

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE TRUSTEES OF COLUMBIA
UNIVERSITY IN THE CITY OF NEW
YORK,

Plaintiff,

vs.

ENCYCLOPAEDIA IRANICA
FOUNDATION,

Defendant.

Case No. 19-cv-07465

SECOND AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff The Trustees of Columbia University in the City of New York (“Columbia” or the “Plaintiff”) by its attorneys, Buckley LLP, for its Second Amended Complaint against Defendant Encyclopaedia Iranica Foundation (“EIF” or the “Defendant”) alleges as follows:

PRELIMINARY STATEMENT

1. Columbia brings this action against EIF to redress EIF’s infringement of Columbia’s intellectual property and interference with its business relations. Since 1982, Columbia, through its Center for Iranian Studies, has produced, edited, supported, and published the *Encyclopaedia Iranica* (the “*Encyclopaedia*” or the “Work”), a highly regarded scholarly resource of Persian and Iranian history and culture. Defendant EIF, a small nonprofit that was established in 1990 to raise money to support the publication of the *Encyclopaedia*, has sought to wrest control of the publication from the University by, among other things, falsely claiming to be the owner of the Work; publishing an unauthorized volume of the *Encyclopaedia* that infringes Columbia’s trademark and copyright; publishing articles, both online and in print, for which Columbia owns the copyright without Columbia’s consent; and interfering with

Columbia's contractual relationships with publishers, internet hosting companies, and other third parties regarding the publication and distribution of the *Encyclopaedia*.

2. Columbia brings this action to obtain preliminary and permanent injunctive relief, declaratory relief, and damages for EIF's infringement of Columbia's trademark and copyrights, and for cancellation of Defendant's fraudulent registration of the Word Mark ("*Encyclopaedia Iranica*"). Columbia also seeks to recover damages and preliminary and permanent injunctive relief for EIF's violations of state and federal unfair competition laws, false advertising, deceptive trade practices, and tortious interference with a contract relating to EIF's unauthorized print and online publications of the *Encyclopaedia*.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338 and 1367. This Court has federal question jurisdiction in this matter because Plaintiff seeks a declaratory judgment against Defendant declaring Plaintiff's rights under, *inter alia*, the U. S. Copyright Act of 1976 ("Copyright Act"), 17 U.S.C. §§101 *et seq.* and the Federal Trademark Act of 1946 ("Lanham Act"), 15 U.S.C. § 1051 *et seq.*, and damages for copyright infringement, trademark infringement, unfair competition, and false advertising for claims arising under The Copyright Act and the Lanham Act. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over the claims arising under New York statutory and common law, including claims for false advertising, deceptive trade practices, and tortious interference with a contract, because these claims are so related to the federal claims.

4. Venue lies within this judicial district pursuant to 28 U.S.C. §§ 1391(b)(1)(2)(3), 1391(c), and 1400(a) in that Defendant is a not-for-profit corporation organized and subsisting under the laws of the state of New York having a principal office in this judicial District, and a

substantial part of the events or the omissions giving rise to Plaintiff's claims occurred in this judicial district.

PARTIES

5. Plaintiff is a not-for-profit tax exempt educational institution organized and subsisting under the laws of the State of New York.

6. Defendant Encyclopaedia Iranica Foundation is a not-for-profit corporation organized and subsisting under the laws of the state of New York having a principal office in this judicial district.

FACTUAL BACKGROUND

Professor Yarshater, the Center for Iranian Studies, and the *Encyclopaedia Iranica*

7. Historian Ehsan Yarshater ("Professor Yarshater") began to teach at Columbia in 1958, first as a Visiting Associate Professor from 1958-1960 and then as the Hagop Kevorkian Professor of Iranian Studies from 1960 until 1990. From 1991 to 2002, Professor Yarshater served as a Special Lecturer at Columbia. Professor Yarshater retired from teaching responsibilities in 2002, but he remained a Professor Emeritus at Columbia until his death in 2018.

8. The Center for Iranian Studies at Columbia University (the "Center") was founded in 1949. The Center is not a separate legal entity but is a part of Columbia, which not only provides the facilities but also maintenance and utility costs free of charge and provides institutional support for the Center's activities.

9. Professor Yarshater was appointed by Columbia as the Director of the Center in or about 1968. Professor Yarshater remained the Director of the Center until 2016.

10. From the time of Professor Yarshater's appointment as the Director of the Center until now, the Center has been located in a Columbia-owned building. The Center is currently located at 450 Riverside Drive, near the Columbia campus.

11. The Center has a library consisting of thousands of volumes of books, which are available for use by researchers and other academics.

12. In 1972, Professor Yarshater began work on a Persian encyclopedia of Islam, a precursor to the *Encyclopaedia Iranica*.

13. In 1979, on behalf of the Center for Iranian Studies at Columbia, Professor Yarshater and other Columbia employees began work on the *Encyclopaedia Iranica* itself, an ongoing scholarly resource on Persian and Iranian history which has become the Center's most prominent publication and is internationally regarded as the most comprehensive account of several millennia of Iranian history, language, and culture in the Middle East, the Indian subcontinent, and Central Asia.

14. The first fascicle of the *Encyclopaedia* was published in 1982 and was registered in the U.S. Copyright Office. A list of all copyright registrations for the Work is attached as **Exhibit A**.

15. Since the publication of the first fascicle in 1982, the *Encyclopaedia* has been published continuously.

16. To date, 107 fascicles and 15 volumes of the *Encyclopaedia* have been published. The cover of each fascicle and volume has borne the name "ENCYCLOPAEDIA IRANICA" (the "Word Mark") and has been marked with a distinctive visual design, a fleur-de-lis (the "Logo"). Thus, the Word Mark and the Logo have been in continuous use by Columbia since at

least 1982. A copy of the cover page of the first fascicle, published in 1982, bearing both the Word Mark and the Logo is attached as **Exhibit B**.

17. Each fascicle cover has also borne the name “Center for Iranian Studies Columbia University,” signifying that each fascicle of the *Encyclopaedia* has been prepared under the auspices of Columbia University.

18. At all times, copyright in the Work has been owned by Columbia under Columbia’s official copyright policy (“Copyright Policy”).

