

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WHALECO INC.,

31 St. James Avenue, Suite 355
Boston, MA 02116,

Plaintiff,

v.

SHEIN TECHNOLOGY LLC,

250 Massachusetts Avenue NW
6th Floor, Suite 660
Washington, DC 20001,

ROADGET BUSINESS PTE. LTD.,

7 Temasek Boulevard,
#12-07 Suntec Tower One,
Singapore 038987,

Defendants.

Case No. 1:23-cv-3706

COMPLAINT

JURY TRIAL DEMANDED

TABLE OF CONTENTS

NATURE OF THE ACTION 1

JURISDICTION AND VENUE 6

THE PARTIES..... 8

FACTUAL ALLEGATIONS 8

I. Shein’s Multifaceted Scheme to Abuse the U.S. Copyright Office’s Intellectual Property Protection Regime and Subvert the Purposes of the DMCA to Interfere with Temu’s Growth 9

 A. Shein’s Unlawful, Anticompetitive Exclusive-Dealing Agreements with Coercive IP Transfers from Suppliers to Shein 9

 B. Shein Uses Illegal IP Seizures for Pretextual IP Enforcement and a Mass-Scale Bad Faith Campaign of Sending Tens of Thousands of Sham DMCA Notices to Disrupt Temu’s Operations 10

 C. Shein Has Defrauded the U.S. Copyright Office and Obtained Improper Copyright Registrations that It Has Asserted Against Temu 15

 D. Shein’s Bad-Faith DMCA Campaign to Cripple Temu and Tie Up Suppliers 19

 1. Shein’s Submission of Thousands of False DMCA Notices Where Shein Neither Owns the Asserted Works nor Has the Required Authorization from the Copyright Owner 19

 2. Shein’s Accusations Against Products Unrelated to Its Asserted Copyrighted Images to Interfere with Temu’s Business..... 21

 3. Shein’s DMCA Notices Against Non-Infringing Images 24

 4. Shein Intentionally Has Misused the DMCA Process to Interfere with Temu’s Business 25

 5. Shein Relied on Its Mass-Scale DMCA Fraud to Launch Bogus Legal Actions Against Temu (Directly and by Proxy) 29

II. Shein’s Abuse of the Copyright System Is Part of a Pattern of Defrauding and Abusing the U.S. Legal System 30

 A. The U.S. Copyright Office and Its Fundamental Reliance on the Candor of Applicants 30

 B. Shein Is a Potemkin Village..... 31

 C. Shein’s Scheme Relies on Information Asymmetry Between U.S. Courts and Other Countries 33

 D. Shein’s Corporate Camouflage and Shape-Shifting Corporate Entities 35

III. Shein’s Scheme to Foreclose Temu from Supply Through False Imprisonment, Exclusive-Dealing Agreements, Loyalty Attestations, Phone Seizures, and Unauthorized Searches of Merchants’ Phones 38

 A. Shein’s Abuse of Its Monopoly Position through Improper Seizures of IP Rights and Exclusive-Dealing Agreements..... 39

B.	Shein’s Coercion of Suppliers to Enforce Its Exclusivity Requirements and IP Seizures—False Imprisonment of Vendors Who Deal with Temu, Loyalty Attestations, Public Shaming, and Mafia-Style Intimidation.....	44
1.	Shein Demands that Manufacturers Execute False and Misleading Loyalty Attestations Against Temu	45
2.	Shein Has Threatened Suppliers that It Would “Go After” Anyone That Supplied Temu or Any Other Third Party	46
3.	Shein Has Used Public Penalty Notices to Publicly Shame Suppliers Who Did Business with Temu and to Intimidate Other Suppliers	46
4.	Shein Has Falsely Imprisoned Suppliers’ Representatives, Searched Their Phones for Temu’s Proprietary Information Without Permission, and Made Additional Threats.....	48
C.	Shein’s Anticompetitive Pricing Floor Requirements	50
IV.	Shein Has Copied Temu’s Copyrighted Games and Arcade-Style Trade Dress to Steal Temu’s Customers	51
A.	Shein Has Copied Temu’s Copyrighted Games to Increase Customer Acquisition.....	52
1.	Shein’s Infringement of Temu’s Registered Copyrights	52
2.	Temu’s Copyrighted Games Are Particularly Valuable as They Are Designed to Acquire New Customers and Deepen Engagement with Current Users	56
3.	Shein Has Hired Temu’s Key Marketing and Advertising Personnel Who Had Access to Highly-Confidential Information and Know-How Including for Temu’s Trade Dress that Shein Copied.....	59
B.	Shein Has Copied Temu’s Arcade-Style Trade Dress	60
1.	Temu’s Arcade Trade Dress Is Distinctive and Valuable.....	62
2.	Shein’s Improper Acts	65
V.	Shein’s Misappropriation of Temu’s Trade Secrets	67
VI.	Injury to Temu, Consumers, and Competition.....	69
CLAIMS	73
Count I	False DMCA Takedown Notice (17 U.S.C. § 512(f)).....	73
Count II	Copyright Infringement (17 U.S.C. § 101, <i>et seq.</i>)	74
Count III	Inaccurate Copyright Registrations (17 U.S.C. § 411).....	74
Count IV	Trade Dress Infringement (15 U.S.C. § 1125(a)).....	75

