

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC**

In the Matter of

Investigation No. 337-TA-___

CERTAIN FOOTWEAR PRODUCTS

**COMPLAINT UNDER SECTION 337
OF THE TARIFF ACT OF 1930, AS AMENDED**

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Appendix 2	Certified Copy of File History for U.S. Trademark Registration No. 3,258,103
Appendix 3	Certified Copy of File History for U.S. Trademark Registration No. 1,588,960

I. INTRODUCTION

1. This case is about protecting Converse Inc.’s trademark rights in an iconic shoe design. The shoe design at issue:

“[was] ... the ultimate insider shoe for the top athletes back in the first 50 years of its existence, and then it was the ultimate outsider shoe. But it’s always been a mainstream shoe, too. It sort of represents America.”

Whitney Matheson, *Converse: 100 Years Young*, USA Today, Mar. 12, 2008, at 3D (quoting Hal Peterson).

2. Complainant Converse Inc. (“Converse” or “Complainant”), requests that the United States International Trade Commission (“Commission” or “ITC”) institute an investigation under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), based on the unlawful importation into the United States, sale for importation into the United States, or sale within the United States after importation, of certain footwear products (collectively, “Accused Products”) that violate registered and common law trademarks used in connection with certain Converse shoes. Shoes bearing one or more of the trademarks asserted in this matter are referred to as “Converse Shoes.”

3. The proposed Respondents, Skechers U.S.A., Inc.; Wal-Mart Stores, Inc.; A-List, Inc., d/b/a Kitson; Aldo Group; Brian Lichtenberg, LLC; Cmerit USA, Inc., d/b/a Gotta Flurt; Dioniso SRL; Edamame Kids, Inc.; Esquire Footwear, LLC; FILA U.S.A., Inc.; Fortune Dynamic, Inc.; Gina Group, LLC; H & M Hennes & Mauritz LP; Highline United LLC d/b/a ASH Footwear USA; Hitch Enterprises Pty Ltd d/b/a Skeanie; Iconix Brand Group, Inc., d/b/a Ed Hardy; Kmart Corporation; Mamiye Imports LLC d/b/a Lilly of New York; Nowhere Co., Ltd. d/b/a Bape; OPPO Original Corp.; Orange Clubwear, Inc., d/b/a Demonica Deviant; Ositos Shoes, Inc., d/b/a Collection’O; PW Shoes Inc.; Ralph Lauren Corporation; Shenzhen

Foreversun Industrial Co., Ltd (a/k/a Shenzhen Foreversun Shoes Co., Ltd); Shoe Shox; Tory Burch LLC; Zulily, Inc.; Fujian Xinya I&E Trading Co.; Zhejiang Ou Hai International; and Wenzhou Cereals Oils & Foodstuffs Foreign Trade Co. Ltd. (collectively, “Respondents”), have engaged in unlawful acts in violation of Section 337(a)(1)(C) through their unlicensed importation, sale for importation, or sale after importation of Accused Products that infringe one or more of Converse’s federally registered trademarks, namely U.S. Trademark Registration Nos. 4,398,753; 3,258,103; and 1,588,960. Certified copies of these registrations are attached as Exhibits 1 – 3.

4. In addition, Respondents have violated Section 337(a)(1)(A) by engaging in unfair methods of competition, false designations of origin, and/or likely dilution of one or more common law trademarks that Converse uses in connection with the Converse Shoes. Converse’s registered and common law trademarks at issue in the proposed investigation are collectively referred to as the “Asserted Trademarks.”

5. As required by Sections 337(a)(1) and (a)(2)-(3), an industry exists in the United States relating to Converse Shoes, all of which prominently feature the Asserted Trademarks. Converse Shoes sold domestically are designed and developed in the United States. To design and develop the Converse Shoes, Converse makes significant investments in plant and equipment, employs significant labor and capital, and makes substantial investments in the exploitation of the Asserted Trademarks through activities such as engineering, research and development, and the licensing of third-party rights.

6. The Respondents’ unfair acts in violation of Section 337(a)(1)(A) have substantially injured, or threaten to substantially injure, Converse’s domestic industry for Converse Shoes.

7. Because Respondents' conduct evidences likely circumvention of any limited exclusion orders that may issue and a pattern of violation, Converse seeks a General Exclusion Order pursuant to Section 337(d) excluding from entry into the United States all imported shoes that violate Converse's rights in the Asserted Trademarks. Converse further seeks cease and desist orders directing Respondents to halt the importation, marketing, advertising, demonstrating, warehousing of inventory for distribution, sale, and use of imported articles in the United States pursuant to section 337(f).

II. THE CONVERSE TRADEMARKS AT ISSUE

8. The proposed investigation seeks to stop articles bearing unauthorized copies of the Asserted Trademarks and/or colorable imitations thereof from entering into the United States. The Asserted Trademarks include two distinct designs: (a) a shoe midsole design and (b) a shoe outsole design.¹ Because all of the Respondents use the midsole design and only some use the outsole design, the midsole design is discussed first in the sections that follow.

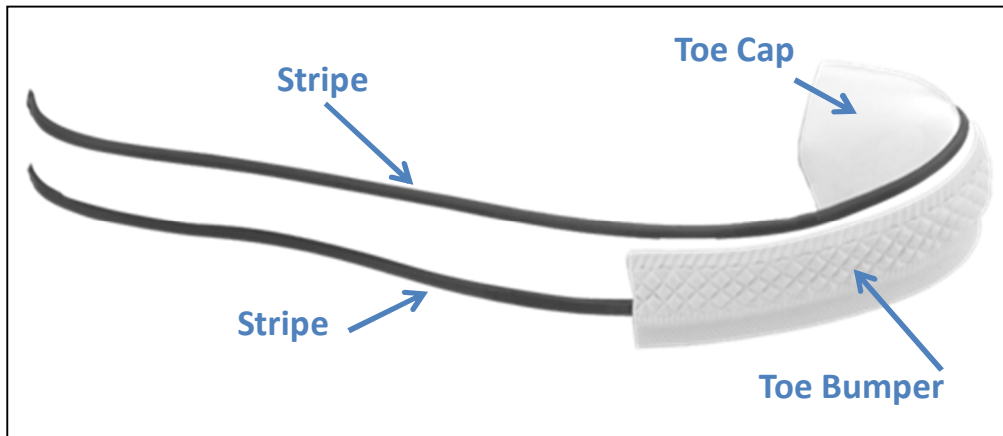
9. The Complaint also asserts separate common law and federally registered rights in the Asserted Trademarks. Because Converse acquired common law trademark rights in its midsole design and outsole design many decades ago, the sections that follow begin with a discussion of Converse's common law trademark rights followed by a description of Converse's federal trademark registrations.

¹ The anatomy of a shoe is generally divided into three parts, (a) the "upper" refers to the material (often canvas or leather) that more or less surrounds the top of a foot; (b) the "midsole" refers to the portion of a shoe between the upper and the outsole that often provides cushioning and/or support structure to the shoe; and (c) the "outsole" refers to the tread or bottom of a shoe ordinarily in contact with the ground. *See* Section XIII, Glossary of Terms.

A. Converse’s Iconic Midsole Design

10. This Complaint asserts trademark rights in a distinctive midsole design made up of a toe bumper and a toe cap, plus either an upper stripe and/or a lower stripe (the “Converse Midsole Trademark”). The overall appearance of the Converse Midsole Trademark is shown in Figure 1 below.

FIGURE 1: Appearance of the Converse Midsole Trademark



11. Converse first introduced a distinctive combination of design elements closely resembling the Converse Midsole Trademark on “All Star” high-top sneakers in 1917. By 1932, the Converse Midsole Trademark acquired its present-day appearance. In 1934, shoes bearing the design were eponymously renamed “Chuck Taylor” after a Converse salesman and basketball player. In 1957, Converse introduced a low top, or “oxford,” version of shoes bearing the Converse Midsole Trademark. Converse has also used the Converse Midsole Trademark in connection with other footwear products, including but not limited to, “One Star” and “Star Player” shoe models. Consumers often refer to shoes bearing the Converse Midsole Trademark as “All Stars,” “Chuck Taylors,” “Chucks,” or “Chuck sneakers.”

12. All told, Converse has continuously manufactured, promoted, and sold shoes bearing the Converse Midsole Trademark for more than 80 years. Attached Exhibit 4 illustrates

representative images of Converse Shoes over time. Because of Converse’s enduring use of the design, it became an iconic symbol of the Converse brand, and it has been revered by consumers from different eras and across diverse cultural backgrounds. The Design Museum’s report on “Fifty Shoes That Changed the World” summed it up this way:

The All-Star has long since strayed from the basketball pitch and now stands as one of the most iconic and versatile examples of twentieth-century footwear design. Rock and grunge no longer have a monopoly – whether worn with jeans or accessorizing a suit, the shoe’s status transcends fashion categories and genres.

Design Museum, *Fifty Shoes that Changed the World* 16 (Conran Octopus Ltd, 2009).

1. The Converse Midsole Trademark Is Famous

13. There are few, if any, product designs that can boast a history as storied and successful as shoes bearing the Converse Midsole Trademark. As a result of the persistent commercial success of shoes bearing the Converse Midsole Trademark, it is probably the most widely recognized design in the history of footwear.

a. Converse Enjoys Voluminous Sales of Shoes Bearing the Converse Midsole Trademark

14. Since their introduction around 1917, Converse has sold approximately one billion pairs of shoes bearing the Converse Midsole Trademark worldwide. Over the past decade alone, Converse sold more than 200 million pairs of shoes bearing the Converse Midsole Trademark throughout the United States, earning Converse more than \$3 billion in gross United States revenue. One source estimates that “[a]t least 60 percent of all Americans own at least one pair of chucks in their lifetime.” Hal Peterson, *Chucks! The Phenomenon of Converse Chuck Taylor All Stars* 12 (Skyhorse Publishing, Inc. 2007).

15. The upper part of Converse Shoes has been described as a “blank canvas” because, whether made out of actual canvas or not, it provides myriad opportunities to tailor the

shoes to different consumer tastes. Consequently, Converse has manufactured and sold shoes featuring the Converse Midsole Trademark with upper components reflecting a variety of colors, patterns, materials, and embellishments, ranging in price from approximately \$19 to \$190. Vintage Converse Shoes have been auctioned for thousands of dollars. Recent examples of Converse shoes featuring the Converse Midsole Trademark are shown in Figure 2 below.

**FIGURE 2: Recent Examples of Converse Shoes
Featuring the Converse Midsole Trademark**



b. Converse Distributes Shoes Bearing the Converse Midsole Trademark Through Many Different Channels and Market Segments

16. The broad appeal of the Converse Midsole Trademark is evidenced by its appearance in all walks of life – from the feet of a toddler taking her first steps to a celebrity on the red carpet. Converse has sold shoes featuring the Converse Midsole Trademark to men, women, and kids through various distribution channels at differing price points and across multiple market segments as set forth in paragraphs 10 – 12 of the Confidential Declaration of Steven Monti, attached as Exhibit 5.

17. Converse’s distribution of shoes bearing the Converse Midsole Trademark occurs through a wide variety of channels. For example, Converse products bearing the Converse Midsole Trademark are distributed through Converse’s own retail stores and website; department

stores, such as Nordstrom, Kohl's and Macy's; independent shoe retailers, such as Journey's and DSW; value channels, such as Target; and the Internet, including online retailers, such as 6pm.com and Zappos.com. Brick and mortar retailers also tend to sell shoes bearing the Converse Midsole Trademark through online sites as well, for example: shop.nordstrom.com or www.target.com.

c. Converse Engages in Ubiquitous Promotion of High-Quality Shoes Bearing the Converse Midsole Trademark

18. Converse has spent hundreds of millions of dollars advertising and promoting shoes bearing the Converse Midsole Trademark. Converse's advertisements and promotions of the Converse Midsole Trademark have appeared in print, on the Internet, on billboards, in videos, and at retail. Over the past two fiscal years alone, Converse has spent approximately \$30 million advertising and promoting the Converse Midsole Trademark in the United States. Exemplary advertisements featuring the Converse Midsole Trademark are attached to this Complaint as Exhibit 6 and shown in Figure 3 below.

FIGURE 3: Exemplary Advertisements Featuring the Converse Midsole Trademark



Circa 1932 Converse Advertisement



Circa 1968 Converse Advertisement



Circa 1982 Converse Advertisement



Circa 1991 Converse Advertisement

19. Converse also promotes shoes bearing the Converse Midsole Trademark through sponsored associations and collaborations with famous people and companies. For example,

Converse has collaborated with DC Comics, Dr. Seuss, the Rolling Stones, U2, Gorillaz, John Varvatos, Crayola, and the Simpsons, among many others. Exemplary shoe designs from collaboration-based product lines featuring the Converse Midsole Trademark are shown in Figure 4 below.

**FIGURE 4: Exemplary Collaborations
Featuring the Converse Midsole Trademark**



20. In 2012, Converse sold over 230,000 shoes from its collaboration with DC Comics, all bearing the Converse Midsole Trademark. Total sales of the Converse-DC Comics collaborations alone totaled nearly \$5,000,000.

21. Between June 2009 and May 2014, the media value of Converse’s public relations and communications efforts relating to products bearing the Converse Midsole Trademark totaled more than \$205 million and secured more than 2.5 billion commercial impressions in the United States.

**d. The Converse Midsole Trademark Receives Substantial
Publicity, and Has Been Connected With Famous People,
From Johnny Carson to First Lady Michelle Obama**

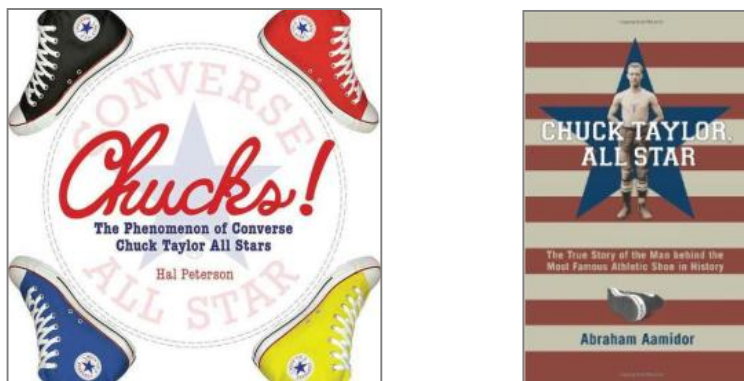
22. The Converse Midsole Trademark is the subject of widespread and unsolicited public attention. This publicity extends from acclaim in books, magazines, and newspapers to frequent appearances in movies and television shows. As representative examples, Converse Shoes are the subject of books including “Chucks!: The Phenomenon of Converse Chuck Taylor

All Stars” and “Chuck Taylor, All Star,” where Chuck Taylor All Star shoes bearing the Converse Midsole Trademark are described as an icon of American footwear design. Likewise, an article in USA Today quotes the author of “Chucks!: The Phenomenon of Converse Chuck Taylor All Stars” stating:

“It’s been the ultimate insider shoe for the top athletes back in the first 50 years of its existence, and then it was the ultimate outsider shoe. But it’s always been a mainstream shoe, too. It sort of represents America.”

Whitney Matheson, *Converse: 100 Years Young*, USA Today, Mar. 12, 2008, at 3D (quoting Hal Peterson) (Exhibit 9 at 7). Exemplary excerpts from these books are attached as Exhibit 7, and exemplary images are shown in Figure 5 below.

FIGURE 5: Exemplary Books Featuring the Converse Midsole Trademark



23. The Converse Midsole Trademark has also been featured in numerous newspaper and magazine articles, and is the focus of Internet chatter and fan sites such as chucksconnection.com, which celebrates the Converse Midsole Trademark and its presence on Converse Shoes throughout American culture. See *The Chucks Connection*, Hal Peterson Media Services, <http://chucksconnection.com>, Exhibit 8 (excerpt of website). Articles illustrating examples of unsolicited publicity surrounding the Converse Midsole Trademark are attached to this Complaint as Exhibit 9 and shown in Figure 6 below.

FIGURE 6: Exemplary Articles Featuring Converse Shoes and the Converse Midsole Trademark



May 2008



March 2008



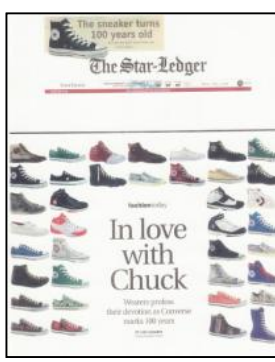
March 2008



February 2008



May 2003



April 2008

24. Over the last century, celebrities, professional athletes, and other prominent figures have been publicized wearing Converse Shoes. Photographs showing some of the famous people connected with the Converse Midsole Trademark are attached to this Complaint as Exhibit 10 and shown in Figure 7 below.

FIGURE 7: Exemplary Photographs of Celebrities, Professional Athletes, and Other Prominent Figures Featuring the Converse Midsole Trademark



Actor Sylvester Stallone
in “Rocky”



NBA Superstar
Kevin Durant



First Lady
Michelle Obama



Actor Kevin Bacon
in “Footloose”



NBA Legend
Wilt Chamberlain



Musician
Elvis Presley



Musician
Rihanna



Actor
Hugh Jackman



Musician
Snoop Dogg



Talk Show Host
Johnny Carson



Musician
Kurt Cobain



Musician
Justin Bieber

25. As a result of more than 80 years of exclusive use of the Converse Midsole Trademark; ubiquitous advertising, sales, and distribution of shoes bearing the Converse Midsole Trademark; the intentional copying and recognition of Converse's rights by others; and because of the vast unsolicited and salutary publicity of the Converse Midsole Trademark in connection with Converse, the Converse Midsole Trademark enjoys substantial secondary meaning as a trademark connected with Converse and is, and was at all times relevant to this investigation, famous among the general consuming public of the United States.

e. The Converse Midsole Trademark Is Not Functional Other Than as a Valuable Trademark

26. The Converse Midsole Trademark relates to a distinctive design of Converse's own creation that long-ago acquired secondary meaning as a trademark and has since been registered on the United States Patent and Trademark Office ("USPTO") Principal Register. To the extent the design was described in functional terms early in its history, whatever functionality it possessed, if any, expired as footwear design, development, and manufacturing technology advanced over the years.

27. Because there today exist many non-infringing, non-dilutive midsole designs available for others' use, no competitor has any competitive need to use the Converse Midsole Trademark.

28. As described further below, the Converse Midsole Trademark is intentionally copied because of the goodwill it embodies as a trademark, not because of competitive need.

f. Competitors Copy the Converse Midsole Trademark and Admit That It Is Distinctive, Famous, and Not Functional

29. Converse has served approximately 120 cease and desist letters at trade shows, and served additional letters and filed federal district court lawsuits, to protect consumer

perceptions and to police the Converse Midsole Trademark. These efforts are discussed further in Sections III.C and X below. Once confronted, violators often admit to the strength and protectability of the Converse Midsole Trademark. For example, in *Converse Inc. v. Autonomie Project, Inc.*, 1:13-cv-12220 (D. Mass.), the defendant entered into a Consent Judgment and admitted that the trademarks at issue, which include the Converse Midsole Trademark, are “distinctive and non-functional,” “well known, famous and associated with Converse, and that the goodwill appurtenant thereto belongs exclusively to Converse.” Likewise, in *Nike, Inc. and Converse Inc. v. Superstar International, Inc., et al.*, 12-5240 (C.D. Cal.), the defendants entered into two Consent Judgments and admitted that the trademarks at issue, which include the Converse Midsole Trademark, are “distinctive and non-functional,” “well known, famous, and associated with Converse, and that the goodwill appurtenant thereto belongs exclusively to Converse.” Copies of the Consent Judgments are attached as compilation Exhibit 11.

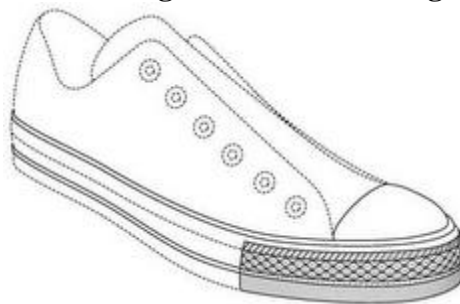
30. Violators to whom Converse sent cease and desist letters also agree that the Converse Midsole Trademark is distinct, famous, and non-functional. For example, Converse entered into settlement agreements in which violators admit that the midsole design of the Converse Midsole Trademark is well known, famous, and associated with Converse; non-functional; and valid and enforceable.

2. The Converse Midsole Trademark Is Federally Registered

31. In addition to distinctive, non-functional, and famous common law trademark rights in the Converse Midsole Trademark, Converse also owns United States Trademark Registration No. 4,398,753 (the “753 Registration”) relating to the Converse Midsole Trademark.

32. Converse filed an application to register a textured toe bumper, a toe cap, and stripes on the midsole of a shoe, on August 6, 2012, based on Converse's prior, continuous use of this trademark. The USPTO issued the '753 Registration to Converse on September 10, 2013. See Exhibit 1, Certified copy of the '753 Registration. A certified copy of the prosecution history of the '753 Registration is at Appendix 1. Figure 8 below depicts the Converse Midsole Trademark as it appears in the '753 Registration.

FIGURE 8: Image from the '753 Registration



33. For all of the reasons set forth above, the trademark covered by the '753 Registration has acquired substantial secondary meaning and is famous. The '753 Registration is *prima facie* evidence of the validity of the Converse Midsole Trademark and of Converse's registration of the mark, of Converse's ownership of the mark, and of Converse's exclusive right to use the Converse Midsole Trademark in commerce in connection with footwear. Throughout this Complaint, reference to the "Converse Midsole Trademark" refers to both Converse's common law and registered trademark rights in its iconic midsole design.

B. Converse's Iconic Outsole Design

34. Separate and distinct from its Converse Midsole Trademark, Converse also owns common law and federally registered trademark rights in the outsole design commonly used with Converse Shoes. With its launch in 1917, All Star shoes included a distinct diamond pattern outsole. Since that time, substantially all Converse Shoes bearing the Converse Midsole

Trademark have also included the diamond pattern outsole design shown in Figure 9 below. To that end, all of the sales, distribution, and mass appeal described in connection with the Converse Midsole Trademark above apply equally to the diamond pattern outsole design, and Converse owns trademark rights in its distinctive and non-functional outsole trademark design (the “Converse Outsole Trademark”).

FIGURE 9: Converse Shoes Featuring the Converse Midsole and Outsole Trademarks



35. As with the Converse Midsole Trademark, the Converse Outsole Trademark has been featured on approximately one billion pairs of Converse Shoes sold worldwide throughout the last century. Indeed, the design has been publicized in advertisements and promotions for nearly a century. Exemplary advertisements featuring the Converse Outsole Trademark are attached to this Complaint as Exhibit 12 and shown in Figure 10 below.

FIGURE 10: Exemplary Advertisements Featuring the Converse Outsole Trademark



Circa 1917 Converse Advertisement



Circa 1970 Converse Advertisement



Circa 1989 Converse Advertisement

36. The Converse Outsole Trademark relates to a distinctive design of Converse's own creation that long-ago acquired secondary meaning as a trademark and has since been registered on the USPTO Principal Register. To the extent the design was described in functional terms early in its history, whatever functionality it possessed, if any, expired as footwear design, development, and manufacturing technology advanced over the years.

37. Because there today exist many non-infringing, non-dilutive outsole designs available for others' use, no competitor has any competitive need to use the Converse Outsole Trademark.

38. Similar to the Converse Midsole Trademark, the Converse Outsole Trademark is intentionally copied because of the goodwill it embodies as a trademark, not because of competitive need. Converse has served approximately 150 cease and desist letters at trade shows, and served additional letters and filed federal district court lawsuits, to protect consumer perceptions and to police the Converse Outsole Trademark. These efforts are discussed further in Sections III.C. and X below. Once confronted, violators often admit to the strength and protectability of the Converse Outsole Trademark. For example, Converse entered into

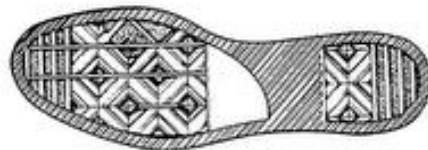
settlement agreements in which violators admit that the outsole design of the Converse Outsole Trademark is well known, famous, and associated with Converse, non-functional, and valid and enforceable.

1. The '960 Registration

39. Converse filed its trademark application for what is now U.S. Trademark Registration No. 1,588,960 (the "'960 Registration'") on August 14, 1987, based on prior, continuous use of the trademark since at least 1920. The USPTO issued the '960 Registration to Converse on March 27, 1990. *See* Exhibit 3, Certified Copy of the '960 Registration. A certified copy of the prosecution history of the '960 Registration is at Appendix 3. The trademark covered by the '960 Registration has acquired substantial secondary meaning because consumers have come to uniquely associate it as a source identifier. Moreover, the '960 Registration is now incontestable, meaning it is conclusive evidence of the validity of the Converse Outsole Trademark and of Converse's registration of the mark, of Converse's ownership of the mark, and of Converse's exclusive right to use the Converse Outsole Trademark in commerce in connection with footwear.

40. The design depicted in the '960 Registration is shown in Figure 11 below.

FIGURE 11: Design Depicted in the '960 Registration



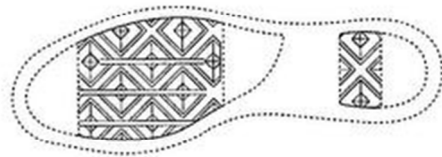
2. The '103 Registration

41. Converse filed its trademark application for what is now U.S. Trademark Registration No. 3,258,103 (the "'103 Registration'") on March 24, 2006, based on prior,

continuous use of the trademark since at least 1920. The USPTO issued the '103 Registration to Converse on July 3, 2007. *See* Exhibit 2, Certified copy of the '103 Registration. A certified copy of the prosecution history of the '103 Registration is at Appendix 2. The trademark covered by the '103 Registration has acquired substantial secondary meaning because consumers have come to uniquely associate it as a source identifier. Moreover, the '103 Registration is now incontestable, meaning it is conclusive evidence of the validity of the Converse Outsole Trademark and of Converse's registration of the mark, of Converse's ownership of the mark, and of Converse's exclusive right to use the Converse Outsole Trademark in commerce in connection with footwear.

42. The design depicted in the '103 Registration is shown in Figure 12 below.

FIGURE 12: Design Depicted in the '103 Registration



43. Throughout this Complaint, reference to the "Converse Outsole Trademark" refers to both Converse's common law and registered trademark rights in its iconic outsole design.

C. No Licenses Under the Asserted Trademarks

44. Converse has not granted any licenses to the Asserted Trademarks in the United States in connection with footwear.

III. COMPLAINANT CONVERSE

45. Converse is a Delaware corporation with its headquarters and principal place of business located at One High Street, North Andover, Massachusetts 01845.

A. History of Converse

46. Converse has a rich history. Founded in Malden, Massachusetts in 1908 as the Converse Rubber Shoe Company, Converse spent its early years making various rubber goods including boots and galoshes.

47. By the 1930s, Converse was a well-established footwear manufacturer, producing All Star high top shoes in several east coast factories. With the onset of World War II, Converse supported the War effort by sending newsletters and updates to its deployed employees, by aiding in rubber recycling efforts, and by manufacturing footwear for American soldiers. After the War, Converse enjoyed significant growth and became known as a performance footwear company through the 1960s and 1970s. It was one of the first footwear companies to leverage the athlete endorsement, partnering with National Basketball Association stars like Wilt Chamberlain and Julius Erving to promote its All Star shoes. The 1980s brought competition and by the late 1990s, Converse was losing business to companies like Nike, Inc. (“Nike”), adidas, and Reebok. Around the same time, Converse struggled to overcome financial burdens of its former parent companies, including one parent company that filed for bankruptcy in 1991.

48. In 2001, Converse filed for Chapter 11 bankruptcy. Fortunately for Converse, its consistent use of the Converse Midsole Trademark and Converse Outsole Trademark provided all it needed to pivot from an athletic footwear brand to leading a new lifestyle footwear market built around shoes bearing these iconic trademarks.

49. After emerging from bankruptcy, the enduring popularity of the Converse Midsole and Outsole Trademarks helped Converse post over \$200 million in revenue in 2002. However, Converse continued to face financial troubles. In 2003, Nike acquired Converse for approximately \$305 million.

50. After the acquisition, Converse largely operated independently of its parent company – a decision one commentator described as:

a wise one considering how Chuck Taylor sneakers, lovingly called ‘Chuck Taylors’ by their fans, and the larger Converse brand, have appealed to both athletically minded and fashion-conscious shoe buyers, as well as many subcultures over the decades....

Asit Sharma, The Motley Fool (July 16, 2013), <http://www.fool.com/investing/general/2013/07/16/nike-sets-a-power-brand-free-and-reaps-billions.aspx>, Exhibit 13.

51. Sales of shoes featuring the Converse Midsole and Outsole Trademarks accelerated. In fact, shoes bearing the Converse Midsole Trademark now account for a significant percentage of all Converse sales in the United States.

B. Converse Brand Protection – Counterfeiters

52. Before 2000, Converse had a consistent practice of monitoring counterfeits and taking action to police its trademarks.² However, leading up to its bankruptcy in 2001 and its acquisition in 2003, scant resources were available for trademark enforcement.

53. Around 2004/2005 Converse employed only a handful of people to assist in its anti-counterfeiting efforts because the number of counterfeits in the United States and foreign markets had been *de minimis*. Nevertheless, Converse proactively added an authentication mark in its labelling to help it distinguish counterfeit products from genuine Converse shoes.

