

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

HONG KONG LEYUZHEN TECHNOLOGY
CO. LIMITED,

Plaintiff,

v.

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

Defendants.

Case No.: 1:24-cv-01652-JCD-KLHH

Honorable Jeremy C. Daniel

Magistrate Keri L. Holleb Hotling

NOTICE OF MOTION

PLEASE TAKE NOTICE that on Tuesday, June 4, 2024, at 9:30 a.m., Plaintiff, by and through its counsel, the Bayramoglu Law Offices, LLC, shall appear in-person in courtroom 1419, before the Honorable Jeremy C. Daniel, of the U.S. District Court for the Northern District of Illinois, and present Plaintiff's Motion for Preliminary Injunction.

DATED: May 24, 2024

Respectfully submitted,

By: /s/ Shawn A. Mangano

Shawn A. Mangano (Bar No. 6299408)

BAYRAMOGLU LAW OFFICES LLC

1540 West Warm Springs Road Ste. 100

Henderson, NV 89014

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shawnmangano@bayramoglu-legal.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2024, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, I will electronically publish the documents on a website, and I will send an e-mail to any e-mail addresses identified in Exhibit A hereto that includes a link to said website.

By: /s/ Shawn A. Mangano
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Case No.: 1:24-cv-01652-JCD-KLHH

Honorable Jeremy C. Daniel

Magistrate Keri L. Holleb Hotling

Hearing: June 4, 2024, at 9:30 a.m.

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Plaintiff HONG KONG LEYUZHEN TECHNOLOGY CO., LTD, ("Plaintiff"), hereby moves this Honorable Court for entry of a Preliminary Injunction. The scope of the Preliminary Injunction is substantially identical to the Temporary Restraining Order entered May 16, 2024. [Dkt. No. 19]. If the Court does not rule on this Motion before the current TRO expiration date (May 30, 2024), Plaintiff also seeks to extend the TRO to maintain the status quo until there is a ruling on Plaintiff's Motion for Entry of a Preliminary Injunction. In support of this Motion, Plaintiff herewith submits a Memorandum of Law and a further Declaration of Shawn A. Mangano, Esq.

DATED: May 24, 2024

Respectfully submitted,

By: /s/ Shawn A. Mangano

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May 2024, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Illinois, Eastern Division, using the electronic case filing system. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means. Notice of this filing is provided to unrepresented parties for whom contact information has been provided via email and by posting the filing on a URL contained on our website <https://blointernetenforcement.com/>, and distributed to ecommerce platform, Walmart.

By: /s/ Shawn A. Mangano
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Case No.: 1:24-cv-01652-JCD-KLHH

Honorable Jeremy C. Daniel

Magistrate Keri L. Holleb Hotling

Hearing: June 4, 2024, at 9:30 a.m.

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION**

Plaintiff Hong Kong Leyuzhen Technology Co., Ltd. (“Plaintiff”) submits this Memorandum of Law in support of its Motion for Entry of a Preliminary Injunction (the “Motion”).

The Motion is supported by the pleadings and papers on file in this action, including the Motion for Temporary Restraining Order [Dkt. Nos. 7 through 7-8], the Declaration of Shawn A. Mangano, Esq.¹ (the “Mangano Decl.”), together with the arguments set forth herein and any oral argument by counsel entertained by the Court at the hearing set on this matter.

I. INTRODUCTION

¹ Mr. Mangano has been personally presented with the information included in his affidavit from one or more client contacts. Plaintiff will supplement Mr. Mangano’s declaration with an additional declaration from an appropriate client representative once it is received back.