19. The current version of the Copyright Policy, approved by the Trustees of the University and effective on June 3, 2000, provides at section I.B. as follows:

The University asserts copyright ownership in any work of authorship that is: (i) created with substantial use of University resources, financial support or non-faculty University personnel beyond the level of common resources provided to faculty; (ii) created or commissioned for use by the University; or (iii) created under the terms of a sponsored project where the terms of the sponsored project require that copyright be in the name of the University. Additionally, any work created by an officer of administration (including a faculty member or officer of research only when acting in his or her capacity as an officer of administration), or by a support staff member acting within the scope of his or her employment generally constitutes a “work made for hire” as defined by federal law [internal reference omitted], and the University asserts copyright ownership in such works.

20. The versions of the Columbia University copyright policy in effect between 1982 and June 3, 2000 contain provisions similar to Section I.B of the June 3, 2000 Copyright Policy, stating that materials published by divisions of the University should be copyrighted in the name of the Trustees of Columbia University in the City of New York.

21. Professor Yarshater served as the Director of the Center and the Editor-in-Chief of all publications produced in the Center, including the *Encyclopaedia*, from 1968 until 2016. During this entire time, Professor Yarshater was either a Professor or Professor Emeritus at Columbia.

22. Indeed, in August 1989, as Professor Yarshater was preparing to step down from his role as the Hagop Kevorkian Professor of Iranian Studies, he requested that Columbia grant him the status of Professor Emeritus for the express purpose of continuing to serve as the Director of the Center and the Editor-in-Chief of the *Encyclopaedia*.

23. As a Professor and Center Director at Columbia and pursuant to Columbia's Faculty Handbook, Professor Yarshater was expected to "conduct research or its equivalent," a product of which was the *Encyclopaedia*.

24. Professor Yarshater's work on the *Encyclopaedia* occurred substantially on Columbia-owned property and using Columbia resources, and the *Encyclopaedia* was developed by Professor Yarshater in service to the University's mission of promoting academic research and fostering advance knowledge and learning at the highest level and to convey the products of those efforts to the world. The *Encyclopaedia* is an embodiment of these goals with respect to Iranian history, language, and culture.

25. Thus, under Columbia's Copyright Policy and/or the work for hire doctrine, Columbia is the owner of the copyright of all compilations of the *Encyclopaedia* that were published during Professor Yarshater's tenure as Director of the Center and Editor-in-Chief of the *Encyclopaedia*.

26. Other Columbia employees at the Center have also worked on, and devoted most of their time to, the publication of the *Encyclopaedia*. The actions and work undertaken in connection with the publication of the *Encyclopaedia* by Professor Yarshater and other Center employees were within the scope of their employment with Columbia.

Financial Support for the *Encyclopaedia*

27. In 1983 Professor Yarshater established the Persian Heritage Foundation (“PHF”), originally called The Yarshater Fund, a U.S.-registered, non-political, non-governmental 501(c)(3) organization.

28. PHF supports and promotes research on all aspects of the Persianate world in the pre-Islamic as well as the Islamic period. Since its inception, PHF has provided funding for the *Encyclopaedia*, culminating in PHF’s endowment of the Center to rename it the Ehsan Yarshater Center of Iranian Studies in July of 2018.

29. In total, PHF has donated approximately \$12 million to the Center to support the *Encyclopaedia* and other projects.

30. In connection with the publishing activities of the Center, Professor Yarshater also established the Bibliotheca Persica Press, Inc. (“BPP”), which was incorporated in New York in 1998 as a not-for-profit entity, with initial funding from PHF. BPP was dissolved in 2003 and all its assets and interests were transferred to PHF.

31. Columbia has also received significant financial support for the Center from the National Endowment for the Humanities (“NEH”), which supported the *Encyclopaedia* as a “major project” from 1979 to 2016. To date, the Center has received approximately \$5.6 million in funding from the NEH.

32. The NEH grants were used, among other things, to fund the salaries of Columbia employees who worked on the *Encyclopaedia* and for supplies and other costs in connection with the publication of the *Encyclopaedia*.

33. The NEH grant applications clearly identify the *Encyclopaedia* as a project of Columbia University. The applications list Columbia as the applicant and recipient of the grant.

The applications further name Professor Yarshater as the project director and/or principal investigator, with his title listed either as “Director, Columbia University” or “Director, Center for Iranian Studies.”

34. In addition to funding from the PHF and the NEH, Columbia received financial support for the *Encyclopaedia* from numerous other donors, including the International Union of Academies, the Iran Heritage Foundation (London), the Semnani Foundation, the Institute of Ismaili Studies (London), and the Les Amies de l’Encyclopedie Iranica (Paris), as well as individual benefactors.

**Professor Yarshater Forms the Encyclopaedia Iranica Foundation
as an Additional Funding Source for the *Encyclopaedia***

35. In 1990, following the publication of Volume IV of the Work, Professor Yarshater established Defendant EIF to help ensure the continuation of the Work by providing financial support for the Work. Professor Yarshater was the President of EIF from its establishment until his death on September 2, 2018.

36. Upon information and belief, formed after a reasonable investigation, EIF was founded as a 501(c)(3) public charity to raise NEH matching funds for the creation of the Work at Columbia, and, separately from the grants received by Columbia, received one or more NEH challenge grants on that basis.

37. The mission of EIF, according to its Certificate of Incorporation of June 1990, is to “promote the cause of the Encyclopaedia Iranica and assure the continuation thereof”; “to establish an endowment fund for the Encyclopaedia Iranica”; and to “help others to publish, disseminate, and distribute the results of such research.”

38. Beginning in 1993, after the publication of Volume VI of the Work, EIF made periodic donations to Columbia in support of the Work, but was never involved in the academic or technical aspects of the project.

39. Indeed, EIF has repeatedly stated that its role is to act as a fundraiser for the *Encyclopaedia*, and not to develop its scholarly content. EIF has repeatedly acknowledged that the *Encyclopaedia* is a project of Columbia University.

40. As EIF explained in its 2008 Annual Report, “the Center for Iranian Studies at Columbia carries out the academic functions of the *Encyclopaedia*, while the Foundation concentrates on raising funds for the project.”

41. EIF’s 2008 annual report also stated that EIF “supports the [*Encyclopaedia*] but does not carry it out. . . . [T]he Foundation limits itself to maintaining the financial health of the project by raising funds for its operating budget and by backing it with an endowment fund.”

