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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA**

<b>CATALYST MEDIUM FOUR INC.,</b>	§	
<b>dba SMARTISH, a Texas Corporation,</b>	§	
<b>Plaintiff,</b>	§	<b>Civil Case No. 1:24-cv-2246</b>
	§	
<b>v.</b>	§	<b>COMPLAINT</b>
	§	
<b>SCOOCH, LLC., an Indiana</b>	§	<b>JURY TRIAL DEMANDED</b>
<b>Corporation,</b>	§	
<b>Defendant.</b>	§	

Plaintiff, Catalyst Medium Four Inc. (“Smartish”) files this Complaint for Unfair Competition against Defendant Scooch, LLC. (“Scooch”)<sup>1</sup>.

**I. PRELIMINARY STATEMENT**

1. Plaintiff Smartish seeks relief and recovery from the conduct of Defendant who has made and continues to make, have made and sell mobile phone cases that are confusingly similar to the distinctive mobile phone cases of Smartish. In the fall of 2024, Scooch began marketing and selling a series of mobile phone cases that appropriated a distinctive and successful phone case design developed by Plaintiff over a decade ago and sold in the millions of units since. By doing so, Defendant Scooch has unfairly capitalized on Plaintiff's years of innovation and multimillion-dollar investments in developing and marketing its distinctive Wallet Slayer products. To enhance its wrongful scheme, Defendant has adopted marketing images and expressions substantially similar to those created and used by Plaintiff to market its genuine products. Defendant Scooch has, therefore, been engaged in a wrongful business built on unfair competition and copyright

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<sup>1</sup> In support of this Complaint, Plaintiff relies upon the Declaration of Matt Altschul and its incorporated Exhibits 1 – 7. Mr. Altschul is the CEO of Plaintiff Smartish.

infringement<sup>2</sup> that exploits the success, investment and creativity of Plaintiff Smartish while inducing the public into likely confusion.

2. Based in Austin, Texas, Smartish designs and sells mobile phone cases. Since 2011, Smartish has been continuously engaged in the design, manufacture and sale of mobile phone cases for a variety of mobile phone models from major manufacturers such as Apple and Samsung. In 2011, Mr. Matt Altschul, the President and CEO of Plaintiff Catalyst Medium Four Inc., developed the distinctive design that has been embodied in the Plaintiff's phone cases for over a decade. That design is identified here as the "Primary Design." Declaration of Matt Altschul ¶¶ 5, 9, hereafter, "Altschul Decl."

3. Smartish phone cases that reflect the Primary Design have been sold under a variety of marketing names over the years and today, under the names "Wallet Slayer Vol. 1" and "Wallet Slayer Vol. 2" (collectively, the "Genuine Wallet Slayer"). Exhibit 1 (depicting an Amazon page marketing image of Genuine Wallet Slayer Vol. 1 and Wallet Slayer Vol. 2 products devised for Apple iPhone 12 models.) Altschul Decl. ¶¶ 9 – 12.

4. Plaintiff's distinctive Primary Design includes a pocket on the phone case back accessed through a "thumb-out" cut into mid-section of the left side of the back outside of the case and a card insertion slot on the right side of the backside that opens to the pocket from the right and is disposed adjacent to the edge of the case. The distinctive disposition of the "thumb out" on the left side and the disposition of the "card slot" on the right side near the case edge are design elements which, although together provide some of the functions of a wallet in a phone case, are the not the

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<sup>2</sup> Copyright registration applications are pending for a number of the images and expressions used by Plaintiff and which have been copied and used in substantially similar form by Defendant. Because those registrations have not yet issued, this Complaint does not at this time include a count for copyright infringement.

only ways to provide wallet functionality in a phone case and are not, therefore, functionally dictated in form and placement. Altschul Decl. ¶ 9.