54. Around 2007, Converse identified increasing numbers of counterfeit products entering its markets, primarily in Europe where counterfeiters leveraged favorable currency rates. In response, Converse implemented a more robust anti-counterfeiting program, including

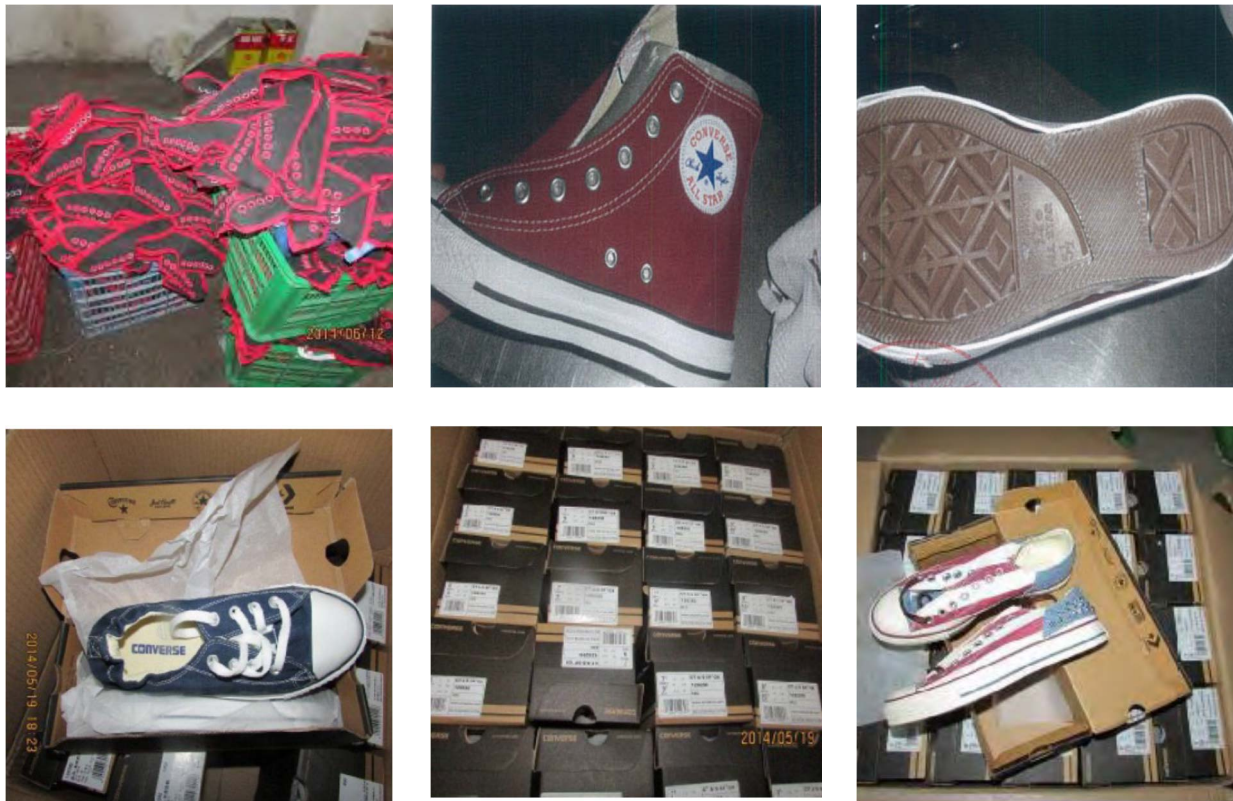
² A counterfeit is considered to be a product bearing identical copies of the Converse Midsole and Outsole Trademarks, along with Converse word marks and logos as they would ordinarily appear on Converse Shoes. In other words, a direct copy of a genuine Converse Shoe. *See* Section XIII, Glossary of Terms.

incorporating additional overt and covert feature changes (or “tells”) to identify counterfeit products. As part of these efforts, Converse also reallocated its resources and personnel responsibilities to assist in global anti-counterfeiting efforts.

55. Nonetheless, the number of counterfeits continued to increase through 2009. In Converse’s fiscal year 2009, it seized almost 60,000 pairs of counterfeit Converse footwear products worldwide. In fiscal year 2010, Converse seized over 670,000 pairs of counterfeit Converse shoes worldwide. That number more than doubled in fiscal year 2011. Between fiscal years 2012 – 2014, Converse seized more than 2 million pairs of counterfeit Converse shoes worldwide.

56. Exemplary photographs from raids conducted with the assistance of Converse’s local investigators and foreign authorities in recent years are shown in Figure 13 below.

FIGURE 13: Exemplary Photographs of Raids and Seizures of Counterfeit Converse Shoes



57. Today, Converse relies on a team of lawyers, manufacturing specialists, and quality control agents, in support of its brand protection efforts. Further to those efforts, Converse has incorporated dozens of “tells” in its shoes to help identify counterfeit products, which has cost Converse over \$7 million.

C. Converse Brand Protection – Knockoffs

58. Compared to counterfeits, Converse’s problem with knockoffs is a recent development.³ Indeed, Converse has enjoyed substantially exclusive use of its trademarks in the United States over most of the past century. Knockoffs only began to appear domestically in approximately 2006 and, even then, only at *de minimis* levels. With Converse’s limited enforcement resources focused on anti-counterfeiting efforts, it was not until around 2010 – after Converse celebrated its 100-year anniversary – that Converse perceived a rising tide of knockoffs in the United States.

59. In response to the progressive encroachment by knockoffs, Converse started serving cease and desist letters against designs violating the Converse Midsole and/or Outsole Trademarks.

60. In 2010, Converse began enforcing its trademark rights at the World Shoe Accessories (“WSA”) trade show that is held twice a year in Las Vegas, Nevada. The WSA trade show has been described as the “the largest and most comprehensive footwear and related accessories show in the world. Its twice-yearly show [] pulls in more than 36,000+ participants and nearly 1,600 exhibitors.” *See* WSA Show Website Capture, Internet Archive, <http://web.archive.org/web/20070129072629/http://www.wsashow.com/feb2007/showfacts.asp>,

³ Knockoffs are considered to be unauthorized products bearing close simulations of the Converse Midsole and/or Outsole Trademarks but – unlike counterfeits – lack other trademarks ordinarily found on Converse shoes. These products sometimes include words or logos that look similar to, but not identical to, Converse trademarks. *See* Section XIII, Glossary of Terms.

(Jan. 29, 2007 website capture from the Internet Archive, last visited Sept. 25, 2014), Exhibit 14. The WSA trade show provides a forum for suppliers (often, contract manufacturers) and buyers (often, shoe store retailers) to do business. The show is open only to the trade but attracts tens of thousands of participants. On information and belief, at each WSA trade show, foreign contract manufacturers take orders for tens of thousands of pairs of shoes bearing one or more of the Asserted Trademarks, many of which are destined for U.S. retailers.

61. Between August 2010 and February 2014, Converse spent hundreds of thousands of dollars sending investigators and lawyers to WSA trade shows to enforce its trademark rights. Over this four-year span, Converse sent cease and desist letters to WSA exhibitors including approximately 120 letters asserting common law and registered trademark rights in the Converse Midsole Trademark, and approximately 150 letters asserting common law and registered trademark rights in the Converse Outsole Trademark.

62. Converse has also spent well over a million dollars monitoring the domestic marketplace for knockoffs outside of WSA trade shows. Between 2008 and August 2014, these efforts resulted in Converse sending 21 cease and desist letters enforcing one or more of the Asserted Trademarks. Converse also filed four lawsuits asserting the Converse Midsole and Outsole Trademarks. As a result of these efforts, Converse secured three consent judgments in its favor, one default judgment in its favor, four permanent injunctions in its favor, has entered into more than 20 settlement agreements that removed dozens of styles of infringing and dilutive designs from the marketplace, and has received payments totaling approximately \$300,000 from infringers.

63. In total, between 2008 and today, Converse served more than 180 cease and desist letters enforcing one or more of the Asserted Trademarks.

64. Nevertheless, and despite Converse's efforts and successes policing its marks, the knockoff problem has continued to grow, and counterfeits are now found in the United States as well. Indeed, low barriers to entry to the manufacture of knockoff shoes, the existence of well-established U.S. demand and channels of distribution for knockoffs, and the ease with which manufacturers, distributors, and sellers of knockoff and counterfeit Converse shoes can change names, locations, suppliers, packaging, etc., makes it a nearly impossible task to identify the origin of all imported knockoffs and to combat them one by one. In other words, the ongoing importation of infringing knockoffs, despite aggressive Converse enforcement efforts, demonstrates that circumvention of a limited exclusion order is almost certain, and there is a well-established pattern of violating the Asserted Trademarks. Because the scope of the problem today can only be addressed through a nationwide and comprehensive remedy, Converse respectfully requests that the investigation be initiated against the following Respondents.

IV. PROPOSED RESPONDENTS

65. On information and belief, Respondents include manufacturers, distributors, and retailers that import, sell for importation, and/or sell within the United States after importation certain footwear products that violate Converse's rights in one or more of the Asserted Trademarks, including Converse's common law and federally registered trademark rights relating thereto.

66. Table 1 below summarizes the Asserted Trademarks violated by each of Respondents' Accused Products, each of which is depicted in Figure 14 below. A more detailed description of each Respondent and its Accused Products follows.

TABLE 1: Asserted Trademarks Violated by Respondents' Accused Products

Respondents' Accused Products	Converse Midsole Trademark: Common Law Rights	Converse Midsole Trademark: '753 Registration	Converse Outsole Trademark: Common Law Rights	Converse Outsole Trademark: '960 Registration	Converse Outsole Trademark: '103 Registration
Skechers	X	X			
Bobs Utopia Skyline	X	X			
Bobs Utopia	X	X			
Twinkle Toes Shuffles-Streetfeet	X	X			
Twinkle Toes Wild Spark	X	X			
HyDee HyTop Gimme Starry Skies	X	X			
Daddy'\$ Money Gimme Lone Star	X	X			
Daddy'\$ Money Gimme Mucho Dinero	X	X			
Wal-Mart: Faded Glory Stinson Oxford	X	X			
A-List d/b/a Kitson	X	X			
<i>See</i> Brian Lichtenberg Homies High Top	X	X			
<i>See</i> Dioniso Black Vintage Swarovski Converse	X	X			
Aldo: Sprengle	X	X			
Brian Lichtenberg: Homies High Tops	X	X			
Cmerit d/b/a Gotta Flurt: Twisty Zoo	X	X			
Dioniso: Black Vintage Swarovski Converse	X	X			
Edamame: Canvas Low-Top	X	X			
Esquire: Shoe	X	X	X	X	X
FILA: Original Canvas	X	X			
Fortune Dynamic: SODA-SPY	X	X			
Gina Group: Chatties Zebra Hi-Top	X	X			
H & M: High Tops	X	X			
Highline United d/b/a ASH: Vincent	X	X			
Hitch d/b/a Skeanie: Canvas Gym Boot	X	X	X	X	X

Iconix Brand Group d/b/a Ed Hardy: Men's Dakota	X	X			
Kmart: Joe Boxer	X	X			
Mamiye Imports d/b/a Lilly of New York: Canvas Old School	X	X	X	X	X
Nowhere Co. d/b/a Bape: ABC Camo ApeSta	X	X			
OPPO: Neo	X	X			
Orange Clubwear d/b/a Demonia Deviant: Deviant 101	X	X			
Ositos: Men's Low-Top Canvas	X	X			
PW: Two-Tone Shoe Canvas	X	X	X	X	X
Ralph Lauren: Ranell	X	X			
Foreversun: Blue	X	X	X	X	X
Shoe Shox: Navy Sneaker	X	X	X	X	X
Tory Burch: Benjamin	X	X			
Zulily	X	X	X	X	X
<i>See</i> Gina Group: Chatties Zebra Hi- Top	X	X			
<i>See</i> Mamiye Imports d/b/a/ Lilly of New York: Canvas Old School	X	X	X	X	X
<i>See</i> Ositos: Men's Low-Top Canvas	X	X			
<i>See</i> PW: Two-Tone Shoe Canvas	X	X	X	X	X
<i>See</i> Shoe Shox: Navy Sneaker	X	X	X	X	X
Fujian Xinya	X	X			
<i>See</i> FILA Original Canvas	X	X			
Zhejiang Ouhai	X	X			
<i>See</i> Aldo Sprenkle	X	X			
<i>See</i> OPPO Neo	X	X			
Wenzhou Cereals	X	X			
<i>See</i> Ositos Men's Low-Top	X	X			

FIGURE 14: Representative Images of Respondents' Accused Products



A. Skechers U.S.A., Inc.

67. On information and belief, Respondent Skechers U.S.A., Inc. (“Skechers”) is a California corporation with its principal place of business located at 228 Manhattan Beach Boulevard, Manhattan Beach, CA 90266. *See* Contact Us, Skechers, <http://www.skechers.com/info/contact-us> (last visited Sept. 1, 2014), Exhibit 15; *see also* California Secretary of State Business Entity Detail for Skechers U.S.A., Inc., Exhibit 16.

1. Skechers’ Background

68. A 2001 Forbes.com article described Skechers as “a company that uses [its founder’s] skill as a practiced knockoff artist to full effect ... [b]y the time middle America catches on to a new style ... Skechers has a lower-priced lookalike in stores.” *See* Melanie Wells, *Sole Survivors*, Forbes, Aug. 6, 2001, at 62 – 68, *available at* <http://www.forbes.com/forbes/2001/0806/062.html>, Exhibit 17.

69. Since 2001, Skechers’ business practices have continued to garner negative publicity. In 2010, Skechers introduced a line of shoes called “BOBS.” On information and belief, Skechers’ first BOBS shoe models were marketed and designed to resemble a pre-existing competitor’s line of shoes called “TOMS.” One commentator observed that, “[j]ust like TOMS, when you buy a pair of BOBS, Skechers would donate another pair to a child in need. Even the shoes were the same. And their name had a similar short, familiar feel. In doing so, [Skechers] set themselves up for online ridicule, but also drew a powerful distinction between those that do good because of the meaning behind it and those that do it simply for marketing purposes. ... [B]y mirroring the TOM’s concept so blatantly, Skechers not only showed a lack of creativity and originality, but they left themselves wide open to accusations of disingenuous social concern.” *See* Simon Mainwaring, *Toms vs. Bobs: How Skechers Shot Themselves in the Foot*,

Fast Company (Oct. 21, 2010), <http://www.fastcompany.com/1696887/toms-vs-bobs-how-skechers-shot-themselves-foot>, Exhibit 18.

70. Notwithstanding the harsh criticism, in 2013, Skechers expanded its BOBS shoe line by introducing BOBS shoes that, on information and belief, intentionally copy the Converse Midsole Trademark. Examples of Accused Products from Skechers' BOBS shoe line are shown in Figure 15 below.

FIGURE 15: Exemplary Shoes From Skechers' BOBS Shoe Line



71. On information and belief, Skechers' early business model targeted adult men. According to Forbes.com, Skechers was careful to avoid marketing to teenage suburban girls in the United States because “[n]ot only are the girls are [sic] a fickle bunch, their enthusiasm makes it harder to appeal to urban street kids and to [] adult men.” Exhibit 17.

72. Nevertheless, on information and belief, by around 2009, Skechers squarely targeted young, suburban girls with a line of shoes sold under the brand name, “Twinkle Toes.” Skechers marketed the shoes in connection with cartoon characters and encouragement for girls to “Discover Your Inner Sparkle!” (see Figure 16 below).

FIGURE 16: Exemplary “Twinkle Toes” Marketing



73. On information and belief, around 2010, Skechers intentionally copied the Converse Midsole Trademark, applying it to Skechers’ Twinkle Toes shoes. On information and belief, over the past several years, Skechers has also intentionally varied the branding present on its Twinkle Toes shoes bearing the Converse Midsole Trademark to confuse consumers as to the source, affiliation, or sponsorship of those shoes, and/or to intentionally dilute the Converse Midsole Trademark with a view toward further free-riding on the Converse brand. Exemplary Accused Products showing “Twinkle Toes” branded and unbranded shoes are shown in Figure 17 below.

FIGURE 17: Exemplary Shoes From Skechers’ “Twinkle Toes” Shoe Line



74. In addition to young girls, on information and belief, Skechers now also intentionally targets teen and pre-teen girls using the Converse Midsole Trademark. To that end, around late 2012 or early 2013, Skechers introduced a line of shoes called “Daddy’\$ Money” bearing a copy of the Converse Midsole Trademark. Skechers’ promotions for Daddy’\$ Money

shoes using scantily clad young women drew criticism: “Skechers, the shoe company that last year was forced to pay millions of dollars for making ‘unfounded claims’ about its line of shoes that promised to tone, is under fire again for its marketing of sneakers to kids. ... The company is being targeted by mom bloggers and parenting experts for marketing its high-heeled wedge sneaker line, called ‘Daddy’\$ Money,’ to pre-teen and teenage girls. ... ‘It’s totally sexist’.” See *Skechers Under Fire for ‘Daddy’\$ Money’ Sneakers*, ABC News (Feb. 27, 2013), <http://abcnews.go.com/blogs/business/2013/02/skechers-under-fire-for-daddys-money-sneakers/> (last visited Aug. 30, 2014), Compilation Exhibit 19 at 1 (annotated); see also Tiffany Hsu, *Moms stompy on Skechers over Daddy’\$ Money sneakers line for teens*, Los Angeles Times (Feb. 28, 2013), <http://articles.latimes.com/2013/feb/28/business/la-fi-mo-skechers-daddys-money-sneakers-20130228>, Compilation Exhibit 19 at 4; *Daddy’\$ Money By Skechers: Shoes for Teen Girls Cause Controversy*, Huffington Post (Feb. 27, 2013), http://www.huffingtonpost.com/2013/02/27/daddy-money-by-skechers-_n_2774226.html?view=print&comm_ref=false, Compilation Exhibit 19 at 6. Exemplary Accused Products from Skechers’ Daddy’\$ Money shoe line are shown in Figure 18 below.

FIGURE 18: Exemplary Shoes From Skechers’ “Daddy’\$ Money” Shoe Line



75. On information and belief, Skechers intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Skechers’ Accused Products

have given rise to unwanted and unauthorized associations with Converse. At least one commentator observed that “Daddy’s Money look like knockoffs of the classic ‘Chuck Taylor’ (Converse) canvas high-top design, hastily cobbled together by someone that watched a couple of LMFAO music videos and thought it was time to make a few shoes. ... Skechers has a ‘sketchy’ history of late (those shady ‘Shape-Up’ shoes that my wife spent over \$100 on), and to think that I actually used to like their men’s shoes quite a bit.” James Zahn, *Parents outraged by Skechers’ Daddy’s Money? I’ll tell you what’s truly offensive*, The Rock Father Magazine (Feb. 28, 2013), <http://www.therockfather.com/blog/item/964-parents-outraged-by-skechers-daddys-money-ill-tell-you-whats-truly-offensive>, Compilation Exhibit 19 at 8 (annotated).

2. Skechers’ Accused Products

76. Skechers’ Accused Products include at least its “Bobs Utopia,” “Bobs Utopia Skyline,” “Twinkle Toes Shuffles-Streetfeet,” “Twinkle Toes Wild Spark,” “Daddy’s Money Gimme Mucho Dinero,” “Daddy’s Money Gimme Lone Star,” and “HyDee HyTop Gimme Starry Skies” footwear products and all colorable imitations thereof. Representative images of Skechers’ Accused Products are show in Exhibit 20.

77. On information and belief, Skechers has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions. On information and belief, Skechers varies the identity, duration, quantity, and geographic distribution of its shoe models to frustrate the regular trademark policing efforts of senior trademark owners like Converse.

78. On information and belief, in addition to the Accused Products, Skechers promotes and sells a wide variety of shoe designs that do not include the designs of its Accused

Products and that do not violate the Asserted Trademarks. *See* Men's Casual Shoes, Skechers, <http://www.skechers.com/men/styles/casual-shoes> (last visited Sept. 29, 2014), Exhibit 21.

3. Skechers' Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

79. On information and belief, Skechers manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Skechers' Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Skechers Promoted and Sold Accused Products

80. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity of the Asserted Trademarks, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Skechers promoted and sold Accused Products.

81. The Asserted Trademark relevant to Skechers' violations is also the subject of a duly issued United States Trademark Registration.




b. Skechers' Accused Products Are Virtually Identical to the Converse Midsole Trademark

82. As shown in Figure 19 below, Skechers' Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 19: Representative Images of Skechers' Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="224 760 490 789">Bobs Utopia Skyline</p>		
 <p data-bbox="272 1155 435 1184">Bobs Utopia</p>		
 <p data-bbox="207 1528 506 1600">Twinkle Toes Shuffles- Streetfeet</p>		

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="188 615 519 646">Twinkle Toes Wild Spark</p>		
 <p data-bbox="196 1052 511 1115">Daddy'\$ Money Gimme Lone Star</p>		
 <p data-bbox="196 1459 511 1522">Daddy'\$ Money Gimme Mucho Dinero</p>		

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="207 638 506 701">HyDee HyTop Gimme Starry Skies</p>		

83. On information and belief, Skechers has used the Converse Midsole Trademark on numerous other shoes of the same model-type as the Accused Products shown in Figure 18 above. For example, Figure 20 below depicts additional shoes in Skechers' Daddy'\$ Money line as compared to Converse Shoes.

FIGURE 20: Skechers' Daddy'\$ Money Shoes and Representative Converse Shoes

Skechers' Daddy'\$ Money Shoes

Representative Converse Shoe



c. Skechers Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

84. Skechers' intent to create associations with Converse and to free ride on Converse's goodwill is evident in the close similarities between Skechers' Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Skechers' intentional copying.

85. Additionally, searches for the terms "Chuck Taylor" and "Chucks" on Skechers' website result in promotions for the Accused Products, including "Bobs" and "Twinkle Toes" shoes. *See* Exhibit 22 (web printout of search results from Skechers' website).

d. Skechers Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

86. On information and belief, Skechers has promoted and sold its Accused Products at retailers such as Nordstrom and online at Zappos.com and Shoebuy.com. On information and belief, Skechers has also sold its Accused Products through its own and other retail stores and Internet sites.

87. On information and belief, Skechers' Accused Products have been promoted and sold at prices ranging from approximately \$25 to \$63. *See* Decl. of Mary C. ("Kate") Schrader, Exhibit 23.

88. On information and belief, Skechers promotes and sells its Accused Products as casual or lifestyle shoe designs primarily for females from very young to middle age.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Skechers' Accused Products

89. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance

regarding the source, affiliation, sponsorship, or association of Skechers' Accused Products when confronted with promotions and sales of Skechers' Accused Products.

90. In the post-sale context, where actual or potential consumers of shoes may only see Skechers' Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Skechers' Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Skechers' Accused Products Are Likely to Cause Confusion and Dilutive Associations

91. Due to the overwhelming similarities between Skechers' Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Skechers or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

92. As demonstrated above, unauthorized, unwanted associations already establish that people view Skechers' Accused Products as knockoffs of Converse Shoes.

B. Wal-Mart Stores, Inc.

93. On information and belief, Respondent Wal-Mart Stores, Inc. ("Walmart") is a Delaware corporation with its principal place of business located at 702 S.W. 8th Street, Bentonville, AR 72716. *See* Our Story, Walmart, <http://corporate.walmart.com/our-story/>, (last visited July 27, 2014), Exhibit 24; *see also* Arkansas Secretary of State Corporate Records for Walmart, Exhibit 25.

1. Walmart's Background

94. Walmart opened its doors in 1962 in Rogers, Arkansas, and today has more than 11,000 stores. *See id.* Walmart's business model centers on offering customers "everyday low

prices,” which at least one commentator has attributed to Walmart’s “policy for suppliers [that] ... the price Wal-Mart will pay, and will charge shoppers, must drop year after year.”

Charles Fishman *The Wal-Mart You Don’t Know*, Fast Company (Dec. 1, 2003),

<http://www.fastcompany.com/47593/wal-mart-you-dont-know>, Exhibit 26.

95. One commentator has commented on Walmart’s low prices in discussing its Chuck Taylor “clones,” observing that they will probably last only “a couple of months” and “in the end [Walmart’s Chuck Taylor clones] are just what the price says about them: \$12 shoes.” Ryan, *Wal-Mart’s \$12 chuck taylor clones that everyone is talking about*, Oil & Wool (Mar. 9, 2012), <http://www.oilandwool.com/2012/03/09/wal-marts-12-chuck-taylor-clones-that-everyone-is-talking-about/>, Exhibit 27.

96. Likewise, in commenting on Walmart’s shoes, consumers have observed:

- “All good on the *knockoff* front -- *people compliment me on my ‘Chucks’*”
- “These shoes look and feel *just like Chuck Taylor’s*...but *without the Converse price tag.*”
- “*They look like the real Converse sneakers.*”
- “people *can’t tell there not chucks*” [sic]
- “Not a bad replica...*Definitely not the quality of Converse*, but for the price, it’s not bad at all.”
- “I’ve seen *Converse shoes* for up to 4x as much as these cost *but these could easily pass the same*, even though they’re way less expensive!”

Customer Reviews, Walmart, [http://reviews.walmart.com/1336/16607717/faded-glory-mens-](http://reviews.walmart.com/1336/16607717/faded-glory-mens-stinson-oxford-lace-up-sneakers-reviews/reviews.htm)

[stinson-oxford-lace-up-sneakers-reviews/reviews.htm](http://reviews.walmart.com/1336/16607717/faded-glory-mens-stinson-oxford-lace-up-sneakers-reviews/reviews.htm) (last visited Aug. 29, 2014), Compilation

Exhibit 28 at 1 – 4, 6 (annotated) (emphasis added); Frugal Male Fashion, Reddit,

http://www.reddit.com/r/frugalmalefashion/comments/qn1fi/12_chuck_taylor_knockoff_review_

1297_with_shipping/ (last visited Sept. 25, 2014), Compilation Exhibit 28 at 11 (annotated) (emphasis added).

2. Walmart's Accused Products

97. Walmart's Accused Products include at least its "Faded Glory Stinson Oxford" footwear products and all colorable imitations thereof. Representative images of Walmart's Accused Products are at Exhibit 29. Walmart promotes and sells its "Faded Glory Stinson Oxford" as a low-cost work shoe.

98. On information and belief, Walmart has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

99. On information and belief, in addition to the Accused Products, Walmart promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Walmart, www.walmart.com/cp/Shoes/1045804 (last visited Aug. 28, 2014), Exhibit 30.

3. Walmart's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

100. On information and belief, Walmart imports into the United States, promotes, distributes, and/or sells after importation in the United States its Accused Products shown and described below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Walmart Promoted and Sold Accused Products

101. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity of the Asserted Trademarks, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-


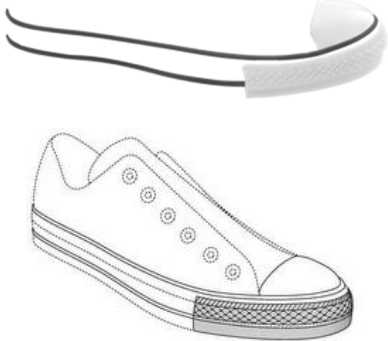
recognized, and famous trademark rights in the Asserted Trademarks before Walmart promoted and sold Accused Products.

102. The Asserted Trademark relevant to Walmart’s violations is also the subject of a duly issued United States Trademark Registration.

b. Walmart’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

103. As shown in Figure 21 below, Walmart’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 21: Representative Images of Walmart’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="228 1220 500 1283">Faded Glory Stinson Oxford</p>		

c. Walmart Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

104. Walmart’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Walmart’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Walmart’s intentional copying.

105. Additionally, searches for the terms “Converse” and “All Star” on Walmart’s website results in promotions for the Accused Products, including “Faded Glory” shoes. *See* Exhibit 31 at 2, 3, 7 (web printout of search results from Walmart’s website).

d. Walmart Promotes and Sells Its Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

106. On information and belief, in addition to the Accused Products, Walmart sells its Accused Products at its retail stores in the United States and on the Internet. *See* Faded-Glory-Men’s Stinson High Top Sneakers, Walmart, <http://www.walmart.com/ip/Faded-Glory-Men-s-Stinson-Canvas-Lace-Up-Sneakers/14179109> (last visited Aug. 28, 2014), Exhibit 32.

107. On information and belief, Walmart’s Accused Products have sold at approximately \$13. *See* Exhibit 23.

108. On information and belief, Walmart promotes and sells its Accused Products primarily to men.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Walmart’s Accused Products

109. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Walmart’s Accused Products when confronted with promotions and sales of Walmart’s Accused Products.

110. In the post-sale context, where actual or potential consumers of shoes may only see Walmart’s Accused Products on someone’s feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Walmart’s Accused Products with Converse

and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Walmart's Accused Products Are Likely to Cause Confusion and Dilution

111. Due to the overwhelming similarities between Walmart's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Walmart or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

112. On information and belief, Walmart intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Walmart's Accused Products have given rise to unwanted and unauthorized associations with Converse. *See, e.g.*, Exhibit 27; Exhibit 28 at 2, 9 (annotated).

C. A-List, Inc., d/b/a Kitson

113. On information and belief, Respondent A-List, Inc., d/b/a Kitson ("Kitson"), is a California corporation with its principal place of business located at 115 S. Robertson Boulevard, Los Angeles, CA 90048. *See* Locations, Kitson, <http://www.shopkitson.com/index.php?page=locations> (last visited Aug. 30, 2014), Exhibit 33; *see also* California Secretary of State Business Entity Detail for A-List, Inc., Exhibit 34.

1. Kitson's Background

114. Kitson stores are boutique specialty stores, which The Wall Street Journal described as "eclectic, up-to-the-minute emporiums of trendy fashion, accessories and novelty items." Christina Binkley, *How Stores Lead You to Spend*, The Wall Street Journal (Nov. 30, 2010), <http://online.wsj.com/news/articles/SB10001424052748704679204575646722>

998802434, Exhibit 35. Kitson “makes money from fashionistas seeking Elizabeth & James tops and folks who want to shop at the place where Britney Spears bought baby clothes.” *Id.*

115. On information and belief, Kitson first started selling shoes like those accused of infringement in this action in limited quantities and geographic areas around 2006. On information and belief, Kitson entered the shoe business at the encouragement and with the design and/or manufacturing support of Skechers.

2. Kitson’s Accused Products

116. Kitson’s Accused Products include at least its “Homies High Tops” footwear products by Brian Lichtenberg and its “Black Vintage Swarovski Converse” footwear products by Dioniso, as well as colorable imitations thereof. Representative images of Kitson’s Accused Products are attached as Exhibit 36.

117. On information and belief, Kitson has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions, but in small quantities with limited distribution.

118. On information and belief, in addition to the Accused Products, Kitson promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See Women’s Shoes, Kitson*, <http://www.shopkitson.com/?page=browse&subcategoryID=22> (last visited Aug. 29, 2014), Exhibit 37 (excerpt from website).

3. Kitson’s Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

119. On information and belief, Kitson manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Kitson’s Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Kitson Promoted and Sold Accused Products





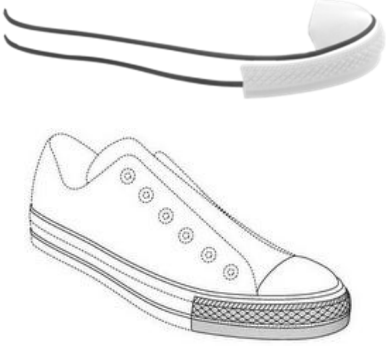

120. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity of the Asserted Trademarks, and attempts to copy the Asserted Trademarks by others, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Kitson promoted and sold Accused Products.