A. PLAINTIFF’S BRAND IS EXTREMELY SUCCESSFUL AND THE COMPANY SPENDS CONSIDERABLE FUNDS TO PROTECT AND PROMOTE IT.

Plaintiff’s “Rotita” brand (the “Brand”) is an extremely well-known source of women’s clothing in the United States and has been the subject of rampant counterfeit sales through online platforms such as Amazon, Walmart, Aliexpress, eBay, Walmart, and Alibaba. (Mangano Decl. ¶ 6.) These are the six largest online retailers in the World – and Plaintiff does not sell its products through any one of them. (*Id.*) Rather, Plaintiff only sells its genuine Brand products through its website. (*Id.*)

When Plaintiff decided to take action against these counterfeit sellers, it fully appreciated that once the company’s identity is known and the related brand being protected was concomitantly revealed, counterfeit operators across all six online platforms would immediately delete links to their online accounts, halt access to their online sales records, and siphon any ill-gotten gains held in their online accounts to offshore accounts beyond the jurisdiction of this Court. (*Id.* ¶ 7.) In addition, these bad actors would quickly disseminate all known information concerning Plaintiff and its brand enforcement efforts by Internet posts on such counterfeit seller website and message boards as “SellerDefense.cn.” (*Id.*)

In fact, Defendant sellers have superficially sought information about numerous pending cases initiated in this judicial district including actions pending before Judge Kendall, Judge Cummings, Judge Pacold, and Judge Wood. (Mangano Decl. ¶ 8.) As a result, each of these Courts determined that Plaintiff had established “exceptional circumstances” necessary to permit Plaintiff to proceed under a corporate pseudonym. (*Id.*)

Plaintiff’s estimated gross revenue from United States sales likely exceeds \$20,000,000

USD per year. (*Id.* ¶ 9.) Of this amount, Plaintiff estimates that at well over \$1,000,000 is derived from sales in the State of Illinois. (*Id.*) Moreover, Plaintiff estimates that it spends anywhere from \$8,000,000 to \$12,000,000 USD each year to specifically advertise its Brand in the United States through such online advertising sources as Google Ads, Facebook, and Bing. (Mangano Decl. ¶ 9.) Furthermore, the company has spent more than \$80,000 in filing fees paid to the United States Copyright Office just to secure registration of copyright protected works being asserted in eleven (11) enforcement actions initiated in this judicial district. (*Id.*) Simply put, Plaintiff is an extremely successful company that earns millions of dollars from product sales in the United States – including within the State of Illinois. (*Id.*) To do so, Plaintiff annually spends tens of millions of dollars advertising in the United States to promote the sale of its brand. (*Id.*) Plaintiff simply will no longer tolerate the proliferation of counterfeit sales through the unauthorized use of its federally registered copyright images on online platforms through which it does not offer its genuine products.

B. THIS ACTION IS PART OF A LARGER COPYRIGHT ENFORCEMENT CAMPAIGN INITIATED AGAINST OVER 2,500 DEFENDANTS SELLING COUNTERFEIT PRODUCTS ON SIX OF THE LARGEST ONLINE PLATFORMS IN THE WORLD.

Plaintiff’s operative Complaint in this action is but one piece in a multi-action copyright enforcement campaign that seeks to dismantle a criminal network that operates through six (6) of the largest online retail platforms in existence and includes over 2,500 named Schedule “A” Defendants. (Mangano Decl. ¶ 10.) These named Schedule “A” Defendants are alleged to be engaged in the practice of directly, and intentionally, copying, without authorization, Plaintiff’s copyright protected product images almost instantaneously after they are first displayed on the company’s website and then associating these images with the sale and promotion of counterfeit

products of substandard quality, thereby deceiving consumers – including the citizens of the State of Illinois. (*Id.*) Moreover, given the nature of Plaintiff’s textile manufactured women’s clothing products, such large-scale counterfeit sales operations over multiple online retail platforms require considerable supply chain coordination efforts that could not reasonably be accomplished independently by any of the named Defendants. (Mangano Decl. ¶ 10.) In short, these counterfeit sales operations require one or more textile manufacturing factories, sourcing of identical, counterfeit fabrics and patterns, distribution networks to fulfill retail orders for these counterfeit goods, and the end sellers needed to promote and solicit sales. (*Id.*)

