

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO.**

ABERCROMBIE & FITCH TRADING CO.,

Plaintiff,

vs.

THE INDIVIDUALS, PARTNERSHIPS and  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE "A" and  
DOES 1-10,

Defendants.

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**COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES**

Plaintiff, Abercrombie & Fitch Trading Co. ("Abercrombie"), hereby sues Defendants, the Individuals, Partnerships and Unincorporated Associations identified on Schedule "A" hereto and Does 1-10 (collectively "Defendants"). Defendants are promoting, selling, offering for sale, and distributing goods bearing counterfeits and confusingly similar imitations of Abercrombie's trademarks within this district through at least the fully interactive commercial Internet websites operating under the domain names identified on Schedule "A" hereto (the "Subject Domain Names"). In support of its claims, Abercrombie alleges as follows:

**JURISDICTION AND VENUE**

1. This is an action for federal trademark counterfeiting and infringement, false designation of origin, cybersquatting, common law unfair competition, and common law trademark infringement, pursuant to 15 U.S.C. §§ 1114, 1116, 1125(a) and 1125(d), and The All Writs Act, 28 U.S.C. § 1651(a). Accordingly, this Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338. This Court has

supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Abercrombie's state law claims because those claims are so related to the federal claims that they form part of the same case or controversy.

2. Defendants are subject to personal jurisdiction in this district because they operate commercial websites accessible in this district and direct business activities towards consumers throughout the United States, including within the State of Florida and this district through at least the fully interactive commercial Internet websites operating under the Subject Domain Names.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 since Defendants are, upon information and belief, aliens engaged in infringing activities and causing harm within this district by advertising, offering to sell, and/or selling infringing products into this district.

#### **THE PLAINTIFF**

4. Abercrombie is a corporation organized under the laws of the State of Ohio with its principal place of business located at 6301 Fitch Path, New Albany, Ohio 43054. Abercrombie operates retail outlets throughout the United States, including thin this district. Abercrombie has been, in part, engaged in the business of manufacturing and distributing throughout the world, including within this district, clothing and other goods under multiple world famous common law and Federally registered trademarks, including those identified in Paragraph 18 below. Abercrombie offers for sale and sells its trademarked goods within the State of Florida, including this district, through its retail outlets and online retail websites. Defendants, through the sale and offering for sale of counterfeit and infringing Abercrombie branded products, are directly, and unfairly, competing with Abercrombie's economic interests in the State of Florida and causing Abercrombie harm within this jurisdiction.

5. Like many other famous trademark owners in the apparel market, Abercrombie suffers ongoing daily and sustained violations of its trademark rights at the hands of counterfeiters and infringers, such as Defendants herein, who wrongfully reproduce and counterfeit Abercrombie's trademarks for the twin purposes of (i) duping and confusing the consuming public and (ii) earning substantial profits.

6. In order to combat the indivisible harm caused by the combined actions of Defendants and others engaging in similar conduct, each year Abercrombie expends significant monetary resources in connection with trademark enforcement efforts, including legal fees, investigative fees, and support mechanisms for law enforcement, such as field training guides, and seminars. The recent explosion of counterfeiting over the Internet has created an environment that requires Abercrombie to file a number of lawsuits, often it later turns out, against the same individuals and groups, in order to protect both consumers and itself from the ill effects of confusion and the erosion of the goodwill connected to the Abercrombie brand.

### **THE DEFENDANTS**

7. Defendants operate through domain names registered with registrars in multiple countries, and are comprised of individuals and/or business entities of unknown makeup, whom, upon information and belief, reside and/or operate in the People's Republic of China or other foreign jurisdictions. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendants target their business activities towards consumers throughout the United States, including within this district through the operation of at least the fully interactive commercial websites existing under the Subject Domain Names.

8. Upon information and belief, Defendants use aliases in conjunction with the operation of their businesses, including but not limited to those identified by the same Defendant Number on Schedule "A" hereto.

9. Abercrombie is presently unaware of the true names of Does 1-10, although they are generally identified as the managing agents and/or co-conspirators of Defendants. Abercrombie will amend this Complaint upon discovery of the identities of such fictitious Defendants.

10. Upon information and belief, Defendants are directly and personally contributing to, inducing and engaging in the sale of counterfeit branded products as alleged herein, often times as partners, co-conspirators and/or suppliers.

11. Defendants are part of an ongoing scheme to create and maintain an illegal marketplace enterprise on the World Wide Web, which (i) confuses consumers regarding the source of Defendants' goods for profit, and (ii) expands the marketplace for illegal, counterfeit Abercrombie branded goods while shrinking the legitimate marketplace for genuine Abercrombie goods. The natural and intended byproduct of Defendants' actions is the erosion and destruction of the goodwill associated with the Abercrombie famous name and associated trademarks, as well as the destruction of the legitimate market sector in which Abercrombie operates.