121. The Asserted Trademark relevant to Kitson's violations is also the subject of a duly issued United States Trademark Registration.

b. Kitson's Accused Products Are Virtually Identical to the Converse Midsole Trademark

122. As shown in Figure 22 below, Kitson's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 22: Representative Images of Kitson’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="240 745 488 814">Brian Lichtenberg: Homies High Tops</p>		
 <p data-bbox="212 1228 521 1297">Dioniso: Black Vintage Swarovski Converse</p>		

c. Kitson Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

123. Kitson’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Kitson’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Kitson’s intentional copying.

124. Additionally, a search of the term “Converse” on Kitson’s website results in promotions for the Accused Products, including Dioniso’s “Black Vintage Swarovski Converse” shoe. *See* Exhibit 38 (web printout of search results from Kitson’s website).

d. Kitson Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

125. On information and belief, Kitson promotes and sells its Accused Products through its own retail stores in the United States and the Internet. *See, e.g.*, Search Results for Dioniso, Kitson, <http://www.shopkitson.com/index.php?page=search&keywords=dioniso&x=-1427&y=-93> (last visited Jul. 27, 2014), Exhibit 39; *see also* Exhibits 23; Decl. of Kelly Greenberg, Exhibit 40.

126. On information and belief, Kitson's Accused Products by Dioniso have sold at approximately \$1,295, and its Accused Products by Brian Lichtenberg have sold at approximately \$375. *See* Exhibit 23; Exhibit 40. Kitson's Accused Products by Brian Lichtenberg have also sold as low as \$28. *See* Kitson, <http://www.shopkitson.com/index.php?page=product&id=23237> (last visited Oct. 2, 2014), Exhibit 41.

127. On information and belief, Kitson promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Kitson's Accused Products

128. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Kitson's Accused Products when confronted with promotions and sales of Kitson's Accused Products.

129. In the post-sale context, where actual or potential consumers of shoes may only see Kitson's Accused Products on someone's feet in passing, consumers are especially likely to

mistake the source, affiliation, or sponsorship of Kitson's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Kitson's Accused Products Are Likely to Cause Confusion and Dilutive Associations

130. Due to the overwhelming similarities between Kitson's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Kitson or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

D. Aldo Group

131. On information and belief, Respondent Aldo Group ("Aldo") is a Canadian corporation with its principal place of business located at 2300 Emile-Belanger, Montreal, Quebec H4R 3J4, Canada. *See* Contact Us, Aldo Shoes, <http://www.aldoshoes.com/us/contact> (last visited Jul. 27, 2014), Exhibit 42.

1. Aldo's Background

132. Founded in 1972 as a footwear concession in Montreal, Aldo now has over 1,000 retail stores. *See* Aldo History, Aldo Shoes, <http://www.aldoshoes.com/us/history> (last visited Aug. 29, 2014), Exhibit 43. According to Toronto's The Globe and Mail newspaper, Aldo's business model centers on spotting "fashion hits" and getting shoes into stores faster than the rest of the industry. "Nobody is quicker [than Aldo] at adjusting shoe styles [President Aldo Bensadoun]'s team races to stay on top of the latest trends by chasing down street fashions and runway hits in fashion capitals. Once it spots a workable idea, Aldo Group requires a mere five to 12 weeks to get shoes to stores, compared with an industry average of 17 weeks." Marina Strauss, *Aldo's Global Footprint*, The Globe and Mail (Aug. 23, 2012),

<http://www.theglobeandmail.com/report-on-business/small-business/sb-growth/going-global/aldos-global-footprint/article601117/?page=all>, Exhibit 44.

2. Aldo's Accused Products

133. Aldo's Accused Products include at least its "Sprenkle" footwear products and all colorable imitations thereof. Representative images of Aldo's Accused Products are attached as Exhibit 45.

134. On information and belief, Aldo has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

135. On information and belief, in addition to the Accused Products, Aldo promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See Shoes, Aldo Shoes, www.aldoshoes.com/Shoes* (last visited Aug. 29, 2014), Exhibit 46.

3. Aldo's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

136. On information and belief, Aldo manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Aldo's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Aldo Promoted and Sold Accused Products


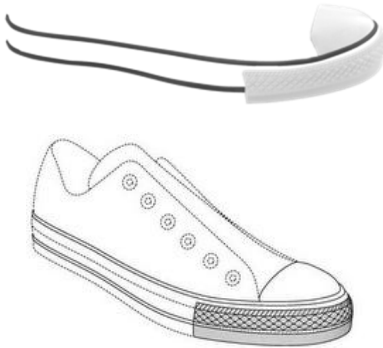

137. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Aldo promoted and sold Accused Products.

138. The Asserted Trademark relevant to Aldo’s violations is also the subject of a duly issued United States Trademark Registration.

b. Aldo’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

139. As shown in Figure 23 below, Aldo’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 23: Representative Images of Aldo’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="305 1129 422 1163">Sprenkle</p>		

c. Aldo Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

140. Aldo’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Aldo’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Aldo’s intentional copying.

d. Aldo Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

141. On information and belief, Aldo has promoted and sold its Accused Products through its own retail stores in the United States and the Internet. *See* The Give Me Guide, Aldo

Shoes, <http://www.aldoshoes.com/ca-eng/pages/storeSection/thegivemeguide#2> (last visited Sept. 1, 2014), Compilation Exhibit 47 at 1; *see also* Sprenkle, Aldo Shoes, <http://www.aldoshoes.com/us/men/shoes/sneakers/97818924-sprenkle/> (last visited Sept. 1, 2014), Compilation Exhibit 47 at 3.

142. On information and belief, Aldo's Accused Products have been promoted and sold at approximately \$55. *See* Decl. Bill Vincent, Exhibit 48.

143. On information and belief, Aldo promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Aldo's Accused Products

144. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Aldo's Accused Products when confronted with promotions and sales of Aldo's Accused Products.

145. In the post-sale context, where actual or potential consumers of shoes may only see Aldo's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Aldo's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Aldo's Accused Products Are Likely to Cause Confusion and Dilutive Associations

146. Due to the overwhelming similarities between Aldo's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of

confusion between Aldo or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

147. On information and belief, Aldo intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Aldo's Accused Products have given rise to unwanted and unauthorized associations with Converse. *See* Beau Hayhoe & Olivia Hayhoe, *The Product Review: Aldo Sneakers*, Siblings with Style (Jun. 16, 2014) <http://siblingswithstyleboh.wordpress.com/2014/06/16/the-product-review-aldo-sneakers/>, Exhibit 49.

E. Brian Lichtenberg, LLC

148. On information and belief, Respondent Brian Lichtenberg, LLC ("Brian Lichtenberg") is a California company with its principal place of business located at 825 ½ Silver Lake Blvd, Los Angeles, CA 90026. *See* Dun & Bradstreet Business Background Report for Brian Lichtenberg, Hoovers (Sept. 22, 2014), Exhibit 50; *see also* California Secretary of State Business Entity Detail for Brian Lichtenberg, LLC, Exhibit 51.

1. Brian Lichtenberg's Background

149. Founded in 2006, Brian Lichtenberg describes its business as "a smartly executed range of universally chic streetwear." *See* Bio, Brian Lichtenberg, www.brianlichtenberg.com/bio.html (last visited Aug. 29, 2014), Exhibit 52. Brian Lichtenberg claims to have "single-handedly transformed streetwear into a highly coveted fashion commodity." *Id.*

150. Brian Lichtenberg's products are based on "tongue-in-cheek" reproductions of "iconic fashion houses such as Hermès, Balmain, Miu Miu, Burberry and Céline." Monica Leung, *The rise of the BLTees – But What's Next for Brian Lichtenberg?*, Influxxx,

<http://influxxx.com/2013/08/23/the-rise-of-the-bltees-but-whats-next-for-brian-lichtenberg-by-monica-leung> (last visited Aug. 29, 2014), Exhibit 53.

2. Brian Lichtenberg's Accused Products

151. Brian Lichtenberg's Accused Products include at least its "Homies High Tops" footwear products and colorable imitations thereof. Representative images of Brian Lichtenberg's Accused Products are attached as Exhibit 54.

152. On information and belief, Brian Lichtenberg has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

153. On information and belief, in addition to the Accused Products, Brian Lichtenberg promotes and sells a variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Shoes & Footwear, Brian Lichtenberg, <http://www.shopbrianlichtenberg.com/bltee/womens-shoes-footwear.html> (last visited Aug. 29, 2014), Exhibit 55.

3. Brian Lichtenberg's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

154. On information and belief, Brian Lichtenberg manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Brian Lichtenberg's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Brian Lichtenberg Promoted and Sold Accused Products

155. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted




Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Brian Lichtenberg promoted and sold Accused Products.

156. The Asserted Trademark relevant to Brian Lichtenberg’s violations is also the subject of a duly issued United States Trademark Registration.

b. Brian Lichtenberg’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

157. As shown in Figure 24 below, Brian Lichtenberg’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 24: Representative Images of Brian Lichtenberg’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="240 1419 488 1455">Homies High Tops</p>		

c. Brian Lichtenberg Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

158. Brian Lichtenberg’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Brian Lichtenberg’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On

information and belief, the overwhelming similarities are due to Brian Lichtenberg's intentional copying.

d. Brian Lichtenberg Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

159. On information and belief, Brian Lichtenberg has promoted and sold its Accused Products by selling such products to retail stores in the United States and on the Internet. *See* Exhibit 41. For example, on information and belief, Brian Lichtenberg's Accused Products have been sold at Kitson retail stores, Shopbrianlichtenberg.com, and Revolveclothing.com.

160. On information and belief, Brian Lichtenberg's Accused Products have been promoted and sold at approximately \$375, *see* Exhibit 23, and as low as \$28, *see* Exhibit 41.

161. On information and belief, Brian Lichtenberg promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Brian Lichtenberg's Accused Products

162. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Brian Lichtenberg's Accused Products when confronted with promotions and sales of Brian Lichtenberg's Accused Products.

163. In the post-sale context, where actual or potential consumers of shoes may only see Brian Lichtenberg's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Brian Lichtenberg's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Brian Lichtenberg's Accused Products Are Likely to Cause Confusion and Dilutive Associations

164. Due to the overwhelming similarities between Brian Lichtenberg's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Brian Lichtenberg or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

F. Cmerit USA Inc., d/b/a Gotta Flurt

165. On information and belief, Respondent Cmerit USA Inc., d/b/a Gotta Flurt ("Gotta Flurt"), is a California corporation with its principal place of business located at 13875 Ramona Ave., Chino, CA 91710. *See* Contact Page, Cmerit USA, <http://www.cmeritusa.com/contact/> (last visited Sept. 29, 2014), Exhibit 56; *see also* California Secretary of State Business Entity Detail, Exhibit 57.

1. Gotta Flurt's Background

166. Gotta Flurt was founded in 2003 and describes itself as "a world-class footwear design and sourcing company with a portfolio of trusted fashion and sport brands." *See* Who We Are, Cmerit USA, <http://www.cmeritusa.com/what-we-do/> (last visited Aug. 29, 2014), Exhibit 58.

2. Gotta Flurt's Accused Products

167. Gotta Flurt's Accused Products include at least its "Twisty Zoo" footwear products and colorable imitations thereof. Representative images of Gotta Flurt's Accused Products are attached as Exhibit 59.

168. On information and belief, Gotta Flurt has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

169. On information and belief, in addition to the Accused Products, Gotta Flurt promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Gotta Flurt Women’s Shoes, 6PM, <http://www.6pm.com/gotta-flurt-shoes-on-sale~3> (last visited Sept. 18, 2014), Exhibit 60 (excerpt from website).

3. Gotta Flurt’s Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

170. On information and belief, Gotta Flurt manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Gotta Flurt’s Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Gotta Flurt Promoted and Sold Accused Products




171. As a result of Converse’s near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Gotta Flurt promoted and sold Accused Products.

172. The Asserted Trademark relevant to Gotta Flurt’s violations is also the subject of a duly issued United States Trademark Registration.

b. Gotta Flurt’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

173. As shown in Figure 25 below, Gotta Flurt’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 25: Representative Images of Gotta Flurt’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="289 674 440 709">Twisty Zoo</p>		

c. Gotta Flurt Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

174. Gotta Flurt’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Gotta Flurt’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Gotta Flurt’s intentional copying.

d. Gotta Flurt Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

175. On information and belief, Gotta Flurt promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Gotta Flurt Women’s Twisty Zoo, Amazon, http://www.amazon.com/gp/product/B0087ZED58/ref=s9_hps_bw_g309_ir26?pf_rd_m=ATVPDKIKX0DER&pf_rd_s=merchandised-search-9&pf_rd_r=0Z2QDP97T8ZWRE0Z9EK5&pf_rd_t=101&pf_rd_p=1865586102&pf_rd_i=3029797011 (last visited Sept. 18, 2014), Exhibit 61. For example, on information and belief, Gotta

Flurt sells Accused Products at DSW retail stores, Overstock.com, 6pm.com, amazon.com, and Zappos.com.

176. On information and belief, Gotta Flurt's Accused Products have been promoted and sold at approximately \$36. *See* Exhibit 23.

177. On information and belief, Gotta Flurt promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to young, pre-teen, and teen girls.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Gotta Flurt's Accused Products

178. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Gotta Flurt's Accused Products when confronted with promotions and sales of Gotta Flurt's Accused Products.

179. In the post-sale context, where actual or potential consumers of shoes may only see Gotta Flurt's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Gotta Flurt's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Gotta Flurt's Accused Products Are Likely to Cause Confusion and Dilutive Associations

180. Due to the overwhelming similarities between Gotta Flurt's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Gotta Flurt or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

181. On information and belief, Gotta Flurt intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Gotta Flurt's Accused Products have given rise to unwanted and unauthorized associations with Converse. *See* Gotta Flurt for under \$30, forUnder, <http://www.forunder.com/products/30/gotta-flurt/> (last visited Aug. 29, 2014), Compilation Exhibit 62 at 5; *see also* Gotta Flurt Pink Camouflage Converse Like No Lace Shoes, eBay, http://www.ebay.com/itm/Gotta-Flurt-pink-camouflage-converse-like-no-lace-shoes-size-2/350611407430?pt=US_Childrens_Shoes&hash=item51a2118246 (last visited Aug. 29, 2014), Compilation Exhibit 62 at 8 (annotated); *see also* Customer Reviews, Amazon, http://www.amazon.com/Gotta-Flurt-Womens-Ca-Hidisco-Sneaker/product-reviews/B004C27956/ref=cm_cr_dp_synop?ie=UTF8&show_Viewpoints=0&%E2%80%A6 (last visited Sept. 22, 2014), Compilation Exhibit 62 at 10 (annotated).

G. Dioniso, SRL

182. On information and belief, Respondent Dioniso, SRL ("Dioniso") is an Italian corporation with its principal place of business located at Via Pievaiola 166-f2, 06132 Perugia, Italy. *See* Black Dioniso, <http://www.blackdioniso.com/> (last visited Aug. 29, 2014), Exhibit 63.

1. Dioniso's Background

183. Dioniso began producing footwear in 2009, by adding "luxury materials and components" to "original and used Converse All Stars," which Dioniso describes as "one of the twentieth century ICONIC sneakers." *See id.* Thereafter, Dioniso admits that it began manufacturing its own shoes, using its own materials and production methods, *see id.*, yet maintaining the iconic Converse Midsole Trademark.

2. Dioniso's Accused Products

184. Dioniso's Accused Products include at least its "Black Vintage Swarovski Converse" footwear products and colorable imitations thereof. Representative images of Dioniso's Accused Products are at Exhibit 64.

185. On information and belief, Dioniso has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

186. A wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks are available to Dioniso.

3. Dioniso's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

187. On information and belief, Dioniso manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Dioniso's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Dioniso Promoted and Sold Accused Products




188. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Dioniso promoted and sold Accused Products.

189. The Asserted Trademark relevant to Dioniso's violations is also the subject of a duly issued United States Trademark Registration.

b. Dioniso’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

190. As shown in Figure 26 below, Dioniso’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 26: Representative Images of Dioniso’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="203 961 524 1024">Black Vintage Swarovski Converse</p>		

c. Dioniso Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

191. Dioniso’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Dioniso’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Dioniso’s intentional copying.

d. Dioniso Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

192. On information and belief, Dioniso promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Exhibit 39.

193. On information and belief, Dioniso’s Accused Products have been promoted and sold at approximately \$1,295. *See* Exhibit 40.

194. On information and belief, Dioniso promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Dioniso's Accused Products

195. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Dioniso's Accused Products when confronted with promotions and sales of Dioniso's Accused Products.

196. In the post-sale context, where actual or potential consumers of shoes may only see Dioniso's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Dioniso's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Dioniso's Accused Products Are Likely to Cause Confusion and Dilutive Associations

197. Due to the overwhelming similarities between Dioniso's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Dioniso or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

198. On information and belief, Dioniso intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Dioniso's Accused Products have given rise to unwanted and unauthorized associations with Converse. *See* Dioniso Fall 2013

Collection, R-A-W Shoes Blog, <http://r-a-wshoesblog.com/dioniso-fall-2013-collection/> (last visited Aug. 29, 2014), Exhibit 65.

H. Edamame Kids, Inc.

199. On information and belief, Respondent Edamame Kids, Inc. (“Edamame”) is a Canadian corporation with its principal place of business located at 1911-34 Avenue SW, Calgary, Alberta T2T 2C2, Canada. *See* Dun & Bradstreet Report for Edamame (last updated Jul. 26, 2013), Exhibit 66. On information and belief, Edamame is related to or affiliated with Respondent Mamiye Imports LLC d/b/a Lilly of New York.

1. Edamame’s Accused Products

200. Edamame’s Accused Products include at least its “Canvas Low-Top” footwear products and colorable imitations thereof. Representative images of Edamame’s Accused Products are attached as Exhibit 67.

201. On information and belief, Edamame has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

202. A wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks are available to Edamame.

2. Edamame’s Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

203. On information and belief, Edamame manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Edamame’s Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Edamame Promoted and Sold Accused Products


204. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Edamame promoted and sold Accused Products.

205. The Asserted Trademark relevant to Edamame's violations is also the subject of a duly issued United States Trademark Registration.

b. Edamame's Accused Products Are Virtually Identical to the Converse Midsole Trademark

206. As shown in Figure 27 below, Edamame's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 27: Representative Images of Edamame’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="203 699 521 737">Canvas Purple Low-Top</p>		
 <p data-bbox="207 1115 516 1152">Canvas Black Low-Top</p>		

c. Edamame Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

207. Edamame’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Edamame’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Edamame’s intentional copying.

d. Edamame Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

208. On information and belief, Edamame promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Edamame Pink Black Canvas Low Top

Sneakers Shoes, Sears, <http://www.sears.com/edamame-pink-black-canvas-low-top-sneakers-shoes/p-SPM7098324803> (last visited Aug. 29, 2014), Exhibit 68. For example, on information and belief, Edamame sells Accused Products at Sears retail stores and Babyhalfoff.com.

209. On information and belief, Edamame's Accused Products have been promoted and sold at approximately \$22, *see* Exhibit 23, and as low as \$6.10, *see* Edamame Pink Black Canvas Low Top Sneakers Shoes, Sophia's Style, www.sophiasstyle.com (last visited Sept. 29, 2014), Exhibit 69.

210. On information and belief, Edamame promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to young girls and boys.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Edamame's Accused Products

211. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Edamame's Accused Products when confronted with promotions and sales of Edamame's Accused Products.

212. In the post-sale context, where actual or potential consumers of shoes may only see Edamame's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Edamame's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Edamame's Accused Products Are Likely to Cause Confusion and Dilutive Associations

213. Due to the overwhelming similarities between Edamame's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Edamame or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

I. Esquire Footwear

214. On information and belief, Respondent Esquire Footwear ("Esquire") is a New York company with its principal place of business located at 385 5th Avenue, Second Floor, New York, NY 10016. *See* Contact, Esquire Footwear, <http://www.esquirefootwear.com/contact/> (last visited Oct. 8, 2014), Compilation Exhibit 71 at 2; *see also* NYS Department of State Division of Corporations Entity Information for Esquire Footwear LLC, Exhibit 70.

1. Esquire's Background

215. Esquire purports to be a "family owned and operated enterprise, specializing in the design, and manufacturing of high quality fashion footwear." *See* About Us, Esquire Footwear, <http://www.esquirefootwear.com/about-us/> (last visited Aug. 29, 2014), Compilation Exhibit 71 at 1.

216. On September 5, 2013, Converse sent a cease and desist letter to Esquire demanding, *inter alia*, that it stop violating the Converse Midsole Trademark and the '960 and '103 Registrations. Esquire refused to enter into a settlement agreement. On information and belief, it continued selling Accused Products.

2. Esquire's Accused Products

217. Esquire's Accused Products include at least its "Shoe" footwear products and colorable imitations thereof. Representative images of Esquire's Accused Products are attached as Exhibit 72.

218. On information and belief, Esquire has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

219. On information and belief, in addition to the Accused Products, Esquire promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Esquire Footwear, Facebook, <https://www.facebook.com/EsquireFootwear> (last visited Aug. 29, 2014), Exhibit 73.

3. Esquire's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark and the Converse Outsole Trademark

220. On information and belief, Esquire manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Esquire's Accused Products shown below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Esquire Promoted and Sold Accused Products


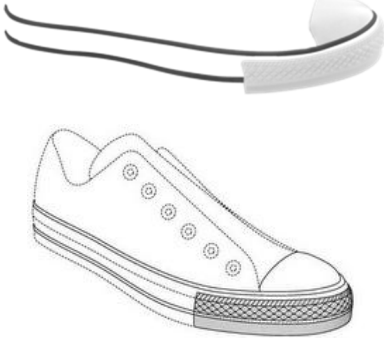


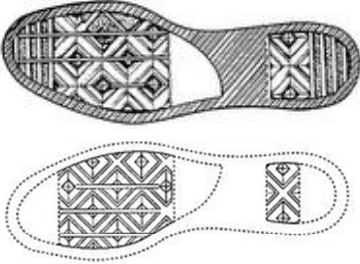

221. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, and widespread unsolicited publicity and copying of the Asserted Trademarks, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Esquire promoted and sold Accused Products.

222. Each of the Asserted Trademarks relevant to Esquire's violations is also the subject of duly issued United States Trademark Registrations.

b. Esquire’s Accused Products Are Virtually Identical to the Converse Midsole Trademark and the Converse Outsole Trademark

223. As shown in Figure 28 below, Esquire’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark and the Converse Outsole Trademark.

FIGURE 28: Representative Images of Esquire’s Accused Products and the Converse Asserted Trademarks

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="332 913 397 945">Shoe</p>		
 <p data-bbox="332 1276 397 1308">Shoe</p>		

c. Esquire Intended to Copy the Converse Midsole Trademark and the Converse Outsole Trademark and to Violate the Converse Midsole Trademark and the Converse Outsole Trademark

224. Esquire’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Esquire’s Accused Products on the one hand, and the Converse Midsole Trademark and the Converse Outsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Esquire’s intentional copying.

d. Esquire Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

225. On information and belief, Esquire promotes and sells its Accused Products at trade shows in the United States. *See Exhibit 74* (depicting Esquire's Accused Products photographed at the WSA show in Las Vegas, NV in August, 2013). On information and belief, Esquire products are purchased by brick and mortar and online retailers for sale in the United States. *See Our Strengths, Esquire Footwear, www.esquirefootwear.com/our-strengths* (last visited Sept. 29, 2014), *Exhibit 75*.

226. On information and belief, Esquire promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Esquire's Accused Products

227. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Esquire's Accused Products when confronted with promotions and sales of Esquire's Accused Products.

228. In the post-sale context, where actual or potential consumers of shoes may only see Esquire's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Esquire's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Esquire's Accused Products Are Likely to Cause Confusion and Dilutive Associations

229. Due to the overwhelming similarities between Esquire's Accused Products and the Converse Midsole and Outsole Trademarks, and for the reasons set forth above, there is (a) a likelihood of confusion between Esquire or its Accused Products, and Converse, the Converse Midsole Trademark, and/or the Converse Outsole Trademark, and/or (b) a likelihood of dilution.

J. FILA U.S.A., Inc.

230. Respondent FILA U.S.A., Inc. ("FILA"), is a Maryland corporation with its principal place of business located at 930 Ridgebrook Road, Suite 200, Sparks, MD 21152. *See* Hoovers Profile for FILA, Exhibit 76; *see also* Maryland Department of Assessments & Taxation Business Information for FILA, Exhibit 77. On information and belief, FILA is a subsidiary of FILA Korea, Ltd., located at 6 Myeongdal-Ro, Seocho-Gu, 137868 Seoul, South Korea. *See* Exhibit 76.

1. FILA's Background

231. FILA was founded in Italy in 1911, and eventually went public in the United States in 1993. *See* Susan Kitchens, *Rebound*, *Forbes* (Jun. 12, 2008), <http://www.forbes.com/forbes/2008/0630/066.html>, Exhibit 78. In the 2000s, the company again went private and changed focus: "selling workout sneakers and apparel through a number of mass-market retailers, including Foot Locker and Kohl's," *id.*, two of Converse's largest retailers.

2. FILA's Accused Products

232. FILA's Accused Products include at least its "Original Canvas" footwear products and colorable imitations thereof. Representative images of FILA's Accused Products are at Exhibit 79.

233. On information and belief, FILA has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

234. On information and belief, in addition to the Accused Products, FILA promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Footwear, FILA, <http://www.fila.com/mens-shoes?gclid=CJGK2YnpjMACFSdk7AodrCkAJA> (last visited Aug. 29, 2014), Exhibit 80.

3. FILA's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

235. On information and belief, FILA manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States FILA's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before FILA Promoted and Sold Accused Products


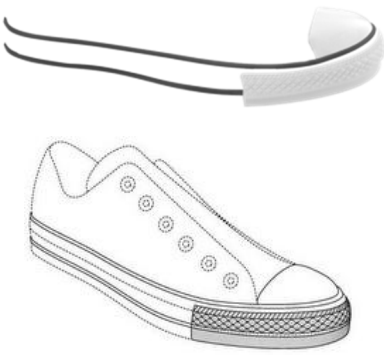

236. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before FILA promoted and sold Accused Products.

237. The Asserted Trademark relevant to FILA's violations is also the subject of a duly issued United States Trademark Registration.

b. FILA's Accused Products Are Virtually Identical to the Converse Midsole Trademark

238. As shown in Figure 29 below, FILA's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 29: Representative Images of FILA’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p align="center">Original Canvas</p>		

c. FILA Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

239. FILA’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between FILA’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to FILA’s intentional copying.

d. FILA Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

240. On information and belief, FILA promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* FILA Original Canvas SE Casual Shoe, Shoezoo, <http://www.shoezoo.com/fila-original-canvas-se-casual-shoes-1vb053ck-071.html>, Exhibit 81. For example, on information and belief, FILA sells Accused Products in Saks Fifth Avenue retail stores, Sears retail stores, and Shoezoo.com.

241. On information and belief, FILA’s Accused Products have been promoted and sold at approximately \$22. *See* Exhibit 23.

242. On information and belief, FILA promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by FILA's Accused Products

243. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of FILA's Accused Products when confronted with promotions and sales of FILA's Accused Products.

244. In the post-sale context, where actual or potential consumers of shoes may only see FILA's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of FILA's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. FILA's Accused Products Are Likely to Cause Confusion and Dilutive Associations

245. Due to the overwhelming similarities between FILA's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between FILA or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

K. Fortune Dynamic, Inc.

246. On information and belief, Respondent Fortune Dynamic, Inc. ("Fortune Dynamic") is a California corporation with its principal place of business located at 21923 Ferrero Parkway, City of Industry, CA 91789-5210. *See* Dun & Bradstreet Report for Fortune

Dynamic (last updated May 27, 2013), Exhibit 82; *see also* California Secretary of State Business Entity Detail for Fortune Dynamic Inc., Exhibit 83.

1. Fortune Dynamic's Background

247. Fortune Dynamic purports to be an “importer and wholesaler of women’s and girl’s shoes,” active in the footwear industry since 1987, and located in the City of Industry region of California. *See* About Us, Fortune Dynamic, www.fortunedynamic.com/company.cfm (last visited Oct. 2, 2014), Exhibit 84.

248. On February 7, 2012, Converse served a cease and desist letter on Fortune Dynamic at the WSA trade show in Las Vegas, NV, demanding, *inter alia*, that it stop violating the Converse Midsole Trademark. Fortune Dynamic refused to enter into a settlement agreement. On information and belief, Fortune Dynamic continued selling Accused Products.

2. Fortune Dynamic's Accused Products

249. Fortune Dynamic's Accused Products include at least its “SODA-SPY” footwear products and colorable imitations thereof. Representative images of Fortune Dynamic's Accused Products are attached as Exhibit 85.

250. On information and belief, Fortune Dynamic has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

251. On information and belief, in addition to the Accused Products, Fortune Dynamic promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Soda Shoes, <http://www.sodashoes.com/collections.cfm> (last visited Oct. 2, 2014), Exhibit 86.

3. Fortune Dynamic's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

252. On information and belief, Fortune Dynamic manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Fortune Dynamic's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Fortune Dynamic Promoted and Sold Accused Products




253. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Fortune Dynamic promoted and sold Accused Products.

254. The Asserted Trademark relevant to Fortune Dynamic's violations is also the subject of a duly issued United States Trademark Registration.

b. Fortune Dynamic's Accused Products Are Virtually Identical to the Converse Midsole Trademark

255. As shown in Figure 30 below, Fortune Dynamic's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 30: Representative Images of Fortune Dynamic’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="284 682 446 714">SODA-SPY</p>		

c. Fortune Dynamic Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

256. Fortune Dynamic’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Fortune Dynamic’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Fortune Dynamic intentional copying.

d. Fortune Dynamic Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

257. On information and belief, Fortune Dynamic promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Happy Soda SPY II Black/White, Shoe Station, <http://www.shoestation.com/Happy-Soda/Happy-Soda-SPY-II-BlackWhite/PAMPIALJAKOONMK/3000-14411444/Product> (last visited Sept. 1, 2014), Exhibit 87. For example, on information and belief, Fortune Dynamic has sold Accused Products on Shoestation.com.

258. On information and belief, Fortune Dynamic's Accused Products have been promoted and sold at approximately \$25. *See* Exhibit 23.

