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Attorneys for Plaintiff Turbo Style Products

**IN THE UNITED STATES DISTRICT COURT IN AND FOR
THE DISTRICT OF UTAH, CENTRAL DIVISION**

TURBO STYLE PRODUCTS, LLC,
a Utah limited liability company,

Plaintiff,

vs.

AMAZON.COM, INC.,
a Delaware corporation,

Defendant.

COMPLAINT

Case No. 2:14-cv-00125-DBP

Magistrate Dustin B. Pead

Plaintiff Turbo Style Products, LLC, by and through its undersigned attorneys, brings this complaint (the “Complaint”) against Defendant Amazon.com, Inc.

PRELIMINARY STATEMENT

1. Turbo Style brings this action under U.S. patent laws 35 U.S.C. §§ 1 *et seq.*, under the Lanham Trademark Act, 15 U.S.C. §§ 1125 and 1501 *et seq.*, and under various Utah state law and common law provisions.

PARTIES, JURISDICTION, & VENUE

2. Plaintiff Turbo Style Products, LLC (“Turbo Style” or “Plaintiff”) is a limited liability company lawfully registered and existing under the laws the State of Utah. Turbo Style conducts business in Utah and its principal office is located at 2402 Lake View Ct, Park City, Utah 84060.

3. Defendant Amazon.com, Inc. (“Amazon” or “Defendant”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Seattle, Washington.

4. This Court has subject matter jurisdiction over Turbo Style’s federal claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This Court has supplemental jurisdiction over Turbo Style’s state law claims pursuant to 28 U.S.C. § 1367(a).

6. This Court may exercise personal jurisdiction over Amazon because Amazon has purposefully directed its business activities toward the State of Utah.

7. Amazon’s contacts with Utah are substantial, continuous, and systematic, and this action is based on activities that arise out of or are related to those contacts. (Additional allegations relevant to personal jurisdiction are set forth in the general allegations that follow).

8. This action properly lies in the District of Utah, Central Division, pursuant to 28 U.S.C. §1391(b) because claims asserted herein arose in this judicial district.

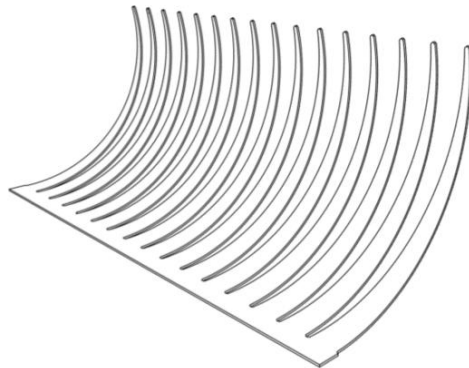
9. Accordingly, venue is proper pursuant to 28 U.S.C. § 1391.

GENERAL ALLEGATIONS

Turbo Style’s Products and Intellectual Property

10. Turbo Style is in the business of inventing, developing, manufacturing, distributing, and selling various automobile accessories.

11. Turbo Style is the owner of two design patents designated as United States Design Patent Nos. D672,917 and D675,776 (collectively the “Turbo Style Patents”). Copies of the Turbo Style Patents are attached hereto as Exhibit A. The Turbo Style Patents claim the design of an automobile headlight accessory that approximates the shape of eye lashes. The designs claimed by the Turbo Style Patents are illustrated below.



12. Turbo Style manufactures, markets, and sells automobile accessory products throughout the United States, including products that approximate the shape of eyelashes and that are sold under the CARLASHES mark (the “CARLASHES Products”).

13. Through the extensive sale, marketing, and distribution of the CARLASHES Products, the design and trade dress of the CARLASHES Products has become distinctive and consumers associate the design and trade dress with Turbo Style. An image of one example of the CARLASHES Products is illustrated below.



Amazon.com

14. Amazon is one of the world’s largest online retailers of a wide range of products, including automobile accessories. Amazon owns, operates, maintains and controls the website www.amazon.com.

15. Through its website, (www.amazon.com), Amazon sells products directly to customers all over the United States (including Utah) and throughout the world.