12. Defendants are the past and present controlling forces behind the operation of, at least, the Subject Domain Names.

13. Upon information and belief, Defendants directly engage in unfair competition with Abercrombie by (i) offering for sale and/or selling goods bearing counterfeits and infringements of one or more of Abercrombie's trademarks to consumers within the United

States and this district through at least the fully interactive commercial websites operating under the Subject Domain Names and additional domains and websites not yet known to Abercrombie and (ii) creating and maintaining an illegal marketplace enterprise for the purpose of diverting business from Abercrombie's legitimate marketplace for its genuine goods. Defendants have purposefully directed some portion of their illegal activities towards consumers in the State of Florida through the advertisement, offer to sell, sale, and shipment of counterfeit Abercrombie branded goods into the State, and by operating an illegal marketplace enterprise which impacts and interferes with commerce throughout the United States, including within the State of Florida.

14. Upon information and belief, Defendants have registered, established or purchased, and maintained their respective Subject Domain Names, and the websites operating thereunder. Upon information and belief, several Defendants have engaged in fraudulent conduct with respect to the registration of the Subject Domain Names by providing false and/or misleading information to their various registrars during the registration or maintenance process. Upon information and belief, Defendants have registered and maintained their Subject Domain Names for the sole purpose of engaging in illegal counterfeiting activities.

15. Upon information and belief, Defendants will continue to register or acquire new domain names for the purpose of selling and/or offering for sale goods bearing counterfeit and confusingly similar imitations of Abercrombie's trademarks unless preliminarily and permanently enjoined. Moreover, upon information and belief, Defendants will continue to maintain and grow their illegal marketplace enterprise at Abercrombie's expense unless preliminarily and permanently enjoined.

16. Defendants' entire Internet-based website businesses amount to nothing more than illegal operations established and operated in order to infringe the intellectual property rights of Abercrombie and others.


17. Defendants' business names, i.e., the Subject Domain Names and any other domain names used in connection with the sale of counterfeits bearing Abercrombie's trademarks, are essential components of Defendants' counterfeiting and infringing activities and are the means by which Defendants further their counterfeiting and infringing scheme and cause harm to Abercrombie. Moreover, Defendants are using Abercrombie's famous name and trademarks to drive Internet consumer traffic to their websites operating under the Subject Domain Names, thereby creating and increasing the value of the Subject Domain Names and decreasing the size and value of Abercrombie's legitimate consumer marketplace at Abercrombie's expense.

### **COMMON FACTUAL ALLEGATIONS**

#### **Abercrombie's Trademark Rights**

18. Abercrombie is, and at all times relevant hereto has been, the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively the "Abercrombie Marks"):

<b>Trademark</b>	<b>Registration Number</b>	<b>Registration Date</b>	<b>Class / Goods</b>
ABERCROMBIE & FITCH	0,951,410	JANUARY 23, 1973	IC 025 - men's and women's clothing and footwear-namely pants, shirts, skirts, jackets, coats, gloves, mittens, hats, underwear, shoes, belts, caps.
abercrombie	2,305,464	JANUARY 4, 2000	IC 025 - Clothing, namely, coats, jackets, knit shirts, woven shirts, t-shirts, shirts, underwear, pants, jeans, hats and shoes. IC 035 - Retail clothing store services.

ABERCROMBIE & FITCH	2,500,146	OCTOBER 23, 2001	<p>IC 003 - personal care products, namely, perfume.</p> <p>IC 014 - jewelry, namely, necklaces and bracelets.</p> <p>IC 018 - handbags, tote bags and travel bags.</p> <p>IC 025 - clothing, namely, t-shirts, sweatshirts, sweatpants, jeans, sandals, visors, tank tops, swimwear, bikinis and camisoles.</p>
A & F	2,530,664	JANUARY 15, 2002	<p>IC 025 - clothing, namely, hats, caps, shirts, t-shirts, tank tops, knit tops, woven tops, halter tops, sweatshirts, sweatpants, underwear, boxer shorts, pants, short pants, jeans, skirts, footwear, sweaters, vests, coats, jackets, scarves.</p> <p>IC 035 - retail personal care product and clothing store services and mail order catalog services featuring personal care products and clothing.</p>
	3,212,644	February 27, 2007	<p>IC 025 - clothing, namely, polo shirts, sweaters, t-shirts, shirts, knit tops, woven tops, sweatshirts, sweatpants, pants, shorts, caps, hats, scarves, jackets, coats, sandals, flip flops, belts, tank tops, underwear, boxer shorts, swim suits, pajamas, sleepwear.</p> <p>IC 035 - retail store services, and on-line retail store services featuring clothing, footwear, fashion accessories, fragrances and jewelry.</p>
HOLLISTER	3,310,650	OCTOBER 16, 2007	<p>IC 025 - belts; blouses; boxer shorts; camisoles; caps; coats; footwear; halter tops; hats; jackets; jeans; knit shirts; loungewear; pants; sandals; scarves; shirts; shoes; shorts; skirts; sweat pants; sweat shirts; sweat shorts; sweaters; swim wear; t-shirts; tank tops; underpants; undershirts; underwear.</p>
ABERCROMBIE	3,484,799	AUGUST 12, 2008	<p>IC 025 - coats; jackets; knit shirts; shirts; t-shirts; underwear; pants; jeans; hats; shoes.</p>

HCO	3,529,071	NOVEMBER 4, 2008	IC 025 - clothing, namely, boxer shorts, caps, coats, hats, jackets, knit shirts, knit tops, loungewear, pants, shirts, slacks, sweat pants, sweat shirts, t-shirts and underwear.  IC 035 - retail store services and on-line retail services featuring clothing.
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The Abercrombie Marks are used in conjunction with the manufacture and distribution of quality goods in the categories identified above. True and correct copies of the Certificates of Registration for the Abercrombie Marks are attached hereto as Composite Exhibit "A."