5. Over the years, there have been thousands of consumer comments on the Wallet Slayer series phone cases and the vast majority are laudatory. Exhibits 2 and 3 compile just a few of the many comments in the marketplace that compliment the Wallet Slayer phone case. Altschul Decl. at ¶¶ 12, 15.

6. Smartish spent hundreds of hours and hundreds of thousands of dollars to create phone cases that embody the Primary Design. Hundreds of hours were invested by the Plaintiff to design the production tooling and arrange manufacturing to produce phone cases that embody the distinctive Primary Design currently reflected in the Genuine Wallet Slayer phone cases. Altschul Decl. ¶ 9.

7. In 2011, Plaintiff marketed and sold its first phone case configured with the Primary Design. Those early cases were called the “Q Card Case” and were sold by Plaintiff under the tradename “CM4.” Plaintiff’s sales of phone cases that embodied the Primary Design increased over the next few years. In 2014, Plaintiff added the brand name “Silk” to its marketing program and continued to market and sell phone cases that reflected the Primary Design under that brand name. Starting in 2017, Plaintiff placed the tagline “Smartish Products” on the packaging of every sale and all its marketing materials including for those phone cases that embodied the Primary Design until, in September 2019, the Plaintiff officially changed its marketing name to “Smartish.” Altschul Decl. ¶ 10.

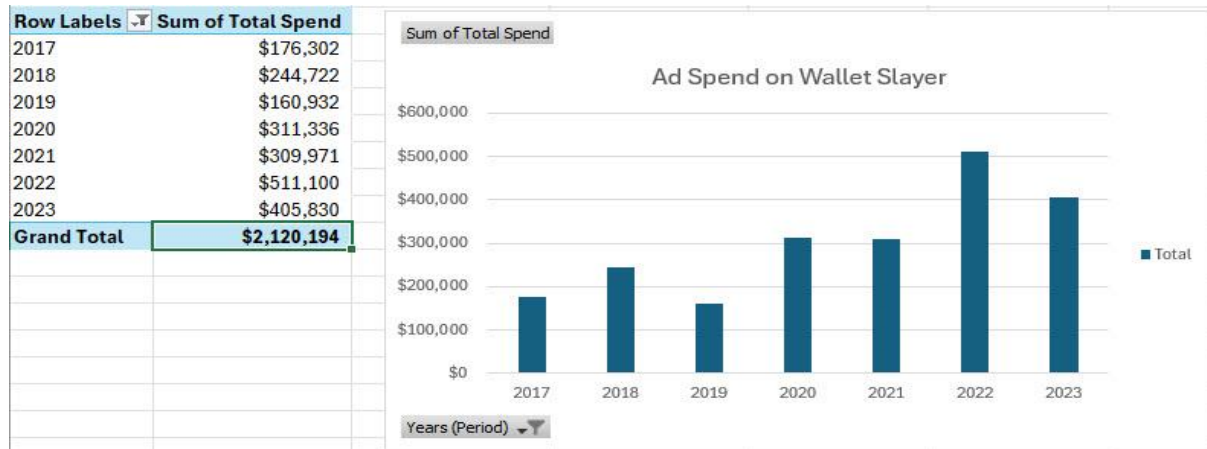
8. Even through the tradename transitional period from 2017-2019 when Plaintiff used both Silk and Smartish as marketing names, cases that exhibited the Primary Design (*e.g.*, Wallet Slayer) continued to be identified by the consuming public as emanating from the same source, no

matter whether marketed under Silk or Smartish or both. Altschul Decl. ¶¶ 10, 15. Exhibit 3 (many representative consumer comments recognizing that the Primary Design in a phone case signified the same supplier whether sold under the Silk or Smartish name).

9. Smartish's creativity and investment in time and money has served it well. Since 2011, Plaintiff has marketed and sold nearly four million phone cases that exhibit the Primary Design. Plaintiff has had particularly notable success with the Wallet Slayer series. In 2022, Smartish sold nearly half a million Genuine Wallet Slayer phone cases and in 2023, more than half a million Genuine Wallet Slayer units were sold. Altschul Decl. ¶ 13.

