

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

<p>CASHMERE AND CAMEL HAIR MANUFACTURERS INSTITUTE,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>ETSY, INC.</p> <p style="text-align: center;">Defendant.</p>	<p>)</p>	<p>Civil Action No.</p>
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COMPLAINT

Plaintiff Cashmere and Camel Hair Manufacturers Institute (hereinafter “CCMI” or the “Cashmere Institute”), an international trade association of Cashmere manufacturers, wholesalers and retailers, for its Complaint against the named defendant herein, Etsy, Inc. (“Defendant” or “Etsy”), hereby alleges the following:

INTRODUCTION

1. This action arises out of Defendant Etsy engaging and participating in, aiding and abetting, and conspiring with others to commit, unlawful and deceptive false advertising in connection with the promotion and sale, both in Massachusetts and elsewhere, of huge quantities of counterfeit garments advertised, represented, and passed off as “100% Cashmere” or “Cashmere” when in fact they are not Cashmere, but are actually either 100% acrylic, a much less expensive, petroleum-based, and more flammable fiber, or are a blend of cheaper synthetic material such polyester, nylon, acrylic, rayon, and minor percentages of wool — in violation of both federal and state laws prohibiting false and deceptive advertising, false designation of origin, unfair competition, trademark dilution, and other violations of intellectual property rights.

2. CCMI is a nonprofit corporation, organized as a trade association under the laws of New York with a principal place of business in Massachusetts, whose purpose is to advance the interests of its Members, who are some of the world’s leading manufacturers, distributors and retailers of fine Cashmere fiber, fabric, and garments, and other Cashmere products (“Members”), and the Cashmere industry generally.

3. CCMI’s activities and status as a leading Cashmere industry trade association, its legal standing to pursue injunctive relief to protect the interests of its Members, and its active role in monitoring and providing services to the Cashmere industry, has been recognized by the U.S. Court of Appeals for the First Circuit in a series of decisions over the last several decades, first in 1986,¹ then again in 2002,² and more recently in 2014.³

4. Defendant Etsy is a public traded corporation (NASDAQ symbol: ETSY), organized and existing under the laws of the state of Delaware with its principal place of business at 117 Adams St, Brooklyn, NY 11201, that is unlawfully and deceptively advertising, marketing and selling, and aiding and abetting, and conspiring with others to commit, the

¹ *See Camel Hair & Cashmere Institute of America v. Associated Dry Goods Corp.*, 799 F.2d 6, 12-15 (1st Cir. 1986)(“we hold that plaintiff does have standing to represent its Members in this suit. ... We hold that the plaintiff is entitled to preliminary injunctive relief. We are satisfied that the sale and manufacture of cashmere products by plaintiff’s Members establishes that they have an interest in the reputation of cashmere generally.”)

² *See Cashmere & Camel Hair Mfrs. Inst. v. Saks Fifth Ave.*, 284 F.3d 302, 320 (1st Cir 2002)(“Based on the foregoing analysis, a reasonable factfinder could conclude that the Defendant’s material mislabeling of their garments deceived the consuming public, enabled defendants to lower their garment prices, and caused Packard to lose sales.”)

³ *See Cascade Yarns, Inc. v. Knitting Fever, Inc. and nonparty appellee Cashmere & Camel Hair Mfrs. Inst.*, 755 F.3d 55 (1st Cir. 2014)(“The recipient of the discovery request at issue in this case, Cashmere and Camel Hair Manufacturers Institute (“CCMI”), is a nonprofit corporation that offers confidential tests of the fiber content of cashmere samples to its Members, as well as retailers and suppliers...”)

unlawful and deceptive advertising of – counterfeit garments and products falsely represented as “Cashmere” and “100% Cashmere” (hereinafter the “Purported Cashmere Garments”).

5. Etsy is committing the aforesaid unlawful acts both in emailed advertisements that it sends to specific individuals, and that are not posted on the internet, and in advertisements that it creates, posts and arranges to be posted on internet websites that it controls in over 100 countries, including www.etsy.com in the United States, www.etsy.com/uk/ in the United Kingdom, www.etsy.com/japan in Japan, and many others, using various trademarks and brand names, including “Etsy.”

6. In those advertisements, Etsy falsely represents that the garments being offered for sale are “100% Cashmere” or “Cashmere,” which they are not, and makes a series of additional false and deceptive representations to the effect that purchasers of these purported “Cashmere” products have “Protection” if the item they order “isn’t as described,” that prospective purchasers of these purported “Cashmere” products can “[s]hop confidently on Etsy,” and that it is only “in the rare case” that “something goes wrong” – none of which are true, and all of which are misleading and deceptive as to the falsely advertised Purported Cashmere Garments.

7. Etsy is the consumer’s point of contact at the retail level, and is earning enormous amounts of money from the sale of the falsely advertised Purported Cashmere Garments, and is well-positioned to ensure, and is capable of ensuring, the accurate advertising of these products, but is simply failing and refusing to do so.

8. Instead, Etsy has sought to deflect its own responsibility for its aforesaid unlawful acts and omissions by relying on the defensive mantra that “as a pure third-party marketplace, we do not have physical possession of the goods sold by our sellers or offer any fulfillment services,

and our sellers are solely responsible for compliance...[and w]e do not have access to the goods to test or assess physically” -- none of which is a lawful defense to or excuse for Etsy’s unlawful acts as alleged herein, and much of which is untrue and misleading.

9. CCMI has repeatedly asked, and then demanded, that Etsy cease and desist from its aforesaid unlawful acts and omissions, but Etsy has failed and refused to do so. This action seeks declaratory and injunctive relief requiring it to do so, and to reimburse CCMI for its costs and attorneys’ fees in having to bring this action to force it to comply with the law.

JURISDICTION AND VENUE

10. This Court has original jurisdiction over the subject matter of this action under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338, because it is a civil action involving claims arising under the laws of the United States, including the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and the Court has supplemental jurisdiction over Plaintiff’s state law claims under 28 U.S.C. § 1338(b) and 1367(a) in that they form part of the same case or controversy that gives rise to Plaintiff’s claims under the laws of the United States.

11. This Court also has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000 and the parties are diverse in citizenship.

12. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claims at issue occurred in this judicial district and division, and because the Defendants are subject to the Court’s personal jurisdiction with respect to this action.

13. This Court has personal jurisdiction over the Defendant because the causes of action asserted herein arise from the Defendant transacting business in the Commonwealth of

Massachusetts, contracting to supply and actually supplying services or things in the Commonwealth of Massachusetts, and/or causing tortious injury in the Commonwealth of Massachusetts by virtue of its acts and omissions.

14. Defendant is also subject to personal jurisdiction in the Commonwealth of Massachusetts and this District pursuant to Mass. Gen. Laws ch. 223A §3 because it (a) have sold and participated in the sale of numerous products into the Commonwealth and this District; (b) has caused tortious injury within the Commonwealth and this District; (c) has practiced the unlawful conduct complained of herein, in part, within the Commonwealth and this District; (d) regularly conducts and solicits business within the Commonwealth and this District; (e) regularly and systematically directs electronic activity into the Commonwealth and this District with the manifest intent of engaging in business within the Commonwealth and this District, including the sale and/or offering for sale of products to internet users within the Commonwealth and this District; and (f) enters into contracts with residents of the Commonwealth and this District for the sale of products.

FACTUAL ALLEGATIONS

15. CCMI's Membership consists of major Cashmere producing companies headquartered in the United States, Scotland, England, Italy, France, Germany, Japan, China, Hong Kong, and India that manufacture Cashmere fabric and garments, including 100% Cashmere scarves, and that advertise, distribute and sell those products throughout the United States and abroad, including in Massachusetts. CCMI's core mission is to protect the good name and reputation of Cashmere as a fine specialty fiber, to promote the use of cashmere fiber and fabric, and to safeguard the interests of CCMI Members, and the Cashmere industry generally, by educating the public, retail dealers and garment makers about what is or is not legitimate

cashmere, and by challenging the sale and distribution of fabric and garments that are falsely labeled as Cashmere, when in fact they are not.

16. In carrying out its mission, CCMI engages in a wide range of activities worldwide, and maintains a website at www.cashmere.org on which it distributes information about those activities, and about important issues relevant to the Cashmere market, including sustainability, labeling integrity, sources of reliable product testing, and the market monitoring activities that it uses to help ensure the integrity of the Cashmere market and Cashmere products, to protect the legitimate interests of its Members, and to provide services and information to retailers and other consumers of Cashmere products.

17. CCMI's activities in these areas include, but are not limited to, public dissemination of information about Cashmere products and the Cashmere market, participation in international Cashmere industry conferences and working groups, cooperation with U.S. Government agencies and international standard-setting bodies on matters of concern to the Cashmere industry and its Members, a round trial testing program in which CCMI periodically evaluates the ability of testing laboratories worldwide to accurately determine the Cashmere content, if any, of fabric samples whose contents are already known to CCMI, and a garment purchasing and testing program to help ensure accurate labeling of Cashmere products (the "CCMI Purchasing Program").

18. The CCMI Purchasing Program is one in which CCMI itself buys garments in the marketplace that are advertised, represented or labeled as being made of Cashmere, in whole or in part, and sends samples of those purported Cashmere garments to qualified independent professional textile testing laboratories to determine if they actually are made of or contain Cashmere. Then, if the garments are found not to be Cashmere, CCMI notifies the advertisers

and distributors of those garments that they are being false advertised and/or mislabeled in violation of state and federal law, demands that they be withdrawn from sale, and sometimes takes legal action to stop the false advertising and/or mislabeling.

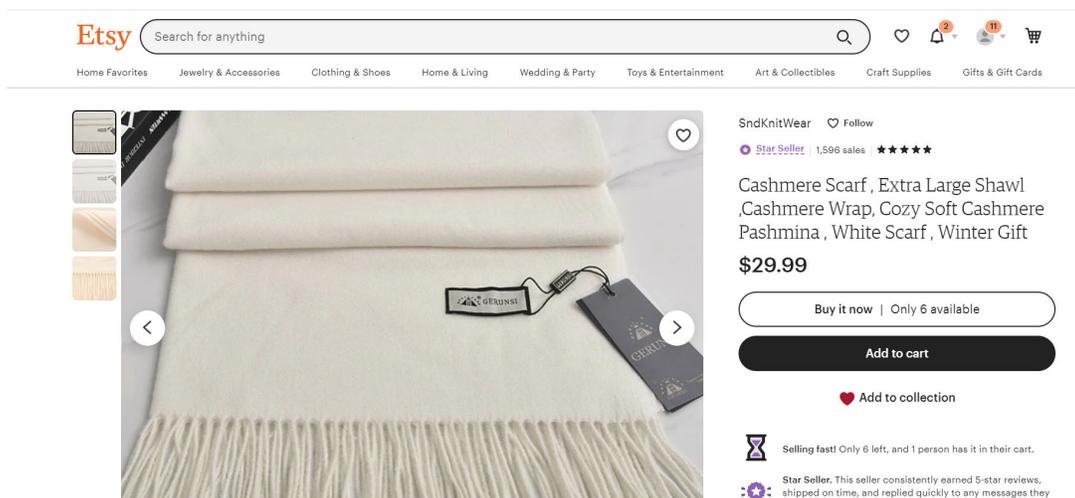
19. As part of that regular business practice, over the past nine (9) months, CCMI has repeatedly purchased garments advertised and represented by Etsy on its www.etsy.com website, and in direct advertisements emailed to individual prospective customers by Etsy, as being “100% Cashmere” or “Cashmere,” and has sent them for Cashmere content analysis to testing laboratories that CCMI’s round trial tests have shown to be reliable in determining whether Cashmere is present in samples sent to them for testing, and if so in what quantities.