42. Likewise, EIF’s public filings with the IRS and New York Attorney General describe EIF as a “major funder of the *Encyclopaedia Iranica* project at Columbia University’s Center for Iranian Studies,” and state that EIF’s purpose is to “promote the cause of the *Encyclopaedia Iranica*, a Columbia University project, through the establishment of an endowment fund” Upon information and belief, formed after a reasonable investigation, that endowment fund raised approximately \$18 million to support the *Encyclopaedia*.

43. Although Professor Yarshater served both as the Director of the Center and the president of EIF, his statements also make clear that the *Encyclopaedia* was a project of Columbia, not EIF.

44. In a 1998 interview, Professor Yarshater described the *Encyclopaedia* as a “project of Columbia University” that “is prepared for publication at its Center for Iranian Studies.”

45. Likewise, in correspondence with NEH regarding grant funding for the *Encyclopaedia*, Professor Yarshater signed letters as a Columbia professor and Director of the Center for Iranian Studies at Columbia University.

EIF Attempts to Usurp Columbia’s Copyrights in the *Encyclopaedia*

46. In or around 2015, EIF for the first time requested that Columbia transfer to it all of Columbia’s copyright ownership in the *Encyclopaedia* under clause II.D. of the University’s Copyright Policy. The cited clause provides in relevant part:

If the University has determined that a work subject to University copyright ownership under this Policy has no likely commercial value, and subject to the terms of any applicable agreements with third parties under which the work was created, the University will consider a request by the creator to transfer copyright ownership in the work to the creator, subject to an irrevocable royalty-free license to the University to use the work for its own non-commercial purposes.

47. By making this request, EIF acknowledged that, under Columbia’s Copyright Policy, Columbia is the owner of all copyrights in the *Encyclopaedia*.

48. Columbia declined Defendant’s request to transfer copyright ownership in the Work to Defendant.

49. In or around 2018, Columbia learned for the first time that, beginning in 2003, EIF had begun listing itself as the “claimant” on certain copyright registration filings for the *Encyclopaedia*.

50. EIF’s listing of itself as the “claimant” on these copyright filings was done without Columbia’s knowledge or consent.

51. EIF had no authority to list itself as the claimant because, under Columbia's Copyright Policy, Columbia is the owner of the copyright of all compilations of the *Encyclopaedia*.

52. EIF's listing of itself as the "claimant" on these copyright filings contradicts its public acknowledgements that it was not involved in the "academic and technical" aspects of the Work and that it was created to raise funds to support the Work.

53. In or around 2018, Columbia also learned for the first time that, beginning in 2015, EIF unilaterally changed the copyright assignment forms that authors execute when submitting articles to the *Encyclopaedia*. This was done without Columbia's knowledge or consent.

54. The revised forms purported to assign the authors' contributions to EIF rather than to Columbia or to the Editor of the Work, as had been the practice prior to 2015. Notably, the revised copyright assignment forms continued to include in the headers the names "Columbia University" and "Center for Iranian Studies," suggesting to authors that they were, in fact, assigning their copyrights to Columbia.

55. Upon information and belief, formed after a reasonable investigation, the managing editor of the Work was responsible for sending the revised forms to authors of contributions, and that managing editor was also at the time an employee of the Center and *ex officio* member of the board of directors of EIF.

56. The assignment forms unilaterally revised by Defendant cover numerous contributions to the Work, a complete list of which is attached as **Exhibit C** ("Improperly Assigned Contributions").

57. Columbia has since confirmed with all but a few of the authors of the Improperly Assigned Contributions that these authors did not intend for copyright in their contributions to be assigned to Defendant, and all authors whom Columbia has been able to contact have executed corrected assignments, conveying the authors' copyrights in such contributions to Columbia.

58. Nevertheless, in early 2018, Defendant asserted to Columbia for the first time that it, and not Columbia, was the owner of copyright in the Work.

59. As explained above, however, the *Encyclopaedia* has at all times been a Columbia project and the copyright is therefore owned by Columbia under its Copyright Policy. To the extent that EIF received copyright assignments from authors or registered copyrights in certain *Encyclopaedia* volumes, those actions were taken without Columbia's knowledge or consent and therefore do not confer any rights in the copyright of the *Encyclopaedia* on EIF.

Dr. Elton Daniel is Appointed by Columbia as the Interim Director of the Center

60. In or around 2015, Professor Yarshater began recruiting Dr. Elton Daniel, a highly regarded scholar of Middle Eastern and Islamic History, to take over the leadership of the Center. Dr. Daniel had previously served as an Associate Editor of the *Encyclopaedia* from 1997 to 2001, working closely with Professor Yarshater.

61. Dr. Daniel interviewed for the position of Interim Director of the Center with two Columbia officials and he was appointed by Columbia as a Senior Research Scholar at the Center, effective January 15, 2017. The appointment was made by the Executive Vice President for Arts and Sciences at Columbia, and Dr. Daniel's appointment letter stated that his responsibilities included "directing the research activities in the Center for Iranian Studies, in particular, the Encyclopedia Iranica."

62. Professor Yarshater enthusiastically supported Dr. Daniel's appointment as the Interim Director of the Center. On December 16, 2016, Professor Yarshater sent an email to Dr. Daniel and others stating that he was "very happy" to welcome Dr. Daniel as the new Director of the Center and Editor-in-Chief of the *Encyclopaedia*, declaring that "[t]his is a new day for the *Encyclopædia Iranica*, a day to celebrate."

**EIF Demands that Columbia Transfer Its Intellectual Property to EIF
and Cuts Off Funding to the Center**

63. When Dr. Daniel began his term as Interim Director in 2017, PHF was undergoing an internal reorganization and was temporarily unable to provide funding to the Center, which left Defendant as a principal source of funding for the Center during PHF's reorganization. Prior to this time, PHF and EIF, together with the NEH, had provided most of the non-Columbia funding for the Center.

64. The Center's increased reliance on Defendant for funding in 2017 gave rise to problems almost immediately. As documented in emails from Defendant to Dr. Daniel beginning in early 2017, Defendant insisted that none of the Center's funding could be used for any Center activity other than the *Encyclopaedia*. Defendant also interfered with the Center's other activities, such as by asking the Center to prevent certain scholars from chairing a panel at a University seminar and by demanding that the Center draw up a "business plan" for Defendant's Board of Directors to use.

65. Later in 2017, the successful reorganization of PHF and the Center's immediate need to cover expenses for another project, its History of Persian Literature, provided an opportunity for a new infusion of PHF funding to the Center, first through a gift donation and

then through PHF's interest in funding an endowment to honor Professor Yarshater and to institutionalize funding for the Work so that it could continue after his death.

