

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 23-61084-CIV-SMITH**

ADIDAS AG, *et al.*,

Plaintiffs,

vs.

THE INDIVIDUALS, BUSINESS ENTITIES,
AND UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A",

Defendants.

**DECLARATION OF MIA NIDIA GUTIERREZ IN SUPPORT OF PLAINTIFFS'
EX PARTE APPLICATION FOR ENTRY OF TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND ORDER RESTRAINING TRANSFER OF ASSETS**

I, Mia Nidia Gutierrez, declare and state as follows:



1. I am over 18 years of age and have personal knowledge of the facts set forth herein.

I make this Declaration, which is filed in support of Plaintiffs' *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (the "Application for TRO") against Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule "A" hereto ("Defendants"). If called upon to do so, I could and would testify competently to the following facts set forth herein.


2. I am employed by adidas International, Inc. and act as the Brand Protection Manager for the adidas Group companies, including Plaintiffs adidas AG ("adidas AG"), adidas International Marketing B.V. ("adidas International"), and adidas America, Inc. ("adidas America") (collectively, "adidas"). adidas International, and adidas America, are wholly owned by adidas AG and its affiliates and are collectively referred to in this declaration as the "adidas Group."







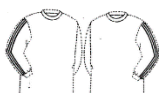
3. In my capacity as Brand Protection Manager for the adidas Group, I coordinate intellectual property matters and help manage the adidas Group's anti-counterfeiting efforts in North America. As a result, I am familiar with the manufacture, sale, and distribution of genuine adidas Group products, and I have been trained to identify the distinctions between genuine merchandise and counterfeit copies of the same.

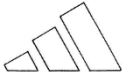







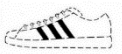
adidas's Trademark Rights


4. adidas is currently, and for years has been, one of the world's leading manufacturers of athletic footwear, apparel, and sporting equipment. adidas has used its famous and distinctive trademarks, **adidas**, , , Three-Stripe Mark, THE BRAND WITH THE 3 STRIPES Mark, ADIPRENE Mark, BOOST Mark, STAN SMITH Mark, NMD Mark, SPLY-350 Mark, and SUPERSTAR Mark (collectively, the "adidas Marks"), for many years in connection with the above-mentioned goods. The adidas Marks signify the quality and reputation of adidas products.

5. adidas is the owner of multiple trademark registrations for the adidas Marks, including the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office:

Trademark	Registration Number	Registration Date	Class / Goods
	0,870,136	May 27, 1969	IC25. Athletic Training Suits.
ADIDAS	0,891,222	May 19, 1970	IC25. sport shoes namely, track and field shoes, baseball, boxing, football, skating, golf, and soccer shoes; sportswear namely, suits, shorts, pants, tights, shirts, gloves, and the like; jerseys; socks; sport shoes namely, track and field training shoes, basketball shoes, and tennis shoes.

	0,973,161	November 20, 1973	IC 018. tote bags. IC 25. specific purpose athletic shoes; general purpose sport shoes, sportswear-namely, suits, shorts, pants, tights, shirts, jerseys, socks, and gloves.
	1,253,013	October 4, 1983	IC 025. Sportswear-namely, ((suits, shorts, pants, tights, shirts, jerseys, socks, gloves, jackets, coats, swim wear, sweaters, caps, pullovers, warmup suits, [rain suits, ski suits,] jump suits,)) ((boots, shoes)) ((and slippers))
adidas	1,300,627	October 16, 1984	IC 025. Sportswear-Namely, Suits, Shorts, Pants, Tights, Shirts, Jerseys, Socks, Gloves, Jackets, Coats, Swimwear, Sweaters, Caps, Pullovers, Warm-Up Suits, Boots, Shoes, Slippers.
	1,310,140	December 18, 1984	IC 025. Sportswear-Namely, Suits, Shorts, Pants, Tights, Shirts, Jerseys, Socks, Gloves, Jackets, Coats, Swimwear, Sweaters, Caps, Pullovers, Warm-Up Suits, Rain Suits, Ski Suits, Jump Suits, Boots, Shoes, Slippers.
THE BRAND WITH THE 3 STRIPES	1,674,229	February 4, 1992	IC 025. boots, slippers, sandals; shoes, boots and after ski boots for hiking and trekking, athletic shoes and general-purpose sports shoes.
	1,815,956	January 11, 1994	IC 25. athletic footwear
	1,833,868	May 3, 1994	IC 25. athletic footwear
	2,016,963	November 19, 1996	IC 025. Sports and leisure wear, namely jackets.
adiPRENE	2,054,934	April 22, 1997	IC 025. Boots, slippers, sandals, specific purpose athletic shoes, and general purpose sport shoes.
	2,058,619	May 6, 1997	IC 025. Sports and leisure wear, namely shirts

