

9. The above registration for the BIGFOOT mark is valid, subsisting, and in full force and effect. A true and correct copies of the federal trademark registration certificate for the above-referenced mark is attached hereto as Exhibit 1.

10. The BIGFOOT Trademark is distinctive and identifies merchandise as goods from BIGFOOT 4x4, INC. or its duly authorized licensees.

11. The BIGFOOT Trademark has been continuously used and never abandoned.

12. Plaintiff's BIGFOOT Trademark is exclusive to Plaintiff and is displayed extensively on Plaintiff's Products and in Plaintiff's marketing and promotional materials. Plaintiff's BIGFOOT Trademark has been the subject of substantial and continuous marketing and promotion by Plaintiff at great expense. In fact, Plaintiff has expended significant resources annually in advertising, promoting, and marketing featuring Plaintiff's BIGFOOT Trademark. Plaintiff's promotional efforts include — by way of example, but not limitation — substantial print media, a website, social media sites, and point of sale materials. Because of these and other factors, Plaintiff's BIGFOOT Trademarks has become famous worldwide.

13. Plaintiff's BIGFOOT Trademark is distinctive when applied to Plaintiff's Products, signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff's quality standards. Whether Plaintiff manufactures the products itself or licenses others to do so, Plaintiff has ensured that products bearing its Trademark are manufactured to the highest quality standards. Plaintiff's BIGFOOT Trademark has achieved fame and recognition, which has only added to the inherent distinctiveness of the mark. As such, the goodwill associated with Plaintiff's BIGFOOT Trademark is incalculable and of inestimable value to Plaintiff.

14. Plaintiff's BIGFOOT Trademark qualifies as a famous mark, as used in 15 U.S.C. §1125 (c)(1) and has been continuously used and never abandoned.