

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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JORDANE ENTERPRISES, LLC,

Plaintiff,

COMPLAINT AND JURY DEMAND

-against-

JOHN DOES 1-5,

Defendants.

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Plaintiff, by its undersigned attorneys, alleges the following as and for its Complaint against Defendants and demands a jury trial:

**JURISDICTION AND VENUE**

1. This Court has original subject matter jurisdiction pursuant to 28 U.S.C §1332 because there is complete diversity between the parties and the amount in controversy, as further detailed herein, exceeds \$75,000, exclusive of interest and costs.
2. This Court has jurisdiction of this matter under 28 U.S.C. §1338, as substantive issues relate directly to a federal statute, specifically The Lanham Act.
3. Venue is proper and this Court has personal jurisdiction over Defendants pursuant to, *inter alia*, 28 U.S.C. §1391 because: a substantial part of the events giving rise to the claims occurred in this district; Defendants target consumers in New York by establishing, operating and maintaining e-commerce stores on, *inter alia*, amazon.com, the third-party, internet, retail platform owned by Amazon.com, Inc. (“amazon”), targeting consumers including those in New York; offering and shipping goods to New York; accepting payments originating from New York; selling and delivering products to residents of New York; committing tortious acts in New York; and wrongfully causing Plaintiff substantial harm in New York by, *inter alia*,

obstructing, interfering with and diverting purchases by New York residents from Plaintiff to themselves.

4. Supplemental jurisdiction over state law claims is proper because this Court has valid federal question jurisdiction over at least one claim, and all claims arise out of a “common nucleus of operative fact.” *United Mine Workers v. Gibbs*, 383 US 715 (1966).

5. Defendants have engaged in tortious conduct specifically targeting Plaintiff by virtue of malfeasance including but not limited to “hijacking<sup>1</sup>,” merging and manipulating product listings<sup>2</sup>, reviews and otherwise tortiously interfering with Plaintiff’s contractual<sup>3</sup> and business relations with and activities on amazon.

### **INTRODUCTION**

6. Plaintiff has been forced to file this action to address Defendants’ tortious, extensive, intentional, and malicious conduct including, *inter alia*, tortiously interfering with Plaintiff’s prospective economic advantage, interfering with and inducing the breach of Plaintiff’s contractual and actual and prospective business relationships and advantages.

7. Plaintiff’s claims arise from actions undertaken relating to Plaintiff’s sale of products including, but not limited to, reusable water bottles on amazon.com, through which they target and solicit sales to residents in all fifty states including New York, and other countries.

8. Beginning in or about, January 2021, Defendants have merged, manipulated, altered and “hijacked” Plaintiff’s product listings and consumer reviews causing them to be associated with Defendants’ products instead.

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<sup>1</sup> “Hijacking” refers to when an amazon seller alters a product’s description to serve their own benefit and mislead consumers relying on product reviews and descriptions to make purchasing decisions.

<sup>2</sup> A “product listing” on amazon is like a page in an old Sears catalog. Each product has one listing regardless of how many retailers, often including amazon itself, offer that product for sale. Each product listing is associated with an individual “Amazon Seller Identification Number” or “ASIN.”

<sup>3</sup> Like every entity that offers products for sale on amazon, Plaintiff is party to a contract with amazon called “Amazon’s Business Solutions Agreement” or “BSA.”

9. In addition to operating its own independent internet sales sites, Defendants solicit customers, advertise and sell goods throughout the United States including New York and internationally by virtue of their presence on Amazon.

10. As the direct result of Defendants' intentional, bad faith and unlawful hijacking, merging and manipulation of the electronic data on Plaintiff's sales listings, Plaintiff has lost numerous sales and been forced to expend significant amounts of money and other resources to defend itself from these attacks and, *inter alia*, preserve its business and contractual relations on and with amazon.

11. Despite having actual knowledge that they are acting tortiously, maliciously and in violation of the law, Defendants intentionally harmed Plaintiff by virtue of their anti-competitive actions causing Plaintiff to sustain, *inter alia*, lost sales, lost economic advantage, harm to its business reputation and degradation of its business' value.

12. By virtue of the foregoing, Defendants harmed, hampered and interfered with interstate and international commerce as well as intra-state commerce with and in New York and Plaintiff's ability to engage therein, all to Plaintiff's financial detriment in excess of five hundred thousand dollars.

### **PARTIES**

13. Plaintiff is a Limited Liability Company organized and existing under the laws of California of which its members are citizens and where they reside. It maintains a principal place of business at 17729 Old Winery Way, Poway, California, from which it operates the Amazon Merchant Storefront<sup>4</sup>, "Hydro Cell" from which it sells reusable water bottles among other products.

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<sup>4</sup> An Amazon "Storefront" is virtual retail store on Amazon.com.

14. Defendants John Does 1-5 are individuals or business entities that operate Amazon Merchant Storefronts through which they also sell reusable water bottles and ice cube trays, among other products. Plaintiff is unaware of their actual identities which, upon information and belief, are known to amazon which has refused to provide Plaintiff that information in the absence of a subpoena.

**FACTS**

15. The allegations made herein are based upon investigations undertaken by Plaintiff, their agents and/or attorneys including but not limited to: reviewing information pertaining to Defendants maintained and provided by amazon, and/or available to the public; statements and complaints about Plaintiff believed to has been made by Defendants via email or other electronic means; Plaintiff's extensive knowledge of the rules, practices and procedures governing the sale of goods on Amazon and; the ongoing and continuous course of illegal and tortious conduct described herein.

16. At all relevant times, Plaintiff has marketed and sold reusable water bottles and other products on amazon to customers throughout the United States, including New York and around the world.

17. At all relevant times, Defendants have marketed and sold ice cube trays and other products on amazon to customers throughout the United States, including New York and around the world.

