

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

|                 |   |                                      |
|-----------------|---|--------------------------------------|
| SOLBELLO, INC., | ) |                                      |
|                 | ) |                                      |
| Plaintiff,      | ) |                                      |
|                 | ) | CIVIL ACTION FILE NO.: 1:25-cv-00267 |
| v.              | ) |                                      |
|                 | ) |                                      |
| SHORESHADE LLC, | ) |                                      |
|                 | ) |                                      |
| Defendant.      | ) |                                      |

**MOTION FOR PRELIMINARY INJUNCTION  
AND REQUEST FOR HEARING**

If you’ve ever had the awkward pleasure of chasing your rogue umbrella down the beach on a windy afternoon.... then we’ve got the shade for you. Meet Solbello, the umbrella that not only endures South Florida’s winds but thrives in them. Instead of a traditional fixed shade, Solbello swivels based on wind direction. So instead of turning into a colorful projectile, this smart shade goes with the flow.<sup>1</sup>

The above quote is from a review of Plaintiff Solbello’s patented sunshade. The review also describes the product as “innovative” and touts its ability to “adjust[] to the wind automatically.” The USPTO agrees that Solbello’s product is innovative and has awarded Solbello a patent that issued on September 30, 2025. A photograph of that product, the Solbello Shade, is depicted below.

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<sup>1</sup> *Solbello Beach Shade Review: The Shade of the Future*, The Atlantic Current, October 24, 2023, available at <https://theatlanticcurrent.com/solbello-shade-review/>.



Defendant ShoreShade LLC—a Solbello competitor—has not been so industrious. Instead of producing its own “innovative” design, ShoreShade: first, purchased a Solbello product; second, had it copied; and third, began selling a near-identical facsimile as its own creation. This case really is that simple. Even a cursory comparison of the two products confirms as much—that ShoreShade slapped a cupholder onto Solbello’s invention, undercut its price, and called it a day.

That conduct is unlawful. And it’s causing Solbello irreparable harm. Therefore, to stop ShoreShade’s infringement—and to shield Solbello from the irreparable harm its conduct will continue to inflict—Solbello seeks a preliminary injunction barring ShoreShade from manufacturing, using, promoting, or selling its accused product. Each factor considered by courts in the preliminary injunction analysis establishes that such relief is proper here.

**First**, Solbello is likely to succeed on its claim that ShoreShade is infringing Solbello's patent. Both pictures and words leave no doubt that the ShoreShade product is practicing, at least, claim 44 of Solbello's U.S. Patent No. RE50606 E.

**Second**, ShoreShade's continued sale of its infringing product will cause Solbello continued irreparable harm. Solbello has evidence of lost goodwill, consumer confusion, lost market share, price erosion, and direct competition from an infringing product. Under the law, any one of these (much less all of them) is sufficient to demonstrate irreparable harm.

**Third**, the balance of the equities favors Solbello. ShoreShade cannot claim that it has any equitable right to continue to sell a patented product that it copied.

**Finally**, the public interest favors an injunction. As an initial matter, the public interest typically favors protecting a party's significant investment in its innovative intellectual property—like Solbello's. Moreover, the public is currently confused by ShoreShade's knock-off product—returning ShoreShade products to Solbello, reviewing ShoreShade products under Solbello's name, and more—and a preliminary injunction would serve to alleviate this consumer confusion.

Accordingly, Solbello respectfully requests that this Court grant its request for a preliminary injunction under Federal Rule of Civil Procedure 65(a). Pursuant to Local Rule 7.7, Solbello also respectfully requests an expedited hearing on its motion for the reasons outlined in Part II, *infra*.

## **STATEMENT OF FACTS**

### **A. Paul James and Danny Gillis Found Solbello and Patent Their Invention.**

In 2019, avid beachgoer Paul James founded Solbello, Inc. to design a dependable beach shade for families that sets up quickly, won't blow down the beach, and is safe and easy to transport. (Compl. ¶ 7). After years of development, Paul, with the help of his two young sons, completed the final product, which he dubbed the Solbello Shade. (*Id.*) Danny Gillis partnered with Paul shortly thereafter to help launch Solbello's product and build its brand. (*Id.* ¶ 8).

The product sets itself apart from other sunshades in numerous respects. For example, its simple design allows for quicker setup than most competing sunshades. (Compl. ¶ 10). Moreover, Solbello's unique and innovative design makes it more stable on windy days because it automatically swivels to face the wind. (*Id.*).