20. The results of these tests have proven that these Purported Cashmere Garments are in fact are not Cashmere, but are actually either 100% acrylic, a much less expensive, petroleum-based, and more flammable fiber, or are a blend of similarly cheaper synthetic material such polyester, nylon, acrylic, rayon, and minor percentages of ordinary wool, such that they do not have the unique, high quality, and long term performance characteristics of actual Cashmere.

21. Despite the fact that the Purported Cashmere Garments are not Cashmere, Etsy falsely represents that they are “100% Cashmere” or “Cashmere,” and at the same time makes a series of additional false and deceptive representations to the effect that purchasers of these Purported Cashmere Garments can “[s]hop confidently on Etsy,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described.” None of these representations are true, and all of them are misleading and deceptive, as to the falsely advertised Purported Cashmere Garments.

22. In addition to creating, emailing, posting, maintaining, and widely distributing the aforesaid false and deceptive advertisements of the Purported Cashmere Garments for its own profit, Etsy is also actively participating and conspiring with others in, and is aiding and abetting, all of those activities, not only by falsely advertising the Purported Cashmere Garments on its websites, but also by, among other things, sending targeted email communications to prospective customers, which are never posted to any website but rather are private communications to those customers, again falsely representing that the Purported Cashmere Garments are “100% Cashmere” or “Cashmere,” and further representing that Etsy has “carefully curated these finds” for them, referring to the falsely advertised products, and “is sure you’ll love them.”

23. An example of this false and deceptive advertising by Etsy, and Etsy’s aiding and abetting of and conspiring with others to accomplish it, is its advertising of a type of scarf, designated or identification as CCMI 22.108-CA-US, which testing shows is 100% synthetic polyester and rayon, but is falsely advertised by Etsy as follows:



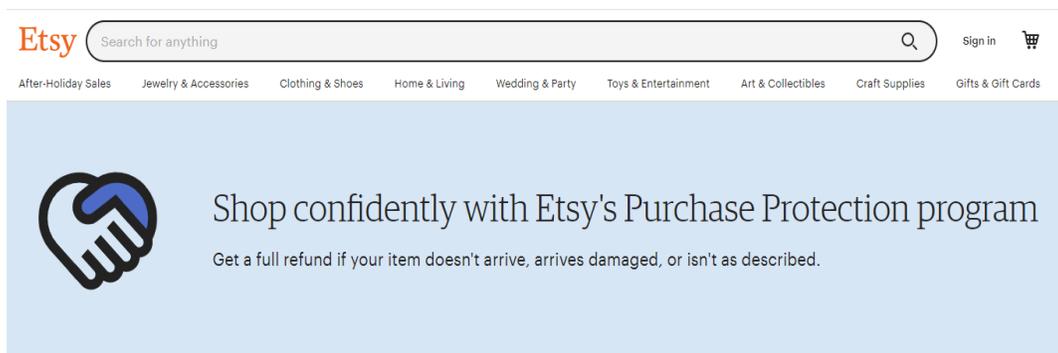
along with a series of additional advertising misrepresentations by Etsy that purchasers of this purported “Cashmere” product can “[s]hop confidently,” that it is only “in the rare case” that

“something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described,” as follows:



Etsy Purchase Protection: Shop confidently on Etsy knowing if something goes wrong with an order, we've got your back for all eligible purchases — [see program terms](#)

In the advertisement, the above representations by Etsy are accompanied by a link using the above words “see program terms,” which leads viewers of the ad to the page depicted below where – despite the fact that Etsy has been informed and is fully aware, as discussed below, that it has major problem of falsely advertising garments as Cashmere, both on its website and in emails it sends to consumers – Etsy further misrepresents that consumers of the Purported Cashmere Garments can “[s]hop confidently,” that is only “in the rare case that something goes wrong,” and that they have “Protection” if the Purported Cashmere Garment they order “isn’t as described,” as represented below – which is not true, and is affirmatively misleading:



Etsy Purchase Protection

Easily get help in the rare case that something goes wrong when shopping from a small business.

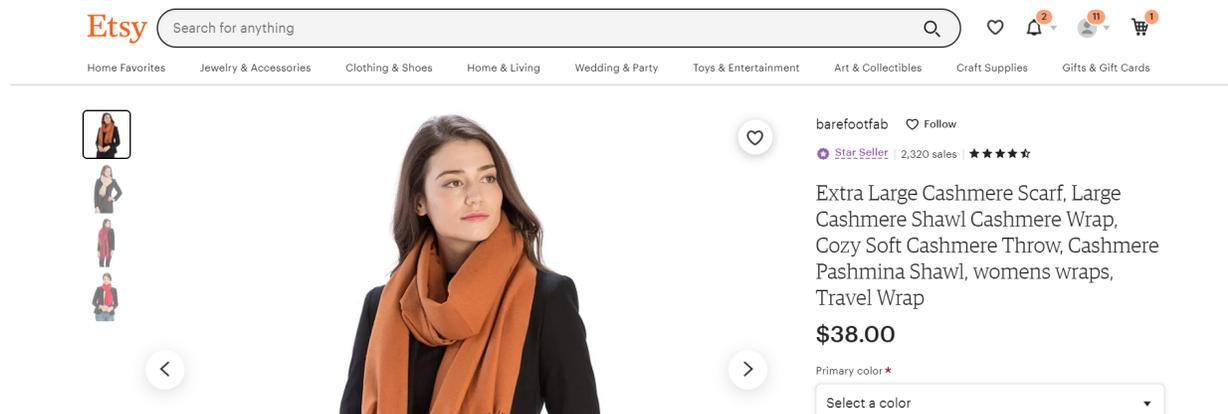
What's eligible for Etsy Purchase Protection:

- Your order doesn't match the item description or photos
- Your item arrived damaged
- Your item didn't arrive or was lost in the mail



24. The reasons that the above-quoted representations are false and misleading include the fact that, as Etsy is well aware, (i) consumers have no ability to determine on their own that the garment they purchase in response to this Etsy advertisement “isn’t as described” – *i.e.* is not Cashmere – without laboratory testing that most would have no ability to obtain, and would have no reason to seek based on Etsy’s simultaneous representation that such problems are “rare”; (ii) as discussed further below, it is not “rare” that “something goes wrong” in the form of Etsy falsely describing non-Cashmere goods as “Cashmere” in its advertisements, it is a common and widespread Etsy practice; and (iii) Etsy currently provides no “Protection” whatsoever to its customers against such false advertising and deception.

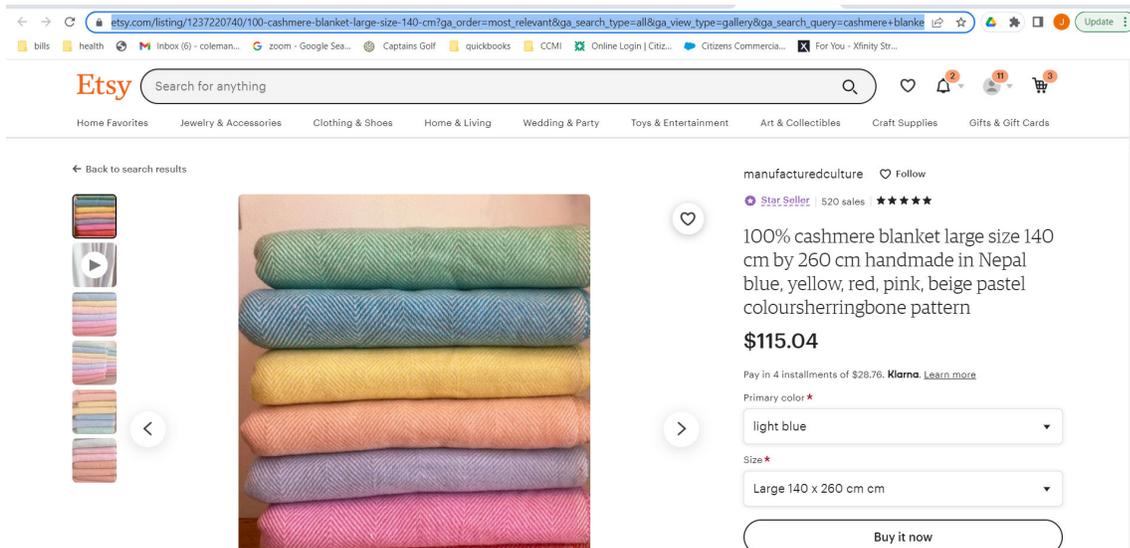
25. Another example of Etsy’s false and misleading advertising, and its aiding and abetting of and conspiring with others to accomplish it, is Etsy’s advertising of a type of scarf designated CCMI 22.109-CA-US, which is 100% polyester, as “Cashmere” below:



along with the same series of additional false and deceptive advertising misrepresentations by Etsy that accompanied Etsy’s advertisement of the above-referenced CCMI 22.108-CA-US CCMI – including that purchasers of this purported Cashmere product can “[s]hop confidently,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described” – all of which are false and deceptive in

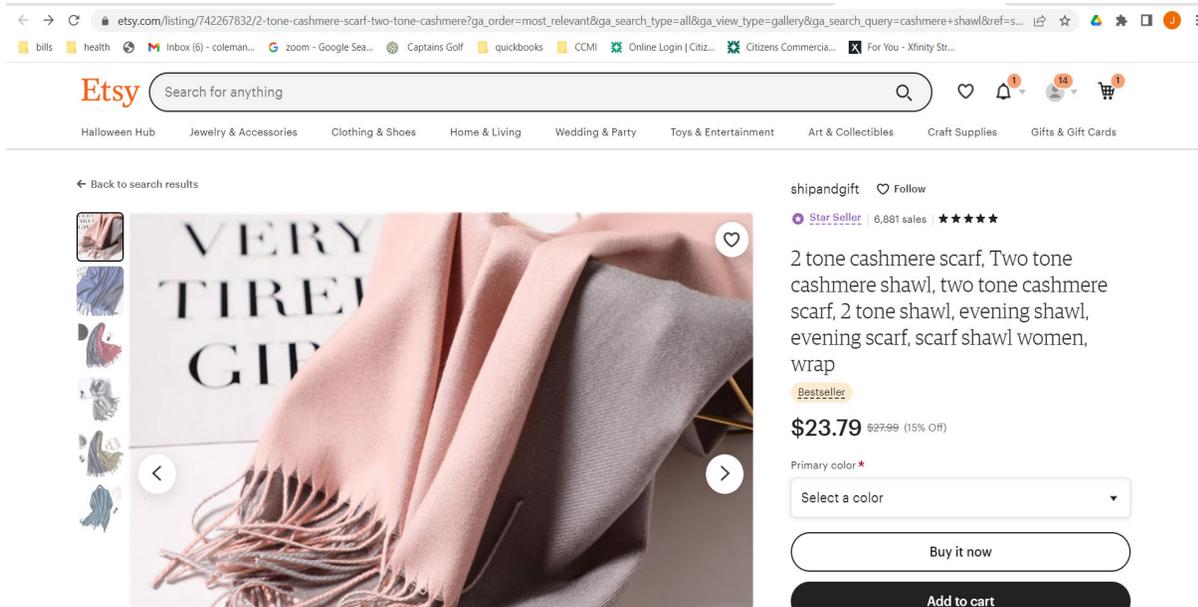
part for the same reasons as the ones used in Etsy's advertisement of CCMI 22.108-CA-US.

26. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is Etsy's advertising of a type of blanket, designated as CCMI 22.111-CA-US, which testing shows is 81% nylon and 19% wool, with no Cashmere, that is falsely advertised by Etsy as "100% Cashmere" as follows:



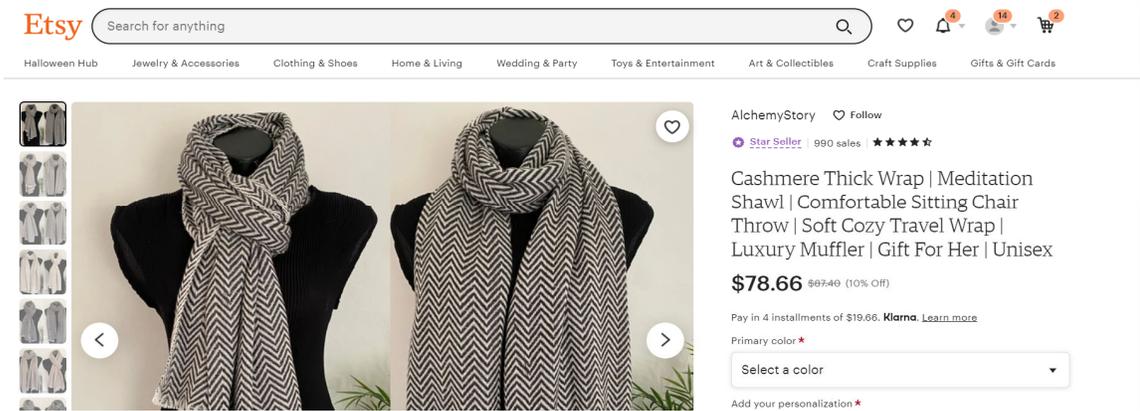
Again, in this same advertisement Etsy assures consumers that they can rely on the above information, and that Etsy wants them to rely on that information, by deceptively misrepresenting that consumers of this purported Cashmere product being advertised by Etsy can "[s]hop confidently," that it is only "in the rare case" that "something goes wrong," and that the consumers have "Protection" if the item they order "isn't as described" – even though Etsy is aware that average consumers have no ability to determine on their own, without laboratory testing that they would have no practical ability to obtain, and no reason to seek based on Etsy's assurance that problems are "rare," that the garment they have purchased in response to this Etsy advertisement "isn't as described" – in that it is not Cashmere.

27. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is Etsy’s advertising of a type of scarf, designated by CCMI as CCMI 22.112-CA-US, which testing shows is 100% synthetic and rayon, that is falsely advertised by Etsy multiple times as “Cashmere” as follows:



along with the same series of additional false and deceptive misrepresentations by Etsy that accompanied Etsy’s advertisement of CCMI 22.108-CA-US CCMI – including that purchasers of this purported Cashmere product can “[s]hop confidently,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described” – all of which are false and deceptive in part for the same reasons as the ones used in Etsy’s advertisement of CCMI 22.108-CA-US are false and deceptive.

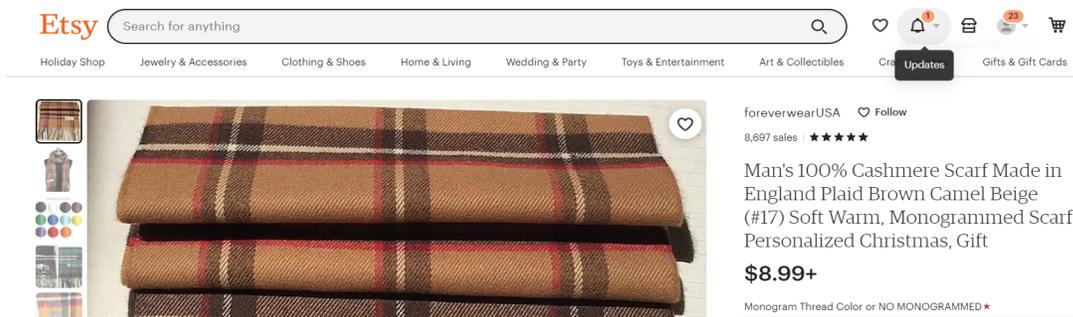
28. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is Etsy’s advertising of a type of shawl, designated by CCMI as CCMI 22.115-CA-US, which testing shows is 83% synthetic and no Cashmere, falsely advertised by Etsy as “Cashmere” follows:



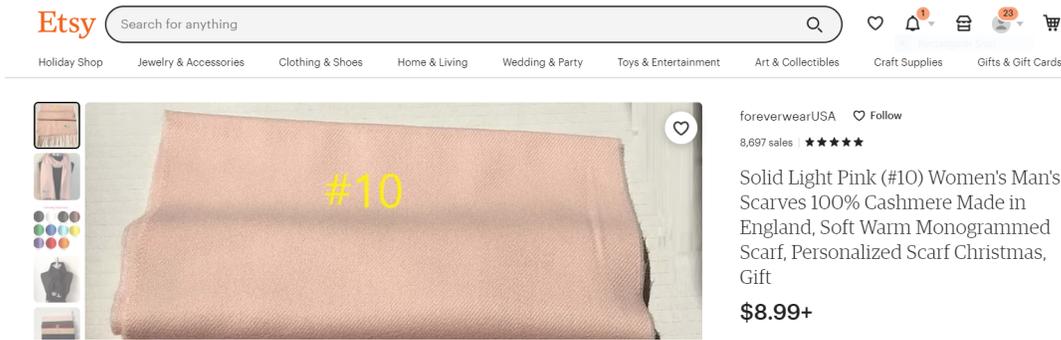
along with the same series of additional false and deceptive advertising misrepresentations by Etsy that accompanied Etsy’s advertisement of the above-referenced CCMI 22.108-CA-US CCMI – including that purchasers of this purported Cashmere product can “[s]hop confidently,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described” – all of which are false and deceptive in part for the same reasons as the ones used in Etsy’s advertisement of CCMI 22.108-CA-US.

29. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is Etsy’s advertising of a type of wrap/scarf, of which CCMI purchased three (3) samples, designated CCMI 22.126-CA-US (brown-black-red-white plaid colored), CCMI 22.127-CA-US (pink), and CCMI 22.128-CA-US (light blue), which testing shows is 100% acrylic – which is being falsely advertised by Etsy as “100% Cashmere” as shown below:

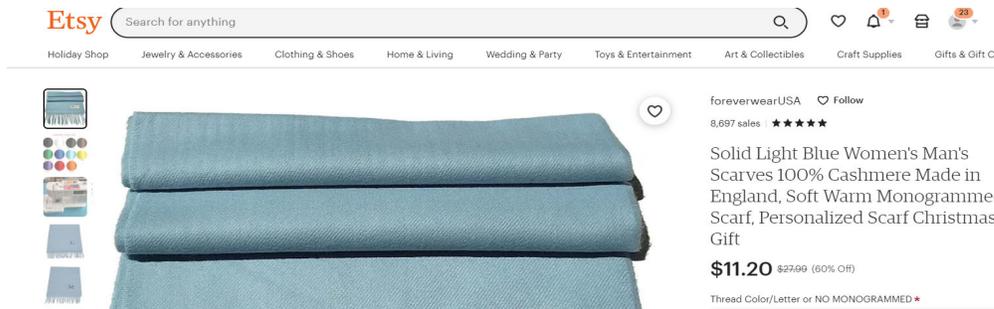
CCMI 22.126-CA-US



CCMI 22.127-CA-US



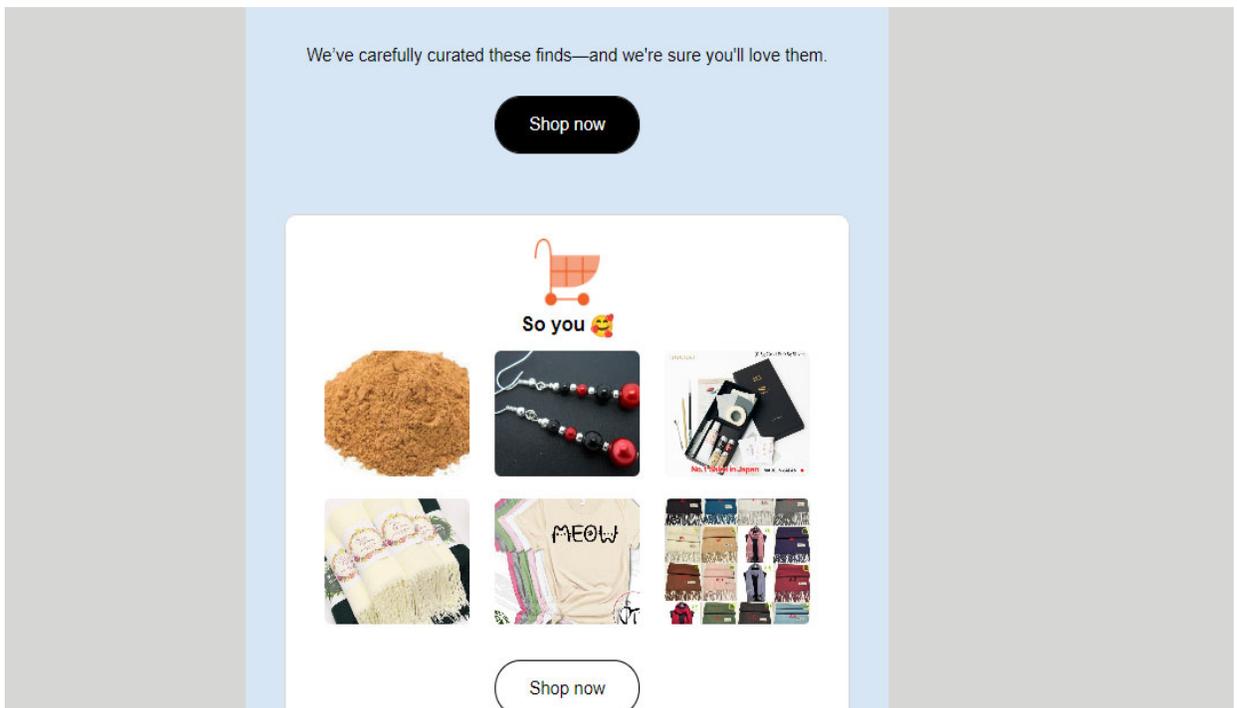
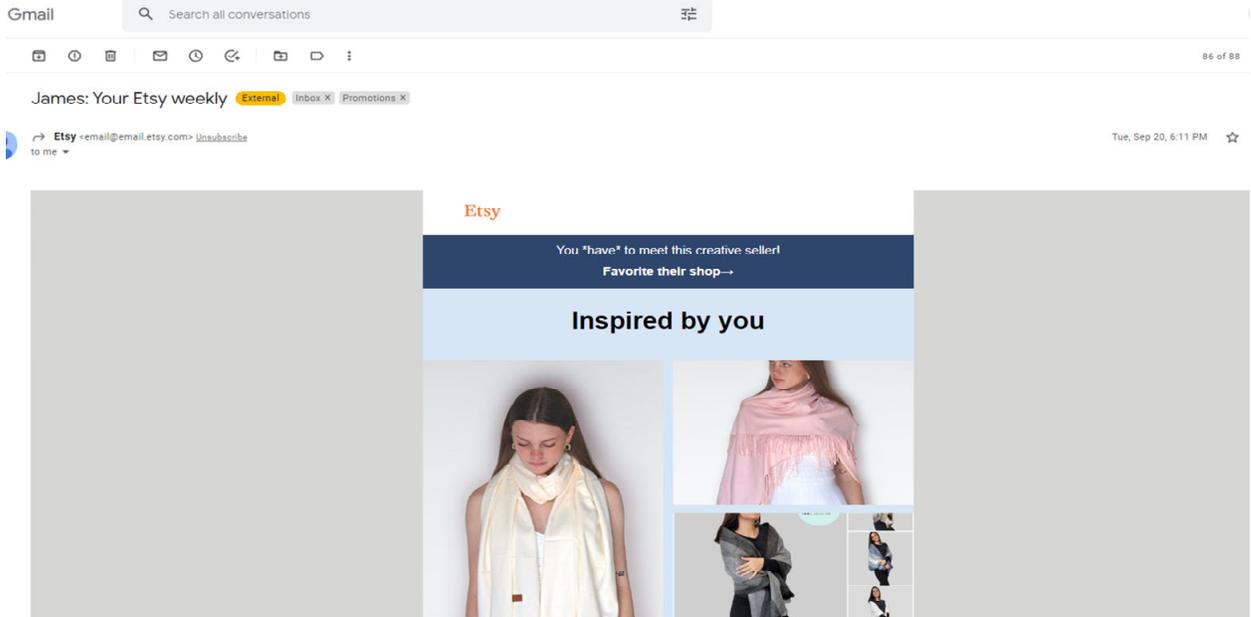
CCMI 22.128-CA-US