The sophistication of Defendants’ online, counterfeit sales network is further demonstrated by the skill with which they identify Schedule “A” plaintiffs, their allegedly infringed products or brands, and then immediately disseminating this information throughout their network by posting on online websites such as “SellerDefense.cn.” (*Id.* ¶ 11.) The dissemination process is straightforward, but highly effective. (*Id.*) Potential defendants or their proxies carefully monitor newly filed Schedule “A” cases commenced in this judicial district and in other districts throughout the country. (*Id.*) Once a new case is identified, a request for any information related to it is posted online or, if information is already known about the action, that information is disclosed. (*Id.*) The dissemination of this information then immediately results in any named defendants siphoning off all illicit funds held in their online accounts, online store links are deleted, and key discoverable sales information is almost certainly lost or rendered extremely difficult to recover. (*Id.*) This results in plaintiffs being deprived of any meaningful opportunity to redress the harm caused by Defendants’ infringing conduct by attacking their financial resources. (*Id.*) The multiple copyright enforcement actions commenced by Plaintiff in this judicial district have been specifically targeted by this tactic – including actions pending

before Judge Cummings, Judge Kendall, Judge Wood, and Judge Pacold. (*Id.*)

As previously presented to this Court in connection with the company's request for entry of a temporary restraining order [Dkt. Nos. 7 through 7-8], Plaintiff has presented substantial evidence that Defendants have intentionally copied its copyright protected works. [*Id.*] This evidence includes a literal one-for-one copying of these protected works and their unauthorized display on Defendants' online storefronts, which are offering substandard, counterfeit products for sale to United States citizens, including those residing in the State of Illinois. [Dkt. Nos. 7 through 7-8]. Substantively, this evidence clearly demonstrates that Plaintiff has an extremely high likelihood of success on the merits of its copyright infringement claim, as well as its associated claims for false designation of origin and violation of Illinois' deceptive trade practices act. [*Id.*].

As also previously argued to this Court in support of its request for entry of a temporary restraining order [Dkt. Nos. 7 through 7-8], Plaintiff would unquestionably suffer irreparable harm absent entry of injunctive relief through the spoliation of essential evidence and Defendants absconding with significant ill-gotten gains derived from their intentional infringement of Plaintiff's federally secured copyright protected works. These facts still exist today and support entry of preliminary injunctive relief effective until full adjudication of this matter. (Mangano Decl. ¶ 12.) Moreover, refusing to grant such relief would completely diminish the considerable financial resources paid by Plaintiff to secure the federal copyright registrations sought to be enforced in this action, and in the other ten (10) pending actions in this judicial district, and ignore the tens of millions of dollars spend by the company to promote and advertise the Brand in the United States. (*Id.*) Accordingly, as argued herein, Plaintiff respectfully requests the Court further enjoin the Defendants through entry of a preliminary injunction.

C. PROCEDURAL SUMMARY

On May 16, 2024, this Court granted Plaintiff's *Ex Parte* Motion for Entry of a Temporary Restraining Order ("TRO"). [Dkt. No. 19.] On May 23, 2024, the designated online platform provided Plaintiff with the requested email addresses associated with Defendants' online accounts necessary to effectuate electronic service of process. The same day, Plaintiff completed electronic service of process by e-mail on the named Schedule "A" Defendants as required by the TRO. (Mangano Decl. ¶ 14.)

1. Substantively, the TRO authorized and directed Plaintiff to provide notice of these proceedings and the preliminary injunction hearing to Defendants by electronically publishing a link to the Complaint, the TRO, and other relevant documents on a website, together with effectuating electronic service by email transmission to any addresses provided for Defendants by third party online platforms. [Dkt. No. 19 ¶ 7.] On May 24, 2024, Plaintiff filed a Notice of Temporary Restraining Order Compliance [Dkt. No. 24], which advised the Court that Walmart had substantively complied with the TRO's requirements to provide the email addresses associated with Defendants' online stores, and it has frozen Defendants' online stores and related accounts. Based on Walmart's substantial compliance with the TRO's requirements, Plaintiff has asked the Court to unseal its identity. (Mangano Decl. ¶ 15.)