19. The Abercrombie Marks have been used in interstate commerce to identify and distinguish Abercrombie's quality goods for an extended period of time.

20. The Abercrombie Marks have never been assigned or licensed to any of the Defendants in this matter.

21. The Abercrombie Marks are symbols of Abercrombie's quality, reputation, and goodwill and have never been abandoned.

22. Further, Abercrombie has expended substantial time, money, and other resources developing, advertising, and otherwise promoting the Abercrombie Marks. The Abercrombie Marks qualify as famous marks as that term is used in 15 U.S.C. § 1125(c)(1).

23. Abercrombie has extensively used, advertised, and promoted the Abercrombie Marks in the United States in association with the sale of quality goods and has carefully monitored and policed the use of the Abercrombie Marks.

24. As a result of Abercrombie's efforts, members of the consuming public readily identify merchandise bearing or sold under the Abercrombie Marks, as being quality goods sponsored and approved by Abercrombie.



25. Accordingly, the Abercrombie Marks have achieved secondary meaning as identifiers of quality goods.

26. Genuine goods bearing the Abercrombie Marks are widely legitimately advertised and promoted by Abercrombie and unrelated third parties via the Internet. Over the course of the past ten years, visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing has become increasingly important to Abercrombie's overall marketing and consumer education efforts. Thus, Abercrombie expends significant monetary resources on Internet marketing and consumer education, including search engine optimization ("SEO") strategies. Those strategies allow Abercrombie to fairly and legitimately educate consumers about the value associated with the Abercrombie brand and the goods sold thereunder.

**Defendants' Infringing Activities**

27. Upon information and belief, at all times relevant hereto, Defendants in this action had full knowledge of Abercrombie's ownership of the Abercrombie Marks, including its exclusive right to use and license such intellectual property and the goodwill associated therewith.

28. Upon information and belief, Defendants are promoting and advertising, distributing, selling, and/or offering for sale goods in interstate commerce bearing counterfeits and confusingly similar imitations of the Abercrombie Marks (the "Counterfeit Goods"), through the fully interactive, commercial Internet websites operating under the Subject Domain Names. Specifically, upon information and belief, Defendants are using identical copies of the Abercrombie Marks for different quality goods. Abercrombie has used the Abercrombie Marks extensively and continuously before Defendants began offering counterfeit and confusingly similar imitations of Abercrombie's merchandise.

29. Upon information and belief, Defendants' Counterfeit Goods are of a quality substantially different than that of Abercrombie's genuine goods. Defendants, upon information and belief, are actively using, promoting and otherwise advertising, distributing, selling, and/or offering for sale substantial quantities of their Counterfeit Goods with the knowledge and intent that such goods will be mistaken for the genuine quality products offered for sale by Abercrombie despite Defendants' knowledge that they are without authority to use the Abercrombie Marks. The net effect of Defendants' actions will cause confusion of consumers at the time of initial interest, sale, and in the post-sale setting, who will believe Defendants' Counterfeit Goods are genuine goods originating from, associated with, and approved by Abercrombie.

30. Defendants advertise their products for sale to the consuming public via at least their websites operating under the Subject Domain Names. In so advertising these products, Defendants improperly and unlawfully use the Abercrombie Marks without Abercrombie's permission. Indeed, Defendants herein misappropriated Abercrombie's advertising ideas and methods of doing business with regard to the advertisement and sale of Abercrombie's genuine goods. Upon information and belief, the misappropriation of Abercrombie's advertising ideas in the form of the Abercrombie Marks is, in part, the proximate cause of harm to Abercrombie.

31. As part of their overall infringement and counterfeiting scheme, Defendants are, upon information and belief, all concurrently employing substantially similar, and often times coordinated, paid advertising and SEO strategies based, in large measure, upon an illegal use of counterfeits and infringements of the Abercrombie Marks. Specifically, Defendants are using counterfeits of Abercrombie's famous name and the Abercrombie Marks in order to make their websites selling illegal goods appear more relevant and attractive to search engines across an

array of search terms. By their actions, Defendants have created an illegal marketplace operating in parallel to the legitimate marketplace for genuine Abercrombie goods. Defendants are causing concurrent and indivisible harm to Abercrombie and the consuming public by (i) depriving Abercrombie of its right to fairly compete for space within search engine results and reducing the visibility of Abercrombie's genuine goods on the World Wide Web, (ii) causing an overall degradation of the value of the goodwill associated with the Abercrombie Marks, (iii) increasing Abercrombie's overall cost to market its goods and educate consumers about its brand via the Internet, and (iv) maintaining an illegal marketplace enterprise, which perpetuates the ability of Defendants and future entrants to that marketplace to confuse consumers and harm Abercrombie with impunity.

32. Upon information and belief, Defendants are concurrently conducting and targeting their counterfeiting and infringing activities toward consumers and causing harm, within this district and elsewhere throughout the United States. As a result, Defendants are defrauding Abercrombie and the consuming public for Defendants' own benefit.

