

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LASER REPRODUCTIONS, INC., and	)	
CARY GREEN,	)	
	)	
Plaintiffs	)	No. 04C 1815
	)	
v.	)	Judge Matthew F. Kennelly
	)	Magistrate Judge Ashman
CONDE SYSTEMS, INC., and	)	
DAVID GROSS,	)	
	)	
Defendants	)	

**ANSWER TO COMPLAINT**

Defendants CONDE SYSTEMS, INC., and DAVID GROSS (“Defendants”), by and through their attorneys, JAMES F. SMITH and JOSHUA A. ALDORT, and CLAUSEN MILLER P.C. and for their Answer and Affirmative Defenses to Plaintiffs, LASER REPRODUCTIONS, INC., and CARY GREEN, (“Plaintiffs” or “LASER”), state the following:

1. In this COMPLAINT, LASER REPRODUCTIONS and GREEN seek equitable and monetary relief for acts in violation of federal and state law. This COMPLAINT arises under the federal copyright act (Title 17, U.S.C. §§ 101 *et seq.*), section 43(a) of the federal Lanham Act (Title 15, U.S.C. § 1125(a)), the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 510/1 *et seq.*; and state common law forbidding palming off, reverse palming off, and unfair competitors.

**ANSWER:** Defendants admit only that plaintiffs have brought this complaint pursuant to the above referenced statutes and the common law. Defendants deny they have violated any statute or common law or wrongfully used Plaintiffs’ purported copyrights and trade dress.

2. Plaintiff LASER REPRODUCTIONS is a corporation of the State of Illinois having its principle place of business in Skokie, Illinois. Plaintiff GREEN is a resident of the State of Illinois.

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

3. Defendant CONDE, on information and belief, is a corporation of the State of Alabama having its principal place of business in Mobile, Alabama. CONDE is in the business, *inter alia*, of producing, selling, and distributing supplies and blank substrates to the custom decorating industry. Defendant GROSS, on information and belief, is a resident of the State of Alabama. Defendant GROSS is the president of Defendant CONDE.

**ANSWER:** Defendants deny CONDE is an Alabama corporation. Defendants deny CONDE is in the business, *inter alia*, of producing, selling, and distributing supplies and blank substrates to the custom decorating industry.

#### **JURISDICTION AND VENUE**

4. Counts I to V allege a violation of the federal copyright act (Title 17, U.S.C. §§ 101 *et seqq.*). The Court has exclusive jurisdiction of these counts under Title 18, U.S.C., § 1338. Counts VI to VIII allege violations of the federal Lanham Act (Title 15, U.S.C. § 1125(a)). The Court has jurisdiction of these counts pursuant to Title 18, U.S.C., § 1331. The Court has jurisdiction of the remaining counts under its supplemental jurisdiction of Title 18, U.S.C. § 1367.

**ANSWER:** Admitted.

5. Alternately, all of the plaintiffs are citizens of the State of Illinois. Further, all of the Defendants are citizens of the State of Alabama. Thus, all of the plaintiffs are citizens of

different states from all of the Defendants. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Accordingly, this Court has jurisdiction of these counts under Title 28, U.S.C., § 1332.

**ANSWER:** Defendants deny jurisdiction rests with the Court pursuant to 28 U.S.C. § 1332 because the amount in controversy does not exceed \$75,000.00.

6. A substantial part of the events and omissions giving rise to these claims occurred in this district. Accordingly, venue lies in this district under Title 28, U.S.C., §1391(a).

**ANSWER:** Defendants deny that a substantial part of the events and omissions that gave rise to these claims occurred in this district.

### **COUNT I: COPYRIGHT VIOLATION THE DOLLS**

7. In 1991, Plaintiff GREEN and his sister Carol S. Conroy (“Conroy”) created a series of dolls which they have variously designated by the names and trademarks “N. E. Buddy Photo Face Doll,” “Baby Me Doll,” “Baby n’Me Doll,” “Baby Me Too Doll,” and “Binkie.” Each of these dolls, by virtue of its creation, has an entitlement to a United States copyright (“the first copyright”). These dolls have blank faces so that a photograph of a particular person may be placed on a doll’s face to individualize the doll for that individual.

