement complained of herein in their individual capacities. For example and without limitation, the Chipmans undertook and were primarily responsible for, or otherwise participated in, the development, design, manufacture, marketing, distribution, sale, and offer for sale of the Accused Products and products sold under the Unlawful Packaging. Defendants claim that Mr. Chipman personally developed the manufacturing process for Pro Lash's lash products. Ms. Chipman is found throughout Pro Lash's social media and website teaching use of the Pro Lash products, including using the Accused Products for application. And Defendant Bella Lash is or was, at some point in time, involved in the distribution of Defendants'

products, as set forth on certain product packaging. Lashify further believes and therefore alleges that the Chipmans have personally directed, controlled, ratified, participated in, and are the moving force behind, all infringing activity, conduct, and actions alleged herein. Accordingly, all of the Defendants have collectively worked together and acted as a joint enterprise with respect to the infringement, conduct, and actions set forth herein. Alternatively, to the extent individuals Zachary Chipman and/or Haley Chipman did not directly commit any infringing acts complained of herein in their individual capacities, Lashify believes and therefore alleges that Zachary Chipman and/or Haley Chipman nonetheless actively induced and/or contributed to the infringement complained of herein in their individual capacities, such as direct acts of infringement committed by Pro Lash and/or Bella Lashes.

112. Defendants' actions have caused Lashify to sustain monetary losses, and other damages and injury, in an amount to be determined at the time of trial. Lashify is entitled to recover Lashify's actual damages and/or an award of Defendants' profits pursuant to 15 U.S.C. § 1117(a).

113. Defendants' actions have caused, and unless enjoined by this Court will continue to cause, irreparable damage, loss, and injury to Lashify for which Lashify will have no adequate remedy at law. Lashify is therefore entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a).

114. Defendants' actions are wrongful, malicious, fraudulent, deliberate, willful, intentional and/or incredible, which makes this case an exceptional case, entitling Lashify to an award of attorney fees and costs pursuant to 15 U.S.C. § 1117(a).

FOURTH CAUSE OF ACTION

(Common Law Trade Dress Infringement)

115. Lashify incorporates herein by reference its allegations contained in the preceding paragraphs.

116. Lashify owns all rights, title, and interest in and to the Lashify Trade Dress, including all common-law rights.

117. Defendants' conduct is likely to cause confusion, mistake, and deception among consumers, the public and trade as to whether the infringing Pro Lash products bearing the Unlawful Packaging originate from, or are affiliated with, sponsored by, or endorsed by Lashify.

118. Lashify believes and therefore alleges that Defendants are acting and/or have acted as a joint enterprise, and the infringement, conduct, and actions by one alleged herein are directly attributable to another. Lashify believes and therefore alleges that each Defendant also individually committed acts of direct infringement complained of herein in their individual capacities. For example and without limitation, the Chipmans undertook and were primarily responsible for, or otherwise participated in, the development, design, manufacture, marketing, distribution, sale, and offer for sale of the Accused Products and products sold under the Unlawful Packaging. Defendants claim that Mr. Chipman personally developed the manufacturing process for Pro Lash's lash products. Ms. Chipman is found throughout Pro Lash's social media and website teaching use of the Pro Lash products, including using the Accused Products for application. And Defendant Bella Lash is or was, at some point in time, involved in the distribution of Defendants' products, as set forth on certain product packaging. Lashify further believes and therefore alleges that the Chipmans have personally directed, controlled, ratified, participated in, and are the moving force behind, all infringing activity, conduct, and actions alleged herein. Accordingly, all of the Defendants have collectively worked together and acted as a joint enterprise with respect to the

infringement, conduct, and actions set forth herein. Alternatively, to the extent individuals Zachary Chipman and/or Haley Chipman did not directly commit any infringing acts complained of herein in their individual capacities, Lashify believes and therefore alleges that Zachary Chipman and/or Haley Chipman nonetheless actively induced and/or contributed to the infringement complained of herein in their individual capacities, such as direct acts of infringement committed by Pro Lash and/or Bella Lashes.

119. Defendants' conduct constitutes trade dress infringement in violation of Utah common law.

120. As a direct and proximate result of Defendants' unlawful conduct, Lashify has suffered, and will continue to suffer unless and until such activity is enjoined by this Court, irreparable damage and inherently unquantifiable injury and harm to their business, reputation, and customer goodwill.

121. Defendants' conduct is causing, and is likely to continue to cause, injury to the public and to Lashify, and Lashify is entitled to injunctive relief and to recover Lashify's actual damages and/or award of Defendants' profits, costs, and reasonable attorneys' fees.

122. Defendants' wrongful conduct was willful and deliberate or recklessly indifferent to Lashify's rights, warranting an assessment of punitive damages.

