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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

INDUSTRIA DE DISEÑO TEXTIL, S.A. AKA
INDITEX, S.A., ZARA USA, INC., and ITX MERKEN
BV,

Plaintiffs,

v.

THILIKÓ, LLC and QUEENIE WILLIAMS AKA
QIANRU PU and QIANRU WILLIAMS,

Defendants.

Case No. _____

COMPLAINT

Plaintiffs Industria de Diseño Textil, S.A. aka Inditex, S.A. (“Inditex”), Zara USA, Inc. (“Zara USA”), and ITX Merken BV (“ITX”), (collectively, “Zara” or “Plaintiffs”), by and through undersigned counsel, for their complaint against Defendants Thilikó, LLC (“Thilikó”) and Queenie Williams, also known as Qianru Pu and Qianru Williams, (collectively, “Defendants”) allege, based on their knowledge, information and belief formed after a reasonable inquiry pursuant to Rule 11 of the Federal Rules of Civil Procedure, as follows:

SUBSTANCE OF THE ACTION

1. Plaintiffs’ ZARA brand is one of the world’s largest, best-known, and most successful fashion and lifestyle brands, offering a compelling blend of fashion, quality, and

price. The prestigious brand consultancy company Interbrand identified ZARA as the 47th most valuable brand in the world across all categories in its 2022 “Best Global Brand” rankings, above such famous brands as FEDEX, JOHNSON & JOHNSON, STARBUCKS, UBER, and VOLKSWAGEN. The ZARA brand is one of the most well-known fashion brands in the world.

2. Since it was founded in Spain in 1975, Zara has perfected its vertically integrated business model to bring new fashion designs to market quickly and at affordable retail prices. In 2009, Forbes identified Zara as one of “America’s Favorite Foreign Retailers” and in 2017 heralded it as the “Most Exciting Retailer Today.”

3. Zara offers a broad range of fashion-forward ZARA-branded clothing, accessories, and other products of its own design through over 2,000 ZARA-branded stores in 95 markets, including nearly 100 stores in the U.S. Zara also sells its products in 215 markets through its authorized e-commerce website ***zara.com***, launched in September 2011. Zara’s own stores and e-commerce site are the only authorized sources of garments designed by Zara in the U.S.

4. The products sold under the ZARA brand result from a meticulous design and manufacture process, all anchored in Zara’s more than 700,000 square foot headquarters in Arteixo, Spain. Zara’s team of around 350 designers conceptualizes and designs each of Zara’s seasonal collections. Those designs are then manufactured, photographed for Zara’s website and other promotional purposes, distributed to ZARA stores worldwide, and sold to consumers at ZARA stores and e-commerce site.

5. Zara prides itself on offering distinctive, attractive fashions at reasonable price points, and makes every effort to showcase its products to their best advantage. To that end, Zara

invests significant resources to depict its products in high-quality photographs, taken in many instances at studios located at its headquarters.

6. Zara has built enormous goodwill in the family of ZARA-formative marks it uses to identify its goods and services in the U.S. and elsewhere, including but not limited to ZARA and variants thereof such as ZARA SRPLS, ZARA ORIGINS, ZARA ATHLETICZ, ZARA ACCESSORIES, and ZARA STUDIO (the “ZARA Marks”). Inditex owns a worldwide portfolio of trademark and service mark registrations for its famous ZARA mark and variants thereof.

7. Zara, through ITX, owns or is the exclusive grantee of rights under copyright in its website and the individual photographs at issue in this case, and has secured U.S. copyright registrations for the photographs known to have been copied by Defendants.

8. Defendant Thilikó, supervised and directed by its sole principal Defendant Queenie Williams, holds itself out as an independent fashion brand “[fo]cusing on craftsmanship, detail and fabric” and its “dedication to responsible production.” It claims it “creates pieces you'll turn to time and time again.” To the contrary, Defendants are serial copyright infringers engaged in a massive scam. They are defrauding the public by removing the labels from ZARA garments and replacing them with THILIKÓ labels, using copyrighted photographs from Zara’s website to market and sell their relabeled products, passing off the ZARA garments as Thilikó creations, and selling their relabeled ZARA products at exorbitant mark-ups.

9. Defendants’ actions infringe ITX’s copyrights, constitute unfair competition, reverse passing off, and false advertising, and defraud the public. Defendants’ unlawful acts have caused irreparable harm to Plaintiffs and will continue to do so unless enjoined by this

Court. Plaintiffs therefore bring this action for copyright infringement under the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*; false advertising, unfair competition, false description, and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); unfair and deceptive trade practices under the laws of several states, including New York, N.Y. GEN. BUS. LAW §§ 349-350; and offenses against trademarks under N.Y. ARTS & CULT. AFF. LAW § 33.09.

JURISDICTION AND VENUE

10. This Court has jurisdiction under Sections 1331, 1338(a), 1338(b) and 1367 of the Judicial Code, 28 U.S.C. §§ 1331, 1338(a), 1338(b), 1367, Section 39 of the Lanham Act, 15 U.S.C. § 1121(a), and under principles of pendent jurisdiction.

11. This Court has personal jurisdiction over Defendants because they transact business in this district, have committed tortious acts in this district, derive substantial revenue from or engage in a persistent course of conduct in this district, have committed tortious acts outside this district causing injury in this district, and have otherwise established contacts within this State making the exercise of personal jurisdiction proper.

12. Defendants regularly and systematically do business in this district. To the extent Defendants publicize Thilikó's address, the address they provide is 420 West Broadway, New York, NY. A true and correct copy of excerpts of Thilikó's Facebook page providing that address, <https://www.facebook.com/thilikostudio/> (last accessed December 9, 2022), is attached hereto as Exhibit 1.

13. Defendants market and sell their THILIKÓ garments through retailers located in this district as well as e-commerce and social media sites offering to sell and selling product in

the district. Defendants' retailers include Wolf & Badger NY, LLC, which operates a storefront at 95 Grand Street, New York, NY, and is listed as a stockist on Thilikó's website, <https://thiliko-studio.com/pages/stockists> (last accessed December 9, 2022), a true and correct copy of which is attached hereto as Exhibit 2. Defendants also promote and offer their products through Flying Solo, which operates two stores in the Soho neighborhood of New York, one of which is at 420 West Broadway, the same address Thilikó identifies as its own on its Facebook page. In addition, Ms. Williams claims she is a real estate agent with Keller Williams and has a real estate license in this State. A true and correct copy of her profile on the New York State Multiple Listing Service website, <https://www.nystatemls.com/profiles/ny/new-york/keller-williams-nyc/qianru-williams/127808/> (last accessed December 9, 2022), is attached hereto as Exhibit 3. Defendants are therefore subject to personal jurisdiction under CPLR 301.