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

8. On February 12, 2003, GREEN and Conroy obtained United States registration number VA 1-171-457 (“the first registration”) on the first copyright on their dolls. A copy of this first copyright registration is attached as Exhibit A. Copies of the photographs submitted with the application to register the first copyright appear as Exhibit B.

**ANSWER:** Defendants only admit that Plaintiffs have attached a copy of Reg No. VA 1-171-457 as Exhibit A, and that Plaintiffs have attached copies of photographs

Plaintiffs claim were submitted to register with the first registration. Defendants possess insufficient knowledge to form a belief as to the truth of the remaining averments and therefore deny same.

9. Conroy, on September 4, 2003, assigned all of her right, title, and interest in the first copyrighted dolls to Plaintiff Green.

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

10. Conroy, GREEN, Ella Pike (“Pike”), and LASER REPRODUCTIONS, in 2004, created various materials for a Trade Book that included photographs of numerous soft sculptures, or dolls. The Trade book (shown in Exhibit C), in particular contained the soft sculptures of the registration VA 1-171-457 and a large number of photographs of soft sculptures not shown in the first registration.

**ANSWER:** Defendants only admit Plaintiffs have attached a copy of a trade book as Exhibit C. Defendants possess insufficient knowledge to form a belief as to the truth of the remaining averments and therefore deny same.

11. Conroy and LASER REPRODUCTIONS have assigned their right, title, and interests in the copyright to the Trade Book and its contents (the “second copyright”) to Plaintiff GREEN. Any interest of Pike’s in any copyright on the Trade Book belongs to Plaintiff GREEN by operation of law.

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

12. In addition to the first copyright registration listed in paragraph 8 above, Plaintiff Green has obtained copyright registration VAu599-5353 (Exhibit D) on the Trade Book (“the second registration”). This registration has an effective date of January 13, 2004. The second

registration claimed copyright protection in the soft sculptures themselves and the photographs in the book not covered by the first copyright or the first registration, and the book as a compilation.

**ANSWER:** Defendants only admit Plaintiffs have attached a copy of Reg No. VAu599-5353 as Exhibit D. Defendants possess insufficient knowledge to form a belief as to the truth of the remaining averments and therefore deny same.

13. Plaintiff GREEN has exclusively licensed his first and second copyrights (the “Copyrights”) on the dolls, photographs, and compilation to Plaintiff LASER Reproductions. In turn, LASER REPRODUCTION engage in the business of imprinting individuals’ faces on the dolls and selling the now individualized dolls to the individuals requesting the dolls with the particular faces. LASER REPRODUCTIONS also sells dolls to businesses which then may also place faces on the dolls and sell them to those purchasing this service and product.

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

14. Defendant CONDE, in the years 2000 and 2001 purchased dolls covered by the Copyrights from Baby Me, Inc., then a licensee of Conroy and Plaintiff GREEN. Defendant CONDE then resold the dolls to businesses which placed faces on the dolls to sell to the eventual consumers. However, CONDE stopped purchasing the copyrighted dolls from Baby Me, Inc., in 2001.

**ANSWER:** Defendants deny they stopped purchasing dolls from Baby Me, Inc. but instead, Marie Green stopped selling dolls to Defendants due to her inability to pay her supplier for the dolls. Defendants possess insufficient knowledge to form a belief as to the truth of the remaining averments and therefore deny same.

15. Since 2001, CONDE, under the direction of its president, Defendant GROSS, has purchased and had made dolls substantially similar to, in fact exactly the same as, the dolls

covered by GREEN's Copyrights from sources other than LASER REPRODUCTIONS. The dolls thus purchased by CONDE were neither made nor approved by GREEN or LASER REPRODUCTIONS. CONDE has sold these unapproved dolls to others. By engaging in these activities, CONDE and GROSS have knowingly and intentionally infringed GREEN's Copyrights under Title 17, U.S.C., §106(1).

**ANSWER:** Defendants deny they made dolls. Defendants deny dolls they sold were identical to Plaintiffs' purported copyrights. Defendants deny their dolls are substantially similar to Plaintiffs' dolls. Defendants deny that through their activities they have knowingly and intentionally infringed Plaintiff's purported copyrights.

16. CONDE, at Defendant GROSS' direction, has also demonstrated and displayed these unapproved, infringing dolls to others. These activities violate Title 17, U.S.C., § 106(5).