33. Defendants' use of the Abercrombie Marks, including the promotion and advertisement, reproduction, distribution, sale, and offering for sale of their Counterfeit Goods, is without Abercrombie's consent or authorization.

34. Defendants are engaging in the above-described illegal counterfeiting and infringing activities knowingly and intentionally or with reckless disregard or willful blindness to Abercrombie's rights for the purpose of trading on Abercrombie's goodwill and reputation. If Defendants' intentional counterfeiting and infringing activities are not preliminarily and permanently enjoined by this Court, Abercrombie and the consuming public will continue to be harmed.

35. Defendants' above-identified infringing activities are likely to cause confusion, deception, and mistake in the minds of consumers, the public, and the trade before, during, and after the time of purchase. Moreover, Defendants' wrongful conduct is likely to create a false impression and deceive customers, the public, and the trade into believing there is a connection or association between Abercrombie's genuine goods and Defendants' Counterfeit Goods, which there is not.

36. Further, upon information and belief, several Defendants have registered their respective Subject Domain Name(s) using marks that are nearly identical and/or confusingly similar to at least one of the Abercrombie Marks (collectively, the "Cybersquatted Subject Domain Names").

37. Defendants do not have, nor have they ever had, the right or authority to use the Abercrombie Marks. Further, the Abercrombie Marks have never been assigned or licensed to be used on any of the websites operating under the Cybersquatted Subject Domain Names.

38. Upon information and belief, Defendants have provided false and/or misleading contact information when applying for the registration of the Cybersquatted Subject Domain Names, or have intentionally failed to maintain accurate contact information with respect to the registration of the Cybersquatted Subject Domain Names.

39. Upon information and belief, Defendants have never used any of the Cybersquatted Subject Domain Names in connection with a bona fide offering of goods or services.

40. Upon information and belief, Defendants have not made any bona fide non-commercial or fair use of the Abercrombie Marks on a website accessible under any of the Cybersquatted Subject Domain Names.

41. Upon information and belief, Defendants have intentionally incorporated the Abercrombie Marks in their Cybersquatted Subject Domain Names to divert consumers looking for Abercrombie's Internet website to their own Internet websites for commercial gain.

42. Given the visibility of Defendants' various websites and the similarity of their actions, including their SEO activities, it is clear Defendants are either related or, at a minimum, cannot help but know of each other's existence and the damage likely to be caused to Abercrombie as a result of Defendants' concurrent actions.

43. Although some Defendants may be acting independently, they may properly be deemed to be acting in concert because they are combining the force of their actions to multiply the harm caused to Abercrombie.

44. Abercrombie has no adequate remedy at law.

45. Abercrombie is suffering irreparable and indivisible injury and has suffered substantial damages as a result of Defendants' unauthorized and wrongful use of the Abercrombie Marks. If Defendants' counterfeiting, infringing, cybersquatting, unfairly competitive activities, and their illegal marketplace enterprise, are not preliminarily and permanently enjoined by this Court, Abercrombie and the consuming public will continue to be harmed.

46. The harm and damage sustained by Abercrombie have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of their Counterfeit Goods and by the creation, maintenance and very existence of Defendants' illegal marketplace enterprise.

**COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT  
PURSUANT TO § 32 OF THE LANHAM ACT (15 U.S.C. § 1114)**

47. Abercrombie hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

48. This is an action for trademark counterfeiting and infringement against Defendants based on their use of counterfeits, copies, and/or colorable imitations of the Abercrombie Marks in commerce in connection with the promotion, advertisement, distribution, sale and/or offering for sale of the Counterfeit Goods.

49. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale and distributing products bearing one or more of the Abercrombie Marks. Defendants are continuously infringing and inducing others to infringe the Abercrombie Marks by using them to advertise, promote, sell, and/or offer to sell goods bearing the Abercrombie Marks.

50. Defendants' indivisible and concurrent counterfeiting and infringing activities are likely to cause and, actually are causing confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Counterfeit Goods.

51. Defendants' unlawful actions have individually and jointly caused and are continuing to cause unquantifiable and irreparable harm and damages to Abercrombie and are unjustly enriching Defendants at Abercrombie's expense.

52. Defendants' above-described illegal actions constitute counterfeiting and infringement of the Abercrombie Marks in violation of Abercrombie's rights under § 32 of the Lanham Act, 15 U.S.C. § 1114.

53. Abercrombie has suffered and will continue to suffer irreparable injury due to Defendants' above described activities if Defendants are not preliminarily and permanently enjoined.

**COUNT II - FALSE DESIGNATION OF ORIGIN  
PURSUANT TO § 43(a) OF THE LANHAM ACT (15 U.S.C. § 1125(a))**

54. Abercrombie hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

55. Defendants' Counterfeit Goods bearing and sold under copies of the Abercrombie Marks have been widely advertised and offered for sale throughout the United States.

56. Defendants' Counterfeit Goods bearing and sold under copies of the Abercrombie Marks are virtually identical in appearance to each of Abercrombie's genuine goods. However, Defendants' Counterfeit Goods are different in quality. Accordingly, Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of their Counterfeit Goods.