	2,179,796	August 11, 1998	IC 025. sports and leisure wear, namely shorts, pants, shirts, T-shirts, jerseys, tights, socks, gloves, jackets, swimwear, sweaters, caps and hats, pullovers, warm-up suits, rain-suits, ski suits, jump suits, boots, slippers, sandals, specific purpose athletic shoes, and general purpose sport shoes
	2,278,589	September 21, 1999	IC 025. athletic and leisure footwear.
	2,278,591	September 21, 1999	IC 25. sports and leisure wear, namely, shorts.
	2,284,308	October 12, 1999	IC 025. sports and leisure wear, namely pants.
	2,411,802	December 12, 2000	IC 018. All purpose sport bags, athletic bags, traveling bags, backpacks, knapsacks. IC 025. Sports and leisure wear, namely, shorts, pants, shirts, T-shirts, jerseys, socks, gloves, jackets, swimwear, caps and hats, pullovers, sweat-shirts, sweat suits, track suits, warm-up suits; boots, sandals, specific purpose athletic shoes and general all purpose sports shoes. IC 028. Sports balls and playground balls; guards for athletic use, namely, shin guards, knee guards and leg guards.
	2,999,646	September 27, 2005	IC 25. Footwear, namely, slides
	3,029,127	December 13, 2005	IC 025. Clothing, namely, T-Shirts, sweatshirts, jackets and coats.
	3,029,129	December 13, 2005	IC 025. Footwear.
	3,029,135	December 13, 2005	IC 025. Footwear.

	3,104,117	June 13, 2006	<p>IC 009. Optical apparatus and instruments, namely, eyeglasses and sunglasses.</p> <p>IC 014. Horological and chronometric instruments, namely, watches</p> <p>IC 018. Leather and imitations of leather, and goods made from these materials in the nature of bags for general and sport use, namely, handbags, tote bags, waist packs, overnight bags, backpacks, knapsacks and beach bags; trunks; traveling bags for general and sport use; leather and imitations of leather and goods made from these materials, namely, wallets, briefcases.</p> <p>IC 025. Sports and leisure wear, namely suits, shorts, pants, sweatpants, skirts, skorts, dresses, blouses, shirts, T-shirts, sleeveless tops, polo shirts, vests, jerseys, sweaters, sweatshirts, pullovers, coats, jackets, track suits, training suits, warm-up suits, swimwear, underwear, socks, gloves, scarves, wristbands and belts; headgear, namely caps, hats, visors, headbands; athletic footwear and leisure foot wear, namely boots, sandals, specific purpose athletic shoes and general purpose sports shoes.</p>
BOOST	3,580,958	February 24, 2009	IC 025. Clothing, namely, shirts; footwear.
STAN SMITH	3,590,187	March 17, 2009	IC 025. Footwear.
NMD	5,218,628	June 6, 2017	IC 025. Footwear.
SPLY-350	5,413,495	February 27, 2018	IC 025. Footwear
SUPERSTAR	5,871,181	October 1, 2019	IC 025. Footwear; the aforementioned goods not related to the topic, theme or subject of historical airplanes.

The adidas Marks are used in conjunction with the design, manufacture, and distribution of quality goods in the categories identified above. True and correct copies of the Certificates of Registration for the adidas Marks are attached to the Complaint as Composite Exhibit “1.”

6. The adidas Marks have been used in interstate commerce to identify and distinguish adidas products for an extended period of time and serve as symbols of adidas’s quality, reputation, and goodwill.

7. adidas has extensively used, advertised, and promoted the adidas Marks in the United States in association with the sale of quality products. adidas has spent substantial time, money and other resources promoting the adidas Marks and products bearing the adidas Marks. In recent years, annual sales of products bearing the adidas Marks have totaled in the billions of dollars globally and in the hundreds of millions of dollars within the United States.

