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FEUERSTEIN, J.

WALL, M.J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
:
ROGER CLEVELAND GOLF
COMPANY, INC.,

Plaintiff,

v.

GUANGDONG YUEDRAGON CASTING
COMPANY, LTD., JACK DABING WAN
and JOHN DOES 1-100,

Defendants.
----- X

Civil Action No.: _____

Jury Trial Demanded

COMPLAINT

Plaintiff, Roger Cleveland Golf Company, Inc. ("the Company" or "Cleveland Golf"), as and for its Complaint against defendants, Guangdong Yuedragon Casting Company, Ltd. ("Yuedragon"), Jack Dabing Wan ("Wan"), and John Does 1-100, alleges upon personal knowledge as to its own acts and as to events taking place in its presence, and upon information and belief as to all other facts, as follows:

NATURE OF THIS ACTION

1. This is an action for trademark counterfeiting and trademark infringement as well as related state law claims arising from Yuedragon and Wan's willful counterfeiting of identical trademarks owned and used by Cleveland Golf, and all defendants' use of those counterfeit and infringing marks in connection with competing goods in an attempt to harm and divert customers away from Cleveland Golf. These claims are brought as the result of Yuedragon and Wan's knowing and intentional importation and sale of counterfeit goods from China into the United States, and the John Does' knowing and intentional purchase and importation, and likely re-sale in the United States, of counterfeit products which purport to be Cleveland Golf products, in violation of Federal and state law.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of Counts 1 - 4 of this Complaint pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b) since these claims arise under the Trademark Laws of the United States.

3. The Court has jurisdiction over Counts 5 - 8 of this Complaint pursuant to 28 U.S.C. §§ 1338(b) and 1367 since these claims are joined with substantial and related claims under the Trademark Laws of the United States, 15 U.S.C. § 1051 *et. seq.*, and since the claims are so related to the Federal claims that they form part of the same case and controversy.

4. The Court also has supplemental jurisdiction over the pendent state law claims pursuant to 28 U.S.C. § 1367(a).

5. Upon information and belief, the Court has personal jurisdiction over Yuedragon, Wan and the John Doe defendants since Yuedragon, Wan and the Doe defendants are doing

business within this State and judicial district, transact business within this State and judicial district, derive substantial revenue from intra state and inter state commerce, have committed acts of infringement within this State and judicial district, and are otherwise within the jurisdiction of this Court. Specifically, Yuedragon and Wan have conducted business in the state of New York by selling at least four counterfeit Cleveland Golf products to a customer within the state of New York. On information and belief, Yuedragon and Wan have also sold counterfeit Cleveland Golf products to other customers in the state of New York and in the United States.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c).

PARTIES

7. Plaintiff, Cleveland Golf, is a California corporation with its principal place of business located at 5601 Skylab Road, Huntington Beach, California, 92647.

8. On information and belief, the Defendant Guangdong Yuedragon Casting Company, Ltd., is a Chinese company with an address of 217 Tiyu Xihengjie, Tianhe District, Guangzhou, 510620 BJ CN, China.

9. On information and belief, the Defendant Jack Dabing Wan ("Wan ") is a resident of China, with an address of 217 Tiyu Xihengjie, Tianhe District, Guangzhou, 510620 BJ CN, China and is an employee/agent of Yuedragon.

10. The Defendant John Does 1-100 are sued herein under fictitious names. Their true identities are presently unknown to Cleveland Golf. Cleveland Golf will amend this Complaint, if necessary, when it ascertains the true identities of the John Doe Defendants. The Defendant John Does are unidentified purchasers and black market importers/resellers of

counterfeit Cleveland Golf products from Wan in the state of New York and the United States. Each reference to a John Doe Defendant herein also refers to all of the Defendants sued under fictitious names.

FACTS

Cleveland Golf And Its Trademark Usage

11. The Plaintiff realleges and incorporates by reference paragraphs 1-10 inclusive of this Complaint as if fully set forth herein.

12. Cleveland Golf manufactures and sells high-quality golf clubs, golf equipment, and apparel. Cleveland Golf is world-renowned for its production of high quality golf wedges, among other products.

13. Cleveland Golf products are sold throughout New York State, the United States, and worldwide, through a vast network of authorized resellers.

