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*Low Tech Toy Club, LLC d/b/a The Woobles*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LOW TECH TOY CLUB, LLC d/b/a THE WOOBLES,

*Plaintiff*

v.

1688 3C ELECTRONICS DIRECT STORE, 3 SEE ZONE  
STORE, 999 OODERS ELECTRONICS STORE,  
ABCDIYEA STORE, BLUE GROTTTO STORE,  
CONVENIENT DEPARTMENT STORE STORE, HOME  
FURNISHING SHOP STORE, HOMEDECOR STORE,  
HOMEY HOMEY STORE, HOSPORT CLUB STORE,  
INDEPENDENT-DESIGN STORE, NEW TRENDY  
CLOTHES CO.,LTD. STORE, NINGBO SHINEGIFTS  
IMPORT & EXPORT CO., LTD., OFFICE DIGITAL  
STORE, PINKY HOUSE, PRETTYOK STORE,  
PROFESSIONAL SPORTING STORE, SHANGHAI  
YONGJIU TEXTILE TECHNOLOGY CO., LTD.,  
SHENZHEN JIUMAI E-COMMERCE CO., LTD.,  
SHOP1102928665 STORE, SHOP1102978789 STORE,  
SHOP1103287323 STORE, SHOP1103295299 STORE,  
SHOP1103299290 STORE, SHOP1103333011 STORE,  
SHOP1103349094 STORE, SHOP1103349099 STORE,  
SHOP1103357069 STORE, SHOP1103358063 STORE,

CIVIL ACTION NO. \_\_\_\_

**COMPLAINT**

**Jury Trial Requested**


**FILED UNDER SEAL**

SHOP1103391407 STORE, SHOP1103391478 STORE,  
SHOP1103393406 STORE, SHOP1103411029 STORE,  
SHOP1103413022 STORE, SHOP1103774241 STORE,  
SHOP1103842411 STORE, SHOP1103875903 STORE,  
SHOP1103996318 STORE, SHOP1104002584 STORE,  
SHOP1104026321 STORE, SHOP1104098123 STORE,  
SHOP1104106565 STORE, SHOP1104194743 STORE,  
SHOP1104273961 STORE, SHOP1104301514 STORE,  
SHOP1104336521 STORE, SHOP1104405394 STORE,  
SHUNMAI CAMPING SPECIALTY STORE, SSS-  
DIGITAL STORE, SSWEET1128 STORE, SU CHENG ZI  
STORE, SWQ STORE, TAIZHOU QILIN AUTO PARTS  
CO., LTD., THE-FUN-TOY STORE, TOP AUTO TECH  
MALL, TWINKLE-FASHION STORE, WINHOLDER-  
TOP-RATED STORE, XINYI HONGYUAN (TIANJIN)  
TECHNOLOGY DEVELOPMENT CO., LTD., YOUME  
LIFE STORE, YUYAO DN SCIENTIFIC &  
EDUCATIONAL INSTRUMENT CO., LTD. and  
ZHENGZHOU JING YUAN INTERNATIONAL TRADE  
CO., LTD.,

*Defendants*

## **GLOSSARY**

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Plaintiff or The Woobles</b>	Low Tech Toy Club, LLC d/b/a The Woobles
<b>Defendants</b>	1688 3C Electronics Direct Store, 3 See Zone Store, 999 Oders Electronics Store, abcDIYea Store, Blue Grotto Store, Convenient Department Store Store, Home Furnishing Shop Store, Homedecor Store, Homey Homey Store, Hosport Club Store, Independent-Design Store, New Trendy Clothes Co.,Ltd. Store, Ningbo Shinegifts Import & Export Co., Ltd., Office Digital Store, Pinky House, Prettyok Store, Professional Sporting Store, Shanghai Yongjiu Textile Technology Co., Ltd., Shenzhen Jiumai E-Commerce Co., Ltd., Shop1102928665 Store, Shop1102978789 Store, Shop1103287323 Store, Shop1103295299 Store, Shop1103299290 Store, Shop1103333011 Store, Shop1103349094 Store, Shop1103349099 Store, Shop1103357069 Store, Shop1103358063 Store, Shop1103391407 Store, Shop1103391478 Store, Shop1103393406 Store, Shop1103411029 Store, Shop1103413022 Store, Shop1103774241 Store, Shop1103842411 Store, Shop1103875903 Store, Shop1103996318 Store, Shop1104002584 Store, Shop1104026321 Store, Shop1104098123 Store, Shop1104106565 Store, Shop1104194743 Store, Shop1104273961 Store, Shop1104301514 Store, Shop1104336521 Store, Shop1104405394 Store, Shunmaii Camping Specialty Store, SSS-Digital Store, SSweet1128 Store, SU CHENG ZI Store, SWQ Store, Taizhou Qilin Auto Parts Co., Ltd., The-Fun-Toy Store, Top Auto Tech Mall, Twinkle-fashion store, WinHolder-Top-Rated Store, Xinyi Hongyuan (tianjin) Technology Development Co., Ltd., YOUME LIFE Store, Yuyao DN Scientific & Educational Instrument Co., Ltd. and Zhengzhou Jing Yuan International Trade Co., Ltd.
<b>Alibaba</b>	Alibaba.com Singapore E-Commerce Pte. Ltd. and/or any other entity that owns and/or operates the Alibaba.com online marketplace platform, which allows manufacturers, wholesalers and other third-party merchants, like Defendants, to advertise, offer for sale, sell, distribute and ship their wholesale and retail products originating from China directly to consumers across the world and specifically to consumers residing

	in the U.S., including New York
<b>AliExpress</b>	AliExpress E-Commerce One Pte., Ltd. and/or any other entity that owns and/or operates the AliExpress.com online marketplace platform, which allows manufacturers, wholesalers and other third-party merchants, like Defendants, to advertise, offer for sale, sell, distribute and ship their wholesale and retail products originating from China directly to consumers across the world and specifically to consumers residing in the U.S., including New York
<b>Epstein Drangel</b>	Epstein Drangel LLP, counsel for Plaintiff
<b>New York Address</b>	244 Madison Ave, Suite 411, New York, New York 10016
<b>Complaint</b>	Plaintiff's Complaint
<b>Application</b>	Plaintiff's <i>ex parte</i> Application for: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts (as defined <i>infra</i> ) and Defendants' Assets (as defined <i>infra</i> ) with the Financial Institutions (as defined <i>infra</i> ); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery
<b>Zhang Dec.</b>	Declaration of Xinli Zhang in Support of Plaintiff's Application
<b>Levine Dec.</b>	Declaration of Melissa J. Levine in Support of Plaintiff's Application
<b>Woobles Marks</b>	U.S. Trademark Registration Nos.: 6,265,698 for <i>the</i>  for a variety of goods in Class 26 and 7,575,531, covering "THE WOOBLES" for goods in Class 26
<b>Woobles Work</b>	U.S. Copyright Registration No.: VA 2-357-202 covering Pierre the Penguin
<b>Woobles Products</b>	Consumer products that allow users to create a litany of cute characters with each kit containing a pouch that once opened, contains yarn, a crochet needle, and other materials, along with a card with a link and/or QR code to Plaintiff's website that provides a video tutorial of how to make the specific character purchased
<b>Counterfeit Products</b>	Products bearing or used in connection with the Woobles Marks and/or Woobles Work, and/or products in packaging and/or containing labels and/or hang tags bearing the Woobles Marks and/or Woobles Work, and/or bearing or used in connection with marks and/or artwork that are confusingly or substantially similar to

