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6 FLYING HELIBALL, LLC

7 UNITED STATES DISTRICT COURT

8 FOR THE CENTRAL DISTRICT OF CALIFORNIA

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10  
11 FLYING HELIBALL, LLC a California

12 Limited Liability Company;

13 Plaintiffs,

14 v.

15 SHOPIFY (USA), INC., a Delaware

16 Corporation; TIKTOK, INC., a Delaware

17 Corporation; DOE MERCHANTS 1-10;

18 and DOE PURCHASERS 1-10.

19 Defendants.

Case No.:8:24-cv-2183

**Complaint For:**

**(1) Patent Infringement;**

**(2) Unfair Competition**

**JURY TRIAL DEMANDED**

1 Plaintiff Flying Heliball, LLC (“Flying Heliball” or Plaintiff), by and through  
2 its undersigned counsel, hereby complains against Shopify (USA), Inc., a Delaware  
3 Corporation (“Shopify”); TikTok, Inc. (TikTok); Doe Merchants 1-10 (“Doe  
4 Merchants”); and Doe Purchasers 1-10 (“Doe Purchasers”) and respectfully alleges  
5 as follows:

6 **NATURE OF THE ACTION**

7 1. This is an action for patent infringement of Plaintiff’s United States  
8 Patent No. 7,100,866 under the Patent Act, 35 U.S.C. § 271, based on Zero Zero  
9 Robotics, Inc., a Delaware Corporation (“ZZRI”), ZZRI’s unauthorized commercial  
10 manufacture, use, importation, offer for sale, and sale of its HoverAir X1 drone and  
11 its V-Coptr Falcon (collectively “the Infringing Products”) in the United States.

12 2. This is also an action for unfair competition under California’s Unfair  
13 Competition Law, Cal. Bus. & Prof. Code § 17200 based on violations of Section  
14 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

15 **JURISDICTION AND VENUE**

16 3. This Court has original jurisdiction over the subject matter of this  
17 action pursuant to 28 U.S.C. §§ 1331, 1332 and 1338(a).

18 4. Personal jurisdiction over each Defendant is proper in this District  
19 because of each Defendant’s presence in this judicial district, and they have availed  
20 themselves of the rights and benefits of the laws of California.

21 5. Defendants Shopify, and TikTok have each derived substantial  
22 revenue from the sales of the Infringing Products in California, and it has systematic  
23 and continuous business contacts with California.

24 6. Upon information and belief, Defendants Shopify, and TikTok have  
25 each made filings with the California Secretary of State that indicate Defendants  
26 Shopify, and TikTok have regularly availed themselves to the protections of this  
27 jurisdiction during that time.

28 7. Upon information and belief, non-party ZZRI presently maintains an

1 office at the personal residence of Christopher Loos which is in Tustin, California.  
2 According to Mr. Loos' LinkedIn page, he is Defendant ZZRI's Director of Sales.  
3 In this position Mr. Loos' is likely to have information about that quantity of  
4 Defendant's products sold.

5 8. Upon information and belief, Defendant Shopify provides instructions  
6 directed to customers in California regarding how to start a business in California  
7 incorporating Shopify's e-commerce Products and Services in order to promote  
8 same. *See, e.g.,* [https://www.shopify.com/blog/how-to-start-a-business-in-](https://www.shopify.com/blog/how-to-start-a-business-in-california)  
9 [california;](https://www.shopify.com/blog/how-to-start-an-llc-in-california) [https://www.shopify.com/blog/how-to-start-an-llc-in-california;](https://www.shopify.com/blog/how-to-start-an-llc-in-california) and  
10 <https://losangeles.shopify.com/gettingstartedwithshopifyapr27>.

11 9. Upon information and belief, in 2017 Shopify built a Kylie Cosmetics  
12 pop-up store in Los Angeles, California. *See, e.g.,*  
13 <https://www.shopify.com/blog/212483913-kylie-jenner-pop-up>.