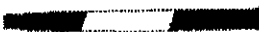


14. Since at least as early as 1979, long prior to the infringing acts alleged herein, Cleveland Golf and/or its predecessors in interest, have continuously used the trademarks CLEVELAND, CLEVELAND GOLF and others (hereinafter the "Cleveland Marks") in commerce in the state of New York in this judicial district and throughout the United States and the world, in connection with the manufacture and sale of a wide variety of golf clubs and golf related products.




15. Cleveland Golf owns the following trademark registrations relevant to this action and registered on the Principal Register of the United States Patent and Trademark Office. A


star ("*") next to the trademark registrations listed below indicates that that registration is incontestable pursuant to 15 U.S.C. § 1065.

Mark	Registration No.	Registration Date	Class/Goods
CLEVELAND GOLF	3,286,218	August 28, 2007	18. Carry all bags, duffel bags, backpacks, shoe bags for travel, and umbrellas. 24. Towels. 25. Caps, hats, visors, shirts, wind shirts, wind vests, rain jackets, rain vests and rain pants. 28. Golf gloves; golf clubs, golf balls, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, golf ball shag bags used to store golf balls, golf club head covers, and golf ball bags.
CLEVELAND*	2,070,054	June 10, 1997	18. Carry all bags and umbrellas. 25. Golf apparel, namely, shirts, caps, visors, sweatshirts and sweater vests. 28. Golf clubs, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, and golf club head covers.
CLEVELAND* (stylized)	2,070,051	June 10, 1997	18. Carry all bags and umbrellas. 25. Golf apparel, namely, shirts, caps, visors, sweatshirts and sweater

Mark	Registration No.	Registration Date	Class/Goods
<i>Cleveland</i>			vests. 28. Golf clubs, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, and golf club head covers.
DISTANCE DRIVEN GEOMETRY	3,353,780	December 11, 2007	28. Golf clubs and golf club heads, particularly wood-type golf club heads.
CMM	3,132,782	August 22, 2006	28. Golf club heads and golf clubs.
HIBORE	3,262,726	July 10, 2007	28. Golf clubs and golf club heads.
STUBBY	2,846,586	May 25, 2004	28. Sporting goods, specifically golf clubs.
SPEED CONTROL	3,042,313	January 10, 2006	28. Golf clubs, namely golf putters.
GUTCHECK	2,810,226	February 3, 2004	28. Golf clubs, namely, putters.
TA7	2,797,322	December 23, 2003	28. Golf clubs, golf club heads.
TA1	2,797,321	December 23, 2003	28. Golf clubs, golf club heads.
TA3	2,797,320	December 23, 2003	28. Golf clubs, golf club heads.
TA5	2,797,311	December 23, 2003	28. Golf clubs, golf club heads.
TA4	2,797,310	December 23, 2003	28. Golf clubs, golf club heads.
TA6	2,858,651	June 29, 2004	28. Golf clubs, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, golf club head covers and golf

Mark	Registration No.	Registration Date	Class/Goods
			balls.
MICRO-CAVITY	2,807,920	January 27, 2004	28. Golf clubs.
TOUR ACTION	3,036,153	December 27, 2005	28. Golf balls.
	2,851,247	June 8, 2004	28. Golf equipment, namely, golf clubs and golf club grips.
GUNMETAL	2,793,222	December 9, 2003	28. Golf clubs.
ACTIONFIT	2,579,550	June 11, 2002	28. Golf club fitting system, namely, a kit including a club fitting manual, a lie board from which golf balls can be hit, several golf clubs identical except for different lie angles, and a supply of sole lie tapes for use on the sole of a golf club for fitting tests.
CG (stylized)* 	2,302,251	December 21, 1999	28. Golf clubs, and golf club heads, namely, woods, irons and putters.
HIGH BORE	2,269,074	August 10, 1999	28. Golf clubs, namely, metal wood-type golf clubs.
 *	2,284,775	October 12, 1999	25. Clothing or wearing apparel, namely, shirts, hats, caps, headbands, wristbands, sweaters, vests, sweatpants, sweatshirts, visors, jackets, gloves, shoes, socks, hose, shorts,

