

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

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SILVER DEALS LLC,	:
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	:
Plaintiff,	:
	:
	:
v.	:
	:
ULAI HEALTH LLC, CHANHEE PAUL KANG,	:
and PHARBEST PHARMACEUTICALS, INC.,	:
	:
Defendants.	:
	:
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Civil Action No. 22-cv-4384

COMPLAINT AND JURY TRIAL DEMAND

Electronically Filed

Plaintiff Silver Deals, LLC (“Plaintiff”), by and through its counsel, hereby brings this Complaint against Ulai Health LLC (“Ulai”), Chanhee Paul Kang (together with Defendant Ulai, “Ulai Defendants”), and Pharbest Pharmaceuticals, Inc. (“Pharbest”) (individually and collectively, “Defendants”) and alleges as follows:

PARTIES

1. Plaintiff is a limited liability company existing under the laws of the State of New York, with an address at 22 Lizensk Boulevard, Unit 101, Monroe, New York 10950.
2. On information and belief, Defendant Ulai Health LLC is limited liability company existing under the laws of the State of Virginia, with an address at 5799 Burke Centre Parkway, Suite L, Burke, Virginia 22015.
3. On information and belief, Defendant Chanhee Paul Kang is a member or manager of Defendant Ulai Health LLC and has a registered office address of 5799 Burke Centre Parkway, Suite L, Burke, Virginia 22015.

4. On information and belief, Defendant Pharbest Pharmaceuticals, Inc. is a corporation existing under the laws of the State of New York, with an address at 14 Engineers Lane, Farmingdale, New York 11735.

JURISDICTION AND VENUE

5. The Court has subject matter jurisdiction over this action pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202; the Trademark Act of 1946, as amended, 15 U.S.C. § 1051 *et seq.*, including 15 U.S.C. § 1121; and 28 U.S.C. §§ 1331, 1338, and 1367.

6. Furthermore, Defendants are subject to general and specific jurisdiction in this Court, *inter alia*, because they conduct business in this District and have committed at least some of the acts complained of herein within this District.

7. On information and belief, Defendant Pharbest is a manufacturer, and the Ulai Defendants are wholesale distributors, of pharmaceutical products and regularly solicit business from, do business with, and/or derive revenue from consumers in New York; Defendants have substantial and continuous contacts with New York; and Defendants otherwise avail themselves of the privilege of doing business in the State of New York and in this District.

8. Defendants have purposely directed their activities, including the illegal acts against Plaintiff described below, toward this District and this action arises from those activities.

9. Specifically, at all relevant times, Defendants were aware that Plaintiff resided in New York and that their illegal acts would cause harm to Plaintiff in New York. Specifically, Plaintiff's Amazon storefront identifies Plaintiff's place of business in New York.

10. Venue in this District is proper under 28 U.S.C. §1391(b) because a substantial part of the events giving rise to the claims occurred in this District and Defendants are subject to personal jurisdiction in this District.

BACKGROUND FACTS

11. On information and belief, Defendant Pharbest is the manufacturer of pharmaceuticals (“Pharbest Products”).
12. On information and belief, Defendant Pharbest is the owner of U.S. Trademark Registration No. 6306639 for PHARBEST word and design mark (“the Pharbest Registration”).
13. On information and belief, Defendant Ulai is a wholesale distributor of, *inter alia*, pharmaceuticals and nutritional supplements, including Pharbest Products.
14. On information and belief, Defendant Ulai is the owner of U.S. Trademark Registration No. 5930566 for ULAI (“the Ulai Registration”).
15. On information and belief, Defendant Pharbest is a contracted manufacturer of Pharbest Products for Defendants.
16. Plaintiff is in the business of lawfully acquiring and re-selling various health and beauty products for a profit, including Pharbest Products.
17. Plaintiff purchases Pharbest Products directly from the manufacturer, Defendant Pharbest.
18. The Pharbest Products acquired and re-sold by Plaintiff are not materially different from the Pharbest Products sold by Defendants.
19. Plaintiff resells products, including Pharbest Products, through an Amazon storefront, “VerSure.”
20. Since its formation, Plaintiff has served hundreds of thousands of customers through its Amazon storefront.
21. Defendants’ illegal actions have irreparably damaged, and threaten to destroy, Plaintiff’s successful business.

ONLINE MARKETPLACES

22. Upon information and belief, Amazon is the world's largest online retailer.

23. According to published reports, "Amazon's market cap alone is bigger than the nine biggest U.S. retailers put together." Dorothy Neufeld, *Visualizing the Size of Amazon, the World's Most Valuable Retailer*, Visual Capitalist (July 2, 2020), <https://www.visualcapitalist.com/amazon-worlds-most-valuable-retailer/>.

24. Amazon's online e-commerce platform allows for third parties, like Plaintiff, to sell products on its e-commerce platform.

25. The privilege of selling on Amazon is highly advantageous, as Amazon provides third parties with exposure to the world marketplace on a scale that no other online retailer can currently provide.

26. Plaintiff has had a contractual and business relationship with Amazon, such that Plaintiff was and is permitted to sell products on Amazon's e-commerce platform.

27. Third-party sellers, like Plaintiff, create an online storefront on Amazon. When a customer buys a product on Amazon, the customer can see the online store from which the customer is purchasing a product. Thus, Plaintiff has the online equivalent of a brick-and-mortar store.

28. A significant portion of Plaintiff's business is derived from the sale of products on Amazon and, in particular, through its Amazon storefront.

29. Once Plaintiff acquires products from reputable sources, Plaintiff resells the same products on Amazon at a profit.

30. In general, transactions on Plaintiff's Amazon storefront are completed by Amazon, whereby Amazon ships Plaintiff's products from an Amazon warehouse (known as "Fulfilment by Amazon" or "FBA").

31. Plaintiff has invested significant efforts into building a successful and reputable Amazon storefront.

32. Plaintiff's Amazon storefront has amassed over one-hundred thousand reviews and holds a 100% positive lifetime rating.

33. A small sample of Plaintiff's recent reviews are shown below:

Feedback

- ★★★★★ "Definitely glossy with a fine mist. The bottle lasts a good amount of time."
By Linda F. Howelton on July 19, 2022.
- ★★★★★ "3rd Time Purchased"
By Tom W on July 19, 2022.
- ★★★★★ "happy"
By auto parts city on July 19, 2022.
- ★★★★★ "Thank you!"
By W. Gipson on July 19, 2022.
- ★★★★★ "Well Pleased"
By margaret dorothy lee braud on July 19, 2022.

	30 days	90 days	12 months	Lifetime
Positive	100%	100%	100%	100%
Neutral	0%	0%	0%	0%
Negative	0%	0%	0%	0%
Count	1,597	4,674	17,512	105,955

34. Any harm that comes to the relationship between Plaintiff and Amazon creates a potential for serious and irreparable injury to Plaintiff.

DEFENDANTS' ATTEMPT TO STIFLE COMPETITION BY FILING FALSE INTELLECTUAL PROPERTY COMPLAINTS

35. On information and belief, the Ulai Defendants seek to increase its profits by controlling the distribution and pricing of products, including Pharbest Products, through unlawful means.

36. As demonstrated below, the Ulai Defendants have engaged in a coordinated effort to preclude select third parties, including Plaintiff, from reselling genuine Pharbest Products on online marketplaces by making false allegations of intellectual property infringement and by making defamatory statements.

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