**ANSWER:** Defendants deny their dolls infringe Plaintiffs' purported copyrights. Defendants deny the complained of activities violate Title 17, U.S.C., § 106(5).

17. Plaintiff LASER REPRODUCTIONS has demanded that Defendants CONDE and GROSS cease and desist their infringement of Plaintiff's Copyrights. Defendants CONDE and GROSS have refused this demand.

**ANSWER:** Denied.

18. Clearly, Defendants will continue to infringe Plaintiffs' Copyrights unless this Court enjoins them from this activity.

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from infringing the Copyrights under Title 17, U.S.C., § 502 by making, having made, selling, demonstrating, or

advertising dolls substantially similar to those covered by Plaintiffs' Copyrights. Plaintiffs also seek an order of this Court that infringing dolls be impounded and destroyed or otherwise disposed of pursuant to Title 17, U.S.C., § 503, and the seizure and forfeiture of such dolls under Title 17, U.S.C., § 509. Furthermore, Plaintiffs seek an award of compensatory damages and their attorney's fees and costs in pursuing this action pursuant to Title 17, U.S.C., §§ 504 and 505.

**COUNT II: COPYRIGHT VIOLATION  
THE DRESSED AND BLANK DOLLS AND  
THE DRESSED AND INDIVIDUALIZED DOLLS**

19. Plaintiffs restate and reallege paragraphs 7 to 18 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 18 above.

20. Defendant CONDE, under the direction of Defendant GROSS, has taken the infringing dolls and placed clothing on them. These clothed dolls are identical to those shown in the second copyright. On some, but not all of the clothed, infringing dolls, Defendants have imprinted pictures of various persons. Defendants have then sold and distributed the clothed dolls, both blank and imprinted, to other businesses and to the public.

**ANSWER:** Defendants deny their dolls infringe plaintiffs' purported copyrights. Defendants deny the clothed dolls are identical to those shown in the second copyright. Defendants deny they sell imprinted dolls to other businesses.

21. Further, Defendants have publicly demonstrated and displayed the blank and imprinted, clothed dolls. These activities have occurred at, *inter alia*, at training sessions and at trade shows.

**ANSWER:** Admitted.

22. Upon information and belief, Defendant GROSS has also committed infringing activities at flea markets. There, he has demonstrated and displayed blank and individualized, clothed dolls. He has also sold individualized, clothed dolls.

**ANSWER:** Defendants deny GROSS committed infringing activities at flea markets.  
Defendants deny GROSS sold blank dolls at flea markets.

23. Defendants' actions enumerated in the prior three paragraphs constitute the unlawful making, distribution, and display of derivative works of Plaintiffs' dolls covered by the first copyright. They also constitute the unlawful reproducing of the copyrighted dolls covered by the second copyright in copies and thus a direct infringement of the second copyright. These constitute a violation of Title 17, U.S.C., § 106(1), (2), and (5).

**ANSWER:** Denied.

24. Plaintiffs have demanded that Defendants cease and desist their infringing activities set forth in this count. Defendants have refused to do so and will continue their infringing activities unless enjoined by this Court.

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from infringing the Copyrights by imprinting dolls or by making, selling, advertising, or demonstrating clothed blank or imprinted dolls violative of these copyrights under Title 17, U.S.C., § 502. Plaintiffs further as this Court for an order that infringing dolls be impounded and destroyed or otherwise disposed of pursuant to Title 17, U.S.C., § 503, and be seized and forfeited under Title 17,

U.S.C., § 509. Furthermore, Plaintiff seek an award of compensatory damages and their attorney's fees and costs in pursuing this action pursuant to Title 17, U.S.C., §§ 504 and 505.

**COUNT III: COPYRIGHT VIOLATION  
THE DOLLS IN CONDE'S CATALOG**

25. Plaintiffs restate and reallege paragraphs 7 to 24 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 24 above.

26. Defendant CONDE, under the direction of Defendant GROSS, has made photographs of infringing dolls having clothing and imprinted pictures of persons' faces. The photographs themselves constitute both direct copies and derivative works made from the copyrighted dolls, photographs, and compilation. Defendants then published these photographs of the dolls in Defendant CONDE's catalog. A copy of CONDE's catalog showing the photographs of the dolls appears as Exhibit E.

**ANSWER:** Defendants deny their dolls infringe plaintiffs' purported copyrights. Defendants deny that the photographs constitute direct copies and derivative works of Plaintiffs' purported copyrights.