To safeguard the intellectual property he had spent years developing, Paul decided to patent his invention. Originally, Solbello obtained a utility patent, bearing U.S. Patent Number 11,596,211 and titled "Self-Adjusting Sun Shade Assembly" (the "'211 Patent"). (*Id.* ¶ 15). It also obtained a design patent. (*Id.* ¶ 19).

In September 2023, Solbello applied to have the '211 Patent reissued to more appropriately cover the full scope of its invention. (*Id.* ¶ 20). And on September 30, 2025—around just one month ago—Solbello obtained a reissued utility patent for its sunshade, bearing U.S. Patent No. RE50606 E (the "'606 Patent"). (*Id.* ¶¶ 20-30). This case centers around ShoreShade's infringement of the '606 Patent.

For example, claim 44 of the '606 Patent reads as follows, with its discrete elements demarcated in added brackets:

[1] A sun shade assembly comprising: [2] a mast configured to extend upwardly from a supporting surface, and [3] having a top end and a bottom end; [4] at least one rib located proximate the top end of said mast, and configured to rotate relative to the supporting surface; [5] a sail having a proximal edge secured to said rib and an unrestrained free edge adapted to unfurl in response to blowing of the wind, and [6] wherein an entire surface area of said sail is unrestrained from the proximal edge of the free edge; and [7] when unfurled, said sail and rib are adapted to rotate together to a direction of the blowing wind.

(*Id.* ¶ 53). In other words, claim 44 covers a specific type of sunshade with a loose, billowing sail that automatically swivels to match the wind's direction. (*See id.*). Solbello's Shade incorporates and utilizes the intellectual property described in the '606 Patent. (*Id.* ¶ 29).

Solbello has been manufacturing and selling its product since 2020, and it now sells it all throughout the United States via its own website, Amazon, and select retail locations. (*Id.* ¶¶ 9, 12). Over the years, the Shade has gained recognition for its thoughtful design and high-quality materials. (*Id.* ¶ 9).

#### **B. ShoreShade Buys a Solbello Shade and Begins Selling a Copycat Product.**

ShoreShade set out to duplicate Solbello's product for itself. On December 1, 2022, before ShoreShade was even formed, ShoreShade's owner purchased a Shade from Solbello's website. (*Id.* at ¶¶ 32-33). And on information and belief, ShoreShade then gave that product to manufacturers in China and requested that they create a duplicate product. (*Id.* ¶¶ 35-36).

A side-by-side comparison reveals that the two products are nearly identical. For example, the photograph below shows the Solbello Shade on the left and the infringing ShoreShade on the right:



(*Id.* ¶ 37).

Aside from an attachable cupholder included with the ShoreShade, the two products have exactly the same number of parts—down to the number of washers, screws, and nuts. (*Id.* ¶¶ 38-43). And those pieces of hardware are themselves identical in measurement and shape to those in Solbello’s Shade. (*Id.*) The photograph below depicts a side-by-side comparison revealing that the products’ component parts are essentially identical.



ShoreShade began selling its knockoff product around 2023, both on its website and on Amazon. (*Id.* ¶ 44). Yet its product is leagues behind Solbello’s when it comes to quality. While Solbello’s Shade is built from durable, long-lasting materials capable of withstanding winds over 65 miles per hour, on information and belief, the ShoreShade uses inferior materials and therefore cannot endure comparable conditions. (*Id.* ¶¶ 64-68). Solbello did not become aware of ShoreShade and its product until November 2023. (*Id.* ¶ 96).

### **C. ShoreShade’s Conduct Has Confused Consumers.**

Not only has ShoreShade copied Solbello’s product—it’s also cribbed some of Solbello’s marketing tactics as well. Solbello’s website, for instance, explains that it was “started by two avid beach goers from Wrightsville Beach looking to make going to the beach safer and more enjoyable.” (*Id.* ¶ 73). ShoreShade’s website echoes that story nearly verbatim, claiming it was founded by “two lifelong friends who sought to make outdoor vacations and trips to the beach easier than ever.” (*Id.*) And the mimicry doesn’t stop here. Solbello promotes one of its Shade’s features—a rope and

stake used to anchor the sale on calm days—as a “No-Wind Kit.” (*Id.* ¶ 74-75). ShoreShade uses the same moniker for the same feature. (*Id.*)

