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Universal Television LLC, and Universal
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NBCUniversal Media, LLC, a
Delaware limited liability company,
Universal Television LLC, a New
York limited liability company,
Universal Studios Licensing LLC, a
Delaware limited liability company,

Plaintiffs,

v.

Jay Kennette Media Group LLC, a
Delaware limited liability company;
Gooder Labs, LLC, a Delaware limited
liability company; and Kenneth
Talbert, an individual,

Defendants.

Case No. 2:22-cv-04541

COMPLAINT FOR:

**[1] TRADEMARK INFRINGEMENT
[15 U.S.C. § 1125(a)(1)(A)]**

**[2] FALSE DESIGNATION OF ORIGIN
AND UNFAIR COMPETITION [15
U.S.C. § 1125(a)(1)(A)]**

**[3] TRADEMARK DILUTION
[15 U.S.C. § 1125]**

**[4] TRADEMARK CANCELLATION
[15 U.S.C. § 1052(d)]**

**[5] TRADEMARK CANCELLATION
[FRAUDULENT REGISTRATION]**

**[6] COMMON LAW TRADEMARK
INFRINGEMENT**

**[7] COMMON LAW UNFAIR
COMPETITION (PASSING OFF)**

**[8] VIOLATION OF CAL. BUS. &
PROF. CODE § 17200**

**[9] VIOLATION OF CAL. BUS. &
PROF. CODE § 14247**

1 Plaintiffs NBCUniversal Media, LLC (“NBCU Media”), Universal
2 Television LLC (“Universal Television”), and Universal Studios Licensing LLC
3 (“Universal Licensing” and, collectively with the other plaintiffs, “NBCU”), bring
4 this action against Defendants Jay Kennette Media Group LLC, Gooder Labs, LLC,
5 and Kenneth Talbert for injunctive relief, damages, and trademark cancellation, and
6 allege as follows:

7 NATURE OF THE ACTION

8 1. This is a lawsuit to remedy the Defendants’ deliberate and willful
9 infringement and dilution of NBCU’s intellectual property rights with respect to its
10 critically acclaimed and highly popular and well-known television series *The Office*.

11 2. Defendants have intentionally and fraudulently registered NBCU’s
12 famous common law trademark for DUNDER MIFFLIN, the name of the fictional
13 workplace that is prominently featured in *The Office*, with the United States Patent
14 and Trademark Office (“USPTO”). One effect of this fraudulent registration has
15 been to prevent NBCU from obtaining a valid registration for its DUNDER
16 MIFFLIN mark.

17 3. NBCU is informed and believes, and on that basis alleges, that
18 Defendants also have advertised and sold merchandise featuring replicas of NBCU’s
19 DUNDER MIFFLIN marks throughout the United States, including in California.
20 In addition, Defendants have purposely interfered with NBCU’s exploitation of its
21 DUNDER MIFFLIN marks by sending takedown notices to NBCU’s licensees who
22 were selling authorized apparel and other merchandise bearing the DUNDER
23 MIFFLIN mark nationwide on eBay and Amazon, including at least one authorized
24 retailer based in California.

25 4. Most recently, Defendants directed communications to NBCU’s
26 counsel in California threatening to pursue legal action and demanding that NBCU
27 pay a substantial sum to Defendants for a transfer to NBCU of their fraudulent
28 registration of NBCU’s own common law DUNDER MIFFLIN mark. Defendants

1 also demanded that NBCU grant them substantive rights in NBCU's DUNDER
2 MIFFLIN mark to which they were not entitled.

3 5. Based on Defendants' conduct, through this action NBCU seeks relief
4 from Defendants' trademark infringement and false designation of origin of NBCU's
5 DUNDER MIFFLIN trademarks. NBCU also seeks cancellation of Defendants'
6 fraudulently procured trademark Registration No. 5,235,217 for DUNDER
7 MIFFLIN in International Class 25, and requests that Defendants' pending
8 applications (Serial Nos. 97-096,825 and 97-096,853) to register DUNDER
9 MIFFLIN in International Classes 21 and 16, respectively, be deemed abandoned.
10 There is a close and substantial nexus between the pending trademark applications
11 and existing DUNDER MIFFLIN registration and this lawsuit, as the Court will be
12 required to determine issues relating to registrability of the mark.

13 JURISDICTION AND VENUE

14 6. This is a civil action for trademark infringement in violation of Section
15 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); false designation of origin and false
16 advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);
17 trademark dilution under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c); and
18 violations of state statutory and common law.

19 7. This Court has subject matter jurisdiction over this matter pursuant to
20 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338 in that it involves an action arising
21 under the federal Lanham Act. This Court has supplemental jurisdiction over the
22 state law claims pursuant to 17 U.S.C. § 1367.

23 8. This Court has personal jurisdiction over Defendant Jay Kennette
24 Media Group LLC ("JKM") and Defendant Gooder Labs, LLC ("Gooder") because
25 this action arises out of conduct by these defendants that has been expressly aimed
26 at and regularly taking place in the State of California. This conduct includes, but is
27 not limited to, falsely registering NBCU's trademark as their own, demanding that
28 NBCU pay Defendants to obtain Defendants' registration for NBCU's own

1 trademark, demanding that NBCU grant Defendants rights to use NBCU's
2 DUNDER MIFFLIN mark, sending takedown requests against NBCU's licensees
3 on eBay and Amazon, including at least one retailer based in California, threatening
4 to further interfere with NBCU's contracts relating to its exploitation of its trademark
5 in California, and threatening to initiate litigation against NBCU.

6 9. NBCU is informed and believes, and on that basis alleges, that JKM
7 and Gooder's conduct aimed at and regularly taking place in the State of California
8 also includes, but is not limited to, targeting and soliciting sales of their infringing
9 merchandise from California residents by operating online stores that offer shipping
10 to California, selling infringing merchandise in the State of California through their
11 online stores and through Amazon.com, and otherwise infringing NBCU's
12 trademarks in the State of California. The infringing merchandise sold by
13 Defendants is confusingly similar to and in direct competition with authorized
14 merchandise sold by NBCU and its licensees throughout the United States, including
15 in California.

16 10. Through their actions, Defendants have knowingly and deliberately
17 targeted and caused injury to the intellectual property rights of NBCU, which
18 Defendants know to be based in California, and they have knowingly and
19 deliberately caused injury to the reputation and goodwill of NBCU among
20 consumers in California.

21 11. This Court also has personal jurisdiction over Defendant Kenneth
22 Talbert. NBCU is informed and believes, and on that basis alleges, that Mr. Talbert,
23 as President and Chief of Executive Officer of both JKM and Gooder, directs and
24 controls the activities of both organizations, including their substantial and repeated
25 contacts with the State of California described above. Among other things, Mr.
26 Talbert knowingly directed Gooder and JKM to register and apply for registration
27 for a mark he knows is associated with the NBCU television series *The Office* and
28 thus belongs to NBCU and not to Gooder or JKM. Mr. Talbert also directed Gooder

1 and JKM to submit takedown requests to NBCU's licensees selling authorized
2 merchandise on eBay and Amazon bearing the DUNDER MIFFLIN mark. Mr.
3 Talbert also knowingly directs and/or has directed JKM and Gooder to offer
4 infringing merchandise for sale and shipping to California through its websites and
5 thereby has deliberately caused injury to the intellectual property rights, reputation,
6 and goodwill of NBCU in California.

7 12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because
8 a substantial part of the events giving rise to the claims have occurred in this district.