FIFTH CAUSE OF ACTION

(Common Law Unfair Competition)

123. Lashify incorporates herein by reference its allegations contained in the preceding paragraphs.

124. Defendants' Unlawful Packaging is deceptive, infringing the Lashify Trade Dress, and likely to cause confusion for consumers and potential consumers as to whether the infringing

products bearing the Unlawful Packaging originate from, or are affiliated with, sponsored by, or endorsed by Lashify.

125. Further, Defendants' use of the Unlawful Packaging is an attempt to pass off the Pro Lash products bearing it as Lashify products.

126. Defendants' actions constitute unfair competition under Utah common law.

127. Defendants' actions have caused, and continue to cause, Lashify to sustain monetary losses, and other damages and injury, in an amount to be determined at the time of trial.

128. Lashify believes and therefore alleges that Defendants have collectively worked together and acted as a joint enterprise with respect to the infringement, conduct, and actions set forth herein.

129. Defendants' actions are done knowingly, willfully, with actual malice, and in bad faith, so as to justify the assessment of increased, exemplary and punitive damages against Defendant, in an amount to be determined at the time of trial.

SIXTH CAUSE OF ACTION

(Utah Code §13-5(a)-101, et seq – Utah Unfair Competition Act)

130. Lashify incorporates herein by reference its allegations contained in the preceding paragraphs.

131. Defendants' use of the Unlawful Packaging is an intentional business act and practice that is unlawful and unfair, and has led to a material diminution in value of Lashify's intellectual property, including a diminution in the value of the Lashify Trade Dress.

132. Defendants' use of the Unlawful Packaging constitutes infringement of the Lashify Trade Dress.

133. Lashify believes and therefore alleges that Defendants have collectively worked together and acted as a joint enterprise with respect to the infringement, conduct, and actions set forth herein.

134. By reason of the foregoing, Defendants have engaged in unfair competition as defined by Utah Code Ann. section 13-5a-103.

135. As a direct and proximate result of Defendants' unfair competition, Lashify has suffered damages in an amount to be proven at trial.

136. Pursuant to Utah Code Ann. § 13-5a-103(1)(b)(i)-(iii), Lashify is entitled to actual damages, punitive damages, costs and attorney fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lashify, Inc. hereby respectfully requests judgment in its favor and against Defendants Bella Lash Extensions LLC d/b/a Pro Lash, Pro Lash, Inc., Zachary Chipman, and Haley Chipman as follows:

1. A judgment that Defendants' acts constitute patent infringement; trade dress infringement; false designation of origin; unlawful and unfair business practices and unfair competition under the causes of action asserted in this Complaint;

2. An order preliminarily, and a judgment permanently, enjoining and restraining Defendants, their officers, agents, subsidiaries, servants, partners, employees, attorneys, and all others in active concert or participation with Defendants, from:

- a. infringing any claim of the Patents-in-Suit;
- b. infringing Lashify's federally protected and common law trade dress rights;
- c. false designation of origin and unfair competition under 15 U.S.C. §

1125(a)(1)(a);

- d. engaging in unfair competition under Utah common law;
- e. engaging in unfair business practices under Utah Code §13-5(a)-101, et seq;

and

f. assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the aforementioned activities.

3. A judgment requiring Defendants to, at Defendants' expense, withdraw from the market, account for, and properly destroy any and all products infringing the Patents-in-Suit;

4. A judgment that Defendants deliver up for destruction all products, labels, signs, prints, advertisements, and other articles that infringe Lashify's statutory and common law trade dress rights.

5. A judgment requiring that Defendants pay Lashify all of its damages caused by Defendants' unlawful acts, including under 35 U.S.C. §§ 284 and 289 and 15 U.S.C. § 1117 and damages adequate to compensate Lashify for Defendants' unfair acts, such as without limitation lost profits and Defendants' convoyed sales, with prejudgment and post-judgment interest, as well as post-trial damages for any ongoing infringing and/or unfair acts;

6. A judgment requiring that Defendants pay to Lashify its actual damages, punitive damages, costs and attorneys' fees pursuant to Utah Code Ann. § 13-5a-103(1)(b)(i)-(iii).

7. A judgment ordering that Defendants account for all profits derived from their wrongful activities and pay them to Lashify.

8. A judgment ordering Defendants to pay exemplary and statutory damages for their intentional acts of patent infringement, trade dress infringement, false designation of origin, and unfair competition.

9. A judgment that this case is exceptional and awarding Lashify its reasonable attorneys' fees, costs, disbursements, and interest, as provided by law, including as provided by 35 U.S.C. § 285 and 15 U.S.C. § 1117.

10. A judgment that Defendants' patent and trade dress infringement have been willful, and ordering Defendants to pay treble damages as provided by law;

11. A judgment that each of Defendants are jointly and severally liable for the acts complained of herein; and

12. Such other relief as the Court deems just and appropriate.

DEMAND FOR A JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Lashify hereby demands a jury trial as to all issues so triable.

DATED: January 5, 2024

LAHTI HELFGOTT LLC

/s/Brian E. Lahti

Brian E. Lahti

Attorneys for Plaintiff Lashify, Inc.