57. Defendants, upon information and belief, have used in connection with their advertisement, offer for sale, and sale of the Counterfeit Goods, false designations of origin and false descriptions and representations, including words or other symbols and trade dress which tend to falsely describe or represent such goods and have caused such goods to enter into commerce with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Abercrombie's detriment.

58. Defendants have authorized infringing uses of the Abercrombie Marks, in Defendants' advertisement and promotion of their counterfeit and infringing branded products. Defendants have also misrepresented to members of the consuming public that the Counterfeit Goods being advertised and sold by them are genuine, non-infringing products.

59. Additionally, Defendants are using counterfeits and infringements of the Abercrombie Marks in order to unfairly compete with Abercrombie and others for space within search engine organic results, thereby jointly depriving Abercrombie of a valuable marketing and educational tool which would otherwise be available to Abercrombie, and reducing the visibility of Abercrombie's genuine goods on the World Wide Web.

60. Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

61. Abercrombie has no adequate remedy at law and has sustained indivisible injury and harm caused by Defendants' concurrent conduct. Absent an entry of an injunction by this Court, Abercrombie will continue to suffer irreparable injury to its goodwill and business reputation, as well as monetary damages.

**COUNT III - CLAIM FOR RELIEF FOR CYBERSQUATTING  
PURSUANT TO § 43(d) OF THE LANHAM ACT (15 U.S.C. § 1125(d))**

62. Abercrombie hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

63. At all times relevant hereto, Abercrombie has been and still is the owner of the rights, title and interest in and to the Abercrombie Marks.

64. Upon information and belief, certain Defendants have acted with the bad faith intent to profit from the Abercrombie Marks and the goodwill associated with the Abercrombie Marks by registering and using the Cybersquatted Subject Domain Names.

65. The Abercrombie Marks were distinctive and famous at the time Defendants registered the Cybersquatted Subject Domain Names.

66. Defendants have no intellectual property rights in or to the Abercrombie Marks.



67. The Cybersquatted Subject Domain Names are identical to, confusingly similar to, or dilutive of at least one of the Abercrombie Marks.

68. Defendants' conduct is done with knowledge and constitutes a willful violation of Abercrombie's rights in the Abercrombie Marks. At a minimum, Defendants' conduct constitutes reckless disregard for and willful blindness to Abercrombie's rights.

69. Defendants' actions constitute cybersquatting in violation of § 43(d) of the Lanham Act, 15 U.S.C. § 1125(d).

70. Abercrombie has no adequate remedy at law.

71. Abercrombie has suffered and will continue to suffer irreparable injury due to the above described activities of Defendants if Defendants are not preliminarily and permanently enjoined.

#### **COUNT IV – COMMON LAW UNFAIR COMPETITION**

72. Abercrombie hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

73. This is an action against Defendants based on their (i) promotion, advertisement, distribution, sale, and/or offering for sale of goods bearing marks which are virtually identical, both visually and phonetically, to the Abercrombie Marks, and (ii) creation and maintenance of an illegal, ongoing marketplace enterprise operating in parallel to the legitimate marketplace in which Abercrombie sells its genuine goods, in violation of Florida's common law of unfair competition.

74. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale and distributing infringing and counterfeit Abercrombie branded products. Defendants are also using counterfeits and infringements of the Abercrombie Marks to unfairly

compete with Abercrombie and others for (i) space in search engine results across an array of search terms and (ii) visibility on the World Wide Web.

75. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' products by their use of the Abercrombie Marks.

76. Abercrombie has no adequate remedy at law and is suffering irreparable injury and damages as a result of Defendants' actions.

#### **COUNT V - COMMON LAW TRADEMARK INFRINGEMENT**

77. Abercrombie hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 46 above.

78. This is an action for common law trademark infringement against Defendants based on their promotion, advertisement, offering for sale, and sale of their Counterfeit Goods bearing the Abercrombie Marks. Abercrombie is the owner of all common law rights in and to the Abercrombie Marks.

79. Specifically, Defendants, upon information and belief, are manufacturing, promoting and otherwise advertising, distributing, offering for sale, and selling goods bearing infringements of the Abercrombie Marks.

80. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Counterfeit Goods bearing the Abercrombie Marks

81. Abercrombie has no adequate remedy at law and is suffering irreparable injury and damages as a result of Defendants' actions

**PRAYER FOR RELIEF**

82. WHEREFORE, Abercrombie demands judgment on all Counts of this Complaint and an award of equitable relief and monetary relief, jointly and severally, against Defendants as follows:

a. Entry of temporary, preliminary, and permanent injunctions pursuant to 15 U.S.C. § 1116 and Federal Rule of Civil Procedure 65, enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods; from infringing, counterfeiting, or diluting the Abercrombie Marks; from using the Abercrombie Marks, or any mark or trade dress similar thereto, in connection with the sale of any unauthorized goods; from using any logo, trade name, trademark or trade dress that may be calculated to falsely advertise the services or products of Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with Abercrombie; from falsely representing themselves as being connected with Abercrombie, through sponsorship or association, or engaging in any act that is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of Defendants, are in any way endorsed by, approved by, and/or associated with Abercrombie; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of the Abercrombie Marks in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants; from affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent Defendants' goods as being those of Abercrombie, or in any way endorsed by Abercrombie and from offering such goods in commerce; from engaging in search

engine optimization strategies using colorable imitations of the Abercrombie name or the Abercrombie Marks; and from otherwise unfairly competing with Abercrombie.