259. On information and belief, Fortune Dynamic promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to young, pre-teen, teen, and adult women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Fortune Dynamic's Accused Products

260. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Fortune Dynamic's Accused Products when confronted with promotions and sales of Fortune Dynamic's Accused Products.

261. In the post-sale context, where actual or potential consumers of shoes may only see Fortune Dynamic's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Fortune Dynamic's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Fortune Dynamic's Accused Products Are Likely to Cause Confusion and Dilutive Associations

262. Due to the overwhelming similarities between Fortune Dynamic's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Fortune Dynamic or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

L. Gina Group, LLC

263. On information and belief, Respondent Gina Group, LLC (“Gina Group”) is a New York company with its principal place of business located at 10 West 33rd Street, 3rd Floor, New York, NY 10001. *See* Contact, Gina Group, <http://www.ginagroup.com/contact.asp> (last visited Jul. 27, 2014), Compilation Exhibit 88, at 1; *see also* NYS Department of State Division of Corporations Entity Information for Gina Group LLC, Exhibit 89.

1. Gina Group’s Background

264. Gina Group purports to have started as a private label company over 20 years ago, entering the retail market with a line of tights, pantyhose, and socks. *See* Company, Gina Group, <http://www.ginagroup.com/company.asp> (last visited Aug. 29, 2014), Compilation Exhibit 88, at 2. Gina Group also sells footwear, intimate apparel, cold weather gear, and fashion accessories. *See id.*

265. On February 8, 2011, Converse sent a cease and desist letter to Gina Group demanding that it stop violating the Converse Midsole Trademark. Gina Group refused to enter into a settlement agreement. On information and belief, it continued selling Accused Products.

2. Gina Group’s Accused Products

266. Gina Group’s Accused Products include at least its “Chatties Zebra Hi-Top” footwear products and colorable imitations thereof. Representative images of Gina Group’s Accused Products are attached as Exhibit 90.

267. On information and belief, Gina Group has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

268. On information and belief, in addition to the Accused Products, Gina Group promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Chatties, Zulily,

<http://www.zulily.com/brand/chatties.html> (last visited Aug. 29, 2014), Exhibit 91 (excerpt from website).

3. Gina Group's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

269. On information and belief, Gina Group manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Gina Group's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Gina Group Promoted and Sold Accused Products




270. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Gina Group promoted and sold Accused Products.

271. The Asserted Trademark relevant to Gina Group's violations is also the subject of a duly issued United States Trademark Registration.

b. Gina Group's Accused Products Are Virtually Identical to the Converse Midsole Trademark

272. As shown in Figure 31 below, Gina Group's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 31: Representative Images of Gina Group’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="217 716 511 751">Chatties Zebra Hi-Top</p>		

c. Gina Group Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

273. Gina Group’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Gina Group’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Gina Group’s intentional copying.

d. Gina Group Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

274. On information and belief, Gina Group promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Light Pink & Black Zebra Hi-Top Sneaker, Zulily, <http://www.zulily.com/chatties-sneakers?fromSearch=true&searchTerm=chatties+sneakers> (last visited Sept. 1, 2014), Exhibit 92. For example, on information and belief, Gina Group sells Accused Products at Zulily.com and Thredup.com.

275. On information and belief, Gina Group’s Accused Products have been promoted and sold at approximately \$9. *See* Exhibit 23.

276. On information and belief, Gina Group promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to young and pre-teen girls.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Gina Group's Accused Products

277. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Gina Group's Accused Products when confronted with promotions and sales of Gina Group's Accused Products.

278. In the post-sale context, where actual or potential consumers of shoes may only see Gina Group's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Gina Group's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Gina Group's Accused Products Are Likely to Cause Confusion and Dilutive Associations

279. Due to the overwhelming similarities between Gina Group's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Gina Group or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

M. H & M Hennes & Mauritz LP

280. On information and belief, Respondent H & M Hennes & Mauritz LP ("H & M") is a New York corporation with a principal place of business located at 215 Park Avenue, 15th Floor, New York, NY 10003. *See* Contact Us, H & M, <http://about.hm.com/en/About/Contacts>

/contact-us.html (last visited Jul. 27, 2014), Compilation Exhibit 93, at 3; *see also* NYS Department of State Division of Corporations Entity Information for H & M, Exhibit 94.

1. H & M's Background

281. H & M opened in Vasteras, Sweden in 1947, selling predominantly women's clothing. *See* Our History, H & M, <http://about.hm.com/en/About/facts-about-hm/people-and-history/history.html> (last visited Oct. 2, 2014), Compilation Exhibit 93, at 4-6. H & M opened its first United States store on Fifth Avenue in New York in 2000.

282. At least one commentator has described H & M as the "king of knockoff stores." *See* Olivia Fleming, *H&M accused of 'having no shame' as latest collection looks 'identical' to high-end designs by Balenciaga, Celine and Kenzo*, Mail Online (May 24, 2013) <http://www.dailymail.co.uk/femail/article-2330411/H-M-accused-having-shame-latest-collection-looks-identical-high-end-designs-Balenciaga-Celine-Kenzo.html>, Exhibit 95.

2. H & M's Accused Products

283. H & M's Accused Products include at least its "High-Tops" footwear products and colorable imitations thereof. Representative images of H & M's Accused Products are attached as Exhibit 96.

284. On information and belief, H & M has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

285. On information and belief, in addition to the Accused Products, H & M promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Shoes, H & M, www.hm.com/shoes (last visited Aug. 29, 2014), Exhibit 97.

3. H & M's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

286. On information and belief, H & M manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States H & M's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before H & M Promoted and Sold Accused Products




287. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before H & M promoted and sold Accused Products.

288. The Asserted Trademark relevant to H & M's violations is also the subject of a duly issued United States Trademark Registration.

b. H & M's Accused Products Are Virtually Identical to the Converse Midsole Trademark

289. As shown in Figure 32 below, H & M's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 32: Representative Images of H & M's Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p align="center">High-Tops</p>		

c. H & M Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

290. H & M's intent to create associations with Converse and to free ride on Converse's goodwill is evident in the close similarities between H & M's Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to H & M's intentional copying.

d. H & M Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

291. On information and belief, H & M promotes and sells its Accused Products its retail stores in the United States and on the Internet. *See* High Tops, H & M, <http://www.hm.com/us/product/12582?article=12582-C> (last visited Aug. 29, 2014), Exhibit 98.

292. On information and belief, H & M's Accused Products have been promoted and sold at approximately \$13. *See* Exhibit 23.

293. On information and belief, H & M promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to pre-teen and teen girls.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by H & M's Accused Products

294. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of H & M's Accused Products when confronted with promotions and sales of H & M's Accused Products.

295. In the post-sale context, where actual or potential consumers of shoes may only see H & M's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of H & M's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. H & M's Accused Products Are Likely to Cause Confusion and Dilutive Associations

296. Due to the overwhelming similarities between H & M's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between H & M or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

N. Highline United LLC d/b/a ASH Footwear USA

297. On information and belief, Respondent Highline United LLC, d/b/a ASH Footwear USA ("ASH"), is a Delaware corporation with its principal place of business located at 44 Mercer Street, New York, NY 10013. *See* Contact, ASH, <http://store.ashfootwearusa.com/contact.html> (last visited Aug. 29, 2014), Exhibit 99; *see also* NYS Department of State Division of Corporations Entity Information for Highline United LLC, Exhibit 100.

1. ASH's Background

298. On information and belief, ASH was founded in 2000, and opened its first United States store in New York in 2011.

2. ASH's Accused Products

299. ASH's Accused Products include at least its "Vincent" footwear products and colorable imitations thereof. Representative images of ASH's Accused Products are attached as Exhibit 101.

300. On information and belief, ASH has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

301. On information and belief, in addition to the Accused Products, ASH promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Womens Boots & Booties, ASH, <http://store.ashfootwearusa.com/bootsbooties.html> (last visited Sept. 1, 2014), Exhibit 102.

3. ASH's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

302. On information and belief, ASH manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States ASH's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before ASH Promoted and Sold Accused Products


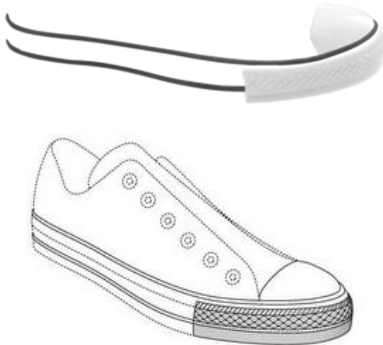

303. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before ASH promoted and sold Accused Products.

304. The Asserted Trademark relevant to ASH’s violations is also the subject of a duly issued United States Trademark Registration.

b. ASH’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

305. As shown in Figure 33 below, ASH’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 33: Representative Images of ASH’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="315 1129 418 1157">Vincent</p>		

c. ASH Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

306. ASH’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between ASH’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to ASH’s intentional copying.

d. ASH Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

307. On information and belief, ASH promotes and sells its Accused Products in retail stores in the United States and on the Internet. *See* ASH Vincent Mens Sneaker Black Leather

312032, ASH, <http://store.ashfootwearusa.com/vincent-s12-black-leather.html> (last visited Jul. 27, 2014), Exhibit 103. For example, on information and belief, ASH sells Accused Products at ASH retail stores, Bloomingdales retail stores, Nordstrom retail stores, and Zappos.com.

308. On information and belief, ASH's Accused Products have been promoted and sold at approximately \$80. *See* Exhibit 23.

309. On information and belief, ASH promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by ASH's Accused Products

310. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of ASH's Accused Products when confronted with promotions and sales of ASH's Accused Products.

311. In the post-sale context, where actual or potential consumers of shoes may only see ASH's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of ASH's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. ASH's Accused Products Are Likely to Cause Confusion and Dilutive Associations

312. Due to the overwhelming similarities between ASH's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of

confusion between ASH or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

O. Hitch Enterprises Pty Ltd. d/b/a Skeanie

313. On information and belief, Respondent Hitch Enterprises Pty Ltd., d/b/a Skeanie (“Skeanie”), is an Australian corporation with its principal place of business located at Unit 3, 13 Lyell Street, Mittagong, New South Wales 2575, Australia. *See* Contact, Skeanie, <http://www.skeanie.com.au/view/contact-skeanie-uh-oh/17> (last visited Sept. 25, 2014), Exhibit 104.

1. Skeanie’s Accused Products

314. Skeanie’s Accused Products include at least its “Canvas Gym Boot” footwear products and colorable imitations thereof. Representative images of Skeanie’s Accused Products are attached as Exhibit 105.

315. On information and belief, Skeanie has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

316. On information and belief, in addition to the Accused Products, Skeanie promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Junior Range, Skeanie, <http://www.skeanie.com.au/shop/skeanie-shoes/junior-walker-range-1-5-years/1503?rf=&viewby=list> (last visited Sept. 1, 2014), Exhibit 106.

2. Skeanie’s Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark and the Converse Outsole Trademark

317. On information and belief, Skeanie manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Skeanie’s Accused

Products shown below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Skeanie Promoted and Sold Accused Products





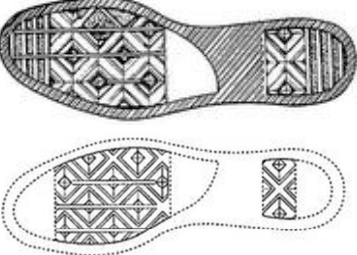

318. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, and widespread unsolicited publicity and copying of the Asserted Trademarks, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Skeanie promoted and sold Accused Products.

319. Each of the Asserted Trademarks relevant to Skeanie's violations is also the subject of duly issued United States Trademark Registrations.

b. Skeanie's Accused Products Are Virtually Identical to the Converse Midsole Trademark and the Converse Outsole Trademark

320. As shown in Figure 34 below, Skeanie's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark and the Converse Outsole Trademark.

FIGURE 34: Representative Images of Skeanie’s Accused Products and the Converse Asserted Trademarks

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p align="center">Canvas Gym Boot</p>		
 <p align="center">Canvas Gym Boot</p>		

c. Skeanie Intended to Copy the Converse Midsole Trademark and the Converse Outsole Trademark and to Infringe and Dilute the Converse Midsole Trademark and the Converse Outsole Trademark

321. Skeanie’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Skeanie’s Accused Products on the one hand, and the Converse Midsole Trademark and Converse Outsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Skeanie’s intentional copying.

d. Skeanie Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

322. On information and belief, Skeanie promotes and sells its Accused Products in retail stores in the United States and on the Internet. *See* Canvas Gym Boot, Skeanie, <http://www.stryde.com.au/canvas-gym-boot-red-skeanie.html> (last visited Sept. 1, 2014), Exhibit 107. For example, on information and belief, Skeanie sells Accused Products at BabyBootique.com, Stryde.com, and Notanotherbabyshop.com.

323. On information and belief, Skeanie's Accused Products have been promoted and sold at approximately \$19.95 (AUD) (corresponds to approximately \$17.50 (USD)). *See* Exhibit 23.

324. On information and belief, Skeanie promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to young girls and boys.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Skeanie's Accused Products

325. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Skeanie's Accused Products when confronted with promotions and sales of Skeanie's Accused Products.

326. In the post-sale context, where actual or potential consumers of shoes may only see Skeanie's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Skeanie's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Skeanie's Accused Products Are Likely to Cause Confusion and Dilutive Associations

327. Due to the overwhelming similarities between Skeanie's Accused Products and the Converse Midsole and Outsole Trademarks, and for the reasons set forth above, there is (a) a likelihood of confusion between Skeanie or its Accused Products, and Converse, the Converse Midsole Trademark, and/or the Converse Outsole Trademark, and/or (b) a likelihood of dilution.

P. Iconix Brand Group, Inc., d/b/a Ed Hardy

328. On information and belief, Respondent Iconix Brand Group, Inc., d/b/a Ed Hardy ("Ed Hardy"), is a Delaware corporation with its principal place of business located at 1450 Broadway, 3rd Floor and 4th Floor, New York, New York 10018. *See* Contact, Iconix, <http://www.iconixbrand.com/contact.asp> (last visited Jul. 27, 2014), Exhibit 108; *see also* NYS Department of State Division of Corporations Entity Information for Iconix Brand Group, Inc., Exhibit 109.

1. Ed Hardy's Background

329. On information and belief, Ed Hardy is a retired tattoo artist who licenses rights to his imagery. Margot Mifflin, *Hate the Brand, Love the Man: Why Ed Hardy Matters*, The Los Angeles Review of Books (Aug. 25, 2013), *available at* <http://lareviewofbooks.org/review/hate-the-brand-love-the-man-why-ed-hardy-matters>, Exhibit 110. On information and belief, Iconix Brand Group purchased worldwide rights to the Ed Hardy brand in 2011, and the Ed Hardy brand now sells apparel, shoes, and accessories.

330. On information and belief, Ed Hardy first started selling shoes like those accused of infringement in this action in limited quantities and geographic areas around 2007.

331. On August 9, 2008, Converse sent Ed Hardy a cease and desist letter demanding that Ed Hardy stop using the trademarks covered by Converse's '960 and '103 Registrations and

to avoid the “Converse look.” On information and belief, Ed Hardy stopped using the Converse Outsole Trademark, but continued using the Converse Midsole Trademark.

2. Ed Hardy’s Accused Products

332. Ed Hardy’s Accused Products include at least its “Men’s Dakota” footwear products and colorable imitations thereof. Representative images of Ed Hardy’s Accused Products are attached as Exhibit 111.

333. On information and belief, Ed Hardy has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions, but in small quantities with limited distribution.

334. On information and belief, in addition to the Accused Products, Ed Hardy promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Ed Hardy Shoes, Macy’s, <http://www1.macys.com/cms/slp/2/Ed-Hardy-Shoes> (last visited Aug. 29, 2014), Exhibit 112 (excerpt from website).

3. Ed Hardy’s Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

335. On information and belief, Ed Hardy manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Ed Hardy’s Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Ed Hardy Promoted and Sold Accused Products

336. As a result of Converse’s near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted


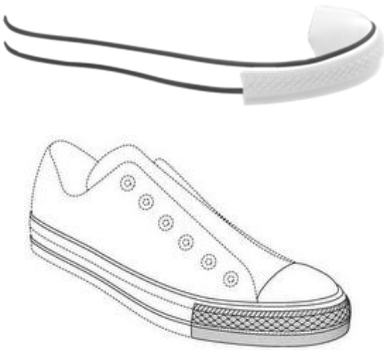

Trademarks, and widespread unsolicited publicity and copying of the Asserted Trademarks, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Ed Hardy promoted and sold Accused Products.

337. The Asserted Trademark relevant to Ed Hardy’s violations is also the subject of a duly issued United States Trademark Registration.

b. Ed Hardy’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

338. As shown in Figure 35 below, Ed Hardy’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 35: Representative Images of Ed Hardy’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="272 1297 457 1327">Men’s Dakota</p>		

c. Ed Hardy Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

339. Ed Hardy’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Ed Hardy’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Ed Hardy’s intentional copying.

d. Ed Hardy Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

340. On information and belief, Ed Hardy promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Ed Hardy Sneakers Shoes & Boots, Designer Imports, http://www.designersimports.com/cat-ed_hardy-shoes___boots-sneakers.htm?gclid=C1bdk7Daur4CFe07OgodoAIAjQ (last visited Aug. 29, 2014), Exhibit 113. For example, on information and belief, Ed Hardy sells Accused Products at DSW retail stores, Overstock.com, and Designerimports.com.

341. On information and belief, Ed Hardy's Accused Products have been promoted and sold at approximately \$44. *See* Exhibit 23.

342. On information and belief, Ed Hardy promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Ed Hardy's Accused Products

343. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Ed Hardy's Accused Products when confronted with promotions and sales of Ed Hardy's Accused Products.

344. In the post-sale context, where actual or potential consumers of shoes may only see Ed Hardy's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Ed Hardy's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Ed Hardy's Accused Products Are Likely to Cause Confusion and Dilutive Associations

345. Due to the overwhelming similarities between Ed Hardy's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Ed Hardy or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

346. On information and belief, Ed Hardy intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Ed Hardy's Accused Products have given rise to unwanted and unauthorized associations with Converse. *See* Tonya Brisnehan, *Highrise Ed Hardy Women's Shoes – "Chucks" of the High Fashion World*, Ezine Articles (Dec. 6, 2008), <http://ezinearticles.com/?Highrise-Ed-Hardy-Womens-Shoes---Chucks-of-the-High-Fashion-World&id=1764725>, Exhibit 114, at 1 (annotated); Ed Hardy Men's Highrise Sneaker, Amazon, <http://www.amazon.com/Ed-Hardy-Mens-Highrise-Sneaker/dp/B001P06F12> (last visited Aug. 30, 2014), Exhibit 115, at 2 (annotated).

Q. Kmart Corporation

347. On information and belief, Respondent Kmart Corporation ("Kmart") is an Illinois corporation and a wholly owned subsidiary of Sears Holdings Corporation, with its principal place of business located at 3333 Beverly Road, Hoffman Estates, IL 60179. *See* About Kmart, Sears Holding Corporation, <http://www.searsholdings.com/about/kmart/> (last visited Sept. 29, 2014) and Our Location, Sears Holding Corporation, <http://www.searsholdings.com/about/loc.htm> (last visited Sept. 29, 2014), Compilation Exhibit 116; *see also* Illinois Secretary of State Corporation File Detail Report for Kmart, Exhibit 117.

1. Kmart's Background

348. Kmart is a mass merchandising company that sells products ranging from automotive products to sports equipment to clothing and footwear. *See* Compilation Exhibit 116.

349. At least one commentator observed that “companies like Kmart and [its house brand] Joe Boxer are like sharks waiting in the water to bite on innovative designs created by smaller fish in the sea.” *See Kmart and Joe Boxer not Innovative, Steals BadTuna Logo*, BadTuna.com, <http://www.badtuna.com/alert.htm> (last visited Aug. 29, 2014), Exhibit 118.

350. In commenting on Kmart's Joe Boxer shoes, consumers have observed:

- “I've gotten lots of compliments [on the Joe Boxer shoes], and *I do like how they're like getting Chuck Taylor's for a steal....* I would definitely recommend [the Accused Product] to a friend. *If you like Chuck Taylor's but don't like the price*, don't look for a sale..., come on by Kmart and have some savings!”
- “My kids love *converse* & they seen these [Accused Product] & loved them!”

Consumer Review, MyGofer, <http://www.mygofer.com/joe-boxer-women-39-s-soren-canvas-sneaker-black/p-035B447000420001P> (last visited Sept. 22, 2014), Compilation Exhibit 119 at 2 (emphasis added); Customer Review, Kmart, <http://www.kmart.com/joe-boxer-boy-s-recap-black-white-high-top-casual/p-035VA74268612P?prdNo=45&blockNo=45&blockType=G45> (last visited Sept. 24, 2014), Compilation Exhibit 119 at 5 (emphasis added).

2. Kmart's Accused Products

351. Kmart's Accused Products include at least its “Joe Boxer” footwear products and colorable imitations thereof. Images of Kmart's Accused Products are attached as Exhibit 120.

352. On information and belief, Kmart has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

353. On information and belief, in addition to the Accused Products, Kmart promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Clothing, Shoes & Jewelry, Kmart, <http://www.kmart.com/clothing-shoes-jewelry-shoes/b-1325067478> (last visited Aug. 29, 2014), Exhibit 121.

3. Kmart's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

354. On information and belief, Kmart manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Kmart's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Kmart Promoted and Sold Accused Products





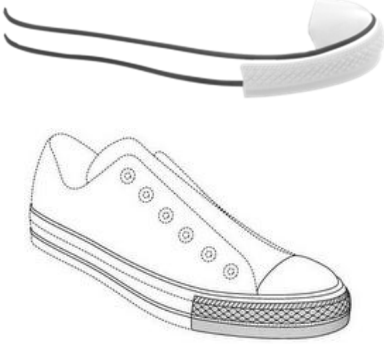

355. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Kmart promoted and sold Accused Products.

356. The Asserted Trademark relevant to Kmart's violations is also the subject of a duly issued United States Trademark Registration.

b. Kmart's Accused Products Are Virtually Identical to the Converse Midsole Trademark

357. As shown in Figure 36 below, Kmart's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 36: Representative Images of Kmart’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p align="center">Joe Boxer Low</p>		
 <p align="center">Joe Boxer High</p>		

c. Kmart Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

358. Kmart’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Kmart’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Kmart’s intentional copying.

d. Kmart Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

359. On information and belief, Kmart promotes and sells its Accused Products at its retail stores in the United States and on the Internet. *See* Joe boxer Women’s Soren Canvas

Sneaker, Kmart, <http://www.kmart.com/joe-boxer-women-39-s-soren-canvas-sneaker-black/p-035B447000420001P?prdNo=4&blockNo=4&blockType=G4&sid=KAx20061023x272xTier3&aff=Y&PID=2687457&AID=10660381&redirectType=SRDT> (last visited Sept. 1, 2014), Exhibit 122.

360. On information and belief, Kmart's Accused Products in the boys' model have been promoted and sold for approximately \$5.60. *See* Exhibit 23.

361. On information and belief, Kmart promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to pre-teen and teen boys and girls.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Kmart's Accused Products

362. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Kmart's Accused Products when confronted with promotions and sales of Kmart's Accused Products.

363. In the post-sale context, where actual or potential consumers of shoes may only see Kmart's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Kmart's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Kmart's Accused Products Are Likely to Cause Confusion and Dilutive Associations

364. Due to the overwhelming similarities between Kmart's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of

confusion between Kmart or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

365. On information and belief, Kmart intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Kmart's Accused Products have given rise to unwanted and unauthorized associations between its products and Converse. *See* Exhibit 119 (annotated).

R. Mamiye Imports LLC d/b/a Lilly of New York

366. On information and belief, Respondent Mamiye Imports LLC, d/b/a Lilly of New York ("Lilly New York"), is a New York corporation with its principal place of business located at 1841 East 8th Street, Brooklyn, NY 11223. *See* Dun & Bradstreet Business Background Report for Mamiye Imports LLC (last updated Jun. 13, 2014), Exhibit 123; *see also* NYS Department of State Division of Corporations Entity Information for Mamiye Imports LLC, Exhibit 124. On information and belief, Lilly of New York is related to or affiliated with Edamame.

1. Lilly New York's Accused Products

367. Lilly New York's Accused Products include at least its "Canvas Old School" footwear products and colorable imitations thereof. Representative images of Lilly New York's Accused Products are attached as Exhibit 125.

368. On information and belief, Lilly New York has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

369. A wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks are available to Lilly New York.

2. Lilly New York's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark and the Converse Outsole Trademark

370. On information and belief, Lilly New York manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Lilly New York's Accused Products shown below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Lilly New York Promoted and Sold Accused Products


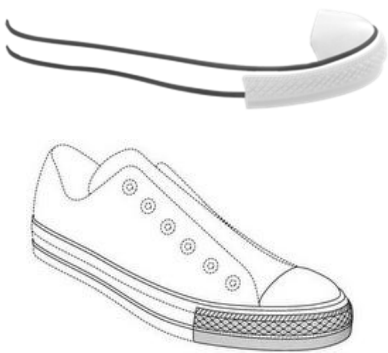


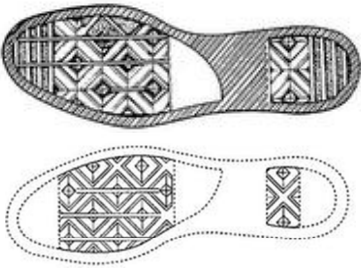





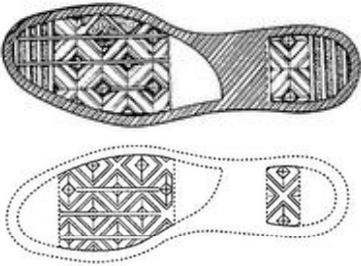

371. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Lilly New York promoted and sold Accused Products.

372. Each of the Asserted Trademarks relevant to Lilly New York's violations is also the subject of duly issued United States Trademark Registrations.

b. Lilly New York's Accused Products Are Virtually Identical to the Converse Midsole Trademark and the Converse Outsole Trademark

373. As shown in Figure 37 below, Lilly New York's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark and the Converse Outsole Trademark.

FIGURE 37: Representative Images of Lilly New York’s Accused Products and the Converse Asserted Trademarks

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="240 730 488 764">Canvas Old School</p>		
 <p data-bbox="240 1010 488 1043">Canvas Old School</p>		
 <p data-bbox="240 1451 488 1484">Canvas Old School</p>		
 <p data-bbox="240 1793 488 1827">Canvas Old School</p>		

c. Lilly New York Intended to Copy the Converse Midsole Trademark and the Converse Outsole Trademark and to Infringe and Dilute the Converse Midsole Trademark and the Converse Outsole Trademark

374. Lilly New York's intent to create associations with Converse and to free ride on Converse's goodwill is evident in the close similarities between Lilly New York's Accused Products on the one hand, and the Converse Midsole Trademark and the Converse Outsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Lilly New York's intentional copying.

d. Lilly New York Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

375. On information and belief, Lilly New York promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Lilly New York, Styles 44, <http://www.styles44.com/kids/lilly-of-new-york.html> (last visited Jun. 13, 2014), Exhibit 126. For example, Lilly New York sells Accused Products at Style44.com and Zulily.com.

376. On information and belief, Lilly New York's Accused Products have been promoted and sold at approximately \$7. *See* Exhibit 23.

377. On information and belief, Lilly New York promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to young girls.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Lilly New York's Accused Products

378. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Lilly New York's Accused Products when confronted with promotions and sales of Lilly New York's Accused Products.

379. In the post-sale context, where actual or potential consumers of shoes may only see Lilly New York's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Lilly New York's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Lilly New York's Accused Products Are Likely to Cause Confusion and Dilutive Associations

380. Due to the overwhelming similarities between Lilly New York's Accused Products and the Converse Midsole and Outsole Trademarks, and for the reasons set forth above, there is (a) a likelihood of confusion between Lilly New York or its Accused Products, and Converse, the Converse Midsole Trademark, and/or the Converse Outsole Trademark, and/or (b) a likelihood of dilution.

S. Nowhere Co. Ltd. d/b/a Bape

381. On information and belief, Respondent Nowhere Co. Ltd., d/b/a Bape ("Bape"), is a Japanese corporation with its principal place of business located at 4-22-3, Sendagaya, Shibuya-Ku 151-0051, Tokyo, Japan, and a location at 91 Greene Street, New York, NY 10012. *See* Hoovers Profile Report for Nowhere Co. Ltd., Exhibit 127; Locations, Bape, <http://us.bape.com/pages/location> (last visited Oct. 2, 2014), Exhibit 128.

1. Bape's Background

382. Bape, an abbreviation of "A Bathing Ape," is a Japanese clothing company that specializes in urban street wear. At least one commentator has pointed to Bape's knockoff of other shoe designs, questioning "has BAPE ever had an original shoe pattern? It's always Converse and Nike ripoffs... now Vans too apparently." *Bape Camouflage Vans Ripoff Attempt Falls Short*, Military Centric (May 16, 2013), *available at*

<http://www.milcentric.com/2013/05/16/bape-camouflage-vans-ripoff-attempt-falls-short/>,
Exhibit 129.

2. Bape's Accused Products

383. Bape's Accused Products include at least its "ABC Camo ApeSta" footwear products and colorable imitations thereof. Representative images of Bape's Accused Products are attached as Exhibit 130.

384. On information and belief, Bape has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

385. On information and belief, in addition to the Accused Products, Bape promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Collections, Bape, <http://us.bape.com/collections/types?q=SHOES> (last visited Aug. 31, 2014), Exhibit 131.

3. Bape's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

386. On information and belief, Bape manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Bape's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Bape Promoted and Sold Accused Products


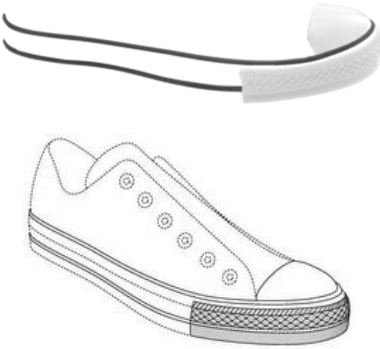

387. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Bape promoted and sold Accused Products.

388. The Asserted Trademark relevant to Bape’s violations is also the subject of a duly issued United States Trademark Registration.

b. Bape’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

389. As shown in Figure 38 below, Bape’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 38: Representative Images of Bape’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="237 1108 490 1142">ABC Camo ApeSta</p>		

c. Bape Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

390. Bape’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Bape’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Bape’s intentional copying.

d. Bape Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

391. On information and belief, Bape promotes and sells its Accused Products at its retail stores in the United States and on the Internet. *See* ABC Canvas APE STA Low, Bape,

<http://us.bape.com/blogs/news/14091541-abc-canvas-ape-sta-low> (last visited Oct. 1, 2014), Exhibit 132.