66. Defendant repeatedly interfered with both. For example, in August 2017, Defendant demanded that any funding from PHF be donated to Defendant and not to the Center, which would have kept those funds from being used for PHF-related projects. Indeed, Defendant asserted at this time that every contribution from PHF to the Center was instead a "donation" from PHF to Defendant, and insisted that Dr. Daniel provide an accounting to Defendant for all contributions to the Center from any source.

67. Professor Yarshater ultimately proposed that PHF and EIF both contribute equally to the endowment that would rename the Center to honor Professor Yarshater and would fund the Center's ongoing work. As Professor Yarshater explained, "[t]here is plenty of money for PHF and EIF to continue with their good work," and a newly endowed Center "provides the best opportunity for the long term health and prosperity of the Encyclopedia Iranica."

68. In accordance with Professor Yarshater's proposed course of action, Columbia presented EIF with a standard gift agreement under which EIF would provide continued financial support for the Center.

69. EIF refused to sign the gift agreement. Instead, Defendant again requested that Columbia transfer its copyright in the Work to Defendant.

70. By making this request, EIF again acknowledged that Columbia is the owner of all copyrights in the *Encyclopaedia*.

71. Columbia again declined to make the requested transfer and explained the relevant Columbia policies that prohibited such a transfer.

72. Following EIF's refusal to contribute to the endowment in early 2018, EIF ceased making contributions to the Center, with its last donation dated June 30, 2017.

73. The endowment that renamed the Center to honor Professor Yarshater was funded entirely by a gift from PHF. Upon information and belief, EIF maintains an endowment of \$18 million, which is supposed to be used to fund the *Encyclopaedia*. EIF, however, continues to refuse to give financial support to the *Encyclopaedia*.

Defendant's Disruption of The Center's Activities from 2018-Present

74. Since the funding relationship between Defendant and Columbia ended in 2017, Defendant has repeatedly disrupted the Center's activities regarding the Work by claiming ownership of Columbia's copyright and trademark rights in the *Encyclopaedia*, interfering with Columbia's contractual relationships with third party vendors that support the publication of the *Encyclopaedia*, and publishing an unauthorized volume of the *Encyclopaedia* to which Columbia owns the copyright and trademark.

EIF Attempts to Register the "ENCYCLOPAEDIA IRANICA" and "ENCYCLOPAEDIA IRANICA FOUNDATION" Trademarks

75. In or around 2018, after its rift with Columbia, EIF for the first time sought to register the "ENCYCLOPAEDIA IRANICA" mark with the United States Patent and Trademark Office ("PTO").

76. Although EIF knew that it was not the exclusive owner of the mark and that Columbia had first used the mark as early as 1982, EIF's application to the PTO falsely represented that no other person had rights to the mark and that the mark was first used in 2003.

77. Relying on the false information provided by EIF in the trademark application, the PTO registered the trademark effective October 8, 2019, with Registration No. 5,877,427.

78. On October 31, 2019, Columbia promptly petitioned the PTO for cancellation of EIF's trademark, alleging fraud on the PTO.

79. Indeed, because Columbia began using the "ENCYCLOPAEDIA IRANICA" mark as early as 1982—eight years before EIF was formed—and has been using the mark continuously in commerce since then, Columbia is the owner of the mark.

80. Columbia's petition to cancel EIF's registration remains pending and, upon information and belief, has been stayed by the PTO pending resolution of the dispute before this Court.

81. In or around 2018, after its rift with Columbia, EIF for the first time sought to register the "ENCYCLOPAEDIA IRANICA FOUNDATION" mark with the PTO.

82. The "ENCYCLOPAEDIA IRANICA FOUNDATION" mark is substantially the same or confusingly similar to the "ENCYCLOPAEDIA IRANICA" mark, to which EIF is not the owner.

83. The addition of the word "Foundation" to the mark is a generic, common descriptor applied to many organizations, and is not distinct, contributing to the substantial confusion among consumers who would affiliate Encyclopaedia Iranica Foundation with the Encyclopaedia Iranica.

84. Relying on the false information provided by EIF in the trademark application, the PTO registered the "ENCYCLOPAEDIA IRANICA FOUNDATION" trademark effective November 26, 2019, with Registration No. 5,921,137.

85. On February 17, 2021, Columbia petitioned the PTO for cancellation of EIF's trademark, alleging fraud on the PTO.

86. Because Columbia is the owner of the “ENCYCLOPAEDIA IRANICA” mark, EIF’s registration of the confusingly similar “ENCYCLOPAEDIA IRANICA FOUNDATION” mark must be canceled.

EIF Wrongfully Takes Control of the *Encyclopaedia*’s Website

87. Prior to June 2018, Columbia and the Center had exclusive access to the website connected to the Work, iranicaonline.org (the “Website”).

88. In June 2018, an employee working for both the Center and the Defendant erroneously turned over administrative control of the Website to the Defendant.

89. At Columbia’s request, the web management company that hosts the Website, Electric Pulp, Inc. (“Electric Pulp”), restored Website access to Columbia on February 4, 2019, but concluded that it could not determine who owns the Website.

90. Electric Pulp advised Columbia at that time that Electric Pulp would require joint approval from both Columbia and Defendant before Electric Pulp would take any action, including making any changes, with respect to the Website.

91. On or about July 19, 2019, the Website went offline for a brief period, without any explanation from Electric Pulp and without any instructions or approval to Electric Pulp from Columbia.

92. Until August 8, 2019 Electric Pulp continued to allow both Columbia and Defendant to have administrative access to the Website.

93. On or about August 8, 2019, Electric Pulp completely blocked Columbia’s administrative access to the Website, prompting an investigation into the matter by Columbia.

94. On August 12 and 13, 2019, Columbia exchanged emails with counsel for Electric Pulp demanding to know why Columbia's administrative access to the Website had been blocked.

95. Electric Pulp responded that Defendant had "proved" to Electric Pulp that Defendant owned the domain, so Columbia could no longer have access.

96. By email dated August 13, 2019, Columbia asked counsel for Electric Pulp what sort of "proof" Defendant had provided, to which Electric Pulp's counsel replied later that day by email, saying "I'm not in a position to discuss that."

97. On or about August 20, 2019, pursuant to the "take-down" provisions of 17 U.S.C. § 512(c), Columbia sent Notices of Claimed Infringement to the online addresses given for the Website for such purposes through WHOIS searches, as well as to a different hosting service ("Liquid Web") that was listed for the IP address of the Website.