14 10. Upon information and belief, in 2018 Shopify opened a brick and  
15 mortar store in Los Angeles, California to allow merchants to learn about Shopify  
16 ecommerce products and services. *See, e.g.,*  
17 [https://www.shopify.com/news/shopifyopens-its-first-brick-and-mortar-](https://www.shopify.com/news/shopifyopens-its-first-brick-and-mortar-entrepreneur-space)  
18 [entrepreneur-space](https://www.shopify.com/news/shopifyopens-its-first-brick-and-mortar-entrepreneur-space).

19 11. Shopify works with an extensive number of merchants in California  
20 and upon information and belief, Shopify operates thousands of stores in California  
21 for these merchants. Notably, as of September 26, 2024, there are 29,988 Shopify  
22 stores in Los Angeles. *See e.g.,*  
23 <https://storeleads.app/reports/shopify/US/region/California#cities>.

24 12. Defendant Shopify indicated in its California Secretary of State filing  
25 that its primary business place is New York, New York.

26 13. Defendant TikTok indicated in its California Secretary of State filing  
27 that its primary business place is in Culver City, California.

28 14. The Doe Merchants are merchants that work with Shopify to sell

1 infringing goods at the websites: dominiondrones.com and dronesset.com.

2 15. The Doe Customers are individuals who purchase infringing goods  
3 from the Doe Merchants.

4 16. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and  
5 1400(b).

6 **THE PARTIES**

7 17. Plaintiff Flying Heliball, LLC is a limited liability company formed  
8 under the laws of California having a principal place of business at 28777  
9 Witherspoon Parkway, Valencia, California 91355 (hereinafter “Flying Heliball”).

10 18. Upon information and belief, non-party Zero Zero Robotics, Inc. is a  
11 corporation that is incorporated in Delaware and has its regular and established  
12 place of business at in Tustin, California (hereinafter “ZZRI”).

13 19. Upon information and belief, Defendant Shopify (USA), Inc., is a  
14 corporation that is incorporated in Delaware and has its regular and established  
15 place of business in New York, New York (hereinafter “Shopify”) with extensive  
16 contacts with Los Angeles County and the State of California.

17 20. Upon information and belief, Defendant TikTok, Inc. is a corporation  
18 that is incorporated in Delaware and has its regular and established place of business  
19 in Culver City, California (hereinafter “TikTok”).

20 21. Upon information and belief, Defendant Doe Merchants 1-10 have  
21 identities known to Shopify and will be named in a future amendment (hereinafter  
22 “Doe Merchants”).

23 22. Upon information and belief, Defendant Doe Purchasers 1-10 (“Doe  
24 Purchasers”) have identities known to Shopify and the Doe Merchants and will be  
25 named in a future amendment (hereinafter “Doe Purchasers”).

26 **FACTUAL BACKGROUND**

27 23. Flying Heliball and its parent corporation, World Tech Toys, Inc., are  
28 international sellers and distributors of toys and are largely focused on radio-

1 controlled helicopters and other flying vehicles.

2 24. United States Patent Number 7,100,866 (“the ‘866 Patent”), entitled  
3 Control System for a Flying Vehicle, was duly and legally issued on September 5,  
4 2006, and names Jeffrey Rehkemper, Nicholas Grisolia, Peter Greenley, and Bret  
5 Gould as the inventors. Attached as **Exhibit A** is a true and correct copy of the ‘866  
6 Patent.

7 25. The ‘866 Patent claims, among other things, in Claim 1, “A vehicle  
8 having a means for propelling in a vertical direction, further comprising: a  
9 transmitter positioned on the bottom of said vehicle for transmitting a signal from  
10 the vehicle downwardly away from said vehicle; a receiver positioned on the bottom  
11 of said vehicle for receiving said signal as it is bounced off of a surface, defined as  
12 a bounced signal; and a control system that automatically sets a speed of the  
13 propelling means in response to the receiver, said control system having a first  
14 means to set the speed of the propelling means to a first speed when the receiver  
15 receives the bounced signal and the control system having a second means to set  
16 the speed of the propelling means to a second speed when the receiver does not  
17 receive the bounced signal, the first speed being predefined as a speed that causes  
18 the vehicle to gain altitude and the second speed being predefined as a speed that  
19 causes the vehicle to lose altitude.”