392. On information and belief, Bape's Accused Products have been promoted and sold at approximately \$208. *See* Exhibit 23.

393. On information and belief, Bape promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Bape's Accused Products

394. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Bape's Accused Products when confronted with promotions and sales of Bape's Accused Products.

395. In the post-sale context, where actual or potential consumers of shoes may only see Bape's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Bape's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Bape's Accused Products Are Likely to Cause Confusion and Dilutive Associations

396. Due to the overwhelming similarities between Bape's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Bape or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

397. On information and belief, Bape intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Bape's Accused Products have given rise to unwanted and unauthorized associations with Converse. *See Going Bape*, Status (Apr. 27, 2010), <http://statusmagonline.com/bape-summer-2010-looks-like-chuck-taylors/>, Compilation Exhibit 133 at 1 (annotated); Highsnobiety (Jul. 14, 2011), <http://www.highsnobiety.com/2011/07/14/ursus-bape-canvas-hi-top-sneakers/ursus-bape-chuck-taylor-sneakers/> (last visited Aug. 31, 2014), Compilation Exhibit 133 at 6 (annotated).

T. OPPO Original Corp.

398. On information and belief, Respondent OPPO Original Corp. ("OPPO") is a California corporation with its principal place of business located at 108-118 Brea Canyon Road, City of Industry, CA 91789. *See Dun & Bradstreet Business Directory for OPPO*, <http://www.dandb.com/businessdirectory/oppooriginalcorp-walnut-ca-17785944.html> (last visited Mar. 11, 2014), Exhibit 134; *see also* California Secretary of State Business Entity Detail for OPPO Original Corp., Exhibit 135.

1. OPPO's Background

399. OPPO is a shoe and boots manufacturer located in the City of Industry region of California. *See* Exhibit 134.

400. On February 7, 2012, Converse sent a cease and desist letter to OPPO demanding that it stop violating the Converse Midsole Trademark. OPPO refused to enter into a settlement agreement. On information and belief, OPPO continued selling Accused Products.

2. OPPO's Accused Products

401. OPPO's Accused Products include at least its "Neo" footwear products and colorable imitations thereof. Representative images of OPPO's Accused Products are attached as Exhibit 136.

402. On information and belief, OPPO has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

403. On information and belief, in addition to the Accused Products, OPPO promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* OPPO, Sears, http://www.sears.com/search=oppo%20shoes?storeId=10153&catalogId=12605&viewItems=50&levels=Clothing%2C+Shoes+%26+Jewelry_Shoes_Women%27s+Shoes&vDropDown=defaultOpt&sLevel=0&redirectType=SKIP_LEVEL&prop17=oppo%20shoes (last visited Aug. 31, 2014), Exhibit 137.

3. OPPO's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

404. On information and belief, OPPO manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States OPPO's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before OPPO Promoted and Sold Accused Products




405. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before OPPO promoted and sold Accused Products.

406. The Asserted Trademark relevant to OPPO’s violations is also the subject of a duly issued United States Trademark Registration.

b. OPPO’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

407. As shown in Figure 39 below, OPPO’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 39: Representative Images of OPPO’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="337 1108 391 1140">Neo</p>		

c. OPPO Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

408. OPPO’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between OPPO’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to OPPO’s intentional copying.

d. OPPO Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

409. On information and belief, OPPO promotes and sells its Accused Products at retail stores in the United States and on the Internet. For example, on information and belief,

OPPO sells Accused Products at Sears retail stores. *See* OPPO Neo-13, Sears, <http://www.sears.com/oppo-neo-13-women-s-chuck-taylor-style/p-000000000000000075350000000000NEO-13-ICEP?prdNo=2&blockNo=2&blockType=G2> (last visited Aug. 31, 2014), Exhibit 138.

410. On information and belief, OPPO's Accused Products have been promoted and sold at approximately \$17. *See* Exhibit 23.

411. On information and belief, OPPO promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by OPPO's Accused Products

412. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of OPPO's Accused Products when confronted with promotions and sales of OPPO's Accused Products.

413. In the post-sale context, where actual or potential consumers of shoes may only see OPPO's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of OPPO's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. OPPO's Accused Products Are Likely to Cause Confusion and Dilutive Associations

414. Due to the overwhelming similarities between OPPO's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of

confusion between OPPO or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

415. On information and belief, OPPO intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, OPPO's Accused Products have given rise to unwanted and unauthorized associations with Converse. *See* OPPO Neo-13 Women's Chuck Taylor Style Hi Top Sneaker, ShopYourWay, <http://www.shopyourway.com/oppo-neo-13-womens-chuck-taylor-style-hi-top-snea/209608689> (last visited Aug. 31, 2014), Exhibit 139 at 1, 2 (annotated).

U. Orange Clubwear, Inc., d/b/a Demonia Deviant

416. On information and belief, Respondent Orange Clubwear, Inc., d/b/a Demonia Deviant ("Demonia Deviant"), is a California corporation with its principal place of business located at 14726 Goldenwest Street, Suite B, Westminster, CA 92683. *See* Dun & Bradstreet Report for Demonia Deviant, Exhibit 140.

1. Demonia Deviant's Background

417. Demonia Deviant describes its Demonia product line as "edgy footwear for both sexes [that] caters to a wide variety of subcultures, and is offered in a variety of styles - from sandals, sneakers, and Mary Janes to creepers, Goth, and platform boots." *See* Demonia, Orange Clubwear, <http://www.orangeclubwear.com/category-s/1872.htm> (last visited Aug. 31, 2014), Exhibit 141.

2. Demonia Deviant's Accused Products

418. Demonia Deviant's Accused Products include at least its "Deviant 101" footwear products and colorable imitations thereof. Representative images of Demonia Deviant's Accused Products are attached as Exhibit 142.

419. On information and belief, Demonia Deviant has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

420. On information and belief, in addition to the Accused Products, Demonia Deviant promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Exhibit 141.

3. Demonia Deviant's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

421. On information and belief, Demonia Deviant manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Demonia Deviant's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Demonia Deviant Promoted and Sold Accused Products


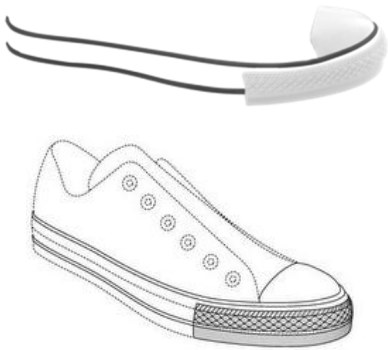

422. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Demonia Deviant promoted and sold Accused Products.

423. The Asserted Trademark relevant to Demonia Deviant's violations is also the subject of a duly issued United States Trademark Registration.

b. Demonia Deviant’s Accused Products Are Virtually Identical to the Converse Midsole Trademark

424. As shown in Figure 40 below, Demonia Deviant’s Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 40: Representative Images of Demonia Deviant’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p>Deviant 101</p>		

c. Demonia Deviant Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

425. Demonia Deviant’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Demonia Deviant’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Demonia Deviant’s intentional copying.

d. Demonia Deviant Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

426. On information and belief, Demonia Deviant promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Demonia Deviant-101, Sears, <http://www.sears.com/demonia-deviant-101-men-s-women-s-high-tops->

sneakers/p000000000000000012297 00000000DEVIANT101BWP?

prdNo=12&blockNo=12&blockType=G12 (last visited Aug. 31, 2014), Exhibit 143. For example, on information and belief, Demonia Deviant sells Accused Products at Sears retail stores, Sinistersoles.com, and Rivithead.com.

427. On information and belief, Demonia Deviant's Accused Products have been promoted and sold for approximately \$35. *See* Exhibit 23.

428. On information and belief, Demonia Deviant promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Demonia Deviant's Accused Products

429. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Demonia Deviant's Accused Products when confronted with promotions and sales of Demonia Deviant's Accused Products.

430. In the post-sale context, where actual or potential consumers of shoes may only see Demonia Deviant's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Demonia Deviant's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Demonia Deviant's Accused Products Are Likely to Cause Confusion and Dilutive Associations

431. Due to the overwhelming similarities between Demonia Deviant's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a

likelihood of confusion between Demonia Deviant or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

V. Ositos Shoes, Inc., d/b/a Collection'O

432. On information and belief, Respondent Ositos Shoes, Inc., d/b/a Collection'O ("Ositos"), is a California corporation with its principal place of business located at 9605 Rush Street, South El Monte, CA 91733. *See* Corporation Wiki Report for Ositos, Exhibit 144; *see also* California Secretary of State Business Entity Detail for Ositos Shoes, Inc., Exhibit 145.

1. Ositos' Background

433. Ositos is a shoe manufacturer and retailer located in the City of Industry region of California. *See* Exhibit 144.

434. On August 10, 2010, and again on February 8, 2012, Converse sent cease and desist letters to Ositos demanding, *inter alia*, that it stop violating the Converse Midsole Trademark. Ositos refused to enter into a settlement agreement. On information and belief, it continued selling Accused Products.

2. Ositos' Accused Products

435. Ositos' Accused Products include at least its "Men's Low Top Canvas" footwear products and colorable imitations thereof. Representative images of Ositos' Accused Products are attached as Exhibit 146.

436. On information and belief, Ositos has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

437. On information and belief, in addition to the Accused Products, Ositos promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Ositos, Zulily,

<http://www.zulily.com/brand/ositos-shoes.html> (last visited Aug. 31, 2014), Exhibit 147 (excerpt from website).

3. Ositos' Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

438. On information and belief, Ositos manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Ositos' Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Ositos Promoted and Sold Accused Products




439. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Ositos promoted and sold Accused Products.

440. The Asserted Trademark relevant to Ositos' violations is also the subject of a duly issued United States Trademark Registration.

b. Ositos' Accused Products Are Virtually Identical to the Converse Midsole Trademark

441. As shown in Figure 41 below, Ositos' Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 41: Representative Image of Ositos' Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="207 688 527 716">Men's Low Top Canvas</p>		

c. Ositos Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

442. Ositos' intent to create associations with Converse and to free ride on Converse's goodwill is evident in the close similarities between Ositos' Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Ositos' intentional copying.

d. Ositos Promotes and Sells Accused Products in Competition With Converse's Promotion and Sales of Products Bearing the Asserted Trademarks

443. On information and belief, Ositos promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* White & Red Sneaker, Zulily, http://www.zulily.com/p/white-red-classic-sneaker-5675-9371238.html?pos=27&bid=6994&ref=brand&ns=ns_507904330|1409617957082 (last visited Oct. 1, 2014), Exhibit 148.

444. On information and belief, Ositos' Accused Products have been promoted and sold at approximately \$21, *see* Exhibit 23, and as low as \$12, *see* Exhibit 148.

445. On information and belief, Ositos promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to teen boys and girls, and adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Ositos' Accused Products

446. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Ositos' Accused Products when confronted with promotions and sales of Ositos' Accused Products.

447. In the post-sale context, where actual or potential consumers of shoes may only see Ositos' Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Ositos' Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Ositos' Accused Products Are Likely to Cause Confusion and Dilutive Associations

448. Due to the overwhelming similarities between Ositos' Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Ositos or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

W. PW Shoes Inc.

449. On information and belief, Respondent PW Shoes Inc. ("PW"), is a New York corporation with its principal place of business located at 5830 Grand Avenue #3A, Maspeth, NY 11378 and 64-29 Bell Blvd, Oakland Garden, NY 11364. *See* Contact Us, PW Shoes,

<http://nypwshoes.com/index.php?route=information/contact> (last visited Oct. 1, 2014), Exhibit 149; *see also* NYS Department of State Division of Corporations Entity Information for PW, Exhibit 150.

1. PW's Background

450. PW is a footwear distributor, providing “beachy flip-flops, formal flats and everything in between.” *See* Exhibit 149.

2. PW's Accused Products

451. PW's Accused Products include at least its “Two-Tone Shoe Canvas” footwear products and colorable imitations thereof. Representative images of PW's Accused Products are attached as Exhibit 151.

452. On information and belief, PW has promoted and sold additional shoe models bearing the Converse Midsole and Outsole Trademarks under various names and style descriptions.

453. On information and belief, in addition to the Accused Products, PW promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See, e.g.*, Shoes, PW, http://nypwshoes.com/index.php?route=product/category&path=39_49 (last visited Aug. 31, 2014), Exhibit 152.

3. PW's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark and the Converse Outsole Trademark

454. On information and belief, PW manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States PW's Accused Products shown below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before PW Promoted and Sold Accused Products


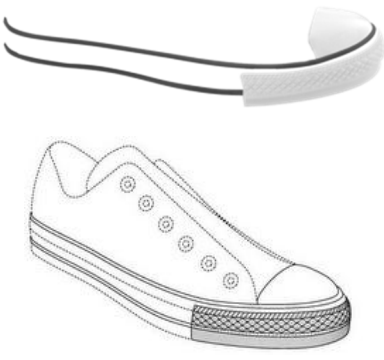


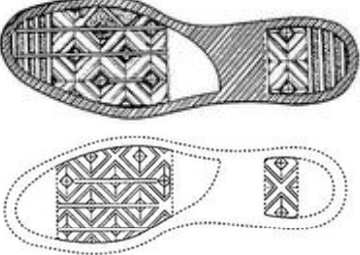

455. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before PW promoted and sold Accused Products.

456. Each of the Asserted Trademarks relevant to PW's violations is also the subject of duly issued United States Trademark Registrations.

b. PW's Accused Products Are Virtually Identical to the Converse Midsole Trademark and the Converse Outsole Trademark

457. As shown in Figure 42 below, PW's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark and the Converse Outsole Trademark.

FIGURE 42: Representative Images of PW’s Accused Products and the Converse Asserted Trademarks

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 Two-Tone Shoe Canvas		
 Two-Tone Shoe Canvas		

c. PW Intended to Copy the Converse Midsole Trademark and the Converse Outsole Trademark and to Infringe and Dilute the Converse Midsole Trademark and the Converse Outsole Trademark

458. PW’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between PW’s Accused Products on the one hand, and the Converse Midsole Trademark and the Converse Outsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to PW’s intentional copying.

d. PW Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

459. On information and belief, PW promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See Women’s Canvas Shoes, PW,*

http://www.nypwshoes.com/index.php?route=product/product&path=39_27&product_id=849
(last visited Aug. 31, 2014), Exhibit 153.

460. On information and belief, PW's Accused Products have been promoted and sold for approximately \$11. *See* Exhibit 23.

461. On information and belief, PW promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by PW's Accused Products

462. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of PW's Accused Products when confronted with promotions and sales of PW's Accused Products.

463. In the post-sale context, where actual or potential consumers of shoes may only see PW's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of PW's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. PW's Accused Products Are Likely to Cause Confusion and Dilutive Associations

464. Due to the overwhelming similarities between PW's Accused Products and the Converse Midsole and Outsole Trademarks, and for the reasons set forth above, there is (a) a likelihood of confusion between PW or its Accused Products, and Converse, the Converse Midsole Trademark, and/or the Converse Outsole Trademark, and/or (b) a likelihood of dilution.

X. Ralph Lauren Corporation

465. On information and belief, Respondent Ralph Lauren Corporation (“Ralph Lauren”), is a Delaware corporation with its principal place of business located at 650 Madison Ave, Floor C1, New York, NY 10022. *See* Dun & Bradstreet Report for Ralph Lauren (last updated Aug. 28, 2012), Exhibit 154; *see also* NYS Department of State Division of Corporations Entity Information for Ralph Lauren Corporation, Exhibit 155.

1. Ralph Lauren’s Background

466. Ralph Lauren purports to engage in the design, marketing and distribution of products, including men’s, women’s and children’s apparel, accessories (including footwear), fragrances, and home furnishing. *See* Ralph Lauren Corp (RL), Reuters, <http://www.reuters.com/finance/stocks/companyProfile?symbol=RL> (last visited Aug. 31, 2014), Exhibit 156.

2. Ralph Lauren’s Accused Products

467. Ralph Lauren’s Accused Products include at least its “Ranell” footwear products and colorable imitations thereof. Representative images of Ralph Lauren’s Accused Products are attached as Exhibit 157.

468. On information and belief, Ralph Lauren has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

469. On information and belief, in addition to the Accused Products, Ralph Lauren promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* Ralph Lauren, http://www.ralphlauren.com/family/index.jsp?categoryId=24424616&view=99&cp=1760782.1898624&ab=ln_women_cs_denim&supplyshoes, Exhibit 158.

3. Ralph Lauren's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

470. On information and belief, Ralph Lauren manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Ralph Lauren's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Ralph Lauren Promoted and Sold Accused Products




471. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Ralph Lauren promoted and sold Accused Products.

472. The Asserted Trademark relevant to Ralph Lauren's violations is also the subject of a duly issued United States Trademark Registration.

b. Ralph Lauren's Accused Products Are Virtually Identical to the Converse Midsole Trademark

473. As shown in Figure 43 below, Ralph Lauren's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 43: Representative Image of Ralph Lauren’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p align="center">Ranell</p>		

c. Ralph Lauren Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

474. Ralph Lauren’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Ralph Lauren’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Ralph Lauren’s intentional copying.

d. Ralph Lauren Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

475. On information and belief, Ralph Lauren promotes and sells its Accused Products at its retail stores in the United States and on the Internet. See Ranell Sneaker, Ralph Lauren Website (cached), <http://webcache.googleusercontent.com/search?q=cache:yJYtDxLqfAJ:www.ralphlauren.com/product/index.jsp%3FproductId%3D23745896+&cd=1&hl=en&ct=clnk&gl=us> (last visited Sept. 25, 2014, from Google Cache), Exhibit 159.

476. On information and belief, Ralph Lauren's Accused Products have been promoted and sold at approximately \$41. *See* Exhibit 23.

477. On information and belief, Ralph Lauren promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Ralph Lauren's Accused Products

478. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Ralph Lauren's Accused Products when confronted with promotions and sales of Ralph Lauren's Accused Products.

479. In the post-sale context, where actual or potential consumers of shoes may only see Ralph Lauren's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Ralph Lauren's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Ralph Lauren's Accused Products Are Likely to Cause Confusion and Dilutive Associations

480. Due to the overwhelming similarities between Ralph Lauren's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Ralph Lauren or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

481. On information and belief, Ralph Lauren intended to create associations with Converse when it copied the Converse Midsole Trademark. Indeed, Ralph Lauren's Accused

Products have given rise to unwanted and unauthorized associations with Converse. *See* Footware & Softgoods, Core 77, <http://boards.core77.com/viewtopic.php?t=23976> (last visited Aug. 31, 2014), Exhibit 160, at 2 (annotated).

Y. Shenzhen Foreversun Industrial Co., Ltd (a/k/a Shenzhen Foreversun Shoes Co., Ltd)

482. On information and belief, Respondent Shenzhen Foreversun Industrial Co., Ltd (a/k/a Shenzhen Foreversun Shoes Co., Ltd) (“Foreversun”) is a Chinese company with its principal place of business located at Room 1109-1112, F11, Yousong Science & Technology Building, 1st Road of Donghuan, Longhua Bao’an, Shenzhen City, 518109 Guangdong, China. *See* Contact, Foreversun, <http://www.cn-foreversun.com/contact.asp> (last visited Oct. 1, 2014), Exhibit 161.

1. Foreversun’s Background

483. Foreversun states that it was founded in 2001 and specializes in garments and ladies’ shoes. *See* About Us, Foreversun, <http://www.cn-foreversun.com/about.asp> (last visited Oct. 1, 2014), Exhibit 162. According to its website, Foreversun’s shoe factories are located in Guangdong, Fujian, and Zhejiang in China. *Id.*

2. Foreversun’s Accused Products

484. Foreversun’s Accused Products include at least its “Blue” footwear products and all colorable imitations thereof. Representative images of Foreversun’s Accused Products are attached as Exhibit 163.

485. On information and belief, Foreversun has promoted and sold additional shoe models bearing the Asserted Trademarks under various names and style descriptions.

486. On information and belief, in addition to the Accused Products, Foreversun promotes and sells a wide variety of shoe designs that do not include the designs of its Accused

Products and that do not violate the Asserted Trademarks. *See* Shoes, Foreversun, http://www.cn-foreversun.com/Shoes_product.asp?ListPage=5&MID=35 (last visited Oct. 8, 2014), Exhibit 164.

3. Foreversun's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark and the Converse Outsole Trademark

487. On information and belief, Foreversun manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Foreversun's Accused Products shown below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Foreversun Promoted and Sold Accused Products





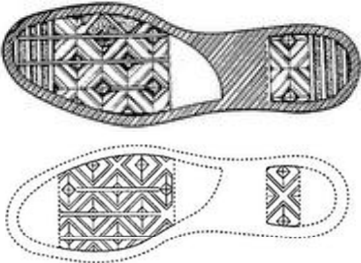

488. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Foreversun promoted and sold Accused Products.

489. Each of the Asserted Trademarks relevant to Foreversun's violations is also the subject of duly issued United States Trademark Registrations.

b. Foreversun's Accused Products Are Virtually Identical to the Converse Midsole and Outsole Trademarks

490. As shown in Figure 44 below, Foreversun's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark and the Converse Outsole Trademark.

FIGURE 44: Representative Images of Foreversun’s Accused Products and the Converse Asserted Trademarks

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="332 642 396 674">Blue</p>		
 <p data-bbox="332 1010 396 1041">Blue</p>		

c. Foreversun Intended to Copy the Converse Midsole Trademark and the Converse Outsole Trademark and to Infringe and Dilute the Converse Midsole Trademark and the Converse Outsole Trademark

491. Foreversun’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Foreversun’s Accused Products on the one hand, and the Converse Midsole Trademark and the Converse Outsole Trademark on the other hand.

d. Foreversun Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

492. On information and belief, Foreversun promotes and sells its Accused Products at retail stores in the United States and on the Internet. *See* Shoes, Foreversun, <http://www.cn->

foreversun.com/Shoes_product.asp?MID=35&NID=481 (last visited Aug. 31, 2014), Exhibit 165 (image of an exemplary shoe on Foreversun's website).

493. On information and belief, Foreversun promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Foreversun's Accused Products

494. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Foreversun's Accused Products when confronted with promotions and sales of Foreversun's Accused Products.

495. In the post-sale context, where actual or potential consumers of shoes may only see Foreversun's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Foreversun's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Foreversun's Accused Products Are Likely to Cause Confusion and Dilutive Associations

496. Due to the overwhelming similarities between Foreversun's Accused Products and the Converse Midsole and Outsole Trademarks, and for the reasons set forth above, there is (a) a likelihood of confusion between Foreversun or its Accused Products, and Converse, the Converse Midsole Trademark, and/or the Converse Outsole Trademark, and/or (b) a likelihood of dilution.

Z. Shoe Shox

497. On information and belief, Respondent Shoe Shox (“Shoe Shox”) is a d/b/a for one or more foreign factories and/or importers selling Accused Products through online shoe shopping sites, primarily Zulily, Inc., at zulily.com (“Zulily”). On information and belief, Shoe Shox can be contacted through Zulily, which is located at 2601 First Avenue South, Seattle, WA 98134. *See* Washington Secretary of State Corporations Division Data for Zulily, Exhibit 166; Hoovers Profile for Zulily, Exhibit 167.

1. Shoe Shox’s Accused Products

498. Shoe Shox’s Accused Products include at least its “Navy Sneaker” footwear products and all colorable imitations thereof. Representative images of Shoe Shox’s Accused Products are attached as Exhibit 168.

499. On information and belief, Shoe Shox has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

500. A wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks are available to Shoe Shox.

2. Shoe Shox’s Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark and the Converse Outsole Trademark

501. On information and belief, Shoe Shox manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Shoe Shox’s Accused Products shown below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Shoe Shox Promoted and Sold Accused Products

502. As a result of Converse’s near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted





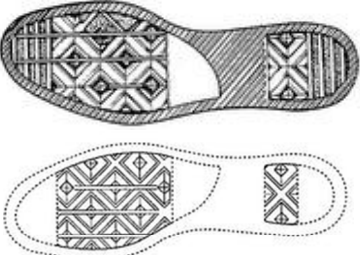

Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Shoe Shox promoted and sold Accused Products.

503. Each of the Asserted Trademarks relevant to Shoe Shox's violations is also the subject of duly issued United States Trademark Registrations.

b. Shoe Shox's Accused Products Are Virtually Identical to the Converse Midsole Trademark and the Converse Outsole Trademark

504. As shown in Figure 45 below, Shoe Shox's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark and the Converse Outsole Trademark.

FIGURE 45: Representative Images of Shoe Shox’s Accused Products and the Converse Asserted Trademarks

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p align="center">Navy Sneaker</p>		
 <p align="center">Navy Sneaker</p>		

c. Shoe Shox Intended to Copy the Converse Midsole Trademark and the Converse Outsole Trademark and to Infringe and Dilute the Converse Midsole Trademark and the Converse Outsole Trademark

505. Shoe Shox’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Shoe Shox’s Accused Products on the one hand, and the Converse Midsole Trademark and the Converse Outsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Shoe Shox’s intentional copying.

d. Shoe Shox Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

506. On information and belief, Shoe Shox promotes and sells its Accused Products in retail stores in the United States and on the Internet. *See* Shoe Shox, Zulily,

<http://www.zulily.com/shoe-shox?fromSearch=true&searchTerm=shoe+shox> (last visited Aug. 31, 2014), Exhibit 169.

507. On information and belief, Shoe Shox's Accused Products have been promoted and sold for approximately \$7. *See* Exhibit 23.

508. On information and belief, Shoe Shox promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to young boys and girls.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Shoe Shox's Accused Products

509. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Shoe Shox's Accused Products when confronted with promotions and sales of Shoe Shox's Accused Products.

510. In the post-sale context, where actual or potential consumers of shoes may only see Shoe Shox's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Shoe Shox's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Shoe Shox's Accused Products Are Likely to Cause Confusion and Dilutive Associations

511. Due to the overwhelming similarities between Shoe Shox's Accused Products and the Converse Midsole and Outsole Trademarks, and for the reasons set forth above, there is (a) a likelihood of confusion between Shoe Shox or its Accused Products, and Converse, the Converse Midsole Trademark, and/or the Converse Outsole Trademark, and/or (b) a likelihood of dilution.

AA. Tory Burch LLC

512. On information and belief, Respondent Tory Burch LLC (“Tory Burch”), is a Delaware corporation with its principal place of business located at 11 West 19th Street, Seventh Floor, New York, NY 10011. *See* Contact Us, Tory Burch, http://www.toryburch.com/on/demandware.store/Sites-ToryBurch_US-Site/default/CustomerService-ContactUs (last visited Jul. 27, 2014), Compilation Exhibit 170 at 1; *see also* NYS Department of State Division of Corporations Entity Information for Tory Burch, Exhibit 171.

1. Tory Burch’s Background

513. Tory Burch purports to be an American lifestyle brand, launched in 2004, offering “ready-to-wear, shoes, handbags, accessories, and beauty” products. Compilation Exhibit 170 at 3.

514. On December 2, 2013, Converse sent a cease and desist letter to Tory Burch demanding, *inter alia*, that it stop violating the Converse Midsole Trademark. Tory Burch refused to enter into a settlement agreement. On information and belief, it continued selling Accused Products. On information and belief, Tory Burch possesses additional inventory of products bearing one or more of the Asserted Trademarks.

2. Tory Burch’s Accused Products

515. Tory Burch’s Accused Products include at least its “Benjamin” footwear products and colorable imitations thereof. Representative images of Tory Burch’s Accused Products are attached as Exhibit 172.

516. On information and belief, Tory Burch has promoted and sold additional shoe models bearing the Converse Midsole Trademark under various names and style descriptions.

517. On information and belief, in addition to the Accused Products, Tory Burch promotes and sells a wide variety of shoe designs that do not include the designs of its Accused Products and that do not violate the Asserted Trademarks. *See* shoes, Tory Burch, <http://www.toryburch.com/shoes/> (last visited Aug. 31, 2014), Exhibit 165 (excerpt from website).

3. Tory Burch's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

518. On information and belief, Tory Burch manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States Tory Burch's Accused Products shown below that infringe and/or are likely to dilute the Converse Midsole Trademark.

a. Converse Owned Protectable and Famous Trademark Rights Before Tory Burch Promoted and Sold Accused Products


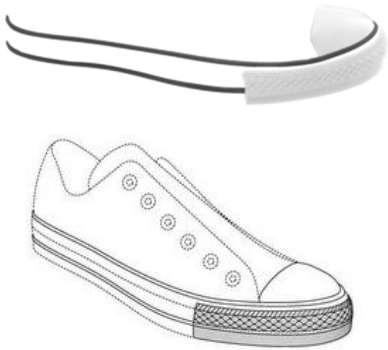

519. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Tory Burch promoted and sold Accused Products.

520. The Asserted Trademark relevant to Tory Burch's violations is also the subject of a duly issued United States Trademark Registration.

b. Tory Burch's Accused Products Are Virtually Identical to the Converse Midsole Trademark

521. As shown in Figure 46 below, Tory Burch's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

FIGURE 46: Representative Image of Tory Burch’s Accused Products and the Converse Asserted Trademark

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p align="center">Benjamin</p>		

c. Tory Burch Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

522. Tory Burch’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Tory Burch’s Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Tory Burch’s intentional copying.

d. Tory Burch Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

523. On information and belief, Tory Burch promotes and sells its Accused Products at its retail stores in the United States and on the Internet. For example, on information and belief, Tory Burch sells its Accused Products at Nordstrom retail stores. *See* Tory Burch “Benjamin,” Nordstrom, <http://shop.nordstrom.com/s/tory-burch-benjamin-high-top-sneaker/3545279>, Exhibit 174.

524. On information and belief, Tory Burch’s Accused Products have been promoted and sold for approximately \$149. *See* Exhibit 23.

525. On information and belief, Tory Burch promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Tory Burch's Accused Products

526. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Tory Burch's Accused Products when confronted with promotions and sales of Tory Burch's Accused Products.

527. In the post-sale context, where actual or potential consumers of shoes may only see Tory Burch's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Tory Burch's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Tory Burch's Accused Products Are Likely to Cause Confusion and Dilutive Associations

528. Due to the overwhelming similarities between Tory Burch's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Tory Burch or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

BB. Zulily, Inc.

