

III. THE PARTIES

Plaintiff

4. Plaintiff Nissan North America, Inc. is a corporation of the State of Delaware, having its principal place of business at One Nissan Way, Franklin, Tennessee 37067. Under agreement with Nissan Jidosha Kabushiki Kaisha, Plaintiff polices and enforces Nissan trademarks in the United States. Plaintiff Nissan North America, Inc. and Nissan Jidosha Kabushiki Kaisha are referred to herein together or individually as “Nissan.”

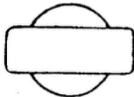
5. Since its inception in 1933, Nissan has been passionate about creating innovative technologies and products based on the spirit of “Do what others don’t dare to do.” Nissan has an impressive track record of innovations, one that has greatly impacted the auto industry and the lives of drivers worldwide. For decades, Nissan has been one of the largest automakers in the world with millions of vehicles sold to consumers yearly.

6. Propelled by its reputation and recognizable trademarks, which are carefully curated and monitored, consumers recognize Nissan and its Nissan brand as a source of reliable and quality vehicles, vehicle parts and accessories, miniature vehicles and toys, and various other lifestyle products (collectively, the “Nissan Products”).

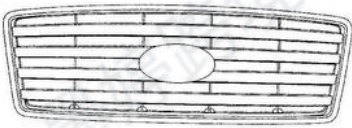
7. Nissan has registered many of its trademarks with the United States Patent and Trademark Office. Nissan Products typically include at least one of Nissan’s registered trademarks. Nissan uses its trademarks in connection with the marketing of its Nissan Products, including the following marks which are collectively referred to as the “NISSAN Trademarks.”

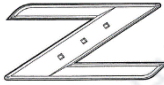
Registration No.	Trademark
2,043,780	NISSAN
4,283,161	
686,587	
2,964,579	
2,047,839	

2,055,094 2,083,517 3,791,528 2,050,895	
2,057,276 3,882,158 3,991,033 4,498,134	NISSAN
2,063,104 2,043,779	
2,047,840 1,421,618	 NISSAN
689,796	
1,914,770	
2,203,744	
2,697,209	
2,073,651 2,128,205 4,450,298 4,450,299 2,047,843	
6,375,184	
3,667,812 2,160,715 1,478,618 5,061,324	INFINITI

5,043,563 5,230,120 5,047,596 4,445,871 5,677,420 4,673,647	INFINITI
1,621,098	 INFINITI
1,632,276	 INFINITI
3,634,033	 INFINITI
1,546,304 7,756,490	
7,236,841	
4,363,069 5,047,595 4,508,218 5,043,564 4,948,860 4,297,134 4,363,072 6,259,109 4,270,664	
5,448,902	INFINITI RADIANT
1,768,025	ALTIMA
2,887,113	ARMADA
689,797	
686,586	DATSUN
689,798	
3,412,089	DIVIDE-N-HIDE
3,543,938	DUAL FLOW PATH

7,347,114	e-4ORCE
2,938,560	ENDURANCE
2,930,254	FRONTIER
2,162,397	
3,591,234	
3,715,755	GT
3,868,735	R
3,901,269	JUKE
5,546,161	KICKS
2,819,466	KING CAB
4,119,976	LEAF
5,511,513	MAINTENANCE ADVANTAGE
2,939,258	MAXIMA
1,432,854	
5,348,997	MIDNIGHT EDITION
2,845,463	MURANO
3,046,496	NEVADA
3,811,462	NISMO
3,086,057	
2,993,066	
2,918,308	
2,996,105	
1,536,313	
3,313,368	
5,489,179	nismo
2,247,920	NISSAN FRONTIER
3,318,892	NISSAN GTR
3,505,975	NISSAN GT-R
4,115,498	
3,366,736	NISSAN VERSA
7,305,907	NISSAN Z
4,012,778	NV1500
5,829,288	OMNIPARTS AUTOMOTIVE
5,840,012	OMNIPARTS AUTOMOTIVE
3,612,436	
1,442,001	PATHFINDER

7,409,390	PROTO SPEC
6,590,854	PRO-X
3,445,037	PRO-4X
4,077,529	
4,660,078	Q50
4,700,278	Q50S
5,015,377	Q60
5,015,378	Q70
5,100,548	QX30
4,660,079	QX50
6,420,578	QX55
5,311,506	QX60
5,098,056	QX70
4,815,531	QX80
3,572,621	
4,373,049	RESERVE
5,758,472	ROCK CREEK
3,728,806	ROGUE
3,522,579	
1,509,170	SENTRA
3,607,523	SKYVIEW
5,008,780	
3,007,624	TITAN
3,695,980	
4,905,500	TITAN XD
2,988,556	UTILI-TRACK
4,425,795	VALUE ADVANTAGE
5,271,416	
4,035,765	
4,881,968	
3,308,748	VERSA
2,581,529	XTERRA
1,595,222	Z
6,043,648	

