

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

**HONG KONG LEYUZHEN TECHNOLOGY
CO. LIMITED,**

Plaintiff,

v.

**THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS, AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A TO THE
COMPLAINT,**

Defendants.

Civil Action No.: 1:24-cv-2939

Honorable Judge Matthew F. Kennelly

Magistrate Judge Beth W. Jantz

**ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF'S COMPLAINT**

Defendant BIRW (“Defendants”), through their undersigned counsel, and in answer to the Complaint filed by the Plaintiff, state as follows:

NATURE OF THE ACTION

1. This action has been filed by Plaintiff to combat online copyright infringers who trade upon Plaintiff’s reputation, goodwill and valuable copyrights consisting of images and 3-D artwork embodied in Plaintiff’s brand product line, Rotita (the “Asserted Brand”) of women’s apparel (the “Asserted Brand Copyrights”). Plaintiff publishes Asserted Brand Copyrights on an online storefront located at the company’s website associated with its Asserted Brand. Defendants infringe the Asserted Brand Copyrights by publishing the

copyrighted images and 3-D artwork on numerous fully interactive commercial internet stores (“Defendants’ Online Stores”) on the online Amazon platform identified on Schedule “A” (the “Online Platform”), and are using, without authorization, the Asserted Brand Copyrights and derivatives thereof, to sell and/or offer for sale “knock-off” products of inferior quality and at bargain basement prices.

ANSWER: Defendant denies the allegations in paragraph 1.

2. Defendants likewise advertise, market, and/or sell their knockoff products embodying Plaintiff’s Asserted Brand Copyrights by reference to the same photographs and 3-D artwork as genuine Asserted Brand products, which causes further confusion and deception in the marketplace. Unique identifiers common to Defendants’ internet stores, such as design elements and similarities in Defendant’s unlawful use of the Asserted Brand Copyrights, establish a logical relationship between them and suggest 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.

ANSWER: Defendant denies the allegations in paragraph 2.

3. Plaintiff is forced to file this action to combat Defendants’ counterfeiting of Plaintiff’s copyrights, as well as to protect unknowing consumers from purchasing knockoff products over the Internet. Plaintiff has been and continues to be irreparably damaged through consumer confusion, dilution, and tarnishment of the Asserted Brand’s reputation and goodwill because of Defendants’ actions, and therefore seeks injunctive and monetary relief.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 3, and therefore denies those allegations.

JURISDICTION AND VENUE

4. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Federal Copyright Act, 17 U.S.C. § 101, et seq., 28 U.S.C. § 1338(a)–(b) and 28 U.S.C. § 1331.

ANSWER: Defendant admits that the Complaint purports to state a claim arising under the Copyright Act, and that such a claim, if proper, would arise within this Court’s subject matter jurisdiction.

5. This Court has jurisdiction over the unfair deceptive trade practices claim in this action that arise under the laws of the State of Illinois pursuant to 28 U.S.C. § 1367(a) because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

ANSWER: Defendant admits the allegations in paragraph 5.

6. 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 those within the State of Illinois, through at least the fully interactive commercial internet stores accessible through Defendants’ Online Stores as identified in Schedule “A”, which is attached hereto as Exhibit 2.

ANSWER: Defendant denies the allegations in paragraph 6 except that venue is proper in this judicial district, and Defendant operates an Internet store that is accessible by residents of Illinois.

7. Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive internet stores through which residents can purchase inferior products that are advertised for sale using, without authorization, the Asserted Brand Copyrights. Each of the Defendants has targeted sales from Illinois residents by operating online stores that offer shipping to the United States, including to the State of Illinois, accept payment in United States currency, and, on information and belief, has used photographs and 3-D artwork protected by the Asserted Brand Copyrights to sell competing products of lesser quality to residents of the State of Illinois.

ANSWER: Defendant denies the allegations in paragraph 7 except that Defendant operates an Internet store that is accessible by residents of Illinois.

8. Each of the Defendants is committing tortious acts in the State of Illinois, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Illinois. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(a) because Defendants have committed acts of copyright infringement in this judicial district and do substantial business in the judicial district.

ANSWER: Defendant denies the allegations in paragraph 8 except that venue is proper in this judicial district, and Defendant operates an Internet store that is accessible by residents of Illinois.

THE PARTIES

9. Plaintiff is a corporation organized under the laws of the People's Republic of China and is the owner of numerous federal copyright registrations issued by the United States Copyright Office that constitute the Asserted Brand Copyrights. Attached hereto as

Exhibit 1 is a table summarizing true and correct federal copyright registration information regarding the Asserted Brand Copyrights.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 9, and therefore denies those allegations.

10. Plaintiff founded the Asserted Brand in 2009, which is dedicated to women's fashion apparel and serves consumers in the United States and throughout the world.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 10, and therefore denies those allegations.

11. Between 2021 and 2022, Plaintiff designed, caused to subsist in material form, and first published the original protected Asserted Brand Copyrights on its website located at the company's designated website employing the Asserted Brand in its URL and over the years has worked hard to establish success and recognition for high quality women's apparel internationally and in the U.S.

ANSWER: Defendant denies the allegations in paragraph 11.

12. Plaintiff has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting its Asserted Brand and, specifically, the Asserted Brand Copyrights. As a result, the Asserted Brand is widely recognized and exclusively associated by consumers, the public, and the trade as being quality products.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 12, and therefore denies those allegations.

13. Plaintiff owns all rights, including without limitation, the rights to reproduce the Asserted Brand Copyrights in copies, to prepare derivative works based upon the

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