Mark	Registration No.	Registration Date	Class/Goods
			trousers, slacks, belts, ties, skorts and skirts. 28. Sporting goods, namely, golf clubs, golf bags, golf balls, golf tees, and head covers for golf clubs.
GRAY MATTER*	2,276,667	September 7, 1999	28. Golf clubs.
 *	2,286,233	October 12, 1999	25. Clothing or wearing apparel, namely, shirts, hats, caps, headbands, wristbands, sweaters, vests, sweatpants and sweatshirts, visors, jackets, gloves, shoes, socks, hose, shorts, trousers, slacks, belts, ties, skorts and skirts. 28. Sporting goods, namely, golf clubs, golf bags, golf balls, golf tees, and head covers for golf clubs.
 *	2,377,863	August 15, 2000	28. Golf clubs.
 *	2,334,133	March 28, 2000	28. Golf clubs.
NEVER COMPROMISE*	2,192,848	September 29, 1998	25. Clothing or wearing apparel, namely, shirts, hats, caps, headbands, wristbands, sweaters, vests, sweatpants and

Mark	Registration No.	Registration Date	Class/Goods
			sweatshirts, visors, jackets, gloves, shoes, socks, hose, shorts, trousers, slacks, belts, ties, skorts, and skirts. 28. sporting goods, namely, golf clubs, golf bags, golf balls, golf tees, and head covers for golf clubs.
THE LAUNCHER*	1,511,907	November 8, 1988	28. Golf clubs.
TOUR ACTION*	1,496,882	July 19, 1988	28. Golf clubs.
RUT IRON*	1,282,642	June 19, 1984	28. Golf clubs.
C (stylized)* 	1,306,203	November 20, 1984	28. Golf clubs.
CALAMITY JANE*	1,208,638	September 14, 1982	28. Golf clubs.

16. Cleveland Golf's Federal trademark registrations were duly and legally issued, are valid and subsisting, and constitute prima facie evidence of Cleveland Golf's exclusive ownership of the Cleveland Marks.

17. Cleveland Golf has invested many millions of dollars and has expended significant time and effort in advertising, promoting and developing its Cleveland Marks throughout the United States and the world. As a result of such advertising and promotion, Cleveland Golf has established substantial goodwill and widespread recognition in its Cleveland

Marks and those marks have become associated exclusively with Cleveland Golf by both customers and potential customers, as well as the general public at large.

18. Many players on the Professional Golf Association ("PGA") tour use and endorse Cleveland Golf products.

19. Cleveland Golf is vigilant in its protection of the Cleveland Marks, and spends substantial amounts of money each year to protect and promote those trademarks.

20. To create and maintain such goodwill among its customers, Cleveland Golf has taken substantial steps to ensure that products bearing its Cleveland Marks are of the highest quality. As a result, the Cleveland Marks have become widely known and are recognized throughout the United States and the world as a symbol of high quality products. Customers throughout the United States and throughout the world recognize the Cleveland Golf name and logo, upon which they rely for high quality products and attentive customer service.

21. As a result of, *inter alia*, the care and skill exercised by Cleveland Golf in the conduct of its business, the high quality of the goods sold under the Cleveland Marks and the extensive advertising, sale, and promotion by Cleveland Golf of its Cleveland Golf branded products, the Cleveland Marks have acquired secondary meaning in the United States, including in the State of New York.

Defendants' Wrongful Conduct

22. The Plaintiff realleges and incorporates by reference paragraphs 1-21 inclusive of this Complaint as if fully set forth herein.

23. Yuedragon and Wan have sold, and are presently selling, counterfeit products bearing the Cleveland Golf Marks from China to the John Doe Defendants in the United States including in New York State.

24. The John Doe Defendants knew and/or reasonably should have known that the products they purchased from Yuedragon and Wan, and imported into the United States, were counterfeit.

25. The Defendants' use of the Cleveland Golf trademarks is likely and intended to deceive and confuse consumers into believing that the products sold by Yuedragon and Wan and imported/resold by the John Doe Defendants are sponsored by, authorized by, associated with and/or originate from Cleveland Golf.

26. On information and belief the John Doe Defendants re-sold said counterfeit Cleveland Golf products to purchasers in the State of New York.

27. To protect its trademarks and to ensure that consumers are getting authentic Cleveland Golf products, Cleveland Golf hired a mystery shopper to purchase its products from a variety of sources in the marketplace.