98. Upon information and belief, neither Defendant nor Liquid Web responded in any way to the Notices of Claimed Infringement.

99. Columbia investigated the Website and determined that a substantial portion of the Contents of the Work had been made available on the Website by Defendant without Columbia's consent.

100. On October 29, 2019, Vaudra International ("Vaudra"), as agent for Columbia, accessed the Website and downloaded digital copies of over 326 articles from the Work that were covered by copyright registrations in the name of Columbia and PHF and/or BPP. As an example, one of the articles that Vaudra downloaded, titled "Darband," had been published in Volume VII, Fascicle 1 of the Work, whose copyright registration (TX-5-022-282) names PHF and Columbia as the copyright owners.

101. Defendant's interference with the relationship between Electric Pulp and Columbia and Defendant's control of the Website have rendered it almost impossible for Columbia to correct or edit contributions published on the Website.

102. As a result of Defendant's above-described actions, the editors of the Work have been unable to post new contributions to the Website since June 2018.

103. Consequently, authors of these contribution have complained to the Center and questioned why their articles have not been published, despite the fact that their articles went through the formal editing and production process of the Center, including the meeting of deadlines by both authors and editors, and the payment of honoraria.

104. Defendant's actions have also caused confusion in the marketplace because the Work—which is known in the academic community as a Columbia publication—is being distributed online in a manner controlled exclusively by Defendant, without the ability for Columbia to edit the content or make changes to the Website. Indeed, Defendant is using the Website to advertise, publish, and distribute contents of the *Encyclopaedia*, the copyright and trademark of which are owned by Columbia, without Columbia's consent.

105. With Defendant having commandeered the website, Columbia had no choice but to expend resources and launch its own separate website to publish new and existing articles of the *Encyclopaedia*. Unless EIF's unauthorized website is taken down or control is given back to Columbia, the confusion in the marketplace will only worsen because of EIF's unauthorized online publication of the *Encyclopaedia*.

EIF Interferes With Columbia's Business Relationship with the *Encyclopaedia*'s New Publisher

106. EIF has also interfered with Columbia's efforts to continue the print publication of the *Encyclopaedia*.

107. In or around 2018, Columbia contracted with Koninklijke Brill NV (“Brill”), a Dutch international academic publisher specializing in Middle East and Islamic studies, through which Columbia has chosen to continue print and online publication of the Work.

108. In February 2018, Defendant wrote to Brill claiming that “discussions and negotiations with regards to the publishing rights for the Encyclopaedia Iranica need to be conducted with EIF representatives” rather than with Columbia.

109. In April 2019, EIF again wrote to Brill, claiming that it was the owner of the “ENCYCLOPAEDIA IRANICA” trademark and asserting that EIF had not consented to the use of the Word Mark on Brill’s publication of the *Encyclopaedia*. EIF demanded that Brill “immediately cease from advertising, publishing, and/or distributing copies” of the “unauthorized Encyclopaedia Iranica fascicle.”

110. On September 13, 2019, after the commencement of this action, Defendant sued Columbia, Brill and Elton Daniel alleging, among other allegations, unfair competition and trademark infringement.

111. EIF’s actions with respect to Brill constitute a deliberate and malicious attempt to interfere with Brill’s publication of the authorized versions of the *Encyclopaedia* so that Defendant can promote its own publication of unauthorized content from the *Encyclopaedia* to the Website.

**EIF Interferes With Columbia’s Business Relationship with the Vendor Hosting the
Encyclopaedia’s Publication Management Software**

112. On October 16, 2018, Columbia entered into a contract with Clarivate Analytics (“Clarivate”), the company that hosts the ScholarOne software that the Center uses to manage publication of the Work, engaging Clarivate to provide such hosting services (the “Clarivate Contract”). Defendant was not a party to the Clarivate Contract.

113. On April 5, 2019, the Center learned that (1) Defendant falsely informed personnel of Clarivate that Defendant owns the Work, and (2) Defendant asked Clarivate to turn over copies of all of the Work's manuscripts and data housed in the Center's Clarivate platform.

114. Defendant is not in privity with Clarivate with respect to the Work, but Clarivate nonetheless turned over all Work-related contents of the Center's ScholarOne platform to Defendants as Defendants demanded on or about April 4, 2019.

115. The Center's managing editor noticed Columbia files were moved from the Clarivate computer system on the morning of April 5, 2019 and immediately filed a case inquiry to Clarivate.

116. The Center also called ScholarOne customer service to be connected to the person listed in ScholarOne's logs as the individual who exported the files to Defendant.

117. When that person returned the Center's call later that day, the Center asked that ScholarOne immediately stop sending data to Defendant, and informed that person that the contract for ScholarOne was signed by Columbia, not Defendant, and that Columbia owns copyright in the Work.

118. Upon information and belief, formed after a reasonable investigation, the file transfer from Clarivate to Defendant cannot be undone.

**EIF Publishes an Unauthorized and Counterfeit Version of Volume XVI of the
*Encyclopaedia***

119. In or around July 31, 2020, and without Columbia's knowledge or consent, Defendant published its own unauthorized and counterfeit version of Volume XVI of the *Encyclopaedia Iranica* ("EIF's Counterfeit Volume XVI"). Defendant also falsely registered a copyright for this publication with the U.S. Copyright Office (Registration No. TXu002185965). EIF's Counterfeit Volume XVI consists of three fascicles that were edited by Professor

Yarshater while he was the Center Director, and which had previously been published in print fascicles originated and produced by Columbia. Excerpts from EIF's Counterfeit Volume XVI, including the cover and title pages, are attached to the Second Amended Complaint as **Exhibit D**.

120. Because the fascicles reprinted in EIF's Counterfeit Volume XVI were created and originally published by Columbia when Professor Yarshater was the Center Director and a Professor Emeritus at Columbia, Columbia owns the copyright to these fascicles under its Copyright Policy. By publishing EIF's Counterfeit Volume XVI without Columbia's consent, EIF has infringed Columbia's copyright.

121. EIF's publication of EIF's Counterfeit Volume XVI has also infringed trademarks owned by Columbia. Specifically, EIF's Counterfeit Volume XVI bears the Word Mark and the Logo, which have been in continuous use by Columbia since 1982, and are virtually identical to Volumes I through XV of the *Encyclopaedia*.

