

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO.**

ABERCROMBIE & FITCH TRADING CO., an Ohio  
corporation,

Plaintiff,

vs.

THE PARTNERSHIPS AND UNINCORPORATED  
ASSOCIATIONS doing business as  
21CNFASHION.COM,  
ABERCROMBIEADULT.COM,  
ABERCROMBIE-AND-FITCH.BIZ,  
ABERCROMBIEANDFITCHLMAGASIN.COM a/k/a  
ABERCROMBIEANDFITCHNMAGASIN.COM a/k/a  
ABERCROMBIEANDFITCHZMAGASIN.COM a/k/a  
ABERCROMBIEANDFITCH-MAGASIN.COM,  
ABERCROMBIEANDFITCHSOUTLETS.ORG,  
ABERCROMBIECHEAPSALE.NET,  
ABERCROMBIECLEARANCE.ORG,  
ABERCROMBIEES.COM,  
ABERCROMBIEETFITCH.ORG,  
ABERCROMBIEFITCHDISCOUNT.NET,  
ABERCROMBIE-FITCH-IRELAND.ORG a/k/a  
ABERCROMBIEANDFITCHINIRELAND.NET,  
ABERCROMBIE-FITCH-OFFICIAL.NET a/k/a  
ABERCROMBIEFITCHUKOFFICIAL.NET,  
ABERCROMBIE-FITCHSALE.NET,  
ABERCROMBIEFITCHSALEOUTLET.COM,  
ABERCROMBIEFITCHSOUTLETS.COM,  
ABERCROMBIEFITCHSOUTLETS.ORG,  
ABERCROMBIEFITCHSOUTLETUK.COM,  
ABERCROMBIEFITCHSTORES.ORG,  
ABERCROMBIEFITCH-UK.ORG.UK,  
ABERCROMBIEFITCHUKS.COM,  
ABERCROMBIEFITCHZONE.COM,  
ABERCROMBIEHOLLISTERSALE.CO.UK a/k/a  
ABERCROMBIEHOLLISTER2SALE.CO.UK,  
ABERCROMBIEHOODIE.COM,  
ABERCROMBIEJACKETS.US,  
ABERCROMBIEJACKETSUS.COM,  
ABERCROMBIELINE.COM,  
ABERCROMBIEONLINEOUTLET.COM a/k/a  
ABERCROMBIEONLINESOUTLET.COM,

ABERCROMBIEOUTLETONLINES.ORG,  
ABERCROMBIEOUTLETONLINESTORE.COM a/k/a  
ABERCROMBIEONLINESSTORE.COM,  
ABERCROMBIEOUTLETSTORE.COM a/k/a  
ABERCROMBIES-OUTLETSTORE.COM a/k/a  
ABERCROMBIE-OUTLETCLEARANCE.COM a/k/a  
ABERCROMBIE-OUTLETS.COM,  
ABERCROMBIEOUTLETUKSALE.COM,  
ABERCROMBIESALEOUTLET.US a/k/a  
ABERCROMBIESALEOUTLETS.US,  
ABERCROMBIESALESTORE.COM a/k/a  
ABERCROMBIESALESSTORE.COM,  
ABERCROMBIESKYSHOP.COM a/k/a  
ABERCROMBIESKYSHOP.NET,  
ABERCROMBIESELL.COM a/k/a  
ABERCROMBIESELL.BIZ,  
ABERCROMBIEUKBY.COM,  
ABERCROMBIEUKSALE.CO.UK a/k/a  
ABERCROMBIE-UK-SALES.CO.UK,  
AFGONOW.COM, AFITCHSHOP.COM,  
AFONLINESALE.COM, AFYEARS.COM a/k/a  
ABERCROMBIEYEAR.COM, AJXCLOTHES.COM,  
ANNAWHOLESALE.NET,  
BEST-ABERCROMBIE-FITCH.COM,  
BOUTIQUENEXTDOOR.COM, BRAND-JEAN.ORG,  
BUMDEK.COM, BUYABERCROMBIEFITCH.ORG,  
CAWHOLESALE.COM,  
CHEAPABERCROMBIEANDFITCH.COM,  
CHEAPABERCROMBIEANDFITCHSALE.COM,  
CHEAPABERCROMBIEFITCH.COM,  
CHEAPABERCROMBIEFITCH.ORG,  
CHEAPABERCROMBIESHOPONLINE.NET a/k/a  
CHEAPABERCROMBIESHOPS.NET,  
CHEAPBRANDWHOLESALE.COM,  
CHEAPHOLLISTER.COM,  
CHEAPHOLLISTERCLOTHING.ORG a/k/a  
CHEAPHOLLISTERCLOTHINGS.NET,  
CHEAPHOLLISTEROUTLET.NET a/k/a  
CHEAPHOLLISTEROUTLETS.COM,  
CHEAPHOLLISTERWHOLESALE.NET a/k/a  
CHEAPHOLLISTERWHOLESALE.ORG,  
CIFCOSZ.COM, CLOTHESONLINEMALL.COM,  
COLAPINCLOTHING.COM,  
COOLABERCROMBIEONLINE.COM,  
COOLESTCHINACLOTHES.COM,  
DISCOUNT-ABERCROMBIE.COM,

