

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

BILL NYE PRODUCTIONS, INC.,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS, AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A HERETO,

Defendants.

Case No. 22-cv-5788

Judge

COMPLAINT

Plaintiff, BILL NYE PRODUCTIONS, INC. (“Plaintiff”), by undersigned counsel, hereby complains of the Partnerships and Unincorporated Associations identified in Schedule A attached hereto (collectively, “Defendants”), and hereby alleges as follows:

JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over the claims in this action 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 has jurisdiction over the claims in this action that arise under Illinois common law and 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.

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 consumers in the United States, including Illinois, through at least the fully interactive commercial Internet stores operating under the Defendant Domain Names and/or the Online Marketplace Accounts identified in Schedule A attached hereto (collectively, the “Defendant 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 bearing counterfeit versions of Plaintiff’s BILL NYE Trademarks. Each of the Defendants has targeted sales from Illinois residents by operating online stores that offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, has sold products bearing counterfeit versions of Plaintiff’s federally registered trademark to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, engaging in interstate commerce, and have 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 using infringing and counterfeit versions of Plaintiff’s federally registered trademark and common law trademark rights (the “Counterfeit Products”).

4. Defendants created numerous Internet Stores and designed them to appear to be selling genuine Plaintiff’s products, while selling inferior imitations of Plaintiff’s products. Defendant Internet Stores share unique identifiers, such as design elements and similarities of the 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 trademark as well as to protect unknowing consumers from purchasing unauthorized products over the Internet. Plaintiff has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of its valuable trademark 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 in this Judicial District. In addition, each Defendant has offered to sell and ship infringing products into this Judicial District.

THE PLAINTIFF

6. Plaintiff owns and manages the licensing, sale, and marketing of BILL NYE products and is headquartered at 1600 N. Fairfax Ave, Los Angeles, California 90046. Plaintiff is a domestic company organized and existing under the laws of California.

7. Plaintiff is in the business of developing, marketing, selling, distributing, and licensing BILL NYE branded products including books, T-shirts, sweatshirts and other clothing items. William Sanford Nye, popularly known as Bill Nye The Science Guy, is an American mechanical engineer, science communicator, and television presenter. Bill Nye is also the CEO of the leading non-profit space advocacy organization – The Planetary Society, where the world's citizens work to advance space exploration and science. BILL NYE PRODUCTIONS, INC. is the official source of BILL NYE products.

8. Plaintiff is the owner of the U.S. Trademark Registration No. 1,794,982 for “THE SCIENCE GUY” word mark in classes 16 and 25 and has common law trademark rights in the BILL NYE name and mark (collectively, the “BILL NYE Trademarks”).

9. The above registration for “THE SCIENCE GUY” mark is valid, subsisting, and in full force and effect. A true and correct copy of the federal trademark registration certificate for the above-referenced mark is attached hereto as Exhibit 1.

10. The BILL NYE Trademarks are distinctive and identify merchandise as goods from BILL NYE PRODUCTIONS, INC. or its duly authorized licensees.

11. The BILL NYE Trademarks have been continuously used and never abandoned.

12. Plaintiff’s BILL NYE Trademarks are exclusive to Plaintiff and are displayed extensively on Plaintiff’s Products and in Plaintiff’s marketing and promotional materials. Plaintiff’s BILL NYE Trademarks have been the subject of substantial and continuous marketing and promotion by Plaintiff at great expense. In fact, Plaintiff has expended significant resources annually in advertising, promoting, and marketing featuring Plaintiff’s BILL NYE Trademarks. Plaintiff’s promotional efforts include — by way of example, but not limitation — substantial print media, a website, social media sites, and point of sale materials. Because of these and other factors, Plaintiff’s BILL NYE Trademarks have become famous worldwide.

13. Plaintiff’s BILL NYE Trademarks are distinctive when applied to Plaintiff’s Products, signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff’s quality standards. Whether Plaintiff manufactures the products itself or licenses others to do so, Plaintiff has ensured that products bearing its trademarks are manufactured to the highest quality standards. Plaintiff’s BILL NYE Trademarks have achieved fame and recognition, which has only added to the inherent distinctiveness of the mark. As such, the

goodwill associated with Plaintiff's BILL NYE Trademarks is incalculable and of inestimable value to Plaintiff.

14. Plaintiff's BILL NYE Trademarks qualify as famous marks, as used in 15 U.S.C. §1125 (c)(1) and have been continuously used and never abandoned.

15. Plaintiff has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting its Trademarks. As a result, products bearing the BILL NYE Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being products sourced from Plaintiff.

THE DEFENDANTS

16. Defendants are individuals and business entities who, upon information and belief, reside in the People's Republic of China or other foreign jurisdictions. Defendants conduct business throughout the United States, including Illinois and within this Judicial District, through the operation of the fully interactive commercial websites and online marketplaces operating under the Defendants' Internet Stores. Each Defendant targets the United States, including Illinois, and has offered to sell and, on information and belief, has sold and continues to sell counterfeit products to consumers within the United States, including Illinois and this Judicial District.

THE DEFENDANTS' UNLAWFUL CONDUCT

17. The success of Plaintiff's brand has resulted in its counterfeiting. Plaintiff has identified numerous domain names linked to fully interactive websites and marketplace listings on platforms such as iOffer and Context Logic, Inc. ("Wish"), including the Defendants' Internet Stores, which were offering for sale, selling, and importing counterfeit products to consumers in this Judicial District and throughout the United States. Defendants have persisted in creating the

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