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Alsa Refinish LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ALSA REFINISH LLC, a California Limited
Liability Company

Plaintiff,

v.

WALMART INC., a Delaware corporation

Defendant.

Case No:

COMPLAINT FOR:

- (1) **VIOLATION OF SECTION 43(A)
OF THE LANHAM ACT**
- (2) **VIOLATION OF CALIFORNIA
BUSINESS & PROFESSIONS
CODE SECTIONS 17200 AND 17500
*et seq.***
- (3) **VIOLATION OF CALIFORNIA
COMMON LAW FOR
TRADEMARK INFRINGEMENT;
AND**
- (4) **DECLARATORY RELIEF;**

(DEMAND FOR JURY TRIAL)

1
2 Plaintiff Alsa Refinish LLC (“Plaintiff” or “Alsa”), a California limited liability company,
3 hereby alleges the following:

4 **THE PARTIES**

5 1. Plaintiff is a California limited liability company with its principal place of business at
6 in 1213 E 58th Pl, Los Angeles, California 90001.

7 2. Plaintiff is informed and believes, and on that basis alleges, that Defendant Walmart,
8 Inc. (“Walmart” or “Defendant”) is a Delaware corporation with its principal place of business
9 at 702 S.W. 8th St. Bentonville, Arkansas 72716.

10 3. On information and belief, there may be other corporate affiliates of Walmart who
11 participated in the infringing acts complained of herein. The identities of such affiliates are currently
12 unknown, because publicly available information does not permit the identification of each affiliate
13 who participated in the infringing acts. Plaintiff expects the identities of such affiliates to be revealed
14 in discovery. Plaintiff reserves the right to amend this Complaint to name such affiliates, if necessary,
15 once they have been revealed.

16 **JURISDICTION AND VENUE**

17 4. This action arises under the federal trademark statute (the “Lanham Act”) 15 U.S.C. §
18 1051 et seq., and under statutory and common law of the State of California. This Court has
19 subject matter jurisdiction over the federal trademark claims pursuant to 15 U.S.C. § 1121 and
20 28 U.S.C. § 1338. The Court has subject matter jurisdiction over the related California state law
21 claims pursuant to 28 U.S.C. §§ 1338 and 1367.

22 5. Plaintiff is informed and believes, and on that basis alleges, that this Court has personal
23 jurisdiction over Defendant because it has extensive contacts with, and conduct business
24 within, the State of California and this judicial district;

25 6. Defendant operates at least the following interactive websites
26 Walmart.com, where Defendant promote unauthorized products and services, and invite
27 potential customers to "contact" Defendant. These websites are available to and used by
28 California residents.

7. Defendant operates multiple stores in the metro area of Los Angeles, California, as indicated on <https://www.walmart.com/store-finder?location=90077>, shown in Exhibit 1.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) because Defendant has extensive contacts with, and conduct business within, the State of California and this judicial district; Defendant has advertised, promoted and sold products in this judicial district; the causes of action asserted in this Complaint arise out of Defendant's contacts with this judicial district; and because Defendant has caused tortious injury to Plaintiff in this judicial district.

FACTUAL BACKGROUND

PLAINTIFF AND ITS TRADEMARK

9. In the United States, common law trademark rights have been developed under a judicially created scheme of rights governed by state law. Common law rights may be afforded to any word, phrase, image, etc. that a business uses in commerce to identify itself, its goods, or its services. Such rights are granted automatically upon use and extended to whoever can prove the first actual use of the mark in a given geographical area.

10. In regards to Plaintiff, the geographical area is the state of California because Plaintiff is headquartered and does business in the state of California.

11. Upon information and belief, in and around 1988, Mr. Isaac Banoun decided to form Alsa Corporation. Alsa was registered with the Secretary of State of the State of California as a California corporation. Its only members were Isaac Banoun. Alsa was formed for the purpose of selling paint.

12. Upon information and belief, in and around 2007, Mr. Isaac Banoun decided to form Alsa Refinish, LLC. Alsa was registered with the Secretary of State of the State of California as a California limited liability company. Its only members were Isaac Banoun. Alsa was formed for the purpose of selling paint.