DISCOUNTABERCROMBIEFITCH.ORG,  
ECFASHIONMALL.COM, EDHSHOP.COM,  
FAKEABERCROMBIE.COM,  
FASHIONAYASHOP.COM,  
FASHIONMOODS.COM, FITCHOUTLET.INFO,  
FRANCEAF.COM, HOLLISTEROUTLETSALE.ORG,  
JACKCART.COM, JACKETS123.ORG,  
LIKEBUYONLINE.COM,  
LOUIS-VUITTON-SALE.US,  
LUXURYCLOTHINGCLUB.COM a/k/a  
CHINACLOTHESONLINES.COM,  
MYOUTLETSHOPPING.NET, NEMALL.COM,  
NICECLOTHINGSHOP.COM,  
ONLINEABERCROMBIESTORE.COM,  
POPCLOTHINGBASE.COM a/k/a  
POPCLOTHINGBIZ.COM,  
SALEABERCROMBIEANDFITCH.COM,  
WHOLESALEABERCROMBIEOUTLET.COM,  
WHOLESALECHEAPCLOTHES.COM,  
WHOLESALEUFO.COM,  
ABERCROMBIE2011.NET a/k/a  
ABERCROMBIEFITCH2012.NET a/k/a  
ABERCROMBIE2012.NET,  
ABERCROMBIEUK-SALE.CO.UK,  
ABERCROMBIEONLINESALES.COM,  
ABERCROMBIEUKSALE.ORG.UK, and  
DOES 1-1000,

Defendants.

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### **COMPLAINT FOR INJUNCTIVE RELIEF**

Plaintiff, ABERCROMBIE & FITCH TRADING CO. (“Abercrombie”) hereby sues Defendants THE PARTNERSHIPS and UNINCORPORATED ASSOCIATIONS IDENTIFIED ON SCHEDULE “A” and DOES 1-1000 (collectively “Defendants”) and alleges as follows:

#### **JURISDICTION AND VENUE**

1. This is an action pursuant to 15 U.S.C. §§ 1114, 1116, 1121 and 1125(a) and (d). Accordingly, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

2. Venue is proper in this Court pursuant 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendants since all Defendants directly target business activities towards consumers in Florida and cause harm to Abercrombie's business within this District through, at least, various fully interactive Internet websites, including those operating under their partnership and/or unincorporated association names (the "Subject Domain Names").

### **THE PLAINTIFF**

3. Abercrombie is a corporation organized under the laws of the State of Ohio with its principal place of business located at 6301 Fitch Path, New Albany, Ohio 43054. Abercrombie operates boutiques throughout the world, including within this Judicial District. Abercrombie is, in part, engaged in the business of manufacturing and distributing throughout the world, including within this Judicial District, a variety of high quality goods, including, but not limited to, clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, caps, and various other items, under multiple world famous common law and Federally registered trademarks including those identified in Paragraph 13 below. Abercrombie offers for sale and sells its trademarked goods within this Judicial District. Defendants' sales of counterfeit and infringing Abercrombie branded products are causing damage to Abercrombie within this Jurisdiction. Abercrombie regularly enforces its intellectual property rights and authorized that this action be brought in its name.

4. Like many other famous trademark owners in the retail clothing and accessory sector, Abercrombie suffers ongoing daily and sustained violations of its trademark rights at the hands of counterfeiters and infringers, such as the Defendants herein, who wrongfully reproduce and counterfeit Abercrombie's trademarks for the twin purposes of (i) duping and confusing the

consuming public and (ii) earning substantial profits. The natural and intended byproduct of Defendants' actions is the erosion and destruction of the overall marketplace in which Abercrombie operates and the goodwill associated with the Abercrombie name and associated trademarks.

