

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

3DTHREEDesign, LLC,

PLAINTIFF,

v.

THE PARTNERSHIPS AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON SCHEDULE A,

DEFENDANTS.

CASE No.: 1:24-cv-02626

JUDGE MARTHA M. PACOLD

MAGISTRATE JUDGE HEATHER K. MCSHAIN

FILED UNDER SEAL

DECLARATION OF CHARLES ISBELL

I, Charles Isbell, declare and state as follows:

1. This declaration is based upon my personal knowledge of the facts stated herein or on the business records that were made at the time or in the regular course of business. If called as a witness, I could and would testify to the statements made herein.

2. I am knowledgeable about or have access to business records concerning all aspects of the brand protection operation associated with 3DThreeDesign, LLC (“3DTD”), including copyrights, sales, advertising, and marketing. I make this declaration from matters within my own knowledge save where otherwise stated.

3. 3DThreeDesign, LLC was founded in 2023 and is registered in the State of Iowa with a business address of 1743 E. Dunkerton Rd. Waterloo, IA 50703.

4. The idea for 3DTD originated in February 2022, when I began selling 3D prints on Etsy. In April of 2022, I created a 3D print of the backside of a dog that is used as a toothpaste topper. While a number of 3D designs are available in the 3DTD store, the toothpaste topper

products (the “Dog Toothpaste Topper Products”) are by far the best-seller.

5. The Dog Toothpaste Topper Products are exclusively sold by 3DTD on Etsy. 3DTD is considered a star seller on Etsy with an outstanding track record of stellar customer service and satisfaction – consistently earning 5-star reviews.

6. 3DTD is the sole owner, creator, marketer, distributor, and seller of the Dog Toothpaste Topper Products. Over the course of a month, over 1,300 infringing Dog Toothpaste Topper Product listings from approximately 700 online stores were identified. Based on publicly available information, each listing sold on average at least 60 infringing products.

7. 3DTD is the owner of the copyright registrations featuring the Dog Toothpaste Topper Products which are covered by various U.S. Copyright Registrations (the “Dog Toothpaste Topper Copyrights”). True and correct copies of the federal copyright registrations for the Dog Toothpaste Topper Copyrights are attached hereto as **Exhibit 1**.

8. The Dog Toothpaste Topper Copyrights contain images of the Dog Toothpaste Topper Products which have been used on the 3DTD ecommerce store and in marketing of the Dog Toothpaste Topper Products since its inception.

9. 3DTD has expended time, money, and other resources in developing, advertising, and otherwise promoting the Dog Toothpaste Topper Copyrights and Products. As such, the recognition and goodwill associated with the brand is of incalculable and inestimable value.

10. The success of the Dog Toothpaste Topper Products has resulted in significant infringement. Consequently, 3DTD has partnered with an intellectual property enforcement firm to implement an anti-counterfeiting program by investigating suspicious websites and online marketplace listings identified in proactive Internet sweeps. Through this process, we have identified numerous online marketplace accounts and ecommerce stores linked to fully interactive

websites and marketplace listings on various platforms, including the Internet stores operating under the online marketplace accounts identified on Schedule A, which is attached to the Complaint (collectively, the “Defendant Internet Stores” or “Seller Aliases”), which are offering for sale, selling, and importing infringing products in connection with the Dog Toothpaste Topper Copyrights (the “Infringing Dog Toothpaste Topper Products”) to consumers in this Judicial District and throughout the United States. Despite enforcement efforts online, Defendants have persisted in creating the Defendant Internet Stores.

11. Our investigation shows that Defendants are using the Defendant Internet Stores to sell Infringing Dog Toothpaste Topper Products from foreign countries such as China to consumers in the U.S. and elsewhere. I, or someone working under my direction, analyzed each of the Defendant Internet Stores and determined that Infringing Dog Toothpaste Topper Products were being offered for sale to the United States, including Illinois. This conclusion was reached through visual inspection of the products listed for sale, the price at which the Infringing Dog Toothpaste Topper Products were offered for sale, other features commonly associated with websites selling counterfeit products, because Defendants offered shipping to the United States, including Illinois, and because Defendants and their websites do not conduct business with me or my store. True and correct copies of screenshots showing the active Defendant Internet Stores [and the infringing listings which contain the Dog Toothpaste Topper Copyrights] are attached as **Exhibit 2**.