10. From 2017 to today, Plaintiff's Genuine Wallet Slayer has become one of the largest selling wallet type phone cases on amazon.com. Altschul Decl. ¶ 16. Plaintiff's success has been the culmination of long and focused work over a decade and millions of dollars in marketing expenditures across a variety of commercial trade channels. Today, the Wallet Slayer products of Smartish are sold through a variety of marketplaces and websites including Walmart.com, Amazon.com, eBay.com and Etsy.com as well as the Plaintiff's website, smartish.com. Altschul Decl. ¶¶ 12, 16.

11. From 2017 through 2023, Smartish invested approximately \$2,120,000 in marketing and advertising the Wallet Slayer product line. Below is a chart that graphically shows the Plaintiff's marketing/advertising spend per year since 2017 on the Wallet Slayer. This data is as of October 2023 and does not include 2024.



Overall, since 2011, Smartish has invested more than \$3 million dollars in marketing and advertising the Wallet Slayer line and its predecessor phone cases such as the Q Card Case (2011 – 2014) and Vault Wallet (2014-2017) which, like the Wallet Slayer, exhibit the Primary Design. Altschul Decl. ¶¶ 14, 15.

12. The form of the Primary Design is not dictated by its function. There are many ways to combine a wallet function with a mobile phone case other than the Primary Design of Plaintiff. Altschul Decl. ¶¶ 9, 17 (identifying non-exhaustive examples of “other” ways to combine wallet utility with a mobile phone case).

13. To help guard its success, Smartish protects its business with patents and copyrights as well as trade dress enforcement. It owns a number of utility patents, none of which claim the Primary Design and multiple design patents several of which do claim variations on the Primary Design. Altschul Decl. ¶¶ 19, 20.

14. Smartish has previously asserted its property rights in the Primary Design. In a lawsuit filed in 2017 and styled *Catalyst Medium Four Inc. v. Ultraproof, Inc.*, 17-cv-6833 in the Northern District of California, Smartish (as Catalyst Medium Four Inc.) sued a Nevada corporation, Ultraproof, Inc., under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125, the common laws of

the State of California, unfair competition under California State Law Business and Professions Code §§ 17200, et seq., and copyright infringement under 17 U.S.C. §106 and §501, *et seq.* From the perspective of Smartish, that matter resolved successfully in July of 2018. Mobile phone cases that embodied the Primary Design were at issue in that matter. Altschul ¶ 24.

15. More recently, in a litigation filed in late 2023 and styled *Catalyst Medium Four Inc. v. Velvet Caviar Group, Inc.*, Civil Case No. CV-23-8300 (JMA) (SLT) in the Eastern District of New York, the Plaintiff Catalyst Medium Four Inc. sued a New York corporation, Velvet Caviar Group, Inc., under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125 for trade dress infringement of the Primary Design. That matter was resolved in November of 2024. The Defendant took a license to the Primary Design under which its “Wallet Cases” are sold as evidenced by a legend on the intellectual property webpage of Velvet Caviar: <https://velvetcaviar.com/pages/intellectual-property> Altschul Decl. ¶ 25.

16. Exhibit 4 to the Altschul Decl. presents a summary comparison of various views of a Genuine Wallet Slayer case and an imposter Moneymate case. Exhibit 4 illustrates how the Defendant has unfairly and improperly appropriated the Primary Design and overall impression of the Genuine Wallet Slayer into its imposter Moneymate product. This results in likely misled and confused consumers and fundamental harm to Smartish. Altschul Decl. ¶¶ 22, 26.

17. Customers are likely to be misled by the unfair competition engaged in by Defendant and as a result, likely to be confused between the imposter Moneymate and the Genuine Wallet Slayer phone cases. Altschul Decl. ¶ 15, 28.