5. In order to combat the harm caused by the combined actions of Defendants and others engaging in similar conduct, each year Abercrombie expends millions of dollars in connection with trademark enforcement efforts, including legal fees, investigative fees, and support mechanisms for law enforcement, such as field training guides and seminars. The recent explosion of counterfeiting over the Internet has created an environment which requires Abercrombie to file a massive number of lawsuits, often it later turns out, against the same individuals and groups, in order to protect both consumers and itself from the ill effects of confusion and the erosion of the goodwill connected to the Abercrombie brand. The financial burden on Abercrombie and companies similarly situated is staggering, as is the resulting burden on the Federal court system.

#### **THE DEFENDANTS**

6. Defendants are partnerships or unincorporated business associations which operate through domain names registered with registrars in multiple countries, including the United States, the People's Republic of China, and the Commonwealth of the Bahamas, and are comprised of individuals and/or business entities of unknown makeup, many of whom likely reside and/or operate in the People's Republic of China or other foreign jurisdictions with lax trademark enforcement systems. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendants target their business activities towards consumers throughout the United States, including within this Judicial District through the operation of the

fully interactive commercial websites operating under the Subject Domain Names identified on Schedule "A" hereto. Multiple Defendants also may operate blog style websites under some of the Subject Domain Names which also provide support and direct customer traffic to the fully interactive websites operating under the other Subject Domain Names. Defendants are directly and personally contributing to, inducing and engaging in the sale of counterfeit products as alleged herein, often times as partners, co-conspirators and/or suppliers. The partnership or unincorporated association names used by Defendants are set forth on Schedule "A" hereto. Abercrombie is presently unaware of the true names of Does 1-1,000. Abercrombie will amend this Complaint upon discovery of the identities of such fictitious Defendants.

7. Defendants are the past and present moving and conscious forces behind the operation of the commercial Internet websites operating under the Subject Domain Names.

8. Defendants engage in unfair competition with Abercrombie and engage in the offering for sale and sale of counterfeit and infringing Abercrombie branded products within this Judicial District through multiple fully interactive commercial websites operating under at least the Subject Domain Names. Defendants, upon information and belief, also operate additional websites which promote and offer for sale counterfeit and infringing goods under domain names not yet known to Plaintiff. Defendants have purposefully directed their illegal activities towards consumers in the State of Florida through the advertisement, offer to sell, sale and shipment of counterfeit Abercrombie branded goods into the State.

9. Upon information and belief, Defendants will continue to register or acquire new domain names for the purpose of selling goods bearing counterfeits and infringements of Abercrombie's trademarks unless preliminarily and permanently enjoined.

10. Defendants' Internet-based website businesses amount to nothing more than massive illegal operations, infringing on the intellectual property rights of Abercrombie and others.

11. Defendants use and have registered, established or purchased and maintained the Subject Domain Names. Upon information and belief, Defendants have engaged in fraudulent conduct with respect to the registration of the Subject Domain Names by providing false and/or misleading information to their various Registrars during the Registration or maintenance process. Upon information and belief, many of the Defendants have anonymously registered and maintained some of the Subject Domain Names for the sole purpose of engaging in illegal counterfeiting activities.

12. Defendants' business names, i.e., the Subject Domain Names and any other domain names used in connection with the sale of counterfeits bearing Abercrombie's trademarks, are essential components of Defendants' counterfeiting and infringing activities. The Subject Domain Names themselves are the means by which Defendants further their counterfeiting and infringing scheme and cause harm to Abercrombie. Moreover, Defendants are using Abercrombie's famous name and trademarks to drive Internet consumer traffic to their websites operating under the Subject Domain Names, thereby creating and increasing the value of the Subject Domain Names at Abercrombie's expense.


### **COMMON FACTUAL ALLEGATIONS**

#### **Plaintiff's Trademark Rights**

13. Abercrombie is and at all times relevant hereto has been, the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively the "Abercrombie Marks")

