

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PROMIER PRODUCTS INC.,

Plaintiff,

v.

GEAROSZ, *et al.*,

Defendants.

Case No.

FILED UNDER SEAL

DECLARATION OF CODY D. GRANDADAM

I, Cody D. Grandadam, hereby declare and state as follows:

1. I am over eighteen (18) years of age. I have never been convicted of a felony or any criminal offense involving moral turpitude, and I am fully competent to testify to the matters stated herein. This declaration is based upon my personal knowledge of the facts stated herein or on the business records that were made at the time or in the regular course of business. If called as a witness, I could and would testify to the statements made herein.

2. I am the founder and owner of Promier Products, Inc., the Plaintiff in this lawsuit, and the owner of the LITEZALL[®], KODIAK[®], ILLUMIBRITE[®], and HANDZFREE[®] lighting brands. I personally operate and manage the company's independent website, LitezAll.com, and Amazon.com online marketplace storefront. I make this declaration from matters within my knowledge save where otherwise stated.

3. I make this declaration in support of Plaintiff's *Ex Parte* Application for Entry of a Temporary Restraining Order and Preliminary Injunction against Defendants, the Individuals, Partnerships, and Unincorporated Associations identified on **Schedule "A"** to the Complaint.

4. Plaintiff advertises, sells, and distributes a wide variety of lighting products, including flashlights, using the Amazon.com online marketplace, its independent retail website, and in retail stores.

5. Since Plaintiff entered the marketplace in 2010, substantial time, money, and other resources have been expended in developing, advertising, and otherwise promoting Plaintiff's products and the LITEZALL[®], KODIAK[®], ILLUMIBRITE[®], and HANDZFREE[®] brands. As a result, the company has developed a reputation among consumers, the public, and the trade as a premium flashlight company which provides innovative and high-quality products.

6. The brightness of flashlights is one of the most important criteria for consumers looking to purchase a flashlight. The brightness of a light is measured in Lumens. Therefore, when consumers are shopping for a flashlight, one of the key characteristics they look at is the number of Lumens produced by the device.

7. All LITEZALL[®], KODIAK[®], ILLUMIBRITE[®], and HANDZFREE[®] products offered for sale on Plaintiff's website and online marketplace storefront have undergone testing to determine the maximum lumen output to ensure the accuracy of the claims included in product packaging and advertisements. While some of this testing is performed in-house or by manufacturing partners, Plaintiff takes every reasonable measure to ensure the accuracy of the claims included in product packaging and advertisements.

8. Over the past several years, visibility on the Internet, particularly via Amazon.com online marketplace search results, has become increasingly important to Plaintiff's overall marketing. Plaintiff expends significant monetary resources on Internet marketing, including search engine optimization ("SEO") strategies to improve their product listings and rankings on

Amazon.com. Those strategies allow Plaintiff to educate consumers fairly and legitimately about the value of Plaintiff's products.

9. Defendants were and are continuing to use the Amazon.com online marketplace, using merchant storefronts and seller IDs identified in **Schedule "A"** attached to the complaint, to knowingly and intentionally misrepresent the characteristics and/or qualities of the products they are offering for sale, selling, and distributing.

10. Defendants' individual seller's stores use similar SEO strategies and compete directly with Plaintiff for space in the Amazon.com search results. Further, Plaintiff and Defendants products are listed at the same or a similar price point. As a result of this direct competition, product characteristics such as luminous flux have an even greater influence on consumers' purchasing decisions as it is one of the only differentiating factors.

11. Various Amazon.com online marketplace listings associated with Defendant's merchant storefronts and seller IDs have been identified which were offering for sale, selling, and distributing falsely advertised products to consumers in this judicial district and throughout the United States.