18. The wrongful scheme is, however, further enhanced by Defendant’s use of images and expressions to market its imposter Moneymate product which are substantially similar to images and expressions created and used by Smartish to market its Genuine Wallet Slayer. This is

demonstrated by Exhibit 5 that compares, side by side, images and expressions used in marketing by Defendant and Plaintiff, respectively. Altschul Decl. ¶ 26.

19. Plaintiff's counsel wrote Scooch's president, Mr. John Stagge on October 4, 2024 and along with noticing the Defendant with claims of Lanham Act violation and Copyright Infringement, set out a demand that Scooch halt its marketing and sales of the Moneymate product. No answer was received at that time by the Plaintiff or its counsel. The Defendant did, however, release new versions of the imposter Moneymate product on approximately October 31, 2024 which were devised for use with the Apple iPhone 15, 14, and 13 models as shown by Exhibit 6. Counsel again wrote Mr. Stagge repeating the Lanham Act and Copyright claims and in response, a short "Got it" was received by counsel. More substantively, Mr. Stagge sent by direct message (DM) on LinkedIn, a note to Ms. Lindsay Lancaster, the current Smartish president, that read,

*"I need to set up a meeting wit[h] you about the letter I got from your lawyers. I would prefer to talk to you or your owners directly. I have been through several litigation issues with IP and the[y] all were settled directly with the owners."*

As shown in Exhibit 7, Ms. Lancaster promptly replied, but Mr. Stagge did not follow up on the conversation that he had originally solicited. Altschul Decl. ¶¶ 29, 30 and Exhibit 7.

20. The Defendant is in direct competition with Plaintiff Smartish because the imposter Moneymate case is sold by Defendant Scooch in competition with Plaintiff's Genuine Wallet Slayer phone. *See e.g.*, Altschul Decl. ¶¶ 22, 23, 26-28 and 32.

21. Defendant Scooch has not been authorized to sell the imposter Moneymate product that reflects Primary Design. Defendant has not been authorized to use marketing materials and images substantially similar to those created and used by Smartish. Altschul Decl. ¶ 31.

22. Defendant Scooch has attacked the primary business of Plaintiff Smartish, likely confused the relevant consuming public and built and is using a wrongful product sales ecosystem built on unfair competition enhanced by copyright infringement. Altschul Decl. ¶¶ 27 - 32.

### **JURISDICTION AND VENUE**

23. This is an action for unfair competition under Section 43(a) of the Lanham Act, 15 U.S.C. §1125. The matter in controversy, exclusive of interest and costs, exceeds the sum or value of seventy-five thousand dollars (\$75,000) and is between citizens of different states and/or arises under the laws of the United States.

24. The Court has jurisdiction of the subject matter pursuant to § 39 of the Federal Trademark Act, 15 U.S.C. § 1121(a) and the Judicial Code, 28 U.S.C. §§ 1331, 1332(a) and (c), and 1338.

25. The Court has personal jurisdiction over the Defendant because, amongst other things, the Defendant has done and is doing business in the State of Indiana and in this judicial district. On information and belief, as shown on the Indiana Secretary of State webpage found at <https://bsd.sos.in.gov/PublicBusinessSearch/BusinessInformationFromIndex> the principal office of the Defendant is located at 15540 Herriman Blvd., Noblesville, IN, 46060, USA. Defendant's business ID is 2015012700316.

26. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

### **THE PARTIES**

27. Plaintiff Catalyst Medium Four Inc. ("Smartish") is a corporation organized and existing under the laws of the State of Texas with a principal place of business at 500 E. 4<sup>th</sup> Street, Ste. 122, Austin, TX 78701-3720.

28. On information and belief, Defendant Scooch is a corporation organized and existing under the laws of the State of Indiana.



29. Upon information and belief, the agent for service of process for Defendant Scooch is its President, John Stagge who may be served at 15540 Herriman Blvd, Noblesville, IN 46060.