9 THE PARTIES

10 13. Plaintiff NBCU Media is a Delaware limited liability company with its
11 principal place of business in Universal City, California. NBCU Media, through its
12 wholly-owned affiliates, is principally engaged in the business of entertainment and
13 media production, distribution, and marketing.

14 14. Plaintiff Universal Television is a New York limited liability company
15 with its principal place of business in Universal City, California. Universal
16 Television is principally engaged in the business of television production for
17 broadcast, cable and streaming platforms. Universal Television is a wholly owned
18 subsidiary of NBCU Media.

19 15. Plaintiff Universal Licensing is a Delaware limited liability company
20 with its principal place of business in Universal City, California. Universal
21 Licensing is principally engaged in the business of licensing and exploiting
22 merchandising, video game and other ancillary rights for intellectual property
23 controlled by NBCU Media and its affiliates. Universal Licensing is a wholly owned
24 subsidiary of NBCU Media.

25 16. NBCU is an internationally known television and entertainment studio,
26 which produces and distributes television series, feature films, and other
27 entertainment media in the United States and around the world. NBCU owns the
28 exclusive rights to distribute the U.S. version of the television series *The Office* in

1 the United States and around the world. NBCU also has created, distributed, and
2 owns intellectual property interests in *The Office* television series, including
3 copyrights in the series episodes and common law trademark rights in the fictional
4 companies, characters, locations, and other elements depicted in the series.

5 17. NBCU is informed and believes, and on that basis alleges, that
6 Defendant Gooder Labs, LLC is a Delaware limited liability company, with its
7 principal place of business at 1348 Milligan Highway, Johnson City, Tennessee.
8 NBCU is further informed and believes, and on that basis alleges, that Gooder Labs
9 sometimes does business under the names “Gooder Goods” and/or “The Goozler.”

10 18. NBCU is informed and believes, and on that basis alleges, that
11 Defendant Jay Kennette Media LLC is a Delaware limited liability company, with
12 its principal place of business at 16192 Coastal Highway, Lewes, Delaware.

13 19. NBCU is informed and believes, and on that basis alleges, that
14 Defendant Kenneth Talbert is an individual residing in Tennessee.

15 20. NBCU is informed and believes, and on that basis alleges, that Kenneth
16 Talbert owns and controls both Gooder and JKM, acting as the President and Chief
17 Executive Officer of both entities. Kenneth Talbert manages, supervises, directly
18 participates in, and is the moving force behind all of Gooder and JKM’s operations
19 determining which marks to seek registration for, and making all decisions regarding
20 Gooder and JKM’s merchandizing. Kenneth Talbert is the key decision maker of
21 Gooder and JKM and has managed, supervised, and directly participated in the
22 specific infringing conduct alleged in Paragraphs 45 through 68 herein. Absent the
23 express approval and direct participation of Kenneth Talbert, no other officer,
24 director, or employee of Gooder or JKM has the authority to choose the marks for
25 which to seek registration, offer new merchandise for sale, or make significant
26 changes to the registrations, merchandise offerings, or other business activities.

27 21. NBCU is further informed and believes, and on that basis further
28 alleges, that each Defendant named herein was at all times mentioned in this

1 complaint an agent of the other Defendants, and in doing the things alleged in this
2 complaint was acting in concert with and as the agent of the other Defendants.

3 FACTUAL ALLEGATIONS

4 I. NBCU's DUNDER MIFFLIN Marks

5 22. The television series *The Office* is one of the most iconic and
6 recognizable programs in television history. The U.K. version of the series starred
7 comedian Ricky Gervais and was created by Gervais along with writer/director
8 Stephen Merchant. It aired from 2001 to 2003.

9 23. NBCU obtained rights to the show format from Gervais and Merchant
10 and created a U.S. version of *The Office*, starring Steve Carell, which began airing
11 in 2005. Distribution and merchandising rights relating to the U.S. version of *The*
12 *Office* are owned exclusively by NBCU. (Unless otherwise indicated, as used herein
13 "*The Office*" shall refer to the U.S. version of the series produced and distributed by
14 NBCU.)

15 24. During its nine-season run on NBC television, from March 24, 2005, to
16 May 16, 2013, *The Office* was a critical hit. It ranked as NBC's highest rated scripted
17 series during its run. It received 42 Primetime Emmy Award nominations, with 5
18 wins. It also won a Peabody Award in 2006, two Screen Actors Guild Awards in
19 2006 and 2007, a Golden Globe for Carell's performance in 2006, and a Primetime
20 Emmy Award for Outstanding Comedy Series in 2006. The *Washington Post* has
21 called *The Office* a "pop culture behemoth."

22 25. In addition to being a critical success, *The Office* also was a ratings hit
23 for NBC. As reported in *The Hollywood Reporter*, its six-episode first season
24 averaged 5.4 million viewers per episode. The ratings increased substantially in the
25 show's second and third seasons, which ran from 2005 to 2007, averaging 8.0 and
26 8.3 million viewers per episode, respectively. Since its release, *The Office* has been
27 distributed continuously on various television networks and streaming platforms
28 worldwide.

1 26. *The Office* depicts the everyday work lives of office employees in the
 2 Scranton, Pennsylvania branch of the fictional Dunder Mifflin Paper Company,
 3 which is prominently depicted in all 201 episodes of the show. According to *The*
 4 *Office* canon, the Dunder Mifflin name is derived from the company's fictional
 5 founders Robert Dunder and Robert Mifflin. While *The Office* was adapted from a
 6 television series in the U.K., the fictional Dunder Mifflin Paper Company does not
 7 appear in the U.K. version. Accordingly, the common law trademark rights in
 8 "DUNDER MIFFLIN" that have accrued in connection with NBCU's series *The*
 9 *Office* belong exclusively to NBCU and its affiliated companies.

10 27. The fictional Dunder Mifflin Paper Company was a focal point of the
 11 series, and both the word mark DUNDER MIFFLIN and the stylized "DUNDER
 12 MIFFLIN INC, PAPER COMPANY" logo (collectively the "DM MARKS") were
 13 prominently featured in the show's episodes. NBCU's stylized mark, shown below,
 14 includes the words "Dunder Mifflin Inc, Paper Company" in a signature font, with
 15 the words "Dunder Mifflin" in large typeface, the "Inc" aspect of the logo sideways
 16 next to the word "Mifflin" and the words "paper company" in a smaller font below
 17 the word "Mifflin," as shown below:



25 28. The Dunder Mifflin name and stylized logo are recurring features of
 26 the sets, props, and wardrobe used in the show and appear in every episode of *The*
 27 *Office* as illustrated below:






Image	Season And Episode
	Season 1 • Episode 3 <i>"Health Care"</i>
	Season 1 • Episode 5 <i>"Basketball"</i>
	Season 2 • Episode 9 <i>"E-Mail Surveillance"</i>
	Season 2 • Episode 13 <i>"The Secret"</i>
	Season 2 • Episode 20 <i>"Drug Testing"</i>






Image	Season And Episode
	Season 3 • Episode 7 <i>“Branch Closing”</i>
	Season 3 • Episode 13 <i>“Career Of Salesmen”</i>
	Season 3 • Episode 20 <i>“Safety Training”</i>
	Season 4 • Episode 5 <i>“Launch Party – Part 1”</i>
	Season 4 • Episode 9 <i>“Regional Advertising”</i>