27. Defendants' actions of making and publishing photographs of the copyrighted dolls constitute the unlawful making and distribution of copies and derivative works of Plaintiffs' dolls, photographs, and compilation protected by the Copyrights. These actions thus constitute a violation of Title 17, U.S.C., § 106(1), (2), and (3).

**ANSWER:** Denied.

28. Plaintiffs have demanded that Defendants cease and desist their infringing activities set forth in this count. Defendants have refused to do so and will continue their infringing activities unless enjoined by this Court.

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from infringing the Copyrights by making and publishing photographs of the dolls violative of the first and second copyrighted under Title 17, U.S.C., § 502. Plaintiffs further ask this Court for an order that catalogs with the infringing photographs be impounded and destroyed or otherwise disposed of pursuant to Title 17, U.S.C., § 503, and be seized and forfeited under Title 17, U.S.C., § 509. Furthermore, Plaintiffs seek an award of compensatory damages and their attorney's fees and costs in pursuing this action as provided for by Title 17, U.S.C., §§ 504 and 505.

**COUNT IV: COPYRIGHT VIOLATION  
THE DOLLS ON CONDE'S WEBSITE**

29. Plaintiffs restate and reallege paragraphs 7 to 28 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 28 above.

30. Defendant CONDE, under the direction of Defendant GROSS, has placed on its website photographs of infringing clothed dolls identical to those shown in CONDE's catalog and discussed in the prior count. As before, these photographs themselves constitute derivative works made from the dolls covered by the first copyright and direct infringement of the copyright and a direct infringement of the second copyright and thus infringe the Copyrights. A copy of CONDE's website showing the photographs of the dolls appears as Exhibit F.

**ANSWER:** Defendants deny their dolls infringe plaintiffs' purported copyrights. Defendants deny that the photographs constitute direct copies and derivative works of Plaintiffs' purported copyrights. Defendants possess insufficient knowledge to form a belief as to the truth of the remaining averments and therefore deny same.

31. Defendants' actions of making and publishing photographs of the copyrighted dolls constitute a violation of Title 17, U.S.C., § 106(1), (2), and (3).

**ANSWER:** Denied.

32. Plaintiffs have demanded that Defendants cease and desist their infringing activities set forth in this count. After this demand, CONDE removed the infringing dolls and photographs from its website, saying that the items had been "Temporarily Discontinued." (See Exhibit G showing CONDE's website of September 22, 2003.) Since then, Defendant CONDE, under the direction of its president, Defendant GROSS, has replaced the infringing dolls and photographs on its website. Defendants will clearly continue their infringing activities unless enjoined by this Court.

**ANSWER:** Denied.

33. In fact, Defendant CONDE's website of 12/24/03 (attached as Exhibit F) has announced, on page 3 of 4 that it intends to market products that would appear the same as other products covered by Plaintiffs' Copyrights.

**ANSWER:** Denied.

34. Moreover, on January 9, 2004, Mr. Chris Knight of Defendant CONDE telephoned Plaintiff GREEN and asked him what LASER REPRODUCTIONS would introduce during the year 2004, when GREEN asked why he should tell Knight since CONDE would only copy the new products. Mr. Knight responded to this with words to the effect of, "Well, wouldn't you do the same thing if you could get them cheaper elsewhere?" Through Knight, CONDE has evidenced a clear intention to continue copying Plaintiff's dolls notwithstanding the Copyrights possessed by Plaintiff GREEN on these items.

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from infringing the Copyrights by publishing on CONDE's website photographs of the dolls violative of the Copyrights under Title 17, U.S.C., § 502. Furthermore, Plaintiff seek an award of compensatory damages and their attorney's fees and costs in pursuing this action pursuant to Title 17, U.S.C., §§ 504 and 505.

**COUNT V: COPYRIGHT VIOLATION  
CONTRIBUTORY INFRINGEMENT**

35. Plaintiff restate and reallege paragraphs 7 to 34 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 34 above.

36. Defendant CONDE, under the direction of Defendant GROSS, has sold and placed on sale its dolls identical to those shown in CONDE's catalog and on its website as discussed above. In particular, it has sold these items to companies which, in turn, imprint them with individuals' faces and sell them to members of the public.

