

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

THE GILLETTE COMPANY LLC,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS, UNINCORPORATED
ASSOCIATIONS AND OTHERS IDENTIFIED
IN SCHEDULE "A" HERETO,

Defendants.

Case No.: 22-cv-05504

Judge:

COMPLAINT

Plaintiff, THE GILLETTE COMPANY LLC ("Plaintiff"), by and through its undersigned counsel, Ulmer & Berne LLP, hereby brings the present action against the individuals, corporations, limited liability companies, partnerships, unincorporated associations and others identified in Schedule A attached hereto (collectively, "Defendants"), and hereby alleges as follows:

JURISDICTION AND VENUE

1. This Court, the United States District Court for the Northern District of Illinois, Eastern Division (hereinafter, the "Judicial District"), has original subject matter jurisdiction over the claims contained in this Complaint pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051 et seq.; 28 U.S.C. § 1338(a) - (b) and 28 U.S.C. § 1331. This Court also has jurisdiction over the claims contained in this Complaint that arise under the laws of the State of Illinois pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form

part of the same case or controversy and derive from a common nucleus of operative facts. This is an action brought by Plaintiff, the owner of the Oral-B trademark, against several online sellers of counterfeit Oral-B branded products, specifically counterfeit Oral-B electric toothbrush replacement heads.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendants since each of the Defendants directly targets business activities towards consumers within the United States, including Illinois, through at least the fully interactive commercial Internet stores operating under the Defendants' Domain Names and/or the Online Marketplace Accounts identified in Schedule A attached hereto (collectively, the "Defendants' Internet Stores"). Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products, including electric toothbrushes, manual toothbrushes, toothbrush heads and oral hygiene apparatus, and other goods bearing counterfeit versions of Plaintiff's federally registered trademarks. Each of the Defendants has targeted sales from Illinois residents by setting up and operating online stores that offer shipping to the United States, including Illinois, accepting payment in U.S. dollars and, on information and belief, has sold unauthorized products bearing counterfeit versions of Plaintiff's federally registered trademarks to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Illinois.

INTRODUCTION

3. This action has been filed by Plaintiff to combat e-commerce store operators who trade upon Plaintiff's reputation and goodwill by offering for sale and/or selling unauthorized and

unlicensed products, including Oral-B electric toothbrush replacement heads which use infringing and counterfeit versions of Plaintiff's federally registered trademarks (the "Counterfeit Plaintiff Products").

4. Defendants created numerous Defendants' Internet Stores that are designed to appear to be selling genuine Oral-B products, but in actuality they are selling inferior imitations of products bearing Plaintiff's federally registered trademarks to unknowing consumers. The Defendants' Internet Stores share unique identifiers, such as design elements and similarities of the unauthorized counterfeit products offered for sale, establishing a logical relationship between them and suggesting that Defendants' illegal operations arise out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid liability by going to great lengths to conceal both their identities and the full scope and interworking of their illegal counterfeiting operation. Plaintiff is forced to file this action to combat Defendants' counterfeiting of Plaintiff's registered trademarks as well as to protect unknowing consumers from purchasing unauthorized counterfeit products over the Internet. Plaintiff has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademarks as a result of Defendants' actions and seek injunctive and monetary relief.

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

THE PLAINTIFF

6. Plaintiff, The Gillette Company LLC, is a limited liability company organized and existing under the laws of Delaware with its principal place of business in the state of Massachusetts. The Procter & Gamble Company, a corporation with its principal place of business in the state of Ohio, is the sole member of Plaintiff. Plaintiff supplies its trademarked goods through a distributor, The Procter & Gamble Distributing LLC (the “Distributor”), and the written agreement specifically grants the Distributor the right to use Plaintiff’s trademarks, including the trademarks identified in paragraphs 14 and 15 below. Plaintiff, therefore, is the proper plaintiff to bring this action.

7. The Oral-B electric toothbrushes and toothbrush heads, which prominently display the internationally recognized and federally registered Plaintiff’s trademarks (collectively, the “Genuine Oral-B Products”), are enormously popular and sold throughout the United States. Genuine Oral-B Products are made with exacting and high quality standards and employ a distinctive design. In the United States, Plaintiff’s brands have come to symbolize high-quality and Genuine Oral-B Products are well recognized.

8. The exacting and high quality standards used in the manufacture of Genuine Oral-B Products are also required by law. Genuine Oral-B Products are regulated medical devices in the United States under the U.S. Food and Drug Administration. Counterfeit electric toothbrush replacement heads pose a significant health and safety concerns to Americans around the country and residents of Illinois within the Judicial District. Genuine Oral-B branded electric toothbrushes have received a seal of approval from the American Dental Association (“ADA”) and fully comply with Food, Drug and Cosmetic (“FD&C”) Act regulatory requirements, including consumer warnings. Oral-B models were the first electric toothbrush brand accepted by the ADA.

9. Oral-B was first used in commerce in 1949 and became a registered trademark for toothbrushes in 1951. Oral-B is common household names in American households across the country and are synonymous with quality, hygienic safety, reliability and value.

10. Oral-B produces a well-known line of trademarked products including Oral-B ProfessionalCare, Oral-B Vitality, Oral-B Healthy Clean, Oral-B Complete Advantage, Oral-B Crossaction, Oral-B Flossaction, Oral-B Precision Clean, Oral-B, Genius, Oral-B Clic, Splash Oral-B, Oral-B Guide, Oral-B IO, Oral-B Radiant White and Oral-B Pro-Expert, amongst others.

11. Oral-B products have become enormously popular in the decades they have been sold, driven by the brand's arduous quality standards and innovative designs. The Oral-B brands resonate with both adults and children, and Oral-B products are among the most recognizable in the United States. Oral-B products are distributed and sold to consumers through retailers throughout the United States, including through authorized retailers in Illinois such as Target, Wal-Mart, CVS, Walgreens, Bed Bath & Beyond, and many others.

12. Long before Defendants' acts described herein, Plaintiff launched its Oral-B products bearing its famous logos and registered trademarks. For generations, Plaintiff's brand has been a world leader in the field of toothbrushes.

13. The Oral-B trademarks have been in use for many years and electric toothbrush and toothbrush heads products have been continuously sold under the Oral-B trademarks. As a result of this long-standing use, strong common law trademark rights have amassed in the Oral-B trademarks. The consistent use of the marks has also built substantial goodwill in and to the Oral-B Trademarks. The Oral-B trademarks are famous marks and valuable assets of Plaintiff. Oral-B products typically include at least one of the registered Oral-B trademarks or brand logos.

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