122. EIF's Counterfeit Volume XVI falsely implies Columbia's sponsorship of the publication by listing Dr. Daniel as a member of the Board of Editors and Columbia employees Mohsen Ashtiany and Mahnaz Moazami as Associate Editors. At the time EIF's Counterfeit Volume XVI was published, Dr. Daniel, Mr. Ashtiany, and Ms. Moazami were not affiliated in any way with EIF and did not consent to having their names appear in EIF's unauthorized and counterfeit version of the *Encyclopaedia*.

123. EIF's inclusion of their names in EIF's Counterfeit Volume XVI has the effect of suggesting that Dr. Daniel and other Columbia employees participated in or authorized this publication, creating further confusion in the marketplace.

124. Defendant's unauthorized use of Columbia's trademarks and copyrights, as well as its unauthorized listing of Columbia employees, has created great confusion in the marketplace as to whether Columbia was involved in the publication.

125. For nearly forty years, the academic community has come to associate the *Encyclopaedia* with Columbia—not EIF. As the head of a major Iranian Studies program recently emphasized to Dr. Daniel, the *Encyclopaedia*'s "quality and reliability is associated with the editorial board they know, ... the Yarshater Center, and Columbia as an institution." This academic further stressed that it is the *Encyclopaedia*'s longstanding association with Columbia that has generated the "intellectual capital" that it carries with contributors.

126. Defendant's use of the Word Mark and Logo has led consumers to erroneously believe that Columbia authorized and produced EIF's Counterfeit Volume XVI and suggests that the publications issued by Defendant (both on the website and in print) are approved by or connected with Columbia, when in fact they are not.

127. Defendant's attempt to sow confusion in the marketplace has been so successful that even a scholar credited in EIF's Counterfeit Volume XVI as a member of the Board of Editors emailed Dr. Daniel regarding the volume because he erroneously believed that the volume had been authorized by Columbia.

128. Defendant is attempting to exploit this confusion for its own financial gain. In a July 31, 2020 press release announcing the publication of EIF's Counterfeit Volume XVI, Defendant solicited donations for itself. The press release stated that "[a]ll monies raised will contribute directly to the research and publication work undertaken by EIF and available to the public at iranicaonline.org." Upon information and belief, however, EIF is not performing any research or academic work to support the publication of the *Encyclopaedia*. Indeed, in the same

press release, EIF acknowledged that it is unable to produce new content for the work without an academic institution like Columbia.

Fascicle 6 and Volume XVI

129. In October 2020, Columbia, through its publisher Brill, produced Fascicle 6 (*Khomeini – Khorasan XIV*), which is the latest installment of articles from the Encyclopedia.

130. Typically, and has been done with prior volumes of the Work, after six fascicles have been published, they are bound together in a new Volume.

131. Columbia intends to publish Volume XVI in the coming months.

132. Columbia's ability to advertise and distribute Volume XVI will be impaired by the existence of EIF's Counterfeit Volume XVI, which has created great confusion among the target consumers.

FIRST CLAIM

(for Declaratory Relief, 28 U.S.C. §§2201 *et seq.*)

133. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

134. By reason of the foregoing, an actual and justiciable controversy of sufficient immediacy and reality has arisen and now exists between Plaintiff and Defendant, under federal copyright law, 17 U.S.C. §§101 *et seq.* concerning their respective rights and interests in the Work.

135. Plaintiff contends that Defendant is not a copyright owner of the Work or any part thereof. Plaintiff is the copyright owner in the Work.

136. Defendant contends that it is the owner of copyright in the Work.

137. Declaratory relief from this Court is necessary pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201 *et seq.*, so that the parties may know their respective rights and obligations with respect to the Work.

138. By reason of the foregoing, Plaintiff is entitled to a declaratory judgment and related relief, declaring that Defendant is not an owner of copyright in the Work and that Columbia is the copyright owner.

139. Plaintiff has no adequate remedy at law.

SECOND CLAIM
(for Declaratory Relief, 28 U.S.C. §§2201 *et seq.*)

140. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

141. By reason of the foregoing, an actual and justiciable controversy of sufficient immediacy and reality has arisen and now exists between Plaintiff and Defendant under federal trademark law, 15 U.S.C. §1051 *et seq.* concerning their respective rights and interests in the Word Mark and Logo (collectively, the “Marks”).

142. Plaintiff contends that Defendant is not an owner of exclusive trademark rights in the Marks.

143. Defendant contends that it is the owner of exclusive trademark rights in the Marks, and on that basis has demanded that Columbia cease and desist from making use of the Marks.

144. The Marks have been in continuous use by Columbia, BPP and PHF since at least 1982.

145. Declaratory relief from this Court is necessary pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201 et seq., so that the parties may know their respective rights and obligations with respect to the Marks.

146. By reason of the foregoing, Plaintiff is entitled to a declaratory judgment and related relief, declaring that Defendant is not an owner of exclusive trademark rights in the Marks, and that Columbia is the exclusive owner of the trademark.

147. Plaintiff has no adequate remedy at law.

THIRD CLAIM

(for Tortious Interference with Contract with Clarivate)

148. Plaintiff repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

149. At all relevant times, a valid agreement existed between Columbia and Clarivate regarding the storage of the Work on Clarivate's Scholar One platform.

150. At all relevant times, Defendant had knowledge of the Clarivate Contract.

151. Defendant's interference with the above-referenced contract as set forth above caused Clarivate to breach the Clarivate Contract by transferring Columbia data to Defendant without Columbia's consent.

152. The above-described acts of Defendant were intentional.

153. Columbia has suffered irreparable harm as result of Clarivate's breach of the Clarivate Contract.

154. Defendant's interference with Columbia's contract with Clarivate caused damage to Columbia in an amount to be determined at trial

155. Columbia also seeks an order requiring Defendant to permanently delete or otherwise destroy the Columbia data that was sent to Defendant by Clarivate, including but not

limited to all Work-related contents of the Center's ScholarOne platform, certify such destruction or permanent deletion, and no longer seek to obtain such data or contents from any source.

FOURTH CLAIM

(for Copyright Infringement, 17 U.S.C. § 101 *et seq.*)

156. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

157. On or about August 8, 2019, Electric Pulp blocked Columbia's administrative access to the Website.

158. The Work, or substantial portions of it, remains accessible to the public through public display on, and public distribution through, the Website, without the consent of Columbia.