	the Woobles Mark and/or Woobles Work and/or products that are identical or confusingly or substantially similar to the Woobles Products
<b>Infringing Listings</b>	Defendants' listings for Counterfeit Products
<b>User Accounts</b>	Any and all websites and any and all accounts with online marketplace platforms such as Alibaba and AliExpress, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
<b>Merchant Storefronts</b>	Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them
<b>Defendants' Assets</b>	Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad)
<b>Defendants' Financial Accounts</b>	Any and all financial accounts associated with or utilized by any Defendants or any Defendants' User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad)
<b>Financial Institutions</b>	PayPal Inc. ("PayPal"), the Alibaba Group d/b/a Alibaba.com payment services (e.g., Alipay.com Co., Ltd., Ant Financial Services Group), Payoneer Inc. ("Payoneer") and PingPong Global Solutions, Inc. ("PingPong")
<b>Third Party Service Providers</b>	Online marketplace platforms, including, without limitation, those owned and operated, directly or indirectly, by Alibaba and/or AliExpress, as well as any and all as yet undiscovered online marketplace platforms and/or entities through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them manufacture, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in Counterfeit Products which are hereinafter identified as a result of any order entered in this action, or otherwise

Plaintiff, by and through its undersigned counsel, alleges as follows:<sup>1</sup>

### **NATURE OF THE ACTION**

1. This action involves claims for trademark infringement of Plaintiff's federally registered trademarks in violation of § 32 of the Federal Trademark (Lanham) Act, 15 U.S.C. §§ 1051 *et seq.*; counterfeiting of Plaintiff's federally registered trademarks in violation of 15 U.S.C. §§ 1114(1)(a)-(b), 1116(d) and 1117(b)-(c); false designation of origin, passing off and unfair competition in violation of Section 43(a) of the Trademark Act of 1946, as amended (15 U.S.C. §1125(a)); copyright infringement of Plaintiff's federally registered copyright in violation of the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.* and related state and common law claims, arising from the infringement of the Woobles Marks and Woobles Work, including, without limitation, by manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling unlicensed, counterfeit and infringing versions of Plaintiff's Woobles Products by Defendants.

### **JURISDICTION AND VENUE**

2. This Court has federal subject matter jurisdiction over the claims asserted in this Action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as well as pursuant to 15 U.S.C. § 1121 as an action arising out of violations of the Lanham Act, 15 U.S.C. §§ 1051 *et seq.* and the Copyright Act, 17 U.S.C. §§ 101 *et seq.*; pursuant to 28 U.S.C. §1338(b) as an action arising out of claims for false designation of origin and unfair competition and pursuant to 28 U.S.C. § 1332, as there is diversity between the parties and the matter in controversy exceeds, exclusive of interests and costs, the sum of seventy-five thousand dollars. This Court has supplemental jurisdiction pursuant to 28 U.S.C. §§1367(a), as the claims asserted thereunder are so closely related to the federal

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<sup>1</sup> Where a defined term is referenced herein but not defined, it should be understood as it is defined in the Glossary.

claims brought in this Action as to form part of the same case or controversy.

3. Personal jurisdiction exists over Defendants in New York pursuant to N.Y.C.P.L.R. § 302(a)(1) and N.Y.C.P.L.R. § 302(a)(3), or in the alternative, Federal Rule of Civil Procedure 4(k), because, upon information and belief, Defendants regularly conduct, transact and/or solicit business in New York, and/or derive substantial revenue from their business transactions in New York and/or otherwise avail themselves of the privileges and protections of the laws of the State of New York such that this Court's assertion of jurisdiction over Defendants does not offend traditional notions of fair play and due process, and/or Defendants' illegal counterfeiting and infringing actions caused injury to Plaintiff in New York such that Defendants should reasonably expect such actions to have consequences in New York, for example:

a. Upon information and belief, Defendants were and/or are systematically directing and/or targeting their business activities at consumers in the U.S., including New York, through accounts with online marketplace platforms such as Alibaba and/or AliExpress, as well as any and all as yet undiscovered User Accounts, through which consumers in the U.S., including New York, can view one or more of Defendants' Merchant Storefronts that each Defendant operates, uses to communicate with Defendants regarding their listings for Counterfeit Products and to place orders for, receive invoices for and purchase Counterfeit Products for delivery in the U.S., including New York, as a means for establishing regular business with the U.S., including New York.

b. Upon information and belief, Defendants are sophisticated sellers, each operating one or more commercial businesses through their respective User Accounts, using their Merchant Storefronts to manufacture, import, export, advertise, market, promote, distribute, offer for sale and/or otherwise deal in products, including the

Counterfeit Products at significantly below-market prices to consumers worldwide, including to those in the U.S., and specifically New York.

c. Upon information and belief, all Defendants accept payment in U.S. Dollars and offer shipping to the U.S., including to New York and specifically to the New York Address.

d. Upon information and belief, Defendants have transacted business with consumers located in the U.S., including New York, for the sale and shipment of Counterfeit Products.

e. Upon information and belief, Defendants are aware of Plaintiff, its Woobles Products, Woobles Marks and Woobles Work and are aware that their illegal counterfeiting and infringing actions alleged herein are likely to cause injury to Plaintiff in the U.S. and specifically, in New York.

4. Venue is proper, *inter alia*, pursuant to 28 U.S.C. § 1391 because, upon information and belief, Defendants conduct, transact and/or solicit business in New York.

#### **THE PARTIES**

5. Plaintiff is a limited liability company organized and existing under the laws of the state of New York, with a mailing address at 510 Meadowmont Village Cir., Ste. 311, Chapel Hill, North Carolina, 27517.

6. Upon information and belief, Defendants are merchants on Alibaba and/or AliExpress online marketplace platforms, through which Defendants offer for sale and/or sell Counterfeit Products, with a principal place of business at the addresses identified, if any, in the screenshots of Defendants' Merchant Storefronts in **Exhibit A**.



## **GENERAL ALLEGATIONS**

### **Plaintiff and Its Well-Known Woobles Products**

7. Plaintiff is a manufacturing company that creates and distributes learn to crochet kits, and related products, mainly geared towards beginners.


8. The Woobles Products allow users to create a litany of cute characters, and each kit contains a pouch packaging that once opened, contains yarn, a crochet needle, and other materials, along with a card with a link and/or QR code to Plaintiff's website that provides a video tutorial of how to make the specific character purchased. Images of the Woobles Products are attached hereto as **Exhibit B** and incorporated herein by reference.

9. Plaintiff primarily sells its Woobles Products, which are available in standalone kits (ranging in price typically from \$25.00 - \$40.00), as well as bundles, directly through its website, available at <https://thewoobles.com>, along with third-party retail stores in the United States, Canada, and Australia.

10. Since the official launch of the Woobles Products in or about 2020, the Woobles Products have generated millions of dollars in sales.

11. In September 2022, Plaintiff took the brand to the next level by appearing on *Shark Tank* with the Woobles Products and attracting the interest of numerous investors thereon.

12. While Plaintiff has gained significant common law trademark and other rights in its trademarks through its extensive use, advertising and promotion, Plaintiff has also protected its valuable rights by filing for and obtaining federal trademark registrations.