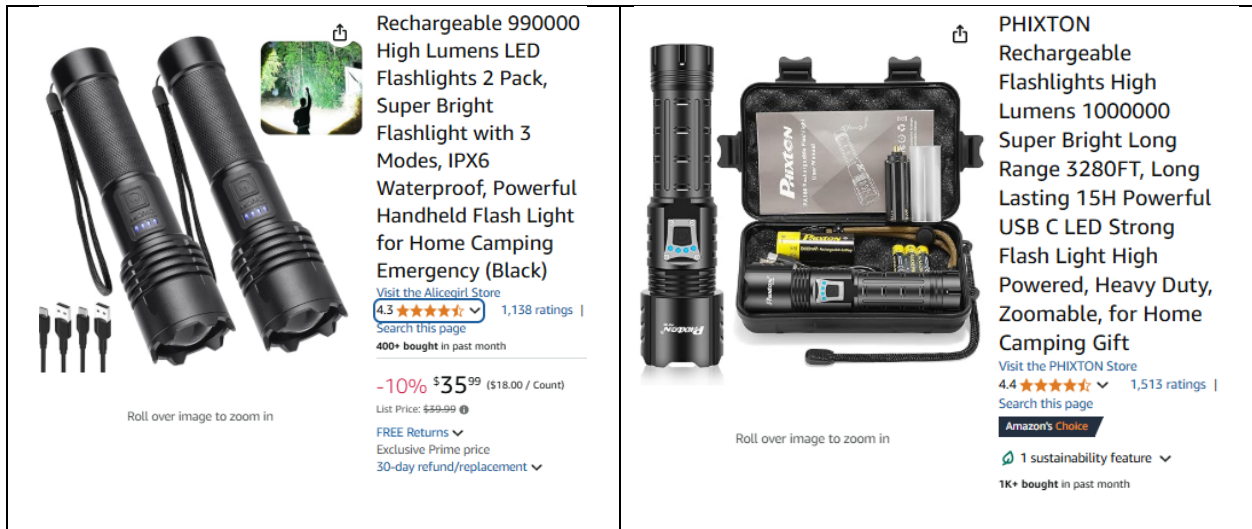
12. Defendants make explicit claims that their products are capable of a maximum luminous flux, many multiples beyond their actual capabilities in numerous places throughout each product listing including in the product name, description, and details. These claims are literally false and therefore inherently deceptive. When Defendants products were subjected to industry standard testing, the results demonstrated that the flashlights actually have a maximum luminous flux of 58-90,801 Lumens.

13. The testing was conducted by Elite Electronic Engineering, Inc. ("Elite Test"), a laboratory with Standard ISO/IEC 17025:2017 accreditation. This accreditation is awarded

through the American Association for Laboratory Accreditation and certifies that Elite Test is competent to conduct luminous flux and luminous intensity of lighting devices, including flashlights. These tests measure the electrical characteristics, total luminous flux, luminous efficacy, and color characteristics of the light produced by each device and return a measurement expressed in Lumens.

14. By making literally false claims in their advertisements, Defendants are creating confusion among consumers as to the capabilities of their products. Defendants' claims deceive consumers into purchasing products that are of a much lower quality than their advertisements purport. Because of the technology needed to test luminous flux, consumers are unable to independently verify the claims set forth in the advertisements after purchase. Defendants make these false claims to delude consumers into the false belief that their flashlights are exponentially brighter than Plaintiff's accurately advertised flashlights and gain an unfair advantage in the marketplace.

15. Defendants place these false claims in the product listing, description, and details making the misrepresentations of brightness a highlighted feature of the products. Below are representative examples which show how Defendants promote these false claims in order to attract consumers' attention and mislead them into believing they are purchasing a flashlight with a brightness measuring 990,000-1,000,000 Lumens:



16. The testing by Elite Test determined the above flashlight offered for sale and sold by Defendant Alicegirl-US Brand (Def. No. 4) and advertised at 990,000 lumens actually delivers 274 lumens and the above flashlight, offered for sale and sold by Defendant Phixtonus (Def. No. 103) and advertised at 1,000,000 lumens actually delivers 636 lumens. Other false advertisements are shown in the **Composite Exhibit** to the *Declaration of Dee Odell* filed herewith.

