UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

MAPLEBEAR INC. DBA INSTACART,
 	
    Plaintiff,
 	
  v.
 	
CORNERSHOP TECHNOLOGIES, INC.;
CORNERSHOP TECHNOLOGIES LLC;
DELIVERY TECHNOLOGIES US, INC.;
DOES 1-10,
 	
    Defendants.
	Case Action No. 2:20-cv-240

<u>COMPLAINT FOR INJUNCTIVE RELIEF AND MONEY DAMAGES</u>

Plaintiff Maplebear Inc. dba Instacart ("Instacart"), for its Complaint against Defendants Cornershop Technologies, Inc., Cornershop Technologies LLC, Delivery Technologies US, Inc., and Does 1-10 (collectively, "Cornershop" or the "Cornershop Defendants"), based upon actual knowledge with respect to itself and its own acts and upon information and belief as to other persons and matters, hereby alleges as follows:

NATURE OF THE ACTION

1.   Instacart brings this suit to stop the brazen and illegal accessing of its computer systems and the theft and misuse of its intellectual property by Defendant Cornershop. Cornershop launched in Chile in 2015 with a specific goal: to be an "Instacart for Latin America."[1]

2.   In May 2020, Cornershop launched operations in two U.S. States (Texas and Florida), with plans to expand rapidly nationwide. But instead of competing fairly, Cornershop has illegally accessed and scraped Instacart's Platform,[2] copying and using without authorization thousands of copyrighted and licensed images, along with product descriptions, pricing data, and other information taken from Instacart—all while falsely representing to its customers and the world that these materials are licensed or owned by Cornershop.

3.   Cornershop has carried out its illegal enterprise with striking audacity. It has advertised for engineering positions in Texas with job duties including "scrap[ing] . . . catalogs"

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[1] *See* "Jackson Square Ventures just closed its third fund with $193 million; here's how it plans to invest it" (October 14, 2019), *available at* https://techcrunch.com/2019/10/14/jackson-square-ventures-just-closed-its-third-fund-with-193-million-heres-how-it-plans-to-invest-it.

[2] As used herein, the Instacart "Platform" refers to Instacart's proprietary platform, whether accessed by a web-based browser or phone-based application ("app"), that processes customer orders placed on virtual retailer storefronts, as well as the app through which the independent service providers with whom Instacart contracts ("shoppers") using the Instacart Platform receive those orders.

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and required skills including "[a]dvanced scraping" and the "[a]bility to generate good scrapers."

Ex. A.

4.   It has copied thousands of copyrighted and proprietary images and used them without attribution or permission, after changing the file names to disguise their source.

5.   By stealing and misusing Instacart's data, Cornershop has evaded the substantial investments required of legitimate competitors in this industry. Instacart has invested millions of dollars to develop and maintain online "virtual storefronts" that feature its retailer partners' catalogs in an intuitive and pleasing interface.

6.   Instacart's efforts have included, among other things, creating thousands of aesthetically pleasing original product images to best connect consumers with the groceries and household essentials that they want and need.

7.   But Cornershop has simply copied thousands of these images—ignoring Instacart's copyrights and express prohibitions against doing so—and reposted them on Cornershop's platform to unfairly compete against Instacart.

8.   To conceal its wrongdoing, Cornershop has changed the file names on the images it has stolen from Instacart, as the chart of examples below reflects:

Product Name	Instacart File Name/URL	Cornershop Product Page URL
Everyday Sliced Mushrooms	https://d2lnr5mha7bycj.cloudfront.net/product-image/file/large_e9973fc9-1367-4c48-b1d4-c476738db10d.jpg	https://s.cornershopapp.com/product-images/1818983.jpg
Country Pride Chicken Leg Quarters	https://d2lnr5mha7bycj.cloudfront.net/product-image/file/large_143822fc-36c4-48f1-95ee-beec70fb02eb.jpg	https://s.cornershopapp.com/product-images/1795933.jpg
Daily Bread Marketplace Hummus	https://d2lnr5mha7bycj.cloudfront.net/product-image/file/large_b943aa30-916a-4f6f-ad74-1469b2188117.jpg	https://s.cornershopapp.com/product-images/1769133.jpg

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9.   However, the product images Cornershop has stolen from Instacart are identical to Instacart's copyrighted images, as the below examples reflect:

Instacart Image   **Cornershop Image**

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10.   Cornershop is well aware of the unfair advantage it has gained by stealing a business instead of building one. As its Chief Technology Officer Daniel Undurraga explained in 2016, Cornershop was "profitable almost from day one" because it "did not have a lot of R&D expense."[3] Unless enjoined, Cornershop will continue to subject Instacart to irreparable harm and distort the economics of the online grocery industry.

11.   Cornershop's activities described herein violate the Computer Fraud and Abuse Act ("CFAA"), the federal Copyright Act, the Digital Millennium Copyright Act ("DMCA"), the Texas Harmful Access by a Computer Act ("THACA"), and Texas law protecting fair competition, and breach Instacart's Terms of Service ("TOS").

12.   Through this action, Instacart seeks preliminary and permanent injunctive relief to halt Cornershop's intentional and ongoing legal violations, as well as monetary damages to compensate Instacart for the injuries Cornershop has caused that are compensable by damages, and other appropriate relief set forth herein.

THE PARTIES

13.   Plaintiff Instacart is a Delaware corporation with its principal place of business located at 50 Beale St., Suite #600, in San Francisco, California. Instacart, a technology company that provides an online Platform to facilitate grocery shopping and delivery services, maintains substantial ongoing business operations throughout the United States, including in more than five hundred communities in Texas. Within the Eastern District of Texas, Instacart offers its service in the communities of Plano, Frisco, Allen, Carrollton, and The Colony, among others.

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[3] "Cornershop aims for slice of grocery shopping in Chile and Mexico" (June 1, 2016), *available at* https://www.idgconnect.com/idgconnect/interviews/1001219/cornershop-aims-slice-grocery-shopping-chile-mexico.

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