13. For example, Plaintiff has filed for and obtained federal trademark registrations including U.S. Trademark Registration Nos.: 6,265,698, covering  for goods in Class 26 ("Knitting kits comprised primarily of knitting needles and also including yarn,

printed knitting patterns, and other tools and accessories for knitting in the nature of stitch markers, safety eyes, stuffing, and tapestry needles”) and 7,575,531, covering “THE WOOBLES” for goods in Class 26 (“Knitting kits comprised primarily of knitting needles and also including yarn, printed knitting patterns, and other tools and accessories for knitting in the nature of stitch markers, safety eyes, stuffing, and tapestry needles”). True and correct copies of Plaintiff’s Woobles Marks are attached hereto as **Exhibit C** and incorporated herein by reference.

14. The Woobles Marks are currently in use in commerce in connection with the Woobles Products. The Woobles Marks were first used in commerce on or before the dates of first use as reflected in the registrations attached hereto as **Exhibit C**.

15. In addition, Plaintiff is the owner of U.S. Copyright Registration No. VA 2-357-202, covering Pierre the Penguin (the “Woobles Work”). A true and correct copy of the U.S. copyright registration certificate for the Woobles Work, as well as the corresponding deposit materials, is attached hereto as **Exhibit D** and incorporated herein by reference.

16. Notably, the Woobles Work – one of the six original Woobles Products – was one of the characters featured on the above-referenced *Shark Tank* segment, and is one of Plaintiff’s bestselling Woobles Products.

17. The success of the Woobles Products is due in part to Plaintiff’s extensive marketing, advertising, promotion, and distribution efforts.

18. The success of the Woobles Products is also due to its consumers, and the word-of-mouth buzz that its consumers have generated, particularly via social media.

19. Plaintiff’s efforts, the quality of its Woobles Products, its marketing, promotion, and distribution efforts, as well as the word-of-mouth buzz generated by its consumers have made the Woobles Products, Woobles Marks and Woobles Work prominently placed in the minds of

the public. Retailers, retail buyers, consumers and members of the public have become familiar with the Woobles Products and associate them exclusively with Plaintiff.

20. As a result of such associations, Plaintiff, its Woobles Products, Woobles Marks and Woobles Work have acquired a valuable reputation and goodwill among the public.

21. Plaintiff has gone to great lengths to protect its interest in and to the Woobles Products, Woobles Marks and Woobles Work. No one other than Plaintiff is authorized to manufacture, import, export, advertise, offer for sale, or sell any goods utilizing the Woobles Marks and/or Woobles Work without the express written permission of Plaintiff.

#### **Alibaba, AliExpress and Defendants' User Accounts**

22. Alibaba and AliExpress are online marketplace and e-commerce platforms that allow manufacturers, wholesalers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale, sell and ship their wholesale and retail products originating from China directly to consumers worldwide and specifically to consumers residing in the U.S., including New York.

23. As leaders of China's e-commerce and digital retail market, Alibaba and AliExpress (collectively, the "Alibaba Group"), have generated hundreds of billions in sales worldwide.<sup>2</sup> International markets, including the U.S., make up a significant percentage of sales made on Alibaba and AliExpress. For example, in 2019, revenue from international retail sales grew by 25% on AliExpress to \$342 million and 15% on Alibaba to \$841 million.<sup>3</sup>

24. In the fiscal year ending on March 31, 2024, the Alibaba Group's revenue was

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<sup>2</sup> See Kenneth Rapoza, *Jack Ma's Alibaba Promises Huge Sales Boom, \$910 Billion In Merchandise Volume By 2020*, FORBES (Jun. 15, 2016), <http://www.forbes.com/sites/kenrapoza/2016/06/15/jack-ma-foretells-huge-sales-boom-for-chinese-e-commerce-giant-alibaba/#78d364486b52>.

<sup>3</sup> See Frank Tong, *Alibaba's annual web sales easily surpass U.S. e-retail sales*, DIGITALCOMMERCE360.COM (May 5, 2016), <https://www.internetretailer.com/2016/05/05/alibabas-annual-web-sales-easily-surpass-us-e-retail-sales>.

approximately \$130.35 billion.<sup>4</sup>

25. The press reported that the growth in sales on AliExpress resulted from an increase in the number of buyers, particularly from the U.S., as well as other large countries like Russia and Brazil.<sup>5</sup>

26. Additionally, according to Business Insider, excluding China, the U.S. was among the top five countries with packages coming from Alibaba's marketplaces on the company's "Singles' Day" (often compared to the U.S.'s Cyber Monday) in 2015, which resulted in over \$14 billion in sales in one day.<sup>6</sup> In 2021, Alibaba set a new Singles Day record with \$84.5 billion in sales across the eleven (11) day event.<sup>7</sup>

27. Alibaba and AliExpress declined to share their total sales for Singles Day 2023; however, indicated 2023 sales had "a recorded year-on year growth" and 2022 sales were "in line" with the \$84.5 billion in sales reported in 2021.<sup>8</sup>

28. As addressed in the Wall Street Journal, Fortune and the New York Times,<sup>9</sup> and as

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<sup>4</sup> Xin Ou, *Annual revenue of Alibaba Group from financial year 2014 to 2024*, STATISTA (June 14, 2022) <https://www.statista.com/statistics/225614/net-revenue-of-alibaba/>.

<sup>5</sup> See Frank Tong, *An Alibaba site sells \$4.5 billion in one year to consumers outside of China*, DIGITALCOMMERCE360.COM (Sept. 11, 2014), <https://www.internetretailer.com/2014/09/11/alibaba-site-sells-45-billion-one-year-consumers-outs>.

<sup>6</sup> See Bob Bryan, *Alibaba just proved it's more than just some Chinese company*, BUSINESS INSIDER (Nov. 15, 2015), <http://www.businessinsider.com/alibaba-international-expansion-2015-11>.

<sup>7</sup> Dan Berthiaume, *Alibaba sets new Singles Day record with \$84.5 billion in sales*, CHAIN STORE AGE (Nov. 11, 2021), <https://chainstoreage.com/alibaba-sets-new-singles-day-record-845-billion-sales>.

<sup>8</sup> Casey Hall, *China's Singles Day Festival Wraps Up with E-commerce Giants Reporting Sales Growth*, Reuters (Nov. 12, 2023) <https://www.reuters.com/world/china/chinas-singles-day-sales-festival-wraps-up-with-e-commerce-giants-reporting-2023-11-12/>; Xin Ou, *Alibaba's Gross Merchandise Volume On Singles' Day From 2011 to 2021*, STATISTA (Feb. 27, 2024), <https://www.statista.com/statistics/364543/alibaba-singles-day-1111-gmv/>; Evelyn Cheng, *Alibaba says 15% of China delivery areas were disrupted during Singles Day shopping festival*, CNBC (Nov. 17, 2022) <https://www.cnbc.com/2022/11/18/alibaba-says-15percent-of-china-delivery-areas-disrupted-during-singles-day.html>.