8. The adidas Marks are well-known and famous and have been for many years. adidas has expended substantial resources developing, advertising and otherwise promoting the adidas Marks. Specifically, adidas has used the adidas Marks in connection with its frequent sponsorship of sports tournaments and organizations, as well as professional athletes and collegiate sports teams. For example, adidas has long-term relationships with the University of Nebraska, Mississippi State University, Texas A&M, and the University of Louisville. Among many others, NBA stars Derrick Rose, James Harden, Trae Young, Damian Lillard, and Donovan Mitchell, NFL stars Aaron Rodgers, Dak Prescott, Patrick Mahomes, and Von Miller, NHL star P.K. Subban, baseball player Kris Bryant, and soccer stars David Beckman and Lionel Messi all are sponsored by adidas. For many years, adidas has been a sponsor of the World Cup soccer tournament, as well as several national teams including Argentina, Japan, Mexico, Germany, and Spain. adidas has sponsored the world-famous Boston Marathon for more than a decade, and has sponsored many

other events, teams, and individuals. Prominent use of the adidas Marks in connection with these sponsorship activities has further enhanced the adidas Marks' recognition and fame.

9. The adidas Marks have achieved secondary meaning as identifiers of quality goods as a result of adidas's advertisement, promotion, and sale of such goods thereunder.

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

11. The adidas Marks have never been abandoned. adidas actively polices and enforces its trademark rights.

12. The adidas Marks are vital to adidas's business, as the Marks represent a significant value to the company and its associated image. adidas suffers irreparable harm to its goodwill, as well as direct monetary losses, any time third parties, including Defendants, sell counterfeit and infringing goods bearing identical or substantially similar trademarks.

Investigation of Defendants' Counterfeiting Activities

13. The adidas Group learned Defendants are promoting, advertising, offering for sale and/or selling goods using counterfeit and infringing trademarks which are exact copies of one or more of the adidas Marks without authorization, via at least the Internet based e-commerce stores operating the seller names set forth on Schedule "A" hereto (the "E-commerce Store Names"). Defendants do not have, nor have they ever had, the right or authority to use the adidas Marks. Further, the adidas Marks have never been assigned or licensed to be used in connection with the E-commerce Store Names.

14. The adidas Group retained Invisible Inc ("Invisible"), a licensed private investigative firm to investigate the suspected sales of counterfeit adidas branded products by

Defendants and to determine Defendants' payment account data for receipt of funds paid for the sale of counterfeit adidas branded products.

15. Invisible accessed the Internet based e-commerce stores operating under the E-commerce Store Names, and placed orders for the purchase of various products, each bearing counterfeits of, at least, one of the adidas Marks at issue in this action from each E-commerce Store Name. At the conclusion of the process, I received detailed web page captures of the adidas-branded products ordered via each Defendant's E-commerce Store Name. (See Declaration of Virgilio Gigante in Support of Plaintiffs' Application for TRO; Declaration of Kathleen Burns in Support of Plaintiffs' Application for TRO and Composite Exhibit "1" attached thereto.)

16. Prior to filing this Declaration, I personally analyzed adidas-branded goods ordered by Invisible via each of the E-commerce Store Names by reviewing the e-commerce stores operating under the E-commerce Store Names, or the detailed web page captures of the products bearing the adidas Marks, and I determined the products were non-genuine, unauthorized versions of adidas-branded products. I reached this conclusion through my observations of the pricing, which was below the prices of adidas's genuine products of similar style and design, and my observation of certain product and marking characteristics which are not consistent with adidas's genuine products. Moreover, I personally know that the adidas Group does not conduct business with Defendants or their E-commerce Store Names, nor do Defendants have the right or authority to use the adidas Marks for any purpose.

17. In view of the foregoing, I can confirm that the products Defendants are offering for sale and/or promoting under the adidas Marks via the E-commerce Store Names are non-genuine versions of adidas's products.

Harm Caused To The adidas Group By Defendants' Activities

18. Genuine adidas branded goods are widely legitimately advertised, promoted, offered for sale, and discussed by adidas, authorized distributors and unrelated third parties via the Internet.

19. Visibility on the Internet, particularly via Internet search engines and social media platforms, is important to adidas's overall marketing and consumer education efforts. Thus, adidas expends significant monetary resources on Internet marketing and consumer education regarding its products, including search engine optimization, search engine marketing, and social media strategies, which allow adidas, authorized retailers, and others to educate consumers fairly and legitimately about the value associated with adidas's brands and the goods sold thereunder and the problems associated with the counterfeiting of adidas's trademarks.