14. In addition, Defendants transact business, display their infringing photographs, supply the goods depicted in those photographs, and cause injury to Plaintiffs in this State and district, as well as regularly doing and soliciting business in this State and district and interstate commerce. Defendants are therefore subject to personal jurisdiction under CPLR 302 (1), (2), and (3).

15. Venue is proper in this district pursuant to 28 U.S.C. § 1400 and 28 U.S.C. § 1391(a), (b) and (c).

PARTIES

16. Plaintiff Industria de Diseño Textil, S.A. (also known as Inditex, S.A.) is a Sociedad Anónima duly organized and existing under the laws of Spain, with a principal place of business at Edificio Inditex, Avenida de la Diputación, 15142 – Arteixo, A Coruña, Spain.

Through local affiliates, including Zara USA, it sells ZARA-branded clothing, footwear, accessories, handbags, and jewelry, among other goods, through its ZARA retail stores and authorized e-commerce website ***zara.com***, to consumers in the U.S. and worldwide. Inditex is the owner of all trademark rights in the ZARA Marks (among other marks) in the U.S.

17. Plaintiff Zara USA, Inc. is a corporation organized and existing under the laws of New York, with a principal place of business at 500 Fifth Avenue, Floor 4, Suites 400-500, New York, New York 10110. Zara USA, a wholly owned subsidiary of Inditex, is licensed to do business in the State of New York and operates nearly 100 ZARA brick-and-mortar retail stores in the U.S., including eleven located in this judicial district. Zara USA holds the license to operate ZARA brick-and-mortar retail stores in the U.S. and fulfills the U.S. sales made on the ***zara.com*** e-commerce website operated by ITX.

18. Plaintiff ITX Merken BV is a besolten vennootschap (“private company”) organized and existing under the laws of the Netherlands, with a principal place of business at Nieuwezijds Voorburgwal 307, 1012 RM Amsterdam, Netherlands. ITX, a wholly-owned subsidiary of Inditex, holds the copyright rights in the works referenced herein and operates the e-commerce website ***zara.com***, on which it displays those works publicly to promote and sell ZARA products.

19. Defendant Thilikó, LLC, formerly known as 329, LLC, is an active California limited liability corporation formed with the California Secretary of State on May 26, 2021. According to the corporate database of the California Secretary of State, Thilikó’s principal business address since July 28, 2022 is 3680 Wilshire Boulevard, Suite P04 – 1102, Los Angeles, CA 90010, but that address is associated with a shipping center. Before that, its

principal address was 1000 West 8th Street, Los Angeles, CA 90017, which is also the residential address of its sole current member, “Qianru Pu.”

20. Defendant Queenie Williams, also known as Qianru Pu and Qianru Williams, is the principal and sole member of Thilikó, and currently resides at 1000 West 8th Street, Los Angeles, CA 90017. Under the name Qianru Williams, she registered for an account with ***zara.com***, through which she made purchases.

21. As the principal and sole member of Thilikó, Ms. Williams directed, supervised and/or participated in the infringing activities described herein. Products ordered on Thilikó’s site have been shipped from her address to this district.

FACTUAL BACKGROUND

The ZARA Brand

22. The ZARA brand is today one of the world’s largest, best-known, and most successful fashion brands. Zara offers a wide variety of affordable clothing, footwear, accessories, handbags, jewelry, and home products for women, men, and children, among other goods, under the ZARA Marks. Zara sells its products through its own ZARA retail stores and e-commerce website to consumers worldwide.

23. Zara opened its first ZARA retail store in Spain in 1975. Since that date, Zara has continued to open new ZARA stores worldwide and, in 1989, opened its first ZARA store in the U.S., located in New York. Today there are over 2,200 ZARA stores in 95 markets worldwide, including nearly 100 ZARA stores in the U.S. (eleven of which are located in this judicial district). Zara launched its e-commerce website ***zara.com*** in September 2011.

24. Zara offers a compelling blend of fashion, quality and price. Its in-house design and production capabilities enable it to offer consumers fresh designs at its ZARA retail outlets twice a week throughout the year. As a result, Zara has won a loyal customer base for its well-designed and affordable garments and other products.

25. Indeed, the ZARA brand has become one of the most recognized and valuable fashion and lifestyle brands in the world. The strength and value of the ZARA brand is consistently and frequently recognized in brand awareness and brand value surveys, including, by way of example, the following:

a. Interbrand ranked ZARA as the 47th and 45th most valuable brand in the world in its 2022 and 2021 “Best Global Brand” rankings, valued at approximately \$14.958 billion in 2022. ZARA ranked above FEDEX, JOHNSON & JOHNSON, STARBUCKS, UBER, VOLKSWAGEN and other well-known brands.

b. Forbes ranked the ZARA brand as the 41st and 46th most valuable brand in the world in its 2020 and 2019 “World’s Most Valuable Brands” rankings, respectively, above GILLETTE, J.P. MORGAN, SONY, UPS and other well-known brands.

True and correct copies of Interbrand’s “Best Global Brands” rankings from 2022 and 2021, and Forbes’ “World’s Most Valuable Brands” rankings from 2020 and 2019 are attached hereto as Exhibits 4A-B.

26. The ZARA brand has also been the subject of extensive media coverage, including, by way of example only, the following articles in leading U.S. publications, true and correct copies of which are included in Exhibits 5A-F:

a. In 2012, The New York Times published an article about the phenomenal success of the ZARA brand, describing it as “the World’s Largest Fashion Retailer.” *See* Hansen, S., “How Zara Grew Into the World’s Largest Fashion Retailer”, The New York Times, Nov. 9, 2012.

b. In 2009, 2013, and 2015, Forbes reported on the strength and success of the ZARA brand, declaring it one of “America’s Favorite Foreign Retailers” and “the leader in rapid development of fast changing fashions.” *See* Sherman, L., “America’s Favorite Foreign Retailers”, Forbes, March 24, 2009; Loeb, W., “Zara’s Secret to Success: The New Science of Retailing”, Forbes, Oct. 14, 2013; and Loeb, W., “Zara Leads in Fast Fashion”, Forbes, March 30, 2015.

c. In 2014, The Wall Street Journal described the ZARA brand as a “‘Fast Fashion’ Pioneer” and “the world’s largest fashion retailer by revenue.” *See* Chu, K., “Why Zara is a ‘Fast Fashion’ Pioneer”, The Wall Street Journal, June 24, 2014.

d. An article in The New Yorker described Zara as “possibly the most innovative and devastating retailer in the world.” *See* Surowiecki, J., “The Most Devastating Retailer in the World”, The New Yorker, Sept. 18, 2000.