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2 13. Plaintiff first started using the phrase “easy chrome” to sell chrome paint in July of 2018.
3 A press release from [https://www.prnewswire.com/news-releases/alsa-introduces-easy-chrome-paint-](https://www.prnewswire.com/news-releases/alsa-introduces-easy-chrome-paint-300678877.html)
4 [300678877.html](https://www.prnewswire.com/news-releases/alsa-introduces-easy-chrome-paint-300678877.html) can be found in Exhibit 2. This website displays the Plaintiff’s company name
5 “Alsa” and the phrase “Easy Chrome” in use with the plaintiff’s product chrome paint.

6 14. Plaintiff currently sells “easy chrome” paint on Amazon, as shown in Exhibits 3 and 4.
7 These Amazon websites display the Plaintiff’s company name “Alsa” and the phrase “Easy Chrome”
8 in use with the plaintiff’s product chrome paint.

9 15. Plaintiff also sells “easy chrome” paint on its website [https://alsacorp.com/product/easy-](https://alsacorp.com/product/easy-chrome/)
10 [chrome/](https://alsacorp.com/product/easy-chrome/), as shown in Exhibit 5. This website displays the Plaintiff’s company name “Alsa” and the
11 phrase “Easy Chrome” in use with the plaintiff’s product chrome paint.

12 16. Plaintiff posts videos on YouTube, which are available at
13 <https://www.youtube.com/@AlsaCorporation/videos>, as shown in Exhibit 6. This video displays the
14 Plaintiff’s company name “Alsa” and the phrase “Easy Chrome” in use with the plaintiff’s product
15 chrome paint.

16 17. Plaintiff has posted about Easy Chrome paint on YouTube as far back as 6 years ago in
17 2017, as shown here: https://www.youtube.com/watch?v=yxLsuaEz_oQ, as shown in Exhibit 7.

18 18. One of Plaintiff’s videos on YouTube had 817,000 views:
19 <https://www.youtube.com/watch?v=6yYA4aM2dKs>, as shown in Exhibit 8. This video displays the
20 Plaintiff’s company name “Alsa” and the phrase “Easy Chrome” in use with the plaintiff’s product
21 chrome paint.

22 19. In another video on YouTube that displays Plaintiff’s Easy Chrome paint, there were 4.5
23 million views. This video also displays the Plaintiff’s company name “Alsa”. The video is at
24 <https://www.youtube.com/watch?v=KBtdU10PIcE>, as shown in Exhibit 9.

25 20. The use of the Mark “Easy Chrome” as described above for chrome paint is sufficient
26 under federal and California state law to grant the rights of a common law trademark to Plaintiff.

27 21. The use of the Mark “Alsa” as described above for chrome paint is sufficient under federal
28 and California state law to grant the rights of a common law trademark to Plaintiff.

DEFENDANT'S UNAUTHORIZED USE OF PLAINTIFF'S MARK

22. If the trademark in an advertisement is used in a manner that is likely to cause confusion, deception, mistake or is used to imply sponsorship, endorsement, or affiliation between the trademark owner and the advertiser, then this use should be prohibited and this use should be considered trademark infringement.

23. Plaintiff's Marks are "Easy Chrome" and "Alsa", and are both used in the sale of chrome colored paints.

24. Starting in 2019, Plaintiff started to notice a decline in sales, so much so that today Plaintiff's sales have declined a huge amount.

25. In September 2023, Plaintiff noticed that Walmart was advertising using the keywords "easy chrome paint" through Google, as displayed in Exhibit 10.

26. Walmart advertising using the phrase "easy chrome paint" infringes Plaintiff's trademark rights.

27. In September 2023, Plaintiff also noticed that Walmart was advertising using the keywords "Alsa easy chrome" through Google, as displayed in Exhibit 11.

28. Walmart advertising using the phrase "Alsa easy chrome" infringes Plaintiff's trademark rights.

PLAINTIFF HAS BEEN IRREPARABLY HARMED

29. Plaintiff has suffered and is continuing to suffer irreparable harm and financial injury as the result of Defendant's conduct. Upon information and belief, Plaintiff has lost millions of dollars in sales, and may not be able to survive as a business.

30. Upon information and belief, Defendant's product is not of the same high quality as Plaintiff's paint. Defendant's paint may be unreliable and unable to provide patrons with the same high-quality and professional quality they have come to expect will be associated with Plaintiff's products.