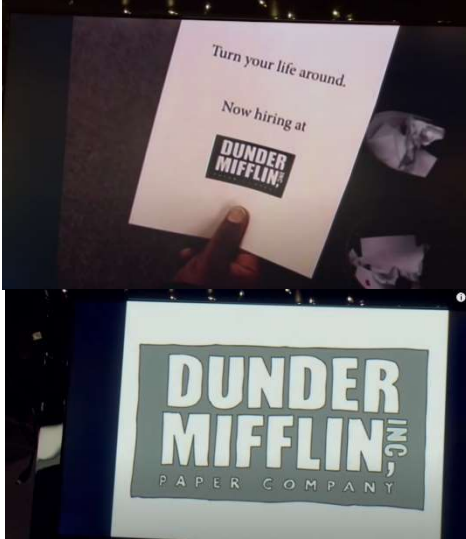




Image	Season And Episode
	
	Season 5 <ul style="list-style-type: none"> Episode 1 <i>"Slimming Contest"</i>
	Season 5 <ul style="list-style-type: none"> Episode 12 <i>"The Duel"</i>
	Season 5 <ul style="list-style-type: none"> Episode 13 <i>"The Role Of The Prince Family"</i>
	Season 5 <ul style="list-style-type: none"> Episode 14/15 <i>"Tension Release"</i>

Image	Season And Episode
	Season 5 • Episode 28 <i>"Company Picnic"</i>
	Season 6 • Episode 8 <i>"Koi Pond"</i>
	Season 6 • Episode 10 <i>"Murder"</i>
	Season 6 • Episode 11 <i>"The Shareholders' Meeting"</i>
	Season 6 • Episode 14 <i>"The Banker"</i>









Image	Season And Episode
	Season 7 • Episode 2 <i>"The Therapy"</i>
	Season 7 • Episode 3 <i>"Andy's Play"</i>
	Season 7 • Episode 13 <i>"Ultimatum"</i>
	Season 8 • Episode 6 <i>"Doomsday"</i>
	Season 8 • Episode 7 <i>"Pam's Replacement"</i>
	Season 8 • Episode 11 <i>"The Quiz Show"</i>

Image	Season And Episode
	Season 9 • Episode 14 “ <i>The Office Bus</i> ”
	Season 9 • Episode 6 “ <i>The Boat</i> ”
	Season 9 • Episode 9 “ <i>Dwight Christmas</i> ”

29. The widespread success of NBCU’s *The Office* created and cultivated a devoted fan following that endures and thrives to this day, nearly a decade after the series ended. The official *The Office* Facebook page, maintained by NBCU, has over 9.5 million followers and “likes” to date, while its Twitter feed has over 1.3 million followers. Additionally, NBCU’s YouTube page for *The Office* has 2.84 million subscribers and over 2.2 billion video views.

30. The popularity of *The Office* has created an enormous demand for products, services, and themed experiences related to the series. NBCU has responded to this demand by creating consumer products and by licensing other entities to do the same. Indeed, shortly after the series began airing, NBCU began selling merchandise featuring the fictional “DUNDER MIFFLIN” brand. By at least

1 November 2006, NBCU was selling coffee mugs, hats and other apparel featuring
2 the DUNDER MIFFLIN mark.

3 31. By January 2007, NBCU was selling *The Office* and DUNDER
4 MIFFLIN merchandise in its physical store at 30 Rockefeller Center in New York
5 City and online at nbcuniversalstore.com. The merchandise sold included t-shirts,
6 wall calendars, hats, and mugs featuring the DM MARKS.

7 32. Continuously since 2006, NBCU has engaged in numerous, varied, and
8 ever-expanding uses in commerce of its well-known and popular intellectual
9 property relating to *The Office*, including the DM MARKS. In 2007, for example,
10 NBCU created a website for the fictional Dunder Mifflin Paper Company where site
11 visitors could learn about the company, browse products, view job postings, and
12 contact the company. The website prominently featured the DM MARKS.

13 33. In addition, NBCU and its licensees have offered *The Office* themed
14 merchandise bearing the DM MARKS for sale on the NBCU website and third-party
15 websites such as Amazon and eBay, including clothing, robes, hats, beanies, mugs,
16 wine tumblers, glassware, water bottles, blankets, phone cases, mouse pads, masks,
17 ornaments, holiday stockings, lanyards, stickers, posters, backpacks, and tote bags.

18 34. In 2011, NBCU licensed the company Quill.com to produce and
19 distribute paper featuring the DUNDER MIFFLIN branding and eventually
20 expanded the DUNDER MIFFLIN and *The Office* branded line to include Sharpies,
21 self-stick notes, facial tissue, coffee cups, storage boxes, and legal pads.

22 35. Demand for *The Office* themed products, services, and experiences did
23 not end when the show ended in 2013. Recently, *The Office* has gained a new
24 following in the “Gen Z” generation who generally were not old enough to watch
25 the show when it originally aired. On April 26, 2019, Vanity Fair published an
26 article describing *The Office*’s new-found popularity with Gen Z viewers. Roughly
27 a year and a half later, on August 3, 2021, Yahoo’s PureWow published an article
28

1 discussing *The Office*'s popularity with Gen Z viewers. This new demographic has
2 helped *The Office* remain a pop culture icon long after its nine-season run ended.

3 36. In or around January 2021, NBCU began streaming all episodes of *The*
4 *Office* on its streaming platform Peacock. Prior to that time, *The Office* streamed
5 exclusively on Netflix and reportedly was the platform's most watched piece of
6 overall content. As a result, the series' relocation from Netflix to Peacock was a
7 significant news story covered on major news outlets, several of which credited *The*
8 *Office*'s move to Peacock for Peacock's rapid increase in subscribers from roughly
9 26 million to 33 million.

10 37. In connection with *The Office*'s January 2021 move to Peacock, NBCU
11 distributed promotional materials which exploited the DM MARKS, as shown in the
12 images below:



Extras and Exclusives

Go deep on Dunder Mifflin Scranton with these deleted scenes and superfan episodes.



STREAM NOW



38. As part of the promotion, Peacock launched a Dunder Mifflin Employee Simulator and interactive webpage which virtually transported fans of the show into a Dunder Mifflin desktop computer. The dundermifflin.com website, which operated from January 1, 2021 through July 31, 2021, and is pictured below, enabled fans to click on folders and icons to gain access to behind-the-scenes photos, clips, and episodes of the series and experience being an employee at the famous Dunder Mifflin company.



39. On Peacock, NBCU continues to exploit the DM MARKS in unique ways, as shown in the images below:



40. In 2021, thanks to the ongoing popularity of *The Office*, NBCU and its affiliates also began offering *The Office* Experience, an immersive experience where fans can explore various locations in the show. *The Office* Experience was presented in Chicago from October 2021 through March 2022. It will open in Washington, D.C. in July 2022 and will remain there through January 2023. This experience, of course, features *The Office*'s most iconic location—the offices of the fictional company Dunder Mifflin. *The Office* Experience also includes a retail store that sells merchandise bearing the DM MARKS including clothing, masks, and water bottles.

41. Additionally, in January 2022, NBCU and its affiliates launched a *The Office* themed mobile game in the United States. A substantial amount of the game

1 play takes place in the offices of the fictional Dunder Mifflin company, and the DM
2 MARKS appears throughout the game.

3 42. These are just some of the many uses NBCU has made of the DM
4 MARKS throughout the years. Through these uses, NBCU has established strong,
5 nationwide common law rights in the unregistered word mark DUNDER MIFFLIN
6 and in its stylized “DUNDER MIFFLIN INC, PAPER COMPANY” logo. NBCU’s
7 rights predate any use in commerce by Defendants of the DUNDER MIFFLIN mark.