20 26. The ‘866 Patent claims, among other things, in Claim 10, “A system  
21 to control a direction of movement of a flying vehicle, the control system  
22 comprising: a transmitter/receiver pair positioned on the vehicle, the transmitter  
23 transmitting a signal from the vehicle in a predetermined direction; a means to fly  
24 said vehicle in a direction opposite of said predetermined direction when said signal  
25 is bounced off of a surface and received back by the receiver; and a means to fly  
26 said vehicle in a direction similar to said predetermined direction when said receiver  
27 does not receive said signal.”

28 27. In 2022, the ‘866 Patent was assigned to Flying Heliball, which is the

1 owner of the entire right, title, and interest in the '866 Patent. The claims in the  
2 '866 Patent relate to a control system for a flying toy.

3 28. ZZRI sells numerous products that infringe the '866 Patent, including  
4 the HoverAir X1 drone and its V-Coptr Falcon. Collectively, these are referred to  
5 herein as the "Infringing Products."

6 29. The Infringing Products are in a classification of toys called "gesture-  
7 controlled devices." Gesture-controlled devices are toys controlled by a user's  
8 motion instead of a remote control. Plaintiff and World Tech Toys, Inc. also sell  
9 gesture-controlled devices (collectively "Plaintiff's Products").

10 30. Upon information and belief, the Infringing Products compete for  
11 market share with Plaintiff's Products in the American online market for gesture-  
12 controlled toys.

13 31. Upon information and belief, there is cross-elasticity of demand  
14 between the Infringing Products and the Plaintiff's Products – that is, removing the  
15 Infringing Products from the marketplace would result in higher sales for  
16 Plaintiff's Products.

17 32. Non-party Amazon operates an online marketplace: Amazon.com,  
18 which lists products for sale and allows users to purchase advertisements to sell  
19 their wares more effectively. Amazon enables users to load products into a database  
20 along with product photos and a product description. Amazon provides search  
21 engine optimization and advertising services for specific products. Amazon has a  
22 payment processing service and functionality to allow users to load products into a  
23 shopping cart and then purchase the products.

24 33. TikTok operates an online marketplace substantially identical to  
25 Amazon's online marketplace. TikTok operates an eponymous mobile application  
26 with an online marketplace called "TikTok Shop." TikTok Shop lists products for  
27 sale and allows users to purchase advertisements to sell their wares more  
28 effectively. TikTok Shop enables users to load products into a database along with

1 product photos and a product description. TikTok Shop internal advertising  
2 services for specific products on the TikTok mobile application. TikTok Shop has  
3 a payment processing service and functionality to allow users to load products into  
4 a shopping cart and then purchase the products.

5 34. Shopify operates an online marketplace that is nominally different  
6 from Amazon. Shopify offers website domain registration, hosting, and website-  
7 building tools for merchants. The websites built with these tools list products for  
8 sale that can be loaded into a shopping cart and customers can make purchases  
9 processed with Shopify Payments.

10 35. While a merchant has some discretion as to how the website looks, the  
11 merchant has almost no discretion as to how Shopify creates advertisements for the  
12 merchant when the merchant hires Shopify to do so. Shopify's advertisement

## 13 **2. Ads**

14 1. **Content.** Most of the content of the Ads will be generated by Shopify and will not  
15 be customizable by the Developer. Ad names and all other content provided by  
16 Developer must comply with Shopify's Acceptable Use Policy. You hereby grant  
17 Shopify a non-exclusive, royalty-free, worldwide, fully paid license to store, use,  
18 reproduce and display any Ad names or other content provided by Developer for  
19 purposes of delivering the Ads and managing the service herein. Except as  
expressly set forth herein, nothing in this Agreement will be deemed to be a  
transfer, license or assignment of any intellectual property rights.

20 2. **Keywords.** While the Developer may request certain triggering keywords for the  
21 Ads and negative triggering keywords as well, Shopify may prohibit and block the  
22 use of any keywords in its discretion. If broad keywords are selected by  
23 Developer, the actual triggering keywords implemented will be determined by  
Shopify in its sole discretion.