28. Cleveland Golf's mystery shopper is an individual resident of the State of New York (the "Mystery Shopper").

29. In or about November, 2007, an authorized Cleveland Golf distributor received an email solicitation from a counterfeit seller to become a potential distributor. The authorized distributor forwarded the solicitation to Cleveland Golf. In the solicitation, the counterfeit seller claimed to be an individual named "Jack" from the Guangdong Yuedragon Casting Company,

Ltd., located in China. The solicitation included "Jack's" phone number, email address, and a link to a website, www.golfclubcn.com.

30. Yuedragon created sales leads to distribute its products on the worldwide web, specifically through the websites www.fuzing.com ("Fuzing website") and www.allproducts.com ("Allproducts website"). See excerpts from the Fuzing website, attached hereto as Exhibit ("Exh.") A; excerpts from the Allproducts website, attached hereto as Exh. B.

31. On the Fuzing website, Yuedragon lists Jack Wan as the contact person and states, "our monthly production capacity now stands at over 2000 sets [of golf clubs]." See Exh. A. Additionally, the Fuzing website also states; "our products are exported to countries and regions including Europe, America, Australia, and South East Asia." Id.

32. On the Allproducts website, Yuedragon holds itself out as a manufacturer based in China that exports its products throughout the world. See Exh. B.

33. On or about November 28, 2007, at the direction of Cleveland Golf, the Mystery Shopper made telephonic contact with Wan using the phone number listed in the solicitation. Wan and the Mystery Shopper spoke by telephone and Wan then responded to the inquiry by email, requesting that the Mystery Shopper send him an email to confirm their conversation.

34. On or about November 28, 2007, the Mystery Shopper sent an email to Wan requesting a product list. The email also indicated that the Mystery Shopper was interested in making an initial order for sample products, and that he had an interest in setting up bulk orders in the future. See email dated 11/28/07, attached hereto as Exh. C (identifying information of Mystery Shopper redacted).

35. That email was sent by the Mystery Shopper to the email address listed in the solicitation: export@golfclubcn.com.

36. Later, on November 28, 2007, Wan responded from the email address, export@golfclubcn.com, to the Mystery Shopper's November 28, 2007, email as follows:

"Thanks a lot for your enquiry and nice talking to you on the phone! Can I know how you find us?"

Enclosed please find our complete price list for your reference! But we have Cleveland wedges (cg10,cg11,cg12, 588) and titleist wedges (bv oil can finish) at 100% close to originals.

So please let me know which items you want to sample and I will come up with the total for you.

Thanks again!

Looking forward to hearing from you soon!"

See email and attached price list, attached hereto as Exh. D (identifying information of Mystery Shopper redacted).

37. The Mystery Shopper responded on or about November 28, 2007, by email. The email included the following statement:

"I would like to order 4 sample clubs to start with, if all works out well then we can discuss the purchase of larger quantities."

See email attached hereto as Exh. E (identifying information of Mystery Shopper redacted).

38. After continued and ongoing communication with Wan, on or about November 29, 2007, Cleveland Golf's Mystery Shopper purchased from Wan and Yuedragon 4 golf clubs that purported to be the following:

- (a) 1 Cleveland 588 RTG 56 Degree Wedge;

- (b) 1 Cleveland CG 10 56 Degree Wedge;
- (c) 1 Cleveland CG 12 56 Degree Wedge; and
- (d) 1 Titlest Oil Can Finish 56 Degree Wedge.

39. The Mystery Shopper purchased these clubs for a price of \$30.00 USD each. See transaction record attached hereto as Exh. F (identifying information of Mystery Shopper redacted).

40. The current Manufacturer's Suggested Retail Price ("MSRP") for each of these clubs is as follows:

- (a) 1 Cleveland 588 RTG 56 Degree Wedge - Cleveland Golf no longer carries this golf club. A new club, the CG12 DSG, took its place. The CG12 DSG has an MSRP of \$138.00 USD for the steel version of this club and \$163.00 USD for the graphite version of this club;
- (b) 1 Cleveland CG 10 56 Degree Wedge - Cleveland Golf no longer carries this golf club;
- (c) 1 Cleveland CG 12 56 Degree Wedge - The CG12 56 Degree Wedge has an MSRP of \$138.00 USD for the steel version of this club and \$163.00 USD for the graphite version of this club; and
- (d) 1 Titlest Oil Can Finish 56 Degree Wedge - The MSRP for this Titlest club is \$125.00 USD.