529. On information and belief, Respondent Zulily, Inc. ("Zulily") is a Delaware corporation with its principal place of business located at 2601 Elliott Avenue, Suite 200, Seattle,

Washington 98121. *See* Washington Secretary of State Corporations Division Registration Data Search, Exhibit 166; Hoovers Profile for Zulily, Exhibit 167.

1. Zulily's Background

530. Zulily is reported to be “an online retailer that caters to women and mothers,” and “sells women and children’s apparel and accessories, home décor and kitchen accessories, and toys.” Hoovers Profile for Zulily, Exhibit 167. Further, Zulily “specializes in offering products from smaller boutique vendors,” and “operates as a ‘flash sales’ retailer, offering sale and clearance merchandise from various vendors for a limited period of time.” *Id.* Among other things, Zulily promotes, sells, and distributes shoes.

2. Zulily's Accused Products

531. Zulily promotes and sells a number of Respondents’ Accused Products, including at least “Chatties” footwear products by Gina Group, “Lilly of New York – Low” footwear products by Lilly New York, “White Low-Top” footwear products by Ositos, “Navy Two-Tone” footwear products by PW, and “Navy” footwear products by Shoe Sox, as well as colorable imitations thereof. Representative images of Zulily’s Accused Products are attached as Exhibit 175.

532. On information and belief, Zulily has promoted and sold additional shoe models bearing the Converse Midsole Trademark and the Converse Outsole Trademark under various names and style descriptions.

533. On information and belief, in addition to the Accused Products, Zulily promotes and sells a wide variety of shoe designs that do not include the designs of Accused Products and that do not violate the Asserted Trademarks. *See* Women’s Shoes, Zulily,

http://www.zulily.com/shop-by-size/women/shoe?ns=ns_507904330|1412113394519 (last visited Sep. 30, 2014), Exhibit 176.

3. Zulily's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark and the Converse Outsole Trademark

534. On information and belief, Zulily manufactures, imports into the United States, promotes, distributes, and/or sells after importation in the United States the Accused Products shown below that infringe and/or are likely to dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Zulily Promoted and Sold Accused Products

535. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity of the Asserted Trademarks, and attempts to copy the Asserted Trademarks by others, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Zulily promoted and sold Accused Products.

536. Each of the Asserted Trademarks relevant to Zulily's violations is also the subject of duly issued United States Trademark Registrations.


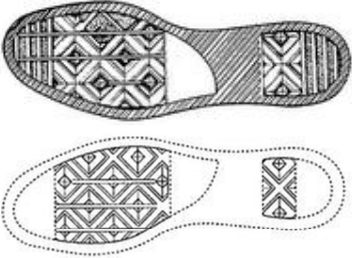

b. Zulily's Accused Products Are Virtually Identical to the Converse Midsole Trademark and the Converse Outsole Trademark

537. As shown in Figure 47 below, Zulily's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark and the Converse Outsole Trademark.

FIGURE 47: Representative Images of Zulily's Accused Products and the Converse Asserted Trademarks

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="228 741 503 810">Gina Group: Chatties Zebra Hi-Top</p>		
 <p data-bbox="207 1152 521 1222">Ositos: Men's Low-Top Canvas</p>		
 <p data-bbox="204 1598 526 1667">Lilly New York: Canvas Old School</p>		

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="203 438 521 510">Lilly New York: Canvas Old School</p>		
 <p data-bbox="203 905 521 936">PW: Two-Tone Sneaker</p>		
 <p data-bbox="203 1188 521 1220">PW: Two-Tone Sneaker</p>		
 <p data-bbox="203 1644 521 1675">Shoe Shox: Navy Sneaker</p>		

Accused Product	Converse Asserted Trademark	Representative Converse Shoe
 <p data-bbox="196 453 527 485">Shoe Shox: Navy Sneaker</p>		

c. Zulily Intended to Copy the Converse Midsole Trademark and the Converse Outsole Trademark and to Infringe and Dilute the Converse Midsole Trademark and the Converse Outsole Trademark

538. Zulily’s intent to create associations with Converse and to free ride on Converse’s goodwill is evident in the close similarities between Zulily’s Accused Products on the one hand, and the Converse Midsole Trademark and the Converse Outsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Zulily’s intentional copying.

d. Zulily Promotes and Sells Accused Products in Competition With Converse’s Promotion and Sales of Products Bearing the Asserted Trademarks

539. On information and belief, Zulily promotes and sells its Accused Products through its online shopping site. *See, e.g.,* Zulily, [http://www.zulily.com/collectiono?fromSearch=true&searchTerm=Collection%27O](http://www.zulily.com/collectiono?fromSearch=true&searchTerm=Collection%27O;); <http://www.zulily.com/LILLY+of+NEW+YORK?ref=autocomplete&fromSearch=true&searchTerm>; <http://www.zulily.com/shoe-shox?fromSearch=true&searchTerm=Shoe+Shox>; http://www.zulily.com/p/light-pink-black-zebra-hi-top-sneaker-71313-6894522.html?ns=ns_507904330|1409590651784 (last visited Sep. 30, 2014), Compilation Exhibit 177.

540. On information and belief, Zulily sells Accused Products for between approximately \$7 and approximately \$21. *See* Exhibit 23.

541. On information and belief, Zulily promotes and sells its Accused Products as casual or lifestyle shoe designs primarily to adult women and young girls.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Zulily's Accused Products

542. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Zulily's Accused Products when confronted with promotions and sales of Zulily's Accused Products.

543. In the post-sale context, where actual or potential consumers of shoes may only see Zulily's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Zulily's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Zulily's Accused Products Are Likely to Cause Confusion and Dilutive Associations

544. Due to the overwhelming similarities between Zulily's Accused Products and the Converse and Outsole Trademarks, and for the reasons set forth above, there is (a) a likelihood of confusion between Zulily or its Accused Products, and Converse, the Converse Midsole Trademark, and/or the Converse Outsole Trademark, and/or (b) a likelihood of dilution.

CC. Fujian Xinya I&E Trading Co. Ltd.

545. On information and belief, Respondent Fujian Xinya I&E Trading Co. Ltd. ("Xinya"), a/k/a Xinya Footwear and Clothing Import and Export Co. Ltd., specializes in design, development, ecommerce, import and export trade, warehousing logistics and manufacturing,

with an address at Floor 4, Building A, China Shoes Capital, ChendaiTown, Jinjiang, Fujian 362211, China. *See* Contact Us, Xinya, www.china0595.com (last visited Aug. 29, 2014), Compilation Exhibit 178 at 1 (translated excerpt of website by Google Chrome). On information and belief, Xinya is a subsidiary of Fujian Xinya Group Co., Ltd., located at Fujian Jinjiang Dora Street, Building 9-10 Frontier Community Building, New Sub-Group 362200 China. *See* Contact, Xinya, www.fjxinya.com/contactus, Compilation Exhibit 178 at 2 (translated excerpt of website by Google Chrome); *see also* Business Registry Record for Fujian Xinya Group Co. Ltd., Compilation Exhibit 178 at 5 – 6 (with translation).

1. Xinya's Background

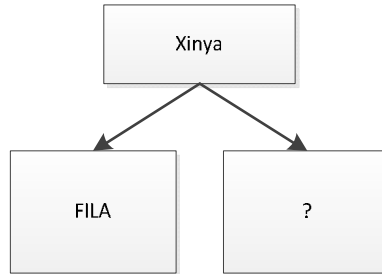
546. According to Xinya's website, it has "excellent design capability [for footwear]...and [] can make designs according to [its] customers' requirements." *See* About, Xinya, www.china0595.com/XINYA_ENGLISH2/about_Us.php, Compilation Exhibit 179 at 1. Xinya's website promotes its "leisure shoes," which include "canvas shoes." Products, Xinya, http://www.china0595.com/XINYA_ENGLISH2/products.php?product_cid=41 (last visited Sept. 29, 2014), Compilation Exhibit 179 at 2.

547. On information and belief, Xinya has the ability to design and manufacture a large variety of footwear through its own manufacturing factory, Jinjiang Xinya Sports Goods Co Ltd., as well as through its partner factories.

2. Xinya's Distribution of Accused Products

548. On information and belief, Xinya has imported and/or sold for importation Accused Products, including selling for importation Accused Products to at least Respondent FILA as depicted in Figure 48 below. *See* Compilation Exhibit 179. Converse expects to learn additional information regarding Xinya's and FILA's supply chains through discovery.

FIGURE 48: Suspected Supply Chain of Accused Products Based on Information Known at Filing of Complaint



549. On information and belief, Xinya exported 273,756 pairs of footwear to FILA in the United States in 2012 and 2013, including one or more Accused Products. *See* Excerpt of Import Records for Xinya, Confidential Exhibit 180.

3. Previous Seizures of Unauthorized Converse Products Exported by Xinya

550. On information and belief, customs in Xiamen, China seized 23 pairs of counterfeit Chuck Taylor All Star shoes exported by Xinya, on or around July 14, 2011. *See* Documentation Relating to Seizure, Confidential Compilation Exhibit 181 (with translation).

4. Xinya’s Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

551. On information and belief, Xinya has promoted, imported, and/or sold for importation into the United States at least Respondent FILA’s Accused Products shown above that infringe and/or dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Xinya Promoted and Sold for Importation Accused Products

552. As a result of Converse’s near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous

trademark rights in the Asserted Trademarks before Xinya promoted and sold for importation Accused Products.

553. The Asserted Trademark relevant to Xinya's violations is also the subject of a duly issued United States Trademark Registration.

b. Xinya's Accused Products Are Virtually Identical to the Converse Midsole Trademark

554. On information and belief, as shown above in connection with FILA's Accused Products, Xinya's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

c. Xinya Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

555. Xinya's intent to create associations with Converse and to free ride on Converse's goodwill is evident in the close similarities between Xinya's Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Xinya's intentional copying.

d. Xinya Sells Accused Products in Competition with Converse's Products Bearing the Asserted Trademarks

556. On information and belief, as set forth in more detail above in connection with FILA, Xinya's Accused Products have been promoted and sold at retail stores in the United States and on the Internet, and as casual or lifestyle shoe designs to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Xinya's Accused Products

557. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance

regarding the source, affiliation, sponsorship, or association of Xinya's Accused Products when confronted with promotions and sales of Xinya's Accused Products.

558. In the post-sale context, where actual or potential consumers of shoes may only see Xinya's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Xinya's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Xinya's Accused Products Are Likely to Cause Confusion and Dilutive Associations

559. Due to the overwhelming similarities between Xinya's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Xinya or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

DD. Zhejiang Ouhai International Trade Co., Ltd.

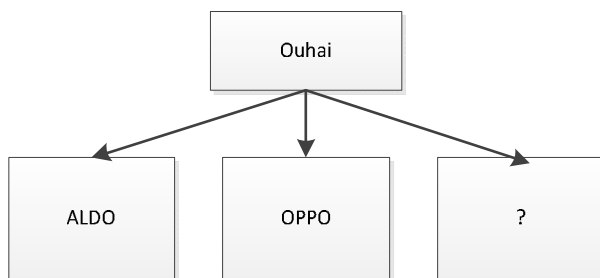
560. On information and belief, Respondent Zhejiang Ouhai International Trade Co., Ltd. ("Ouhai"), a/k/a Zhejiang Ouhai Foreign Trade Corporation and Wenzhou Ouhai Foreign Trade Co., Ltd., is a diversified enterprise group engaged in the import and export of, *inter alia*, footwear through its partner factories with an address at Building B, Jinzhou Building, Wenzhou Avenue, Wenzhou, Zhejiang, China. *See* Contact, Wenzhou Ouhai, http://en.jinzhougrou.com/comcontent_detail/&i=9&comContentId=9.html (last visited Sept. 23, 2014); About Us, Wenzhou Ouhai, http://en.jinzhougrou.com/comcontent_detail/&i=12&comContentId=12.html (last visited Sept. 23, 2014), Compilation Exhibit 182 at 1, 2 (translated website). On information and belief, Ouhai is a subsidiary of Wenzhou Jinzhou Group Co Ltd, located at Jinzhou Industrial Park, Caodai Village, Guoxi Town, Ouhai,

Wenzhou, Zhejiang Province, China. *See* Contact, http://www.jinzhougroupp.com/comcontent_detail/&i=13&comContentId=13.html, Compilation Exhibit 182 at 3.

1. Ouhai's Distribution of Accused Products

561. On information and belief, Ouhai has imported and/or sold for importation Accused Products, including to at least Respondents Aldo and OPPO as depicted in Figure 49 below. Converse expects to learn additional information regarding Ouhai's, Aldo's, and OPPO's supply chains through discovery.

FIGURE 49: Suspected Supply Chain of Accused Products Based on Information Known at Filing of Complaint



562. On information and belief, Ouhai exported 36,984 pairs of footwear to Aldo in the United States in 2011, including one or more pairs of Accused Products. *See* Excerpt of Import Records for Ouhai, Confidential Compilation Exhibit 183. On information and belief, Ouhai has exported 115,716 pairs of footwear to OPPO in the United States between 2011 and 2013, including one or more pairs of Accused Products. *See id.*

2. Previous Seizures of Unauthorized Converse Products Exported by Ouhai

563. On information and belief, customs in Taranto, Italy seized approximately 13,578 pairs of counterfeit Converse footwear, exported by Ouhai, on or before February 1, 2011. *See* Documentation Relating to Seizure, Confidential Compilation Exhibit 184 (with translation).

3. Ouhai's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

564. On information and belief, Ouhai has promoted, imported, and/or sold for importation into the United States at least Aldo's and OPPO's Accused Products shown above that infringe and/or dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Ouhai Promoted and Sold for Importation Accused Products

565. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Ouhai promoted and sold for importation the Accused Products.

566. The Asserted Trademark relevant to Ouhai's violations is also the subject of a duly issued United States Trademark Registration.

b. Ouhai's Accused Products Are Virtually Identical to the Converse Midsole Trademark

567. On information and belief, as shown above in connection with Aldo's and OPPO's Accused Products, Ouhai's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

c. Ouhai Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

568. Ouhai's intent to create associations with Converse and to free ride on Converse's goodwill is evident in the close similarities between Ouhai's Accused Products on

the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Ouhai's intentional copying.

d. Ouhai Sells Accused Products in Competition with Converse's Products Bearing the Asserted Trademarks

569. On information and belief, as set forth in more detail above in connection with Aldo and OPPO, Ouhai's Accused Products have been promoted and sold at retail stores in the United States and on the Internet, and as casual or lifestyle shoe designs to adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Ouhai's Accused Products

570. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Ouhai's Accused Products when confronted with promotions and sales of Ouhai's Accused Products.

571. In the post-sale context, where actual or potential consumers of shoes may only see Ouhai's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Ouhai's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Ouhai's Accused Products Are Likely to Cause Confusion and Dilutive Associations

572. Due to the overwhelming similarities between Ouhai's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of

confusion between Ouhai or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

EE. Wenzhou Cereals Oils and Foodstuffs Foreign Trade Co., Ltd.

573. On information and belief, Respondent Wenzhou Cereals Oils and Foodstuffs Foreign Trade Co., Ltd. (“Wenzhou”) is a foreign trade company involved in the export of, *inter alia*, footwear and apparel, and located at 24/F, Wenzhou International Trade Centre, 8 Liming West Road, Wenzhou 325003, Zhejiang, China. *See* Contact, Wenzhou, <http://cofwz.com/en/index.jsp?id0=z0hla35lky> (last visited Sept. 23, 2014), Compilation Exhibit 185 at 1 (website translated by Google Chrome). On information and belief, Wenzhou is a subsidiary of Wenzhou International Trade Group Co., Ltd., located at 13/F, Wenzhou International Trade Center, 236 West Liming Road, Wenzhou City, Zhejiang Province, and does business as Wenzhou King-Footwear Co., Ltd (“Wan Wei”).

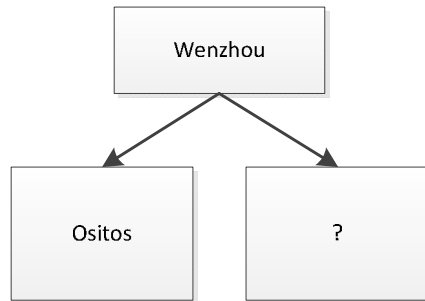
1. Wenzhou’s Background

574. Wenzhou, on information and belief doing business as Wan Wei, describes itself as an “integrated shoe-making” enterprise “mainly engaged in canvas shoes, casual shoes, vulcanized shoes, injection shoes and other products.” *See* About Us, Wan Wei, <http://www.king-footwear.com/Item/list.asp?id=1492> (last visited Sept. 24, 2014), Compilation Exhibit 186 at 1 (website translated by Google Chrome). Wan Wei’s website promotes shoes bearing the Converse Midsole Trademark. *See* Products, Wan Wei, <http://www.king-footwear.com/Item/Show.asp?m=5&d=567> (last visited Sept. 24, 2014), Compilation Exhibit 186 at 2 – 6 (website translated by Google Chrome).

2. Wenzhou's Distribution of Accused Products

575. On information and belief, Wenzhou has imported and/or sold for importation Accused Products, including to at least Respondent Ositos as depicted in Figure 50 below. Converse expects to learn additional information regarding Wenzhou's and Ositos' supply chains through discovery.

FIGURE 50: Suspected Supply Chain of Accused Products Based on Information Known at Filing of Complaint



576. On information and belief, Wenzhou exported 8,160 pairs of footwear to Ositos in the United States in 2010, including one or more pairs of Accused Products. *See* Excerpt of Import Records for Wenzhou, Confidential Compilation Exhibit 187.

3. Previous Seizures of Unauthorized Converse Products Exported by Wenzhou

577. On information and belief, customs in Rijeka, Croatia seized 24,720 pairs of unauthorized Converse shoes exported by Wenzhou on or around August 20, 2013. *See* Documentation Relating to Seizure, Confidential Compilation Exhibit 188 (with translation).

4. Wenzhou's Unfair Acts, Infringement, and Dilution of the Converse Midsole Trademark

578. On information and belief, Wenzhou has promoted, imported, and/or sold for importation into the United States at least Ositos' Accused Products shown above that infringe and/or dilute one or more of the Asserted Trademarks.

a. Converse Owned Protectable and Famous Trademark Rights Before Wenzhou Promoted and Sold for Importation Accused Products

579. As a result of Converse's near century of substantially exclusive use of the Asserted Trademarks, substantial promotion and sales of products bearing the Asserted Trademarks, widespread unsolicited publicity, and attempts to copy the Asserted Trademarks by others, as set forth above, Converse owned highly distinctive, well-recognized, and famous trademark rights in the Asserted Trademarks before Wenzhou promoted and sold for importation Accused Products.

580. The Asserted Trademark relevant to Wenzhou's violations is also the subject of a duly issued United States Trademark Registration.

b. Wenzhou's Accused Products Are Virtually Identical to the Converse Midsole Trademark

581. On information and belief, as shown above in connection with Ositos' Accused Products, Wenzhou's Accused Products bear designs that are nearly identical to the Converse Midsole Trademark.

c. Wenzhou Intended to Copy the Converse Midsole Trademark and to Infringe and Dilute the Converse Midsole Trademark

582. Wenzhou's intent to create associations with Converse and to free ride on Converse's goodwill is evident in the close similarities between Wenzhou's Accused Products on the one hand, and the Converse Midsole Trademark on the other hand. On information and belief, the overwhelming similarities are due to Wenzhou's intentional copying.

d. Wenzhou Sells Accused Products in Competition with Converse's Products Bearing the Asserted Trademarks

583. On information and belief, as set forth in more detail above in connection with Ositos, Wenzhou's Accused Products have been promoted and sold at retail stores in the United

States and on the Internet, and as casual or lifestyle shoe designs primarily to teen boys and girls, and adult men and women.

e. Relevant Consumers Are Susceptible to Confusion and Dilutive Associations Caused by Wenzhou's Accused Products

584. Consumers of shoes like those at issue here are not likely to exercise great care in resolving likely confusion in their initial product interest, at the point of purchase, or in post-sale exposure. Even more sophisticated consumers are likely to experience cognitive dissonance regarding the source, affiliation, sponsorship, or association of Wenzhou's Accused Products when confronted with promotions and sales of Wenzhou's Accused Products.

585. In the post-sale context, where actual or potential consumers of shoes may only see Wenzhou's Accused Products on someone's feet in passing, consumers are especially likely to mistake the source, affiliation, or sponsorship of Wenzhou's Accused Products with Converse and/or the Asserted Trademarks, or to associate the Accused Products with Converse and/or the Asserted Trademarks.

f. Wenzhou's Accused Products Are Likely to Cause Confusion and Dilutive Associations

586. Due to the overwhelming similarities between Wenzhou's Accused Products and the Converse Midsole Trademark, and for the reasons set forth above, there is (a) a likelihood of confusion between Wenzhou or its Accused Products, and Converse or the Converse Midsole Trademark, and/or (b) a likelihood of dilution.

V. RESPONDENTS' UNFAIR METHODS OF COMPETITION AND UNFAIR ACTS

587. Converse owns all right, title, and interest in the Asserted Trademarks and has standing to bring an action for trademark infringement, false designation of origin, unfair

competition, and/or trademark dilution under the Lanham Act, 15 U.S.C. § 1059 et seq. and common law.

588. The Asserted Trademarks are entitled to strong protection under common law. The Asserted Trademarks each have a distinctive appearance using unique and non-functional designs. Converse has extensively and continuously promoted and used the Asserted Trademarks for many decades in the United States and worldwide. Through extensive and continuous use, the Asserted Trademarks have each acquired substantial secondary meaning and become well-known indicators of the origin and quality of Converse footwear. Before Respondents' actions complained of herein, the Converse Midsole Trademark was famous.

589. The Asserted Trademarks are also federally registered and entitled to protection under federal law. The '753 Registration is *prima facie* evidence of the validity of the Converse Midsole Trademark and of Converse's registration of the mark, of Converse's ownership of the mark, and of Converse's exclusive right to use the Converse Midsole Trademark in commerce in connection with footwear. The '960 and '103 Registrations have become incontestable and constitute conclusive evidence of the validity of the Converse Outsole Trademark and of Converse's registration of the mark, of Converse's ownership of the mark, and of Converse's exclusive right to use the Converse Outsole Trademark in commerce in connection with footwear.

590. Respondents have manufactured abroad, imported, distributed, and/or sold Accused Products in the United States, or colorable imitations thereof, without authorization from Converse in violation of Converse's rights in the Asserted Trademarks as described below.

A. Trademark Infringement Under Section 32(1) of the Lanham Act (15 U.S.C. § 1114(1))

591. Respondents have, without authorization from Converse, manufactured abroad, imported, distributed, and/or sold Accused Products in the United States in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

592. Table 1 in Section IV above identifies Converse's Asserted Trademarks infringed by each of the Respondents' Accused Products.

593. Respondents' use of the Asserted Trademarks identified in Table 1 above, and of colorable imitations thereof, is likely to cause consumer confusion as to the origin and/or sponsorship/affiliation of the Accused Products, at least by creating the false and misleading impression that the Accused Products are manufactured by, authorized by, or otherwise associated with Converse, as discussed in Section IV above.

594. As discussed in Sections IX and XI below, Respondents' use of the Asserted Trademarks has caused, and unless stopped, will continue to cause substantial injury to Converse, including at least substantial injury to the goodwill and reputation for quality associated with the Asserted Trademarks.

595. On information and belief, Respondents' use of the Asserted Trademarks, and of colorable imitations thereof, has been intentional, willful, and malicious. Respondents' bad faith is evidenced at least by the similarity of the Accused Products to the Asserted Trademarks, as shown in Section IV above.

B. False Designation of Origin/Unfair Competition Under Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a))

596. Respondents have, without authorization from Converse, manufactured abroad, imported, distributed, and/or sold Accused Products in the United States in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

597. Table 1 above identifies the Asserted Trademarks that give rise to a claim for false designation of origin/unfair competition by each of the Respondents' Accused Products.

598. Respondents' use of the Asserted Trademarks identified in Table 1 above, and of colorable imitations thereof, constitutes a false designation of origin that is likely to cause consumer confusion, mistake, or deception as to the origin, sponsorship, or approval of the Accused Products by creating the false and misleading impression that the Accused Products are manufactured by, authorized by, or otherwise associated with Converse as discussed in Section IV above.

599. As discussed in Sections IX and XI below, Respondents' use of the Asserted Trademarks has caused, and unless stopped, will continue to cause substantial injury to Converse, including at least substantial injury to the goodwill and reputation for quality associated with the Asserted Trademarks.

600. On information and belief, Respondents' use of the Asserted Trademarks, and of colorable imitations thereof, has been intentional, willful, and malicious. Respondents' bad faith is evidenced at least by the similarity of the Accused Products to the Asserted Trademarks, as shown in Section IV above.

C. Common Law Trademark Infringement and Unfair Competition

601. Respondents have, without authorization from Converse, manufactured abroad, imported, distributed, and/or sold Accused Products in the United States in violation of the common law.

602. Table 1 above identifies the Asserted Trademarks that give rise to a claim for common law trademark infringement and unfair competition by each of the Respondents' Accused Products.

603. The Asserted Trademarks have a distinctive appearance using unique and non-functional designs. For example, the designs of the Asserted Trademarks do not result from the most efficient or cost-effective manufacturing or assembly method, and are not essential to competition as demonstrated by the wide variety of alternative competitive shoe designs that do not use the Asserted Trademarks. Additionally, as discussed in Section II above, Converse has extensively and continuously promoted and used the Asserted Trademarks for many decades in the United States. Through that extensive and continuous use, the Asserted Trademarks have acquired substantial secondary meaning in the marketplace and are well-known indicators of the origin and quality of Converse footwear.

604. Respondents' use of the Asserted Trademarks identified in Table 1 above, and of colorable imitations thereof, is likely to cause consumer confusion as to the origin or sponsorship of the Accused Products by creating the false and misleading impression that the Accused Products are manufactured by, authorized by, or otherwise associated with Converse as discussed in Section IV above.

605. As discussed in Sections IX and XI below, Respondents' use of the Asserted Trademarks has caused, and unless stopped, will continue to cause substantial injury to Converse, including at least substantial injury to the goodwill and reputation for quality associated with the Asserted Trademarks.

606. On information and belief, Respondents' use of the Asserted Trademarks, and of colorable imitations thereof, has been intentional, willful, and malicious. Respondents' bad faith is evidenced at least by the similarity of the Accused Products to the Asserted Trademarks, as shown in Section IV above.

D. Dilution Under Section 43(c) of the Lanham Act (15 U.S.C. § 1125(c))

607. Respondents have, without authorization from Converse, manufactured abroad, imported, distributed, and/or sold Accused Products in the United States in violation of Converse's rights in the Converse Midsole Trademark under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

608. The Converse Midsole Trademark acquired substantial secondary meaning and became famous in the marketplace before Respondents commenced their unauthorized uses of the Converse Midsole Trademark in connection with the Accused Products.

609. Respondents' use of the Converse Midsole Trademark, and of colorable imitations thereof, is likely to cause, and has caused, dilution of the famous Converse Midsole Trademark at least by eroding the public's exclusive identification of the famous Converse Midsole Trademark with Converse and by lessening the capacity of the famous Converse Midsole Trademark to identify and distinguish Converse footwear as discussed in Section IV above.

610. As discussed in Sections IX and XI below, Respondents' use of the Converse Midsole Trademark has caused, and unless stopped, will continue to cause substantial injury to Converse, including at least substantial injury to the goodwill and reputation for quality associated with the Converse Midsole Trademark.

611. On information and belief, Respondents' use of the Converse Midsole Trademark, and of colorable imitations thereof, has been intentional, willful, and malicious. Respondents' bad faith is evidenced at least by the similarity of the Accused Products to the Converse Midsole Trademark, as shown in Section IV above.

VI. SPECIFIC INSTANCES OF RESPONDENTS' UNFAIR IMPORTATIONS AND SALES

612. On information and belief, Respondents are, and will continue, importing, selling for importation, and/or selling within the United States after importation footwear products that infringe and/or are likely to dilute one or more of the Asserted Trademarks in violation of Section 337.

613. Converse has obtained in the United States representative samples of the Respondents' Accused Products as described in Exhibits 23, 40, 48, and 189. Specific instances of importation, sale for importation, and/or sale within the United States after importation of Accused Products by the Respondents are set forth below. These examples are exemplary in nature and not intended to restrict the scope of any exclusion order or other remedy the Commission may order.

614. In June of 2014, a purchase of Skechers' Accused Product, "Bobs Utopia," was made in the United States on behalf of Converse from PeltzShoes.com. The country of origin label affixed to the packaging and inside tongue of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

615. In June of 2014, a purchase of Skechers' Accused Product, "Bobs Utopia Skyline," was made in the United States on behalf of Converse from Skechers.com. The country of origin label affixed to the packaging and inside tongue of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

616. In June of 2014, a purchase of Skechers' Accused Product, "HyDee HyTop Gimme Starry Skies," was made in the United States on behalf of Converse via Amazon.com. The country of origin label affixed to the packaging and inside tongue of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

617. In July of 2014, a purchase of Skechers' Accused Product, "Twinkle Toes Shuffles – Streetfeet," was made in the United States on behalf of Converse from Skechers.com. The country of origin label affixed to the packaging and inside tongue of the Accused Product indicates that it was "Made in China." *See Exhibit 23, Documentation of purchase.*

618. In August of 2014, a purchase of Skechers' Accused Product, "Twinkle Toes Wild Spark," was made in the United States on behalf of Converse via Amazon.com. The country of origin label affixed to the packaging and inside tongue of the Accused Product indicates that it was "Made in China." *See Exhibit 23, Documentation of purchase.*

619. In June of 2014, a purchase of Skechers' Accused Product, "Daddy'\$ Money Gimme Lone Star," was made in the United States on behalf of Converse via Amazon.com. The country of origin label affixed to the packaging and inside tongue label of the Accused Product indicates it was made "Made in China." *See Exhibit 23, Documentation of purchase.*

620. In June of 2014, a purchase of Skechers' Accused Product, "Daddy'\$ Money Gimme Mucho Dinero," was made in the United States on behalf of Converse via Amazon.com. The country of origin label affixed to the packaging and inside tongue label of the Accused Product indicates it was made "Made in China." *See Exhibit 23, Documentation of purchase.*

621. In August of 2014, a purchase of Walmart's Accused Product was made in the United States on behalf of Converse from Walmart.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was "Made in China." *See Exhibit 23, Documentation of purchase.*

622. In January of 2014, a purchase of Aldo's Accused Product was made in the United States on behalf of Converse from AldoShoes.com. The country of origin label affixed to

the inside tongue of the Accused Product indicates that it was “Made in China.” *See* Exhibit 48, Documentation of purchase.