20. Each year, adidas expends significant monetary resources in connection with trademark enforcement efforts, including legal fees, investigative fees, and support mechanisms for law enforcement. adidas can often identify common trends and relationships between the counterfeiters it investigates. Each individual counterfeiter's actions, alone, cause adidas irreparable harm. However, due to the sheer number of these counterfeit website operators, adidas faces massive challenges in enforcing its trademark rights against each operator individually. These challenges are further intensified by the anonymity and mass reach afforded by the Internet, providing adidas with mostly impenetrable obstacles in identifying the full extent and scope of the targeted counterfeiting operation.

21. By benefiting from advertising and market targeting strategies based upon an illegal use of the adidas Marks online, Defendants are jointly obliterating the otherwise open and available marketplace space in which adidas has the right to fairly market its goods and associated message.

Specifically, Defendants' use adidas's names and trademarks, or variations thereof, to make their e-commerce stores selling counterfeit goods appear more relevant and attractive to consumers searching for adidas products and related information online. Such wrongful use constitutes unfair competition for adidas related to visibility on the World Wide Web, including within search engine results space.

22. Defendants are all contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for adidas's genuine goods. Defendants are causing individual, concurrent and indivisible harm to adidas and the consuming public by (i) depriving adidas of its right to fairly compete for space online and within search engine results and reducing the visibility of adidas's genuine goods on the World Wide Web, (ii) causing an overall degradation of the value of the goodwill associated with the adidas Marks, and/or (iii) increasing adidas's overall cost to market its goods and educate consumers about their brands via the Internet.

23. Although some Defendants may be physically acting independently, the harm they are inflicting on adidas is ultimately indivisible because the combined force of their actions serves to multiply the harm caused to adidas.

24. adidas will experience irreparable injury and damage to its reputation among consumers unless the infringing activity alleged in the Complaint is stopped.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct. Executed 07.06.2023, in Portland, Oregon.

Mia Gutierrez

Mia Nidia Gutierrez

SCHEDULE “A”
DEFENDANTS BY NUMBER AND E-COMMERCE STORE NAME

Defendant Number	Defendant / E-commerce Store Name
1	adidasecostarica.com
2	adidasepanama.com
3	adidasoutletshoes.us.com
4	adidass.us.com
5	adidasshoesonline.us.com
5	adidasstoreoutlet.us.com
5	adidasyezyofficialwebsite.us.com
6	hypeboost.shop
6	hypeboosts.ru
7	yeezy-boost350v2.us.org
7	yeezys-boost.us.org
8	ultra-boosts.us.com
9	365kitshirts.com
9	77footsfr.com
9	calcio2024it.com
10	8wholesale.com
11	adyzboots.com
12	ahasneakers.cn
13	amjerseys.com
13	soccerum.com
14	buyjerseys.shop
15	camisetago.com
15	futbols24.com
15	kacalcio.com
15	magliago.com
15	maillotgo.com
16	cheapjordan2023.com
16	discountjordan2023.com
17	onlykickz.vip
18	designergunews.ru
18	designergunews.xyz
19	dopestkickz.cc
19	dopestkickzclub.ru
19	dopestkickzfans.ru
19	dopestkickznews.ru
20	fakeyeezyshop.com
20	songsneaker.net
21	fashionkicks.xyz

22	februn.com
22	febsale.com
23	floadty.com
23	pejane.com
24	goatkick.net
25	honejersey.top
25	oneshop1.top
26	hotkicks.cc
27	hwh.com.co
28	icystar.net
29	jersey-album.com
30	jerseydor.com
31	jerseyflagshipstore.com
32	jerseylockers.com
33	jerseysnew.cn
34	kegao.cn
35	kicksfreake.com
36	kickwho.xyz
37	kickx.ru
38	ksafutbol.com
38	r7futbol.com
38	rofoot.com
39	leekicks.ru
40	luckick.shop
41	maryjersey.cn
42	mkkickz.com
43	newfirstsoccershop.com
44	newsneaker.site
45	ogtonysneaker.com
46	okick.store
47	pkgiz.com
48	rimisnkrs.ru
49	rjersey.com
50	rsneakers.fun
51	shoesking.me
52	shoeslegends.com
53	shopowlfashion.com
54	smeshsportos.shop
55	snkick.ru
56	snkrkicksair.com
57	snrktap1.com
58	socceremo.com
59	stealstock.net

60	trustykickz.com
61	vssdhporto.shop
62	weekknight.com
63	xfjerseymall.com
64	yeezy365.com
65	yeezyshoess.us.com
66	yeezysnkr.org
67	yesyeezyvip.com
68	jollyfamilygifts.com
69	kessoi.com a/k/a dletrmea.com