41. The Mystery Shopper transferred the purchase price for the four clubs purchased from Wan and Yuedragon, a total of \$180.60 USD, including shipping and handling, from his credit card to Wan via www.Paypal.com, an on-line banking institution ("Paypal"). Id. The Paypal transaction number for the transfer of funds from the Mystery Shopper to Wan was: 1VJ95192FA951204F. Paypal's transaction records indicate that the payment was sent to Dabing Wan at export@golfclubcn.com. Id.

42. The 4 counterfeit clubs that had been ordered by the Mystery Shopper were received by the Mystery Shopper at his New York address. The 3 clubs purporting to be Cleveland Golf clubs were then forwarded to Cleveland Golf for testing.

43. Cleveland Golf examined the purported Cleveland Golf Clubs and determined that the clubs sold by Wan to the Mystery Shopper were counterfeit. Attached hereto as Exh. G is a series of photographs cataloging the differences between an authentic Cleveland Golf Club and one of the purported Cleveland Golf Clubs sold by Wan to the Mystery Shopper.

44. After continued and ongoing communication with Wan and Yuedragon, on or about January 24, 2008, Cleveland Golf's Mystery Shopper made an additional purchase from Wan and Yuedragon. The Mystery Shopper purchased what purported to be a Cleveland Golf 588 DSG 56 Degree Wedge (the "Counterfeit Cleveland Golf Club").

45. The Counterfeit Cleveland Golf Club was purchased from Wan for a price of \$30 USD, plus shipping and handling. See Paypal transaction record attached hereto as Exh. H (identifying information of Mystery Shopper redacted).

46. Cleveland Golf's MSRP for a genuine Cleveland Golf 588 DSG Wedge is \$129.99 USD.

47. The Mystery Shopper transferred the purchase price for the Counterfeit Cleveland Golf Club, a total of \$64.05 USD, including shipping and handling, from his credit card to Wan via www.Paypal.com. The Paypal transaction number for the transfer of funds from the Mystery Shopper to Wan was: 80M 11472U4455420E. Paypal's transaction records indicate that Wan's email address is export@golfclubcn.com. Id.

48. The Counterfeit Cleveland Golf Club arrived at the Mystery Shopper's New York address on or about February 7, 2008, via the EMS (a worldwide air freight service) with a tracking number EB006583675CN (Transit record attached hereto as Exh. I). The package containing the Counterfeit Cleveland Golf Club bore a label indicating that it had been sent from: No 38 Jzefang Road Liuzhou Czty Guangxicxz, China.

49. The Counterfeit Cleveland Golf Club was then forwarded to Cleveland Golf.

50. Cleveland Golf examined the Counterfeit Cleveland Golf Club it received from the Mystery Shopper and determined that it was also a counterfeit. Attached hereto as Exh. J is a series of photographs cataloging the differences between an authentic Cleveland Golf Club and the Counterfeit Cleveland Golf Club.

51. On February 13 and 15, 2008, Wan sent the Mystery Shopper emails inquiring as to whether the Mystery Shopper had received the golf club that he had ordered and indicating that Wan was ready to take more orders. See emails attached hereto as Exhs. K-L (identifying information of Mystery Shopper redacted).

52. In his communications with the Mystery Shopper, Wan has used a variety of email and web addresses, including: export@golfclubcn.com and export@wisecorp.cn.

53. As of April 10, 2008, the "Who Is" information for the Domain Name golfclubcn.com, used by Wan, is as follows:

Creation Date: 2006-09-18 18:33:44;

Registration Date: 2006-09-18 18:33:44;

Expiration Date: 2008-09-18 18:33:44;

Organization

Name and Address: wan dabing, 217 Tiyu Xihengjie, Tianhe District, Guangzhou, 510620 BJ CN.

54. "Wan Dabing" is also listed as the Administrator of www.golfclubcn.com, with a listed email address of wandabing2008@yahoo.com.cn; a phone number of +86.102031338-0 and a fax number of +86.102031338.

55. As of April 10, 2008 the "Who Is" information for the domain name www.wisecorp.cn lists wandabing2008@yahoo.com.ca as its administrative contact.

56. The sales by Yuedragon and Wan of counterfeit Cleveland Golf products to the Mystery Shopper are violations of Federal trademark law.