**ANSWER:** Admitted.

37. Defendants, to make sure that their customers understand how to imprint the infringing dolls, place instructions for doing so on CONDE's website. CONDE also includes these instructions with the infringing dolls when it ships them to their customers.

**ANSWER:** Defendants deny their dolls infringe Plaintiffs' purported copyrights. Defendants deny they included instructions with dolls when they shipped them to their customers.

38. The actions of these companies in imprinting and selling the dolls constitute infringements of the Copyrights under Title 17, U.S.C., § 106(2) and (3). However, CONDE and GROSS have encouraged, induced, and taught their purchasers of the dolls to engage in these infringing activities.

**ANSWER:** Denied.

39. Defendants' actions of selling the copyrighted dolls to other companies and encouraging and inducing them to sell the dolls to their consumers constitute contributory infringement of Title 17, U.S.C., § 106(2) and (3).

**ANSWER:** Denied.

40. Plaintiffs have demanded that Defendants cease and desist their contributory infringing activities set forth above. Defendants have refused to do so and will continue their contributorily infringing activities unless enjoined by this Court.

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court under Title 17, U.S.C., § 502, to temporarily and permanently enjoin Defendants CONDE and GROSS from contributorily infringing the Copyrights by selling dolls violative of the Copyrights to other entities which then modify them and provide them to the public. Furthermore, Plaintiffs seek an award of compensatory damages and their attorney's fees and costs in pursuing this action pursuant to Title 17, U.S.C., §§ 504 and 505.

**COUNT VI: LANHAM ACT VIOLATION  
PALMING OFF**

41. Plaintiffs restate and reallege paragraphs 7 to 40 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 40 above.

42. Plaintiff LASER REPRODUCTIONS sells and ships its dolls in interstate commerce.

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

43. The dolls covered by Plaintiffs' Copyrights have been advertised in catalogs (a copy of which is attached as Exhibit H) and shown on the website with the domain name of "Photodolls.com" of Plaintiff LASER REPRODUCTIONS (shown in Exhibit I).

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

44. Defendant CONDE, under the direction of Defendant GROSS, similarly sells and ships its dolls in interstate commerce.

**ANSWER:** Admitted.

45. Up until about August, 2001, Defendant CONDE had purchased, imprinted, and sold dolls obtained from Baby Me, Inc., a licensee of the copyright owners Conroy and Plaintiff GREEN. The dolls provided to CONDE were covered by Plaintiffs' copyrights and wore very unique costumes. Further the dolls bore attached labels providing the following information:

- (a) the doll emanated from Care Creations or Care Creations Co., Inc., (a "doing business as" name for Plaintiff LASER REPRODUCTIONS);
- (b) the trademark "Baby Me" (now belonging to Plaintiff LASER REPRODUCTIONS); and
- (c) a copyright notice.

**ANSWER:** Defendants admit that they purchased dolls for a period of time from Marie Green. Defendants possess insufficient knowledge to form a belief as to the truth of the remaining averments and therefore deny same.

46. The dolls' clothes bore hand tags that stated:

(a) the doll emanated from Care Creations (a "doing business as" name for the Plaintiff (LASER REPRODUCTIONS);

(b) a copyright notice.

**ANSWER:** Defendants possess insufficient knowledge to form a belief as to the truth of the averments and therefore deny same.

47. At some point in time, Defendant CONDE, under the direction of Defendant GROSS, removed the attached labels on dolls obtained from Plaintiff LASER REPRODUCTIONS and on the dolls' clothes. CONDE then sold and distributed the dolls with their labels removed to the public and other businesses.

**ANSWER:** Denied.

48. Fraudulently removing a label carrying a copyright notice subject the person doing so to a fine of not more than \$2,500.00 under subsection (d) of Title 17, U.S.C., § 506, entitle "Criminal Offenses."

**ANSWER:** Defendants deny they fraudulently removed labels. Defendants state that 17 U.S.C. § 506 speaks for itself.

49. Defendants CONDE and GROSS removed the labels from the dolls to destroy the identity of the dolls with Plaintiffs so that when they marketed fake dolls similarly without labels, the purchasing public and businesses would assume that they came from the same source as Plaintiff LASER REPRODUCTIONS' dolls.

**ANSWER:** Denied.

50. Defendant CONDE, under the direction of Defendant GROSS, then stopped purchasing dolls from Plaintiff and obtained and sold identical dolls with identical costumes.