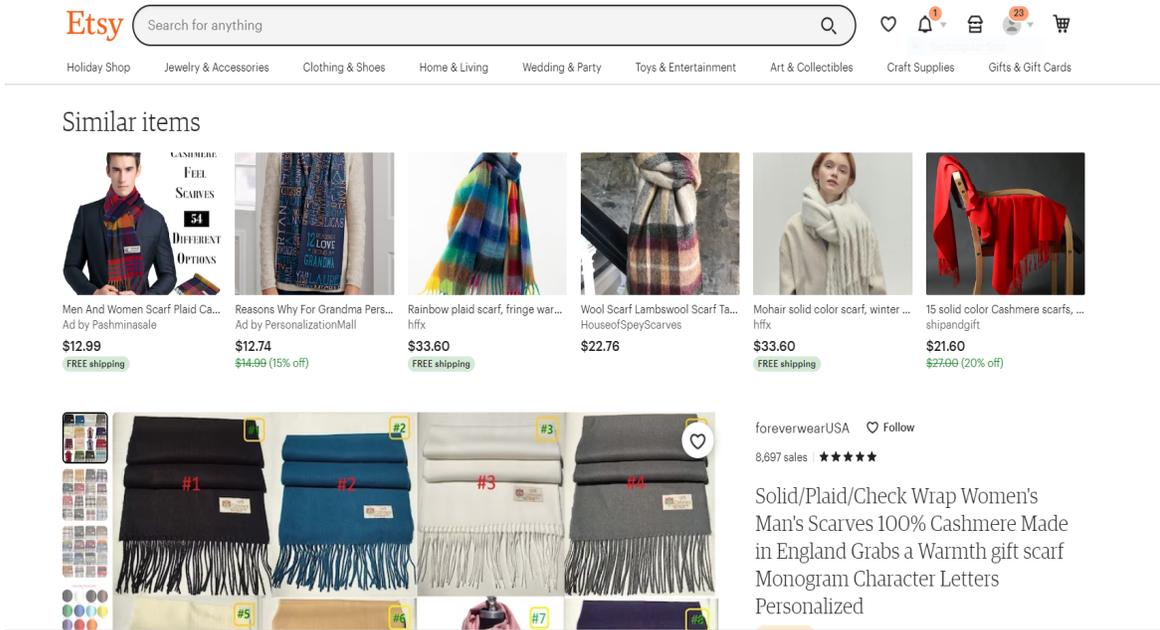


Each of the above Etsy advertisements also included the same series of additional false and deceptive advertising misrepresentations by Etsy that accompanied Etsy’s advertisement of the above-referenced CCMI 22.108-CA-US CCMI – that purchasers of this purported Cashmere product can “[s]hop confidently,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described” – all of which are false and deceptive for the same reasons as the ones used in Etsy’s advertisement of CCMI 22.108-CA-US, and the other garments identified above, are.

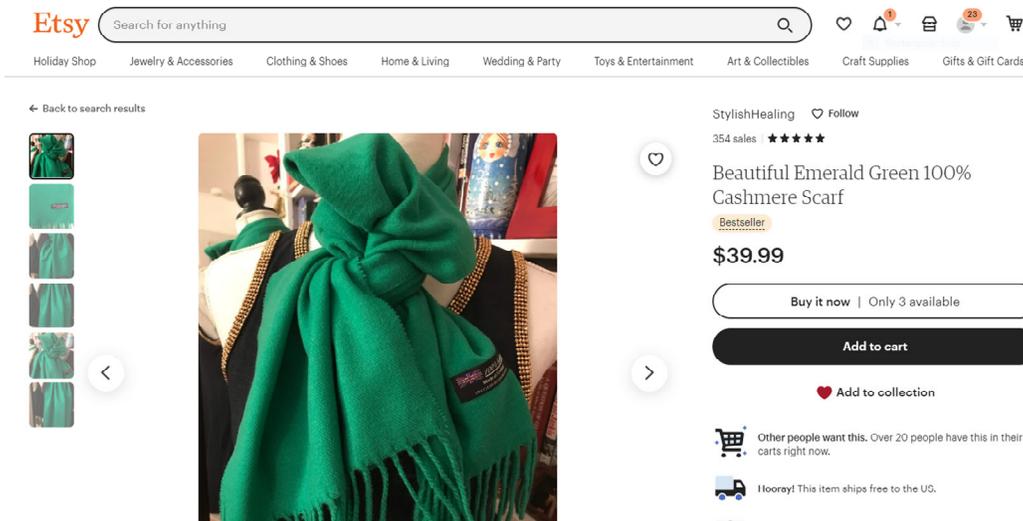
30. Etsy also falsely represented to CCMI official James Coleman that CCMI 22.126-CA-US, CCMI 22.127-CA-US, and CCMI 22.128-CA-US were Cashmere in an unsolicited email he received from Etsy on Sept. 20, 2022, which was not posted anywhere on the internet, but rather was a private communication just to Mr. Coleman, again falsely representing that the

Purported Cashmere Garments are “100% Cashmere” or “Cashmere,” and further representing that Etsy had “carefully curated these finds” for Mr. Coleman, who had previously purchased Purported Cashmere Garments on the site, and “is sure you’ll love them,” as follows:





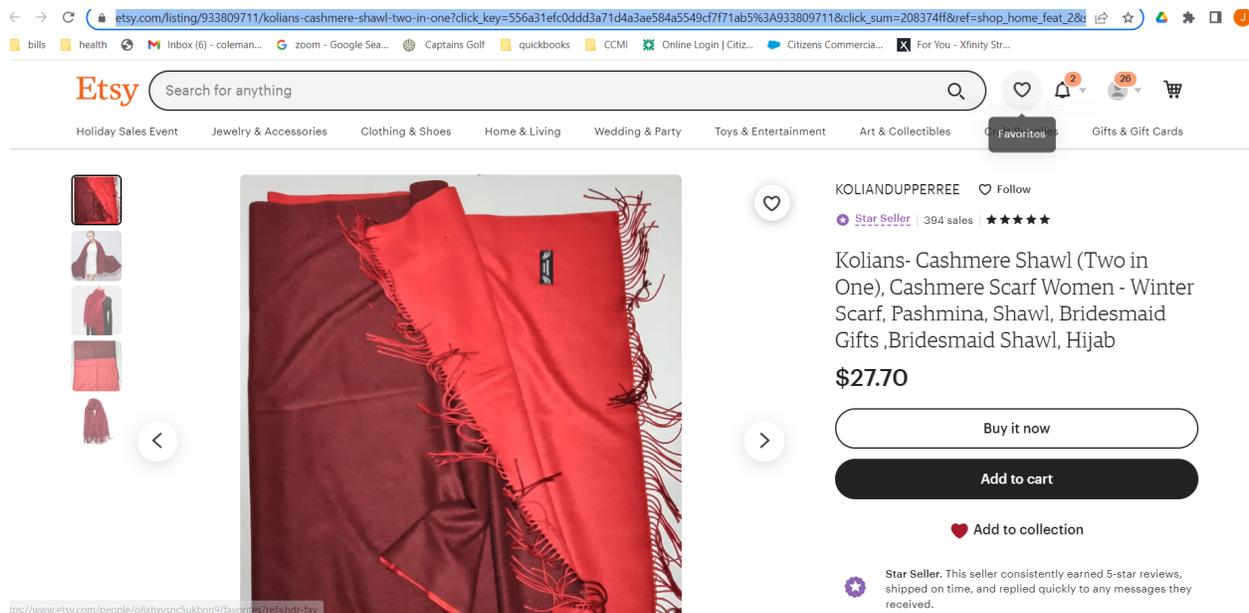
31. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is Etsy's advertising of a type of scarf marked by me as CCMI 22.159-CA-US, which testing shows is also 100% acrylic, but is advertised by Etsy as follows:



along with the same series of additional false and deceptive advertising misrepresentations by Etsy that accompanied Etsy's advertisement of the above-referenced CCMI 22.108-CA-US

CCMI – including that purchasers of this purported Cashmere product can “[s]hop confidently,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described” – all of which are false and deceptive in part for the same reasons as the ones used in Etsy’s advertisement of CCMI 22.108-CA-US, and the other garments identified above, are false and deceptive.

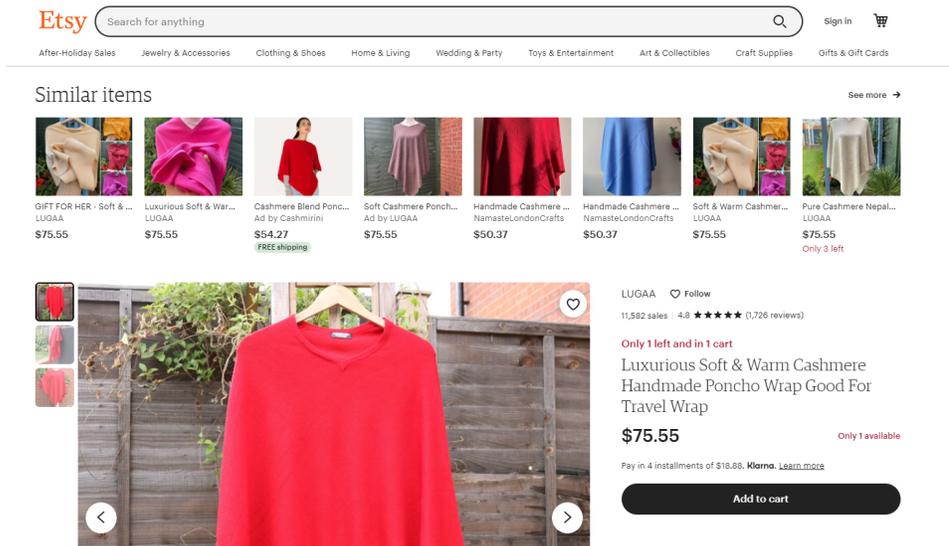
32. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is its advertising of a type of scarf, designated by me as CCMI 22.160-CA-US, which testing shows is 100% synthetic, but is falsely advertised by Etsy as follows:



along with the same series of additional false and deceptive advertising misrepresentations by Etsy that purchasers of this purported Cashmere product can “[s]hop confidently,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described” – all of which are false and deceptive in part for the same reasons as the ones used in Etsy’s advertisement of CCMI 22.108-CA-US, and the other garments identified above, are false and deceptive.

33. As Etsy is well aware, (i) consumers have no ability to determine on their own that the garment they purchase in response to this Etsy advertisement “isn’t as described” – *i.e.* is not Cashmere – without laboratory testing that most would have no ability to obtain, and would have no reason to seek based on Etsy’s simultaneous representation that such problems are “rare”; (ii) as discussed further below, it is not “rare” that “something goes wrong” in the form of Etsy falsely describing non-Cashmere goods as “Cashmere” in its advertisements, it is a common and widespread Etsy practice; and (iii) Etsy currently provides no “Protection” whatsoever to its customers against such false advertising and deception.

34. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is Etsy’s advertising of type of scarf, designated by me as CCM1 22.161-CA-US, which testing shows is a counterfeit item consisting of 65% synthetic (nylon and rayon) and 35% ordinary wool, and not Cashmere, but is falsely advertised by Etsy as “Cashmere” as follows:



When CCM1 purchased this item in October 2022, as shown below, Etsy’s advertisement priced it at \$49, also represented it as “Cashmere” as shown below:



and as with the other advertisements discussed above, assured consumers that they could rely on that information, and that Etsy intended them to rely on that information, by stating, right underneath the shipping arrival dates that most consumers of garments looks at when ordering online, as shown below, that I could “shop confidently on Etsy” and had “Purchase Protection” if “something goes wrong”:

<u>Estimated arrival</u>	Cost to ship
Oct 29-Nov 12	\$11.79

Etsy offsets carbon emissions from shipping and packaging on this purchase.



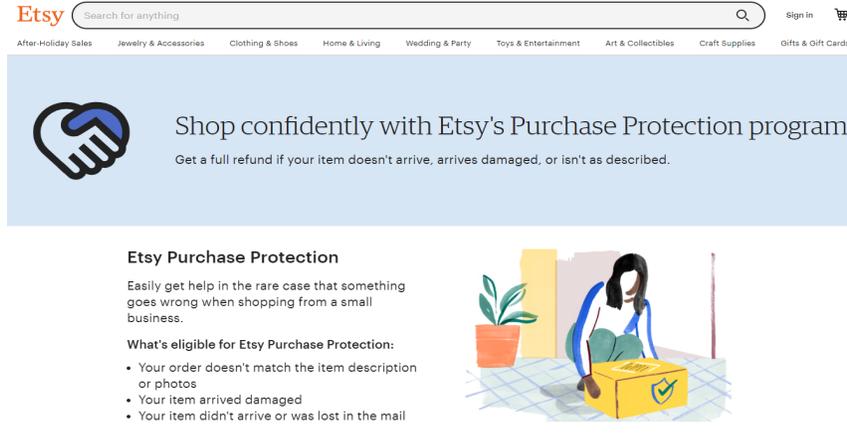
Etsy Purchase Protection: Shop confidently on Etsy knowing if something goes wrong with an order, we've got your back for all eligible purchases — [see program terms](#)

That representation by Etsy, as shown below, was accompanied by a link “see program terms”



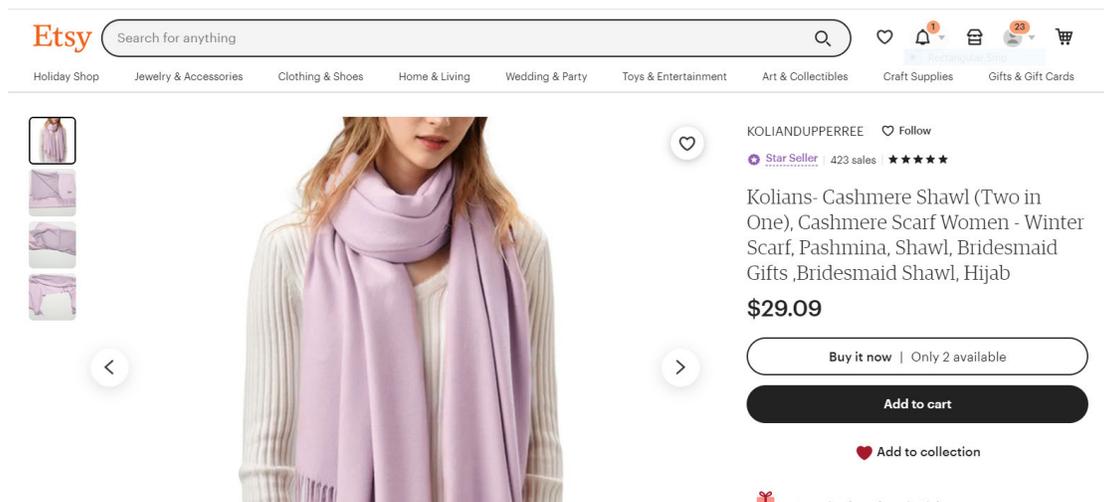
Etsy Purchase Protection: Shop confidently on Etsy knowing if something goes wrong with an order, we've got your back for all eligible purchases — [see program terms](#)

which when clicked led to a page where Etsy further misrepresented that consumers of Cashmere can “[s]hop confidently,” that is only “in the rare case that something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described”:



In fact, the above statements by Etsy, made in connection with its advertising of purported “Cashmere” products, are both false and deceptive for the reasons described above, and Etsy is providing no “Protection” against its widespread false advertising of synthetic garments as “Cashmere” and “100% Cashmere.”

35. Another example of this false and misleading advertising by Etsy, and its aiding and abetting of and conspiring with others to accomplish it, is its advertising of a type of scarf, designated by CCMI as CCMI 22.162-CA-US, which testing shows is 100% synthetic, but is falsely advertised by Etsy as follows:



along with the same series of additional false and deceptive advertising misrepresentations by

Etsy that accompanied Etsy’s advertisement of the above-referenced CCMI 22.108-CA-US CCMI – including that purchasers of this purported Cashmere product can “[s]hop confidently,” that it is only “in the rare case” that “something goes wrong,” and that the consumers have “Protection” if the item they order “isn’t as described.”

36. In the case of each of the above examples, CCMI purchased the relevant garment, marked it for identification with its CCMI number, and sent it for testing to a testing laboratory known by CCMI to be reliable and capable of testing garments for their textile content, including whether they are Cashmere or contain Cashmere. The fabric in the immediately above CCMI 22.162-CA-US, for example, was obtained in November 2022 and first sent for testing to the KE’KEN Textile Testing and Certification Center in Japan, a highly qualified testing laboratory, and was reported not to be Cashmere, which reported it to be 100% synthetic material (specifically a blend of polyester and rayon).

37. The following is a copy of the photograph of the garment designated CCMI 22.162-CA-US, showing where the test sample was taken from it:



and the following is a copy of the test report KE’KEN Textile Testing and Certification Center in Japan where CCMI sent the sample for testing, reporting that it is not Cashmere, but rather is 100% synthetic material, specifically a blend of polyester and nylon:

No. CB 22-10060 TA

CERTIFICATE OF TEST

Date : November 18, 2022

Messrs. CASHMERE AND CAMEL HAIR
MANUFACTURERS INSTITUTE

We certify that under attached specimen have been tested by the KE'KEN Textile Testing & Certification Center, and result of test as follows.

Specimen	Items	Result of Test	
	Composition (JIS L 1030-2)	Polyester	69.1 %
		Rayon	30.9 %

< #22.162-CA-US >
C/# ---

----- Leave this space blank -----

JWIF

Signed : T. Kato

Chubu Inspection Office

KE'KEN Textile Testing
& Certification Center



38. In early December 2022, CCMI also sent a sample of the same garment, CCMI 22.162-CA-US, to an expert retained by CCMI in connection with this case, Dr. Martin Bide,

whose affidavit has been filed in this case. He also reported that the garment is not Cashmere, but rather is a 100% blend of synthetic fiber, polyester or nylon, and rayon.

39. As with the above CCMI 22.162-CA-US, upon its receipt of each of the above Purported Cashmere Garments in the Fall of 2022, CCMI assigned and labeled it with a unique number (e.g. CCMI 22.108-CA-US, CCMI 22.109-CA-US, etc.). The numbers that CCMI assigned to these garments and samples were CCMI 22.108-CA-US, CCMI 22.109-CA-US, CCMI 22.111-CA-US, CCMI 22.112-CA-US, CCMI 22.115-CA-US, CCMI 22.116-CA-US, CCMI 22.126-CA-US, CCMI 22.127-CA-US, CCMI 22.128-CA-US, CCMI 22.159-CA-US, CCMI 22.160-CA-US, CCMI 22.161-CA-US, and CCMI 22.162-CA-US. In each case, CCMI cut a sample from the garment and sent it for testing, with its identifying CCMI number attached to it, to the KE'KEN Textile Testing and Certification Center in Japan or Intertek Testing Services in China.

40. In October 2022, CCMI received a reports from Intertek Testing Services reporting that the actual content of CCMI 22.108-CA-US was 83% polyester and 17% rayon, not Cashmere; that CCMI 22.109-CA-US was 100% polyester, not Cashmere; that CCMI 22.111-CA-US was 81% nylon and 19% wool, not Cashmere; and that CCMI 22.126-CA-US, CCMI 22.127-CA-US, CCMI 22.128-CA-US were all 100% acrylic, a flammable petroleum-based synthetic fiber, not Cashmere. Also in October 2022, CCMI received reports from the KE'KEN Textile Testing and Certification Center reporting that the actual content of CCMI 22.112-CA-US was 81.1% polyester and 18.9% rayon, not Cashmere; that the actual content of CCMI 22.115-CA-US was 67.5% nylon, 15.1% rayon, and 17.4% wool, not Cashmere.

41. Then in November 2022, CCMI received reports from the KE'KEN Textile Testing and Certification Center reporting that the actual content of CCMI 22.159-CA-US was

100% acrylic, not Cashmere; that CCMI 22.160-CA-US was 70.7% polyester and 29.3% rayon, not Cashmere; that CCMI 22.161-CA-US was 40.1% nylon, 29.5% rayon, and 30.4 % wool, not Cashmere; and that CCMI 22.162-CA-US was 69.1% polyester and 30.9% rayon, not Cashmere.

42. In December 2022, CCMI cut, labeled with their CCMI number, and sent samples of all of the above garments to Dr. Martin Bide, Ph.D for further fiber content analysis for this case, and he confirmed the results reported by both the KE'KEN lab in Japan and the Intertek Lab in China as to the above CCMI samples, stating in his affidavit in this case, which I have read, that CCMI 22-108-CA-US is a blend of synthetic and rayon fibers, not Cashmere; that CCMI 22-109-CA-US, is 100% synthetic fiber, and is also not Cashmere; that CCMI 22-111-CA-US is a blend of approximately 80% synthetic fibers (polyester or nylon) and 20% wool, and is not Cashmere; that CCMI 22-112-CA-US, is composed of a blend of synthetic and rayon fibers, and is not Cashmere; that CCMI 22-115-CA-US, is a blend of approximately 80% synthetic fiber (such as polyester or nylon) and rayon, and approx. 20% ordinary wool, and is not Cashmere; that CCMI 22-126-CA-US, CCMI 22-127-CA-US, CCMI 22-128-CA-US, and CCMI 22-159-CA-US, are each 100% acrylic, and are not Cashmere; that CCMI 22-160-CA-US is a synthetic blend (polyester and nylon); that CCMI 22-161-CA-US is a blend of approx. 65% synthetic fiber and rayon, and approx. 35% wool, not Cashmere; and that CCMI 22-162-CA-US is a blend of synthetic and rayon fibers, and is not Cashmere.

43. As noted below, CCMI has been repeatedly advising Etsy for almost nine months now, both in writing and in a discussion earlier this year, that it is falsely advertising and falsely representing garments and other textile products as Cashmere when they are not Cashmere, that it is causing serious harm, and that it is illegal and must stop. In each case, CCMI has supported its claims with test results proving that Etsy's advertising and factual representations are false,

and that it has a major problem in that it is falsely advertising huge quantities of counterfeit Purported Cashmere Garments. As a result, Etsy is fully aware, and has been aware for months, that it is engaged in unlawful false advertising, and is trafficking in falsely described goods in violation of federal and state laws, with respect to the above products, because CCMI has repeatedly informed Etsy of this fact in multiple written communications sent to it over the past nine (9) months, and in a discussion earlier this year.