Unfortunately, ShoreShade’s gambit seems to have worked—consumers have started to confuse its product with Solbello’s. In one instance, a disgruntled customer left a one-star review on Solbello’s Amazon storefront. (*Id.* ¶ 81). The customer wrote: “BUYER BEWARE! Purchased this shade and was DISAPPOINTED in the poor performance. Concept is there but reality is very different. Can’t even adequately use if there are inconsistent / low winds. Returned it and got a shocking \$8 back!? Would not recommend unless you enjoy risking your money.” (*Id.*) But the customer had, apparently, purchased both a ShoreShade and a Solbello Shade. (*Id.*) The consumer then returned the inferior ShoreShade to Solbello, kept the Solbello Shade, and left a negative review of the ShoreShade on Solbello’s Amazon listing. (*Id.*)

That example is no outlier. Other customers have posted on Solbello’s social media pages about the ShoreShade, apparently mistaking it for a Solbello product. (*Id.* ¶ 84). In another example, an individual commented on a video posted by Solbello: “I saw one this weekend among the Shabumis [another brand of sunshade], cabanas and tents and I wish I had taken a picture, but the guy finally just tore it down and up and I didn’t see him again...it was bent every which way and contorted the wind pulverized it....***I was not impressed.***” (*Id.* ¶ 86 (emphasis added)). After reaching out to that individual, Solbello confirmed that he had seen a ShoreShade, not a Solbello product. (*Id.*; see also *id.* ¶ 87 (another similar example)). And still more customers have messaged Solbello directly to complain about the ShoreShade—

again, apparently believing Solbello sells it. (*Id.* ¶¶ 88-89). In fact, even another business appears to have confused the two products. When a brand-campaign business reached out to Solbello about a potential partnership, it referred to the company as “Solbello” and “ShoreShade” interchangeably, suggesting the employee thought they were the same. (*Id.* ¶ 90).

#### **D. ShoreShade Refuses to Stop Its Misconduct.**

In late 2023, shortly after it became aware of ShoreShade, Solbello directed ShoreShade to cease its infringing and deceptive conduct. (*Id.* ¶¶ 96-98). ShoreShade refused, claiming it didn’t infringe Solbello’s original utility patent. (*Id.* ¶ 100).

On September 12, 2023, Solbello promptly applied for the reissue patent that ultimately became the ’606 Patent. (*Id.* ¶ 97). Solbello’s prosecution of the reissued claims—including claim 44—specifically addressed any assertion that ShoreShade was not infringing the ’211 Patent. (*See id.* ¶ 97). Prosecution of the reissue application just concluded. As a result, the ’606 Patent was issued on September 30, 2025. (*Id.* ¶ 103).

As soon as the ’606 Patent issued, Solbello began preparations on the instant lawsuit. (*Id.* ¶ 104). And now it brings this action to safeguard its intellectual property and to stop ShoreShade from further eroding its goodwill with current and prospective customers. (*See id.* ¶¶ 69-95).

### **ARGUMENT**

This Court should preliminarily enjoin ShoreShade from its unlawful activity. Given ShoreShade’s conduct and its impact on the market: (1) Solbello is

substantially likely to succeed on the merits of its claim for patent infringement;<sup>2</sup> (2) it will suffer irreparable injury absent a preliminary injunction; (3) the injury to Solbello outweighs any damage an injunction would cause ShoreShade; and (4) the public interest favors an injunction. *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998).

### **I. Solbello's Claim Is Likely to Succeed.**

Solbello is likely to succeed in showing that ShoreShade infringed its '606 patent—both literally and through the doctrine of equivalents.<sup>3</sup>

Solbello will prevail on its infringement claim if it shows three things. First, the plaintiff must own the patent in question. *Kanga Care, LLC v. Bumbum Babies, LLC*, 2022 WL 22650525, at \*2 (S.D. Ga. Oct. 25, 2022) (Hall, J.). Second, the defendant must have made, used, imported, sold, or offered to sell the patented invention. *Id.* Finally, “every element” of at least one of the patent’s claims must be “present in the alleged infringing product, either through literal infringement or the doctrine of equivalents.” *UCB, Inc. v. Teva Pharms. USA, Inc.*, 2015 WL 11199058, at \*10 (N.D. Ga. Mar. 18, 2015). Here, there should be no dispute about the first two

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<sup>2</sup> “While a district court generally should consider a motion for preliminary injunction in a patent case ‘using the law of the regional circuit,’ the Federal Circuit has cautioned that it ‘gives dominant effect to Federal Circuit precedent insofar as it reflects considerations specific to patent issues.’” *Doubleday Acquisitions LLC v. Envirotainer AB*, 2022 WL 2784800, at \*3 (N.D. Ga. May 31, 2022) (quoting *Murata Mach. USA v. Daifuku Co.*, 830 F.3d 1357, 1363 (Fed. Cir. 2016)). So, when reviewing whether Solbello is likely to succeed on its claim for patent infringement, this Court should apply the Federal Circuit’s less stringent “more likely than not” to succeed standard, instead of the Eleventh Circuit’s “substantial likelihood” test. *See id.* at \*3 n.12. (doing so). But Solbello satisfies either standard in any event.