<sup>9</sup> See Kathy Chu, *Alibaba Vows Crackdown on Fakes Amid Trade Group Controversy*, WALL STREET JOURNAL (May 13, 2016), <http://www.wsj.com/articles/alibaba-vows-crackdown-on-fakes-amid-trade-group-controversy-1463127605?>; Scott Cendrowski, *Chinese Regulator Again Calls Out Alibaba for Counterfeit Goods*, FORTUNE (Aug. 10, 2016), <http://fortune.com/2016/08/11/alibaba-counterfeit-goods-regulator/>; see also Kathy Chu, *Alibaba Suspends From Anticounterfeiting Group*, WALL STREET JOURNAL (May 13, 2016), <http://www.wsj.com/articles/alibaba-suspended-from-anticounterfeiting-group-1463170527?tesla=y>; Michael Schuman, *A Small Table Maker Takes On Alibaba's Flood of Fakes*, N.Y. TIMES (Mar. 18, 2017), <https://www.nytimes.com/2017/03/18/business/alibaba-fake-merchandise-e-commerce.html>.

reflected in the federal lawsuits filed against sellers offering for sale and selling infringing and/or counterfeit products on Alibaba and AliExpress,<sup>10</sup> an astronomical number of counterfeit and infringing products are offered for sale and sold on Alibaba.com and AliExpress.com, as well as other online marketplace platforms, at a rampant rate.

29. Additionally, the Office of the United States Trade Representative (“USTR”) publishes an annual “Notorious Markets List” which highlights specific physical and online markets around the world that are reported to be engaging in and facilitating substantial copyright piracy and trademark counterfeiting, and which is intended to help the U.S. and foreign governments prioritize intellectual property rights (IPR) enforcement that protects job-supporting innovation and creativity in the U.S. and around the world.<sup>11</sup>

30. In December 2016, the USTR added Alibaba to its “Notorious Markets” list due to its high levels of “reported counterfeiting and piracy.”<sup>12</sup>

31. In February of 2022, the Office of the United States Trade Representative (“USTR”) added AliExpress to its list of 2021 “notorious markets,” which are “markets that reportedly facilitate substantial trademark counterfeiting.”<sup>13</sup>

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<sup>10</sup> See Kathy Chu, *Luxury brands get tougher with counterfeiters – and Alibaba*, MARKETWATCH (Aug. 16, 2016), <http://www.marketwatch.com/story/luxury-brands-get-tough-with-counterfeiters-2016-08-16-91031611>; Gilian Wong, *Alibaba Sued Over Alleged Counterfeits*, WALL STREET JOURNAL (May 17, 2015), <http://www.wsj.com/articles/alibaba-sued-over-alleged-counterfeits-1431877734>; Scott Cendrowski, *There’s no end in sight for Alibaba’s counterfeit problem*, FORTUNE (May 18, 2015), <http://fortune.com/2015/05/18/theres-no-end-in-sight-for-alibabas-counterfeit-problem/>.

<sup>11</sup> See Press Release, Office of the United States Trade Representative, USTR Releases 2020 Review of Notorious Markets for Counterfeiting and Piracy (Jan. 2021), *available at* <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/january/ustr-releases-2020-review-notorious-markets-counterfeiting-and-piracy>; Office of The United States Trade Representative, 2020 Review of Notorious Markets for Counterfeiting and Piracy (2020), *available at* [https://ustr.gov/sites/default/files/files/Press/Releases/2020%20Review%20of%20Notorious%20Markets%20for%20Counterfeiting%20and%20Piracy%20\(final\).pdf](https://ustr.gov/sites/default/files/files/Press/Releases/2020%20Review%20of%20Notorious%20Markets%20for%20Counterfeiting%20and%20Piracy%20(final).pdf).

<sup>12</sup> Laura Stevens, *Alibaba Lands on U.S. Governments’ ‘Notorious Markets’ List for Fakes*, WALL STREET JOURNAL (Dec. 21, 2016), <https://www.wsj.com/articles/alibaba-lands-on-u-s-governments-notorious-markets-list-for-fakes-1482356081>; *see also* *Alibaba Lands on U.S. Notorious Markets List for Lax Counterfeit Policies*, CHINATECHNEWS (Dec. 22, 2016), <https://www.chinatechnews.com/2016/12/22/24615-alibaba-lands-on-u-s-notorious-markets-list-for-lax-counterfeit-policies>.

<sup>13</sup> Michelle Toh, *The US accuses Tencent and Alibaba of letting sellers traffic fake goods*, CNN (Feb. 18, 2022)

32. On January 31, 2023, the USTR released its 2022 Review of Notorious Markets for Counterfeiting and Piracy, and AliExpress was again designated a “notorious market.”<sup>14</sup> The USTR specifically noted that a “key concern of right holders is that penalties for repeat infringers do not stop counterfeit sellers on AliExpress from remaining on the market, such as by operating multiple accounts.”<sup>15</sup>

33. Defendants are individuals and/or businesses, who, upon information and belief, are located in China but conduct business in the U.S. and other countries by means of their User Accounts and on their Merchant Storefronts on Alibaba and AliExpress, as well as potentially yet undiscovered additional online marketplace platforms.

34. Through their Merchant Storefronts, Defendants offer for sale and/or sell consumer products, including Counterfeit Products, and target and ship such products to customers located in the U.S., including New York, and throughout the world.

35. Defendants’ Merchant Storefronts share unique identifiers, such as design elements along with similarities in price, description of the goods offered and of the Counterfeit Products themselves offered for sale.

36. Defendants are in constant communication with each other and regularly participate in online chatroom discussions involving illegal counterfeiting activities, pending litigation and potential new lawsuits.

### **Defendants’ Wrongful and Infringing Conduct**

37. Particularly in light of Plaintiff’s success with its Woobles Products, as well as the reputation it has gained, Plaintiff and its Woobles Products have become targets for unscrupulous

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<https://www.cnn.com/2022/02/17/business/china-tencent-alibaba-notorious-markets-list-intl-hnk/index.html>.

<sup>14</sup> USTR Releases 2022 Review of Notorious Markets for Counterfeiting and Piracy, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE (Jan. 31, 2023), <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/january/ustr-releases-2022-review-notorious-markets-counterfeiting-and-piracy>.

<sup>15</sup> *Id.*

individuals and entities who wish to capitalize on the goodwill, reputation and fame that Plaintiff has amassed in its Woobles Products, Woobles Marks and Woobles Work and Plaintiff investigates and enforces against such activities.

38. Through Epstein Drangel's investigative and enforcement efforts, Plaintiff learned of Defendants' actions which vary and include, but are not limited to: manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling Counterfeit Products to U.S. consumers, including those located in the state of New York, through Defendants' User Accounts and Merchant Storefronts. Screenshots of Infringing Listings from Defendants' User Accounts and Merchant Storefronts are included in **Exhibit A** attached hereto and incorporated herein by reference.

39. Defendants are not, and have never been, authorized by Plaintiff or any of its authorized agents, authorized licensees or authorized distributors to copy, manufacture, import, export, advertise, distribute, offer for sale or sell the Woobles Products or to use the Woobles Marks/and or Woobles Work, or any marks or artwork that are confusingly or substantially similar to the Woobles Marks and Woobles Work.

40. Defendants' Counterfeit Products are nearly indistinguishable from Plaintiff's Woobles Products, only with minor variations that no ordinary consumer would recognize.

41. During its investigation, Epstein Drangel identified Defendants as offering for sale and/or selling Counterfeit Products and specified a shipping address located at the New York Address and verified that each Defendant provides shipping to the New York Address. Screenshots of the checkout pages for the Counterfeit Products and pages from Defendants' Merchant Storefronts reflecting that the Defendants ship the Counterfeit Products to the New York Address are included in **Exhibit A**.

