

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

AIRIGAN SOLUTIONS, LLC,

Plaintiff,

v.

ABAGAIL, *et al.*,

Defendants.

Civil Action No.

19-cv-503

(Judge Fischer)

FILED UNDER SEAL

**DECLARATION OF MARGARET B. TYLER
IN SUPPORT OF PLAINTIFF'S *EX PARTE* MOTION TO AMEND
TEMPORARY RESTRAINING ORDER; ORDER RESTRAINING ASSETS
AND MERCHANT STOREFRONTS; ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD NOT ISSUE; AND ORDER
AUTHORIZING EXPEDITED DISCOVERY**

I, MARGARET B. TYLER, do hereby declare:

1. I am over eighteen (18) years of age. I have never been convicted of a felony or any criminal offense involving moral turpitude, and I am fully competent to testify to the matters stated herein. I have personal knowledge of every statement made in this Declaration and such statements are true and correct.

2. I am the President and one of the co-founders of Plaintiff, Airigan Solutions, LLC ("Airigan"), a limited liability company organized and existing under the laws of the State of Connecticut.

3. I make this declaration in support of Plaintiff's *Ex Parte* Motion to Amend Temporary Restraining Order; Order Restraining Assets and Merchant Storefronts; Order to

Show Cause Why a Preliminary Injunction Should Not Issue; and Order Authorizing Expedited Discovery.

4. I hereby incorporate by reference the statements made in my Declaration dated May 2, 2019, previously filed in this matter.

Defendants' Counterfeit Products Are Offered for Sale Through a Fully Interactive Website Accessible in Pennsylvania

5. All Defendants Amazon listed on **Amended Schedule "A"** operate interactive commercial Internet websites and Internet based e-commerce stores ("Online Marketplace Platforms", hereafter "OMPs") using the seller identities and store names set forth on **Amended Schedule "A"** to the Amended Complaint. Furthermore, all of the newly added Defendants collect Pennsylvania sales tax in accordance with Amazon's sales procedures for all sellers.

6. The NEGG[®] brand egg peeler is sold, among other places, through Airigan's own merchant storefront on Amazon.com. Based on Airigan's experience with Amazon, I am not aware of any way to exclude selling or shipping to a particular state (such as Pennsylvania). Thus, the OMPs of the Defendants listed on **Amended Schedule "A"** are accessible to any internet user in Pennsylvania and will ship product to Pennsylvania.

7. I have reviewed **Composite Exhibit 2** and the pictured Counterfeit Products and upon my information and belief, the Defendants identified in **Amended Schedule "A"** of the Complaint, were and/are currently manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and or/selling patent infringing and counterfeit products with Airigan's NEGG[®] trademark and/or logo and using marking, packaging and trade dress that are confusingly similar and/or identical to those of Airigan to U.S. consumers, including those consumers in Pennsylvania, through their OMP storefronts.

8. None of the identified Defendants are authorized re-sellers of genuine NEGG® brand egg peelers. Moreover, none of the identified Defendants are authorized to manufacture, import, export, advertise, offer for sale or sell any NEGG® branded egg peelers or any egg peelers that purport to be NEGG® egg peelers or any egg peelers that are counterfeits of the NEGG® brand egg peelers. Further, Airigan never consented or granted permission to any of the identified Defendants to use Airigan's artwork, photographs, or any of Airigan's other intellectual property.

9. Upon information and belief, all of the egg peelers in **Composite Exhibit 2** are counterfeit. This is based upon my visual inspection of the listings, the Amazon Brand Registry information, and the low prices at which the products are offered. Comparison of the genuine NEGG® brand egg peeler to the counterfeits in this exhibit reveals that the counterfeit egg peelers, their packaging and their presentation are cheaply produced poor copies of Airigan's intellectual property. These clearly indicate that they were manufactured in China. Yet, the writing on the packaging is in English. So, they were intentionally manufactured and packaged to be shipped to English speaking countries, like the US. Predictably, Airigan has received multiple consumer complaints from purchasers actually confused that the substandard, faulty, and leaking counterfeit products were those of Airigan when they were not.

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

Dated: May 28, 2019
Southport, Connecticut

/s/ Margaret B. Tyler
Margaret B. Tyler