8 43. Specifically, the DM MARKS are arbitrary coined terms that are
9 inherently distinctive trademarks and symbols of NBCU and its *The Office* franchise.
10 They also have acquired distinctiveness as a result of years of continuous use by
11 NBCU from March 2005 to present in its well-known and beloved *The Office*
12 television series, DVDs, video games, clothing, toys, collectibles, and other
13 merchandise items related to *The Office*, all of which have been extensively
14 advertised and promoted nationwide by NBCU and its licensees and have enjoyed
15 substantial nationwide sales.

16 44. The DM MARKS also are famous nationwide, and became famous
17 before any use in commerce by Defendants, as a result of years of continuous use by
18 NBCU in its well-known and beloved *The Office* television series, and in connection
19 with DVDs, video games, clothing, toys, collectibles, and other merchandise items
20 related to *The Office*, all of which have been extensively advertised and promoted
21 nationwide by NBCU and its licensees, have enjoyed substantial nationwide sales,
22 and have generated extensive press coverage and public awareness, such that the
23 DM MARKS are widely recognized by the general consuming public of the United
24 States as a designation of source as to the goods and services of NBCU.

25 **II. Defendants’ Pattern and Practice of Trademark Squatting**

26 45. NBCU is informed and believes, and on that basis alleges, that
27 Defendants Gooder, JKM, and Kenneth Talbert have built a business based on
28 registering trademarks belonging to others in order either to sell them back to their

rightful owners or to profit from consumer confusion by selling branded merchandise that consumers inevitably will associate with a popular entertainment property such as a television show, movie, or videogame that has no connection whatsoever to Defendants. Indeed, Defendants have registered, or attempted to register, more than 20 marks derived from the entertainment properties of others.

46. For example, JKM owns trademark registrations for HILLMAN COLLEGE (the fictional all-black college depicted in *The Cosby Show*), TREE HILL RAVENS (the fictional basketball team from the series *One Tree Hill*), AVERAGE JOE'S (one of the fictional gyms in *Dodgeball*), DILLON FOOTBALL (a reference to the fictional Dillon High School team from *Friday Night Lights*), and NOSTROMO (the fictional spaceship in *Alien*), and it applied to register TYRELL CORPORATION (the fictional replicant-manufacturer in *Blade Runner*).

47. NBCU is informed and believes, and on that basis alleges, that the chart below details some of JKM and Gooder's registrations and applications in pursuit of this business model, the entertainment property to which each registration or application relates, and the owner of each such property:

Trademark	Status	Class	Goods and services	Property/Owner
DILLON FOOTBALL	Registered	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; headwear; hoodies; t-shirts; caps; graphic t-shirts	<i>Friday Night Lights</i> Universal Television TV

Trademark	Status	Class	Goods and services	Property/Owner
DIPPER'S PINE	Registered	25	(Int. Cl. 25) hoodies; athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; graphic t-shirts	<i>Gravity Falls</i> Disney TV
DUNDER MIFFLIN	Registered	25	(Int. Cl. 25) hoodies; athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; graphic t-shirts	<i>The Office</i> Universal Television TV
HILLMAN COLLEGE	Registered	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; headwear; hoodies; t-shirts; caps; graphic t-shirts	<i>The Cosby Show</i> Carsey-Werner Productions TV
NO MA'AM	Registered	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and	<i>Married... with Children</i> 20th Century Fox TV

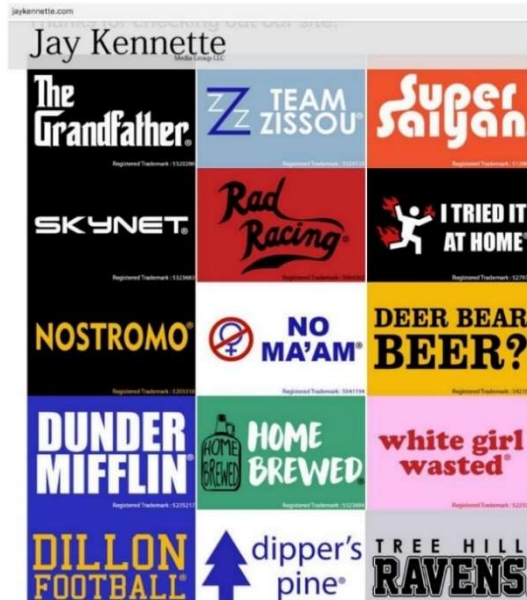
Trademark	Status	Class	Goods and services	Property/Owner
			caps, athletic uniforms; baseball caps and hats; sweatshirts; t-shirts; hooded sweatshirts	
NOSTROMO	Registered	25	(Int. Cl. 25) hoodies; athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; graphic t-shirts	<i>Alien</i> 20th Century Fox Movie
SHADOW COMPANY	Registered	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; baby bodysuits; hoodies; sweatshirts; shirts and short-sleeved shirts	<i>Shadow Company</i> Activision Call of Duty Game
SKYNET	Registered	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic	<i>Terminator 2</i> 20th Century Fox Movie

Trademark	Status	Class	Goods and services	Property/Owner
			uniforms; baby bodysuits; hoodies; shirts and short-sleeved shirts; sweatshirts	
TREE HILL RAVENS	Registered	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; headwear; hoodies; t-shirts; caps; graphic t-shirts	<i>One Tree Hill</i> Warner Brothers TV
AVERAGE JOE'S	Abandoned	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; headwear; hoodies; t-shirts; caps; graphic t-shirts; short-sleeved or long-sleeved t-shirts	<i>Dodgeball: A True Underdog Story</i> 20th Century Fox Movie
HARTFORD WHALERS	Abandoned	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets,	Former NHL Hockey Team (predecessor of

Trademark	Status	Class	Goods and services	Property/Owner
			footwear, hats and caps, athletic uniforms; hooded sweatshirts; t-shirts; baseball caps and hats	the current Carolina Hurricanes)
TYRELL CORPORATION	Abandoned	25	(Int. Cl. 25) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; headwear; hoodies; t-shirts; caps; graphic t-shirts	<i>Blade Runner</i> Warner Brothers Movie

48. Several of these applications were filed in 2016, and several on the same days, evidencing a clear strategy to squat on trademarks associated with multiple different popular entertainment properties that Defendants do not own. NBCU is informed and believes, and on that basis alleges, that Defendants have registered these various marks in an attempt to squat on the marks in order either to eventually extract a fee from the actual rightsholder and/or to sell merchandise that consumers will erroneously assume to be associated with the relevant entertainment property.

49. In 2019, for example, JKM's website, jaykennette.com, displayed images of the various trademarks it claimed to own, many of which directly referenced the entertainment property from which they were lifted:



50. NBCU is informed and believes, and on that basis alleges, that Defendants have registered these marks with the intent to unfairly compete against the actual rightsholders, to trade upon their reputation and goodwill, and/or to sell back to them registrations for marks in which they already own common law rights.

III. Defendants' Infringement of The DM MARKS

51. Subsequent to the adoption and use by NBCU of its *The Office* intellectual property, and without any authorization or permission from NBCU, Defendants began using the DM MARKS to market and sell the same kinds of merchandise as NBCU and its licensees.

52. On or around June 2016, Gooder filed Application Serial No. 87-076,381 with the USPTO to register DUNDER MIFFLIN in Class 25 for use in connection with "Hoodies; Athletic apparel, namely, shirts, pants, jackets, footwear, hat and caps, athletic uniforms; Graphic T-shirts." The application claimed a first use in commerce date of January 9, 2007, and was signed by Defendant Talbert, who was identified as the President/CEO of Gooder Labs.