57. It is highly likely that Yuedragon and Wan's sales of the Cleveland Golf clubs to the Mystery Shopper are not the only sales that they have made or will make of counterfeit Cleveland Golf products to importers/resellers in the United States.

58. Given the manner in which Wan conducted his sales with the Mystery Shopper, including Wan's clear intention to sell products to the Mystery Shopper in bulk and Wan's ability to provide the Mystery Shopper with a pre-prepared price list containing a variety of trademarked goods, it is highly likely that Wan is engaged in the systematic bulk shipment of counterfeit goods bearing the Cleveland Golf trademarks into the United States. By advertising in English, selectively seeking relationships with existing Cleveland Golf distributors, and shipping worldwide, Wan and Yuedragon have targeted, not the individual consumer, but instead black market importers/resellers who will in turn defraud individual consumers in the United States, including specifically consumers in New York State.

59. Wan's statement that his products were "100% close to originals," accompanied by a price list that offered an array of products from Cleveland Golf at prices far lower than the MSRP, indicates to any purchaser of goods from Yuedragon and Wan that the goods being purchased are counterfeit.

60. It is a violation of Federal trademark law to import counterfeit goods into the United States.

61. It is a further violation of Federal trademark law to purchase a counterfeit product and re-distribute that product once it has been purchased.

62. Upon information and belief, the John Doe Defendants in this action have purchased, from Yuedragon and Wan, and have imported into the United States, counterfeit Cleveland Golf products to re-sell to additional distributors and/or to re-sell to unsuspecting consumers.

63. As described above, Wan maintains an account with Paypal, through which he conducts his unlawful transactions.

64. As described above, Wan maintains an account through Yahoo, through which he conducts his unlawful transactions.

65. Plaintiff expects that by examining the Yahoo and Paypal records of Wan's transactions, the Plaintiff will be able to determine the identities of the John Doe Defendants in this matter.

COUNT I

**Trademark Counterfeiting and Infringement under
15 U.S.C. §§ 1114(1)(a), 1116, and 1117
(Cleveland Golf v. Yuedragon and Wan)**

66. The Plaintiff realleges and incorporates by reference paragraphs 1-65 inclusive of this Complaint as if fully set forth herein.

67. Yuedragon and Wan have engaged in the distribution of counterfeit Cleveland Golf products from China into the United States by mail.

68. Yuedragon and Wan have promoted, advertised, distributed, sold and/or offered for sale counterfeit golf clubs and other goods bearing the Cleveland Golf mark(s) in commerce without the consent of Cleveland Golf, the registrant.

69. Upon information and belief, Defendants Yuedragon and Wan are importing or manufacturing, promoting, and otherwise advertising, selling and/or offering for sale and distributing counterfeit and infringing golf clubs bearing the Cleveland Golf mark(s).

70. Defendants Yuedragon and Wan are continuously infringing and inducing others to infringe the Cleveland Golf marks by using the marks to advertise, promote, and sell counterfeit golf clubs and other goods in commerce.

71. Defendants Yuedragon's and Wan's counterfeiting and infringing activities are likely to cause, are actually causing, and were willful and intended to cause confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of such products, and constitute trademark counterfeiting under 15 U.S.C. § 1114(1)(b).

72. As a direct and proximate result of Defendants Yuedragon's and Wan's actions, Plaintiff has suffered substantial damages. Cleveland Golf is entitled to an injunction and to recover Yuedragon's and Wan's profits, all damages sustained by Cleveland Golf, treble those profits or damages, and the cost of this action, plus interest, under 15 U.S.C. §1117(a) and §1117(b), which amounts are yet to be determined.

73. As a direct and proximate result of Defendants' acts of willful trademark counterfeiting, Plaintiff is entitled to recover, under 15 U.S.C. § 1117(c)(2), \$1,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed by Defendants.

COUNT II

Trademark Counterfeiting and Infringement under 15 U.S.C. §§ 1114(1)(a), 1116 and 1117 (Cleveland Golf v. John Does 1-100)

74. The Plaintiff realleges and incorporates by reference paragraphs 1-73 inclusive of this Complaint as if fully set forth herein.

75. Upon information and belief, the John Doe Defendants have purchased counterfeit products bearing the Cleveland Golf mark(s) in commerce without the consent of Cleveland Golf, the registrant.

76. Upon information and belief, the John Doe Defendants knew or should have known that these products were counterfeit products.