42. Epstein Drangel confirmed that each Defendant is still currently offering for sale and/or selling Counterfeit Products through their respective User Accounts and/or Merchant Storefronts, accepting payment for such Counterfeit Products in U.S. Dollars and that each Defendant provides shipping and/or has actually shipped Counterfeit Products to the U.S., including to customers located in New York. Plaintiff's findings are supported by Defendants' Infringing Listings and/or the checkout pages for Counterfeit Products, which are included in **Exhibit A**.

43. For example, below on the left is an image of one of Plaintiff's Woobles Products. Depicted further below is a listing for Defendant Blue Grotto Store's Counterfeit Product ("Blue Grotto Store Infringing Listing" and "Blue Grotto Store Counterfeit Product," respectively). The Blue Grotto Store Infringing Listing appears on Defendant Blue Grotto Store's Merchant Storefront, <https://www.aliexpress.com/store/1103381132>, and offers the Blue Grotto Store Counterfeit Product for \$6.96 per item, using, featuring and/or incorporating the Woobles Marks and/or Woobles Work and/or confusingly or substantially similar marks and/or artwork in the descriptions and/or product images in the body of the listing. Further, the Blue Grotto Store Counterfeit Product is virtually identical to one of Plaintiff's Woobles Products and features and/or incorporates the Woobles Marks and/or Woobles Work. There is no question that the Blue Grotto Store Counterfeit Product is designed to confuse and mislead consumers into believing that they are purchasing one of Plaintiff's Woobles Products or that the Blue Grotto Store Counterfeit Product is otherwise approved by or sourced from Plaintiff, thereby trading off of the goodwill and reputation of Plaintiff by engaging in the unauthorized use of the Woobles Marks and/or Woobles Work:



## Woobles Products



## Defendant's Counterfeit Products



44. By way of another example, below on the left is an image of one of Plaintiff's Woobles Products. Depicted further below is a listing for Defendant Convenient Department Store Store's Counterfeit Product ("Convenient Department Store Store Infringing Listing" and "Convenient Department Store Store Counterfeit Product," respectively). The Convenient Department Store Store Infringing Listing appears on Defendant Convenient Department Store Store's Merchant Storefront, <https://www.aliexpress.com/store/1102984037>, and offers the Convenient Department Store Store Counterfeit Product for \$6.14 per item, using, featuring and/or incorporating the Woobles Marks and/or Woobles Work and/or confusingly or substantially similar marks and/or artwork in the descriptions and/or product images in the body of the listing. Further, Convenient Department Store Store Counterfeit Product is virtually identical to one of Plaintiff's Woobles Products and features and/or incorporates the Woobles Mark and/or Woobles Work. There is no question that the Convenient Department Store Store Counterfeit Product is designed to confuse and mislead consumers into believing that they are purchasing one of Plaintiff's Woobles Products or that the Convenient Department Store Store Counterfeit Product is otherwise approved by or sourced from Plaintiff, thereby trading off of the goodwill and

reputation of Plaintiff by engaging in the unauthorized use of the Woobles Marks and/or Woobles Work:

**Woobles Product**



**Defendant's Counterfeit Product**



45. As another example, below on the left is an image of one of Plaintiff's Woobles Products. Depicted further below is a listing for Defendant Shanghai Yongjiu Textile Technology Co., Ltd's Counterfeit Product ("Shanghai Yongjiu Textile Technology Co., Ltd Infringing Listing" and "Shanghai Yongjiu Textile Technology Co., Ltd Counterfeit Product," respectively). The Shanghai Yongjiu Textile Technology Co., Ltd Infringing Listing appears on Defendant Shanghai Yongjiu Textile Technology Co., Ltd's Merchant Storefront, <https://yongjiufabric.en.alibaba.com/index.html?from=detail&productId=1601365934335>, and offers the Shanghai Yongjiu Textile Technology Co., Ltd Counterfeit Product for a price ranging between \$2.50 and \$3.00 depending on the number of sets purchased, using, featuring and/or incorporating the Woobles Marks and/or Woobles Work and/or confusingly or substantially similar marks and/or artwork in the descriptions and/or product images in the body of the listing. Further, the Shanghai Yongjiu Textile Technology Co., Ltd Counterfeit Product is virtually identical to one of Plaintiff's Woobles Products and features and/or incorporates the Woobles Marks and/or Woobles Work. There is no question that the Shanghai Yongjiu Textile

Technology Co., Ltd Counterfeit Product is designed to confuse and mislead consumers into believing that they are purchasing one of Plaintiff's Woobles Products or that the Shanghai Yongjiu Textile Technology Co., Ltd Counterfeit Product is otherwise approved by or sourced from Plaintiff, thereby trading off of the goodwill and reputation of Plaintiff by engaging in the unauthorized use of the Woobles Marks and/or Woobles Work:

**Woobles Product**



**Defendant's Counterfeit Product**



46. By these dealings in Counterfeit Products (including, without limitation, copying, manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling Counterfeit Products), Defendants violated Plaintiff's exclusive rights in the Woobles Marks and/or Woobles Work, and have used marks and/or artwork that are confusingly similar to, identical to, substantially similar to and/or constitute counterfeiting and/or infringement of the Woobles Marks and/or Woobles Work in order to confuse consumers into believing that such Counterfeit Products are the Woobles Products and aid in the promotion and sales of their Counterfeit Products. Defendants' conduct began long after Plaintiff's adoption and use of the Woobles Marks and/or Woobles Work, after Plaintiff obtained federal registrations in the Woobles Marks and Woobles Work, as alleged above, and after Plaintiff's Woobles Products, Woobles Marks and Woobles Work became well-known to the purchasing public.

47. Prior to and contemporaneous with their counterfeiting and infringing actions alleged herein, Defendants had knowledge of Plaintiff's ownership of the Woobles Marks and Woobles Work, of the fame and incalculable goodwill associated therewith and of the popularity and success of the Woobles Products, and in bad faith adopted the Woobles Marks and/or Woobles Work.

48. Defendants have been engaging in the illegal counterfeiting and infringing actions, as alleged herein, knowingly, and intentionally, or with reckless disregard or willful blindness to Plaintiff's rights, or in bad faith, for the purpose of trading on the goodwill and reputation of Plaintiff, the Woobles Marks, Woobles Work and Woobles Products.

49. Defendants' dealings in Counterfeit Products, as alleged herein, has caused, and will continue to cause confusion, mistake, economic loss, and has, and will continue to deceive consumers, the public and the trade with respect to the source or origin of Defendants' Counterfeit Products, thereby causing consumers to erroneously believe that such Counterfeit Products are licensed by or otherwise associated with Plaintiff, thereby damaging Plaintiff.

50. By engaging in these actions, Defendants have, jointly and severally, among other things, willfully and in bad faith committed the following, all of which have and will continue to cause irreparable harm to Plaintiff: infringed and counterfeited the Woobles Marks and/or Woobles Work, committed unfair competition and unfairly and unjustly profited from such activities at Plaintiff's expense.

51. Unless enjoined, Defendants will continue to cause irreparable harm to Plaintiff.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION (Trademark Counterfeiting)**

**[15 U.S.C. § 1114(1)(b)/Lanham Act § 32; 15 U.S.C. § 1116(d)/Lanham Act § 34; 15 U.S.C. § 1117(b)-(c)/Lanham Act § 35]**

52. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

53. Plaintiff is the exclusive owner of all right and title to the Woobles Marks.

54. Plaintiff has continuously used the Woobles Marks in interstate commerce since on or before the dates of first use as reflected in the registration certificates attached hereto as **Exhibit C**.