b. Entry of temporary, preliminary, and permanent injunctions enjoining Defendants from creating, maintaining, operating, joining, and participating in their World Wide Web based illegal marketplace for the sale and distribution of non-genuine goods bearing counterfeits of the Abercrombie Marks.

c. Entry of an order pursuant to 28 U.S.C. § 1651(a), The All Writs Act, that upon Abercrombie's request, the top level domain (TLD) Registry for each of the Subject Domain Names or their administrators, including backend registry operators or administrators, place the Subject Domain Names on Registry Hold status for the remainder of the registration period for any such domain name, thus removing them from the TLD zone files which link the Subject Domain Names to the IP addresses where the associated websites are hosted.

d. Entry of an order pursuant to 28 U.S.C. § 1651(a), The All Writs Act canceling for the life of the current registration or, at Abercrombie's election, transferring the Subject Domain Names and any other domain names used by Defendants to engage in their counterfeiting of the Abercrombie Marks at issue to Abercrombie's control so they may no longer be used for illegal purposes.

e. Entry of an order requiring Defendants to account to and pay Abercrombie for all profits and damages resulting from Defendants' trademark counterfeiting and infringing activities and that the award to Abercrombie be trebled, as provided for under 15 U.S.C. §1117, or, at Abercrombie's election with respect to Count I, that Abercrombie be awarded statutory damages from each Defendant in the amount of two million dollars (\$2,000,000.00) per each

counterfeit trademark used and product sold, as provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.

f. Entry of an order requiring the relevant Defendants to account to and pay Abercrombie for all profits and damages resulting from those Defendants' cybersquatting activities and that the award to Abercrombie be trebled, as provided for under 15 U.S.C. §1117, or, at Abercrombie's election with respect to Count III, that Abercrombie be awarded statutory damages from the relevant Defendants in the amount of one hundred thousand dollars (\$100,000.00) per cybersquatted domain name used as provided by 15 U.S.C. §1117(d) of the Lanham Act.

g. Entry of an award of Abercrombie's costs and reasonable attorneys' fees and investigative fees associated with bringing this action.

h. Entry of an award of pre-judgment interest on the judgment amount.

i. Entry of an order for any further relief as the Court may deem just and proper.

DATED: December 9, 2015.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: s:/Stephen M. Gaffigan/

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Attorneys for Plaintiff

**SCHEDULE “A”**  
**DEFENDANTS BY NUMBER AND SUBJECT DOMAIN NAME**

<b>Defendant Number</b>	<b>Defendant / Domain Name</b>
1	abercrombieclassic.com
1	alixverne.fr
1	ampaeducra.es
1	andreaslauermann.de
1	babylongarden.be
1	blackpixl.fr
1	critarquinoa.it
1	dailybeauty.de
1	davidcavelius.de
1	dewalrus.be
1	ecotrucastuces.fr
1	educandoconamor.es
1	elsasserbuhn-gambsheim.fr
1	fensterprofi-hh.de
1	flaschenpostmedien.de
1	grovi.ch
1	harrisonpalermo.it
1	heissig.at
1	ic-instituttet.dk
1	klockarsminigrisar.se
1	latalpadimilano.it
1	ltsmachine.com
1	marcjacobsonlinede.de
1	masquehinchablesinfantiles.es
1	mer-pensionskasse.de
1	okpunt.nl
1	psychotherapeutemarseille.fr
1	ropaedhardy.es
1	slidetube.it
1	soundandsoul.it
1	supraprecios.es
1	usafitnesscorps.org
1	vesenca.fr
1	videodanslecul.fr
1	welovejs.es
2	29fr.com
3	365netshopping.com

3	hollistercouk.eu
4	4who.org.au
5	50offdresses.com
6	abercrimbiemilans.com
7	abercrombie2015.it
7	cemsac.it
8	abercrombie-andfitch.cc
8	abercrombieandfitch.cc
9	abercrombieand-fitch.co.uk
10	abercrombieandfitch.me.uk
11	abercrombieand-fitch.net.co
12	abercrombie--and-fitch.org
13	abercrombieandfitch.se
14	abercrombieandfitchdkk.eu
15	abercrombieandfitches.es
16	abercrombieandfitchfrance24h.com
17	abercrombieandfitchoutlet.com
17	abercrombieandfitchoutlet.us
18	abercrombieandfitch-outlet.com
19	abercrombieandfitchoutletonlinesite.com
20	abercrombieandfitchoutletstoresite.com
21	abercrombieandfitchoutletus.com
22	abercrombiebrusselbelgium.be
23	abercrombiebutik.org
24	abercrombiebutikkoslo.org
25	abercrombieclothing.net
26	abercrombiecostores.com
27	abercrombied.com
28	abercrombiedanmark.dk
29	abercrombiedk.eu
30	abercrombieenamsterdam.nl
31	abercrombiefdeutschland.de
32	abercrombiefitch.net.au
33	abercrombiefitch-2016.com
34	abercrombiefitch-2900.com
35	abercrombiefitchfrance.fr
36	abercrombiefitch-outlet.com
37	abercrombiefitchoutlet4u.com
38	abercrombiefitchpascher.fr
39	abercrombiefitchsoutletuk.co.uk
40	abercrombiefitchstore.com