44. Attached hereto as Exhibit A, for example, is a letter dated April 18, 2022 that CCMI sent on that date to Joshua Silverman, the CEO of Etsy, expressly informing him of this fact, and providing him with the factual and legal basis for CCMI's claims -- including reliable test reports from Intertek (a lab that has demonstrated its reliability in CCMI round trials) showing that multiple garments purchased by CCMI this year (and not included in the above examples), that were advertised by Etsy on www.etsy.com as "100% Cashmere," including garments designated by me as CCMI #'s 22.048-CA-US, 22.049-CA-US, 22.054-CA-US, 22.055-CA-US, 22.056-CA-US, were in fact not Cashmere, but rather were 100% synthetic (e.g. polyester, acrylic, nylon, etc), or in one case 89% synthetic (nylon) and 11% wool.

45. In addition, attached hereto as Exhibit B is an email dated May 26, 2022 that CCMI sent on that date to an Etsy official named "Gideon," in which CCMI informed the Etsy official that although he claimed that the items identified in CCMI's letter of April 18, 2022 had been removed from sale, this was not the case, and in which CCMI identified other types and categories of synthetic and synthetic blend garments, such as CCMI #22.048-CA-US and CCMI #22.068-CA-US, that were still being falsely advertised by Etsy as "100% Cashmere."

46. In that same Exhibit B correspondence, in response to the suggestion in the Etsy official Gideon's May 3, 2022 email to CCMI that Etsy had no responsibility for its false

advertising of these products, CCMI notified Etsy that

... the disclaimers in the last paragraph of your letter suggesting that Etsy is nothing more than a group of sellers “who run their own shops, create their own policies, and are responsible for their inventory, shipments, and complying with the law” **are not correct.** Etsy itself earns its income from marketing and selling these falsely advertised products. **In doing so, it is engaging in unfair competition, infringing on the intellectual property and commercial rights of legitimate cashmere manufacturers, and violating both Massachusetts and federal law.** Moreover, it is not just a “marketplace” provider repeating statements given to it by others; rather, **it is acting as the retailer of the purported cashmere garments in issue here, is making its own false representations about them,** for which it is fully responsible.

Please advise within seven (7) days if Etsy will take the corrective actions requested above. Thank you.

(emphasis added)

47. Thereafter, in an email dated June 9, 2022 that CCMI sent to Etsy on that date, a copy of which is attached hereto as Exhibit C, CCMI identified additional Purported Cashmere Garments that Etsy was falsely advertising, and again reiterated that Etsy was responsible and was required to stop doing so:

... [N]one of the items purchased on the Etsy platform ... contain any cashmere although they are represented as 100% Cashmere. The purchase confirmations and test reports for all the items are attached..

Finally, once again we reiterate our position as stated in our email of May 26, 2022:

“the disclaimers in the last paragraph of your letter suggesting that Etsy is nothing more than a group of sellers “who run their own shops, create their own policies, and are responsible for their inventory, shipments, and complying with the law” are not correct. Etsy itself earns its income from marketing and selling these falsely advertised products. In doing so, it is engaging in unfair competition, infringing on the intellectual property and commercial rights of legitimate cashmere manufacturers, and violating both Massachusetts and federal law. Moreover, it is not just a “marketplace” provider repeating statements given to it by others; rather, it is acting as the retailer of the purported cashmere garments in issue here, is making its own false representations about them, for which it is fully responsible.”

(emphasis in original).

48. In response to the above, CCMI received several emails from someone at Etsy, copies of which are attached hereto as Exhibit D, who said he was “Sascha at Etsy’s Content Moderation Team.” On June 28, 2022, he informed CCMI that some of the falsely advertised items CCMI had identified had been removed from sale, but that

before we can take additional action on other listings in the shop, we will need you to provide one of the following:

- Listing URL’s for any additional listings that are non-compliant
- Direct contact information to your organization we can provide the seller should they have questions regarding the compliance of their items.

Once we receive this information from you, we can move forward with the rest of your request.

Etsy already had CCMI’s “direct contact information” to provide to anyone it chose, however; and what it was suggesting – that CCMI should in effect “police” Etsy’s website and its suppliers to identify products falsely advertised by Etsy as Cashmere, instead of Etsy taking steps to stop falsely advertising these products itself – was not a proper request, nor was it lawful for Etsy to demand that CCMI agree to this before taking “additional action” to stop its own rampant false advertising of the Purported Cashmere Garments. Nevertheless, this continued to be Etsy’s position in communications and conferences with CCMI on the subject of its false advertising in the months that followed.

49. During those months that followed, massive quantities of products falsely advertised by Etsy as “Cashmere” and “100% Cashmere” continued to be, and now also continue to be, advertised, promoted and sold by Etsy, both through direct ad emails to consumers not posted to the internet, and on Etsy’s multiple websites, which accept and process payment for all those falsely advertised goods, keep a significant share of each purchase price paid for each of

them, and charges additional fees for its advertising and promotion of them – to the point where its annual revenues are well in excess of \$2 Billion.

50. In this regard, Defendant Etsy is itself an information content provider that created and developed, in whole or in part, the aforesaid false and misleading commercial information that has been and is being transmitted to the public in the Etsy Ads for the Purported Cashmere Garments. Etsy is also the effective retailer of the Purported Cashmere Garments. Among other things, in return for profiting from each sale of the Purported Cashmere Garments, which it does, Etsy provides, in connection with the advertising and sale of the Purported Cashmere Garments, many of the services traditionally provided by retailers. It accepts and processes orders and payments for the Purported Cashmere Garments as a retailer does. It offers various satisfaction guarantees and price discounts concerning them as a retailer does, and it directs consumers who evidence an interest in Cashmere to the Purported Cashmere Garments in an effort to increase sales of the Purported Cashmere Garments, as a retailer does, and it uses its worldwide reputation to increase and promote those sales.

51. On October 7, 2022, after all CCMI's prior efforts to persuade Etsy to take responsible action to address the problem of its epidemic-level false advertising of cheap synthetic and synthetic-wool blends as "Cashmere" and "100% Cashmere" on websites and in emails all over the world, CCMI sent a further demand letter to Etsy's CEO Joshua Silverman, attaching still more examples of Etsy's false advertising of products as "Cashmere" when they are not, and Etsy is aware they are not. In that letter, CCMI informed Etsy's CEO that:

... We have written to you before, and spoken to your colleagues at Etsy, about the problem of Etsy falsely advertising and selling products that are misrepresented as "Cashmere" when in fact they are not Cashmere, but rather are made of synthetic material (such as nylon, rayon, polyester, etc.), or synthetic material blended with small quantities of ordinary wool. Earlier this year, as part of its routine industry testing activities, CCMI began purchasing

garments advertised and offered for sale on Etsy as “Cashmere” and/or “100% Cashmere,” and having them tested to determine their textile content.

As we reported to you in my letter of April 18, 2022, none of the purported “Cashmere” garments that we purchased on Etsy at that time were actually Cashmere. Instead they were made either entirely of synthetic material (such as nylon, rayon, polyester, etc.), or synthetic material blended with small quantities of wool. We therefore complained to Etsy and asked that it cease and desist from continuing to falsely advertise products as “Cashmere” when in fact they were not Cashmere. Etsy has not done so, however, and is continuing to advertise and sell thousands of these falsely labeled products on its website, and to make substantial amounts of money doing so.

In August, 2022, for example, I again purchased several items advertised as Cashmere on Etsy, **as shown in the attached document collecting our photographs and test reports on them**, and had them tested for content. After receiving the items, and assigning each of them a CCMI number, I personally cut samples from the purchased items, labeled them with the following CCMI reference numbers and sent them to KE’KEN Textile Testing and Certification Center (“KE’KEN”), a highly qualified textile testing laboratory, for testing to determine their actual fiber content. The results prove that **none of them contains any Cashmere**. Specifically, as shown in the attached document, KE’KEN has reported that:

CCMI # 22.102-CA-US is **not** Cashmere, but rather is 90.8% synthetic nylon material blended with 9.2% ordinary wool.

CCMI # 22.103-CA-US is **not** Cashmere, but rather is 88.6% synthetic material (consisting of 73% Nylon and 15.6% Rayon), and 11.4% ordinary wool; and

CCMI # 22.104-CA-US is **not** Cashmere, but rather is 100% synthetic material consisting entirely of Polyester.

All of these products are therefore being falsely advertised and sold by Etsy in violation of the Lanham Act, 15 U.S.C. §1125(a), which prohibits false and deceptive advertising, and the Wool Products Labeling Act of 1939, ...

Etsy’s marketing and sale of that are falsely advertised as “Cashmere” and do not identify their true fiber content is a violation of the above statutes, and is harmful to Members of CCMI. Further, these articles are also illegally labeled as none of the items are labeled with the required RN number with the Federal Trade Commission database identifying the maker or importer.

CCMI hereby demands that Etsy immediately remove from sale, and/or correctly describe as to their fiber content, all items labeled as or represented to be “Cashmere” on Etsy websites, and immediately stop advertising as “Cashmere” any textile products that are not Cashmere -- regardless of whether

CCMI has specifically identified them as falsely advertised or not -- because it is Etsy's obligation to do so.

At this point, having given Etsy ample notice of this problem, CCMI respectfully reserves the right to take appropriate legal action against Etsy without further notice if it fails to promptly remedy this situation, which the evidence suggests is both serious and widespread. CCMI is currently testing multiple additional samples of textile products that Etsy is advertising and selling as "Cashmere," and will rely on the results of its tests of those products as well in seeking a legal remedy for this problem.

(emphasis and boldfacing in original), and also stated that CCMI was prepared to take legal action without further notice if Etsy failed to remedy this problem. The test results on the falsely advertised items referred in that letter, which were CCMI #'s 22.102-CA-US, 22.103-CA-US, and 22.104-CA-US, are also attached as part of Exh. E hereto.

52. In response, on October 13, 2022, CCMI received the email attached hereto as Exhibit F from an individual at Etsy who identified himself as "Fabio Tarud, Director, Assistant General Counsel, Intellectual Property & Litigation" of Etsy. In it, he stated that he believed Etsy's actions in removing certain advertisements for which CCMI had provided test reports showing that the items were not Cashmere, and were falsely advertised, "far exceed our legal obligations," and that "[w]e plan to provide a fuller response to the points in your [October 7] letter shortly." Neither he nor Etsy ever provided such a "fuller response," however, and the epidemic level false advertising of cheap synthetic and synthetic/wool blend goods by Etsy as "Cashmere" and "100% Cashmere" has continued, as evidenced by the multiple new examples identified above in this Complaint, all currently advertised and purchased and tested within the last several months.

53. The aforesaid unlawful acts and omissions of Defendant Etsy have caused and are causing actual, substantial, and irreparable harm and injury to CCMI, its Members, the Cashmere market, and the general public. This harm includes the reduced sales suffered and being suffered

by legitimate Cashmere fabric and garment manufacturers, such as the current Members of the Cashmere Institute, whose names are currently listed on its website, www.cashmere.org (the “CCMI Members”), when their prices are undercut by the advertising and sale of the Purported Cashmere Garments currently being advertised by Etsy – which can be produced at only a fraction of the cost of real Cashmere products, and therefore can be offered for sale and sold at much lower prices.