55. Without Plaintiff's authorization or consent, with knowledge of Plaintiff's well-known and prior rights in its Woobles Marks and with knowledge that Defendants' Counterfeit Products bear counterfeit marks, Defendants intentionally reproduced, copied and/or colorably imitated the Woobles Marks and/or used spurious designations that are identical with, or indistinguishable from, the Woobles Marks on or in connection with the manufacturing, import, export, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products.

56. Defendants have manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale and/or sold their Counterfeit Products to the purchasing public in direct competition with Plaintiff, in or affecting interstate commerce, and/or have acted with reckless disregard of Plaintiff's rights in and to the Woobles Marks through their participation in such activities.

57. Defendants have applied their reproductions, counterfeits, copies and colorable imitations of the Woobles Marks to packaging, point-of-purchase materials, promotions and/or advertisements intended to be used in commerce upon, or in connection with the manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of Defendants' Counterfeit Products, which is likely to cause confusion, mistake,

and deception among the general purchasing public as to the origin of the Counterfeit Products, and is likely to deceive consumers, the public and the trade into believing that the Counterfeit Products sold by Defendants originate from, are associated with or are otherwise authorized by Plaintiff, thereby making substantial profits and gains to which they are not entitled in law or equity.

58. Defendants' unauthorized use of the Woobles Marks on or in connection with the Counterfeit Products was done with notice and full knowledge that such use was not authorized or licensed by Plaintiff or its authorized agents and with deliberate intent to unfairly benefit from the incalculable goodwill inherent in the Woobles Marks.

59. Defendants' actions constitute willful counterfeiting of the Woobles Marks in violation of 15 U.S.C. §§ 1114(1)(a)-(b), 1116(d) and 1117(b)-(c).

60. As a direct and proximate result of Defendants' illegal actions alleged herein, Defendants have caused substantial monetary loss and irreparable injury and damage to Plaintiff, its business, its reputation and its valuable rights in and to the Woobles Marks and the goodwill associated therewith, in an amount as yet unknown, but to be determined at trial, for which Plaintiff has no adequate remedy at law, and unless immediately enjoined, Defendants will continue to cause such substantial and irreparable injury, loss and damage to Plaintiff and its valuable Woobles Marks.

61. Based on Defendants' actions as alleged herein, Plaintiff is entitled to injunctive relief, damages for the irreparable harm that Plaintiff has sustained, and will sustain, as a result of Defendants' unlawful and infringing actions, as alleged herein, and all gains, profits and advantages obtained by Defendants as a result thereof, enhanced discretionary damages, treble damages and/or statutory damages of up to \$2,000,000 per counterfeit mark per type of goods

sold, offered for sale or distributed and reasonable attorneys' fees and costs.

**SECOND CAUSE OF ACTION**  
**(Infringement of Registered Trademarks)**  
**[15 U.S.C. § 1114/Lanham Act § 32(a)]**

62. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

63. Plaintiff has continuously used the Woobles Marks in interstate commerce since on or before the dates of first use as reflected in the registration certificates attached hereto as **Exhibit C**.

64. Plaintiff, as owner of all right, title, and interest in and to the Woobles Marks, has standing to maintain an action for trademark infringement under 15 U.S.C. § 1114.

65. Defendants were, at the time they engaged in their actions as alleged herein, actually aware that Plaintiff is the owner of the federal trademark registrations for the Woobles Marks.

66. Defendants did not seek and thus inherently failed to obtain consent or authorization from Plaintiff, as the registered trademark owner of the Woobles Marks, to deal in and commercially manufacture, import, export, advertise, market, promote, distribute, display, retail, offer for sale and/or sell the Woobles Products and/or related products bearing the Woobles Marks into the stream of commerce.

67. Defendants knowingly and intentionally used the Woobles Marks, or marks that are identical or confusingly similar thereto, on or in connection with the manufacture, importation, exportation, advertisement, marketing, promotion, distribution, offering for sale/or sale of Counterfeit Products.

68. Defendants' egregious and intentional use of the Woobles Marks in commerce on

or in connection with Defendants' Counterfeit Products has caused, and is likely to continue to cause, actual confusion and mistake, and has deceived, and is likely to continue to deceive, the general purchasing public as to the source or origin of the Counterfeit Products, and is likely to deceive the public into believing that Defendants' Counterfeit Products are Plaintiff's Woobles Products or are otherwise associated with, or authorized by, Plaintiff.

69. Defendants' actions have been deliberate and committed with knowledge of Plaintiff's rights and goodwill in the Woobles Marks, as well as with bad faith and the intent to cause confusion, mistake, and deception.

70. Defendants' continued, knowing, and intentional use of the Woobles Marks without Plaintiff's consent or authorization constitutes intentional infringement of Plaintiff's federally registered Woobles Marks in violation of §32 of the Lanham Act, 15 U.S.C. § 1114.

71. As a direct and proximate result of Defendants' illegal and infringing actions as alleged herein, Plaintiff has suffered substantial monetary loss and irreparable injury, loss and damage to its business and its valuable rights in and to the Woobles Marks and the goodwill associated therewith in an amount as yet unknown, but to be determined at trial, for which Plaintiff has no adequate remedy at law, and unless immediately enjoined, Defendants will continue to cause such substantial and irreparable injury, loss and damage to Plaintiff and the valuable Woobles Marks.

72. Based on Defendants' actions as alleged herein, Plaintiff is entitled to injunctive relief, damages for the irreparable harm that Plaintiff has sustained, and will sustain, as a result of Defendants' unlawful and infringing actions as alleged herein, and all gains, profits and advantages obtained by Defendants as a result thereof, enhanced discretionary damages, as well as other remedies provided by 15 U.S.C. §§ 1116, 1117, and 1118, and reasonable attorneys' fees



and costs.

**THIRD CAUSE OF ACTION**  
**(False Designation of Origin, Passing Off & Unfair Competition)**  
**[15 U.S.C. § 1125(a)/Lanham Act § 43(a)]**

73. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

74. Plaintiff, as the owner of all right, title, and interest in and to the Woobles Marks has standing to maintain an action for false designation of origin and unfair competition under the Federal Trademark Statute, Lanham Act § 43(a) (15 U.S.C. § 1125).

75. The Woobles Marks are inherently distinctive and/or have acquired distinctiveness.

76. Defendants knowingly and willfully used in commerce marks that are identical or confusingly similar to Plaintiff's Woobles Marks and/or affixed, applied and/or used other words, names, symbols or designs in connection with the promotion of Defendants' Counterfeit Products and/or labeling designs that are identical or confusingly similar to, and constitute reproductions of the Woobles Marks and affixed, applied and used false designations of origin and false and misleading descriptions and representations on or in connection with the manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Counterfeit Products with the intent to cause confusion, to cause mistake and to deceive the purchasing public into believing, in error, that Defendants' substandard Counterfeit Products are Woobles Products or related products, and/or that Defendants' Counterfeit Products are authorized, sponsored, approved, endorsed or licensed by Plaintiff and/or that Defendants are affiliated, connected or associated with Plaintiff, thereby creating a likelihood of confusion by consumers as to the source of such Counterfeit Products, and allowing Defendants to capitalize on the goodwill associated with, and the consumer recognition of, the Woobles Marks, to Defendants'

substantial profit in blatant disregard of Plaintiff's rights.