| <b>Trademark</b>    | <b>Registration Number</b> | <b>Registration Date</b> | <b>Class / Goods</b>   |
|---------------------|----------------------------|--------------------------|--|
| ABERCROMBIE & FITCH | 0,951,410                  | JANUARY 23, 1973         | IC 025 - men's and women's clothing and footwear-namely pants, shirts, skirts, jackets, coats, gloves, mittens, hats, underwear, shoes, belts, caps.   |
| abercrombie         | 2,305,464                  | JANUARY 4, 2000          | IC 025 - Clothing, namely, coats, jackets, knit shirts, woven shirts, t-shirts, shirts, underwear, pants, jeans, hats and shoes.<br>IC 035 - Retail clothing store services.   |
| ABERCROMBIE & FITCH | 2,500,146                  | OCTOBER 23, 2001         | IC 003 - personal care products, namely, perfume.<br>IC 014 - jewelry, namely, necklaces and bracelets.<br>IC 018 - handbags, tote bags and travel bags.<br>IC 025 - clothing, namely, t-shirts, sweatshirts, sweatpants, jeans, sandals, visors, tank tops, swimwear, bikinis and camisoles.  |
| A & F               | 2,530,664                  | JANUARY 15, 2002         | IC 025 - clothing, namely, hats, caps, shirts, t-shirts, tank tops, knit tops, woven tops, halter tops, sweatshirts, sweatpants, underwear, boxer shorts, pants, short pants, jeans, skirts, footwear, sweaters, vests, coats, jackets, scarves.<br>IC 035 - retail personal care product and clothing store services and mail order catalog services featuring personal care products and clothing. |



|   |           |                   |  |
|---|-----------|-------------------|--|
|  | 3,212,644 | February 27, 2007 | <p>IC 025 - clothing, namely, polo shirts, sweaters, t-shirts, shirts, knit tops, woven tops, sweatshirts, sweatpants, pants, shorts, caps, hats, scarves, jackets, coats, sandals, flip flops, belts, tank tops, underwear, boxer shorts, swim suits, pajamas, sleepwear.</p> <p>IC 035 - retail store services, and on-line retail store services featuring clothing, footwear, fashion accessories, fragrances and jewelry.</p> |
| HOLLISTER   | 3,310,650 | OCTOBER 16, 2007  | <p>IC 025 - belts; blouses; boxer shorts; camisoles; caps; coats; footwear; halter tops; hats; jackets; jeans; knit shirts; loungewear; pants; sandals; scarves; shirts; shoes; shorts; skirts; sweat pants; sweat shirts; sweat shorts; sweaters; swim wear; t-shirts; tank tops; underpants; undershirts; underwear.</p>   |
| ABERCROMBIE   | 3,484,799 | AUGUST 12, 2008   | <p>IC 025 - coats; jackets; knit shirts; shirts; t-shirts; underwear; pants; jeans; hats; shoes.</p>   |
| HCO   | 3,529,071 | NOVEMBER 4, 2008  | <p>IC 025 - clothing, namely, boxer shorts, caps, coats, hats, jackets, knit shirts, knit tops, loungewear, pants, shirts, slacks, sweat pants, sweat shirts, t-shirts and underwear.</p> <p>IC 035 - retail store services and on-line retail services featuring clothing.</p>  |

The Abercrombie Marks are used in connection with the manufacture and distribution of quality goods in the categories identified above.

14. The Abercrombie Marks have been used in interstate commerce to identify and distinguish Abercrombie's high quality clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, caps, and various other items, and other goods for an extended period of time.

15. The Abercrombie Marks have never been assigned or licensed to any of the Defendants in this matter.

16. The Abercrombie Marks are symbols of Abercrombie's quality, reputation and goodwill and have never been abandoned.

17. Further, Abercrombie has expended substantial time, money and other resources developing, advertising and otherwise promoting the Abercrombie Marks. The Abercrombie Marks qualify as famous marks as that term is used in 15 U.S.C. §1125(c)(1).

18. Abercrombie has extensively used, advertised and promoted the Abercrombie Marks in the United States in association with the sale of high quality clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, caps, and various other items and has carefully monitored and policed the use of the Abercrombie Marks.

19. As a result of Abercrombie's efforts, members of the consuming public readily identify merchandise bearing the Abercrombie Marks, as being high quality goods sponsored and approved by Abercrombie.

20. Accordingly, the Abercrombie Marks have achieved secondary meaning as identifiers of high quality clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, caps, and various other items.

21. Genuine Abercrombie branded goods are widely legitimately advertised and promoted by Abercrombie and unrelated third parties via the Internet. Over the course of the past five to seven years, visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing has become increasingly important to Abercrombie's overall marketing and consumer education efforts. Thus, Abercrombie expends significant monetary

resources on Internet marketing and consumer education, including search engine optimization (“SEO”) strategies. Those strategies allow Abercrombie to fairly and legitimately educate consumers about the value associated with the Abercrombie brand and the goods sold thereunder. SEO is a now common marketing process whereby a company or individual designs, supports, structures and phrases Internet website content in order to enhance a website’s profile for search engines over a variety of search terms.