77. Upon information and belief, the John Doe Defendants have engaged in the promotion, advertisement, distribution, sale and/or offering for sale of counterfeit golf clubs and

other goods bearing the Cleveland Golf mark(s) in commerce without the consent of Cleveland Golf, the registrant.

78. Specifically, upon information and belief, the John Doe Defendants have knowingly purchased counterfeit goods bearing the Cleveland Golf Marks, and are knowingly importing the goods for re-sale in the United States and/or are manufacturing, promoting, and otherwise advertising, selling, offering for sale and distributing counterfeit and infringing goods bearing the Cleveland Golf mark(s).

79. The conduct of the John Doe Defendants' counterfeiting and infringing activities is likely to cause, is actually causing, and was willful and intended to cause, confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of such products and constitutes trademark counterfeiting under 15 U.S.C. § 1114(1)(b).

80. As a direct and proximate result of the John Does' actions, Plaintiff has suffered substantial damages. Cleveland Golf is entitled to an injunction and to recover the John Does' profits, all damages sustained by Cleveland Golf, treble those profits or damages, and the cost of this action, plus interest, under 15 U.S.C. §1117(a) and §1117(b), which amounts are yet to be determined.

81. As a direct and proximate result of the John Doe Defendants' acts of willful trademark counterfeiting, Plaintiff is entitled to recover, under 15 U.S.C. § 1117(c)(2), \$1,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed by Defendants.

COUNT III

**Federal Unfair Competition and False Designation of Origin under
15 U.S.C. § 1125(a)
(Cleveland Golf v. Yuedragon and Wan)**

82. The Plaintiff realleges and incorporates by reference paragraphs 1-81 inclusive of this Complaint as if fully set forth herein.

83. The Defendants' counterfeit goods bearing the Cleveland Golf mark(s) have been advertised and distributed in the United States.

84. The Defendants' counterfeit goods are seemingly identical in appearance to each of Cleveland Golf's genuine goods. The Defendants' counterfeit goods, however, are different and inferior in quality. As such, the Defendants' conduct is likely to cause confusion in the trade and among the general public as to the origin or sponsorship of the counterfeit goods.

85. As a direct and proximate result of Defendants Yuedragon's and Wan's actions, Plaintiff has suffered damages.

86. The Defendants' use of Plaintiff's trademarks constitutes the use of false or misleading designations of origins and false descriptions and representations, including words or other symbols which tend to falsely describe or represent such goods and have caused such goods to enter into commerce with Yuedragon's and Wan's full knowledge of the falsity of such designations of origin in violation of 15 U.S.C. § 1125(a) (§ 43(a) of the Lanham Act).

87. Such conduct on the part of the Defendants has caused and will continue to cause irreparable injury and damages to Plaintiff.

COUNT IV

**Importation of Counterfeit Goods under
15 U.S.C. § 1124
(Cleveland Golf v. John Does 1-100)**

88. The Plaintiff realleges and incorporates by reference paragraphs 1-87 inclusive of this Complaint as if fully set forth herein.

89. Upon information and belief, the John Doe Defendants have purchased counterfeit products bearing the Cleveland Golf mark(s) in commerce without the consent of Cleveland Golf, the registrant, and have imported those goods into the United States.

90. Upon information and belief, the John Doe Defendants knew or should have known that these products were counterfeit products.

91. As a direct and proximate result of the John Does' actions, Plaintiff has suffered substantial damages. Cleveland Golf is entitled to an injunction and to recover the John Does' profits, all damages sustained by Cleveland Golf, treble those profits or damages, and the cost of this action, plus interest, under 15 U.S.C. §1117(a) and §1117(b), which amounts are yet to be determined.

92. As a direct and proximate result of the John Doe Defendants' acts of willful trademark counterfeiting and importation, Plaintiff is entitled to recover, under 15 U.S.C. § 1117(c)(2), \$1,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed by Defendants.

COUNT V

**Common Law Unfair Competition
(Cleveland Golf v. Yuedragon and Wan)**

93. The Plaintiff realleges and incorporates by reference paragraphs 1-92 inclusive of this Complaint as if fully set forth herein.

94. By reason of the foregoing, the Defendants have engaged, and continue to engage, in acts of unfair competition in violation of the common law.

95. Such conduct on the part of the Defendants has caused and will continue to cause irreparable injury to Plaintiff, for which Plaintiff has no adequate remedy at law.