77. By using marks that are identical or confusingly similar to Plaintiff's Woobles Marks, Defendants have traded off the extensive goodwill of Plaintiff and its Woobles Products to induce customers to purchase Defendants' Counterfeit Products, and will continue to induce such customers to do the same. Such conduct has permitted, and will continue to permit Defendants to make substantial sales and profits based on the goodwill and reputation of Plaintiff, which Plaintiff has amassed through its nationwide marketing, advertising, sales and consumer recognition.

78. Defendants knew, or by the exercise of reasonable care should have known, that their adoption and commencement of and continuing use in commerce of marks that are identical or confusingly similar to and constitute reproductions of the Woobles Marks would cause confusion, mistake, or deception among purchasers, users, and the public.

79. Upon information and belief, Defendants' aforementioned wrongful actions have been knowing, deliberate, willful, intended to cause confusion, to cause mistake and to deceive the purchasing public and with the intent to trade on the goodwill and reputation of Plaintiff, Woobles Products and Woobles Marks.

80. As a direct and proximate result of Defendants' aforementioned actions, Defendants have caused irreparable injury to Plaintiff by depriving Plaintiff of sales of its Woobles Products and by depriving Plaintiff of the value of its Woobles Marks as a commercial asset in an amount as yet unknown, but to be determined at trial, for which it has no adequate remedy at law, and unless immediately restrained, Defendants will continue to cause substantial and irreparable injury to Plaintiff and the goodwill and reputation associated with the value of the Woobles Marks.

81. Based on Defendants' wrongful conduct, Plaintiff is entitled to injunctive relief as

well as monetary damages and other remedies as provided by the Lanham Act, including damages that Plaintiff has sustained and will sustain as a result of Defendants' illegal and infringing actions as alleged herein, and all gains, profits and advantages obtained by Defendants as a result thereof, enhanced discretionary damages and reasonable attorneys' fees and costs.

**FOURTH CAUSE OF ACTION**  
**(Federal Copyright Infringement)**  
**[17 U.S.C. § 501(a)]**

82. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

83. Plaintiff is the exclusive owner of the Woobles Work.

84. Defendants had actual notice of Plaintiff's exclusive rights in and to the Woobles Work.

85. Defendants did not attempt and therefore inherently failed to obtain Plaintiff's consent or authorization to use, manufacture, reproduce, copy, display, prepare derivative works of, distribute, sell, transfer, rent, perform and/or market Plaintiff's Woobles Products and/or Woobles Work.

86. Without permission, Defendants knowingly and intentionally reproduced, copied, and displayed the Woobles Work by manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling Counterfeit Products which bear such Woobles Work, or artwork that is, at a minimum, substantially similar to the Woobles Work.

87. Defendants' unlawful and willful actions as alleged herein constitute infringement of the Woobles Work, including Plaintiff's exclusive rights to reproduce, distribute and/or sell such Woobles Work in violation of 17 U.S.C. § 501(a).

88. Defendants' knowing and intentional copyright infringement, as alleged herein, has

caused substantial and irreparable harm to Plaintiff in an amount as yet unknown but to be proven at trial, for which Plaintiff has no adequate remedy at law, and unless enjoined, Defendants will continue to cause, substantial and irreparable harm to Plaintiff.

89. Based on Defendants' wrongful conduct, Plaintiff is entitled to injunctive relief, Plaintiff's actual damages and Defendants' profits in an amount to be proven at trial and enhanced discretionary damages for willful copyright infringement, and reasonable attorneys' fees and costs.

**FIFTH CAUSE OF ACTION**  
**(Unfair Competition)**  
**[New York Common Law]**

90. Plaintiff repleads and incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

91. By using marks that are identical or confusingly similar to Plaintiff's Woobles Marks on or in connection with Defendants' Counterfeit Products and/or the advertisement, marketing, promotion, and/or offering for sale of Defendants' Counterfeit Products, Defendants have traded off the extensive goodwill of Plaintiff and its Woobles Marks and Woobles Products to induce, and did induce and intends and will continue to induce, customers to purchase Defendants' Counterfeit Products, thereby directly competing with Plaintiff. Such conduct has permitted and will continue to permit Defendants to make substantial sales and profits based on the goodwill and reputation of Plaintiff, which Plaintiff has amassed through their nationwide marketing, advertising, sales and consumer recognition.

92. Defendants' use of marks that are identical or confusingly similar to Plaintiff's Woobles Marks was and is in violation and derogation of Plaintiff's rights and is likely to cause confusion and mistake, and to deceive consumers and the public as to the source, origin,

sponsorship, or quality of Defendants' Counterfeit Products.

93. Defendants knew, or by the exercise of reasonable care should have known, that their use of marks that are identical or confusingly similar to Plaintiff's Woobles Marks on or in connection with Defendants' Counterfeit Products would cause confusion and mistake, or deceive purchasers, users and the public.

94. Upon information and belief, Defendants' aforementioned wrongful actions have been knowing, deliberate, willful, intended to cause confusion and mistake, and to deceive, in blatant disregard of Plaintiff's rights, and for the wrongful purpose of injuring Plaintiff, and its competitive position while benefiting Defendants.

95. As a direct and proximate result of Defendants' aforementioned wrongful actions, Plaintiff has been and will continue to be deprived of substantial sales of its Woobles Products in an amount as yet unknown but to be determined at trial, for which Plaintiff has no adequate remedy at law, and Plaintiff has been and will continue to be deprived of the value of its Woobles Marks as commercial assets in an amount as yet unknown but to be determined at trial, for which Plaintiff has no adequate remedy at law.

96. As a result of Defendants' actions alleged herein, Plaintiff is entitled to injunctive relief, an order granting Plaintiff's damages and Defendants' profits stemming from their infringing activities, and exemplary or punitive damages for Defendants' intentional misconduct.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for judgment against Defendants, inclusive, and each of them, as follows:

A. For an award of Defendants' profits and Plaintiff's damages pursuant to 15 U.S.C. § 1117(a), enhanced discretionary damages under 15 U.S.C. § 1117(a) and treble damages in the amount of a sum equal to three (3) times such profits or damages,

whichever is greater, pursuant to 15 U.S.C. § 1117(b) for willfully and intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark in violation of 15 U.S.C. § 1114(1)(a);

B. In the alternative to Defendants' profits and Plaintiff's actual damages, enhanced discretionary damages and treble damages for willful use of a counterfeit mark in connection with the sale, offering for sale or distribution of goods or services, for statutory damages pursuant to 15 U.S.C. § 1117(c) in the amount of not more than \$2,000,000 per counterfeit mark per type of goods or services sold, offered for sale or distributed, as the Court considers just, which Plaintiff may elect prior to the rendering of final judgment;

C. For an award of Plaintiff's actual damages and Defendants' profits, pursuant to 17 U.S.C. § 504(b), in an amount to be proven at trial for willful copyright infringement of the Woobles Work under 17 U.S.C. § 501(a);

D. In the alternative to Plaintiff's actual damages and Defendants' profits for copyright infringement of the Woobles Work pursuant to 17 U.S.C. § 504(b), for statutory damages of up to \$150,000 per infringement pursuant to 17 U.S.C. § 504(c) for willful copyright infringement, which Plaintiff may elect prior to the rendering of final judgment;

E. For an award of Defendants' profits and Plaintiff's damages in an amount to be proven at trial for willful trademark infringement of Plaintiff's federally registered Woobles Marks, and such other compensatory damages as the Court determines to be fair and appropriate pursuant to 15 U.S.C. § 1117(a);