54. This harm to CCMI Members, and to CCMI itself, from Etsy’s aforesaid unlawful acts and omissions also includes the fact that the reputation of Cashmere as a fine fiber and fabric, and the reputation of Cashmere garments – which includes that they are uniquely soft, elastic, durable, lightweight, warmer than wool, breathable, moisture wicking (making them comfortable in all climates, even warm ones), non-scratchy, wrinkle-resistant, elegant in appearance (because of their natural draping due to their light weight and wrinkle resistance), hypoallergenic, and fire resistant – is sullied and diminished by fake garments like the Purported Cashmere Garments falsely advertised by Etsy as Cashmere when they are actually not Cashmere, which are made of cheaper, less desirable clothing materials such as 100% acrylic or polyester-rayon-nylon blends which do not perform as well as real Cashmere products do.

55. In this regard, acrylic is a less warm, petroleum-based, synthetic fiber which is more flammable than Cashmere, is not self-extinguishing (*i.e.* it will burn continuously once set alight, unlike Cashmere which will self-extinguish when removed from flame), and is made with fossil fuel-based chemicals that can be absorbed through the skin. Polyester, in contrast to Cashmere, is not as breathable, tends to stick to perspiring skin and hold odors more, is temperature sensitive, is subject to dye migration, and can cause skin irritation. Nylon, in contrast to Cashmere, can melt easily when exposed to heat, does not absorb moisture, and is

made of petrochemicals, formaldehyde, and other chemicals . Rayon, in contrast to Cashmere, is weak when wet, wrinkles easily unless treated, is susceptible to mildew, stretches, and is made with regenerated cellulose, such as wood pulp, using carbon disulphide in the manufacturing process.

56. The continued false advertising of the Purported Cashmere Garments by Etsy, and the continued false advertising of them as “100% Cashmere” and “Cashmere” when they are not, has already caused and is causing all of the above continuing harm – which is virtually impossible to quantify in terms of monetary damages but is serious and irreparable – both to the Members of the Cashmere Institute and to CCMI itself, which depends on the good name and reputation of Cashmere in order to maintain its own good name and reputation, and in order to be effective in providing the services it provides both to the public and its Members.

57. The Defendant’s aforesaid and hereinafter-described false and deceptive representations, false and deceptive advertising, false and deceptive designations of origin, and misuse of the “Cashmere” “100% Cashmere” brand names and marks in connection with the marketing and sale of the Purported Cashmere Garments (hereinafter referred to, collectively, as “Unlawful Acts”) have proximately caused, are proximately causing, and unless stopped will continue to proximately cause significant, immediate, and irreparable harm to the Members of the Cashmere Institute (the “CCMI Members”) in part by reducing demand for their legitimate but necessarily more expensive competing real Cashmere products, which include competing Cashmere scarves, because the material used to make the counterfeit Purported Cashmere Garments is far less expensive than real Cashmere, can be produced at only a fraction of the cost of real Cashmere products, and therefore can be offered for sale and sold at much lower prices which divert potential consumers away from purchasing CCMI Members’ products.

58. The continued marketing and sale of the Purported Cashmere Garments, and the false advertising and promotion of them as “100% Cashmere” has already caused and is causing all of the above continuing harm – which is virtually impossible to quantify in terms of monetary damages but is serious and irreparable – both to the Members of the Cashmere Institute and to CCMI itself, which depends on the good name and reputation of Cashmere in order to maintain its own good name and reputation, and in order to be effective in providing the services it provides both to the public and its Members.

59. The Defendant’s Unlawful Acts have also caused, are causing, and unless stopped will continue to cause significant, immediate, and irreparable harm to the Cashmere Institute itself, and its commercial interests, by counteracting and undermining the commercial services it offers, counteracting and undermining its commercial efforts to preserve and protect the good name, reputation and integrity of Cashmere as a high quality fine specialty fiber, and undermining its commercial efforts to promote the use of Cashmere fiber, fabric, and garments notwithstanding their greater cost, and to safeguard the commercial interests of CCMI Members, the Cashmere industry, and the general public.

60. The Defendant’s Unlawful Acts have also caused, are causing, and unless stopped will continue to cause significant and irreparable harm to the Cashmere Institute itself and its commercial interests by damaging CCMI’s good name and reputation, its credibility in the marketplace, and its ability to provide its commercial services effectively (since many of them depend on the voluntary cooperation of third parties), and by diluting, blurring and tarnishing its famous name and trademark, and that of “Cashmere” itself.

CAUSES OF ACTION

COUNT I

(Violation of the Lanham Act, 15 U.S.C. §1125(a))

61. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

62. The Defendant's Unlawful Acts as described hereinabove constitute the use in commerce, in connection with goods and services, including the Purported Cashmere Garments, of literally false and misleading statements, and literally false and misleading descriptions and representations of fact, that are likely to deceive, and do in fact deceive, the public into believing, falsely, that the Purported Cashmere Garments are actually Cashmere, 100% Cashmere, or in some part Cashmere, which they are not, causing competitive injury and commercial detriment to CCMI and its Members, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

63. The Defendant's Unlawful Acts as described hereinabove also constitute the use in commerce, in connection with goods and services, including the Purported Cashmere Garments, of literally false and misleading statements, and literally false and misleading descriptions and representations of fact, that are likely to deceive, and do in fact deceive, the public into believing, falsely, that prospective purchasers of the Purported Cashmere Garments can "[s]hop confidently," that is only "in the rare case that something goes wrong," and that they have "Protection" if the Purported Cashmere Garment they order "isn't as described" – causing competitive injury and commercial detriment to CCMI and its Members, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

64. The statements quoted in the previous paragraph are literally false and/or false and misleading in part because, as Etsy is well aware, (i) consumers typically have no ability to determine on their own that a Purported Cashmere Garment they purchase in response to the

Etsy advertisement “isn’t as described” – *i.e.* is not Cashmere – without laboratory testing that most would have no ability to obtain, and would have no reason to seek based on Etsy’s simultaneous representation that such problems are “rare”; (ii) as discussed further below, it is not “rare” that “something goes wrong” in the form of the Purported Cashmere Garments not being “as described” in the Etsy advertisements, it is extremely common, as evidenced by the testing CCMI has done of the Purported Cashmere Garments; and (iii) Etsy currently provides no “Protection” whatsoever to its customers against such false advertising and deception, and in fact has refused to do so, which is why injunctive relief is needed.

65. The Defendant’s Unlawful Acts as described hereinabove also constitute the use by each Defendant, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), of words, terms, names, symbols, and devices, and false designations of origin, false and misleading descriptions of fact, and false and misleading representations of fact, which are likely to cause confusion, or to cause mistake, and/or to deceive as to the affiliation, connection, or association of the Purported Cashmere Garments with CCMI and its legitimate Cashmere manufacturer and distributor Members, and/or as to the origin, sponsorship, or approval of the Purported Cashmere Garments by CCMI and its legitimate Cashmere manufacturer and distributor Members, and/or their goods, services, or commercial activities.

66. The Defendant’s Unlawful Acts as described hereinabove also constitute the unlawful use by the Defendant, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), of words, terms, names, symbols, and devices, and false designations of origin, false and misleading descriptions of fact, and false and misleading representations of fact, which, in commercial advertising or promotion, misrepresent the nature, characteristics, qualities, or geographic origin of its or another’s goods, services, or commercial activities.

67. The Defendant's Unlawful Acts as described hereinabove have caused, are causing, and unless enjoined will continue to cause immediate and irreparable harm to the Cashmere Institute and its Members, and when committed outside the U.S. are having a substantial adverse effect on U.S. commerce. The enforcement of U.S. laws prohibiting Defendants Unlawful Acts will not conflict any foreign law applicable to the Defendant.

68. In the course of committing the Defendant's Unlawful Acts as described hereinabove, Etsy is making false and misleading descriptions of fact or representations of fact in commercial advertisements about its own or another's product that were and are material in that they are likely to influence the purchasing decision of consumers. Each such misrepresentation actually deceives or has the tendency to deceive a substantial segment of its audience; and Etsy has placed the false or misleading statements in interstate commerce.

69. Plaintiff CCMI's Members are selling products honestly that compete with the Purported Cashmere Garments being falsely advertised by Etsy, and have been and are likely to be injured as a result of the Defendants aforesaid false and misleading descriptions and representations of fact, either by direct diversion of sales or by a lessening of goodwill associated with their products.

70. The Defendant's Unlawful Acts as described hereinabove described were knowing, willful, and egregious, and have continued despite the Defendant's knowledge that they were illegal. Among other things, Defendant Etsy is knowingly trafficking in falsely described and falsely advertised goods, and is knowingly engaging in, participating in, and promoting the sale of the falsely advertised and described Purported Cashmere Garments, and financially benefiting therefrom, and simply disclaiming all responsibility for the counterfeiting — all to the serious detriment of CCMI and its Members, and to the general consuming public.

71. Notwithstanding Etsy’s refusal to accept responsibility for the above-described epidemic of falsely advertised and counterfeit Purported Cashmere Garments that it is misleadingly and deceptively presenting on Etsy websites throughout Massachusetts and elsewhere, it is legally responsible for this commercial misconduct, and is profiting enormously from it in violation of the Lanham Act – to the detriment of CCMI and its Members.

72. Wherefore, CCMI is entitled to and hereby requests declaratory and injunctive relief pursuant to Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a), enjoining Defendant Etsy from continuing to commit the Defendant’s Unlawful Acts as described hereinabove, and enjoining it from continuing to make the aforesaid untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments, and the recovery of CCMI’s costs, including reasonable attorneys fees, in prosecuting this action under federal law, including Sections 34 and 35 of the Lanham Act, 15 U.S.C. §1116, 1117.

COUNT II
Violation of M.G.L. c. 266, § 91
(“Untrue and misleading advertisements; prohibitions”)

73. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

74. Section 91 of Massachusetts General Laws chapter 266 provides that

Any person who, with intent to sell or in any way dispose of merchandise, ... offered by such person, directly or indirectly, to the public for sale or distribution, or who, with intent to increase the consumption of or demand for such merchandise ... makes ..., an advertisement of any sort regarding merchandise, ... which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, and which such person knew, or might on reasonable investigation have ascertained to be untrue, deceptive or misleading, shall be punished by a fine of not less than one thousand nor more than two thousand dollars; provided, that this section shall not apply to any owner, publisher, printer, agent or employee of a newspaper or other publication, periodical or circular, or to any agent of the advertiser who in good faith

and without knowledge of the falsity or deceptive character thereof publishes, causes to be published, or participates in the publication of such advertisement.

Whoever violates the provisions of this section may be enjoined therefrom by a petition in equity brought by ... any aggrieved party.

(emphasis added).

75. The Defendant's Unlawful Acts as described hereinabove constitute the intentional making of untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments in violation of the above-quoted law, M.G.L. c. 266, §91. CCMI and its Members have been and are being irreparably harmed by Etsy's actions in this regard, and are therefore aggrieved parties within the meaning of M.G.L. c. 266, §91.

76. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief enjoining Defendant Etsy from continuing to commit the Defendant's Unlawful Acts as described hereinabove, and from continuing to make the aforesaid untrue, deceptive and misleading representations in connection with the Purported Cashmere Garments, pursuant to M.G.L. c. 266, §91, and to recover its costs, including reasonable attorneys fees, herein.

COUNT III **(Common Law Unfair Competition)**

77. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

78. The Defendant's Unlawful Acts as described hereinabove constitute common law unfair competition in violation of Massachusetts intellectual property laws,⁴ including in the

⁴ See *Holyoke Mut. Ins. Co. v. Vibram USA, Inc.*, 2016 Mass. Super. LEXIS 298, *13-17, 33 Mass. L. Rep. 564 (2016), citing "Black's Law Dictionary 813 (7th ed. 1999)(**defining intellectual property as follows**: "A category of intangible rights protecting commercially valuable products of the human intellect. The category comprises primarily trademark, copyright, and patent rights, but also includes trade-secret rights, publicity rights, moral rights, **and rights against unfair competition.**" (emphasis added).

form of false and deceptive advertising and promotion of the Purported Cashmere Products, illegal “palming off,” trademark and trade dress dilution, that has caused, is causing, and absent the injunctive relief requested herein will continue to cause irreparable harm to the Cashmere Institute and its Members.