16. Amazon also facilitates, encourages, participates in, and permits sales between third-party sellers and customers. Third-party sellers use Amazon to list, market, sell, and

distribute their products. Amazon processes payments made by customers and provides the technology and infrastructure to complete the sales between third parties and their customers.

17. Additionally, Amazon operates a fulfillment service and network (the “fulfillment service”) whereby third-party sellers send their products to Amazon fulfillment centers across the United States. Upon completing a sale on Amazon.com, Amazon ships the products for the sellers and provides customer service on behalf of the sellers.

Amazon’s Misconduct

17. Upon information and belief, Amazon markets, sells, offers for sale, fulfills sales, distributes, and/or imports into the United States automobile accessories that infringe on the Turbo Style Patents (the “Infringing Products”).

18. Upon information and belief, Amazon’s continued marketing, sales, offers for sale, fulfillments of sales, distributions, and/or imports of the Infringing Products has injured, is injuring, and will continue to cause irreparable injury to Turbo Style.

19. Domestic and international third-party sellers (particularly sellers based in China) use Amazon’s fulfillment service to sell products that infringe on Turbo Style’s patents, trademark, and other intellectual property rights pertaining to the CARLASHES products.

20. Amazon’s fulfillment service provides the technology, infrastructure, and logistics to enable the sale and shipment of products that infringe on Turbo Style’s patents, trade dress, and common law rights.

21. Upon information and belief, Infringing Products have been sold on amazon.com (or through Amazon’s fulfillment service) to many customers in Utah.

22. Amazon has marketed the Infringing Products to Utah customers, offered to sell the Infringing Products to Utah customers, processed payments from Utah customers, completed sales of the Infringing Products to Utah customers, and shipped and/or distributed infringing products to Utah customers.

23. Because there are so many sellers on Amazon.com who sell and (offer to sell) infringing products, it is difficult for Turbo Style to maintain an accurate and comprehensive list of all of Amazon's infringing product listings. The list of infringing product listings will continue to change as new sellers emerge. To the best of Turbo Style's knowledge, information, and belief, the infringing product listings currently include:

<u>Product/Seller Name</u>	<u>ASIN</u> (Amazon Standard Identification Number)
eBada Group	B000405M54Q
Know Deals	B004Y10kP4
Garden Arena	B005PL2AVQ
Buyme-accee	Using the "Carlashes" name
Annie/Bella - Gimmick World	B007FAYBTE
SummersonSale	B004UVEGPK
Bid Surprise	B004UVEGPK
Pengzhang19841112	B00AZZQYUA
Car Sticker (sells through Gimmick World)	
Blue Stripe	
Angel Beauty	
McCartney Kay Auto Cosmetics, LLC	
Redline Store (sells through Gimmick World)	
Promise is Promise	

24. Additionally, upon information and belief, Amazon acted in an objectively reckless manner with respect to Tubro Style's patent rights. Amazon has been made aware of the infringing product listings yet has taken no action whatsoever to remove those listings.

25. On information and belief, Amazon has used, marketed, sold, offered for sale, participated in and substantially contributed to sales, and/or imported into the United States the

Infringing Products knowing that it was highly likely that their acts would constitute infringement of a valid patent.

26. Consequently, Amazon has engaged in willful infringement of the Turbo Style Patents and Turbo Style is therefore entitled to treble damages, attorneys' fees, court costs, and prejudgment interest pursuant to 35 U.S.C. §§ 284 and 285.

27. Amazon has used, marketed, sold, offered for sale, participated in and substantially contributed to sales, and/or imported into the United States the Infringing Products which copy the trade dress of Turbo Style's CARLASHES Products.

28. Through its website and its fulfillment service, Amazon is in direct competition with Turbo Style and the Infringing Products are substantially identical to Turbo Style's CARLASHES Products.

29. Infringing Products sold on amazon.com and through Amazon's fulfillment service are marketed through identical channels of trade as those channels used by Turbo Style.

30. Infringing Products sold on amazon.com and through Amazon's fulfillment service are marketed to identical customers that Turbo style markets to.