**COUNT ONE**  
**UNFAIR COMPETITION**  
**15 U.S.C. § 1125, Section 43(a) of the Lanham Act**

30. All previous paragraphs of this Complaint are hereby incorporated by reference as if set out in full in this Count.

31. As a cause of action and grounds for relief, Plaintiff Smartish alleges that Defendant Scooch has engaged and is engaged in acts of unfair competition under § 43(a) of the Federal Trademark Act, 15 U.S.C. §§ 1125(a) and 1125(b) and common law.

32. By making, having made, importing, marketing and selling the imposter Moneymate phone case which appropriates the distinctive Primary Design and mimics the overall impression of the Plaintiff's Genuine Wallet Slayer phone cases, the Defendant has engaged in misappropriation and unfair competition and created the false impression that the imposter Moneymate and the Genuine Wallet Slayer phone cases have a common origin. This conduct of the Defendant is likely to cause confusion and mislead customers as to the source of the imposter Moneymate phone case.

33. The Primary Design has achieved secondary meaning.

34. The Primary Design achieved secondary meaning before Defendant began marketing and selling its imposter Moneymate product.

35. By using marketing materials and images to market and sell its imposter Moneymate product that are substantially similar to the marketing materials and images used by Plaintiff to market its Genuine Wallet Slayer products, Defendant has willfully enhanced its wrongful and unfair competition.

36. Defendant is not authorized to use or adopt the Primary Design or any simulation or facsimile thereof and is not authorized to create, copy or use any images or materials substantially similar to those created by and used by the Plaintiff to market and sell it's the Genuine Wallet Slayer product line.

37. Defendant has harmed Smartish and wrongfully taken unto itself and been unjustly enriched by the sales and profits from its unlawful activity. Smartish has further been harmed by the loss of sales to Defendant.

38. Plaintiff believes that unless enjoined by this Court, Defendant will continue to engage in acts of unfair competition against the Plaintiff thereby deceiving the public and causing the Plaintiff irreparable injury for which there is no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant and that such judgment include:

1. Finding that the Defendant has competed unfairly with Plaintiff as defined by § 43(a) of the Federal Trademark Act, 15 U.S.C. §§ 1125(a) and (b) and at common law and injured the Plaintiff in the manner complained of herein.
2. Finding that the Defendant has been willful in its unfair competition.
3. An ORDER from the Court providing that the Defendant:
  - a. Be permanently enjoined from (a) making, having made, importing, offering to sell or selling its Moneymate mobile phone case or any other reproduction, counterfeit, copy or colorable imitation of the Genuine Wallet Slayer; and (b) otherwise unfairly and/or fraudulently competing with the Plaintiff or its agents or

distributors or otherwise injuring Plaintiff's business reputation. Such injunction shall extend to the Defendant and its respective agents, servants, employees, officers, successors, licensees, and assigns and all persons acting in concert or participation with each or any of them;

- b. Be required in equity, within 15 days of the ORDER, to account for and pay to Plaintiff the profits the Defendant has realized which are attributable to its acts of unfair competition pursuant to Section 43(a) of the Federal Trademark Act, 15 U.S.C. §§1125(a) and (b);
  - c. Be required to pay to the Plaintiff the Defendant's profits and any costs of this action and any damages which the Plaintiff sustained as a result of Defendant's acts of unfair competition;
  - d. Be required to destroy its inventory of Moneymate mobile phone cases and any other phone cases within Defendant's possession or control that reflect the Primary Design or any insubstantial variation thereof and so certify to Plaintiff within 10 days of such destruction;
  - e. Be assessed and required to pay to Plaintiff statutory and/or enhanced damages as determined by and in an amount set by the Court; and
  - f. Be required to pay to the Plaintiff its reasonable attorneys' fees incurred in pursuit of this action.
4. Such other, different and additional relief as this Court deems equitable and proper.

Respectfully submitted,

Dated: December 20, 2024

/s/ Kenan L. Farrell

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