22. Upon information and belief, at all times relevant hereto, Defendants in this action have had full knowledge of Abercrombie’s ownership of the Abercrombie Marks, including its exclusive right to use and license such intellectual property and the goodwill associated therewith.

23. Abercrombie has discovered Defendants are promoting and otherwise advertising, distributing, selling and/or offering for sale counterfeit products, including, at least, clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, and caps, bearing marks which are exact copies or colorable imitations of the Abercrombie Marks (the “Defendants’ Goods”). Specifically, upon information and belief, Defendants are using the Abercrombie Marks for different quality goods.

24. The Defendants’ Goods are of a quality substantially different than that of Abercrombie’s genuine goods. Despite the nature of the Defendants’ Goods and the knowledge they are without authority to do so, Defendants are actively using, promoting and otherwise advertising, distributing, selling and/or offering for sale substantial quantities of such goods with the knowledge that such goods will be mistaken for the genuine high quality products offered for sale by Abercrombie. The net effect of Defendants’ actions will be to result in the confusion of consumers at the time of initial interest, sale, and in the post-sale setting, who will believe

Defendants' Goods are genuine goods originating from, associated with, and approved by Abercrombie.

25. Defendants advertise their products for sale to the consuming public. In so advertising these products, Defendants improperly and unlawfully use the Abercrombie Marks. Upon information and belief, the misappropriation of the Abercrombie Marks has been the proximate cause of harm to Abercrombie.

26. As part of their overall infringement and counterfeiting scheme, the Defendants are, upon information and belief, all employing substantially similar, and often times coordinated, SEO strategies based, in large measure, upon an illegal use of counterfeits and infringements of the Abercrombie Marks. Specifically, the Defendants are using counterfeits of Abercrombie's name and the Abercrombie Marks in order to make their websites selling illegal goods appear more relevant and attractive to search engines across an array of search terms. By their actions, the Defendants are causing concurrent and indivisible harm to Abercrombie and the consuming public by (i) depriving Abercrombie and other third parties of the ability to fairly compete for space within search engine results, (ii) causing an overall degradation of the value of the goodwill associated with the Abercrombie Marks and (iii) increasing Abercrombie's overall cost to market its goods and educate consumers about the brand via the Internet.

27. Upon information and belief, Defendants are concurrently conducting their counterfeiting and infringing activities, at least, within this Judicial District and elsewhere throughout the United States. As a result, Defendants are defrauding Abercrombie and the consuming public for Defendants' own benefit. Defendants' infringement and disparagement of Abercrombie does not simply amount to the wrong description of their goods or the failure of the goods to conform to the advertised quality or performance.

28. Defendants' use of the Abercrombie Marks, including the promotion and advertisement, reproduction, distribution, sale, and offering for sale of Defendants' Goods, is without Abercrombie's consent or authorization.

29. Further, Defendants are engaging in the above-described illegal counterfeiting and infringing activities knowingly and intentionally or with reckless disregard or willful blindness to Abercrombie's rights for the purpose of trading on the goodwill and reputation of Abercrombie.

30. Defendants' above-identified infringing activities are likely to cause confusion, deception and mistake in the minds of consumers, the public and the trade. Moreover, Defendants' wrongful use of the Abercrombie Marks is likely to create a false impression and deceive customers, the public and the trade into believing there is a connection or association between Abercrombie and Defendants' Goods.

31. Abercrombie has no adequate remedy at law.

32. Abercrombie is suffering irreparable and indivisible injury and damages as a result of Defendants' unauthorized and wrongful use of the Abercrombie Marks. If Defendants' counterfeiting, infringing, and unfairly competitive activities are not preliminarily and permanently enjoined by this Court, Abercrombie and the consuming public will continue to be harmed.

33. The injuries and damages sustained by Abercrombie have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of the Defendants' Goods.

34. Abercrombie has retained the undersigned counsel to represent it in this matter and is obligated to pay said counsel a reasonable fee for such representation.

**COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT**

35. Abercrombie hereby re-adopts and re-alleges the allegations set forth in Paragraphs 1 through 34 above.

36. This is an action for trademark counterfeiting and infringement against Defendants based on their use of counterfeits, copies, and/or colorable imitations of the Abercrombie Marks in commerce in connection with the promotion, advertisement, distribution, sale and/or offering for sale of the Defendants' Goods.

37. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale and distributing, at least, counterfeit and/or infringing clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, and caps, bearing the Abercrombie Marks. Defendants are continuously infringing and inducing others to infringe the Abercrombie Marks by using them to advertise, promote and sell, at least, counterfeit and/or infringing clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, and caps.

38. Defendants' concurrent counterfeiting, infringing, and unfairly competitive activities are likely to cause and, upon information and belief, actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Goods bearing or sold using the Abercrombie Marks.

39. Defendants' unlawful actions have caused and are continuing to cause unquantifiable and irreparable harm to Abercrombie.

40. Defendants' above-described illegal actions constitute counterfeiting and infringement of the Abercrombie Marks in violation of Abercrombie's rights under § 32 of the Lanham Act, 15 U.S.C. § 1114.

41. Abercrombie has suffered and will continue to suffer irreparable injury due to the above described activities of Defendants if Defendants are not preliminarily and permanently enjoined.

**COUNT II - FALSE DESIGNATION OF ORIGIN  
PURSUANT TO § 43(a) OF THE LANHAM ACT**

42. Abercrombie hereby re-adopts and re-alleges the allegations set forth in Paragraphs 1 through 34 above.

43. Defendants' Goods bearing and sold under the Abercrombie Marks have been widely advertised and distributed throughout the United States.

44. Defendants' Goods bearing and sold under the Abercrombie Marks are virtually identical in appearance to each of Abercrombie's genuine goods. However, the Defendants' Goods are different in quality. Accordingly, Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of the Defendants' Goods.

45. Defendants, upon information and belief, have used in connection with their advertisement and sale of products, false designations of origins and false descriptions and representations, including words or other symbols and trade dress which tend to falsely describe or represent such goods and have caused such goods to enter into commerce with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to the detriment of Abercrombie.

46. Specifically, Defendants have authorized an infringing use of the Abercrombie Marks, in Defendants' advertisement and promotion of their counterfeit and infringing clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and

vests, tote bags, and caps. Defendants have also misrepresented to members of the consuming public that the products being advertised and sold by them are genuine, non-infringing products.

47. Additionally, Defendants are using counterfeits and infringements of the Abercrombie Marks in order to unfairly compete with Abercrombie and others for space within search engine organic results, thereby jointly depriving Abercrombie of a valuable marketing and educational tool which would otherwise be available to Abercrombie.

48. Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

49. Abercrombie has sustained indivisible injury and harm caused by Defendants' concurrent conduct, and absent an entry of an injunction by this Court, Abercrombie will continue to suffer irreparable injury to its goodwill and business reputation as well as monetary damages.

**COUNT III - CLAIM FOR RELIEF FOR CYBERPIRACY  
UNDER §43(d) OF THE LANHAM ACTION, 15 U.S.C. §1125(d)**

50. Abercrombie hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through 34 above.

51. At all times relevant hereto, Abercrombie has been and still is the owner of the rights, title and interest in and to the Abercrombie Marks.

52. Upon information and belief, Defendants have acted with the bad faith intent to profit from the Abercrombie Marks and the goodwill associated with the Abercrombie Marks by registering various domain names which are identical or confusingly similar to or dilutive of the Abercrombie Marks.

53. Defendants have no intellectual property rights in or to the Abercrombie Marks.



54. Defendants' actions constitute cyberpiracy in violation of §43(d) of the Lanham Act, 15 U.S.C. §1125(d).

55. Defendants' conduct is done with knowledge and constitutes a willful violation of Abercrombie's rights in the Marks. At a minimum, Defendants' conduct constitutes reckless disregard for and willful blindness to Abercrombie's rights.

56. The aforesaid conduct is causing Abercrombie damages and immediate and irreparable injury. Abercrombie has no adequate remedy at law.

#### **COUNT IV - COMMON LAW UNFAIR COMPETITION**

57. Abercrombie hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through 34 above.

58. This is an action against Defendants based on their manufacture, promotion, advertisement, distribution, sale and/or offering for sale of goods bearing marks which are virtually identical, both visually and phonetically, to the Abercrombie Marks in violation of Florida's common law of unfair competition.

59. Specifically, the Defendants are promoting and otherwise advertising, selling, offering for sale and distributing infringing and counterfeit clothing, namely t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, and vests, tote bags, caps, and other goods. The Defendants are also using counterfeits and infringements of the Abercrombie Marks to unfairly compete with Abercrombie and others for space in search engine results across an array of search terms.

60. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' products by their use of the Abercrombie Marks.