53. NBCU's use of the DM MARKS predates any actual or claimed use of DUNDER MIFFLIN by Defendants. NBCU began using the DM MARKS in March 2005 when *The Office* began airing on NBC television, and NBCU was selling

1 merchandise bearing the DM MARKS by at least November 2006. This is well
2 before Gooder's claimed date of first use in commerce.

3 54. Moreover, the specimen Gooder submitted with its application
4 appeared to be digitally altered and did not show the mark being used in commerce.
5 Shown below, Gooder submitted a specimen consisting of what appeared to be a
6 plain white t-shirt with a neck tag bearing the words DUNDER MIFFLIN in blue
7 using the same font and layout as NBCU's DM MARKS.



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18 55. In or around February 2017, the USPTO rejected this specimen on the
19 ground that it "appears to consist of a digitally altered image or a mock-up of the
20 intended depiction of the mark on the goods or their packaging."

21 56. In or around March 2017, Gooder submitted a new specimen, shown
22 below, which consisted of a blue t-shirt with the words "Dunder Mifflin Paper
23 Company, Inc." in white, arranged in precisely the same manner as depicted in the
24 DM MARKS.



57. Once again, this specimen appeared to be a mock-up and does not show the shirt being advertised or offered for sale. Following publication in April 2017, the application was granted, and the registration issued on July 4, 2017 as Registration Number 5,235,217.

58. On or around January 14, 2017, Gooder assigned its trademark registrations and applications, including the then-pending application for DUNDER MIFFLIN, to JKM. Notably, the consideration for the transfer of twelve marks from Gooder to JKM was \$0.00. Kenneth Talbert signed the assignment agreement on behalf of both Gooder and JKM as the CEO of both companies.

59. In or around October 2021, JKM filed applications with the USPTO to register DUNDER MIFFLIN as a mark in International Classes 21 and 16 for, respectively, “cups, plates, coffee mugs” etc. and for “envelopes; copy paper; notebook covers; notebooks;” and other office products. Those applications are currently pending with serial numbers 97-096,825 and 97-096,853 respectively.

60. JKM submitted the following specimens with these applications:



61. Again, these specimens included “Dunder Mifflin” arranged in precisely the same manner as depicted in the DM MARKS and *The Office* television series. Additionally, neither specimen shows the goods being advertised or offered for sale in commerce, and when examined, both appear to have digital alterations.

62. In addition to registering NBCU’s DUNDER MIFFLIN mark with the USPTO, Defendants have offered and sold merchandise using the DM MARKS on Amazon.com and Defendants’ website www.gooderdeals.com. NBCU is informed and believes, and on that basis alleges, that through these websites, Defendants sold merchandise to, and specifically targeted, consumers located in the State of California, the largest market in the United States.

63. From approximately 2015 to at least 2019, Defendants sold a variety of unauthorized merchandise bearing the DM MARKS, including without limitation shirts, hoodies, and hats. As shown below, the merchandise offered by Defendants using the DM MARKS is substantially indistinguishable from NBCU’s use in commerce including slavish copies of the identical logo presentation and constitutes trademark infringement and false designation of origin:



Plaintiffs' Use



Defendants' Use



Plaintiffs' Use



Defendants' Use



Plaintiffs' Use



Defendants' Use

64. Defendants' use of exact replicas of the DM MARKS makes clear that Defendants are attempting to pass off their products as those of NBCU and to trade

1 upon NBCU's and *The Office*'s extensive fame, unparalleled goodwill, and devoted
2 consumer base.

3 65. In addition to registering and selling merchandise bearing NBCU's DM
4 MARKS, Defendants have specifically targeted NBCU in order effectively to hold
5 the DM MARKS hostage. In or around 2019, Defendants attempted to interfere with
6 NBCU's contractual relationships in California by sending takedown demands
7 through eBay and Amazon to NBCU's licensees. eBay is headquartered in and has
8 its principal place of business in San Jose, California. Defendants' takedown notices
9 falsely claimed that NBCU's licensees were infringing Defendants' trademarks by
10 selling merchandise bearing the DM MARKS that related to *The Office* television
11 series, and thereby constituted a deliberate and knowing attempt to interfere with
12 NBCU's contractual relationships with its licensees. One of these takedown notices
13 targeted the activities of Smart Print, a California-based retailer selling merchandise
14 bearing the DM MARKS on behalf of NBCU licensee T-Line.

15 66. On December 8, 2021, NBCU sent JKM a cease-and-desist letter
16 demanding that JKM cease infringing NBCU's DM MARKS. JKM refused to stop
17 its infringement. Instead, Defendants communicated to NBCU's counsel in
18 California a demand that NBCU pay a substantial sum for JKM to assign its
19 registration for DUNDER MIFFLIN to NBCU. In that same communication,
20 Defendants threatened that they would seek to have all of NBCU's and its licensees'
21 listings for merchandise bearing the DM MARKS taken down from all Internet
22 distribution platforms, including Amazon. Defendants also threatened to sue NBCU
23 for trademark infringement. Furthermore, Defendants demanded that NBCU enter
24 into a consent agreement with them that would have given Defendants substantive
25 rights in the DM MARKS to which Defendants are not entitled.

26 67. Defendants' practice of seeking fraudulent trademark registrations to
27 which they are not entitled has hindered NBCU's ability to protect and augment its
28 own common law rights by obtaining valid federal trademark registrations. On or

1 around November 20, 2020, Universal Television sought to register DUNDER
2 MIFFLIN as a standard character mark in International Class 41, Serial No. 90-
3 333,640, for “entertainment services in the field of comedy accessible via mobile
4 and global communication networks.” As detailed above, NBCU is clearly entitled
5 to such a registration based on its creation and continuous usage of the DM MARKS.
6 However, in office actions, the USPTO rejected the applications and cited JKM’s
7 registered trademark for DUNDER MIFFLIN, discussed above, as a basis for
8 rejection. On or around June 8, 2022, the USPTO issued a final office action
9 rejecting Universal Television’s application based on a purported likelihood of
10 confusion with JKM’s registered trademark.

11 68. Concurrently with the filing of this litigation, NBCU is filing with the
12 Trademark Trial and Appeal Board of the USPTO a petition to cancel JKM’s
13 Registration No. 5,235,217 and intends to request that that proceeding be suspended
14 pending the resolution of NBCU’s claims in this case.

15 **FIRST CLAIM FOR RELIEF**

16 **TRADEMARK INFRINGEMENT – 15 U.S.C. § 1125(a)(1)(A)**

17 69. NBCU repeats, realleges, and incorporates herein by reference every
18 allegation contained in paragraphs 1 through 68.

19 70. NBCU and its affiliates have the exclusive right at common law to use
20 its DM MARKS in the United States in commerce to advertise and sell various goods
21 and services including merchandise, products, services, and themed experiences
22 related to the television series *The Office*.

23 71. NBCU’s exclusive rights in and to its DM MARKS predate any rights
24 that Defendants could establish in any mark that consists of “Dunder Mifflin” in
25 whole or in part.

26 72. NBCU’s DM MARKS are arbitrary coined terms that are inherently
27 distinctive when used in connection with NBCU’s goods and services.
28

1 73. NBCU's DM MARKS identify NBCU as the exclusive source of
2 merchandise, services, and experiences offered using the DM MARKS.
3 Accordingly, NBCU's DM MARKS also have acquired distinctiveness through the
4 development of secondary meaning.