623. In August of 2014, a purchase of Brian Lichtenberg’s Accused Product was made in the United States on behalf of Converse from Kitson through ShopKitson.com. The country of origin label affixed to the packaging and inside tongue of the Accused Product indicates that it was “Made in Vietnam.” *See* Exhibit 23, Documentation of purchase.

624. In August of 2014, a purchase of Gotta Flurt’s Accused Product was made in the United States on behalf of Converse through Amazon.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

625. In December of 2013, a purchase of Dioniso’s Accused Product was made in the United States on behalf of Converse from ShopKitson.com. The country of origin label affixed to the hangtag of the Accused Product indicates that it was “Made in Italy.” *See* Exhibit 40, Documentation of purchase.

626. In September of 2014, a purchase of a representative Edamame Accused Product was made in the United States on behalf of Converse via Sears.com. The country of origin label affixed to of the hangtag of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

627. In August of 2013, Esquire’s Accused Product was photographed at the WSA trade show in Las Vegas, Nevada. *See* Exhibit 189, Documentation on Esquire. Esquire’s website represents that its “overseas offices provide oversight of all Asian production, integrating with a network of partnering factories in East Asia. The majority of high-quality fashion footwear produced by Esquire is concentrated in five Chinese manufacturing facilities.”

See Exhibit 75. Likewise, the website represents that it “work[s] with consolidators and U.S. Customers, ensuring smooth sailing for the order, seeing the delivery through to the U.S.” *Id.*

628. In April of 2014, a purchase of FILA’s Accused Product was made in the United States on behalf of Converse from ShoeZoo via Sears.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

629. In August of 2014, a purchase of Fortune Dynamic’s Accused Product was made in the United States on behalf of Converse via Amazon.com. The country of origin label affixed to the outsole of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

630. In February of 2014, a purchase of Gina Group’s Accused Product was made in the United States on behalf of Converse from Zulily.com. The country of origin label affixed to the hangtag of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

631. In September of 2014, a purchase of H & M’s Accused Product was made in the United States on behalf of Converse from hm.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

632. In May of 2014, a purchase of ASH’s Accused Product was made in the United States on behalf of Converse from AshFootwearUSA.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

633. In August of 2014, a purchase of Skeanie's Accused Product was made in the United States on behalf of Converse from Stryde.com.au. The website for Skeanie, www.skeanie.co.uk, indicates that all of its products are made in China. *See* Exhibit 23, Documentation of purchase.

634. In September of 2014, a purchase of Ed Hardy's Accused Product was made in the United States on behalf of Converse via Amazon.com. The country of origin label affixed to the packaging and inside tongue of the Accused Product indicates that it was "Made in Vietnam." *See* Exhibit 23, Documentation of purchase.

635. In September of 2014, a purchase of a representative Kmart Accused Product, the "Joe Boxer High," was made in the United States on behalf of Converse through Kmart.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

636. In September of 2014, a purchase of a representative Lilly of New York Accused Product was made in the United States on behalf of Converse from Zulily.com. The country of origin label affixed to the hangtag of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

637. In August of 2014, a purchase of Bape's Accused Product was made in the United States on behalf of Converse via eBay. The country of origin label affixed to the inside of the Accused Product indicates that it was "Made in Japan." *See* Exhibit 23, Documentation of purchase.

638. In January of 2014, a purchase of OPPO's Accused Product was made in the United States on behalf of Converse from Beston Fire via Sears.com. The country of origin label

affixed to the outsole of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

639. In August of 2014, a purchase of Demonia Deviant’s Accused Product was made in the United States on behalf of Converse from Shoebuy.com. The country of origin label affixed to the outsole of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

640. In February of 2014, a purchase of Ositos’ Accused Product was made in the United States on behalf of Converse from Fashoutlet via Amazon.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

641. In March of 2014, a purchase of PW Shoes New York’s Accused Product was made in the United States on behalf of Converse from Zulily.com. The country of origin labels affixed to the inside tongue and packaging of the Accused Product indicate that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

642. In March of 2014, a purchase of Ralph Lauren’s Accused Product was made in the United States on behalf of Converse from Macys.com. The country of origin labels affixed to the inside tongue and packaging of the Accused Product indicates that it was “Made in China.” *See* Exhibit 23, Documentation of purchase.

643. In February of 2014, Foreversun’s Accused Product was photographed at the WSA trade show in Las Vegas, Nevada. *See* Exhibit 189, Documentation on Foreversun. Foreversun’s website represents that its shoe “factories [are] locate[d] in Guangdong, Fujian and Zhejiang,” and its shoes are “mainly exported to Europe, America and [the] Middle East.” *See* Exhibit 162.

644. In February of 2014, a purchase of Shoe Shox's Accused Product was made in the United States on behalf of Converse from Zulily.com. The country of origin label affixed to the hangtag of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

645. In August of 2014, a purchase of Tory Burch's Accused Product was made in the United States on behalf of Converse via eBay.com. The country of origin label affixed to the outsole of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

646. In February, March, and September of 2014, purchases of Zulily's Accused Products were made in the United States on behalf of Converse as set forth above in relation to Gina Group, Lilly New York, PW, and Shoe Shox. The country of origin information for those shoes indicates they were "Made in China." *See* Exhibit 23, Documentation of purchase.

647. On information and belief, Xinya exported 273,756 pairs of footwear to FILA in the United States during the period from January 2011 to May 2014, including one or more Accused Products. *See* Exhibit 180. Additionally, in April of 2014, a purchase of FILA's Accused Product that, on information and belief, was manufactured by Xinya was made in the United States on behalf of Converse from ShoeZoo via Sears.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

648. On information and belief, Ou hai exported 36,984 pairs of footwear to the United States to Aldo in January of 2011. *See* Exhibit 183. Additionally, in January of 2014, a purchase of Aldo's Accused Product that, on information and belief, was manufactured by Ou hai was made in the United States on behalf of Converse from AldoShoes.com. The country of

origin label affixed to the inside tongue of Aldo's Accused Product indicates that it was "Made in China." *See* Exhibit 48, Documentation of purchase.

649. On information and belief, Ouhai exported 115,716 pairs of footwear to the United States to OPPO between January 2011 and March 2014, including one or more pairs of Accused Products. *See* Exhibit 183. Additionally, in January of 2014, a purchase of OPPO's Accused Product that, on information and belief, was manufactured by Ouhai was made in the United States on behalf of Converse from Beston Fire via Sears.com, respectively. The country of origin label affixed to the outsole of OPPO's Accused Products indicates that they were "Made in China." *See* Exhibit 23, Documentation of purchase.

650. On information and belief, Wenzhou exported 8,160 pairs of footwear to the United States to Ositos between January 2010 and December 2013, including one or more pairs of Accused Products. *See* Exhibit 187. Additionally, in February of 2013, a purchase of Ositos' Accused Product that, on information and belief, was manufactured by Wenzhou was made in the United States on behalf of Converse from Fashoutlet via Amazon.com. The country of origin label affixed to the inside tongue of the Accused Product indicates that it was "Made in China." *See* Exhibit 23, Documentation of purchase.

VII. CLASSIFICATION OF THE ACCUSED PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

651. The Accused Products are believed to fall within at least the classifications of the harmonized tariff schedules of the United States shown in Exhibit 190. These classifications are intended for illustrative purposes only and are not intended to restrict the scope or type of products accused.

VIII. THE DOMESTIC INDUSTRY

A. The Technical Prong

652. The Converse Midsole Trademark appears on Converse Shoes. *See* Exhibit 191.
653. The trademark featured in the ‘753 Registration appears on Converse Shoes. *See* Exhibit 192.
654. The Converse Outsole Trademark appears on Converse Shoes. *See* Exhibit 193; Exhibit 194.
655. The trademark featured in the ‘103 Registration appears on Converse Shoes. *See* Exhibit 193.
656. The trademark featured in the ‘960 Registration appears on Converse Shoes. *See* Exhibit 194.

B. The Economic Prong

1. Overview of Converse Shoe Activities

657. Converse, as discussed previously, has a long history as a U.S. innovator in shoe design, development, and production. Converse has established and maintains a robust domestic industry relating to Converse Shoes based on its critical design, production-related, and support activities, and its significant/substantial investments in plant and equipment, employment of labor and capital, and investments in the exploitation of the Asserted Trademarks. Converse Shoes sold in the United States today are designed and developed at Converse’s headquarters in North Andover, Massachusetts. There, Converse conducts design, production-related, and support activities for Converse Shoes, including the development, testing, and production of innovative materials, and the design and manufacture of shoe production prototypes and samples using advanced design and production technologies.

658. Converse's production-related activities occur in three main stages: Product Management, Product Design, and Product Development. Product Management activities include research on current and past or vintage Converse Shoe designs, market trends, artistic trends, demand for existing and new Converse Shoes, and other consumer-based product research and feedback. Based on this information, the Product Management team works with the Product Design team to develop the portfolio of Converse Shoes that will be designed, developed, and offered to consumers in upcoming seasons.

659. The Product Design team creates design sketches and product renderings using a variety of equipment, ranging from traditional drawing tools to sophisticated CAD design software, preparing and evaluating multiple iterations of new Converse Shoe designs. Graphic designers and materials engineers work to create new and unique designs and characteristics in canvas fabric and other materials. Eventually, these new designs move into the product development phase.

660. During the product development phase, Converse's Product Development team turns these designs and materials into physical prototypes and final samples. During this phase, footwear and materials engineers use rapid prototyping equipment, fabric looms, digital printers, and other shoe construction equipment in North Andover to physically manufacture new materials and prototypes of the new Converse Shoes. The new Converse Shoes are then evaluated and tested for comfort, safety, durability, and manufacturability, among other things. Once a new Converse Shoe is finalized in North Andover, the Product Development team develops a technical package, including information about manufacturing specifications, materials, and engineering, and works with the Converse Technical Services office in Asia to put the new Converse Shoe into production.

661. Throughout these three stages, Converse's Product Management, Product Design, and Product Development teams receive intensive support and assistance from other teams and activities in North Andover. Confidential Exhibit 5, the Declaration of Steven Monti, provides additional details on Converse's domestic design and development of Converse Shoes and how other Converse activities support Converse Shoes.

2. Converse's Activities and Investments Satisfy the Economic Prong of the Domestic Industry

662. Converse conducts virtually all of its production-related research, materials and shoe development, testing, and shoe sample construction activities in the United States. Converse makes significant investments in plant and equipment, employs significant labor and capital, and makes substantial investments in the exploitation of the Asserted Trademarks in performing these essential product-focused activities. Based on these activities and Converse's significant and substantial investments in support of these activities, an industry relating to Converse Shoes exists in the United States, as required by 19 U.S.C. §§ 1337(a)(1) and (a)(2)-(3).

663. First, Converse has made, and continues to make, significant investments in plant and equipment. Converse owns and utilizes valuable, important tools and equipment, including, for example, its rapid prototyping equipment, fabric looms, knitting equipment, digital printers, computers, and design software, all of which are critical and necessary for the design and development work Converse conducts on the Converse Shoes. Furthermore, Converse has multiple facilities across the United States, including its headquarters in North Andover and excluding its retail stores and distribution centers, that support Converse Shoes. These facilities include creative space, office space, and warehousing space. To operate these facilities, Converse incurs, for example, expenses for rent, utilities, and maintenance. Paragraphs 34 to 44

of Confidential Exhibit 5 set forth further details on Converse's domestic investment in plant and equipment related to Converse Shoes.

664. Second, Converse has employed, and continues to employ, significant labor and capital in the United States to conduct design, production-related, and support activities. Converse currently employs hundreds of people in the United States, excluding its retail store and distribution center operations. Most of these U.S. employees are involved in the three main stages of production-related activities, with additional employees involved in product support activities, such as sales and marketing. These skilled personnel include, for example, art directors, graphic designers, product designers, product developers, materials engineers, footwear engineers, and product managers, all of whom are heavily engaged in domestic activities that support the creation of Converse Shoes. Converse additionally employs significant capital to support these employees' domestic design, production-related, and support activities directed to Converse Shoes. Paragraphs 45 to 52 of Confidential Exhibit 5 set forth further details on Converse's domestic employment of labor and capital related to Converse Shoes.

665. Third, Converse has made, and continues to make, a substantial investment in the exploitation of the Asserted Trademarks. Converse conducts critical production-related engineering and research and development on Converse Shoes, all of which showcase the Asserted Trademarks. Furthermore, Converse licenses third-party intellectual property as part of "collaboration" activities in the United States, teaming with national and international artists, musicians, fashion leaders, and other icons. Converse, as part of these "collaboration" activities, licenses third-party intellectual property and rights of publicity to further exploit the Asserted Trademarks through new and interesting iterations of Converse Shoes. These collaboration initiatives, in addition to the long-term innovation, brand management, brand protection, and

consumer and market intelligence work performed by the Product Management, Product Design, and Product Development teams, represent a substantial investment by Converse in the exploitation of the Asserted Trademarks. Paragraphs 53 to 63 of Confidential Exhibit 5 set forth further details regarding Converse's domestic investment in the exploitation of the Asserted Trademarks.

666. Finally, Converse's investments in plant and equipment, employment of labor and capital, and investments in exploitation of the Asserted Trademarks are significant and/or substantial, both quantitatively and qualitatively. The quantitative significance of Converse's domestic investments can be seen in its impact in reducing Converse's net income. *See* Confidential Exhibit 5 ¶¶ 43, 52. Converse's domestic activities and associated investments are also qualitatively significant because they are essential to Converse's business and to the creation of Converse Shoes. The product management, product design, product development, engineering, and other qualifying activities that Converse conducts in the United States would not be possible without Converse's significant and/or substantial domestic investments. *See* Confidential Exhibit 5 ¶¶ 44-45, 53, 64-65.

IX. INJURY TO THE DOMESTIC INDUSTRY

667. An industry relating to Converse Shoes bearing the Asserted Trademarks exists in the United States as required under 19 U.S.C. § 1337(a)(1)(A)(i) and as set forth in Section VIII and Confidential Exhibit 5. The Respondents' unlawful importation and sale of the Accused Products has the threat or effect of causing substantial injury to the Converse domestic industry by reason of: (a) the likelihood of consumer confusion and dilution of the Asserted Trademarks; (b) diminishment of Converse's brand equity and goodwill associated with the Asserted Trademarks by reason of that consumer confusion and dilution; (c) actual lost sales, conceivable

loss of sales, and the likelihood of future lost sales of Converse Shoes to Accused Products, as well as actual and threatened price underselling; and (d) significant Converse expenditures to enforce and protect the Asserted Trademarks and to fight the diminution of Converse's brand equity and goodwill caused by domestic sales of the Accused Products.

668. First, unauthorized use of the Asserted Trademarks in connection with the Accused Products is likely to lead to consumer confusion and dilution of the Asserted Trademarks. This confusion and dilution diminishes or threatens to diminish the capacity of the Asserted Trademarks to distinguish Converse goods, constituting substantial present and likely future injury to the Converse domestic industry.

669. Second, unauthorized use of the Asserted Trademarks in connection with the Accused Products has caused substantial harm and is likely to cause substantial future harm to Converse's brand equity and the goodwill associated with the brand. U.S. consumers strongly associate the Asserted Trademarks with Converse. Converse has invested heavily in use of the Asserted Trademarks to build the Converse brand and relies on the continued distinctiveness of the Asserted Trademarks to identify Converse Shoes to consumers. The Respondents' unauthorized use of the Asserted Trademarks, and the resulting consumer confusion and association of Accused Products with the Asserted Trademarks, damages and diminishes, and threatens to damage and diminish, the brand equity and goodwill associated with Converse and Converse Shoes. This harm to Converse's brand equity and goodwill constitutes substantial present and likely future injury to the Converse domestic industry.

670. Third, the unauthorized use of the Asserted Trademarks has enabled the Respondents to capture U.S. shoe sales at the expense of Converse Shoes, and is likely to lead to additional lost Converse Shoe sales in the future. The Accused Products compete with Converse

Shoes in the United States in many different channels of distribution and at many different price points. Exhibit 5 ¶¶ 10 – 12. On information and belief, and as discussed in more detail below with respect to each of the Respondents, Converse has lost sales to Accused Products bearing one or more of the Asserted Trademarks. In many cases, Converse has lost sales to lower-priced Accused Products, which undersell Converse Shoes. In other cases, Converse loses sales to Accused Products that bear one or more of the Asserted Trademarks even in the absence of underselling. Specific examples of Converse sales lost to Accused Products, both by reason of lower pricing and the similarity of Converse Shoes to the Accused Products, include statements by U.S. purchasers of the Accused Products made in comments posted to retail websites on the Internet and product reviews. Lower prices charged for many of the Accused Products have also led to downward pressure on Converse pricing, reducing the company's sales margins and profits. Converse believes that most, if not all, sales of the Accused Products are sales at the expense of Converse Shoes, given the likelihood of consumer confusion and improper association between the Accused Products and the Asserted Trademarks. These lost sales, and likely future lost sales, are causing and threaten to cause substantial present and likely future injury to Converse's domestic industry.

671. Fourth, Converse has made significant expenditures, and is likely to make significant expenditures in the future, to ensure that consumers can rely on the Asserted Trademarks as distinctive identifiers of high-quality Converse Shoes, and to protect Converse's goodwill in the Asserted Trademarks. These Converse expenditures to protect U.S. consumers constitute substantial injury and the threat of substantial injury. *See* Section VIII, *supra*.

672. These actual and threatened lost sales, underselling Converse Shoes by infringing and dilutive Accused Products, confusion and dilution of the Asserted Trademarks, and erosion

of associated Converse goodwill – in conjunction with evidence of substantial foreign manufacturing capacity with the ability and economic motivation to manufacture infringing products for importation and sale in the United States (as discussed in Section XI, *infra*) – substantially injure and threaten to substantially injure the domestic industry.

A. Skechers

673. Skechers, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, along with price underselling, has caused Converse to lose shoe sales to Skechers and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Skechers is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse’s domestic industry.

674. Comments made by purchasers on Skechers’ website, reviewing the accused Skechers “Twinkle Toes” shoe, demonstrate actual and likely confusion and association between Skechers’ Accused Products and Converse Shoes, actual sales lost by Converse to Skechers’ Accused Products, and actual underselling: “My 3 1/2 yr old daughter loves these shoes, she asked for them because she kept seeing them advertised on TV. They are similar to the old school ‘Chuck Taylor’ converse style [sic], and just very cute w/the ping [sic] bling stones.” Exhibit 195.

675. Converse has lost sales and market share to Skechers' Accused Products and is likely to lose additional sales and market share in the future. Skechers promotes and sells its Accused Products at many of the same retailers as Converse, including Nordstrom, and online at Zappos.com and Shoebuy.com. *See* Section IV.A, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing Skechers shoes and other competitive harms. *See e.g.* Exhibit 196C. In addition, Converse faces underselling from Skechers' Accused Products. For example, the Skechers "Bobs Utopia" shoe has sold at \$25, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 40. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Skechers' Accused Products represents a lost Converse sale.

B. Walmart

676. Walmart, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Walmart and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Walmart is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

677. Comments made by purchasers on Walmart's website, reviewing the accused Walmart "Faded Glory" shoe, demonstrate actual and likely confusion and association between

Walmart's Accused Products and Converse Shoes, actual sales lost by Converse to Walmart's Accused Products, and actual underselling. *See* Exhibit 28. For example, one reviewer noted "people can't tell there not chucks [sic]," while another noted, "[t]hese shoes look and feel just like Chuck Taylor's but without the Converse price tag. Such a great deal I bought one pair in black and one in light grey." *Id.* Yet another commented that "[the Faded Glory shoes] look like the real Converse sneakers. Will be buying a couple more pairs since these shoes won't go out of style." *Id.* Another commented, "I've seen Converse shoes for up to 4x as much as these cost but these could easily pass the same, even though they're way less expensive!" *Id.*

678. Converse has lost sales and market share to Walmart's Accused Products, and is likely to lose additional sales and market share in the future. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.,* Exhibit 196C. Like Converse, Walmart promotes and sells shoes through its own stores and on the Internet. *See* Section IV.B, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.,* Exhibit 196C. In addition, Converse faces underselling from Walmart's Accused Products. Walmart's Accused Products have sold at \$12.93, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 56. Converse Shoes sold at Target sell for at least, approximately \$34.99. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Walmart's Accused Products represents a lost Converse sale.

C. Kitson

679. Kitson, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the

Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Kitson and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Kitson is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. For example, a pair of accused Kitson shoes, posted for sale on the website Polyvore.com, was described by a reviewer as “Kitson style Converse.” *See, e.g.*, Exhibit 197. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse’s domestic industry.

680. Converse has lost sales and market share to Kitson’s Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Kitson promotes and sells shoes through its own stores and on the Internet. Section IV.C, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Kitson’s Accused Products. Kitson’s Accused Products have sold as low as \$28, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$55. *See* Exhibit 41. Given competition between Kitson and Converse Shoes, and the substantial similarity between the Accused Products and Converse Shoes, each sale of Kitson’s Accused Products represents a lost Converse sale.

D. Aldo

681. Aldo, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, as well as price underselling, has caused

Converse to lose shoe sales to Aldo and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Aldo is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

682. Comments made by a reviewer on the "Siblings with Style" website of Aldo shoes demonstrate actual and likely confusion and association between Aldo's Accused Products and Converse Shoes. In reviewing the Aldo shoe, the reviewer notes that "the black captoe echoes the classic Jack Purcells or Converse Chuck Taylor sneaker, just in a different shade and on a slightly beefed up model." Exhibit 49.

683. Converse has lost sales and market share to Aldo's Accused Products, and is likely to lose additional sales and market share in the future. Aldo, like Converse, promotes and sells its Accused Products through its own retail stores in the United States and the Internet. *See* Section IV.D, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. Aldo's Accused Products also undersell Converse Shoes. For example, Aldo's Accused Products have sold at \$54.98, underselling comparable Converse Shoes. *See* Exhibit 48 ¶ 2. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Aldo's Accused Products represents a lost Converse sale.

E. Brian Lichtenberg

684. Brian Lichtenberg, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Brian Lichtenberg and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Brian Lichtenberg is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

685. Converse has lost sales and market share to Brian Lichtenberg's Accused Products, and is likely to lose additional sales and market share in the future. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Brian Lichtenberg's Accused Products. Brian Lichtenberg's Accused Products have sold as low as \$28, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$55. *See* Section IV.E. Given competition between Brian Lichtenberg's Accused Products and certain Converse Shoes, and the substantial similarity between the Accused Products and Converse Shoes, each sale of Brian Lichtenberg's Accused Products represents a lost Converse sale.

F. Gotta Flurt

686. Gotta Flurt, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the

Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Gotta Flurt and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Gotta Flurt is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

687. Comments made by purchasers on Amazon's website, reviewing an accused Gotta Flurt shoe, demonstrate actual and likely confusion and association between Gotta Flurt's Accused Products and Converse Shoes. Reviewing the Gotta Flurt "Lenwood Fashion Sneaker," purchasers described the infringing product as "[s]imilar to Converse, and not clunky or heavy" and having a "[g]reat [C]onverse look with a twist!" Exhibit 198. Another consumer asked a question on Yahoo Answers asking how Gotta Flurt's sizing for shoes compares to Converse as she was "ordering a pair of sequin [sic] [G]otta [F]lurt sneakers and they're a lot like [C]onverse." Exhibit 199. This consumer explained that they "wear a 7 in [C]onverse but a 7.5 in other shoes are [Gotta Flurt sneakers] close enough to [C]onverse to get 7s?" *Id.*

688. Converse has lost sales and market share to Gotta Flurt's Accused Products, and is likely to lose additional sales and market share in the future. Gotta Flurt competes with Converse in many channels of distribution, and promotes and sells its Accused Products at DSW retail stores, and online at Overstock.com, 6pm.com, and Zappos.com. *See* Section IV.F, *supra*. In reviewing an infringing Gotta Flurt shoe, for example, a consumer states: "[m]y 13 year old daughter was wanting a pair of Converse in black. I found these a lot cheaper and I must admit I'm a prime snob I'm hoping they last we long as regular converse [sic]." Exhibit 62.

Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse is suffering from price competition from Gotta Flurt's Accused Products, which have sold at prices comparable to Converse Shoes for kids. *See* Exhibit 23 ¶ 4. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Gotta Flurt's Accused Products represents a lost Converse sale.

G. Dioniso

689. Dioniso, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Dioniso and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Dioniso is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

690. Advertisements by web retailers and comments by bloggers demonstrate actual and likely confusion and association between Dioniso's Accused Products and Converse Shoes. For example, the Lanecrawford.com online retailer states that Dioniso's "focus is on the customization of the vintage Converse sneaker." Exhibit 200. Another online store described a pair of accused Dioniso shoes as "Vintage High All Star Converse." Exhibit 201. Online bloggers have also noted that Dioniso's Accused Products imitate Converse products: one blogger commented that Dioniso shoes were "[v]ery similar if not identical, to a normal pattern

[C]onverse.” Exhibit 202. Similarly, a consumer on Twitter, the social media platform, described a pair of infringing Dioniso shoes as “chucks.” Exhibit 203. The treatment of Dioniso products by online retailers and bloggers demonstrates actual and likely confusion and association between Dioniso’s Accused Products and Converse Shoes, and actual lost Converse sales, and the threat of lost sales, to Dioniso’s Accused Products.

691. Converse has lost sales and market share to Dioniso’s Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Dioniso promotes and sells shoes through its own stores and on the Internet. *See* Section IV.G, *supra*. One blogger advised readers that “[i]f you are looking for a pair of futuristic Converse, then [Dioniso shoes] should be on your must buy list.” Exhibit 204. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Dioniso’s Accused Products represents a lost Converse sale.

H. Edamame

692. Edamame, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Edamame and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Edamame is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of

confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

693. Advertisements by web retailers and comments by bloggers demonstrate actual and likely confusion and association between the Edamame Accused Products and Converse Shoes. For example, in postings on eBay offering to sell second-hand Edamame shoes, the Accused Products are described as "Converse Shoes" or "Chuck Taylor Shoes." *See e.g.*, Exhibit 205; Exhibit 206.

694. Converse has lost sales and market share to Edamame's Accused Products, and is likely to lose additional sales and market share in the future. Edamame sells the Accused Products at retail stores in the United States and on the Internet, competing with Converse Shoes sold through retail stores such as Sears. *See* Section IV.H, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Edamame's Accused Products. Edamame's Accused Products have sold at approximately \$22, underselling comparable Converse Shoes for kids, which ordinarily sell for at least, approximately \$35. *See* Exhibit 23 ¶ 6. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Edamame's Accused Products represents a lost Converse sale.

I. Esquire

695. Esquire, through the unauthorized use of the Asserted Trademarks, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Asserted Trademarks. This unfair competition, along with price underselling, has caused Converse to lose shoe sales to Esquire, and threatens to cause lost sales in the future. In addition, the unauthorized

use of the Asserted Trademarks by Esquire is harming or threatening to harm the distinctiveness and selling power of the Asserted Trademarks, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

696. Esquire's Accused Products, on information and belief, have been offered for sale in the United States at trade shows. These shoes, when sold in the United States, are likely to lead to lost Converse shoe sales and market share in the future. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. Esquire promotes and sells its Accused Products at trade shows in the United States, including the WSA show in Las Vegas, NV. *See* Section IV.I, *supra*. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Esquire's Accused Products likely represents a lost Converse sale.

J. FILA

697. FILA, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, along with price underselling, has caused Converse to lose shoe sales to FILA, and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by FILA is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse

brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

698. Comments made by purchasers on Amazon's website, reviewing the accused FILA shoe demonstrate actual and likely confusion and association between FILA's Accused Products and Converse Shoes. In reviewing an accused FILA shoe, for example, a customer stated "[w]anted to cheap out instead of getting a replacement for my old converse shoes which are about \$40. These shoes are much wider, the white tip part is too big and feels really flimsy. Just get converses [sic]." Exhibit 207.

699. Converse has lost sales and market share to FILA's Accused Products, and is likely to lose additional sales and market share in the future. FILA sells the Accused Products at retail stores in the United States and on the Internet, competing with Converse Shoes sold through retail stores such as Saks Fifth Avenue and Sears. *See* Section IV.J, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from FILA Accused Products. FILA's Accused Products have sold for \$21.90, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 8. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of FILA's Accused Products likely represents a lost Converse sale.

K. Fortune Dynamic

700. Fortune Dynamic, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, along with price

underselling, has caused Converse to lose shoe sales to Fortune Dynamic, and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Fortune Dynamic is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

701. Converse has lost sales and market share to Fortune Dynamic's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Fortune Dynamic sells the Accused Products at retail stores in the United States and on the Internet. *See* Section IV.K, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Fortune Dynamic's Accused Products. Fortune Dynamic's Accused Products have sold as low as \$24.64, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 10. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Fortune Dynamic's Accused Products represents a lost Converse sale.

L. Gina Group

702. Gina Group, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, along with price underselling, has caused Converse to lose shoe sales to Gina Group, and threatens to cause lost sales in the future.

In addition, the unauthorized use of the Converse Midsole Trademark by Gina Group is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

703. Converse has lost sales and market share to Gina Group's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Gina Group sells the Accused Products at retail stores in the United States and on the Internet. *See* Section IV.L, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Gina Group's Accused Products. Gina Group's Accused Products have sold as low as \$8.99, underselling comparable Converse Shoes for kids, which ordinarily sell for at least, approximately \$35. *See* Exhibit 23 ¶ 12. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Gina Group's Accused Products represents a lost Converse sale.

M. H & M

704. H & M, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, along with price underselling, has caused Converse to lose shoe sales to H & M and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by H & M is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark,

thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

705. Evidence of actual and likely confusion and association between H & M's Accused Products and Converse Shoes includes listings on secondary market websites such as Poshmark.com and Ebay.com that advertise H & M's Accused Products as "Converse Style" or "Converse Like" shoes. *See* Exhibit 208; Exhibit 209. These postings clearly demonstrate actual and likely confusion and association between H & M's Accused Products and Converse.

706. Converse has lost sales and market share to H & M's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, H & M sells the Accused Products at its retail stores and on the Internet. *See* Section IV.M, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from H & M's Accused Products. H & M's Accused Products have sold as low as \$12.95, underselling comparable Converse Shoes for kids, which ordinarily sell for at least, approximately \$35. *See* Exhibit 23 ¶ 14. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of H & M's Accused Products represents a lost Converse sale.