61. Abercrombie has no adequate remedy at law and is suffering and irreparable injury as a result of Defendants' actions.

**PRAYER FOR RELIEF**

62. WHEREFORE, Abercrombie demands judgment on all Counts of this Complaint and entry of an award of equitable relief against Defendants as follows:

a. Entry of preliminary and permanent injunction enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell the Defendants' Goods; from infringing, counterfeiting, or diluting the Abercrombie Marks; from using the Abercrombie Marks, or any mark or trade dress similar thereto, in connection with the sale of any unauthorized goods; from using any logo, trade name or trademark or trade dress which may be calculated to falsely advertise the services or products of Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with Abercrombie; from falsely representing themselves as being connected with Abercrombie, through sponsorship or association, or engaging in any act which is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of Defendants, or in any way endorsed by, approved by, and/or associated with Abercrombie; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of the Abercrombie Marks in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants, including, without limitation, t-shirts, polo shirts, sweat shirts, shirts, sweaters, sweat pants, shorts, jeans, jackets, vests, tote bags, and caps; from affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent

Defendants' goods as being those of Abercrombie, or in any way endorsed by Abercrombie and from offering such goods in commerce; from engaging in search engine optimization strategies using colorable imitations of the Abercrombie name or Marks; and from otherwise unfairly competing with Abercrombie.

b. Entry of an Order that, upon Abercrombie's request, those in privity with Defendants and those with notice of the injunction, including any Internet search engines, Web hosts, domain-name registrars and domain-name registries or their administrators that are provided with notice of the injunction, cease facilitating access to any or all domain names and websites through which Defendants engage in the sale of counterfeit and infringing goods using the Abercrombie Marks.

c. Entry of an Order that, upon Abercrombie's request, the top level domain (TLD) Registries for the Subject Domain Names and their administrators place the Subject Domain Names on Registry Hold status, thus removing them from the TLD zone files maintained by the Registries which link the Subject Domain Names to the IP addresses where the associated websites are hosted.

d. Entry of an order canceling or, at Abercrombie's election, transferring the Subject Domain Names and any other domain names used by the Defendants to engage in their counterfeiting of the Abercrombie Marks at issue to Abercrombie's control so they may no longer be used for illegal purposes.

e. Entry of an order that, upon Abercrombie's request, the Internet Corporation for Assigned Names and Numbers ("ICANN") shall take all actions necessary to ensure that the Registrars and the top level domain Registries responsible for the Subject Domain

Names transfer, change the Registrar of Record, and/or disable the Subject Domain Names as directed by the Court.

f. Entry of an award of Abercrombie's costs and reasonable attorneys' fees and investigative fees associated with bringing this action.

g. Entry of further relief as the Court may deem just and proper.

DATED: January 31, 2012.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By:           s:/smgaffigan/            
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ABERCROMBIE & FITCH TRADING CO.

**SCHEDULE A**  
**DEFENDANTS BY SUBJECT DOMAIN NAMES AND DEFENDANT NUMBER**

| <b>Domain Name</b>               | <b>Defendant #</b> |
|----------------------------------|--------------------|
| 21cnfashion.com                  | 1                  |
| abercrombieadult.com             | 2                  |
| abercrombie-and-fitch.biz        | 3                  |
| abercrombieandfitchlmagasin.com  | 4                  |
| abercrombieandfitchnmagasin.com  | 4                  |
| abercrombieandfitchzmagasin.com  | 4                  |
| abercrombieandfitch-magasin.com  | 4                  |
| abercrombieandfitchsoutlets.org  | 5                  |
| abercrombiecheapsale.net         | 6                  |
| abercrombieclearance.org         | 7                  |
| abercrombiees.com                | 8                  |
| abercrombieetfitch.org           | 9                  |
| abercrombiefitchdiscount.net     | 10                 |
| abercrombie-fitch-ireland.org    | 11                 |
| abercrombieandfitchinireland.net | 11                 |
| abercrombie-fitch-official.net   | 12                 |
| abercrombiefitchukofficial.net   | 12                 |
| abercrombie-fitchsale.net        | 13                 |
| abercrombiefitchsaleoutlet.com   | 14                 |
| abercrombiefitchsoutlets.com     | 15                 |
| abercrombiefitchsoutlets.org     | 16                 |
| abercrombiefitchsoutletuk.com    | 17                 |
| abercrombiefitchstores.org       | 18                 |
| abercrombiefitch-uk.org.uk       | 19                 |
| abercrombiefitchuks.com          | 20                 |
| abercrombiefitchzone.com         | 21                 |
| abercrombiehollistersale.co.uk   | 22                 |
| abercrombiehollister2sale.co.uk  | 22                 |
| abercrombiehoodie.com            | 23                 |
| abercrombiejackets.us            | 24                 |
| abercrombiejacketsus.com         | 25                 |
| abercrombieline.com              | 26                 |
| abercrombieonlineoutlet.com      | 27                 |
| abercrombieonlinesoutlet.com     | 27                 |
| abercrombieoutletonlines.org     | 28                 |
| abercrombieoutletonlinestore.com | 29                 |
| abercrombieonlinesstore.com      | 29                 |
| abercrombieoutletstore.com       | 30                 |
| abercrombies-outletstore.com     | 30                 |