17. Given consumers inability to verify the claims of Defendants both at the point of sale and post-sale, consumers that purchase Defendants' products believe that they have received a flashlight capable of achieving the peak luminous flux set forth in the product's respective advertisement. Therefore, consumers, whether satisfied or unsatisfied with the brightness produced by Defendants' flashlights, will no longer consider Plaintiff's accurately advertised flashlights which list a lower peak luminous flux. Consumers will be left with the incorrect belief that Defendants' flashlights are exponentially brighter than Plaintiff's LITEZALL[®], KODIAK[®], ILLUMIBRITE[®], and HANDZFREE[®] flashlights thus contributing to Plaintiff's irreparable harm.

18. Monetary damages alone cannot adequately compensate Plaintiff because monetary damages fail to address the loss of control of and damage to the LITEZALL[®], KODIAK[®],

ILLUMIBRITE[®], and HANDZFREE[®] reputations, loss of consumer goodwill, and loss of sales. Furthermore, monetary damages are difficult, if not impossible, to completely ascertain due to the inability to fully quantify the monetary damage caused to Plaintiff's reputation and goodwill by the deceptive advertisements.

19. Plaintiff's goodwill and reputation are irreparably damaged when their accurately advertised products are compared to falsely advertised products offered for the same or a similar price. Plaintiff's goodwill and reputation are based on consumers' understanding that its brands, LITEZALL[®], KODIAK[®], ILLUMIBRITE[®], and HANDZFREE[®] offer high-quality and innovative products. The false belief that Defendants offer a far superior product undermines this understanding and not only diminishes the value of Plaintiff's products and brands but also results in a loss of unquantifiable future sales.

20. Investigations into these listings show that Defendants are using the merchant storefronts and seller IDs to sell falsely advertised products from foreign countries such as China to consumers in the United States. Plaintiff, or someone working under Plaintiff's direction, analyzed the Defendant merchant storefronts and determined that the falsely advertised products were being offered for sale to the United States, including Pennsylvania.

21. The checkout pages for each of the falsely advertised products confirm that each Defendant was and/or is still currently offering for sale and/or selling falsely advertised products through their respective Merchant Storefronts and User Accounts and that each Defendant provides shipping and/or has actually shipped those products to the United States, including to customers located in Pennsylvania. At checkout, a shipping address located in the Pittsburgh area ("the Pennsylvania Address") in the Western District of Pennsylvania verified that each Defendant provides shipping to the Pennsylvania Address.

22. By their activities, Defendants are defrauding the consuming public for Defendants' benefit. Defendants should not be permitted to continue their unlawful activities, which are causing Plaintiff ongoing irreparable harm. Accordingly, Plaintiff is seeking entry of a temporary restraining order prohibiting Defendants' further false advertisements.

23. Defendants' actions have caused and will continue to cause, in the event the request relief is not granted, irreparable harm to Plaintiff's brands', LITEZALL[®], KODIAK[®], ILLUMIBRITE[®], and HANDZFREE[®] goodwill and reputation as well as to the unassuming consumers who will continue to believe they are purchasing products that possess the characteristics and qualities set forth by Defendants in their false advertisements.

24. Defendants' intentional and illegal conduct, including offering for sale and selling falsely advertised products into the United States and the Commonwealth of Pennsylvania has caused lost profits to Plaintiff and damaged the inherent value of Plaintiff's business, by diluting the Litezall, Kodiak Lighting, and Illumibrite brands and goodwill, damaging Plaintiff's reputation for providing high quality and innovative products, as well as impeding Plaintiff's ability to attract new customers and business.

25. All the injuries and damages described above are taking place in the United States, including in Pittsburgh, Allegheny County, Pennsylvania.

26. Plaintiff will suffer immediate and irreparable injury if an *ex parte* Temporary Restraining Order is not issued in accordance with Federal Rule of Civil Procedure 65(b)(1).

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

Dated: April 15, 2025

Cody D. Grandadam