

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:16-cr-526-T-35AAS

NADIM AFIF EL-KAREH

**NOTICE OF MAXIMUM PENALTY, ELEMENTS OF OFFENSE,
PERSONALIZATION OF ELEMENTS AND FACTUAL BASIS**

ESSENTIAL ELEMENTS

The essential elements of a violation of 18 U.S.C. § 2320(a), trafficking in counterfeit goods, are as follows:

- First: That the defendant trafficked, or attempted to traffic, in goods or services;
- Second: That such trafficking, or attempt to traffic, was intentional;
- Third: That the defendant knowingly used a counterfeit mark on or in connection with the goods in which the defendant trafficked, or attempted to traffic; and
- Fourth: That the use of the counterfeit mark was likely to cause confusion, to cause mistake, or to deceive.

PENALTY

The penalty for the offense charged in Count One of the Information carries a maximum sentence of 10 years' imprisonment, a fine of

\$2,000,000.00, a term of supervised release of not more than 3 years, and a special assessment of \$100 per felony count for individuals.

FACTUAL BASIS

Beginning on an unknown date, but not later than in or around 2013, and continuing through in or around April 2016, in the Middle District of Florida (“MDFL”) and elsewhere, defendant Nadim Afif El-Kareh intentionally imported, sold, and possessed with the intent to sell at least approximately \$488,918.80 worth of perfume, accessories, electronic goods, and cellular telephone accessories with counterfeit trademarks substantially indistinguishable from the trademarks for the lawful trademark holders. The infringed trademarks included trademarks owned by Gucci, Calvin Klein, Burberry, Polo Ralph Lauren, Rolex, Beats by Dr. Dre, and Otter Box. The infringed trademarks are registered with the United States Patent and Trademark Office (“USPTO”).

El-Kareh operated his counterfeit perfume, accessories, electronic goods and cellular telephone accessories business out of various locations in and around Orlando, Florida, which is located in the MDFL. El-Kareh is the current registered agent for Dollar World Distributors, Inc. El-Kareh has been the registered agent of this entity since in or around 2013. During their investigation, agents learned that El-Kareh purchased and imported his

counterfeit electronic goods from a Chinese-based manufacturer. El-Kareh stored his counterfeit merchandise in at least three storage units at a Public Storage facility in Orlando, Florida. The goods were shipped from China to El-Kareh's storage units and his residence in the MDFL via various mail carriers, including United Parcel Service. El-Kareh sold counterfeit goods to customers directly from the storage facility. El-Kareh also sold and distributed counterfeit items to vendors at, among other places, the Webster Flea Market located in Webster, Florida. The Webster Flea Market is open to the public and consists of numerous vendors who sell a variety of goods at reduced or wholesale value. The vendors to whom El Kareh sold counterfeit items then sold those items to customers.

On April 6, 2016, federal agents executed search warrants at three storage units belonging to El Kareh. As a result of the search, agents discovered and seized approximately 10,965 counterfeit items, including perfume, accessories, electronic goods, cell phone cases, sunglasses, belts, watches, and other various items bearing trademark insignia such as Gucci, Calvin Klein, Burberry, Polo Ralph Lauren, Rolex, Beats by Dr. Dre, Otter Box, and additional name brand labels. The estimated domestic value of the infringing items was assessed at approximately \$224,510. Agents also seized the following electronic devices El-Kareh used in the commission of the

offense: (1) Apple iPhone, Model A1456, International Mobile Equipment Identity (IMEI) number: 358542055164643, and (2) Apple iPad, Model A1395, serial number: DN6GJ35SDFHW.

Also on April 6, 2016, after agents advised El-Kareh and his wife, of their *Miranda* rights, they both agreed to speak to the agents. El-Kareh admitted to federal agents that he had knowingly trafficked in counterfeit goods for at least three years. El-Kareh and his wife told the agents that El-Kareh's only means of employment for the past three years had been buying, selling, and distributing counterfeit merchandise, including Otter Box cellular telephone cases, Beats by Dr. Dre headphones, and perfume products. El-Kareh's customers paid him in cash and checks, which he deposited into bank accounts in his name, including a Wells Fargo bank account ending in -2835. According to bank records, between in or around January 2015 through in or around April 2016, El Kareh deposited approximately \$264,408.80 into his Wells Fargo account ending in -2835. These deposits constituted and were derived from proceeds obtained, directly and indirectly, from the sale of counterfeit goods by El-Kareh.

El-Kareh told agents that he corresponded with his Chinese supplier via email on the above-described iPhone and iPad, and El Kareh sent this individual money via wire transfers in exchange for merchandise. El-

Kareh said that he connected with this individual on a website called “DHGate.com,” which is known by law enforcement agents to be a website that is a common source for counterfeit merchandise sale and distribution. El-Kareh purchased his counterfeit perfume from sellers located in New York, New York. El-Kareh paid his New York-based sellers by depositing money directly into their bank accounts. El-Kareh told agents that he sold this merchandise to customers at the Webster Flea Market and from his storage units. In addition to selling counterfeit goods to vendors and customers located in the MDFL, El-Kareh shipped the counterfeit goods to other locations in the United States, including Texas.

Trademark representatives were onsite during the execution of the search warrants and confirmed that the merchandise seized from inside each of El-Kareh’s storage units was counterfeit. The representatives indicated that the counterfeit items use counterfeit trademarks that appear substantially indistinguishable from the legitimate trademarks owned by the victim companies. Therefore, the use of these counterfeit trademarks was likely to cause confusion, to cause mistake, and to deceive. The legitimate trademarks are on file with the USPTO.

For sentencing purposes, the government will recommend to the Court that the infringement amount in this case is at least \$488,918.80, which

is equal to the domestic retail value and/or actual sales price of the infringing counterfeit items with counterfeit trademarks described above (\$224,510), plus the proceeds obtained directly and indirectly as a result of the commission of the offense (\$264,408.80).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2016, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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