159. Defendant has publicly displayed, and publicly distributed, all or a substantial portion of the Work by means of the Website, without the consent of Columbia.

160. The above-described acts of Defendant were willful, and constitute infringement of Columbia's exclusive rights in the Work under the U.S. Copyright Act, 17 U.S.C. §101 *et seq.*

161. Columbia seeks damages for copyright infringement, attorneys' fees and an order directing Defendant to transfer administrative access to the Website transferred back to Columbia.

FIFTH CLAIM

(for Copyright Infringement, 17 U.S.C. § 101 *et seq.*)

162. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

163. On or about July 31, 2020, Defendant publicly distributed a substantial portion of the Work in a printed volume, EIF's Counterfeit Volume XVI, without the consent of Columbia.

164. Defendant continues to advertise the sale of this volume, containing a substantial portion of the Work, without the consent of Columbia.

165. The above-described acts of Defendant were willful, and constitute infringement of Columbia's exclusive rights in the Work under the U.S. Copyright Act, 17 U.S.C. §101 *et seq.*

166. Columbia seeks damages for copyright infringement, attorneys' fees and an order directing Defendant to cease publication, advertisement, and sale of EIF's Counterfeit Volume XVI.

SIXTH CLAIM

(for Unfair Competition, False Endorsement, False Association, and False Designation of Origin Under Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A))

167. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

168. Upon information and belief, Defendant's actions and conduct as set forth above constitute unfair competition, false endorsement, false association, and/or false designation of origin in violation of 15 U.S.C. § 1125(a)(1)(A).

169. Columbia, as the owner of all right, title and interest in and to the Word Mark and Logo has standing to maintain an action for unfair competition, false endorsement, false association, and/or false designation of origin under the Federal Trademark Statute, Lanham Act § 43(a) (15 U.S.C. § 1125).

170. The Word Mark and Logo are inherently distinctive and/or have acquired distinctiveness.

171. Defendant knowingly and willfully has used, and continues to use, the Word Mark and Logo in interstate commerce in connection with the marketing and sale of publications in such a way that creates a likelihood of confusion, mistake or deception among prospective purchasers and consumers, thus constituting an infringement of Columbia's rights. Defendant's use of the Word Mark and Logo on its publications suggest that the publications issued by Defendant (both on the website and in print) are rendered, sponsored, otherwise approved by, or connected with Columbia, when in fact they are not.

172. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

SEVENTH CLAIM

(for False Advertising Under Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B))

173. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

174. The statements that Defendant made in its July 31, 2020 press release and on the Website concerning EIF's Counterfeit Volume XVI constitute commercial advertising and/or commercial promotion.

175. The statements that Defendant made in its July 31, 2020 press release and on the Website concerning EIF's Counterfeit Volume XVI contained false, misleading, and/or deceptive statements about the nature and characteristics of the Work.

176. The false, misleading, and/or deceptive statements in Defendant's July 31, 2020 press release and on the Website were material to customers' and readers' purchasing decisions because Defendant's use of the Word Mark and Logo made the publication appear to have been endorsed by Columbia.

177. Defendant placed EIF's Counterfeit Volume XVI and the contents of the Website into interstate commerce.

178. Defendant's statements directly and/or proximately caused and/or are likely to cause Plaintiff to suffer harm in the form of lost sales and donations, as well as irreparable diminution to Columbia's reputation and goodwill.

179. Upon information and belief, Defendant's acts and conduct complained of herein constitute false advertising in violation of 15 U.S.C. § 1125(a)(1)(B).

180. Columbia has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

EIGHTH CLAIM

(for Cancellation of U.S. Registration No. 5,877,427 Under 15 U.S.C. §§ 1119, 1051, 1052 and Damages Under 15. U.S.C. § 1120)

181. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

182. Columbia is the owner of the Word Mark ("*Encyclopaedia Iranica*").

183. The Work, containing the Word Mark, has been in continuous and widespread use by Columbia since 1982, well before the existence of Defendant and Defendant's date of first use of the Word Mark.

184. Defendant's use of the Word Mark causes a substantial likelihood of confusion among the relevant consuming public.

185. Because of Columbia's prior use of the Word Mark, Defendant was never entitled to register U.S. Service Mark Registration No. 5,877,427 for the Word Mark ("*Encyclopaedia Iranica*"), entitling Columbia to an Order pursuant to 15 U.S.C. § 1119 cancelling U.S. Service

Mark Registration No. 5,877,427 and all damages incurred as a result of Defendant's actions pursuant to 15 U.S.C. § 1120.

186. Upon information and belief, Defendant fraudulently procured U.S. Service Mark Registration No. 5,877,427 for the Word Mark ("*Encyclopaedia Iranica*") from the PTO by making fraudulent representations regarding material facts to the PTO in the course of procuring this registration.

187. Upon information and belief, Defendant knew that its representations were false when made to the PTO, and intended to induce the PTO examiner to rely on the false representations to further Defendant's ultimate goal of procuring the registration.

188. Defendant's fraudulent statements to the PTO, which resulted in the issuance of an invalid trademark registration, entitle Columbia to an Order pursuant to 15 U.S.C. § 1119 cancelling U.S. Service Mark Registration No. 5,877,427, and all damages incurred as a result of Defendant's actions pursuant to 15 U.S.C. § 1120.

NINTH CLAIM

(for Cancellation of U.S. Registration No. 5,921,137 Under 15 U.S.C. §§ 1119 and 1052 and Damages Under 15. U.S.C. § 1120)

189. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

190. Columbia is the owner of the Word Mark ("*Encyclopaedia Iranica*").

191. The Work, containing the Word Mark, has been in continuous and widespread use by Columbia since 1982, well before the existence of Defendant and Defendant's date of first use of the Word Mark.

192. Defendant's use of the word mark "*Encyclopaedia Iranica Foundation*" causes a substantial likelihood of confusion among the relevant consuming public, and because of

Columbia's prior use of the Word Mark ("*Encyclopaedia Iranica*"), Defendant was never entitled to register the word mark "*Encyclopaedia Iranica Foundation*."

193. Because Defendant was never entitled to register U.S. Service Mark Registration No. 5,921,137 for the word mark ("*Encyclopaedia Iranica Foundation*"), Columbia is entitled to an Order pursuant to 15 U.S.C. § 1119 cancelling U.S. Service Mark Registration No. 5,921,137 and all damages incurred as a result of Defendant's actions pursuant to 15 U.S.C. § 1120.