24 guidelines are shown below as taken from: <https://www.shopify.com/partners/terms>

25 36. As shown above, Shopify exerts almost total discretion in creating  
26 advertisements for merchants or "Developers" and exercises creative control over  
27 the minimal amount of discretion that merchants do have. Shopify makes recursive  
28 advertisements for merchants. Recursive Advertising is where a similar ad is shown



1 to a customer over and over across multiple platforms. On the following page is a  
2 recursive advertisement that Shopify designed for ZZRI to be shown on Facebook.  
3 The advertisement encourages a customer to make a purchase. This induces the  
4 Doe Purchasers to purchase Infringing Devices. The advertisement also induces  
5 the Doe Purchasers to use the Infringing Devices causing the Doe Purchasers to  
6 infringe the '866 Patent as well.

7

8  **HOVERAir** Sponsored · 

9 🛒 Get the HOVERAir X1 self-flying camera with a limited-time discount code to save \$15 and receive a free gift.

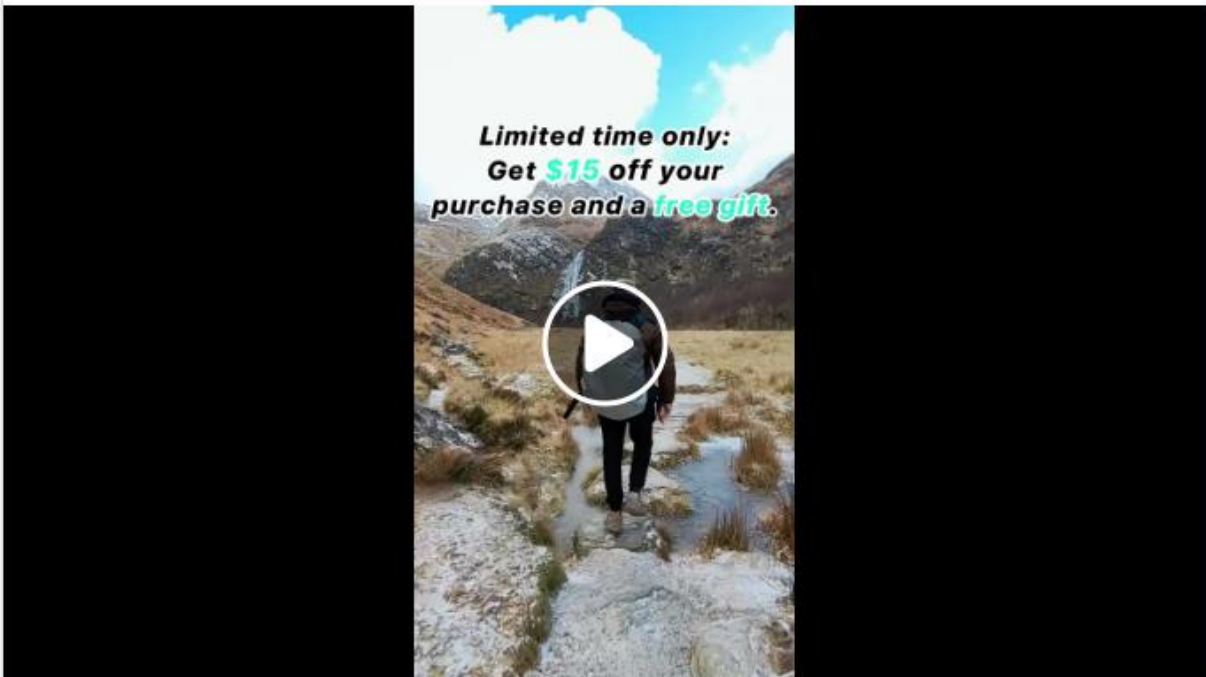
10 🏷️ Exclusive Limited Time Discount Code: backtocampus15

11 📍 Easy to use: one-click palm off

12 📍 Pocket storage: lightweight and portable

13 📍 Multiple Intelligent Flight Paths: Hover, Follow, Zoom Out, Orbit, Bird's Eye, and more.