18. Each product listed for sale on Amazon is assigned a unique Amazon Sales Identification Number ("ASIN"). Each ASIN is intended to be unique and apply to only one item. However, it is possible to tamper with the ASIN assigned to a particular product thereby disassociating that ASIN from that product and associating it with a different product.

19. At all relevant times, Plaintiff sold various models of water bottles, each of which has its own Amazon product listing and its own ASIN.

20. On numerous occasions beginning in or about January 1, 2020, Defendants hijacked and manipulated Plaintiff's product listings and ASINs so that prospective purchasers believed the products sold by Defendants were actually those sold by Plaintiff.

21. At all relevant times, Defendants hijacked and manipulated Plaintiff's product listings such that positive reviews for Plaintiff's products were falsely associated with Defendants' products.

22. As the result of Defendants' tortious hijacking and manipulation of Plaintiff's ASINs, product listings and reviews Plaintiff's has been limited and/or prevented from selling those products in interstate and international commerce including in New York as it had done prior to Defendants' malfeasance.

23. At all relevant times, Defendants acted knowingly, wantonly and maliciously with the intent to harm Plaintiff and interfere with its actual and prospective business and contractual relations.

24. All of the foregoing, as well as the acts alleged *infra*, was conducted electronically through email and other means of electronic and digital commerce and communications.

25. Defendants continue to hijack and manipulate ASINs, product listings and other digital and electronic information on amazon in a concerted effort to tortiously interfere with Plaintiff's business and contractual relations with amazon, and Plaintiff's existing and potential customers and otherwise interfere with intrastate, interstate and international commerce including that in New York.

26. As the result of the aforementioned activities and additional malicious and tortious acts by Defendant, Amazon has repeatedly removed Plaintiff from its listings for the aforementioned products, corresponding to the aforementioned ASINs thereby preventing Plaintiff from selling

those products in interstate and international commerce as well as intra- state commerce in New York.

**PLAINTIFF'S FIRST CAUSE OF ACTION:**  
**TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

27. Plaintiff repeats all allegations as if set forth at length.

28. At all relevant times, Plaintiff had a reasonable expectation of maintaining and/or entering an economic relationship with customers wishing to purchase goods through its Amazon Merchant Storefront including those in New York, throughout the United States and internationally.

29. At all relevant times, Defendants had actual knowledge of the aforementioned prospective economic relationship and Plaintiff's expectations relating thereto.

30. At all relevant times, Defendants' aforementioned, intentional acts including, but not limited to, hijacking and manipulating Plaintiff's ASINs, product listings, reviews and other data was wrongful, tortious, unlawful, malicious and intended to harm Plaintiff by disrupting the aforementioned relations.

31. As the result of Defendants' aforementioned acts Plaintiff has sustained economic loss in excess of five hundred thousand dollars.

**PLAINTIFF'S SECOND CAUSE OF ACTION:**  
**TORTIOUS INTERFERENCE WITH CONTRACTUAL AND BUSINESS RELATIONS**

32. Plaintiff repeats all allegations as if set forth at length.

33. At all relevant times, Plaintiff was party to a contract with Amazon.com, Inc. pursuant to which it was permitted to sell reusable water bottles and other products on amazon.

34. At all relevant times, Defendants were aware of that contractual relationship.

35. At all relevant times, by virtue of the aforementioned, intentional, malicious and unlawful acts Defendants tortiously interfered with that contractual relationship.

36. At all relevant times, Defendants knew or should have known the aforementioned, tortious, malicious and unlawful conduct would interfere with the aforementioned contractual relationship.

37. At all relevant times, Defendants intended to and did interfere with the aforementioned contractual relationship.

38. As the direct result of Defendants' tortious interference with the aforementioned contractual relationship Plaintiff has sustained financial harm in excess of five hundred thousand dollars.

**PLAINTIFF'S THIRD CAUSE OF ACTION:  
FALSE DESIGNATION OF ORIGIN PURSUANT TO 15 U.S.C §1125(a)**

39. Plaintiff repeats all allegations as if set forth at length.

40. Defendants have repeatedly and intentionally made false and misleading statements in commercial advertising or promotion as to the origin of products they listed and sold on amazon that were likely to cause confusion, mistake and/or deceive consumers as to the affiliation, connection, association, origin, sponsorship, and/or approval of those goods by and with Plaintiff.

41. Defendants have repeatedly, in commercial advertising, statements, representations and promotion in interstate, intrastate and international commerce, misrepresented the nature, characteristics, qualities, and/or origin of the goods, services, and/or commercial activities listed and sold by Plaintiff and Defendants.

42. Defendants have repeatedly made false statements and misrepresentations as to the origin of products they offered for sale in commercial advertisements by, *inter alia*, misappropriating Plaintiff's customer reviews and applying them to their own products.

43. By virtue of these false statements, misrepresentations and tortious acts, Defendants' have repeatedly and intentionally deceived a substantial segment of the customer base for Plaintiff's goods into purchasing Defendants' goods instead.

44. By virtue of these false statements, misrepresentations and tortious acts Defendants have intentionally interfered with interstate, intrastate and international commerce.

45. By virtue of these false statements, misrepresentations and tortious acts Defendants have intentionally caused Plaintiff financial and other harm.

**JURY TRIAL DEMANDED**

46. Plaintiff hereby demands a trial by jury pursuant to Fed. R. Civ. P. §39.

**CONCLUSION**

47. Based upon the foregoing arguments and authorities, Plaintiff prays that an Order be entered granting Plaintiff judgment against Defendants in an amount to be determined at trial, directing Defendants to pay Plaintiffs' legal fees and costs incurred in pursuit of this action, and granting Plaintiff all other appropriate relief.

Dated: May 16, 2021  
Long Beach, New York

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