Count V
 Misappropriation of Trade Secrets (18 U.S.C. § 1831, *et seq.*) 76

Count VI
 Misappropriation of Trade Secrets (D.C. Code § 36-401, *et seq.*)..... 78

Count VII
 Violation of Section 1 of the Sherman Act (15 U.S.C. § 1)..... 80

Count VIII
 Monopolization in Violation of Section 2 of the Sherman Act (15 U.S.C. § 2) 81

Count IX
 Attempted Monopolization in Violation of Section 2 of the Sherman Act
 (15 U.S.C. § 2)..... 82

Count X
 Violation of Section 3 of the Clayton Act (15 U.S.C. § 14) 83

Count XI
 Restraints of Trade (D.C. Code § 28-4502) 83

Count XII
 Monopolization (D.C. Code § 28-4503) 84

Count XIII
 Attempted Monopolization (D.C. Code § 28-4503)..... 85

Count XIV
 Unfair Competition (D.C. Common Law) 86

Count XV
 Tortious Interference with Contract (D.C. Common Law)..... 87

Count XVI
 Tortious Interference with Business Relations (D.C. Common Law) 88

Count XVII
 Tortious Interference with Prospective Business (D.C. Common Law)..... 89

Count XVIII
 Abuse of Process (D.C. Common Law)..... 89

PRAYER FOR RELIEF 90

JURY TRIAL DEMANDED 95

Plaintiff WhaleCo Inc. (“Temu” or “Plaintiff”), by its attorneys White & Case LLP, brings this Complaint and requests a Jury Trial against Defendants Shein Technology LLC and Roadget Business Pte. Ltd. (together, “Shein” or “Defendants”). Temu alleges, upon personal knowledge as to events or actions taking place in its presence, and upon information and belief as to all other events or actions, as follows:

NATURE OF THE ACTION

1. Temu is a growing e-commerce marketplace offering U.S. consumers an extensive range of products supported by an innovative, enhanced user experience. Though Temu’s business model is very different from the fashion-focused, resale approach relied on by Shein (an incumbent online retailer that has been straining to reinvent itself as an online marketplace), ever since Temu’s U.S. launch in September 2022, the company has been seen by Shein as its greatest threat—and therefore the target of malicious and unlawful conduct intended to thwart Temu’s success.

2. Shein’s efforts to illegally interfere with Temu’s business, abuse the U.S. legal process, and infringe Temu’s intellectual property (“IP”) rights have escalated recently and warrant immediate action by this Court. Shein recently has gone so far as to *falsely imprison* merchants doing business with Temu, including detaining merchant representatives in Shein’s offices for many hours while Shein confiscates the merchants’ electronic devices, obtains access to proprietary Temu information through the merchants’ seller accounts, and threatens the merchants with penalties for doing business with Temu.

3. Following its pandemic-related boost, Shein reportedly was valued at over \$100 billion as of early 2022 and announced its intention to become a public company traded on a United States exchange. Following the U.S. entry of Temu, however, Shein’s valuation reportedly fell by over \$30 billion, so Shein hatched a desperate plan to eliminate the competitive threat posed by Temu. Shein’s plan entailed the manipulation of the U.S. Copyright Office, misuse of the Digital

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.