<sup>3</sup> Solbello also asserts a claim for induced infringement, because ShoreShade has caused its manufacturer to infringe the '606 patent as well. (Compl. ¶ 111); *see, e.g., Amarin Pharma, Inc. v. Hikma Pharms. USA Inc.*, 104 F.4th 1370, 1377 (Fed. Cir. 2024). Solbello focuses only on its claim for direct infringement for the purposes of this motion, as the analysis is essentially the same at this point.

prongs: Solbello owns the '606 patent, and ShoreShade has without a doubt made, imported, sold, or offered to sell its infringing shade. (Compl. ¶¶ 20-30, 44-45). And, as described below, ShoreShade's product includes each element of claim 44 of the '606 patent as well.

**A. The ShoreShade Directly Infringes the '606 Patent.**

A written comparison of Claim 44 and ShoreShade's product confirms that it literally infringes Solbello's patent.

- **(1) Sun shade assembly:** The ShoreShade fits this bill. It must be assembled, and it provides shade from the sun. (*Id.* ¶¶ 54-63).
- **(2) A mast configured to extend upwardly from a supporting surface, and having a top end and a bottom end.** The ShoreShade is a tall pole or "mast"; it extends upwardly from the supporting surface, most often the beach; and of course it has both a top and bottom end. (*Id.*)
- **(3) At least one rib located proximate the top end of said mast.** The ShoreShade meets that requirement as well, featuring ribs on both ends at the mast's top. (*Id.*)
- **(4) Ribs configured to rotate relative to the supporting surface.** The ShoreShade satisfies this one too: its ribs—the crossbars that run parallel to the ground—rotate relative to the beach to align with the wind's direction. (*Id.*)
- **(5) A sail having a proximal edge secured to said rib and an unrestrained free edge adapted to unfurl in response to blowing of the wind.** That is exactly how the ShoreShade is built. It features a sail at the top, with one edge fastened to the crossbar ribs and the opposite end billowing freely. (*Id.*)
- **(6) The entire surface area of said sail is unrestrained from the proximal edge to the free edge.** Again, that describes the ShoreShade. Its sail flows entirely freely except where it is affixed to the ribs. (*Id.*)
- **(7) When unfurled, said sail and rib are adapted to rotate together to a direction of the blowing wind.** The ShoreShade satisfies this description as well. Its sail and ribs rotate together to align with the wind's direction. (*Id.*)

A visual comparison drives the point home even further. The following claim chart and incorporated Facebook reviews, also attached to Solbello's complaint, further illustrate how the ShoreShade includes each element of claim 44:

| U.S. PATENT NO. RE50606 - CLAIM 44                                                                           |                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Claim Language</i>                                                                                        | <i>Shoreshade Product</i>                                                                                                                                        |
| <i>A sun shade assembly</i>                                                                                  |  <p><i>Shoreshade Facebook Page</i></p>                                       |
| <i>a mast configured to extend upwardly from a supporting surface, and having a top end and a bottom end</i> |  <p><i>Mast extending upwardly from the beach ("supporting surface")</i></p> |

*at least one rib located proximate the top end of said mast*

*Ribs located at the top end of the Mast*



*[said rib] configured to rotate relative to the supporting surface*

*Rib rotates relative to the beach to allow sail to adjust to the direction of the wind*



\*\*\*See attached Facebook reviews

*a sail having a proximal edge secured to said rib and an unrestrained free edge adapted to unfurl in response to blowing of the wind*

**Proximal edge of sail is secured to the rib while free edge of sail is unrestrained**



**Free edge of sail unfurls in the wind**

*and wherein an entire surface area of said sail is unrestrained from the proximal edge to the free edge*