14 📍 Don't miss a moment: take HOVERAir X1 back to campus.

15 

16 **Limited time only:**  
17 **Get \$15 off your**  
18 **purchase and a free gift.**

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24 [US.HOVERAIR.COM](https://US.HOVERAIR.COM) **Pocket-Sized Self-Flying Camera** [Shop now](#)

25 Capture campus moments with HOVERAir X1 — now \$15 off

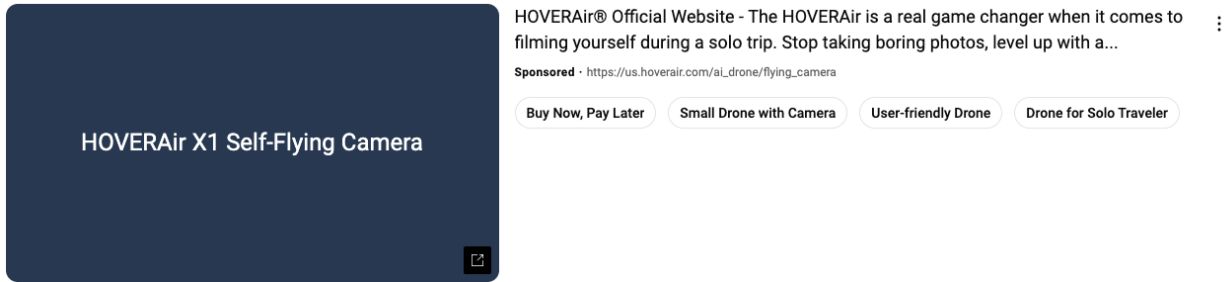
26  26

27  Like  Comment  Share

28



1 37. The point of the custom-made advertising that Shopify creates with  
2 minimal input from the merchant is to show a similar advertisement over and over  
3 again on different platforms. Shown on the following page is a recursive  
4 advertisement of the same product shown on the following page that is located on  
5 YouTube:



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12 38. Shopify also operates a website called Shop.app and a similarly named  
13 mobile application that directly sells the infringing goods to customers. One  
14 example is here: <https://shop.app/products/7700122075172>.

15 39. The Doe Merchants sold or offered the Infringing Products for sale.

16 40. The Doe Defendants used the Infringing Products.

17 **Defendants' Infringing Activities and Products**

18 41. Upon information and belief, ZZRI, Amazon, Shopify, TikTok, and  
19 the Doe Merchants have and continue to infringe the '866 Patent by making, using,  
20 selling, and offering for sale the Infringing Products in the United States. The  
21 Infringing Products embody or use the inventions claimed in the '866 Patent.

22 42. Briefly, the HoverAir X1 drone has a processor that is electrically  
23 connected to a battery, four propellers, a front camera attached to a gimble, a light  
24 detection and ranging (LiDAR) sensor, and a downward facing camera that is fixed.  
25 The processor is programmed with either software or firmware that contains  
26 computer vision technology.

27 43. Computer vision generally works in three steps: (1) a camera captures  
28 a visual input; (2) a processor processes the visual input; and (3) the processor does

1 something with the processed visual input. In the present matter, in one mode of  
2 operation, the camera captures a visual input and identifies a surface in a visual  
3 input. The camera communicates to the processor to detect the surface and then the  
4 processor directs the propellers to fly away from the surface until the surface is no  
5 longer detected. ZZRI describes this process in U.S. Patent 10585441, which based  
6 on knowledge and belief, is incorporated into the Infringing Products.

7 44. However, as the '441 Patent demonstrates, computer vision is  
8 inadequate to determine if an object is dangerously close to a surface with any  
9 reliability. To do that, the Infringing Products must emit a signal that is received  
10 by a receiver, when a signal is received in a short time, the Infringing Products enter  
11 an avoidance mode to avoid crashing into whatever is causing the bounced signal –  
12 exactly as is claimed in the '866 Patent. The Infringing Products accomplish this  
13 with LiDAR, which is one species of infrared.