79. The Defendant’s Unlawful Acts as described hereinabove also constitute common law unfair competition in violation of Massachusetts intellectual property law in the form of “palming off” — to wit trying to pass off goods that are not made of Cashmere as “Cashmere, and to pass off goods that are not 100% Cashmere as “100% Cashmere” in violation of Massachusetts law.

80. The Defendant’s Unlawful Acts as described hereinabove also constitute common law unfair competition in violation of Massachusetts intellectual property law in the form of false and deceptive advertising and promotion of the Purported Cashmere Products using confusingly similar trade dress to the services and products of CCMI and its Members in violation of Massachusetts and federal law.

81. The Defendant’s Unlawful Acts as described hereinabove also constitute common law unfair competition in violation of Massachusetts intellectual property law in the form of false and deceptive advertising and promotion of the Purported Cashmere Products using the confusingly similar name and mark “Cashmere” that is used by CCMI and its Members to market their good and services in violation of Massachusetts and federal law, resulting in consumer confusion and dilution of the value of that mark.

82. The Defendant’s Unlawful Acts as described hereinabove also constitute common law unfair competition in violation of Massachusetts intellectual property law in the form of wrongful use of a portion of CCMI’s and its Members’ distinctive names in a manner that

creates confusion as to the source, authenticity, and association of their goods -- in violation of Massachusetts law.

83. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief enjoining Defendant Etsy from continuing to commit the Defendant's Unlawful Acts as described hereinabove, and from continuing to make the aforesaid untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments, and to recover its costs, including reasonable attorneys fees, in prosecuting this action.

COUNT IV
(Violation of M.G.L. c. 110H, § 13 (Anti-Dilution))

84. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

85. Over the course of more than thirty-five (35) years, the name of the Cashmere Institute has become a distinctive trade name and mark and has acquired secondary meaning and distinctive quality in the relevant Cashmere market within the meaning of the Massachusetts Anti-Dilution Statute, M.G.L. c. 110H, § 13.

86. The Defendant's Unlawful Acts as described hereinabove, including their use of the mark "Cashmere" have actually deceived and are likely to deceive the public into believing, falsely, that Defendant's falsely labeled Purported Cashmere Garments are those of, sponsored or approved or permitted by, or are in some way connected with, the Cashmere Institute or its Members, all to the irreparable injury of the Cashmere Institute's trade and goodwill and to the injury of the public.

87. The Defendant's Unlawful Acts as described hereinabove, including their use of the mark "Cashmere" have diluted the Cashmere Institute Name by tarnishment and/or blurring, and have created a likelihood of such dilution by tarnishment and/or blurring in the future. This

has resulted in, and unless enjoined will continue to cause reduction of the value of the CCMI Name caused by actual or potential confusion, injury resulting from Defendant's Unlawful Acts that tarnishes the reputation associated with the plaintiff's name; and diminution in the uniqueness and individuality of the CCMI Name.

88. The Massachusetts Anti-Dilution Statute, M.G.L. c. 110H, §13, provides that "Likelihood of injury to business reputation or of dilution of the distinctive quality of ... a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.

89. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief under M.G.L. c. 110H, §13 enjoining Defendant Etsy from continuing to commit the Defendant's Unlawful Acts as described hereinabove, and from continuing to make the aforesaid untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments, and to recover its costs, including reasonable attorneys fees, in prosecuting this action.

COUNT V
(Civil Conspiracy)

90. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

91. In committing the hereinabove-described Defendant's Unlawful Acts, Defendant Etsy acted in concert with the suppliers of the Purported Cashmere Garments pursuant to a common design, and each gave substantial assistance and encouragement to the other knowing that the conduct of the other constituted a breach of duty under the applicable laws prohibiting Defendant's Unlawful Acts, and that substantial assistance and encouragement was a substantial factor in causing the resulting Defendant's Unlawful Acts.

92. In providing that substantial assistance and encouragement, Etsy and its suppliers each had unlawful intent, consisting of both knowledge that each other's conduct was in violation of the applicable laws prohibiting Defendant's Unlawful Acts, and intent to substantially assist or encourage that conduct by the other.

93. Specifically, among other things, for example, as alleged hereinabove, Etsy was repeatedly informed in writing by CCMI in 2022, was presented with actual evidence proving, and therefore had actual knowledge of, that it was committing the Defendant's Unlawful Acts, and provided that information to suppliers of the Purported Cashmere Garments, but nevertheless continued to commit and assist its suppliers in committing the Defendant's Unlawful Acts.

94. Each Defendant provided the aforesaid substantial assistance and encouragement to the other pursuant to agreements to do so that were entered into with aforesaid knowledge and intent, and thereafter each Defendant continued to implement and perform under those agreements knowing that such implementation and performance was causing and enabling Defendant's Unlawful Acts by the other Defendant.

95. By virtue of the aforesaid, the Defendants have engaged and engaged in a concerted action conspiracy to violate federal and Massachusetts state laws prohibiting Defendant's Unlawful Acts.

96. That conspiracy has caused and is causing irreparable harm to CCMI, its Members, the reputation of Cashmere, the integrity of the Cashmere garment market, and the general public. That harm is not adequately compensable in money damages, and requires injunctive relief to alleviate.

97. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief enjoining Defendant Etsy from continuing to commit the Unlawful Acts described

hereinabove, and from continuing to make the aforesaid untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments, and to recover its costs, including reasonable attorneys fees, in prosecuting this action.

COUNT VI
(Vicarious Liability)

98. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

99. During the period in which the Defendant's Unlawful Acts have occurred and are occurring, Defendant Etsy has had, and now has, contracts with its suppliers that give Etsy the ability and the right to control certain activities of those suppliers, and that make each the agent of the other in certain respects, including ordering and payment activities, and that in certain respects constitute, relate to, and/or are necessary to, the commission of the Unlawful Acts.

100. As a result, Etsy and its suppliers of the Purported Cashmere Garments are each vicariously liable, and jointly and severally responsible, for the Unlawful Acts, including their relevant intellectual property violations, which include unfair competition, false advertising, and trademark dilution, as aforesaid, and the aforesaid irreparable harm being caused to CCMI and its Members, and the general public.

101. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief enjoining Defendant Etsy from continuing to commit the Unlawful Acts described hereinabove, and from continuing to make the aforesaid untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments, and to recover its costs, including reasonable attorneys fees, in prosecuting this action.

COUNT VII
(Contributory Liability)

102. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

103. Etsy and its suppliers of the Purported Cashmere Garments have each induced, caused or materially contributed to the others commission of the Unlawful Acts, and are each contributorily liable for them, and Etsy's aforesaid misconduct and Unlawful Acts have been, and continue to be, knowing and willful.

104. As a direct and proximate result of Defendant's Unlawful Acts, CCMI has suffered and, unless Defendant Etsy is properly enjoined, will continue to suffer actual, substantial, and irreparable harm as aforesaid.

105. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief enjoining Defendant Etsy from continuing to commit the Unlawful Acts described hereinabove, and from continuing to make the aforesaid untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments, and to recover its costs, including reasonable attorneys fees, in prosecuting this action.

COUNT VIII
(Aiding and Abetting Liability)

106. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

107. Defendant Etsy aided and abetted its suppliers of the Purported Cashmere Garments in also committing the Unlawful Acts, knew and knows that their conduct constituted a breach of duty under the applicable laws prohibiting the Unlawful Acts, knew and knows that they had a substantial role in an unlawful enterprise, and provided and continues to provide

substantial assistance and encouragement to them knowing that such assistance and encouragement was and is causing and enabling their also committing the Unlawful Acts – to the degree that each cannot reasonably be held to have acted in good faith.

108. In addition to its own Unlawful Acts as aforesaid, Etsy’s aiding and abetting of the suppliers of the Purported Cashmere Garments in their also committing the Unlawful Acts is causing and will continue to cause irreparable harm to CCMI and its Members as aforesaid.

109. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief enjoining Defendant Etsy from continuing to commit, from continuing to aid and abet the suppliers of the Purported Cashmere Garments in continuing to commit, the Unlawful Acts described hereinabove, and continuing to make the aforesaid untrue, deceptive and misleading assertions, representations and statements regarding the Purported Cashmere Garments, and to recover its costs, including reasonable attorneys fees, in prosecuting this action

COUNT IX
**(Unfair and Deceptive Trade Practices
in Violation of M.G.L. c. 93A)**

110. CCMI hereby incorporates by reference, as though fully set forth herein, all of the allegations set forth in all of the other paragraphs of this Complaint.

111. The Defendant’s Unlawful Acts as aforesaid are and constitute unfair and deceptive trade practices in violation of the Massachusetts Unfair and Deceptive Trade Practice Act, M.G.L. c. 93A.

112. CCMI is therefore entitled to, and hereby requests, declaratory and injunctive relief enjoining Defendant Etsy from continuing to commit, from continuing to aid and abet the suppliers of the Purported Cashmere Garments in continuing to commit, the Unlawful Acts described hereinabove, and continuing to make the aforesaid untrue, deceptive and misleading

assertions, representations and statements regarding the Purported Cashmere Garments, and to recover its costs, including reasonable attorneys fees, in this action under M.G.L. c. 93A.

PRAYER FOR RELIEF

WHEREFORE, plaintiff CCMI respectfully requests that the Court, preliminarily enjoin, and thereafter enter final judgment in its favor against the Defendants granting it:

1. permanent declaratory and injunctive relief requiring the Defendants to cease the Defendant's Unlawful Acts, including, *inter alia*, that they cease and desist from, and stop:

(a) advertising or misrepresenting any garments or products not made of Cashmere as, or advertising or representing them to be, "100% Cashmere," or "Cashmere" in any amount;

(b) advertising or representing garments or products that are made of synthetic material (such as acrylic, rayon, polyester, or any other synthetic) as, or advertising or representing them to be, "100% Cashmere," or "Cashmere" in any amount;

(c) representing that prospective purchasers of the Purported Cashmere Garments can "[s]hop confidently," that it is only "in the rare case that something goes wrong," and that they have "Protection" if the Purported Cashmere Garment they order "isn't as described,"

(d) advertising or representing any garments or products as "100% Cashmere," or "Cashmere" in any amount or portion, unless and until their textile fiber content is properly and truthfully represented, advertised and labeled; and

(e) such other and further injunctive relief as is necessary to prevent the Defendant from making further misrepresentations in connection with Purported Cashmere Products;

2. the reasonable attorneys' fees, expert witness expenses, and other costs incurred by CCMI in preparing and pursuing this action; and

3. such other and further relief as this Court may deem just and proper, or as to which CCMI may show it is entitled.

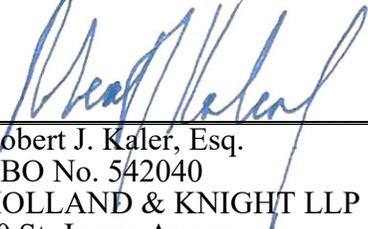
JURY CLAIM

Plaintiff CCMI hereby claims its right to trial by jury as to all claims hereinabove as to which it has a right to trial by jury.

Respectfully submitted,

CASHMERE AND CAMEL HAIR
MANUFACTURERS INSTITUTE

By its attorneys,



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