F. For an award of Defendants' profits and Plaintiff's damages pursuant to 15

U.S.C. § 1117(a) in an amount to be proven at trial and such other compensatory damages as the Court determines to be fair and appropriate pursuant to 15 U.S.C. § 1117(a) for false designation of origin and unfair competition under 15 U.S.C. §1125(a);

G. For an award of damages to be proven at trial for common law unfair competition;

H. For a preliminary and permanent injunction by this Court enjoining and prohibiting Defendants, or their agents, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns, and entities owned or controlled by Defendants, and all those in active concert or participation with Defendants, and each of them who receives notice directly or otherwise of such injunction from:

- i. manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products;
- ii. directly or indirectly infringing in any manner Plaintiff's Woobles Marks and/or Woobles Work;
- iii. using any reproduction, counterfeit, copy or colorable imitation of Plaintiff's Woobles Marks and/or Woobles Work to identify any goods or services not authorized by Plaintiff;
- iv. using Plaintiff's Woobles Marks and/or Woobles Work or any other marks and/or artwork that are confusingly or substantially similar to the Woobles Marks and/or Woobles Work, on or in connection with Defendants' manufacturing, importing, exporting, advertising,

- marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products;
- v. using any false designation of origin or false description, or engaging in any action which is likely to cause confusion, cause mistake and/or to deceive members of the trade and/or the public as to the affiliation, connection or association of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants with Plaintiff, and/or as to the origin, sponsorship or approval of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants and Defendants' commercial activities by Plaintiff;
  - vi. engaging in the unlawful, unfair, or fraudulent business acts or practices, including, without limitation, the actions described herein, including the of advertising and/or dealing in any Counterfeit Products;
  - vii. engaging in any other actions that constitute unfair competition with Plaintiff;
  - viii. engaging in any other act in derogation of Plaintiff's rights;
  - ix. from secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products; (ii) any computer files, data, business records, documents or any other records or evidence relating to Defendants' User Accounts or Merchant



Storefronts, Defendants' Assets from or to Defendants' Financial Accounts and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products;

- x. from secreting, concealing, transferring, disposing of, withdrawing, encumbering, or paying any of Defendants' Assets from or Defendants' Financial Accounts until further ordered by this Court;
- xi. effecting assignments or transfers, forming new entities or associations, or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in any final judgment or order in this action;
- xii. providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts; and
- xiii. instructing any other person or entity to engage or perform any of the activities referred to in subparagraphs (i) through (xii) above; and

I. For an order of the Court requiring that Defendants recall from any distributors and retailers and deliver up to Plaintiff for destruction any and all Counterfeit Products and any and all packaging, labels, tags, advertising and promotional materials and any other materials in the possession, custody or control of such distributors and retailers that infringe Plaintiff's Woobles Marks and/or Woobles Work, or bear any marks or artwork that are confusingly or substantially similar to the Woobles Marks and/or

Woobles Work;

J. For an order of the Court requiring that Defendants deliver up for destruction to Plaintiff any and all Counterfeit Products and any and all packaging, labels, tags, advertising and promotional materials and any other materials in the possession, custody or control of Defendants that infringe Plaintiff's Woobles Marks and/or Woobles Work, or bear any marks or artwork that are confusingly or substantially similar to the Woobles Marks and/or Woobles Work pursuant to 15 U.S.C. § 1118;

K. For an order from the Court requiring that Defendants provide complete accountings for any and all monies, profits, gains, and advantages derived by Defendants from their manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, sale and/or otherwise dealing in the Counterfeit Products as described herein, including prejudgment interest;

L. For an order from the Court that an asset freeze or constructive trust be imposed over any and all monies, profits, gains, and advantages in Defendants' possession which rightfully belong to Plaintiff;

M. For an award of exemplary or punitive damages in an amount to be determined by the Court;

N. For Plaintiff's reasonable attorneys' fees;

O. For all costs of suit; and

P. For such other and further relief as the Court may deem just and equitable.

#### **DEMAND FOR JURY TRIAL**

Plaintiff respectfully demands a trial by jury on all claims.

Dated: May 21, 2025

Respectfully submitted,

EPSTEIN DRANGEL LLP

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*The Woobles*

# **EXHIBIT B**





# **EXHIBIT C**

# United States of America

United States Patent and Trademark Office

*the*  
**Woobles**

**Reg. No. 6,265,698**

**Registered Feb. 09, 2021**

**Int. Cl.: 26**

**Trademark**

**Principal Register**

Low Tech Toy Club, LLC (NEW YORK LIMITED LIABILITY COMPANY), DBA The Woobles  
499 Dean St Apt 2b  
Brooklyn, NEW YORK 11217

CLASS 26: Knitting kits comprised primarily of knitting needles and also including yarn, printed knitting patterns, and other tools and accessories for knitting in the nature of stitch markers, safety eyes, stuffing, and tapestry needles

FIRST USE 10-2-2018; IN COMMERCE 10-2-2018

The mark consists of the cursive stylized wording "THE WOOBLES".

SER. NO. 90-041,769, FILED 07-08-2020



*Donna H. Hufsch*

Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office





# United States of America

United States Patent and Trademark Office

## THE WOOBLES

**Reg. No. 7,575,531**

**Registered Nov. 26, 2024**

**Int. Cl.: 26**

**Trademark**

**Principal Register**

Low Tech Toy Club, LLC (NEW YORK LIMITED LIABILITY COMPANY), DBA The Woobles

#108

411 Emissary Drive

Cary, NORTH CAROLINA 27519

CLASS 26: Knitting kits comprised primarily of knitting needles and also including yarn, printed knitting patterns, and other tools and accessories for knitting in the nature of stitch markers, safety eyes, stuffing, and tapestry needles

FIRST USE 10-2-2018; IN COMMERCE 10-2-2018

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

OWNER OF U.S. REG. NO. 6265698

SER. NO. 97-876,642, FILED 04-06-2023

*Katherine Kelly Vidal*

Director of the United States  
Patent and Trademark Office



## **REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

### **Requirements in the First Ten Years\***

#### **What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

### **Requirements in Successive Ten-Year Periods\***

#### **What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

### **Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

**NOTE:** A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

# **EXHIBIT D**

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Shirley R. Krumholtz*  
United States Register of Copyrights and Director

**Registration Number**

**VA 2-357-202**

**Effective Date of Registration:**

June 13, 2023

**Registration Decision Date:**

August 08, 2023

## Title

**Title of Work:** Pierre the Penguin

## Completion/Publication

**Year of Completion:** 2021

**Date of 1st Publication:** November 17, 2021

**Nation of 1st Publication:** United States

## Author

• **Author:** Low Tech Toy Club, LLC dba The Woobles  
**Author Created:** sculpture  
**Work made for hire:** Yes  
**Citizen of:** United States

## Copyright Claimant

**Copyright Claimant:** Low Tech Toy Club, LLC dba The Woobles  
411 Emissary Dr., #108, Cary, NC, 27519, United States

## Rights and Permissions

**Organization Name:** Low Tech Toy Club, LLC, dba The Woobles  
**Address:** 411 Emissary Dr., #108  
Cary, NC 27519 United States

## Certification

**Name:** John H. Choi  
**Date:** June 13, 2023  
**Applicant's Tracking Number:** 971C001A1-US

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