14 45. LiDAR operates by using a transmitter/receiver to transmit a signal  
15 reflected off a surface. The signal is bounced off the surface and returned to the  
16 transmitter/receiver. A component measures the time between transmission of the  
17 signal and receipt of the bounced signal. If the signal is received in a predetermined  
18 time interval, then the processor engages the propellers to fly away from the surface.

19 46. In the language of the '441 Patent, there is an “emitter” that transmits  
20 a signal that can be an infrared signal. A “receiver” receives “signals of the type  
21 emitted by the emitter.” The Infringing Products use this system to determine if  
22 there is a surface or object in close proximity. When there is a surface or object in  
23 close proximity, the Infringing Products “automatically override instructions to fly  
24 according to the flight path [and use] automatically-generated flight  
25 instructions....”

26 47. Internet users describe those “automatically generated flight  
27 instructions” as “jumping” over an obstacle. *See, e.g., Willow Walks, HOVERAir*  
28 *X1 - Lessons Learned and Ideas for Updates...New Modes/Features?*, available at

1 <https://www.youtube.com/watch?v=8G-hbI7e7PA> (beginning at 1:21) (“the Walks  
2 Video”). In the Walks Video, a user is operating the HOVERAir X1 in manual  
3 mode and is flying through the back seat of a car with both windows partially open.  
4 The LiDAR sensor detects a partially open window. One of the microcontrollers  
5 receives this input from the LiDAR sensor and engages the propellers to fly upward  
6 to increase the clearance between the HoverAir X1 and the window. When the  
7 window is no longer detected, one of the microcontrollers receives this input from  
8 the LiDAR sensor and engages the propellers to fly downward.

9 48. In another internet video, YouTube user Doron Bond puts the  
10 HoverAir X1 into a different mode. *See* Doron Bond, HOVER Air X1 Drone  
11 Obstacle Avoidance, available at:  
12 <https://www.youtube.com/watch?v=RSNBOC8q3Ms>. Mr. Bond notes that as the  
13 HoverAir X1 approaches the Cleveland Sign, the HOVER Air X1 backs away from  
14 the sign, changes course, and evades the Cleveland Sign.

15 49. Similarly, the V-Coptr Falcon has a processor that is electrically  
16 connected to a battery, two propellers, a front camera, a front stereo camera, an  
17 inertial measurement unit, a LiDAR Sensor, and a downward facing camera that is  
18 fixed. The processor is programmed with either software or firmware that contains  
19 Visual Inertial Odometry, and LiDAR that works in a similar manner as the  
20 HoverAir X1.

21 50. In another internet video, YouTube user Ken Heron uses his hand as a  
22 surface and engages a sensor on the V-Coptr Falcon to enter an object avoidance  
23 mode and “jump” away from his hand by increasing altitude. *See* Ken Heron, We  
24 tried to CRASH a V-COPTR but it's too AWESOME!, Available at:  
25 <https://www.youtube.com/watch?v=SEmUmecV8r8>

26 51. More detailed claim charts for claim 1 and claim 10 are attached to this  
27 complaint in **Exhibit B**.

28 52. Upon information and belief, ZZRI has been and is inducing

1 infringement of the ‘866 Patent by actively and knowingly inducing others to make,  
2 use, sell, offer for sale, and/or import the Accused Product that embody or use the  
3 inventions claimed in the ‘866 Patent.

4 53. Specifically, ZZRI has induced Amazon, Shopify, TikTok, and the  
5 Doe Merchants (the “Third-Party Sellers”) to sell the Infringing Products knowing  
6 the Infringing Products infringed the ‘866 Patent. ZZRI actively encouraged  
7 infringement by reaching out to buyers at the Third-Party Sellers and encouraging  
8 those buyers to purchase goods that infringed the ‘866 Patent.

9 54. Upon information and belief, ZZRI has known of the existence of the  
10 ‘866 Patent, and these acts of infringement have been willful and in disregard of the  
11 ‘866 Patent, without any reasonable basis for believing that it had a right to engage  
12 in the infringing conduct. Specifically, Plaintiff has provided ZZRI with a copy of  
13 the ‘866 Patent and infringement allegations as shown in **Exhibit C**.