**ANSWER:** Defendants deny they sold identical dolls with identical costumes as Plaintiffs.

51. However, Defendants continued to use the pictures of the dolls covered by Plaintiffs' Copyrights in its catalogs (Exhibit E) and on its website (Exhibit F) to promote the sale of the fake dolls.

**ANSWER:** Denied.

52. Then, Defendants CONDE and GROSS used the fake dolls to fill orders obtained through CONDE's catalog and website displaying the dolls of Plaintiff LASER REPRODUCTIONS.

**ANSWER:** Denied.

53. Defendants' actions of obtaining and selling identical dolls dressed identically to those it had previously obtained from Plaintiff LASER REPRODUCTIONS and filling orders obtained by its catalog and website showing Plaintiffs' dolls had the intent and effect of causing purchasers to believe that the dolls had their origin with Plaintiff LASER REPRODUCTIONS or its licensee. This is especially the case since Defendants had removed the labels of Plaintiff LASER REPRODUCTIONS and its licensee from the dolls and the clothes that it had previously sold. Thus, the new dolls sold by CONDE would thus appear virtually identical to those CONDE sold when it had purchased from Plaintiff LASER REPRODUCTIONS.

**ANSWER:** Denied.

54. Further, Plaintiff LASER REPRODUCTIONS has applied the trademark “Binkie” to some of its smaller dolls that it has sold. This trademark has also appeared in LASER REPRODUCTIONS’ catalog (Exhibit H, above) and on its website (Exhibit I, above). The word “Binkie” has no meaning other than to identify the thusly labeled dolls as having their origin with Plaintiff LASER REPRODUCTIONS.

**ANSWER:** Defendants deny Plaintiffs enjoy trademark rights in the name Binkie. Defendants deny that the word “Binkie” has no meaning other than to identify the Plaintiffs’ dolls. Defendants possess insufficient knowledge to form a belief as to the truth of the remaining averments and therefore deny same.

55. Defendant CONDE, under the direction of its president, Defendant GROSS, has used Plaintiff LASER REPRODUCTIONS’ trademark “Binkie” to refer to dolls it sells. Further, the dolls Defendant CONDE sells under the mark “Binkie” are identical to those sold by Plaintiff LASER REPRODUCTIONS under the same mark. Defendant CONDE has thus intentionally used the mark “Binkie” to mislead purchasers into believing that the dolls have their origin with Plaintiff LASER REPRODUCTIONS.

**ANSWER:** Denied.

56. Plaintiff LASER REPRODUCTIONS has suffered from the confusion created by Defendant CONDE’s and GROSS’s actions enumerated above.

**ANSWER:** Denied.

57. Plaintiff LASER REPRODUCTIONS now finds itself unable to control the quality of the goods that purchasers believe had their origin with LASER REPRODUCTIONS. Plaintiff LASER REPRODUCTIONS has suffered this expectable result since Defendants CONDE and GROSS are supplying dolls of inferior quality to purchasers believing that they are

obtaining dolls having their origin with LASER REPRODUCTIONS. In fact, Plaintiffs have received information that the heads of the fake dolls supplied by Defendants actually pop open when heated as required in their actual use. This dangerous result ruins the reputation of Plaintiffs' product because of the virtually same appearance of the defective dolls to those of Plaintiffs.

**ANSWER:** Denied.

58. Defendants' actions is creating confusion as to the origin of their dolls constitutes a violation of section 43(a) of the Lanham Act, Title 15, U.S.C., § 1125(a).

**ANSWER:** Denied.

59. Plaintiffs have demanded that Defendants cease and desist their activities that have the effect of creating confusion as to the source of their dolls as set forth above. Defendants have refused to do so and will continue their infringing activities unless enjoined by this Court.

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER PRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from creating the likelihood of confusion of the source and origin of their dolls under Title 15, U.S.C., § 116(a). Furthermore, Plaintiffs seek an award of compensatory and punitive damages and their attorney's fees and costs in pursuing this action pursuant to Title 15, U.S.C., § 117(a).

**COUNT VII: LANHAM ACT VIOLATION  
REVERSE PALMING OFF**

60. Plaintiffs restate and reallege paragraphs 7 to 59 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 59 above.

61. Defendant CONDE, under the direction of Defendant GROSS, has engaged in a course of conduct intended to and will have the likely consequences of convincing the purchasing public that the dolls sold by and offered for sale by Plaintiff LASER REPRODUCTIONS have their source and origin with CONDE.

