

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

XYZ Corporation,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED IN SCHEDULE “A” HERETO,

Defendants.

Case No.: 1:24-cv-02939

Honorable Matthew F. Kennelly

SEALED EX PARTE TEMPORARY RESTRAINING ORDER

Plaintiff XYZ Corporation, (“PLAINTIFF”) filed an *Ex Parte* Motion for Entry of a Temporary Restraining Order and Other Relief (the “Motion”) against the fully interactive, e-commerce stores¹ operating under the domain names identified in Schedule A to the First Amended Complaint and attached hereto (collectively, “Defendants”) and using at least the online marketplace accounts identified in Schedule A (the “Online Marketplaces”). After reviewing the Motion and the accompanying record, this Court GRANTS PLAINTIFF’s Motion as follows:

The Court finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendants because Defendants directly target their business activities toward consumers in the United States, including consumers in the State of Illinois. Specifically, PLAINTIFF has provided a basis to conclude that Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more seller aliases, offer shipping to the United States, including to the State of Illinois, and have sold knockoff

¹ The e-commerce store URLs are listed on Schedule A hereto under the Online Marketplaces.

products through the unauthorized use and display of PLAINTIFF's federally registered copyrights (the "Plaintiff's Copyrights") to residents of the State of Illinois. (Docket No. 17-1, Ex. 1 to the Complaint, which includes the ten (10) copyrights associated with the Plaintiff's Copyrights and attached hereto).

In this case, PLAINTIFF has presented screenshot evidence that each Defendant's e-commerce store is reaching out to do business with Illinois residents by operating one or more commercial, interactive internet stores that display, without authorization, the Plaintiff's Copyrights through which Illinois residents can and do purchase knockoff Plaintiff's products. (See Docket Nos. [12-4] Exhibit 7 to the Declaration of Shawn A. Mangano in support of Temporary Restraining Order, which includes screenshot evidence and internet link confirming that each Defendant's Internet store displays the Plaintiff's Copyrights without authorization in offering knockoff Plaintiff's products and they stand ready, willing, and able to ship its knockoff goods to customers in Illinois. Accordingly, the Court finds that PLAINTIFF stands a likelihood of success on the merits of its copyright infringement, false designation of origin, and state law deceptive trade practices claims for relief.

The Court additionally finds that issuance of the requested injunctive relief would be in the public interest by protecting consumers from being misled by the unauthorized display of the Plaintiff's Copyrights by Defendants on their Internet stores in enticing the purchase of knockoff Plaintiff's products that are of inferior quality. The Court also finds that it need not balance the interests of Defendants in this case because there is credible evidence to conclude they are engaged in, among other things, willful copyright infringement of the Plaintiff's Copyrights.

The Court also finds that issuing this Order without notice pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure is appropriate because PLAINTIFF has presented specific facts in the Declaration of Shawn A. Mangano Esq. in support of the Motion and accompanying evidence clearly showing that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition. Specifically, in the absence of an *ex parte* Order, Defendants could and likely would move any assets from accounts in financial

institutions under this Court's jurisdiction to offshore accounts. Accordingly, this Court Orders as follows:

1. Defendants, their officers, agents, servants, employees, attorneys, and all persons acting for, with, by, through, under, or in active concert with them be temporarily enjoined and restrained from:

- a. Using or displaying the Plaintiff's Copyrights, in any medium, whether it be print, digital or otherwise, in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine Plaintiff's product or is not authorized by PLAINTIFF to be sold in connection with the Plaintiff's Copyrights;
- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Plaintiff's product or any other product produced by PLAINTIFF through the use or display of the Plaintiff's Copyrights;
- c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of PLAINTIFF, or are sponsored by, approved by, or otherwise connected with PLAINTIFF;
- d. manufacturing, shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for PLAINTIFF, nor authorized by PLAINTIFF to be sold or offered for sale through the use or display of the Plaintiff's Copyrights; and
- e. Defendants shall not transfer or dispose of any money or other of Defendants' assets in any of Defendants' financial accounts.

2. PLAINTIFF is authorized to issue expedited written discovery to Defendants, pursuant to Federal Rules of Civil Procedure 33, 34, 36, and 45 related to:

- a. the identities and locations of Defendants, their officers, agents, servants,

- employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;
- b. the nature of Defendants' operations and all associated sales, methods of payment for services, and financial information, including, without limitation, identifying information associated with the Online Marketplaces and Defendants' financial accounts, including Defendants' sales and listing history related to their respective Online Marketplaces; and
 - c. any financial accounts owned or controlled by Defendants, including their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including such accounts residing with or under the control of any banks, savings and loan associations, payment processors or other financial institutions, including, without limitation, Temu.com, PayPal Inc. ("PayPal"), Alipay, ContextLogic Inc. d/b/a Wish.com ("Wish.com"), Alibaba Group Holding Ltd. ("Alibaba"), Ant Financial Services Group ("Ant Financial"), Amazon Pay, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
 - d. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, and the domain name registrars, including, but not limited to, GoDaddy Operating Company LLC, Name.com, PDR LTD. d/b/a/ PublicDomainRegistry.com, Cloudflare Inc, Oracle Corp., Amazon Inc., Alibaba Group d/b/a Alibaba Cloud.com, Namesilo, LLC d/b/a privacuguardian.org, and Namecheap Inc., within seven (7) calendar days of receipt of this Order or prior to the expiration of this Order, whichever date shall occur first, shall disable the Defendant Domain Names and make them inactive and untransferable until further order by this Court.
3. Upon PLAINTIFF's request, any third party with actual notice of this Order

who is providing services for any of the Defendants, or in connection with any of Defendants' Online Marketplaces, including, without limitation, any online marketplace platforms such as eBay Inc., AliExpress, Alibaba, Amazon.com Inc., Wish.com, and Dhgate (collectively the "Third Party Providers"), shall, within seven (7) calendar days after receipt of such notice, provide to PLAINTIFF expedited discovery, limited to copies of documents and records in such person's or entity's possession or control sufficient to determine:

- a. the identities and locations of Defendants, their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;
 - b. the nature of Defendants' operations and all associated sales, methods of payment for services, and financial information, including, without limitation, identifying information associated with the Online Marketplaces and Defendants' financial accounts, including Defendants' sales and listing history related to their respective Online Marketplaces; and
 - c. any financial accounts owned or controlled by Defendants, including their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including such accounts residing with or under the control of any banks, savings and loan associations, payment processors or other financial institutions, including, without limitation, PayPal, Alipay, Wish.com, Alibaba, Ant Financial, Amazon Pay, or other merchant account providers, payment providers, third party processors, credit card associations (e.g., MasterCard and VISA), including present balances on any accounts.
4. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, and the domain name registrars, including, but not limited to, GoDaddy Operating Company LLC, Name.com, PDR LTD. d/b/a PublicDomainRegistry.com, Cloudflare Inc, Oracle Corp., Amazon Inc., Alibaba Group d/b/a Alibaba Cloud.com, Namesilo, LLC d/b/a

privacuguardian.org, and Namecheap Inc., within seven (7) calendar days of receipt of this Order or prior to the expiration of this Order, whichever date shall occur first, shall disable the Defendant

5. Upon PLAINTIFF's request, those with notice of this Order, including the Third-Party Providers as defined in Paragraph 3, shall within seven (7) calendar days after receipt of such notice, disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the Plaintiff's Copyrights.

6. Any Third-Party Providers, including PayPal, Alipay, Alibaba, Ant Financial, Wish.com, and Amazon Pay, shall, within seven (7) calendar days of receipt of this Order:

- a. locate all accounts and funds connected to Defendants' seller aliases, including, but not limited to, any financial accounts connected to the information listed in Schedule A hereto, and any e-mail addresses provided for Defendants by third parties; and
- b. restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further order by this Court.

7. PLAINTIFF may provide notice of the proceedings in this case to Defendants, including notice of the preliminary injunction hearing, service of process pursuant to Fed. R. Civ. P. 4(f)(3), and any future motions, by electronically publishing a link to the Complaint, this Order, and other relevant documents on a website and by sending an e-mail to any e-mail addresses provided for Defendants by third parties. The Clerk of the Court is directed to issue a single original summons in the name of "THE INDIVIDUALS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, AND UNINCORPORATED ASSOCIATIONS IDENTIFIED IN SCHEDULE A HERETO" that shall apply to all Defendants. The combination of providing notice via electronic publication and e-mail, along with any notice that Defendants receive from payment processors, shall constitute notice reasonably calculated under all circumstances to apprise Defendants of the pendency of the action and afford them the opportunity to present their objections.

8. PLAINTIFF must provide notice to Defendants of any motion for preliminary injunction as required by Rule 65(a)(1).

9. PLAINTIFF's Pleading(s) DOCKET NO. 1 and Exhibits 1 through 2 thereto and Sealed as DOCKET NO. 12 and Exhibits 1 through 2. DOCKET NO. 4 and Exhibits 1 through 2 thereto, DOCKET NO. 7 and Exhibits 1 through 6 thereto, Schedule A to the Pleading(s) DOCKET NO(s) [1-2] and [12-2], Exhibit 7 to the Declaration of Shawn A. Mangano, Esq. DOCKET NO. [12-8], and this Order shall remain sealed until further order by this Court or until the Order expires, whichever occurs earlier.

10. Within seven (7) calendar days of entry of this Order, PLAINTIFF shall deposit with the Court \$5,000, either cash, cashier's check or surety bond, as security, which amount has, in the absence of adversarial testing, been deemed adequate for the payment of such damages as any person may be entitled to recover as a result of a wrongful restraint hereunder.

11. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order as permitted by and in compliance with the Federal Rules of Civil Procedure and the Northern District of Illinois Local Rules. Any third party impacted by this Order may move for appropriate relief.


12. Plaintiff has shown exceptional circumstances permitting use of the pseudonym 'XYZ, Corporation' in that disclosure of Plaintiff's name would result in the Defendants prematurely learning of this action before injunctive relief could be sought, surmising the infringing conduct being alleged, ascertaining their potential liability, causing the destruction of relevant documentary and electronic evidence, resulting in the hiding and/or transfer of assets to foreign jurisdictions, and leading to the Defendants refusing to participate in the adjudication of this case.

13. All documents, including the identity of Plaintiff's name shall remain sealed until further order of the Court.

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This Temporary Restraining Order without notice is entered at 9:30 A.M. on this 6th day of May 2024 and shall remain in effect for fourteen (14) calendar days.



Matthew F. Kennelly
United States District Judge