14 55. Upon information and belief, TikTok has known of the existence of  
15 the ‘866 Patent, and these acts of infringement have been willful and in disregard  
16 of the ‘866 Patent, without any reasonable basis for believing that it had a right to  
17 engage in the infringing conduct. Specifically, Plaintiff has provided TikTok with  
18 a copy of the ‘866 Patent and infringement allegations as shown in **Exhibit D**.

19 56. Upon information and belief, Shopify has known of the existence of  
20 the ‘866 Patent, and these acts of infringement have been willful and in disregard  
21 of the ‘866 Patent, without any reasonable basis for believing that it had a right to  
22 engage in the infringing conduct. Specifically, Plaintiff has provided Shopify with  
23 a copy of the ‘866 Patent and infringement allegations as shown in **Exhibit E**.

24 57. Remarkably, Shopify declined to remove its infringing listings in an  
25 email attached as **Exhibit F**.

26 58. The HoverAir X1 drone is, and continues to be, sold by the Third-Party  
27 Sellers of ZZRI and infringes the ‘866 Patent through various websites such as:

28 a. By Amazon.com formerly at:

1 <https://www.amazon.com/t/dp/B0CDCFGF1V/>.

2 b. By Shopify at: <https://shop.app/products/7700122075172>.

3 c. By TikTok at:

4 <https://www.tiktok.com/view/product/1729407809016206042>.

5 59. The V-Coptr Falcon drone is, and continues to be, sold by the Third-  
6 Party Sellers of Defendant's and infringes the '866 Patent through various websites  
7 such as:

8 a. By Amazon.com at:

9 <https://www.amazon.com/dp/B09JN91FY9>.

10 b. By Shopify at: [https://www.dominiondrones.com/products/v-](https://www.dominiondrones.com/products/v-coptr-falcon-50-minutes-flight-time-drone)

11 [coptr-falcon-50-minutes-flight-time-drone](https://www.dominiondrones.com/products/v-coptr-falcon-50-minutes-flight-time-drone).

12 60. All of these products infringe the '866 Patent for the same reasons as  
13 illustrated in **Exhibit B**.

14 61. Flying Heliball's exclusive licensee WTT produces profits inexorably  
15 flow to Flying Heliball. Infringing marketplace participants add units into the  
16 marketplace, lower the price for each individual unit sold, and thus, reduce the  
17 amount of revenue Flying Heliball makes from its licensees.

18 62. Upon information and belief, there is a cross-elasticity of demand  
19 between WTT's products and the Infringing Products such that at least some of the  
20 Doe Purchasers decided to purchase the Infringing Products instead of products that  
21 licensed the '866 Patent.

22 **COUNT ONE (Patent Infringement)**

23 **Against All Defendants**

24 63. Plaintiff repeats and realleges paragraphs 1 through 62 above as if fully  
25 set forth herein.

26 64. Upon information and belief, all Defendants have been and are  
27 infringing the '866 Patent by making, using, selling, and/or offering for sale in the  
28 United States, or importing into the United States, including within this judicial

1 district, flying toys, including those sold under the name HoverAir X1 and V-Coptr  
2 Falcon, in violation of 35 U.S.C. § 271(a).

3 65. Upon information and belief, ZZRI, Shopify, TikTok, and Doe  
4 Merchants have been and are inducing infringement of the ‘866 Patent by actively  
5 and knowingly inducing others to make, use, sell, offer for sale, and/or import flying  
6 toys that embody or use the invention claimed in the ‘866 Patent, including those  
7 sold under the name HoverAir X1 and V-Coptr Falcon, in violation of 35 U.S.C. §  
8 271(b).

9 66. ZZRI, Shopify, TikTok, and Doe Merchants’ infringement has been,  
10 and continues to be knowing, intentional, and willful.