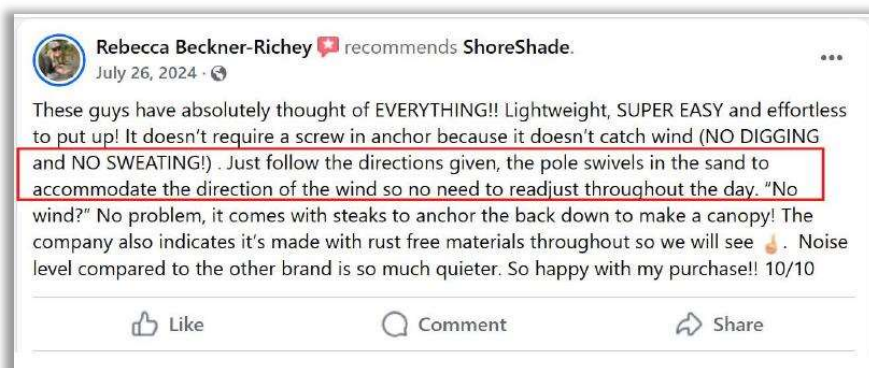
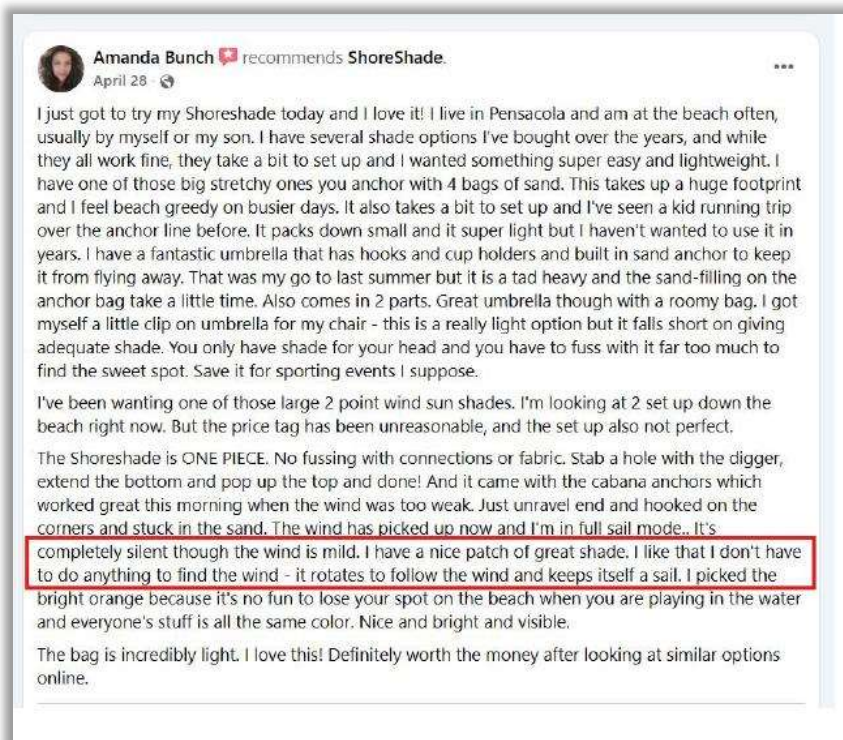
**No restraining structure between proximal and free edges of the sail**



*when unfurled, said sail and rib are adapted to rotate together to a direction of the blowing wind*

**\*\*\*See attached Facebook reviews**

**Sail and rib rotate to a direction of the wind**



(*Id.* ¶ 63). All told, both a written claim-by-claim comparison and a visual claim chart confirm that ShoreShade literally infringes Solbello’s ’606 Patent.

**B. The ShoreShade Infringes the ’606 Patent Through the Doctrine of Equivalents.**

At the very least, the ShoreShade infringes Solbello’s patent via the doctrine of equivalents. Under that framework, “a product or process that does not literally infringe upon the express terms of a patent claim may nonetheless be found to infringe if there is ‘equivalence’ between the elements of the accused product or process and the claimed elements of the patented invention.” *Warner-Jenkinson Co., Inc. v. Hilton Davis Chem. Co.*, 520 U.S. 17, 21 (1997).

An element of a product can infringe under the doctrine of equivalents in one of two ways, depending on which test better fits the facts. *Shibumi Shade, Inc. v. Beach Shade LLC*, 2022 WL 390839, at \*8-9 (E.D.N.C. Feb. 8, 2022). First, the elements are equivalent if the element of the accused product “performs substantially the same function in substantially the same way to achieve the same result.” *Id.* (quoting *Graver Tank & Mfg. Co. v. Linde Air Prods., Co.*, 339 U.S. 605, 608 (1950)). And second, the element of the accused product infringes “if there are only insubstantial differences between” it and the pertinent element of the patented invention. *Id.* at \*9. Crucially, “equivalence does not require complete identity for every purpose and in every respect.” *Id.* at \*10 (citation modified) (quoting *Nestier Corp. v. Menasha Corp.-Lewisystems Div.*, 739 F.2d 1576, 1579 (Fed. Cir. 1984)).