**ANSWER:** Denied.

62. Defendants CONDE and GROSS have attempted to achieve the result stated in the previous paragraphs by publishing statements to the effect that:

- (a) The dolls by CONDE (which happen to be virtually identical to those sold by Plaintiff LASER REPRODUCTIONS) are “unique;”
- (b) CONDE developed the idea for the dolls in a “brainstorming session” with “some ladies;”
- (c) CONDE developed the materials for use in the image transferring process;”  
and
- (d) CONDE “provide[s] an innovative new material that is an adhesive-backed fabric that is already cut into the shape of the doll’s face.”

**ANSWER:** Denied.

63. All of the statements of the prior paragraph were false at the time that CONDE made them. Further, CONDE knew that the statements of the prior paragraph were false at the time that they were made.

**ANSWER:** Denied.

64. Defendants CONDE and GROSS further removed from some of the dolls purchased from Plaintiff LASER REPRODUCTIONS the tags that identified LASER REPRODUCTIONS as the source of the dolls.

**ANSWER:** Denied.

65. The statements and actions of the paragraphs 62 and 64 above can only have the purpose and effect of creating the impression and belief that all such dolls now available, *including those sold by Plaintiff LASER REPRODUCTIONS*, have their source and origin with Defendant CONDE.

**ANSWER:** Denied.

66. Creating the impression that the dolls offered to the public by Plaintiff LASER REPRODUCTIONS has their source and origin with CONDE constitutes “reversing palming off” and a violation of section 43(a) of the Lanham Act, Title 15, U.S.C., § 1125(a).

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from creating the likelihood of confusion of the source origin of their dolls under Title 15, U.S.C., § 1116(a). Furthermore, Plaintiffs seek an award of compensatory and punitive damages and their attorney’s fees and costs in pursuing this action pursuant to Title 15, U.S.C., § 1117(a).

**COUNT VIII: LANHAM ACT VIOLATION  
FALSE STATEMENTS**

67. Plaintiffs restate and reallege paragraphs 7 to 66 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 66 above.

68. The statements of the paragraphs 62 above are false and are known to Defendants CONDE and GROSS to be false. As such, they constitute violation of section 43(a) of the Lanham Act, Title 15, U.S.C., § 1125(a).

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from repeating the false statements given above under Title 15, U.S.C., § 1116(a). Furthermore, Plaintiffs seek an award of compensatory and punitive damages and their attorney's fees and costs in pursuing this action pursuant to Title 15, U.S.C., § 1117(a).

**COUNT IX: VIOLATION OF THE ILLINOIS  
CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT**

69. Plaintiffs restate and reallege paragraphs 7 to 68 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 68 above.

70. The actions complained of Counts VI to VIII above constitute violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seqq.*

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from repeating their violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seqq.* Furthermore, Plaintiffs seek an award of compensatory and punitive damages and their attorney's fees and costs in pursuing this action.

**COUNT X: VIOLATION OF THE ILLINOIS  
DECEPTIVE TRADE PRACTICES ACT**

71. Plaintiffs restate and reallege paragraphs 7 to 70 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 70 above.

72. The actions complained of Counts VI to VIII above constitute violations of the Illinois Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.*

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from repeating their violations of the Illinois Consumer Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.* Furthermore, Plaintiffs seek an award of compensatory and punitive damages and their attorney's fees and costs in pursuing this action.

**COUNT XI: VIOLATION OF THE ILLINOIS  
COMMON LAW OF UNFAIR COMPETITION**

73. Plaintiffs restate and reallege paragraphs 7 to 72 above.

**ANSWER:** Defendants restate and reallege their answers to paragraphs 7 to 72 above.

74. The actions complained of Counts VI to VIII above constitute violations of the Illinois common law of unfair competition.

**ANSWER:** Denied.

Accordingly, Plaintiffs LASER REPRODUCTIONS and GREEN request this Court to temporarily and permanently enjoin Defendants CONDE and GROSS from repeating their violations of the Illinois common law of unfair competition. Furthermore, Plaintiffs seek an

award of compensatory and punitive damages and their attorney's fees and costs in pursuing this suit.

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