12. None of the Defendants have authorization or license to use the Dog Toothpaste Topper Copyrights, and none of the Defendants are authorized to sell Dog Toothpaste Topper Products.

13. Upon information and belief, Defendants facilitate sales by designing the

Defendant Internet Stores so that they appear to unknowing consumers to be authorized online retailers selling genuine Dog Toothpaste Topper Products. Many of the Defendant Internet Stores look sophisticated and accept payment in U.S. dollars via credit cards, Western Union and/or through multiple payment processor and merchant accounts.

14. Defendants' Infringing Dog Toothpaste Topper Products are intentionally designed to look identical or similar to genuine Dog Toothpaste Topper Products. Both Plaintiff and Defendants advertise and sell their products via the Internet in the same area and identical manner.

15. There are numerous similarities among the Defendant Internet Stores. For example, many of the Defendant Internet Stores have virtually identical layouts. In addition, Infringing Dog Toothpaste Topper Products for sale in the Defendant Internet Stores bear similar irregularities and indicia of being counterfeit to one another, suggesting that the Infringing Dog Toothpaste Topper Products were manufactured by and come from a common source and that, upon information and belief, Defendants are interrelated.

16. The Defendant Internet Stores also include other notable common features, including use of the same domain name registration patterns, unique shopping cart platforms, accepted payment methods, check-out methods, metadata, illegitimate SEO tactics, HTML user-defined variables, domain redirection, lack of contact information, identically or similarly priced similar hosting services, similar name servers, and the use of the same text and images.

17. Monetary damages alone are not adequate compensation for ongoing infringement because monetary damages fail to address the loss of control over the products and the damage to 3DTD, its reputation, and goodwill. Furthermore, monetary damages are difficult, if not impossible, to completely ascertain due to the inability to fully quantify the monetary damage

caused by acts of infringement.

18. Consumers who do not realize that they have purchased Infringing Dog Toothpaste Topper Products mistakenly associate Plaintiff with inferior quality which further irreparably harms their reputation and brand confidence, which is neither calculable nor precisely compensable.

19. Further irreparable harm is caused by the unauthorized use of the Dog Toothpaste Topper Copyrights by the Defendants as it takes away Plaintiff's ability to control the marketing, quality, and exclusivity of the Dog Toothpaste Topper Products. This loss of control and effect on brand reputation is largely unquantifiable.

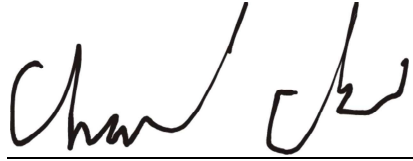
20. The Dog Toothpaste Topper Copyrights and Products are meant to be exclusive. The marketing and distribution of Dog Toothpaste Topper Products are aimed at growing and sustaining sales. When infringers use the Dog Toothpaste Topper Copyrights without authorization, the exclusivity of Dog Toothpaste Topper Products is lost, resulting in a loss of unquantifiable future sales.

21. The Defendants' intentional copyright infringements deprive 3DThreeDesign, LLC of the ability to control the creative content protected by the Dog Toothpaste Topper Copyrights; devalues the brand by associating it with inferior quality goods; and undermines the value of the Dog Toothpaste Topper Copyrights by creating the impression that infringement may be undertaken with impunity.

22. 3DTD will suffer immediate and irreparable injury, loss, or damage if an *ex parte* Temporary Restraining Order is not issued in accordance with Federal Rule of Civil Procedure 65(b)(1).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 03 / 12 / 2024 .

A handwritten signature in black ink, appearing to read 'Charles Isbell', written over a horizontal line.

Charles Isbell
Owner, 3DThreeDesigns, LLC