Regardless of which test the Court applies, the ShoreShade infringes the ’606 patent under the doctrine of equivalents for similar reasons as discussed above. To

the extent ShoreShade tries to identify any elements of its product it thinks render it beyond the scope of claim 44, there can be little doubt that the elements of the ShoreShade “perform[] substantially the same function in substantially the same way to achieve the same result.” *Id.* at \*9. It is, after all, a vertical sunshade with horizontal ribs that unfolds to release a billowing sail and which rotates to align with the wind. Any differences ShoreShade may point to are insubstantial.

In fact, this very tactic has become a documented problem in the sunshade industry. A company will introduce an innovative product—only for a competitor to make minor, superficial modifications that do not materially affect how the product functions, hoping those tweaks will serve as defenses to infringement. Fortunately, courts have been wise to that maneuver.

In *Shibumi*, 2022 WL 390839, at \*8–9, for instance, another district court confronted a nearly identical scenario. The defendant argued that an element of its product was not “equivalent” because it used a different anchoring mechanism—the plaintiff’s shade attached the anchor through the carrying bag’s interior, while the defendant’s attached it through the exterior. The court rejected that argument, holding that the accused product’s “external connection point on the anchor performs substantially . . . the same function” as the plaintiff product’s interior connection. *Id.* at \*10; *see also id.* at \*10-11 (discussing two other sets of equivalent features). The court rightly recognized the position of that connection point was a distinction without a difference. To the extent ShoreShade attempts the same tactic here, this Court should hold the same: each element of its product is equivalent to Solbello’s.

## II. Solbello Will Suffer Irreparable Harm Without a Preliminary Injunction.

ShoreShade’s infringing conduct described above will irreparably harm Solbello. It already has, in fact. And a preliminary injunction is the only way to stop it from continuing.

As an initial matter, Solbello’s patent gives it a “statutory right to exclude others from practicing” its invention. *Metso Minerals, Inc. v. Powerscreen Int’l Dist. Ltd.*, 788 F. Supp. 2d 71, 74 (E.D.N.Y. 2011) (citing *Acumed LLC v. Stryker Corp.*, 551 F.3d 1323, 1328 (Fed. Cir. 2008)). The invasion of that right often produces injuries that money damages simply cannot remedy. *Doubleday*, 2022 WL 2784800, at \*8. Those include loss of goodwill due to customer confusion, loss of market share and business opportunities, and price erosion. *Celsis In Vitro, Inc. v. CellzDirect, Inc.*, 664 F.3d 922, 930 (Fed. Cir. 2012); *BellSouth Telecomms., Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 970 (11th Cir. 2005). And when a plaintiff and defendant are direct competitors, the risk of irreparable harm is even more acute because the defendant is far more likely to be able to “usurp the pioneering company’s market position and goodwill.” *Emory Univ. v. Nova Biogenetics, Inc.*, 2008 WL 2945476, at \*4 (N.D. Ga. July 25, 2008).

Each of these factors is present here. ShoreShade’s infringement has—and will continue to—cause Solbello to lose business, forfeit goodwill through customer confusion, and set its prices unsustainably low to compete with ShoreShade’s knockoff. And those harms are compounded by the fact that ShoreShade competes directly with Solbello.

***Loss of goodwill and confusion.*** To begin, ShoreShade’s conduct jeopardizes the goodwill in the marketplace that Solbello has worked hard to cultivate. Loss of customer goodwill is a textbook form of irreparable harm. *E.g., BellSouth*, 425 F.3d at 970. And when a defendant introduces an infringing product that is likely to confuse consumers as to its source, courts have recognized that that injury is irreparable because it threatens to erode the goodwill the plaintiff has built with its customer base—something money damages can’t fix. *See Mattress Safe, Inc. v. J.T. Eaton & Co.*, 2019 WL 2714498, at \*8-10 (N.D. Ga. Jan. 15, 2019); *Ewe Grp., Inc. v. Bread Store, LLC*, 54 F. Supp. 3d 1343, 1352 (N.D. Ga. 2014) (collecting cases). That makes sense. The plaintiff “has no way of controlling the quality of [the] Defendants’ products,” so “any inferior [products] Defendants sell will reflect adversely on Plaintiff’s business reputation and the goodwill associated with its” intellectual property. *Noorani Trading Inc. v. Bijani*, 2017 WL 8292437, at \*9 (N.D. Ga. May 4, 2017). Courts therefore routinely find irreparable harm “based on a substantial threat of customer confusion and the resulting harm to the plaintiff’s reputation and goodwill.” *Express Franchise Servs., L.P. v. Impact Outsourcing Sols., Inc.*, 244 F. Supp. 3d 1386, 1384 (N.D. Ga. 2017) (collecting cases).