2,965,712	
7,334,292	
5,525,049	
1,547,275	300ZX
6,833,760	SKYLINE
3,846,602	

8. The above U.S. registrations for the NISSAN Trademarks are valid, subsisting, in full force and effect, and many are incontestable pursuant to 15 U.S.C. § 1065. The registrations for the NISSAN Trademarks constitute *prima facie* evidence of their validity and of Nissan's exclusive right to use the NISSAN Trademarks pursuant to 15 U.S.C. § 1057(b). Incontestable status under 15 U.S.C. § 1065 provides that the registrations for the NISSAN Trademarks are conclusive evidence of the validity of the NISSAN Trademarks and of the registrations of the NISSAN Trademarks, of Nissan's ownership of the NISSAN Trademarks, and of Nissan's exclusive right to use the NISSAN Trademarks in commerce. 15 U.S.C. §§ 1115(b), 1065. True and correct copies of the United States Registration Certificates for the above-listed NISSAN Trademarks are attached hereto as **Exhibit 1**.

9. The NISSAN Trademarks are distinctive when applied to the Nissan Products, signifying to the purchaser that the products come from Nissan and are manufactured to Nissan's quality standards. Whether Nissan manufactures the products itself or contracts with others to do so, Nissan has ensured that products bearing the NISSAN Trademarks are manufactured to the highest quality standards.

10. The NISSAN Trademarks are famous marks, as that term is used in 15 U.S.C. § 1125(c)(1), and have been used by Nissan for many years. The innovative marketing and product designs of the Nissan Products have enabled the Nissan brand to achieve widespread recognition

and fame and have made the NISSAN Trademarks some of the most well-known marks in the industry. The widespread fame, outstanding reputation, and significant goodwill associated with the Nissan brand have made the NISSAN Trademarks valuable assets of Nissan.

11. Nissan has expended substantial time, money, and other resources in developing, advertising and otherwise promoting the NISSAN Trademarks. In fact, Nissan has expended millions of dollars annually in advertising, promoting, and marketing featuring the NISSAN Trademarks. Nissan Products have also been the subject of extensive unsolicited publicity resulting from their high quality, performance, and innovative design. As a result, products bearing the NISSAN Trademarks are widely recognized and exclusively associated by consumers, the public, and the trade as being high-quality products sourced from Nissan. Nissan Products have become among the most popular of their kind in the U.S. and the world. The NISSAN Trademarks have achieved tremendous fame and recognition which has only added to the distinctiveness of the marks. As such, the goodwill associated with the NISSAN Trademarks is of incalculable and inestimable value to Nissan.

authorized dealers and licensees, including several in the Chicago, Illinois area. Sales of Nissan proprietary content, images, and designs exclusive to the Nissan brand.

The Defendants

13. Defendants are individuals and business entities of unknown makeup who own and/or operate one or more of the e-commerce stores under at least the Seller Aliases identified on Schedule A and/or other seller aliases not yet known to Plaintiff. On information and belief, Defendants reside and/or operate in the People's Republic of China or other foreign jurisdictions,

or redistribute products from the same or similar sources in those locations. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).

14. On information and belief, Defendants, either individually or jointly, operate one or more e-commerce stores under the Seller Aliases listed in Schedule A attached hereto. Tactics used by Defendants to conceal their identities and the full scope of their operations make it virtually impossible for Plaintiff to learn Defendants' true identities and the exact interworking of their counterfeit network. If Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

IV. DEFENDANTS' UNLAWFUL CONDUCT

15. The success of the Nissan brand has resulted in significant counterfeiting of the NISSAN Trademarks. Consequently, Nissan has a worldwide anti-counterfeiting program and regularly investigates suspicious e-commerce stores identified in proactive Internet sweeps and reported by consumers. In recent years, Nissan has identified many fully interactive, e-commerce stores offering Counterfeit Nissan Products on online marketplace platforms such as PayPal, Amazon, and eBay, including the e-commerce stores operating under the Seller Aliases. The Seller Aliases target consumers in this Judicial District and throughout the United States. At last count, global trade in counterfeit and pirated goods was worth an estimated \$467 billion per year — accounting for a staggering 2.3% of all imports, according to the Organization for Economic Cooperation and Development (the “OECD”)² The primary source of all those counterfeits, the OECD and others say, is China.³

² See Press Release, Organization for Economic Cooperation and Development, *Global trade in fake goods reached USD 467 billion, posing risks to consumer safety and compromising intellectual property* (May 7,

³ *Id.*; see also, *Intellectual Property Rights Seizure Statistics, Fiscal Year 2024*, U.S. Customs and Border Protection.