31. Amazon has used, marketed, sold, offered for sale, participated in and substantially contributed to sales, and/or imported into the United States product designs that are confusingly similar to the CARLASHES Products.

33. The infringing product designs are likely to cause confusion or mistake as to the affiliation, connection, or association of the Infringing Products to their true manufacturer.

33. The infringing product designs are likely to cause confusion or mistake as to the affiliation, connection, or association of CARLASES Products with Turbo Style.

34. Upon information and belief, Amazon has purposefully marketed, sold, offered for sale, distributed, and/or imported counterfeit copies of Turbo Style's CARLASHES Products.

35. Upon information and belief, and Amazon has purposefully marketed, sold, offered for sale, distributed, and/or imported products that infringe on Turbo Style's trade dress.

36. Upon information and belief, Amazon has unlawfully benefited from Turbo Style's goodwill in the marketplace by marking, selling, offering for sale, distributing, and/or importing counterfeit copies of Turbo Style's CARLASHES Products.

37. Turbo Style has been and continues to be significantly damaged by Amazon's actions. So long as Amazon continues to perform the unlawful and improper actions described in this Complaint, Turbo Style will continue to suffer irreparable harm that will not be fully compensable by money damages.

38. On September 30, 2013 and again on October 29, 2013, Turbo Style's counsel sent a notice of patent and trademark infringement to Amazon, and demanded that Amazon remove all infringing products from amazon.com. Turbo Style's September 30, 2013 notice is attached hereto as Exhibit B. Turbo Style's October 29, 2013 notice is attached hereto as Exhibit C.

FIRST CAUSE OF ACTION

PATENT INFRINGEMENT OF THE TURBO STYLE PATENTS UNDER 35 U.S.C. § 271

39. The preceding allegations are incorporated herein by reference.

40. Turbo Style owns the Turbo Style Patents.

41. Amazon uses, markets, sells, offers for sale, participates in, substantially contributes to sales, and/or imports into the United States automobile accessories that directly infringe on the Turbo Style Patents.

42. Turbo Style has not granted Amazon (or any third-party sellers on amazon.com) permission, license, or authorization to use the designs in the Turbo Style Patents.

43. Upon information and belief, Amazon's infringing activities have damaged Turbo Style in an amount to be proven at trial. Among other remedies, Turbo Style is entitled to its lost profits, or in the alternative, a reasonable royalty to adequately compensate Turbo Style for Amazon's infringing activities under 35 U.S.C. § 284.

44. Further, the harm to Turbo Style arising from Amazon's unlawful acts is not adequately or fully compensable by money damages. Turbo Style has suffered and continues to suffer irreparable harm and Turbo Style has no adequate remedy at law. Turbo Style will continue to suffer this Harm until Amazon's infringing conduct is preliminarily and permanently enjoined.

45. On information and belief, Amazon acted in an objectively reckless manner with regard to Turbo Style's patent rights.

46. Upon information and belief, Amazon used, marketed, sold, offered for sale, participated in and substantially contributed to sales, and/or imported into the United States the Infringing Products knowing that it was highly likely that its actions would constitute infringement of a valid patent.

47. Amazon knew or reasonably should have known that its actions were highly likely to result in the infringement of a valid patent.

48. Amazon has engaged in willful infringement of the Turbo Style Patents, and Turbo Style is therefore entitled to treble damages, attorneys' fees, costs incurred in this action, and prejudgment interest pursuant to 35 U.S.C. §§ 284 and 285.

SECOND CAUSE OF ACTION
CONTRIBUTORY PATENT INFRINGEMENT, 35 U.S.C. § 271(c)

49. The preceding paragraphs are incorporated herein by reference.

50. Through its website and its fulfillment service, Amazon sells, offers to sell, and/or imports the Infringing Products.

51. Amazon permits, assists, and encourages third-parties to post the Infringing Products for sale on amazon.com.

52. Amazon permits, assists, and encourages the sale of Infringing Products on amazon.com and through its fulfillment service.

53. Amazon has been made aware of multiple infringing product listings. (See Exhibits B and C).

54. Amazon has nevertheless taken no action to prevent the marketing, sale, offer for sale, and/or importation of the Infringing Products.