11 67. Defendant's acts of infringement of the ‘866 Patent have caused and  
12 will continue to cause Plaintiff damages for which Plaintiff is entitled to  
13 compensation pursuant to 35 U.S.C. § 284.

14 68. Defendants’ acts of infringement of the ‘866 Patent have caused and  
15 will continue to cause Plaintiff immediate and irreparable harm unless such  
16 infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283. Plaintiff  
17 has no adequate remedy at law.

18 69. This case is exceptional and, therefore, Plaintiff is entitled to an award  
19 of attorney fees pursuant to 35 U.S.C. § 285.

20 **COUNT Two (Violation of Cal. Bus. & Prof. Code § 17200)**

21 **Against Shopify**

22 70. Plaintiff repeats and realleges paragraphs 1 through 69 above as if fully  
23 set forth herein.

24 71. Shopify provided business tools to the Doe Merchants, which enabled  
25 the Doe Merchants to sell the Infringing Products to the Doe Purchasers. The Doe  
26 Merchants further encouraged the Doe Purchasers to use the Infringing Products  
27 making the Doe Purchasers infringers.

28 72. The Doe Purchasers are consumers who have infringed the ‘866 Patent



1 and owe significant money damages to Plaintiff.

2 73. The Doe Purchasers have no competitive interest in purchasing goods  
3 that infringe unlicensed patents from the Doe Merchants.

4 74. The Doe Purchasers are not sufficiently sophisticated that to know  
5 whether they are infringing the ‘866 Patent without being so told.

6 75. Shopify knew that the Doe Merchants were selling infringing goods,  
7 when Plaintiff sent Shopify a copy of the Complaint in the present action.

8 76. Shopify had the ability to terminate the product listings of the Doe  
9 Purchasers and ZZRI, but affirmatively chose not to do that.

10 77. Shopify had an affirmative duty under Section 5 of the Federal Trade  
11 Commission Act to prevent ZZRI and the Doe Merchants from harming the Doe  
12 Purchasers.

13 78. Plaintiff suffered a competitive injury because the Doe Purchasers  
14 purchased the Infringing Products from the Doe Merchants and ZZRI instead of  
15 goods that use Plaintiff’s toy design and licensing services causing a direct  
16 monetary injury to Plaintiff.

17 **WHEREFORE, Plaintiff requests judgment against Defendants as follows:**

18 1. Adjudging that each Defendant has infringed the ‘866 Patent, in  
19 violation of 35 U.S.C. § 271(a);

20 2. Adjudging that Defendants ZZRI, Shopify, TikTok, and the Doe  
21 Merchants have induced infringement the ‘866 Patent in violation of 35 U.S.C. §  
22 271(b);

23 3. Granting an injunction temporarily, preliminarily, permanently  
24 enjoining each Defendant, its employees, agents, officers, directors, attorneys,  
25 successors, affiliates, subsidiaries, and assigns, and all of those in active concert  
26 and participation with any of the foregoing persons or entities from infringing,  
27 contributing to the infringement of, or inducing infringement of the ‘866 Patent;

28 4. Ordering each Defendant to account and pay damages adequate to

1 compensate Plaintiff for each Defendant's infringement of the '866 Patent,  
2 including for any infringing acts not presented at trial, pre-judgment and post-  
3 judgment interest and costs, pursuant to 35 U.S.C. § 284;

4 5. Ordering an accounting for any infringing sales not presented at trial  
5 and an award by the court of additional damages for any such infringing sales;

6 6. Ordering that the damages award be increased up to three times the  
7 actual amount assessed, pursuant to 35 U.S.C. § 284;

8 7. Declaring this case exceptional and awarding Plaintiff its reasonable  
9 attorney fees, pursuant to 35 U.S.C. § 285; and

10 8. With regard to Shopify, under Section 17200, entering an injunction  
11 against Shopify prohibiting listing any products that infringe the '866 Patent.

12 9. Awarding such other and further relief as this Court deems just and  
13 proper.

14  
15 Date: October 8, 2024

**McKOWN BAILEY**

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18 By: Michael O'Brien  
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21 Attorneys for Plaintiff  
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