Zara’s Manufacturing, Design, and Promotion

27. Each of the millions of products that end up at Zara’s retail outlets starts life at the headquarters in Arteixo, Spain. The headquarters encompasses virtually every aspect of the design, manufacture, quality control, distribution, and promotion of Zara’s products.

28. Zara’s products are the creations of its in-house design team, which is 350 members strong. The design team combs through trends and forecasts and develops the focus of

each ZARA seasonal collection. Once the team develops a new design, in-house pattern cutters get to work on crafting the initial prototypes. Those prototypes are then tested on in-house models.

29. After the team finally approves a design, it is digitized and circulated to Zara-owned and operated factories for a production run. There are nine such factories in the area surrounding the Arteixo headquarters. Patterns are set to fabric, and the fabric is cut (sometimes 200 layers at a time) and sent to off-site factories to be sewn together, along with a prototype to ensure the finished product is true to the design.

30. During manufacture, the ZARA label is affixed to the products, along with all other required labels indicating the care instructions, fiber content, manufacturer, and the country of origin.

31. After manufacture, Zara checks each of its products to ensure there are no defects in manufacture and then ships them to distribution centers, which in turn forward them to stores and e-commerce fulfillment centers in the 95 markets where Zara operates.

32. Zara invests significant resources in cultivating and curating content for its website and other marketing materials. Zara projects its fashion-forward identity through original, high quality, painstakingly composed photographs of its products taken by professional photographers.

33. ITX owns copyrights in the original photographs at issue in this action, including but not limited to the 32 images it has identified to date that have been infringed by Defendants. True and correct copies of these copyrighted original works of authorship and Defendants'

infringing copies are reproduced in Exhibit 6, and representative examples of the copyrighted works are reproduced below.



34. ITX has secured United States Copyright Nos. VA 2-312-289 (registered August 8, 2022) and VA 2-315-661 (registered August 25, 2022), true and correct copies of which are attached as Exhibits 7 and 8, respectively, covering the photographs known to have been infringed by Defendants, among others. These registrations are valid, subsisting, and in full force and effect.

35. Each of the photographs covered by Copyright Nos. VA 2-312-289 and VA 2-315-661 (collectively, the “Copyrighted Photographs”) is an original, creative work of art. ITX

is the owner of all rights, title, and interest in the Copyrighted Photographs that are the subject of Copyright No. VA 2-312-289, and at all relevant times held exclusive rights to reproduce, distribute, display, and make derivative works of the Copyrighted Photographs that are the subject of Copyright No. VA 2-315-661.

Defendants' Unlawful Acts

36. Thilikó holds itself out as an independent fashion brand and the creator and craftsman-like maker of the fashion designs in its collections. It lures consumers by emphasizing its social responsibility and commitment to thoughtfully designed and sustainable manufactured apparel. For example, the Our Story page of its website, a true and correct copy of which is attached hereto as Exhibit 9, states:

THILIKÓ is a Los Angeles based fashion brand founded in 2021. Inspired by Scandinavian simplicity and French Elegance, the collection mirrors a poetic sculpture like shape that is endlessly made fit to frame. **Focusing on craftsmanship, detail and fabric, THILIKÓ builds an elegant, modern wardrobe creatively through our dedication to responsible production.**

Collections explore our deep appreciation and respect for nature, community and the world around us. **Our materials are chosen for their low-impact credentials, while craft and hand technique are informed by a unique mix of traditional and contemporary culture. Celebrating the beauty in imperfection, THILIKÓ brings pure design and conscious creativity together.** THILIKÓ is the product of a unique blend in style and influence. Heavily drawn by the ever-lasting French elegance with

‘less is more’ approach to fashion perfectly unifies these combined forces as **THILIKÓ creates pieces you’ll turn to time and time again.**

<https://thiliko-studio.com/pages/our-story> (last accessed December 9, 2022) (emphasis added)

37. The THILIKÓ Facebook page, *<https://www.facebook.com/thilikostudio/>* (Ex. 1) describes THILIKÓ as a clothing brand with the taglines “Consciously Made. Craftmanship, detail and fabric.” Its alleged products are depicted on and available for purchase through that site.

38. The THILIKÓ Instagram page, *<https://www.instagram.com/thilikostudio/>* (last accessed December 9, 2022), a true and correct copy of which is attached hereto as Exhibit 10, where its products are also depicted and available for purchase, identifies THILIKÓ as a clothing brand and provides the following description:

“Refinement created by the juxtaposition of the minimalistic contemporary and classic. A conscious approach, by making long-lasting investment pieces.”

39. Thilikó’s products are also depicted on and available for purchase through the THILIKÓ website, *<https://thiliko-studio.com/>* (last accessed December 9, 2022), a true and correct copy of which is attached hereto as Exhibit 11, which does not provide any street address or telephone number. It purports to offer free shipping worldwide and has shipped product pictured in the infringing photographs to this district. According to the terms of service, “Our store is hosted on Shopify Inc. They provide us with the online e-commerce platform that allows us to sell our products and services to you.” See *<https://thiliko-studio.com/policies/terms-of->*

service (last accessed December 9, 2022), a highlighted excerpt of which is attached hereto as of which is attached hereto as Exhibit 12. Those terms of service also falsely state:

All content on the Website other than Your Content [defined as comments, content or other materials posted by Website users onto the Website or on social media], including but not limited to design, text, graphics, articles, photographs, video, audio, organization, compilation, and the selection and arrangement of all of the foregoing (the “the Company Content”), is the proprietary property of the Company or one of our Brand Ambassadors, endorsers or partners (collectively, “Company Partners”). All rights reserved.