55. The Infringing Products are not a staple or article suitable for any substantial non-infringing use.

THIRD CAUSE OF ACTION
TRADE DRESS INFRINGEMENT AND UNFAIR COMPETITION, 15 U.S.C. § 1125(A)
AND COMMON LAW

56. The preceding allegations are incorporated herein by reference.

57. The trade dress design features associated with the Turbo Style CARLASHES Products are indicative of Turbo Style and its automobile accessories, are inherently distinctive, and have acquired secondary meaning with the consuming public.

58. The Infringing Products use design features that are likely to cause confusion or mistake, or to deceive as to the affiliation, connection, association, origin, sponsorship, or approval of their goods and commercial activities in light of Turbo Style's trade dress.

59. By engaging in the activities set forth herein, Amazon has infringed Turbo Style's trade dress and is liable for unfair competition under 15 U.S.C. § 1125(a)(1)(A) and under the common law.

60. Turbo Style has suffered actual damages as a result of Amazon's trade dress infringement and unfair competition in an amount to be proven at trial.

61. Additionally, the harm to Turbo Style arising from Amazon's acts is not fully compensable by money damages. Turbo Style has suffered and continues to suffer irreparable harm. Turbo Style has no adequate remedy at law and the harm to Turbo Style will continue until Amazon's conduct is preliminarily and permanently enjoined.

62. Amazon's continued use, marketing, sale, and offers for sale of Turbo Style's trade dress is willful and intentional. As a result, Turbo Style is also entitled to treble damages, attorneys' fees, and costs.

FOURTH CAUSE OF ACTION
CONTRIBUTORY TRADE DRESS INFRINGEMENT

63. The preceding allegations are incorporated herein by reference.

64. On its website and through its fulfillment service, Amazon continues to provide the technology, infrastructure, and logistics to enable the sale and shipment of products that infringe on Turbo Style's patents, trade dress, and common law rights.

65. Amazon owns, operates, controls, and maintains its website and its fulfillment service.

66. Amazon has complete control over product listings on its website and has complete control over its fulfillment centers.

67. Despite being alerted to infringing product listings on its website (see Exhibits B and C), Amazon knowingly continues to facilitate, encourage, permit and assist third parties to sell products that infringe on Turbo Style's trade dress.

68. Turbo Style has suffered actual damages as a result of Amazon's contributory trade dress infringement in an amount to be proven at trial.

69. Additionally, the harm to Turbo Style arising from Amazon's acts is not fully compensable by money damages. Turbo Style has suffered and continues to suffer irreparable harm. Turbo Style has no adequate remedy at law and the harm to Turbo Style will continue unless Amazon's conduct is preliminarily and permanently enjoined.

FIFTH CAUSE OF ACTION
VICARIOUS TRADE DRESS INFRINGEMENT

70. The preceding paragraphs are incorporated herein by reference.

71. Amazon, the third parties that sell infringing products on amazon.com, and the third parties that sell infringing products through Amazon's fulfillment service all have authority to bind one another in transactions with customers.

72. Amazon and these third-party sellers exercise joint ownership or control over the marketing, sale, offers for sale, and/or distribution of products that infringe on Turbo Style's trade dress.

73. Amazon knowingly facilitates, encourages, permits and assists the third-party sellers to enable the sale and delivery of products that infringe on Turbo Style's trade dress.

74. Amazon has the authority and ability to remove infringing product listings from its website but has failed to do so, despite Turbo Style's requests.

75. Amazon has the authority and ability to stop the fulfillment of sales of the Infringing Products, but has failed to do so, despite Turbo Style's requests.

76. Turbo Style has suffered actual damages as a result of Amazon's vicarious trade dress infringement in an amount to be proven at trial.

77. Additionally, the harm to Turbo Style arising from Amazon's acts is not fully compensable by money damages. Turbo Style has suffered and continues to suffer irreparable harm. Turbo Style has no adequate remedy at law and the harm to Turbo Style will continue until Amazon's conduct is preliminarily and permanently enjoined.