16. Third party service providers like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing counterfeiters to “routinely use false or inaccurate names and addresses when registering with these e-commerce platforms.”⁴ Counterfeiters hedge against the risk of being caught and having their websites taken down from an e-commerce platform by preemptively establishing multiple virtual store-fronts.⁵ Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, counterfeiters can have many different profiles that can appear unrelated even though they are commonly owned and operated.⁶ Further, “E-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of counterfeits and counterfeiters.”⁷

17. Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars from U.S. consumers, and have sold Counterfeit Nissan Products to residents of Illinois. Screenshots evidencing Defendant’s infringing activities are attached as **Exhibit 2**.

18. Defendants concurrently employ and benefit from substantially similar advertising and marketing strategies. For example, Defendants facilitate sales of Counterfeit Nissan Products by designing the e-commerce stores operating under the Seller Aliases so that they appear to

⁴ See Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 40 NW. J. INT’L L. & BUS. 157, 186 (2020); see also report on “Combating Trafficking in Counterfeit and Pirated Goods” prepared by the U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans (Jan. 24, 2020), and finding that on “at least some e-commerce platforms, little identifying information is necessary for a counterfeiter to begin selling” and recommending that “[s]ignificantly enhanced vetting of third-party sellers” is necessary.

⁵ “Combating Trafficking in Counterfeit and Pirated Goods,” *supra* note 4, at 22.

⁶ *Id.* at 39.

⁷ Chow, *supra* note 4, at 186-87.

unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. E-commerce stores operating under the Seller Aliases appear sophisticated and accept payment in U.S. dollars from U.S. consumers. E-commerce stores operating under the Seller Aliases often include content and images that make it very difficult for consumers to distinguish such stores from an authorized retailer. On information and belief, Plaintiff has not licensed or authorized Defendants to use any of the NISSAN Trademarks, and none of the Defendants are authorized retailers of genuine Nissan Products.

19. Many Defendants also deceive unknowing consumers by using one or more NISSAN Trademarks without authorization within the content, text, and/or meta-tags of their e-commerce stores to attract various search engines crawling the Internet looking for websites relevant to consumer searches for Nissan Products. Other e-commerce stores operating under Seller Aliases omit using NISSAN Trademarks in the item title to evade enforcement efforts while using strategic item titles and descriptions that will trigger their listings when consumers are searching for NISSAN Products.

20. E-commerce store operators like Defendants commonly engage in fraudulent conduct when registering the Seller Aliases by providing false, misleading and/or incomplete information to e-commerce platforms to prevent discovery of their true identities and the scope of their e-commerce operation.

21. E-commerce store operators like Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Counterfeit Nissan Products. Such seller alias registration patterns are one of many common tactics used by e-commerce store operators like Defendants to conceal their identities, the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

22. Defendants are collectively causing harm to Plaintiff's goodwill and reputation because the effect of their unlawful actions taken together amplifies each harm and creates a single negative consumer impression. Defendants' activities, occurring at the same time and in the same retail space and manner as one another, blend together to create a single negative impression on consumers such that they constitute the same occurrence or series of occurrences. The combination of all Defendants engaging in the same illegal activity in the same time span causes a collective harm to Plaintiff in a way that individual actions, occurring alone, might not.

23. E-commerce store operators like Defendants communicate with each other on chat rooms and through websites regarding tactics for operating multiple accounts, evading detection, pending litigation, and potential new lawsuits.

24. Counterfeiters such as Defendants typically operate under multiple seller aliases and payment accounts so that they can continue operation in spite of Nissan's enforcement. E-commerce store operators like Defendants maintain off-shore bank accounts and regularly move funds from their financial accounts to off-shore accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to Nissan. Indeed, analysis of financial account transaction logs from previous similar cases indicates that off-shore counterfeiters regularly move funds from U.S.-based financial accounts to off-shore accounts outside the jurisdiction of this Court.

25. Defendants are working to knowingly and willfully import, distribute, offer for sale, and sell Counterfeit Nissan Products in the same transaction, occurrence, or series of transactions or occurrences. Defendants, without any authorization or license from Nissan, have knowingly and willfully used and continue to use the NISSAN Trademarks in connection with the

advertisement, distribution, offering for sale, and sale of the Counterfeit Nissan Products into the United States and Illinois over the Internet.