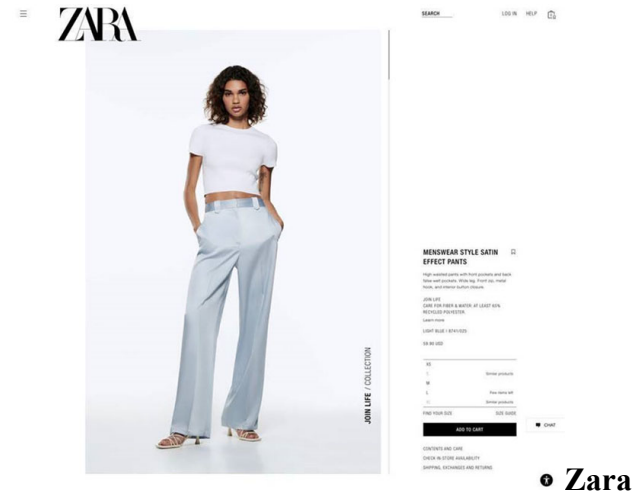
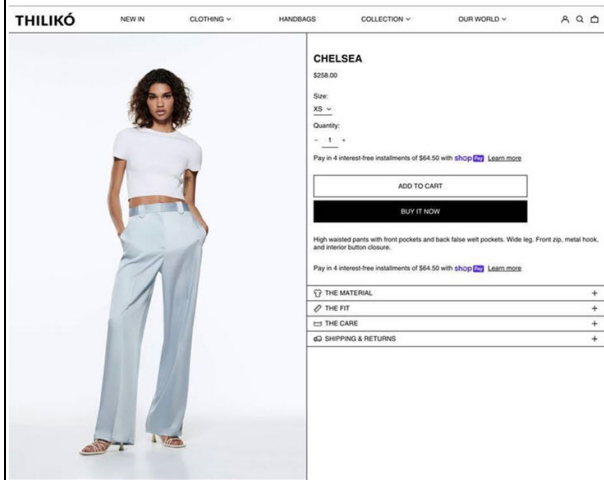
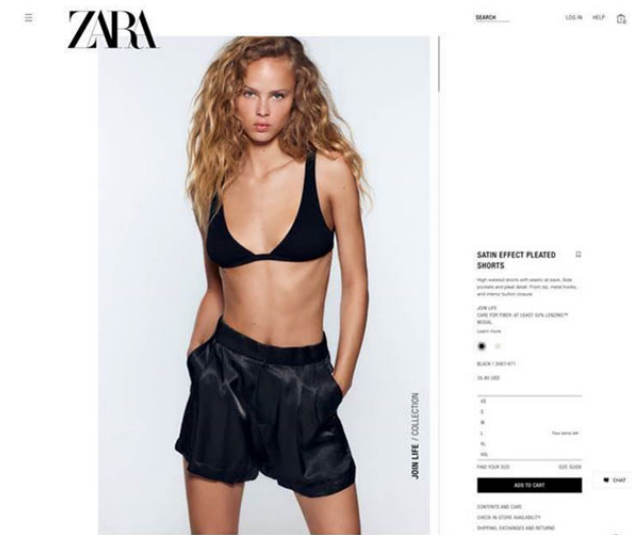
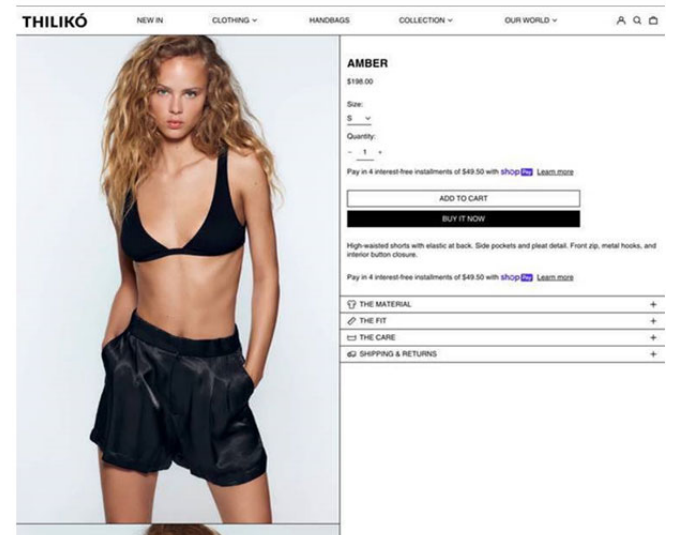
40. Thilikó has offered its products for sale through Wolf & Badger, which operates websites at <https://www.wolfandbadger.com/us/> and <https://www.wolfandbadger.eu>. The page <https://www.wolfandbadger.com/us/designers/thiliko/> (last accessed December 9, 2022), a true and correct copy of which is attached hereto as Exhibit 13, contains the following description (emphasis added) of the THILIKÓ brand, which was evidently supplied by Thilikó:

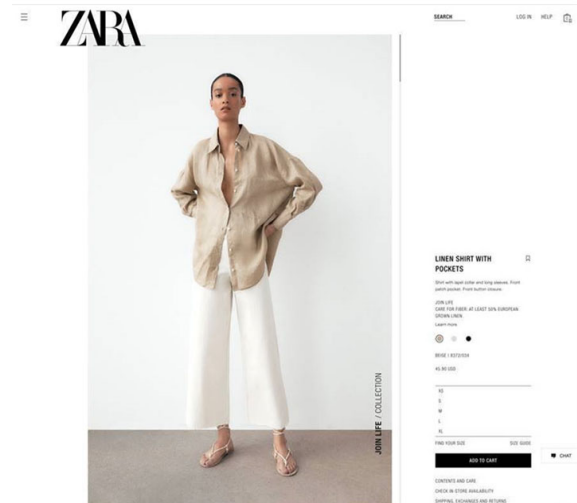
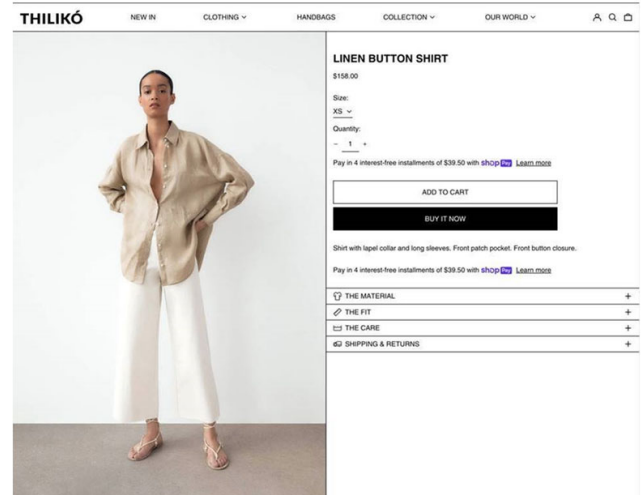
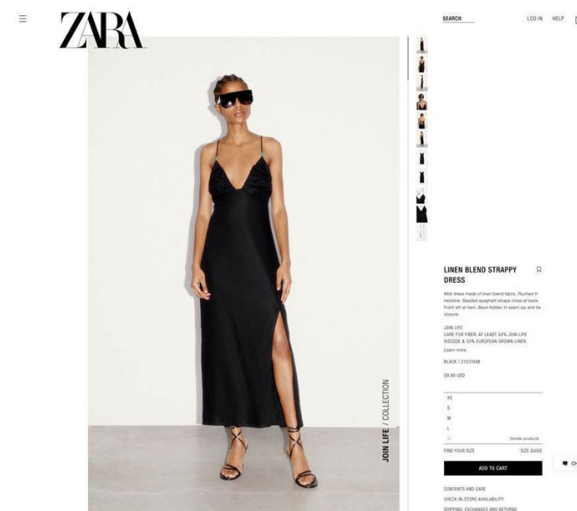
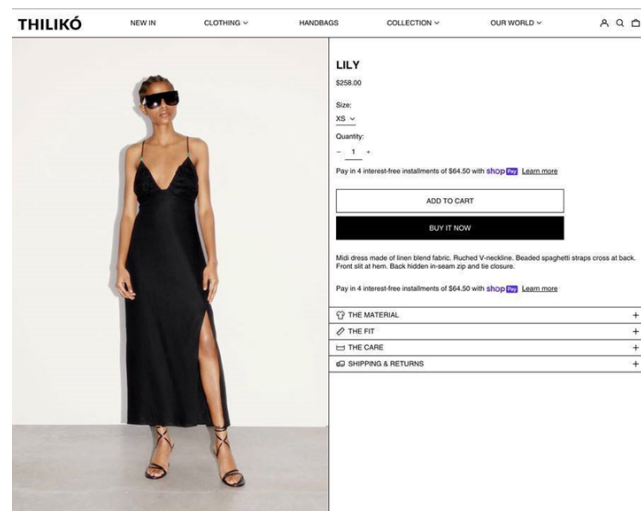
...a Los Angeles based fashion brand founded in 2021. Inspired by Scandinavian simplicity, French Elegance, and Bohemian Fluidity, the collection mirrors a poetic sculpture like shape that is endlessly made fit to frame. **Focusing on craftsmanship, detail and fabric, THILIKÓ builds an elegant, modern wardrobe creatively through our dedication to responsible production. Collections explore our deep appreciation and respect for nature, community and the world around us. Our materials are chosen for their low-impact credentials, while craft and hand techniques are informed by a unique mix of traditional and contemporary culture.** Celebrating the beauty in imperfection, THILIKÓ brings pure design and conscious creativity together.

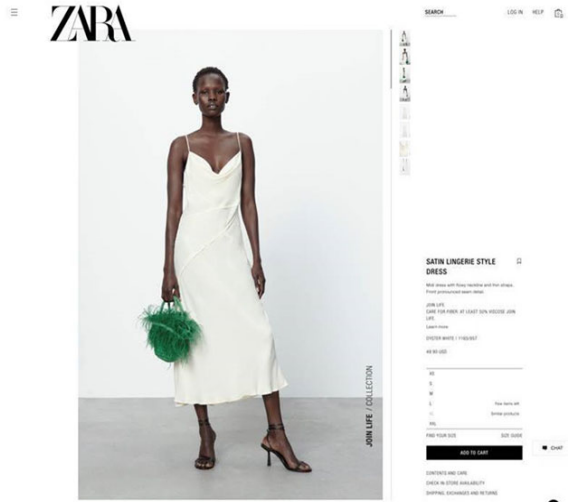
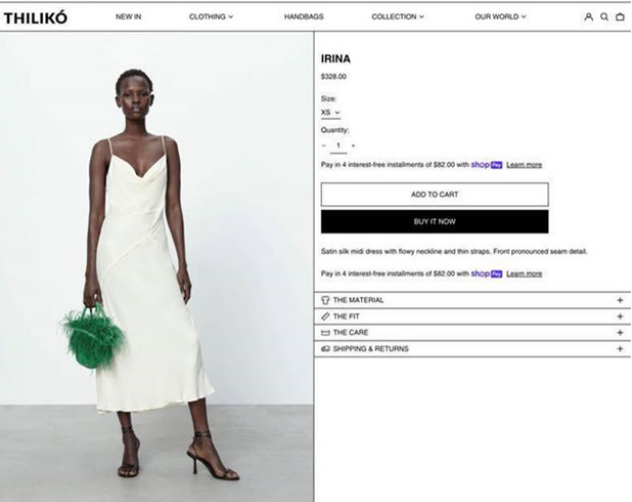
41. Thilikó also markets and sells its products through Flying Solo, whose website features a THILIKÓ brand page at <https://flyingsolo.nyc/designer/thiliko/> (last accessed December 9, 2022), a true and correct copy of which is attached hereto as Exhibit 14.

42. Though Thilikó represents itself as a socially “responsible” fashion brand respectful of “community and the world around us,” nothing could be further from the truth. Instead, Defendants have engaged in a fraudulent scheme of purchasing ZARA-branded products, removing the labels and hangtags that identify Zara as their source, and replacing them with THILIKÓ-branded labels and hangtags. In addition, Defendants remove labels identifying the care instructions, fiber content, manufacturer, and the country of origin, in violation of federal consumer protection statutes at 15 U.S.C. § 70c and 16 U.S.C. § 423.6. Defendants then pass off their misbranded and mislabeled products to the unsuspecting public as original Thilikó-products at exorbitant prices far beyond those consumers would pay for them at Zara’s retail locations (the “Misbranded Products”).