Unfortunately, that’s precisely the harm ShoreShade has inflicted, and will continue to inflict, on Solbello. Because ShoreShade is selling a nearly identical (but inferior) copy of Solbello’s product, consumers have already been confused.

Take some of the examples cited above—the customer who left a one-star review, who had confused the ShoreShade with Solbello’s product (*see supra* at 8); or

the customers who have left negative comments on Solbello’s social media that in actuality refer to ShoreShade’s infringing product (*see supra* at 8-9). That kind of confusion threatens to erode Solbello’s hard-earned goodwill and reputation, as ShoreShade’s product appears to be inferior in quality. (Compl. ¶¶ 64-68). So customers who mistake a ShoreShade for a Solbello Shade—and there have already been many examples—are likely to associate that inferior performance to Solbello. *Teledyne Indus., Inc. v. Windmere Prods., Inc.*, 433 F. Supp. 710, 740 (S.D. Fla. 1977) (“Plaintiff will sustain injury if customers might attribute the goods of another to itself, and this injury is by its very nature irreparable . . .”).

***Loss of market share/business opportunities.*** Upon information and belief, that confusion likely already has resulted—and almost certainly *will* result—in a loss of business opportunities for Solbello as well. (*E.g.*, Compl. ¶¶ 76-8, 81-84, 91). If consumers begin to associate Solbello with ShoreShade’s inferior product, potential customers will be far less likely to purchase Solbello’s Shade—causing lasting damage to its business. Like a loss of goodwill, those lost opportunities cannot be remedied through money damages alone. *See, e.g., RooR Int’l BV v. Puff Smoke Shop, LLC*, 2019 WL 5448367, at \*4 (M.D. Fla. Sept. 20, 2019) (passing off counterfeit, inferior goods resulted in lost business opportunities).

***Price erosion.*** If confusing potential customers and eating into Solbello’s business opportunities weren’t enough, ShoreShade’s infringing product will also likely send the price of Solbello’s product into a tailspin.

ShoreShade currently sells its product for \$129, and has previously listed it for \$99. (Compl. ¶ 92). Solbello has already lowered its prices to stay competitive; it sold its sunshade for \$179 as recently as May 2024, and has since reduced its price to \$150 (*Id.*) And it may have to discount its product even further. Otherwise, consumers will inevitably flock to ShoreShade’s cheaper, superficially identical alternative. *See Compl. Ex. M* (consumer on Facebook noting that the ShoreShade was cheaper), *Ex. N* (consumer noting that she had purchased the ShoreShade because the Solbello was too expensive).

The Federal Circuit has explained why this precise type of harm isn’t compensable through money damages. Competitors tend to “change the marketplace” permanently. *Polymer Techs., Inc. v. Bridwell*, 103 F.3d 970, 975 (Fed. Cir. 1996). And “[r]equiring purchasers to pay higher prices after years of paying lower prices to infringers is not a reliable business option.” *Id.* at 976.

If ShoreShade isn’t enjoined, then, “it may be impossible to restore [Solbello’s] . . . exclusive position by an award of damages and a permanent injunction.” *Id.* at 975-76. That kind of harm, once again, isn’t redressable through money damages. *See, e.g., Celsis*, 664 F.3d at 930; *Robert Bosch LLC v. Pylon Mfg. Corp.*, 659 F.3d 1142, 1154 (Fed. Cir. 2011); *Kanga Care*, 2022 WL 22650525, at \*5; *Acella Pharms., LLC v. Izeen Pharma, Inc.*, 2019 WL 12831728, at \*3 (N.D. Ga. Apr. 1, 2019).

***Direct competition.*** All of these risks—loss of goodwill, loss of business opportunities, and price erosion—are even more acute in this case because

ShoreShade is trying to compete directly with Solbello. Harm to a patentee is generally “heightened” when the patentholder and the alleged infringer “are direct competitors.” *ADA Sols, Inc. v. Engineered Plastics, Inc.*, 826 F. Supp. 2d 348, 351 (D. Mass. 2011); accord *Robert Bosch*, 659 F.3d at 1152. That’s because a direct competitor is more likely to “usurp the pioneering company’s market position and goodwill” than one that, for instance, merely incorporates the invention into a noncompeting product. *Emory Univ.*, 2008 WL 2945476, at \*4.