TENTH CLAIM

(for Deceptive Acts and Practices Under NEW YORK GENERAL BUSINESS LAW § 349)

194. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

195. Defendant's unlawful use of the Word Mark and Logo confuses consumers about the source, quality, and origin of the Work, causing consumers and purchasers to believe, erroneously, that the publication produced by Defendant is rendered, sponsored, or otherwise approved by, or connected with, Columbia.

196. Defendant's unlawful use of the Word Mark and Logo in connection with the unauthorized advertising and selling of EIF's Counterfeit Volume XVI in interstate commerce creates confusion among prospective purchasers and creates unfair and deceptive competition with Columbia.

197. Defendant's conduct and its use of false and misleading representations has the tendency to deceive the target consumer audience or actually deceives the target consumers.

198. Defendant's false and misleading representations are material because they are likely to influence the purchasing decision of consumers.

199. Columbia has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

ELEVENTH CLAIM

(for Unfair Competition and Reverse Passing Off Under New York Common Law)

200. Columbia repeats and re-alleges each and every allegation in paragraphs 1 through 132 above as if fully set forth herein.

201. Upon information and belief, Defendant's acts and conduct complained of herein constitute unfair competition and reverse passing off in violation of New York common law.

202. As previously stated, Defendant knowingly and willfully has used, and continues to use, the Word Mark and Logo in commerce in connection with the marketing and sale of publications in a manner that creates a likelihood of confusion, mistake or deception among prospective purchasers, thus constituting an infringement of Columbia's rights. Defendant's use of the Word Mark and Logo on its publications suggest that the publications issued by Defendant (both on the website and in print) are rendered, sponsored, otherwise approved by, or connected with Columbia, when in fact they are not.

203. Columbia has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct, unless restrained by law.

JURY DEMAND

Pursuant to Fed. R. Civ. P. Rule 38(b), Plaintiff demands a trial by jury on all issues properly triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment as follows:

- A. On the First Claim, declaring the Defendant is not an owner of copyright in the Work, that Columbia is the owner of copyright in the Work, and entering an Order directing Defendant to transfer to Columbia all copyright registrations that improperly list Defendant as claimant, including the following:

TX0006247285, TX0006843795, TX0006843797, TX0006843798, TX0006902459, TX0006902490, TX0006978790, TX0007040264, TX0007040276, TX0007258027, TX0007338068, TX0007399199, TX0005730181, TX0005402206, TX0005482116, TX0005873032, TX0005873033, TX0006020061, TX0005926144, TX0008723423, TX0008723438, TX0008723442, TX0005117102, TX0005117099, TX0005117095, TX0005117098, TX0005117096, TX000511710, TX0005181160, TX0005117097, TX0005117100, TX0005207273, TX0005345931, TX0005534680, TX0005886599, TX0005886600, TX0005886601, TX0005886602, TX0006160710, TX0006160709, TX0006160703, TX0006160711, TX0006375203, TX0006565251, TX0006558122, TX0006558121, TX0006626004, TX0006625635, TX0008914235, TX0008915076, TX0008915093, TXu002185965;

- B. On the Second Claim, declaring that Defendant is not an owner of exclusive trademark rights in the Marks, and that Columbia is the owner of exclusive trademark rights in the Marks;
- C. On the Third Claim, that the Court enter an Order directing Defendant to permanently delete or otherwise destroy the Columbia data that it received for Clarivate to breach the Clarivate Contract with Columbia, including but not limited to all Work-related contents of the Center's ScholarOne platform, certify such destruction or permanent deletion, and no longer seek to obtain such data or contents from any source, and awarding Columbia such damages as the Court may determine;
- D. On the Fourth Claim, that the Court enter an Order preliminarily and permanently enjoining Defendant from violating Columbia's exclusive rights in the Work, including without limitation by public display or distribution of the Work or the preparation of

derivative works thereof and requiring Defendant to transfer the administrative access to the Website to Columbia, and awarding Columbia such statutory or actual damages as the Court may determine;

- E. On the Fifth Claim, that the Court enter an Order preliminarily and permanently enjoining Defendant from violating Columbia's exclusive rights in the Work, including without limitation by public display or distribution of the Work or the preparation of derivative works thereof and requiring Defendant to cease publishing or distributing, by any means, EIF's Counterfeit Volume XVI, and awarding Columbia such statutory or actual damages as the Court may determine;
- F. On the Sixth Claim, that the Court enter an Order preliminarily and permanently enjoining Defendant from engaging in unfair and deceptive competition by using the Word Mark or Logo (or any other mark(s) confusingly similar thereto), infringing on Columbia's trademarks, and making any statements or representations, using any false designation of origin, or performing any act that may lead consumers to believe that the material published by Defendant is connected to or sponsored by Columbia, and awarding Columbia such statutory or actual damages as the Court may determine;
- G. On the Seventh Claim, that the Court enter an Order preliminarily and permanently enjoining Defendant from using the Word Mark or Logo (or any other mark(s) confusingly similar thereto) for, on, and/or in connection with the production, distribution, advertising, promoting, offering for sale, and/or sale of any goods or services, including, without limitation, EIF's Counterfeit Volume XVI, and awarding Columbia such statutory or actual damages as the Court may determine;
- H. On the Eighth Claim, an Order cancelling U.S. Service Mark Registration No. 5,877,427 and awarding Columbia such damages as the Court may determine;

- I. On the Ninth Claim, an Order cancelling U.S. Service Mark Registration No. 5,921,137 and awarding Columbia such damages as the Court may determine;
- J. On the Tenth Claim, that the Court enter an Order preliminarily and permanently enjoining Defendant from using the Word Mark or Logo (or any other mark(s) confusingly similar thereto) and making false and misleading representations that have the tendency to deceive consumers, and awarding Columbia such statutory or actual damages as the Court may determine;
- K. On the Eleventh Claim, that the Court enter an Order preliminarily and permanently enjoining Defendant from using the Word Mark and Logo in connection with the marketing and sale of publications in a manner that creates a likelihood of confusion, mistake or deception among prospective purchasers, and awarding Columbia such damages as the Court may determine;
- L. Awarding Plaintiff its costs and disbursements, including reasonable attorneys' fees, incurred in prosecuting this action; and
- M. Awarding Plaintiff such other and further equitable and legal relief as this Court may deem necessary, just and proper.

DATED: February 26, 2021

Respectfully Submitted,
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