43. Defendants’ efforts to dupe the public and capitalize on Zara’s intellectual property do not end there. Defendants not only pass off Zara’s fashion designs as Thilikó originals, but also systematically copy the copyrighted photographs appearing on Zara’s website, misuse them to advertise and sell Defendants’ Misbranded Products, and misrepresent ITX’s Copyrighted Photographs as “proprietary property of the Company [Thilikó] or one of our Brand Ambassadors, endorsers or partners.” Representative examples of Thilikó’s unauthorized copying of the Copyrighted Photographs are shown below and a total of thirty-two such unauthorized uses identified to date are depicted in Exhibit 6:

Zara Product Page*Menswear Style Satin Effect Pants***Price: \$59.90****Thilikó Product Page***Chelsea***Thilikó Price: \$258.00***Satin Effect Pleated Shorts***Zara Price: \$35.90***Amber***Thilikó Price: \$198.00**

Zara Product Page*Linen Shirt With Pockets***Zara Price: \$45.90****Thilikó Product Page***Linen Button Shirt***Thilikó Price: \$158.00***Linen Blend Strappy Dress***Zara Price: \$59.90***Lily***Thilikó Price: \$258.00**

Zara Product Page	Thilikó Product Page
<p><i>Satin Lingerie Style Dress</i></p>  <p>Price: \$49.90</p> <p>• Zara</p>	<p><i>Irina</i></p>  <p>Thilikó Price: \$328.00</p>

44. Defendants engage in their unlawful activities willfully, intentionally, and in bad faith. Defendants know full well they neither designed nor manufactured the ZARA garments they describe as Thilikó original creations. They also know full well that they own no rights whatsoever in the Copyrighted Photographs.

45. Defendants flagrantly violated the terms of service of Zara's website, which state:

The Site and Mobile App, including all of its information and contents, such as text, data, wallpaper, icons, characters, artwork, **images, photographs**, graphics, music, sound, messages, graphics, software and the HTML used to generate the pages (collectively, "Materials"), **is ZARA property or that of our suppliers or licensors and is protected by patent, trademark and/or copyright under**

United States and/or foreign laws. Except as otherwise provided on the Site, the Mobile App, or in these Terms, **you may not use, download, upload, copy, print, display, perform, reproduce, publish, modify, delete, add to, license, post, transmit, or distribute any Materials from the Site or Mobile App in whole or in part, for any public or commercial purpose without the specific prior written permission of ZARA.**

46. Defendants have gone to great lengths to cover up their illegal activities. Thilikó's website provides no address or working phone number. The primary business address they supplied to the California Secretary of State has been changed from Defendant Williams's residential address to a shipping center. The LinkedIn profile for Thilikó's founder, <https://www.linkedin.com/in/queeni%C3%A9-williams/> (last accessed December 9, 2022), a true and correct copy of which is attached hereto as Exhibit 15, was initially listed as belonging to "Queenie Williams"; however, this same URL currently reaches a profile for "Gia Z," who is identified as "Founder at Thilikó."

47. Defendants' conduct is ongoing and undoubtedly encompasses additional acts of copyright infringement, unfair competition, passing off, false advertising, and unfair and deceptive trade practices that have not been uncovered by Plaintiffs to date.

48. As a result of Defendants' conduct, Zara has suffered substantial monetary damages, as well as irreparable and unquantifiable harm to Zara's reputation and goodwill that can only be adequately redressed through injunctive relief.

**FIRST CLAIM FOR RELIEF
COPYRIGHT INFRINGEMENT (ASSERTED BY ITX)
(17 U.S.C. § 501 *et seq.*)**

49. ITX repeats and re-alleges each and every allegation set forth above, and incorporates them herein by reference.

50. The Copyrighted Photographs are original works of authorship. ITX owns valid and subsisting copyright registrations issued by the United States Copyright Office for the Copyrighted Photographs. True and correct copies of its certificates of registration are annexed as Exhibits 7 and 8.

51. Defendants had access to, and systematically copied, the Copyrighted Photographs appearing on Zara's ***zara.com*** website. In direct violation of the terms of use of Zara's site, Defendants used duplicates of the Copyrighted Photographs on Defendants' own website, to market and sell THILIKÓ products, as well as supplying their infringing copies to third parties such as Wolf and Badger.

52. Exhibit 6 is a summary of the copyright infringements ITX has identified to date, including identification of the specific copyright registration covering the Copyrighted Photograph, an image of the work deposited with the U.S. Copyright Office, images of the work formatted as it appeared on ***zara.com***, and the infringing work as it appeared on ***thilikoofficial.com*** and third-party sites.

53. Defendants knowingly copied, created derivative works from, distributed, and displayed at least thirty-two of the Copyrighted Photographs without authorization from ITX in direct violation of 17 U.S.C. § 501. Discovery is necessary to uncover the full nature and extent of Defendants' infringement of ITX's copyrights.

54. Defendants' unauthorized use of photographs displayed on the *zara.com* website constitutes intentional and willful infringement, causing irreparable harm to ITX. Unless Defendants' acts are enjoined and the unauthorized use of the Copyrighted Photographs stopped, it is highly probable that Defendants will cause further irreparable injury to ITX.

55. Defendants have obtained gains, profit, and advantages from their wrongful acts.

56. ITX is entitled to the remedies set forth at 17 U.S.C. §§ 502-503, and to actual damages and profits attributable to the infringement under 17 U.S.C. § 504(b), for all of the Copyrighted Photographs.

57. Certain of the Copyrighted Photographs covered by United States Copyright No. VA 2-312-289 (including at least thirteen Copyrighted Photographs copied by Defendants) were published within three months prior to the registration date, entitling ITX to recover statutory damages and attorneys' fees pursuant to Section 504(c) and 505 of the Copyright Act for infringement of such works. These thirteen works are (1) *Satin Lingerie Style Dress Front View*, (2) *Satin Lingerie Style Dress Front View Zoom*, (3) *Satin Lingerie Style Dress Side View*, (4) *Wood Applique Halter Dress Front View*, (5) *Wood Applique Halter Dress Ghost*, (6) *Wood Applique Halter Dress Neckline*, (7) *Printed Halter Dress Front View*, (8) *Printed Halter Dress Back View*, (9) *Printed Halter Dress Ghost*, (10) *Short Satin Effect Dress Front View*, (11) *Short Satin Effect Dress Zoom*, (12) *Short Satin Effect Dress Back View*, and (13) *Short Satin Effect Dress Ghost*.

58. All of the Copyrighted Photographs covered by United States Copyright No. VA 2-315-661 (including at least two Copyrighted Photographs copied by Defendants) were published within three months prior to the registration date, entitling ITX to recover statutory

damages and attorneys' fees pursuant to Section 504(c) and 505 of the Copyright Act for infringement of such works. These two works are (1) *Open Back Blazer Dress* and (2) *Satin Effect Cut Out Dress*.

59. Each of ITX's copyright registrations for a group of photographs "covers each photograph and each photograph is registered as a separate work" and ITX is "entitled to seek a separate award of statutory damages for each individual photograph." 83 Fed. Reg. 2545 (Jan. 18, 2018) (codified at 37 CFR §§ 201-202).