40	abercrombie.com.so
41	abercrombiefitchukdeal.co.uk
42	abercrombiefitchukstore.co.uk
43	abercrombiefitchus.com
43	abercrombie.net.co
43	abercrombiekids.name
44	abercrombiefuk.com
45	abercrombiehoodie.us
46	abercrombiehoodies-deutschland.net
47	abercrombieibutikk.net
48	abercrombieie.com
48	abercrombiefitchie.com
49	abercrombieinmadrid.com
50	abercrombieit2014.com
51	abercrombie-kids.com.co
52	abercrombiekledingoutlet.com
53	abercrombiemadridd.net
54	abercrombienewyork.us
54	abercrombiefocus.com
54	territorium.co.uk
55	abercrombienorgesale.com
56	abercrombieoutlet.ca
57	abercrombie-outlet.eu
58	abercrombie-outlet.net
59	abercrombieoutletmadrid.es
60	abercrombieoutletmilano.it
61	abercrombieoutlet-nederland.nl
62	abercrombieoutletonlinestoresale.com
63	abercrombieoutletsuk.co.uk
64	abercrombie-pas-cher.fr
65	abercrombiepascher4s.fr
66	abercrombiepaschersoldes.fr
67	abercrombieprecios.es
68	abercrombierease.com
69	abercrombieropa.es
70	abercrombies.cc
71	abercrombies.top
72	abercrombiesaleireland.org
73	abercrombie-shirt.uk
74	abercrombieshirts.us
75	abercrombieshortssale.com



76	abercrombiesmadrids.es
77	abercrombiesoldese.fr
78	abercrombiestore.cc
79	abercrombie-store.org
80	abercrombiestoreonline.uk
81	abercrombiestshirtjapan.com
82	abercrombieuksale.com
83	abercrombieusaoutlet.com
84	accu-markt.nl
84	abercrombie-rotterdam.com
84	abercrombiewarmer.com
85	af.net.co
86	af.nom.co
87	affrance.fr
87	obje.fr
88	afhollisterco.com
89	afoutlet.it
90	afsoutletit2015.it
91	aftshirt.com
92	agencia-interactiva.es
93	albasonido.com
94	alphabus.fr
95	ambientlounge.it
96	amigosparalasaludatitlan.org
97	anfoutletonline.com
98	apparelnikes.com
99	atelier-peinture-viret.fr
100	autofficinastile.it
101	avl-gp.com
102	beautydetails.se
103	bennubirdmedia.com
104	brandoffer99.com
105	brashbranding.co.uk
106	breakthroughday.net
107	buyabercrombie.us
108	buyhollisteruk.com
109	camisasdeabercrombie.es
110	camisasdehollister.es
111	campinoart.it
112	cascinagai.it
113	centerforvaloans.com

114	cheapabercrombieuksale.com
115	cheaphollisterclothes.us
116	cheaphollister-clothing.com
117	cheaphollisterireland.com
118	cheapoutletchina.eu
119	chewsnews.com
120	cicciodiano.it
121	cmvc.us
122	comprarhollister.es
123	condensateuradsl.fr
124	converttu.be
125	creativeexchange.eu
126	d-afa.de
127	dancehaven.us
128	darmoweprobki.eu
129	delucapelli.it
130	demiosiris.com
131	deweyfiremen.net
132	discounthollistershop.eu
133	discountnewabercrombie.com
134	dublinabercrombiesale.com
135	dulcethedog.com
136	easylifeironing2015.co.uk
137	ecolider.co.uk
138	edmontonabmedicalspa.ca
138	xeber7.com
139	eippe.de
139	abercrombiemarkt.com
139	abercrombieseries.com
140	emcebe.com
141	ericoo.com
142	ernstjanbos.nl
143	essuna.org
144	eventtank.co.uk
145	factoryhotsale.com
146	fashionvestis.us
147	firepitminyan.com
148	fitch-abercrombiedk.com
149	forgetoday.co.uk
150	france-abercrombie.fr
151	gommoneusato.it

152	hamburg-hollister.de
153	harrisonlakehaven.ca
153	salmonberrycreative.ca
154	hco-mall.com
155	holisterstoreuk2015.co.uk
156	holliclothes.com
157	hollister-all.com
158	hollisterankara.com
159	hollister-australia.com
160	hollisterbelgieoutlet.com
161	hollisterclearanceoutlet.com
162	hollisterclothesale.us
163	hollisterclothesus.com
164	hollisterclothing.name
165	hollisterclothing.net.co
166	hollister-clothing.us
166	hollisterclothing.us
167	hollisterclothingca.com
168	hollisterclothing--store.com
169	hollisterclothingstore.name
170	hollisterclothingstore.net
171	hollister-clothing-store.net
172	hollister-co.org
173	hollisterco2014.es
174	hollistercojapan.com
175	hollistercollection.com
176	hollistercomclothing.com
177	hollisterco-sales.com
178	hollistercouk.me.uk
178	hollisterclothing.info
179	hollisterco-uks.com
180	hollistercshopide.org
181	hollisterdiscount.us
182	hollistereshopuk.com
183	hollistereu.com
184	hollisterfactoryoutlet.co.uk
185	hollisterformadrid.com
186	hollisterfrance21st.com
187	hollister-francer.fr
188	hollistergilroyoutlet.com
189	hollisterindia.in