26. Defendants' unauthorized use of the NISSAN Trademarks in connection with the advertising, distribution, offering for sale, and sale of Counterfeit Nissan Products, including the sale of Counterfeit Nissan Products into the United States, including Illinois, is likely to cause and has caused confusion, mistake, and deception by and among consumers and is irreparably harming Nissan.

COUNT I
TRADEMARK INFRINGEMENT AND COUNTERFEITING (15 U.S.C. § 1114)

27. Nissan hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

28. This is a trademark infringement action against Defendants based on their unauthorized use in commerce of counterfeit imitations of the federally registered NISSAN Trademarks in connection with the sale, offering for sale, distribution, and/or advertising of infringing goods. The NISSAN Trademarks are highly distinctive marks. Consumers have come to expect the highest quality from Nissan Products sold or marketed under the NISSAN Trademarks.

29. Defendants have sold, offered to sell, marketed, distributed, and advertised, and are still selling, offering to sell, marketing, distributing, and advertising products using counterfeit reproductions of the NISSAN Trademarks without Nissan's permission.

30. Nissan is the exclusive owner of the NISSAN Trademarks. Nissan's United States Registrations for the NISSAN Trademarks (**Exhibit 1**) are in full force and effect. On information and belief, Defendants have knowledge of Nissan's rights in the NISSAN Trademarks and are willfully infringing and intentionally using counterfeits of the NISSAN Trademarks. Defendants'

willful, intentional, and unauthorized use of the NISSAN Trademarks is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of the Counterfeit Nissan Products among the general public.

31. Defendants' activities constitute willful trademark infringement and counterfeiting under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

32. Nissan has no adequate remedy at law and, if Defendants' actions are not enjoined, Nissan will continue to suffer irreparable harm to its reputation and the goodwill of its well-known NISSAN Trademarks.

33. The injuries and damages sustained by Nissan have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of Counterfeit Nissan Products.

COUNT II
FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

34. Nissan hereby re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs.

35. Defendants' promotion, marketing, offering for sale, and sale of Counterfeit Nissan Products has created and is creating a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with Nissan or the origin, sponsorship, or approval of Defendants' Counterfeit Nissan Products by Nissan.

36. By using the NISSAN Trademarks in connection with the sale of Counterfeit Nissan Products, Defendants create a false designation of origin and a misleading representation of fact as to the origin and sponsorship of the Counterfeit Nissan Products.

37. Defendants' false designation of origin and misrepresentation of fact as to the origin and/or sponsorship of the Counterfeit Nissan Products to the general public involves the use of counterfeit marks and is a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

38. Nissan has no adequate remedy at law and, if Defendants' actions are not enjoined, Nissan will continue to suffer irreparable harm to its reputation and the goodwill of its NISSAN Trademarks and brand.

PRAYER FOR RELIEF

WHEREFORE, NISSAN prays for judgment against Defendants as follows:

- 1) That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily, preliminarily and permanently enjoined and restrained from:
 - a. using the NISSAN Trademarks or any reproductions, counterfeit copies, or colorable imitations thereof in any manner in connection with the distribution, promotion, marketing, advertising, offering for sale, or sale of any product that is not a genuine Nissan Product or is not authorized by Nissan to be sold in connection with the NISSAN Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any products as genuine Nissan Products or any other products produced by Nissan that are not Nissan's, or not produced under the authorization, control, or supervision of Nissan and approved by Nissan for sale under the NISSAN Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' Counterfeit Nissan Products are those sold under the authorization, control, or

- supervision of Nissan, or are sponsored by, approved by, or otherwise connected with Nissan;
- d. further infringing the NISSAN Trademarks and damaging Nissan's goodwill; and
 - e. manufacturing, shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Nissan, nor authorized by Nissan to be sold or offered for sale, and which bear any of Nissan's trademarks, including the NISSAN Trademarks, or any reproductions, counterfeit copies, or colorable imitations thereof;
- 2) Entry of an Order that, upon Nissan's request, those with notice of the injunction, including, without limitation, any online marketplace platforms such as PayPal, Amazon, and eBay (collectively, the "Third Party Providers") shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the NISSAN Trademarks;
 - 3) That Defendants account for and pay to Nissan all profits realized by Defendants by reason of Defendants' unlawful acts herein alleged, and that the amount of damages for infringement of the NISSAN Trademarks be increased by a sum not exceeding three times the amount thereof as provided by 15 U.S.C. § 1117;
 - 4) In the alternative, that Nissan be awarded statutory damages for willful trademark counterfeiting pursuant to 15 U.S.C. § 1117(c)(2) of \$2,000,000 for each and every use of the NISSAN Trademarks;
 - 5) That Nissan be awarded its reasonable attorneys' fees and costs; and
 - 6) Award any and all other relief that this Court deems just and proper.