5 74. As set forth above, Defendants have been and are reproducing NBCU's
6 DM MARKS in United States commerce by offering for sale, and selling,
7 merchandising using the DM MARKS. NBCU has not consented to Defendants'
8 use of NBCU's DM MARKS for any purpose.

9 75. As alleged herein, and as shown in the examples above, Defendants'
10 use of NBCU's DM MARKS in United States commerce, on and in connection with
11 merchandise, is likely to cause confusion, cause mistake, and/or cause deception
12 about whether NBCU is the source of Defendants' merchandise.

13 76. NBCU is informed and believes, and on that basis alleges, that
14 Defendants' conduct, as alleged herein, is in furtherance of Defendants' willful,
15 deliberate, and bad-faith scheme of trading upon the extensive consumer goodwill,
16 reputation, and commercial success of NBCU's DM MARKS and its extraordinarily
17 popular television series *The Office*.

18 77. Defendants' acts and conduct constitute trademark infringement in
19 violation of 15 U.S.C. § 1125(a)(1)(A).

20 78. Defendants' acts complained of herein were willful and deliberate and
21 have caused damage to NBCU in an amount to be determined at trial, and such
22 damages will continue to increase unless and until Defendants are enjoined from
23 their wrongful actions.

24 79. Defendants' willful and deliberate acts of trademark infringement and
25 unfair competition make this an exceptional case such that NBCU is entitled to an
26 award of profits and attorneys' fees pursuant to 15 U.S.C. § 1117(a).

27 80. Defendants' acts complained of herein have caused, and will continue
28 to cause, irreparable injury to NBCU's business, substantial loss of goodwill and

1 reputation, and pecuniary damages to NBCU and consequently have caused, and
2 will continue to cause, a substantial impact on United States commerce. Such
3 irreparable injury will continue unless and until Defendants are enjoined from
4 further violation of NBCU's rights.

5 **SECOND CLAIM FOR RELIEF**

6 **FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION –**

7 **15 U.S.C. § 1125(a)(1)(A)**

8 81. NBCU repeats, realleges, and incorporates herein by reference every
9 allegation contained in paragraphs 1 through 68.

10 82. NBCU owns the unregistered DM MARKS for use in United States
11 commerce in connection with a wide variety of goods and services including
12 merchandise, products, services, and themed experiences related to the television
13 series *The Office*.

14 83. The DM MARKS and have been used extensively by NBCU and its
15 licensees in commerce, are non-functional, are inherently distinctive, have acquired
16 substantial secondary meaning in the marketplace, and have become associated in
17 the public's mind with NBCU's products, services, experiences and its
18 extraordinarily popular television series *The Office*.

19 84. As described above in detail, the Defendants are using in commerce,
20 without NBCU's authorization or consent and in a confusing and misleading
21 manner, the DM MARKS and/or confusingly similar variations thereof to advertise,
22 market, and sell their own infringing merchandise. This conduct constitutes false
23 designation of origin and unfair competition in violation of 15 U.S.C.
24 § 1125(a)(1)(A).

25 85. NBCU is informed and believes, and on that basis alleges, that
26 Defendants had actual knowledge of NBCU's ownership and prior use of the DM
27 MARKS and related merchandise prior to commencing the conduct alleged herein.
28

1 86. NBCU is informed and believes, and on that basis alleges, that
2 Defendants have engaged in the conduct complained of herein with the intent to
3 compete unfairly against NBCU, to trade upon NBCU's reputation and goodwill by
4 causing confusion and mistake among customers and the public, and to deceive the
5 public into believing that Defendants' infringing merchandise is associated with,
6 sponsored by, or approved by NBCU, when it is not.

7 87. As a result of the acts complained of herein, Defendants have caused
8 injury to NBCU's business reputation and to the reputation and goodwill
9 surrounding the DM MARKS, as well as a strong likelihood of consumer confusion
10 as to the source of origin or relationship of NBCU's and Defendants' goods, and
11 have otherwise competed unfairly with NBCU.

12 88. Defendants' acts complained of herein were willful and deliberate and
13 have caused damage to NBCU in an amount to be determined at trial, and such
14 damages will continue to increase unless and until Defendants are enjoined from
15 their wrongful actions.

16 89. Defendants' willful and deliberate acts of trademark infringement and
17 unfair competition make this an exceptional case such that NBCU is entitled to an
18 award of profits and attorneys' fees pursuant to 15 U.S.C. § 1117(a).

19 90. Defendants' acts complained of herein have caused, and will continue
20 to cause, irreparable injury to NBCU's business, substantial loss of goodwill and
21 reputation, and pecuniary damages to NBCU and consequently have caused, and
22 will continue to cause, a substantial impact on United States commerce. Such
23 irreparable injury will continue unless and until Defendants are preliminarily and
24 permanently enjoined from further violation of NBCU's rights.

25 **THIRD CLAIM FOR RELIEF**

26 **TRADEMARK DILUTION – 15 U.S.C. § 1125(c)**

27 91. NBCU repeats, realleges, and incorporates herein by reference every
28 allegation contained in paragraphs 1 through 68.

1 92. By virtue of the enormous popularity of the DM MARKS, and the
2 massive success, advertising and promotion of *The Office* television series, the
3 goods, services, and experiences offered under the DM MARKS have been
4 consumed, viewed, accessed, and purchased by millions of people. Accordingly, as
5 alleged herein, these marks are famous among consumers nationwide and became
6 famous well before their use in commerce by Defendants.

7 93. Defendants' use of the famous DM MARKS in their infringing
8 merchandise has been for Defendants' own commercial gain.

9 94. Defendants' use of the famous DM MARKS in their infringing
10 merchandise will cause, or will likely cause, dilution of the distinctive quality of
11 NBCU's DM MARKS through blurring and/or tarnishment in violation of 15 U.S.C.
12 § 1125(c), thereby impairing the capability of these marks of identifying and
13 distinguishing NBCU's, or its licensees', goods and services.

14 95. Defendants' acts complained of herein were willful and deliberate and
15 have caused damage to NBCU in an amount to be determined at trial, and such
16 damages will continue to increase unless and until Defendants are enjoined from
17 their wrongful actions.

18 96. Defendants' willful and deliberate acts of trademark dilution make this
19 an exceptional case such that NBCU is entitled to an award of profits and attorneys'
20 fees pursuant to 15 U.S.C. § 1117(a).

21 97. Defendants' acts complained of herein have caused, and will continue
22 to cause, irreparable injury to NBCU's business, substantial loss of goodwill and
23 reputation, and pecuniary damages to NBCU. Such irreparable injury will continue
24 unless and until Defendants are preliminarily and permanently enjoined from further
25 violation of NBCU's rights.

1 **FOURTH CLAIM FOR RELIEF**

2 **CANCELLATION OF TRADEMARK REGISTRATION NO. 5,235,217**

3 **15 U.S.C. §§ 1052(d), 1064**

4 98. NBCU repeats, realleges, and incorporates herein by reference every
5 allegation contained in paragraphs 1 through 68.