190	hollisterireland2015.biz
191	hollisterireland-ie.net
192	hollisterjeans-sale.com
193	hollistermadridmujeres.eu
194	hollistermadridonline.net
195	hollistermagasinpascher.com
196	hollistermilano2015.it
197	hollisternewclothing.us
198	hollister-online.co.uk
198	hollistersbuy.co.uk
199	hollisteronline.eu
200	hollisteronlineca.com
201	hollisteronlinech2.ch
202	hollisteronlinees.com
203	hollisteronlinespain.com
204	hollister--outlet.com
205	hollisteroutlet.us
206	hollisteroutlets.eu
207	hollister-paschers.fr
207	hollister-pas-chers.com
208	hollisterpascherssolde.com
209	hollisters.cc
209	hollisterclothing-store.net
210	hollistersale.nl
211	hollistersaleonline.us
212	hollistersaleoutlet.us
213	hollistersbrasil.com
214	hollisterscoupons.com
215	hollisters-online.com
216	hollisters-outlet.com
217	hollisterstoreonlines.com
218	hollisterstoresuk.com
219	hollisterstoreuk2015.co.uk
219	andaluzshop.co.uk
219	burtonhall.co.uk
219	calmncomfy.co.uk
219	dasgrafik.co.uk
219	lingering.co.uk
219	peeble.co.uk
219	trafeco.co.uk
220	hollisters-usa.com

221	hollister-sverige.net
222	hollisteruk.co.uk
223	hollisteruk.com.co
223	holister.name
223	hollister-clothing.net
224	hollisteruksale.me.uk
225	hollisterukstoresonline.eu
226	hollistervestidos.es
227	hollistockholm.se
228	hotelbristolsesto.it
229	hrbtsy.com
230	imeros.eu
231	ingridkhan.se
232	interiormiljo.se
233	ioo-kassel.de
234	iosign.nl
235	italiahollistermilano.it
236	jake-carter.net
237	japanabercrombie.org
238	jepssen.es
239	johnsonoutletmall.com
240	klatch.se
241	k-roll.fr
242	kurtajnasil.com
243	laramonette.be
244	lattrapereve.be
245	lazarogregory.es
245	abercrombiemercado.com
245	abercrombieserie.com
246	linnch.it
247	littleonestackshop.com
248	londonabercrombie.co.uk
249	loveapparel.net
250	maggiesfarm.us
251	markregan.co.uk
252	martinica.fr
253	mattiamoretto.com
254	mogoterecords.com
254	motards-cool.eu
255	moving-solutions.eu
256	multivalent.co.uk

257	myshoppingfans.ru
257	myshoppingfans2015.com
258	naturhotellet.se
259	newhollisterclothes.us
260	newhollister-clothing.com
261	newhollisterclothing.us
262	noabercrombienorge.org
263	nolitech.eu
264	nszf.nl
265	odontoiatriaungheria.it
266	opnw.nl
267	o-shopping.eu
268	outletabercrombieitalia.it
269	outletabercrombiemadrid.es
270	outlethollistersverige.com
271	parpenes.es
272	prochassiecycleandaccessories.com
273	promitor.se
274	qpcceramics.co.uk
275	rellafilms.com
276	rentthisspace.co.uk
277	ropaabercrombieoutlet.es
278	ropahollisterbarata.es
279	ropahollisterbaratas.com
280	ropahollistercamisas.es
281	rpccomputers.us
282	rtiposters.com
283	samhollisters.es
284	sbrscan.nl
285	scomp.it
286	scotiacarseskbank.co.uk
287	scottishtweed.co.uk
288	securmedplus.eu
289	seedrkane.net
290	shop4brakes2015.co.uk
291	shoppingeluxury.info
291	abercrombieandfitchoutletsonline.com
292	shunluoi.com
293	sitechaussure.fr
293	abercrombiedoux.com
294	sixshopping.com

294	chatclothing.com
294	mientregagt.com
294	threeshopping.com
295	snapphanesvamp.se
296	soldaatsmit.nl
297	soldesabercrombie.fr
297	spectrastar.us
298	studioccg.it
299	superrabais.ca
300	sylvanlaketriathlon.com
301	thinkonthis.us
302	topclothingsales.com
303	tophollisterclothe2015.com
304	tophollisterclothing.us
305	tradesconciierge.com
306	tshirtaf.com
307	tshirtsaf.com
308	tshirtsaf.com
309	uroda24h.info
310	usabercrombieoutlet.us
311	ushollistersoutlet.info
312	varfemteinvanarearenhast.se
313	vivinweb.it
314	webergobet.ch
315	woodscharterfoundation.org
316	xn--abercrombieespaa-lub.es
317	xn--hollisterespaa-2nb.com.es
318	xn--hollisterespaa-2nb.es
319	xn--hollisterzrichshop-v6b.com
320	yoake-habitat.es