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2 31. Plaintiff is informed and believes, and on that basis alleges, that consumers who have
3 purchased or otherwise obtained chrome paint goods and services provided by Defendant have or will
4 be deceived into believing it is the same ownership as Plaintiff's, and such consumers may have
5 negative experiences with the sub-standard goods and services and have or will falsely attribute those
6 negative experiences to Plaintiff. This is likely to erode the substantial goodwill Plaintiff has
7 developed since introducing Easy Chrome Paint in 2018.

8 32. As of the date of this Complaint, Defendant has not ceased utilizing Plaintiff's Mark.

9 33. Plaintiff is informed and believes, and on that basis alleges, that Defendant is using
10 Plaintiff's Mark on the internet, in their businesses, and in advertising. Defendant is using Plaintiff's
11 Mark to market, distribute, and sell goods and services related to chrome paint that are similar to
12 those offered by Plaintiff.

13 34. Plaintiff is informed and believes, and on that basis alleges, that Defendant has passed their
14 goods and services off in a manner calculated to deceive Plaintiff's customers and members of the
15 general public, and that Defendant has copied Plaintiff's Mark in an effort to confuse the public into
16 believing that Defendant and Plaintiff are one and the same; or that Defendant are connected to and/or
17 condoned by Plaintiff.

18 35. The natural, probable and foreseeable result of Defendant's wrongful conduct has been to
19 deprive, and it will continue to deprive, Plaintiff of the benefits of the sale of services and to deprive
20 Plaintiff of its goodwill, and to injure Plaintiff's relations with present and prospective customers.

21 36. Plaintiff is informed and believes, and on that basis alleges, that it has lost, and will
22 continue to lose, millions of dollars in revenues from Defendant's use of the Plaintiff's Mark to
23 market, distribute, and sell goods and services related to Easy Chrome Paint.

24
25 **FIRST CLAIM FOR RELIEF**

26 **(False Designation of Origin and Unfair Competition in Violation of Section 43(a) of the**
27 **Lanham Act)**

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2 37. Plaintiff incorporates by reference each and every allegation contained in each paragraph
3 above and below as though the same were set forth in full herein.

4 38. Defendant provide similar services in a similar manner using Plaintiff's Mark in its
5 business, advertising, social media and website. The goods and services provided by Defendant under
6 Plaintiff's Mark will confuse and deceive the public into thinking that the goods sold and services
7 provided by Defendant are Plaintiff's goods and services, or that there is some connection or
8 affiliation between Plaintiff and Defendant.

9 39. Defendant knew or should have known that their statements were false or likely to mislead.

10 40. Plaintiff is informed and believes, and on that basis alleges, that Defendant's acts have
11 injured or are likely to injure Plaintiff's image and reputation within and among participants, sponsors
12 and others in the wrestling community in this judicial district and elsewhere in the world by creating
13 confusion about, and dissatisfaction with, Plaintiff's services.

14 41. Plaintiff is informed and believes, and on that basis alleges, that Defendant's acts have
15 injured or are likely to injure Plaintiff's reputation and relations within and among participants,
16 sponsors and others in the community in this judicial district and elsewhere in the world by
17 causing dissatisfaction, a diminution of the value of the goodwill associated with Plaintiff's Mark, and
18 a loss of relationships within and among participants, sponsors and others in the community in this
19 judicial district and elsewhere in the world. Moreover, Defendant's infringing goods, products and
20 services are likely to be inferior to those offered by Plaintiff, which will reflect negatively on Plaintiff,
21 thus harming Plaintiff's business reputation.

22 42. Defendant's advertising and promotion of Easy Chrome Paint is a knowing, deliberate,
23 intentional and willful attempt to injure Plaintiff's business, to trade on Plaintiff's reputation, to
24 confuse or deceive participants and sponsors, and to interfere with Plaintiff's relationships within and
25 among participants, sponsors and others in the community in this judicial district and elsewhere in the
26 world.

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2 43. Defendant's acts constitutes false designation of origin, false and misleading descriptions
3 and representations of fact, and unfair competition with Plaintiff, all in violation of Section 43(a) of
4 the Lanham Act, 15 U.S.C. § 1125(a).