6 99. Since at least March 2005, well before the first use, filing and
7 registration dates of JKM's Registration No. 5,235,217 and its applications for
8 registration denoted by Serial Nos. 97-096,825 and 97-096,853, NBCU has
9 continuously used its famous DM MARKS in commerce in connection with
10 products, services, and themed experiences related to NBCU's television series *The*
11 *Office* and therefore enjoys priority of use in commerce. By virtue of NBCU's
12 continuous and substantial use of its DM MARKS, the DM MARKS have become
13 a strong identifier of NBCU and its products and services and distinguish NBCU's
14 products and services from those of others. NBCU has built up significant and
15 valuable goodwill and fame in its DM MARKS. NBCU has a valid protectible
16 common law trademark interest in its DM MARKS.

17 100. NBCU will be damaged by the continued registration of JKM's
18 Registration No. 5,235,217 and by Application Serial Nos. 97-096,825 and 97-
19 096,853, in that the mark shown in the registration and potential registrations are
20 confusingly similar to NBCU's famous DM MARKS. Potential purchasers, upon
21 seeing Defendants' mark shown in the registration and applications, are likely to
22 mistakenly believe that such marks and goods identified in the registration and
23 applications originate with or are connected or associated with, or sponsored,
24 licensed or approved by, NBCU. Thus, the registration and applications' use of the
25 mark shown therein in connection with the goods identified therein are likely to
26 cause confusion, or to cause mistake, or to deceive, all within the meaning of 15
27 U.S.C. § 1052(d).

1 101. In view of NBCU's prior rights in the DM MARKS, Defendant JKM is
2 not entitled to federal registration of the mark shown in Registration No. 5,235,217
3 and Application Serial Nos. 97-096,825 and 97-096,853. The registration should be
4 cancelled, and the applications should be deemed abandoned, as authorized under
5 15 U.S.C. §§ 1052(d) and 1119.

6 102. In addition, by virtue of the enormous popularity of the DM MARKS,
7 and the massive success, advertising and promotion of *The Office* television series,
8 the goods, services, and experiences offered under the DM MARKS have been
9 consumed, viewed, accessed, and purchased by millions of people. Accordingly, as
10 alleged herein, these marks are famous among consumers nationwide and became
11 famous before any use in commerce by Defendants.

12 103. As a result, the Registration and use of the DUNDER MIFFLIN mark
13 by Defendant JKM will cause, or will likely cause, dilution of the distinctive quality
14 of NBCU's DM MARKS through blurring and/or tarnishment in violation of 15
15 U.S.C. § 1125(c), thereby impairing the capability of these marks of identifying and
16 distinguishing NBCU's, or its licensees', goods and services, with consequent
17 damage to NBCU and the public.

18 104. For this separate and additional reason, Defendant JKM is not entitled
19 to federal registration of the mark shown in Registration No. 5,235,217 and in
20 Application Serial Nos. 97-096,825 and 97-096,853. The registration should be
21 cancelled, and the applications should be deemed abandoned, as authorized under
22 15 U.S.C. §§ 1125(c), 1064, and 1119.

23 **FIFTH CLAIM FOR RELIEF**

24 **CANCELLATION OF TRADEMARK REGISTRATION NO. 5,235,217–**
25 **FRAUDULENT REGISTRATION / MISREPRESENTATION OF SOURCE**
26 **15 U.S.C. § 1064(3)**

27 105. NBCU repeats, realleges, and incorporates herein by reference every
28 allegation contained in paragraphs 1 through 68.

1 106. The Lanham Act imposes on trademark applicants the obligations not
2 to knowingly make false, material representations and not to make knowingly
3 inaccurate or knowingly misleading statements.

4 107. When Defendant JKM applied for Registration No. 5,235,217, and filed
5 Applications Serial Nos. 97-096,825 and 97-096,853, Defendants knowingly and
6 falsely claimed, under penalty of perjury, that JKM was the exclusive owner of the
7 DUNDER MIFFLIN mark, that it was using the mark in connection with goods
8 claimed in the application, and that no other persons had the right to use the mark in
9 commerce.

10 108. At all relevant times, and at the time of making the aforesaid
11 applications for registration, Defendants, and each of them, had actual knowledge
12 that NBCU had prior, superior rights to use the DM MARKS in commerce in
13 connection with apparel, merchandise, entertainment services, and other goods and
14 services related to NBCU's television series *The Office*.

15 109. At all relevant times, and at the time of making the aforesaid
16 applications for registration, Defendants, and each of them, had actual knowledge
17 that that the statements in the applications were false based upon NBCU's
18 widespread, successful, open, notorious, popular, and national use of its DM
19 MARKS from March 2005 to the present on its nationally televised, critically
20 acclaimed television series *The Office* and on related merchandising, services, and
21 experiences bearing the DM MARKS, as well as upon Defendants' submission of
22 specimens in support of registration depicting a purported DUNDER MIFFLIN
23 mark that was in an identical font, stylization, and manner of presentation as
24 NBCU's DM MARKS, and also upon the Defendants' applications for and
25 registrations of numerous other marks uniquely associated with other entertainment
26 properties not owned by Defendants.

1 110. Defendants knowingly made these materially fraudulent statements in
2 the applications with the intent to deceive the USPTO and with the intent that the
3 USPTO rely upon them.

4 111. The USPTO relied upon the materially false statements made by
5 Defendants in its handling of the application to register the DUNDER MIFFLIN
6 mark and in registering the DUNDER MIFFLIN mark. But for the materially false
7 allegations, the USPTO would never have issued Registration No. 5,235,217 to
8 Defendant JKM.

9 112. Defendants' conduct constitutes fraud on the USPTO. NBCU has no
10 adequate remedy at law and is being irreparably damaged by the aforesaid
11 registration and pending applications.

12 113. In view of Defendants' fraud on the USPTO, Defendant JKM is not
13 entitled to federal registration of the mark shown in Registration No. 5,235,217 and
14 Application Serial Nos. 97-096,825 and 97-096,853. The registration should be
15 cancelled, and the applications should be deemed abandoned as authorized under 15
16 U.S.C. § 1119.

17 114. In addition, as alleged above, Defendants have blatantly used the
18 registered DUNDER MIFFLIN mark in a manner calculated to trade on NBCU's
19 and *The Office's* extensive goodwill, popularity, fame, reputation, and consumer
20 base. They have deliberately used the DUNDER MIFFLIN mark to pass off their
21 own goods as those of NBCU by using the mark in a manner that is substantially
22 indistinguishable from the highly distinctive and unique font, stylization, and
23 manner of presentation of NBCU's DM MARKS.

24 115. As a result, Defendants' use of the DUNDER MIFFLIN mark is a
25 misrepresentation of source plainly designed to create the false impression and cause
26 consumers mistakenly to believe that NBCU is the source of goods sold under
27 Defendants' registered DUNDER MIFFLIN mark, all in violation of 15 U.S.C.
28 § 1064(3). For this separate and additional reason, Defendant JKM is not entitled to

1 federal registration of the mark shown in Registration No. 5,235,217 and in
2 Application Serial Nos. 97-096,825 and 97-096,853. The registration should be
3 cancelled, and the applications should be deemed abandoned, as authorized under
4 15 U.S.C. § 1119.

5 **SIXTH CLAIM FOR RELIEF**

6 **COMMON LAW TRADEMARK INFRINGEMENT**

7 116. NBCU repeats, realleges, and incorporates herein by reference every
8 allegation contained in paragraphs 1 through 68.

9 117. NBCU owns all rights, title, and interest in and to the DM MARKS as
10 alleged herein, including all common law rights in such marks.

11 118. Defendants' acts complained of herein constitute trademark
12 infringement in violation of the common law of the State of California.

13 119. Defendants intend to continue their willfully infringing acts unless
14 restrained by this Court.