96. Such conduct on the part of the Defendants has caused and will continue to cause irreparable damages to Plaintiff.

COUNT VI

**N.Y. General Business Law § 349
(Cleveland Golf v. Yuedragon and Wan)**

97. The Plaintiff realleges and incorporates by reference paragraphs 1-96 inclusive of this Complaint as if fully set forth herein.

98. The Defendants' activities constitute deceptive acts and practices in the conduct of their businesses, in violation of Section 349 of the General Business Law of the State of New York.

99. Such conduct on the part of the Plaintiff has caused and will continue to cause irreparable injury to Plaintiff, for which Plaintiff has no adequate remedy at law.

100. Such conduct on the part of the Defendants has caused and will continue to cause damages to Plaintiff.

COUNT VII

**N.Y. General Business Law § 350-a
(Cleveland Golf v. Yuedragon and Wan)**

101. The Plaintiff realleges and incorporates by reference paragraphs 1-100 inclusive of this Complaint as if fully set forth herein.

102. The Defendants' activities constitute false advertising, in violation of Section 350-a of the General Business Laws of the State of New York.

103. Such conduct on the part of the Defendants has caused and will continue to cause irreparable injury to Plaintiff, for which Plaintiff has no adequate remedy at law.

104. Such conduct on the part of the Defendants has caused and will continue to cause damages to Plaintiff.

COUNT VIII

**Common Law Trademark Infringement
(Cleveland Golf v. Yuedragon and Wan)**

105. The Plaintiff realleges and incorporates by reference paragraphs 1-104 inclusive of this Complaint as if fully set forth herein.

106. Defendants' activities have created and continue to create confusion by the public regarding the Cleveland Golf trademarks and constitute common law trademark infringement.

107. Such conduct on the part of the Defendants has caused and will continue to cause irreparable injury to Plaintiff, for which Plaintiff has no adequate remedy at law.

108. Such conduct on the part of Defendants has caused and will continue to cause damages to Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Cleveland Golf, requests that this Honorable Court:

1. Enter judgment in favor of the Plaintiff, Cleveland Golf, against the Defendant Yuedragon, the Defendant Wan, and the Defendant John Does, on all Counts in an amount to be proved at trial;

2. Enter a preliminary and permanent injunction against the Defendant Yuedragon, the Defendant Wan, and the Defendant John Does, and their officers, agents, servants, employees, representatives, successors, and assigns, and all other persons, firms, or corporations in active concert or participation with them who receive actual notice of this Order, enjoining them from using the Cleveland Marks or any colorable imitation thereof, on any counterfeit product or in any manner which is likely to cause confusion or to deceive;

3. Enter an Order, pursuant to 15 U.S.C. § 1118, that the Defendant Yuedragon, the Defendant Wan, and the Defendant John Does immediately transfer any and all infringing and/or counterfeit material in their possession, custody or control, and using or incorporating any Cleveland Mark or colorable imitation thereof, to the possession of Cleveland Golf or its counsel;

4. Enter an Order that the Defendant Yuedragon, the Defendant Wan, and the Defendant John Does, within thirty (30) days after service of the Judgment demanded herein, be required to file with this Court and serve upon Cleveland Golf's counsel a written report under oath setting forth in detail the manner in which they have complied with the Judgment;

5. Enter an Order directing the Defendant Yuedragon, the Defendant Wan, and the Defendant John Does to account to Cleveland Golf for any and all profits derived by Defendants from their sale of goods bearing the Cleveland Marks, or colorable imitations thereof, and for all damages sustained by Cleveland Golf by reason of the wrongful acts complained of herein;

6. Award the Plaintiff, Cleveland Golf, its reasonable attorneys' fees and costs;

7. Award treble damages under 15 U.S.C. §§ 1051 et seq., (the "Lanham Act");

8. At its election, award Cleveland Golf statutory damages in accordance with 15 USC § 1117.

9. Award interest;

10. Award any other damages or remedy to which Cleveland Golf may be entitled, including all remedies provided for in 15 U.S.C. § 1117 and under New York law; and

11. Award such other relief as the Court deems meet and just.

Jury Trial Claim

The Plaintiff, Cleveland Golf, claims a trial by jury on all issues so triable.

Respectfully Submitted,



Dated: April 11, 2008

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