|                                  |    |
|----------------------------------|----|
| abercrombie-outletclearance.com  | 30 |
| abercrombie-outlets.com          | 30 |
| abercrombieoutletuksale.com      | 31 |
| abercrombiesaleoutlet.us         | 32 |
| abercrombiesaleoutlets.us        | 32 |
| abercrombiesalestore.com         | 33 |
| abercrombiesalesstore.com        | 33 |
| abercrombieskyshop.com           | 34 |
| abercrombieskyshop.net           | 34 |
| abercrombiessell.com             | 35 |
| abercrombiesell.biz              | 35 |
| abercrombieukby.com              | 36 |
| abercrombieuksale.co.uk          | 37 |
| abercrombie-uk-sales.co.uk       | 37 |
| afgonow.com                      | 38 |
| afitchshop.com                   | 39 |
| afsonlinesale.com                | 40 |
| afyears.com                      | 41 |
| abercrombieyear.com              | 41 |
| ajxclothes.com                   | 42 |
| annawholesale.net                | 43 |
| best-abercrombie-fitch.com       | 44 |
| boutiquenextdoor.com             | 45 |
| brand-jean.org                   | 46 |
| bumdek.com                       | 47 |
| buyabercrombiefitch.org          | 48 |
| cawholesaler.com                 | 49 |
| cheapabercrombieandfitch.com     | 50 |
| cheapabercrombieandfitchsale.com | 51 |
| cheapabercrombiefitch.com        | 52 |
| cheapabercrombiefitch.org        | 53 |
| cheapabercrombieshoponline.net   | 54 |
| cheapabercrombieshops.net        | 54 |
| cheapbrandwholesale.com          | 55 |
| cheaphollister.com               | 56 |
| cheaphollisterclothing.org       | 57 |
| cheaphollisterclothings.net      | 57 |
| cheaphollisteroutlet.net         | 58 |
| cheaphollisteroutlets.com        | 58 |
| cheaphollisterwholesale.net      | 59 |
| cheaphollisterwholesale.org      | 59 |
| cifcosz.com                      | 60 |
| clothesonlinemall.com            | 61 |
| colapinclothing.com              | 62 |

|                                |    |
|--------------------------------|----|
| coolabercrombieonline.com      | 63 |
| coolestchinaclthes.com         | 64 |
| discount-abercrombie.com       | 65 |
| discountabercrombiefitch.org   | 66 |
| ecfashionmall.com              | 67 |
| edhshop.com                    | 68 |
| fakeabercrombie.com            | 69 |
| fashionayashop.com             | 70 |
| fashionmoods.com               | 71 |
| fitchoutlet.info               | 72 |
| franceaf.com                   | 73 |
| hollisteroutletsale.org        | 74 |
| jackcart.com                   | 75 |
| jackets123.org                 | 76 |
| likebuyonline.com              | 77 |
| louis-vuitton-sale.us          | 78 |
| luxuryclothingclub.com         | 79 |
| chinaclthesonlines.com         | 79 |
| myoutletshopping.net           | 80 |
| nemall.com                     | 81 |
| niceclothingshop.com           | 82 |
| onlineabercrombiestore.com     | 83 |
| popclothingbase.com            | 84 |
| popclothingbiz.com             | 84 |
| saleabercrombieandfitch.com    | 85 |
| wholesaleabercrombieoutlet.com | 86 |
| wholesalecheapclothes.com      | 87 |
| wholesaleufo.com               | 88 |
| abercrombie2011.net            | 89 |
| abercrombiefitch2012.net       | 89 |
| abercrombie2012.net            | 89 |
| abercrombieuk-sale.co.uk       | 90 |
| abercrombieonlinesales.com     | 91 |
| abercrombieuksale.org.uk       | 92 |