5 44. As an actual and proximate result of Defendant's willful and intentional actions, Plaintiff
6 has suffered damages in an amount to be determined at trial, and unless Defendant are enjoined,
7 Plaintiff will continue to suffer irreparable harm and damage to its business, reputation and goodwill.

8 45. Defendant's acts greatly and irreparably damage Plaintiff and will continue to do such
9 damage to Plaintiff unless restrained by this Court as Plaintiff is without an adequate remedy at law.
10 Accordingly, Plaintiff is entitled to, among other things, an order enjoining and restraining Defendant
11 from using Plaintiff's Mark.

12 46. As a further direct and proximate result of Defendant's actions, Plaintiff has been damaged
13 and will continue to sustain damage and is entitled to receive compensation arising from its lost sales,
14 lost profits, and efforts necessary to minimize and/or prevent customer confusion, in an amount to be
15 proven at the time of trial. In addition, Plaintiff is entitled to disgorge Defendant's profits, and is
16 entitled to interest and to its attorney's fees and costs incurred in bringing this action, all in an amount
17 to be proven at the time of trial. Plaintiff is further entitled to injunctive relief requiring Defendant to
18 cease use of Plaintiff's Mark, and to all other and further forms of relief this Court deems appropriate.
19 Furthermore, Plaintiff is informed and believes, and on that basis alleges, that the actions of
20 Defendant were undertaken willfully and with the intention of causing confusion, mistake, or
21 deception, making this an exceptional case entitling Plaintiff to recover additional treble damages and
22 reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

23
24 **SECOND CLAIM FOR RELIEF**

25 **(Unfair Competition and False Advertising Under California Business and Professions Code**

26 **§§ 17200 and 17500 et seq.)**

27 47. Plaintiff incorporates by reference each and every allegation contained in each paragraph
28 above and below as though the same were set forth in full herein.

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2 48. Defendant's actions described above and specifically, without limitation, Defendant's use
3 of Plaintiff's Mark, and confusingly similar variations thereof, in commerce to advertise, market and
4 sell goods and services related to Plaintiff's Easy Chrome Paint without Plaintiff's consent constitutes
5 trademark infringement, false advertising and unfair competition in violation of the laws of the State
6 of California.

7 49. At all times herein mentioned, Defendant had actual knowledge of the existence of
8 Plaintiff's Mark and Plaintiff's ownership of said mark.

9 50. By these actions, Defendant has engaged in false advertising and unfair competition in
10 violation of the statutory law of the State of California, Cal. Bus. & Prof. Code §§ 17200 and 17500 et
11 seq., and, as a result, Plaintiff has suffered and will continue to suffer damage to its business,
12 reputation and goodwill.

13 51. As a direct and proximate result of Defendant's willful and intentional actions, Plaintiff
14 has suffered damages in an amount to be determined at trial and, unless Defendant are restrained,
15 Plaintiff will continue to suffer irreparable damage. Further, Plaintiff is entitled to interest and to its
16 attorney's fees and costs incurred in bringing this action, all in an amount to be proven at the time of
17 trial.

18
19 **THIRD CLAIM FOR RELIEF**

20 **(Violation of California Common Law for Trademark Infringement)**

21 52. Plaintiff incorporates by reference each and every allegation contained in each paragraph
22 above and below as though the same were set forth in full herein.

23 53. Defendant's acts constitute trademark infringement of Plaintiff's trademark rights
24 related to Plaintiff's Mark in violation of California common law.

25 54. Defendant's acts greatly and irreparably damage Plaintiff and will continue to do such
26 damage to Plaintiff unless restrained by this Court as Plaintiff is without an adequate remedy at law.
27 Accordingly, Plaintiff is entitled to, among other things, an order enjoining and restraining Defendant
28 from using the Easy Chrome Paint Mark and further damage according to proof at trial.

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2 55. Defendant engaged in the foregoing conduct with oppression, fraud or malice, and acted
3 wantonly, willfully and with reckless disregard of the rights of Plaintiff, thereby entitling Plaintiff to
4 an award of exemplary damages in an amount to be determined at trial.

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6 **FOURTH CLAIM FOR RELIEF**

7 **(Declaratory Relief)**

8 56. Plaintiff incorporates by reference each and every allegation contained in each paragraph
9 above and below as though the same were set forth in full herein.