60. ITX has no adequate remedy at law.

**SECOND CLAIM FOR RELIEF
FALSE ADVERTISING UNDER THE LANHAM ACT
(15 U.S.C. § 1125(a)(1)(B))**

61. Plaintiffs repeat and re-allege each and every allegation set forth above, and incorporate them herein by reference.

62. In connection with their commercial advertising and promotion of the goods they offer, Defendants have made, in interstate commerce, false or misleading descriptions of fact and misrepresentations of fact concerning the nature, characteristics, qualities, and origin of the Misbranded Products.

63. Defendants' advertising, marketing, and product labels have conveyed the messages that the Misbranded Products are designed, created, and/or manufactured by Thilikó, that the images of Zara garments on its website are "proprietary property of the Company [Thilikó] or one of our Brand Ambassadors, endorsers or partners", and that Thilikó is a socially responsible company.

64. Defendants' false and misleading statements are literally or impliedly false, false by necessary implication, or materially misleading, because the Misbranded Products were

manufactured and designed by Zara and not Thilikó, Thilikó has no proprietary rights in the images of those garments on its website, nor does it have any affiliation with Zara whatsoever, and Thilikó is violating consumer protection laws and regulations by marketing and selling at exorbitant prices the Misbranded Products and duping the public as to their attributes.

65. Defendants' false and misleading statements concern matters of primary and material importance to consumers: the source, manufacturer, and designer of the product and the social responsibility of the seller.

66. Defendants' false and misleading statements have the capacity to deceive actual and potential purchasers of both Plaintiffs' and Defendants' products and have inevitably deceived the public.

67. Defendants' conduct is willful and constitutes false or misleading advertising in violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

68. Plaintiffs have suffered injury caused by Defendants' unlawful conduct, including loss of proper credit for ZARA designs and the Copyrighted Photographs and diversion of potential sales.

69. Defendants' conduct is ongoing, is causing irreparable injury to Plaintiffs, and will continue to both damage Plaintiffs and deceive the public unless enjoined by this Court.

70. Plaintiffs have no adequate remedy at law.

**THIRD CLAIM FOR RELIEF
FOR FEDERAL UNFAIR COMPETITION, FALSE DESCRIPTION
AND FALSE DESIGNATION OF ORIGIN UNDER THE LANHAM ACT
(15 U.S.C. § 1125(a)(1)(A))**

71. Plaintiffs repeat and re-allege each and every allegation set forth above, and incorporate them herein by reference.

72. Defendants' distribution, marketing, promotion, offering for sale, and sale of goods and misrepresenting their source, including by (i) removing Zara-identifying labels from and affixing Thilikó-identifying labels to what are in fact ZARA products and (ii) passing off the Misbranded Products as Thilikó creations is likely to cause confusion, or to cause mistake, or to deceive as to the as to the origin or source of Thilikó's goods.

73. Defendants' conduct is willful and violates Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

74. The aforesaid conduct of Defendants is ongoing, is causing irreparable injury to Plaintiffs, and will continue to both damage Plaintiffs and deceive the public unless enjoined by this Court.

75. Plaintiffs have no adequate remedy at law.

**FOURTH CLAIM FOR RELIEF FOR
UNFAIR AND DECEPTIVE TRADE PRACTICES
(N.Y. GEN. BUS. LAW § 349)**

76. Plaintiffs repeat and re-allege each and every allegation set forth above, and incorporate them herein by reference.

77. By reason of their distribution, marketing, promotion, offering for sale, and sale of goods and misrepresenting their source, including by (i) removing Zara-identifying labels from and affixing Thilikó-identifying labels to what are in fact ZARA products and (ii)

representing to consumers that the Misbranded Products are manufactured and/or created by Thilikó, Defendants have been and are engaged in deceptive acts or practices in the conduct of a business, trade, or commerce in violation of New York's General Business Law § 349 as well as the laws of other states, including Cal. Bus. & Prof. Code §§ 17200 and 17500 et seq.

78. Specifically, Defendants have made false, deceptive, or misleading representations of fact or omissions of fact about the Misbranded Products that are likely to mislead reasonable consumers.

79. The public is likely to be damaged as a result of Defendants' deceptive trade acts or practices, as the Misbranded Products are sold at exorbitant prices and lack labels indicating the care instructions, fiber content, manufacturer, and the country of origin, in violation of federal consumer protection statutes at 15 U.S.C. § 70c and 16 U.S.C. § 423.6.

80. Defendants direct their conduct at consumers, as Defendants' false, deceptive, or misleading statements are contained in advertising targeted toward consumers, including, but not limited to, digital advertising.

81. Defendants' deceptive acts are likely to mislead a reasonable consumer acting reasonably under the circumstances.

82. Defendants' deceptive acts affect the public interest in the State of New York because Defendants offer the Misbranded Products to consumers through retailers located in New York and the Misbranded Products are offered for sale nation-wide on Defendants' own e-commerce and social media sites and third-party sites, all of which contain false, deceptive, and misleading statements of fact concerning Thilikó and its products.

83. Plaintiffs have suffered injury caused by Defendants' conduct, including through the diversion of potential sales.

84. The aforesaid conduct of Defendants is ongoing, is causing irreparable injury to Plaintiffs, and will continue to both damage Plaintiffs and deceive the public unless enjoined by this Court.

85. Plaintiffs have no adequate remedy at law.

**FIFTH CLAIM FOR RELIEF FOR
FALSE ADVERTISING
(N.Y. GEN. BUS. LAW § 350)**

86. Plaintiffs repeat and re-allege each and every allegation set forth above, and incorporate them herein by reference.

87. In connection with their commercial advertising and promotion of the Misbranded Products as manufactured and/or designed by Thilikó, Defendants have made, in interstate commerce, false or misleading descriptions of fact, or misrepresentations of fact, concerning the nature, characteristics, qualities, and origin of the Misbranded Products.

88. Defendants' advertising, marketing, and product labels have conveyed the messages that the Misbranded Products are designed, created, and/or manufactured by Thilikó and that Thilikó is a socially responsible company.

89. Defendants' acts constitute false advertising in the conduct of business, trade, or commerce, or in the furnishing of any service in the State of New York in violation of New York's General Business Law § 350 as well as the laws of other states, including Cal. Bus. & Prof. Code §§ 17200 and 17500 et seq.