15 120. Defendants' conduct has injured NBCU and will continue to cause
16 irreparable injury to NBCU for which NBCU has no adequate remedy at law. In
17 addition, Defendants are guilty of oppression, fraud, and malice. Accordingly,
18 NBCU is entitled to an award of punitive and/or exemplary damages pursuant to
19 California Civil Code § 3294(a).

20 **SEVENTH CLAIM FOR RELIEF**

21 **COMMON LAW UNFAIR COMPETITION (PASSING OFF)**

22 121. NBCU repeats, realleges, and incorporates herein by reference every
23 allegation contained in paragraphs 1 through 68.

24 122. By virtue of the acts complained of herein, Defendants have
25 intentionally caused a likelihood of confusion among consumers and the public and
26 have unfairly competed with NBCU in violation of the common law of the State of
27 California.

123. The purpose, tendency, and effect of Defendants' use of the DM MARKS, in the manner alleged above, is to enable Defendants to deceive the public by passing off their products as being rendered, sponsored, approved, or otherwise associated with or licensed by NBCU, when in fact they are not.

124. Defendants' use of the DM MARKS in merchandise offered for sale is likely to cause confusion, mistake, or deception as to the source or origin of Defendants' products. Said use constitutes infringement of NBCU rights with respect to the DM MARKS.

125. Defendants' willful acts of unfair competition have caused injury and damage to NBCU in an amount to be determined at trial.

126. Defendants' willful acts of unfair competition constitute acts of fraud, oppression, and malice. Accordingly, NBCU is entitled to an award of punitive and/or exemplary damages pursuant to California Civil Code § 3294(a).

127. Defendants' acts complained of herein have caused, and will continue to cause, irreparable injury to NBCU's business, substantial loss of goodwill and reputation, and pecuniary damages to NBCU. Such irreparable injury will continue unless and until Defendants are preliminarily and permanently enjoined from further violation of NBCU's rights.

EIGHTH CLAIM FOR RELIEF

CALIFORNIA STATUTORY UNFAIR COMPETITION

Cal. Business & Professions Code § 17200, *et seq.*

128. NBCU repeats, realleges, and incorporates herein by reference every allegation contained in paragraphs 1 through 68.

129. By virtue of the acts complained of herein, Defendants have intentionally caused a likelihood of confusion among the public and have unfairly competed in violation of California Business and Professions Code § 17200, *et seq.*

130. Defendants' aforementioned acts constitute unlawful business practices, which have injured or damaged NBCU including by causing a loss of

1 money or property. Among other violations of law, Defendants' aforementioned
2 acts constitute trademark infringement and false designation of origin under 15
3 U.S.C. § 1125(a) and trademark dilution under 15 U.S.C. § 1125(c).

4 131. Defendants' acts complained of herein have caused, and will continue
5 to cause, irreparable injury to NBCU's business, substantial loss of goodwill and
6 reputation, and pecuniary damages to NBCU. Such irreparable injury will continue
7 unless and until Defendants are preliminarily and permanently enjoined from further
8 violation of NBCU's rights.

9 **NINTH CLAIM FOR RELIEF**

10 **CALIFORNIA STATUTORY TRADEMARK DILUTION**

11 **Cal. Business & Professions Code § 14247, *et seq.***

12 132. NBCU repeats, realleges, and incorporates herein by reference every
13 allegation contained in paragraphs 1 through 68.

14 133. By virtue of the enormous popularity and nationwide recognition of the
15 DM MARKS, and the massive advertising and promotion of *The Office*, the DM
16 MARKS are famous among consumers.

17 134. Defendants' use of these famous marks in commerce in connection
18 with their businesses, products, and services has been for their own commercial gain.

19 135. Defendants' infringing use of these famous marks dilutes the distinctive
20 quality of and tarnishes the public image of these marks and is likely to cause actual
21 dilution of these marks, thereby impairing the marks' capability of identifying and
22 distinguishing NBCU's or its licensees' goods and services including *The Office*
23 television series and related merchandise.

24 136. Defendants' acts complained of herein were willful and deliberate and
25 have caused damage to NBCU in an amount to be determined at trial, and such
26 damages will continue to increase unless and until Defendants are enjoined from
27 their wrongful actions.

137. Defendants' willful and deliberate acts of trademark dilution have caused, and will continue to cause, irreparable injury, loss of goodwill and reputation, and pecuniary damages. Such irreparable injury will continue unless and until Defendants are preliminarily and permanently enjoined by this Court from further violation of NBCU's rights.

PRAYER FOR RELIEF

WHEREFORE, NBCU prays for judgment against Defendants as follows:

A. For a preliminary and permanent injunction prohibiting Defendants and each of their agents, servants, owners, shareholders, partners, employees, attorneys, assigns, and all others in privity or acting in concert with them from committing further acts of infringement or dilution, including:

1. Using any trademark, service mark, trade name or domain name that includes or is confusingly similar to the DM MARKS;
2. Using in any manner any trademark, service mark, trade name, domain name, trade dress, designs, colors, arrangements, or any combination thereof that imitates, resembles, or suggests or is otherwise confusingly similar to the DM MARKS;
3. Otherwise infringing or diluting NBCU's trademarks, service marks, trade names, or trade dress, unfairly competing with NBCU, or otherwise injuring NBCU's business reputation in any manner;
4. Using, registering, or reserving any domain name, Twitter name, Facebook page name or other similar domain, or social networking or media name or page that includes the DM MARKS or is confusingly similar thereto;

B. For an order that Defendants be directed to deliver up for destruction all merchandise, products, images, advertisements, signs, packages, publications,

1 websites, social networking or media pages, and all other material in their possession
2 or under their control that bear any of the DM MARKS, pursuant to 15 U.S.C.
3 § 1118.

4 C. That the Court award NBCU compensatory damages in an amount
5 according to proof, including without limitation actual damages for Defendants'
6 violation of 15 U.S.C. §§ 1125(a) and 1125(c) pursuant to 15 U.S.C. § 1117(a), and
7 award NBCU treble damages under 15 U.S.C. § 1117(a), and other exemplary and/or
8 punitive damages to the extent permitted by law.

9 D. That the Court award Defendants' profits derived from their infringing
10 use of the DM MARKS, or any confusingly similar variation thereof, for
11 Defendants' violation of 15 U.S.C. §§ 1125(a) and 1125(c) pursuant to 15 U.S.C.
12 § 1117(a).

13 E. For cancellation of JKM's Registration No. 5,235,217 pursuant to 15
14 U.S.C. § 1119.

15 F. For an order that Application Serial Nos. 97-096,825 and 97-096,853
16 be deemed abandoned pursuant to 15 U.S.C. § 1119

17 G. For costs of suit, attorneys' fees, prejudgment interest, and such other
18 and further relief as the Court deems just and proper.

19
20 Dated: July 1, 2022

JENNER & BLOCK LLP

21
22
23 By: /s/ Andrew J. Thomas

Andrew J. Thomas

24 Lauren M. Greene

25 Attorneys for Plaintiffs

26 NBCUniversal Media LLC, Universal
27 Television LLC, and Universal Studios
28 Licensing LLC

JURY DEMAND

Plaintiffs respectfully request a jury trial on all issues so triable.

Dated: July 1, 2022

JENNER & BLOCK LLP

By: /s/ Andrew J. Thomas

Andrew J. Thomas

Lauren M. Greene

Attorneys for Plaintiffs

NBCUniversal Media LLC, Universal
Television LLC, and Universal Studios
Licensing LLC