SIXTH CAUSE OF ACTION
COUNTERFEITING, 15 U.S.C. § 1117

78. The preceding paragraphs are incorporated herein by reference.

79. On its website and through its fulfillment service, Amazon markets, sells, offers for sale, distributes, and/or imports counterfeit copies of Turbo Style's CARLASHES Products.

80. The counterfeit copies sold, offered for sale, distributed, and/or imported by Amazon are counterfeit products pursuant to 15 U.S.C. § 1117.

81. Turbo Style has been and continues to be irreparably harmed by Amazon's unlawful counterfeiting.

82. Turbo Style should be awarded damages in amount to be determined at trial.

83. Amazon's counterfeiting was done willfully. Turbo Style is therefore entitled to treble damages, statutory damages, attorneys' fees, and court costs.

SEVENTH CAUSE OF ACTION
UNFAIR COMPETITION, UTAH CODE ANN. § 13-5A-103, UTAH CODE ANN. § 13-5-14, AND/OR UTAH COMMON LAW

84. The preceding paragraphs are incorporated herein by reference.

85. Turbo Style owns the Turbo Style Patents.

86. Amazon has engaged in unfair competition by infringing on the Turbo Style Patents.

87. Amazon uses, markets, sells, offers for sale, and/or imports into the United States automobile accessories that infringe the Turbo Style Patents.

88. Amazon has also engaged in unfair methods of competition by infringing Turbo Style's trade dress.

89. Turbo Style has been injured by Amazon's unfair competition. Customers are buying the Infringing Products on amazon.com and through Amazon's fulfillment service.

90. By engaging in the actions described herein, Amazon has engaged in unfair competition under Utah Code Ann. § 13-5A-103, Utah Code Ann. § 13-5-14, and/or Utah Common Law.

91. Turbo Style has suffered actual damages as a result of Amazon's unfair practices in an amount to be proven at trial.

92. The harm to Turbo Style caused by Amazon's conduct is not adequately or fully compensable by money damages. Turbo Style has suffered and continues to suffer irreparable harm and has no adequate remedy at law. The harm to Turbo Style will continue unless Amazon's unfair and unlawful conduct is preliminarily and permanently enjoined.

93. Turbo Style should also be awarded its attorneys' fees and court costs.

CONCLUSION & REQUEST FOR RELIEF

WHEREFORE, based on the foregoing, Plaintiff Turbo Style Products, LLC respectfully requests a judgment from the Court as follows:

- (1) Amazon has directly and willfully infringed the Turbo Style Patents;
- (2) Amazon is liable for contributory infringement of the Turbo Style Patents;
- (3) Amazon has engaged in direct, contributory, and vicarious trade dress infringement;
- (4) Amazon has engaged in the willful counterfeiting of Turbo Style's products;
- (5) Amazon has engaged in unfair competition pursuant to Utah Code Ann. § 13-5A-103, Utah Code Ann. § 13-5-14, and/or Utah common law;
- (6) Preliminary and permanent injunctive relief enjoining Amazon, its officers, directors, principals, agents, employees, successors and assigns, and all others aiding, abetting, or acting in concert or active participation therewith, from directly or indirectly infringing

Turbo Style's patents and trade dress, including without limitation, injunctive relief precluding Amazon from marketing, selling, offering for sale, or importing products that infringe Turbo Style's patents and trade dress;

- (7) A judgment against Amazon for Turbo Style's actual damages in an amount to be proven at trial;
- (8) A judgment awarding Turbo Style treble damages to be determined at trial;
- (9) A judgment awarding Turbo Style its attorneys' fees and court costs;
- (10) A judgment awarding Turbo Style prejudgment and post-judgment interest, as applicable, at the highest lawful rate; and
- (11) A judgment awarding Turbo Style such other and further relief, at law or equity, to which Turbo Style may be justly entitled.

Respectfully submitted on this the 20th day of February, 2014.

STAVROS LAW, P.C.

/s/ Austin B. Egan_____

Austin B. Egan

Attorney for Plaintiff Turbo Style Products, LLC