10 57. An actual controversy has arisen regarding ownership of Plaintiff's Mark.

11 58. By reason of the foregoing controversy, Plaintiff respectfully requests that the Court make
12 a judicial determination that: (a) Plaintiff's Mark is a valid trademark; (b) Plaintiff is the rightful
13 owner of Plaintiff's Mark and that Defendant has no rights in or to Plaintiff's Mark; (c) Defendant
14 infringed upon Plaintiff's Mark; (d) Defendant must cease the use of Plaintiff Plaintiff's Mark; (e)
15 Defendant must cease the use of all website and social media accounts connected with "Easy Chrome
16 Paint" or similar products, and return any and all digital images, products and marketing materials
17 associated with Plaintiff's Mark.

18 59. Such a judicial determination is necessary at this time in order for Plaintiff to resolve and
19 settle its dispute as expressed in the instant action.

20 60. Plaintiff is informed and believes, and on that basis alleges, that Defendant has taken a
21 contrary position and have acted in a manner such that they assert they own the rights to Plaintiff's
22 Mark which will likely result in irreparable detriment to Plaintiff. Accordingly, an order of
23 declaratory relief is proper and necessary.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE, Plaintiff prays for relief as follows:**

26 1. Defendant and its partners, officers, agents, servants, employees and attorneys, their successors
27 and assigns, and all others in active concert or participation with Defendant, be enjoined and
28

1 restrained during the pendency of this action, and permanently thereafter, from using Plaintiff's
2 Mark and variations thereof;

3
4 2. Defendant, and all others holding by, through or under Defendant, be required, jointly and
5 severally, to:

6 a. Account for and pay over to Plaintiff all profits derived by Defendant from its acts of trademark
7 infringement, unfair competition and false advertising in accordance with 15 U.S.C. § 1117 and the
8 laws of the State of California, and Plaintiff asks that this profits award be trebled in accordance with
9 15 U.S.C. § 1117;

10 b. Pay over to Plaintiff all damages incurred by Plaintiff by reason of Defendant's acts of unfair
11 competition, false advertising and breach of contract in accordance with 15 U.S.C. § 1117 and the
12 laws of the State of California, and Plaintiff asks that this profits award be trebled in accordance with
13 15 U.S.C. § 1117;

14 c. Pay to Plaintiff the costs of this action, together with reasonable attorneys' fees and
15 disbursements, in accordance with 15 U.S.C. § 1117(a);

16 d. Deliver up to Plaintiff all websites, social media accounts and any and all other personal
17 property, both tangible and intangible, in accordance with 15 U.S.C. § 1118;

18 e. File with the Court and serve on Plaintiff an affidavit setting forth in detail the manner and
19 form in which Defendant has complied with the terms of the injunction, in accordance with U.S.C.
20 § 1116; and

21 3. That the Court issue a judicial determination and declaration that:

22 a. Plaintiff's Mark is valid;

23 b. Plaintiff is the rightful owner of Plaintiff's Mark and that Defendant has no rights in or to
24 Plaintiff's Mark; and

25 c. Defendant violated 15 U.S.C. § 1125(a) by unfairly competing against Plaintiff by using false,
26 deceptive or misleading descriptions or representations of fact that misrepresent the nature, quality
27 and characteristics of Plaintiff's goods and/or services;

d. Defendant unlawfully and unfairly competed against Plaintiff under the laws of the State of California, Cal. Bus. & Prof. Code § 17200 et seq.;

e. Defendant unlawfully and unfairly competed against Plaintiff by engaging in false or misleading advertising under the laws of the State of California, Cal. Bus. & Prof. Code § 17500 et seq.;

4. That Plaintiff be granted general, special and incidental damages according to proof at trial;

5. That Plaintiff be granted pre-judgment and post-judgment interest;

6. For attorney's fees for wrongful, willful, and deliberate action under 17 U.S.C. § 1051, et seq.;

7. That Plaintiff be granted an exemplary and punitive damages award against Defendant in an amount according to proof at trial; and

8. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Dated: October 10, 2023

MURTHY PATENT LAW INC.

By: /s/ Karthik K. Murthy

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