90. The public is likely to be damaged because of Defendants' deceptive trade practices or acts. Specifically, Defendants' Misbranded Products are sold to consumers at exorbitant prices and lack labels indicating the care instructions, fiber content, manufacturer, and

the country of origin, in violation of federal consumer protection statutes at 15 U.S.C. § 70c and 16 U.S.C. § 423.6.

91. Plaintiffs have suffered injury caused by Defendants' conduct, including through the diversion of potential sales.

92. Defendants' conduct is causing irreparable injury to Plaintiffs and will continue to damage Plaintiffs and to deceive the public unless enjoined by this Court.

93. Plaintiffs have no adequate remedy at law.

**SIXTH CLAIM FOR RELIEF FOR
OFFENSES AGAINST TRADEMARKS
(N.Y. ARTS & CULT. AFF. LAW § 33.09).**

94. Plaintiffs repeat and re-allege each and every allegation set forth above, and incorporate them herein by reference.

95. Defendants' distribution, marketing, promotion, offering for sale, and sale of the Misbranded Products from which Zara-identifying labels have been removed and Thilikó-identifying labels have been affixed is likely to cause confusion, or to cause mistake, or to deceive as to the as to persons manufacturing or producing the products.

96. Defendants knowingly sell, offer to sell, and have in their possession with the intent to dispose articles of merchandise—the Misbranded Products—with a label falsely indicating the persons manufacturing and/or producing the article.

97. This conduct violates New York Art & Cultural Affairs Law § 33.09(2), (3), (5), and (6).

98. The public is likely to be damaged as a result of Defendants' deceptive trade acts or practices, as the Misbranded Products are sold at exorbitant prices and lack labels indicating

the care instructions, fiber content, manufacturer, and the country of origin, in violation of federal consumer protection statutes at 15 U.S.C. § 70c and 16 U.S.C. § 423.6.

99. Plaintiffs have suffered injury caused by Defendants' conduct, including through the diversion of potential sales.

100. The aforesaid conduct of Defendants is ongoing, is causing irreparable injury to Plaintiffs, and will continue to both damage Plaintiffs and deceive the public unless enjoined by this Court.

101. Plaintiffs have no adequate remedy at law.

WHEREFORE, Zara demands judgment as follows:

1. That an injunction be issued enjoining Defendants, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns, and entities owned or controlled by Defendants, and all those in active concert and participation with Defendants, and each of them who receives notice directly or otherwise of such injunction from:

a) infringing the Copyrighted Photographs and any other copyrighted works owned by ITX, Inditex, and/or Zara USA;

b) manufacturing, distributing, disseminating, publishing, or republishing any materials containing the false claims identified herein, including that the Misbranded Products are designed, created, and/or manufactured by Thilikó, that Thilikó owns any proprietary rights in the Copyrighted Photographs or design of the Misbranded Products, and that Thilikó is a socially responsible company.

c) offering, advertising, or promoting any product or service making false or misleading representations or descriptions of fact, in any medium, regarding ZARA products, including but not limited to falsely or misleadingly claiming, either literally, impliedly, or by

necessary implication, that the Misbranded Products are designed, created, and/or manufactured by Thilikó, that Thilikó owns any proprietary rights in the Copyrighted Photographs or design of the Misbranded Products, and that Thilikó is a socially responsible company.

d) engaging in any other activity constituting false or misleading advertising or unfair competition with Zara, including mislabeling ZARA products as THILIKÓ products or using images of ZARA products to market THILIKÓ products;

e) using any false designation of origin or false description, or performing any act which is likely to deceive members of the trade or public as to the source or origin or characteristics of Defendants' products, including but not limited to passing off products designed and manufactured by Zara as Defendants' products;

f) disposing of, destroying, altering, moving, removing, concealing, tampering with, or in any manner secreting any business records (including computer records) of any kind, including invoices, correspondence, books of account, receipts or other documentation relating or referring in any manner to any retail services offered in connection with the Copyrighted Photographs and/or the Misbranded Products;

g) instructing, assisting, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (f) above;

2. Directing that Defendants make available to Plaintiffs for review, inspection, and copying all books, records (including all hard drives on computers used for business purposes, including servers, as well as all computer disks and back up disks) and other documents and things concerning all transactions relating to the purchase or sale of Misbranded Products and providing Plaintiffs the names, addresses and all other contact information in their possession (e.g., telephone numbers, fax numbers) for the source(s) of such products and packaging.

3. Directing that Defendants recall from all distributors, retailers, or other recipients any and all products and packaging sold or distributed by Defendants in connection with the Misbranded Products and/or the Copyrighted Photographs and, upon recall, to deliver such goods up to Zara's counsel for destruction or donation at Defendants' cost;

4. Awarding ITX its actual damages and Defendants' profits attributable to the infringement of Plaintiff's Copyrighted Photographs pursuant to 17 U.S.C. § 504(b), or in lieu of such damages and profits, should ITX so elect, awarding ITX statutory damages up to \$150,000 for their infringement of each of the Copyrighted Photographs that is eligible for statutory damages under 17 U.S.C. § 504(c);

5. Awarding Plaintiffs Defendants' profits and/or any damages sustained by Plaintiffs, trebled pursuant to 15 U.S.C. § 1117(a), arising out of Defendants' acts of false or misleading advertising, willful unfair competition, false description, and false designation of origin;

6. Awarding Plaintiffs Defendants' profits derived from and/or all damages suffered by Plaintiffs arising out of Defendants' acts of willful and deceptive trade practices, trebled pursuant to N.Y. GEN. BUS. LAW §§ 349(h) and 360-m;

7. Awarding Plaintiffs punitive damages pursuant to the common law of the State of New York and N.Y. GEN. BUS. LAW §§ 349(h);

8. Awarding Plaintiffs' interest, including pre-judgment interest, on the foregoing sums;

9. Awarding Plaintiffs their costs in this civil action, including reasonable attorneys' fees and expenses, pursuant to 15 U.S.C. § 1117(a), 17 U.S.C. § 505, as well as N.Y. GEN. BUS. LAW §§ 349(h) and 360-m;

10. Directing such other action as the Court may deem appropriate to prevent the trade and public from deriving the erroneous impression that the Misbranded Products are manufactured or designed by Defendants;

11. Directing that Defendants file with the Court and serve upon Plaintiffs' counsel within thirty (30) days after entry of judgment a report in writing under oath setting forth in detail the manner and form in which Defendants has complied with the above; and

12. Awarding Plaintiffs such other and further relief as the Court may deem just and proper.

DATED: January 4, 2023

Respectfully submitted,

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