Here, Solbello is competing head-to-head with ShoreShade’s—essentially identical—product. So that makes it all the more likely that ShoreShade will try to leverage its copycat product to push Solbello out of the market. And if it’s allowed to do so, money damages could not fully compensate for that loss. *See Polymer Techs*, 103 F.3d at 975-76.

### **III. The Balance of Harms Favors Solbello.**

ShoreShade’s side of the ledger isn’t nearly so compelling. While Solbello stands to lose the market share and reputation it has spent years fostering through legitimate means, the only harm ShoreShade can conceivably gin up is that it will no longer be able to manufacture, market, or sell an unauthorized imitation of Solbello’s patented product.

That’s not a cognizable injury. Even assuming the accused product is ShoreShade’s principal source of revenue, that is a problem of ShoreShade’s own making—it alone chose to stake its business on copying Solbello’s sunshade. For that very reason, the Federal Circuit has clarified that a “party cannot escape an injunction simply because . . . its primary product is an infringing one.” *Robert Bosch*,

659 F.3d at 1156. Quite the contrary, in fact. “[R]equiring [the patentholder] to compete against its own patented invention, with the resultant harms described above, places a substantial hardship on [the holder].” *Id.* Any harm ShoreShade might identify that would flow from an injunction isn’t legitimate, and in any event would pale in comparison to the irreparable injuries Solbello now faces.

#### **IV. The Public Interest Favors an Injunction.**

An injunction here would likewise advance the public interest at large. For one thing, “the public interest nearly always weighs in favor of protecting property rights.” *Apple Inc. v. Samsung Elecs. Co.*, 809 F.3d 633, 647 (Fed. Cir. 2015). In the patent context, for instance, it’s “well-established” that “the public has a strong interest in protecting patent rights and incentivizing innovation, especially for practicing patent holders.” *Canon, Inc. v. Color Imaging, Inc.*, 292 F. Supp. 3d 1339, 1356 (N.D. Ga. 2018); accord *Sanofi-Synthelabo v. Apotex, Inc.*, 470 F.3d 1368, 1383 (Fed. Cir. 2006). After all, whatever marginal benefit another competitor in the market might give to consumers, “the public has a greater interest in acquiring new technology through the protections provided by the Patent Act than it has in buying ‘cheaper knock-offs.’” *Douglas Dynamics, LLC v. Buyers Prods. Co.*, 717 F.3d 1336, 1346 (Fed. Cir. 2013). The same is true here. The public is far better served by ensuring that inventions like Solbello’s are developed in the first place than in gaining access to cheaper copycat versions.

For another, “the public interest is served by preventing consumer confusion in the marketplace.” *Davidoff & CIE, S.A. v. PLD Intern’l Corp.*, 263 F.3d 1297, 1304

(11th Cir. 2001). No consumer wants to purchase a product, only to find out later it wasn't the genuine article. Yet that is exactly the dynamic ShoreShade has created. It has misled—and by all indications will continue to mislead—customers by infringing Solbello's patent. “By putting an immediate end to [ShoreShade's] deceptive practices that have misled, confused, and victimized consumers, . . . injunctive relief will serve the public interest.” *Ryder Sys., Inc. v. Storage & Moving Servs., Inc.*, 2013 WL 3873231, at \*7 (S.D. Fla. July 25, 2013).<sup>4</sup>

### CONCLUSION

For these reasons, Solbello respectfully asks that the Court grant its Motion for Preliminary Injunction, and enjoin ShoreShade from manufacturing, using, promoting, or selling its accused product.

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<sup>4</sup> A final note on the bond discussed in Federal Rule of Civil Procedure 65(c). This Court has broad discretion in setting the amount of that security, and indeed may impose none at all. *BellSouth*, 425 F.3d at 971. Because it is ShoreShade's burden to submit evidence supporting a reasonable bond, *Continental Grp., Inc. v. KW Prop. Mgmt., LLC*, 2009 WL 3644475, at \*6 (S.D. Fla. Oct. 30, 2009), Solbello plans to address any figure proposed by ShoreShade on reply. But in all events, this Court should only impose a minimal bond if any. As this Court has explained, “security is not required . . . where the party seeking the injunction has a high probability of success on the merits.” *Tipsey McStumbles, LLC v. Griffin*, 2011 WL 13216946, at \*6 (S.D. Ga. May 12, 2011) (Hall, J.); *accord Lashify, Inc. v. Qingdao Network Tech. Co.*, 2025 WL 2298837, at \*4 (S.D.N.Y. Aug. 8, 2025). Because Solbello's patent infringement claim has a “high probability of success on the merits,” no bond—and certainly not a substantial one—is necessary here.

This the 7th day of November, 2025.

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