N. ASH

707. ASH, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, along with price underselling, has

caused Converse to lose shoe sales to ASH and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by ASH is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

708. Comments made by purchasers on Amazon's website, reviewing the infringing ASH women's shoe, demonstrate actual and likely confusion and association between ASH's Accused Products and Converse Shoes, and actual sales lost by Converse to ASH's Accused Products. In reviewing an accused ASH shoe, for example, a customer stated "[y]es I have cheated on Converse I saw [the ASH shoes] in a photo when I was innocently looking at Converse pictures, and after a little investigation, discovered their identity and purchased them." Exhibit 210.

709. Converse has lost sales and market share to ASH's Accused Products, and is likely to lose additional sales and market share in the future. ASH promotes and sells its Accused Products at ASH retail stores, Bloomingdales retail stores, and Nordstrom retail stores, and online at Zappos.com. *See* Section IV.N, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse is suffering from price competition from ASH's Accused Products, which have sold at prices comparable to certain special edition Converse Shoes. *See* Exhibit 23 ¶ 16. Given the substantial similarity between

the Accused Products and Converse Shoes, each sale of ASH's Accused Products represents a lost Converse sale.

O. Skeanie

710. Skeanie, through the unauthorized use of the Asserted Trademarks, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Asserted Trademarks. This unfair competition, including price underselling, has caused Converse to lose shoe sales to Skeanie and threatens to cause lost sales in the future. In addition, the unauthorized use of the Asserted Trademarks by Skeanie is harming or threatening to harm the distinctiveness and selling power of the Asserted Trademarks, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

711. Evidence of actual and likely confusion and association between Skeanie's Accused Products and Converse Shoes includes listings on online retail websites such as Babybootique.com, which offers for sale a pair of Skeanie shoes described as "[v]ery similar to the [C]onverse design." Exhibit 211.

712. Converse has lost sales and market share to Skeanie's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Skeanie sells the Accused Products at retail stores in the United States and on the Internet. *See* Section IV.O, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Skeanie's Accused Products. Skeanie's Accused Products have sold as low as approximately \$17.50, underselling comparable Converse Shoes for

kids, which ordinarily sell for at least, approximately \$35. *See* Exhibit 23 ¶ 38. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Skeanie's Accused Products represents a lost Converse sale.

P. Ed Hardy

713. Ed Hardy, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to Ed Hardy and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Ed Hardy is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

714. Comments made by purchasers on Amazon's website, reviewing an accused Ed Hardy shoe, demonstrate actual and likely confusion and association between Ed Hardy's Accused Products and Converse Shoes. In reviewing the Ed Hardy shoe, for example, a customer stated "I've always been a converse [sic] girl so I love the look and feel of these." Exhibit 212.

715. Converse has also lost sales and market share to Ed Hardy's Accused Products, and is likely to lose additional sales and market share in the future. Ed Hardy promotes and sells its Accused Products at DSW retail stores, and online at Overstock.com and Designerimports.com, and Converse faces price competition from the Accused Products. *See*

Section IV.P, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces price underselling from Ed Hardy's Accused Products. Ed Hardy's Accused Products have sold at \$43.99, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 18. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Ed Hardy's Accused Products represents a lost Converse sale.

Q. Kmart

716. Kmart, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including price underselling, has caused Converse to lose shoe sales to Kmart and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Kmart is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

717. Comments made by purchasers on the mygofer.com shopping website, reviewing the accused Kmart Joe Boxer shoe, demonstrate actual and likely confusion and association between Kmart's Accused Products and Converse Shoes, and actual sales lost by Converse to Kmart's Accused Products. In reviewing the Joe Boxer shoe, for example, a customer stated

“I’ve gotten lots of compliments and I do like how they’re like getting Chuck Taylor’s [sic] for a steal.” Exhibit 213.

718. Converse has lost sales and market share to Kmart’s Accused Products, and is likely to lose additional sales and market share in the future. Kmart promotes and sells its Accused Products at its retail stores and on its website. *See* Section IV.Q, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Kmart’s Accused Products. Kmart’s Accused Products have sold as low as \$5.60, underselling comparable Converse Shoes for kids, which ordinarily sell for at least, approximately \$35. *See* Exhibit 23 ¶ 20. Converse Shoes for kids sold at Target sell for at least, approximately \$21.99. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Kmart’s Accused Products represents a lost Converse sale.

R. Lilly New York

719. Lilly New York, through the unauthorized use of the Asserted Trademarks, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Asserted Trademarks. This unfair competition, including underselling, has caused Converse to lose shoe sales to Lilly New York and threatens to cause lost sales in the future. In addition, the unauthorized use of the Asserted Trademarks by Lilly New York is harming or threatening to harm the distinctiveness and selling power of the Asserted Trademarks, diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse’s domestic industry.

720. Evidence of actual and likely marketplace confusion and association between Lilly New York's Accused Products with Converse includes consumer postings on social networks. For example, a consumer on Sulia.com, a social network that allows users to subscribe to and connect over topics of interest, told users that she had "been a fan of black sole Chuck Taylors F-O-R-E-V-E-R" and advised them that there are "some serious adorable knock-offs from Lilly of New York." *See, e.g.*, Exhibit 214. This posting clearly demonstrates consumer associations between Lilly New York's Accused Products and Converse Shoes.

721. Converse has lost sales and market share to Lilly New York's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Lilly New York sells the Accused Products at retail stores in the United States and on the Internet. *See* Section IV.R, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Lilly New York's Accused Products. Lilly New York's Accused Products have sold as low as \$6.99, underselling comparable Converse Shoes for kids, which ordinarily sell for at least, approximately \$35. *See* Exhibit 23 ¶ 22. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Lilly New York's Accused Products represents a lost Converse sale.

S. Bape

722. Bape, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Bape and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Bape is harming or threatening to harm the distinctiveness and

selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

723. Comments made by bloggers, reviewing an accused Bape shoe, demonstrate actual and likely confusion and association between Bape's Accused Products and Converse Shoes. For example, bloggers have noted that the accused Bape "Ape Sta" shoe "makes little effort to conceal the fact that these are Converse Chuck Taylor-inspired sneakers" and "obviously takes cues from the classic Converse Chuck Taylor, but fans of the brand don't seem to mind the concept jacking, and continue to buy the sneaker [sic]." Exhibit 215. Similarly, a consumer selling a pair of Bape shoes on Ebay.com described the Accused Products as "Converse Style." *See, e.g.*, Exhibit 216.

724. Converse has lost sales and market share to Bape's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Bape promotes and sells shoes through its own stores and on the Internet, and competes with certain special edition Converse Shoes. *See* Section IV.S, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Bape's Accused Products represents a lost Converse sale.

T. OPPO

725. OPPO, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the

Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to OPPO and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by OPPO is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

726. Evidence of actual and likely confusion and association between OPPO's Accused Products and Converse Shoes can be seen on the Sears.com website, which promotes various models of OPPO's Accused Products as "Chuck Taylor style HI top sneaker[s]" in both the title of the product and in the description. *See* Section IV.T, *supra*; Exhibit 137; Exhibit 138. As a further example, a consumer listed a pair of OPPO shoes as "[C]onverse Chuck Taylor style Hi Top" shoes in an attempt to sell them on Ebay.com. Exhibit 217.

727. Converse has lost sales and market share to OPPO's Accused Products, and is likely to lose additional sales and market share in the future. OPPO promotes and sells its Accused Products at Sears retail stores and online at Sears.com. *See* Section IV.T, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from OPPO's Accused Products. OPPO's Accused Products have sold at \$17, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$55. *See* Exhibit 23 ¶ 26. Given the substantial similarity between the

Accused Products and Converse Shoes, each sale of OPPO's Accused Products represents a lost Converse sale.

U. Demonia Deviant

728. Demonia Deviant, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to Demonia Deviant and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Demonia Deviant is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

729. Comments made by purchasers on Amazon's website, reviewing an accused Demonia Deviant men's shoe demonstrate actual and likely confusion and association between Demonia Deviant's Accused Products and Converse Shoes, and actual sales lost by Converse to Demonia Deviant's Accused Products. In reviewing the Demonia Deviant shoe, for example, a customer stated "[g]reat shoes good price. Better than converse [sic]." Exhibit 218.

730. Converse has lost sales and market share to Demonia Deviant's Accused Products, and is likely to lose additional sales and market share in the future. Demonia Deviant promotes and sells its Accused Products at Sears retail stores, and online at Sinistersoles.com and Rivithead.com, and Converse faces competition from the Accused Products. *See* Section IV.U, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also

describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Demonia Deviant's Accused Products. Demonia Deviant's Accused Products have sold at \$34.95, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$55. *See* Exhibit 23 ¶ 28. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Demonia Deviant's Accused Products represents a lost Converse sale.

V. Ositos

731. Ositos, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to Ositos and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Ositos is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

732. Converse has lost sales and market share to Ositos' Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Ositos sells the Accused Products at retail stores in the United States and on the Internet and competes with Converse Shoes. *See* Section IV.V, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from

Ositos' Accused Products. Ositos' Accused Products have sold at \$20.90, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 30. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Ositos' Accused Products represents a lost Converse sale.

W. PW

733. PW, through the unauthorized use of the Asserted Trademarks, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Asserted Trademarks. This unfair competition, including underselling, has caused Converse to lose shoe sales to PW and threatens to cause lost sales in the future. In addition, the unauthorized use of the Asserted Trademarks by PW is harming or threatening to harm the distinctiveness and selling power of the Asserted Trademarks, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

734. Converse has lost sales and market share to PW's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, PW sells the Accused Products at retail stores in the United States and on the Internet, competing with Converse Shoes. *See* Section IV.W, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.,* Exhibit 196C. In addition, Converse faces price underselling from PW's Accused Products. PW's Accused Products have sold at \$10.99, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 32. Given the substantial

similarity between the Accused Products and Converse Shoes, each sale of PW's Accused Products represents a lost Converse sale.

X. Ralph Lauren

735. Ralph Lauren, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to Ralph Lauren and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Ralph Lauren is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

736. Comments made by purchasers on Amazon's website, reviewing an accused Ralph Lauren men's shoe, demonstrate actual and likely confusion and association between the Ralph Lauren Accused Products and Converse Shoes, and actual sales lost by Converse to Ralph Lauren's Accused Products. In reviewing the Ralph Lauren shoe, for example, a customer stated "[t]hese shoes are perfect for summer. Great look with shorts or jeans. Better than chucks [Converse shoes]." Exhibit 219.

737. Converse has lost sales and market share to Ralph Lauren's Accused Products, and is likely to lose additional sales and market share in the future. Ralph Lauren promotes and sells its Accused Products at its retail stores in the United States and on the Internet, and competes with Converse Shoes. *See* Section IV.X, *supra*. Internal Converse market reports,

prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces price underselling from Ralph Lauren's Accused Products. Ralph Lauren's Accused Products have sold at \$40.99, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 34. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Ralph Lauren's Accused Products represents a lost Converse sale.

Y. Foreversun

738. Foreversun, through the unauthorized use of the Asserted Trademarks, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Asserted Trademarks. This unfair competition, including underselling, has caused Converse to lose shoe sales to Foreversun and threatens to cause lost sales in the future. In addition, the unauthorized use of the Asserted Trademarks by Foreversun is harming or threatening to harm the distinctiveness and selling power of the Asserted Trademarks, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

739. Converse has lost sales and market share to Foreversun's Accused Products, and is likely to lose additional sales and market share in the future. Foreversun promotes and sells its Accused Products at retail stores in the United States and on the Internet, and competes with Converse Shoes. *See* Section IV.Y, *supra*. Internal Converse market reports, prepared in the ordinary course of business, describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. Given the substantial similarity between the

Accused Products and Converse Shoes, each sale of Foreversun's Accused Products represents a lost Converse sale.

Z. Shoe Shox

740. Shoe Shox, through the unauthorized use of the Asserted Trademarks, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Asserted Trademarks. This unfair competition, including underselling, has caused Converse to lose shoe sales to Shoe Shox and threatens to cause lost sales in the future. In addition, the unauthorized use of the Asserted Trademarks by Shoe Shox is harming or threatening to harm the distinctiveness and selling power of the Asserted Trademarks, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

741. Converse has lost sales and market share to Shoe Shox's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Shoe Shox sells the Accused Products at retail stores in the United States and on the Internet, competing with Converse Shoes. *See* Section IV.Z, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces price underselling from Shoe Shox's Accused Products. Shoe Shox's Accused Products have sold at \$6.99, underselling comparable Converse Shoes for kids, which ordinarily sell for at least, approximately \$35. *See* Exhibit 23 ¶ 36. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Shoe Shox's Accused Products represents a lost Converse sale.

AA. Tory Burch

742. Tory Burch, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition has caused Converse to lose shoe sales to Tory Burch and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Tory Burch is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

743. Converse has lost sales and market share to Tory Burch's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Tory Burch sells the Accused Products at retail stores in the United States and on the Internet, competing with Converse Shoes. *See* Section IV.AA, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse is suffering from price competition from the Tony Burch Accused Products, which are sold at prices comparable to certain special edition Converse Shoes. *See* Section II. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Tory Burch's Accused Products represents a lost Converse sale.

BB. Zulily

744. Zulily, through the unauthorized use of the Asserted Trademarks, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Asserted Trademarks. This unfair competition has caused Converse to lose shoe sales to Zulily and

threatens to cause lost sales in the future. In addition, the unauthorized use of the Asserted Trademarks by Zulily is harming or threatening to harm the distinctiveness and selling power of the Asserted Trademarks, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

745. Converse has lost sales and market share to Zulily's Accused Products, and is likely to lose additional sales and market share in the future. Like Converse, Zulily promotes and sells shoes through its online shopping site. *See* Section IV.BB. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Zulily's Accused Products. Zulily's Accused Products have sold at significantly lower prices than comparable Converse Shoes, thereby underselling Converse Shoes. *See* Exhibit 23 ¶¶ 12, 22, 32, 36. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Zulily's Accused Products represents a lost Converse sale.

CC. Xinya

746. Xinya, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to exported Xinya shoes and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Xinya is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole

Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

747. Converse has lost sales and market share to Xinya's Accused Products, and is likely to lose additional sales and market share in the future. On information and belief, Xinya exports the Accused Products to at least FILA, competing with Converse Shoes sold on the Internet and through retail stores. *See* Section IV.CC, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Xinya's Accused Products. Xinya's Accused Products have sold at \$21.90, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 8. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Accused Products represents a lost Converse sale.

DD. Ouhai

748. Ouhai, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to exported Ouhai shoes and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Ouhai is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse

brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

749. Converse has lost sales and market share to exported Ouhai's Accused Products, and is likely to lose additional sales and market share in the future. Ouhai exports the Accused Products to at least Aldo and OPPO, competing with Converse Shoes sold on the Internet and through competing retail stores. *See* Section IV.DD, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Ouhai's Accused Products. Ouhai's Accused Products have sold for \$54.98, underselling comparable Converse Shoes. *See* Exhibit 48 ¶ 2. Ouhai's Accused Products have also sold at \$17, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$55. *See* Exhibit 23 ¶ 26. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Accused Products represents a lost Converse sale.

EE. Wenzhou

750. Wenzhou, through the unauthorized use of the Converse Midsole Trademark, has created a likelihood of confusion among U.S. consumers and likelihood of dilution of the Converse Midsole Trademark. This unfair competition, including underselling, has caused Converse to lose shoe sales to Wenzhou's Accused Products and threatens to cause lost sales in the future. In addition, the unauthorized use of the Converse Midsole Trademark by Wenzhou is harming or threatening to harm the distinctiveness and selling power of the Converse Midsole Trademark, thereby diminishing the goodwill associated with the Converse brand. These actual or threatened lost sales, the likelihood of confusion and/or dilution, and the harm to the Converse

brand and associated goodwill are causing or threaten to cause substantial injury to Converse's domestic industry.

751. Converse has lost sales and market share to Wenzhou's Accused Products, and is likely to lose additional sales and market share in the future. Wenzhou exports the Accused Products to at least Ositos, competing with Converse Shoes sold on the Internet and through retail stores. *See* Section IV.EE, *supra*. Internal Converse market reports, prepared in the ordinary course of business, also describe sales lost by Converse to infringing shoes and other competitive harms. *See, e.g.*, Exhibit 196C. In addition, Converse faces underselling from Wenzhou's Accused Products. Wenzhou's Accused Products have sold at \$20.90, underselling comparable Converse Shoes, which ordinarily sell for at least, approximately \$50. *See* Exhibit 23 ¶ 30. Given the substantial similarity between the Accused Products and Converse Shoes, each sale of Accused Products represents a lost Converse sale.

X. RELATED LITIGATION

752. Converse has enforced the Asserted Trademarks against numerous infringers, including in various district courts across the country. Contemporaneously with its filing of the present Complaint, Converse is filing parallel district court actions in the United States District for the Eastern District of New York against each of the Respondents alleging trademark infringement, false designation of origin, unfair competition, and trademark dilution based on the Asserted Trademarks.

753. On September 9, 2013, Converse filed an action in the United States District Court for the District of Massachusetts against defendant Autonomie Project, Inc., alleging trademark infringement, false designation of origin, unfair competition, trademark dilution, and unfair business practices based on Converse's common law rights in the Asserted Trademarks, as

well as U.S. Trademark Registration Nos. 1,588,960; 3,258,103; 4,062,112; and 4,065,482.⁴ The case was captioned *Converse Inc. v. Autonomie Project, Inc.*, Civil Action No. 1:13-cv-12220. On January 15, 2014, the Court entered a consent judgment and permanent injunction order against defendant Autonomie Project, Inc.

754. On June 15, 2012, Converse and Nike filed an action in the United States District Court for the Central District of California against defendants Superstar International, Inc.; Jear Shoes Inc.; King-Air Trading Inc., d/b/a K-Air Shoes; AC Int'l Trading Inc.; Dun Huang International Trading Inc.; Xiao Ming Wu; Sai Lui Jian Qiang Lui; and Yun Mei Yuan alleging, *inter alia*, trademark infringement, false designation of origin, unfair competition, and trademark dilution based on Converse's common law rights in the Asserted Trademarks, as well as U.S. Trademark Registration Nos. 1,588,960; 3,258,103; 4,062,112; and 4,065,482. The case was captioned *Nike, Inc. and Converse Inc. v. Superstar International, Inc. et al.*, Civil Action No. 2:12-cv-5240. The Court entered (1) a consent judgment and permanent injunction order against defendants Superstar International, Inc., AC Int'l Trading Inc., and Sai Liu on May 15, 2013, and (2) a consent judgment and permanent injunction order against defendants Dun Huang International Trading Inc., King-Air Trading Inc., Jian Qiang Liu, and Xiao Ming Wu on May 17, 2013.

755. On February 6, 2012, Converse and Nike filed an action in the United States District Court for the District of Nevada against defendant QiLoo International Limited alleging, *inter alia*, trademark infringement, false designation of origin, unfair competition, and trademark dilution based on, *inter alia*, Converse's common law rights in the Asserted Trademarks, as well

⁴ Converse's U.S. Trademark Registration No. 4,398,753 relating to the Converse Midsole Trademark issued after Converse instituted the related litigations set forth in the following paragraphs of Section X.

as U.S. Trademark Registration Nos. 1,588,960; 3,258,103; 4,062,112; and 4,065,482. The case was captioned *Nike, Inc. and Converse Inc. v. QiLoo International Limited*, Civil Action No. 2:12-cv-00191. On November 1, 2012, the Court entered a final default judgment and a permanent injunction order against defendant QiLoo International Limited.

756. On February 3, 2012, Converse filed an action in the United States District Court for the Southern District of New York against defendant ModCloth, Inc. alleging trademark infringement, false designation of origin, unfair competition, and trademark dilution based on, *inter alia*, Converse's common law rights in the Asserted Trademarks, as well as U.S. Trademark Registration Nos. 1,588,960; 3,258,103; 4,062,112; and 4,065,482. The case was captioned *Converse Inc. v. ModCloth, Inc.*, Civil Action No. 1:12-cv-00891. On May 1, 2012, the Court approved a stipulation of voluntary dismissal of the action as a result of an agreed-upon settlement.

757. The Asserted Trademarks have not been the subject of any other court or agency litigation.

XI. GENERAL EXCLUSION ORDER

758. Should the Commission find a violation of Section 337, a general exclusion order ("GEO") directed to certain footwear products that violate Converse's rights in one or more of the Asserted Trademarks is necessary and appropriate to prevent circumvention of a limited exclusion order directed to Respondents and/or to remedy a pattern of violation of Section 337. 19 U.S.C. § 1337(d)(2). As described in more detail below, the facts in this case, as alleged in this Complaint and likely to be revealed through discovery, demonstrate a high demand for knockoff footwear products in the United States and a large and established distribution system, interchangeability of foreign manufacturers of knockoff footwear products, large foreign

capacity to produce knockoff footwear products with ease and at low cost, and a propensity and ability of foreign suppliers of knockoff footwear products to change company names and corporate forms in attempt to evade enforcement efforts.

759. First, there exists high demand, and a well-established and extensive distribution system, for knockoff footwear products in the United States. That distribution system, as discussed in Section II.A.1.b above, includes department stores, specialty stores, and an extensive Internet-based sales and distribution network. *See* Sections IV.CC--EE, *supra*. One indicator of the high demand for knockoff footwear products is the large number of Respondents selling and promoting Accused Products. *See* Section IV, *supra*. Indeed, unauthorized use of the Asserted Trademarks continues to grow, notwithstanding Converse's longstanding, ongoing, and substantial efforts to police its rights over the years. Approximately two months ago, at the WSA trade show held in Las Vegas on August 18-20, 2014, Converse identified more than 20 companies promoting and selling knockoff footwear products. These violations were discovered at a section of the show billed as "the most comprehensive fashion sourcing event in the world." All of the knockoff footwear products purported to be manufactured outside the United States, mostly from China. Exhibitors at the show were present in Las Vegas for only a few days, during which, on information and belief, they took orders for container loads full of shoes that infringe and dilute the Asserted Trademarks, many of which will be bound for the United States. Figure 51 below shows representative images of shoes being promoted at different exhibitors' booths throughout the show.

FIGURE 51: Representative Images of Knockoff Footwear Products Displayed at the August 2014 WSA Show



760. Second, manufacturers are largely interchangeable. In the last three years alone, Converse, with the assistance of local authorities, has conducted over 200 raids on foreign footwear production facilities, resulting in the seizure of millions of pairs of counterfeit footwear products and materials for making counterfeit footwear products. *See* Section III.B, *supra*. In particular, Converse seized almost 60,000 pairs of counterfeit footwear products worldwide in 2009, increasing to over 670,000 pairs of counterfeit footwear products worldwide in 2010. That number more than doubled in fiscal year 2011, and from fiscal years 2012 to 2014, Converse seized more than 2 million pairs of counterfeit footwear products worldwide. The sheer number

of seizures, obtained from many different manufacturers, attests to the interchangeability and ubiquity of foreign production facilities able and motivated to manufacture counterfeit and/or knockoff footwear products. Indeed, on information and belief, factories previously raided by Converse are also suppliers to several Respondents. *See* Sections IV.CC-EE, *supra*.

761. Third, foreign manufacturers can easily and inexpensively retool foreign factories to manufacture knockoff footwear products for sale and importation into the United States. The basic manufacturing requirements are footwear molds and an autoclave oven that can produce vulcanized rubber shoes. In the course of foreign factory raids, Converse has seized numerous outsole molds used to manufacture counterfeit footwear products. On information and belief, the equipment needed to produce counterfeit or knockoff footwear products, using such molds, can be retooled at very low cost. The ability of, and interest among, foreign manufacturers to retool factories to make counterfeit or knockoff footwear products is shown by the large number of seizures by Converse in recent years in Asia. Additionally, imports of Asian-produced footwear products into the United States in 2013 totaled over \$21 billion, indicative of the large foreign capacity to supply footwear products to the U.S. market. *See* Exhibit 220.

762. Finally, it is difficult to determine the source of imported knockoff footwear products. Many foreign manufacturers of knockoff footwear products do business under multiple names and through different subsidiaries, import knockoff footwear products into the United States through many different importers, and have shown the ability to quickly change the manufacturer's name and corporate form. In addition, many trading companies offer knockoff and counterfeit footwear products for sale and importation into the United States on the Internet – advertising large production volumes and short turnaround times, under a week in some cases, and offering to sell and ship footwear products to retailers, distributors, and

consumers in the United States. *See, e.g.* Exhibit 221; Exhibit 222. Some trading companies will even offer to sell counterfeit Converse shoe boxes for packaging. *See, e.g.*, Exhibit 223. An increasing number of trading companies are selling counterfeit and knockoff Converse shoes on social media sites such as Instagram and Twitter, and on discount online market places such as The Discount Dame. *See* Exhibit 224. Very few, if any, of these trading companies identify the ultimate manufacturer of knockoff footwear products. In addition, some Chinese suppliers of knockoff footwear products seek to avoid detection by segmenting the manufacturing process. For example, one factory, owned and operated by one company, may stitch the upper portions of the shoe, while another factory, owned and operated by a second company, may manufacture the outsoles, and a third company may assemble the final shoe.

763. The imposition of a GEO is therefore necessary both to remedy the injury Converse is currently experiencing and to protect Converse from the threat of substantial injury from unfairly traded imports of knockoff footwear products.

XII. REQUEST FOR RELIEF

WHEREFORE, Complainant Converse respectfully requests that the United States International Trade Commission:

A. Institute an immediate investigation pursuant to Section 337(b)(1) of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, into the violation by Respondents of Section 337 arising from the importation into the United States, and/or sale for importation, and/or sale within the United States after importation, of Respondents' footwear products that infringe or dilute one or more of the Asserted Trademarks;

B. Schedule and conduct a hearing pursuant to Section 337(c) for purposes of receiving evidence and hearing argument concerning whether there has been a violation of

Section 337, and, following the hearing, to determine that there has been a violation of Section 337;

C. Issue a general exclusion order forbidding entry into the United States of footwear products that violate Converse's rights in one or more of the Asserted Trademarks and colorable imitations thereof; Alternatively, issue a limited exclusion order forbidding entry into the United States of footwear products imported, sold for importation, or sold after importation by Respondents that violate Converse's rights in one or more of the Asserted Trademarks and colorable imitations thereof;

D. Issue a permanent cease and desist order, pursuant to Section 337(f), directing Respondents to cease and desist from the importation, marketing, advertising, demonstrating, warehousing of inventory for distribution, sale, and use in the United States of imported footwear articles that violate Converse's rights in one or more of the Asserted Trademarks and colorable imitations thereof; and

E. Grant all such other and further relief as it deems appropriate under the law, based upon the facts complained of herein and as determined by the investigation.

XIII. GLOSSARY OF TERMS

- **Anatomy of a Shoe:**

- **Upper:** The material (often canvas or leather) that more or less surrounds the top of a foot.
- **Midsole:** The portion of a shoe between the upper and the outsole that often provides cushioning and/or support structure to the shoe.
- **Outsole:** The tread or bottom of a shoe ordinarily in contact with the ground.

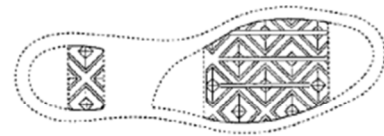


- **Asserted Trademarks:** Refers collectively to Converse's common law and federally registered trademark rights in the Converse Midsole Trademark (midsole design) and in the Converse Outsole Trademark (outsole design).

- **Converse Midsole Trademark:** The midsole design made up of a toe bumper and a toe cap, plus either an upper stripe and/or a lower stripe that have commonly been used by Converse since 1932 in connection with “All Star” shoes, among other Converse products. In addition to strong rights obtained through long term and consistent use, known as common law trademark rights, the Converse Midsole Trademark is covered by U.S. Trademark Registration No. 4,398,753.

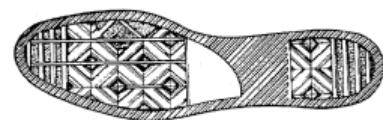


- **Converse Outsole Trademark:** The outsole design made up of diamond shapes and lines that have commonly been used by Converse since 1917 in connection with “All Star” shoes, among other Converse products. The Converse Outsole Trademark is covered by U.S. Trademark Registration Nos. 1,588,960 and 3,258,103. Both of these registrations are incontestable, meaning they provide conclusive evidence of Converse’s ownership and exclusive right to use the Converse Outsole Trademark.

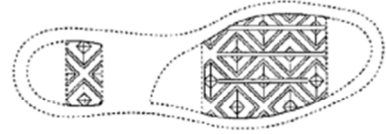


- **Counterfeit:** An unauthorized product that copies the Converse Midsole and Outsole Trademarks, along with Converse word marks and/or logos as they would ordinarily appear on genuine Converse shoes. In other words, a direct copy of a genuine Converse shoe.
- **Knockoff:** An unauthorized product bearing close simulations of the Converse Midsole and/or Outsole Trademarks but – unlike counterfeits – lacking other trademarks ordinarily found on genuine Converse shoes. These products sometimes include words or logos that look similar to, but not identical to, Converse trademarks.
- **Midsole of a Shoe:** See, “Anatomy of a Shoe.”
- **Outsole of a Shoe:** See, “Anatomy of a Shoe.”

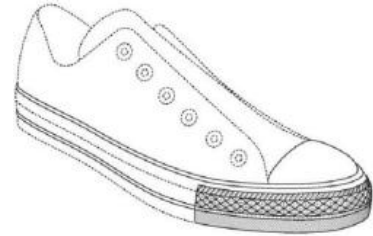
- **United States Trademark Registration No. 1,588,960 or the “960 Registration”:** A three dimensional sole of shoe design trademark duly registered by the United States Patent and Trademark Office to Converse on March 27, 1990, in connection with athletic footwear in International Class 25, now incontestable.



- **United States Trademark Registration No. 3,258,103 or the “103 Registration”:** A three dimensional tread design trademark duly registered by the United States Patent and Trademark Office to Converse on July 3, 2007, in connection with footwear in International Class 25, now incontestable.



- **United States Trademark Registration No. 4,398,753 or the “753 Registration”:** The design of the two stripes on the midsole of the shoe, the design of the toe cap, the design of the multi-layered toe bumper featuring diamonds and line patterns, and the relative position of these elements to each other, trademark duly registered by the United States Patent and Trademark Office to Converse on September 10, 2013, in connection with footwear in International Class 25.



- **Upper of a Shoe:** See, “Anatomy of a Shoe.”

Dated: _____ Respectfully submitted,

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