D. ARGUMENT

A. ENTRY OF A PRELIMINARY INJUNCTION IS WARRANTED.

Plaintiff has previously submitted substantial evidence that demonstrates its entitlement to entry of preliminary injunctive relief in this action through its submissions made in support of its motion for entry of the TRO granted by this Court. While these prior submissions should sufficiently justify entry of Plaintiff's request for entry of a preliminary injunction, the company

wishes to address certain arguments anticipated to be advanced by those Schedule “A” Defendants that may appear after this Motion has been filed. These anticipated arguments are similar to those that have been raised in Plaintiff’s other ten (10) pending Schedule “A” cases in this judicial district.

a. Defendants Are Subject to Personal Jurisdiction Under Controlling Authority.

An anticipated key argument from the appearing Defendants in this action is that the Court cannot reasonably exercise personal jurisdiction over them because they have not engaged in any infringing sales within the State of Illinois. (Mangano Decl. ¶ 17.) First, this legal proclamation is directly contradicted by decisions issued by the United States Court of Appeals for the Seventh Circuit and in this judicial district. Moreover, any claims that the appearing Defendants, or any named Schedule “A” Defendants in this action, have not offered for sale or sold any counterfeit products in the United States or in the State of Illinois is simply disingenuous and completely unsupportable.

To begin with, this Court may properly exercise personal jurisdiction over Defendants since they have directly targeted their counterfeit sales activities, through online sales platforms not utilized by Plaintiff, in the United States, including to the residents of the State of Illinois, through, at least, fully interactive, e-commerce stores operating under their designated aliases on the Walmart platform. (*Id.* ¶ 18.) Specifically, Defendants have targeted online sales to Illinois residents by setting up, maintaining, and operating Walmart-based e-commerce stores using their seller aliases that target United States consumers, including residents of the State of Illinois, whereby these targeted sales individuals can purchase counterfeit Brand products. (*Id.* ¶ 19.) Under these circumstances, personal jurisdiction may be exercised over Defendants by offering to sell their allegedly infringing products to the United States, whether any actual sales were

consummated in the State of Illinois. *See NBA Properties, Inc. v. HANWJH*, 46 F.4th 614, 624-27 (7th Cir. 2022), *see e.g., Christian Dior Couture, S.A. v. Lei Liu, et al.*, 2015 U.S. Dist. LEXIS 158225, *6 (N.D. Ill. Nov. 17, 2015.)

In addition to the holdings of the above cited decisions, a third-party was able to physically place an order for at least two counterfeit Rotita products from a Defendants' online Walmart store front that displayed, without authorization, Plaintiff's copyright protected images. (Mangano Decl. ¶ 19.) These counterfeit products are being shipped to the State of Illinois. (*Id.*)

In short, existing caselaw from the Seventh Circuit and from this district supports the exercise of personal jurisdiction over Defendants on the record presented. Moreover, Plaintiff additionally has secured shipments of counterfeit Rotita products that were acquired from Defendants through their Walmart online stores that were displaying, without authorization, the company's copyright protected images. (Mangano Decl. ¶ 19.) As such, the Court should reject any arguments that personal jurisdiction should not be exercised over Defendants at this stage of the proceedings, and, if it deems necessary, permit Defendants to seek modification and/or relief from any preliminary injunctive relief entered following substantive discovery.

b. There Are No Improper Joinder Issues.

Schedule "A" cases frequently involve multiple defendants being accused of infringing a host of copyrights, trademarks, trade dress rights, or other intellectual property rights asserted without concern for their relation to one another. Unquestionably, this has been done to intentionally subvert the individual filing requirements for separate actions. *See Slep-Tone Ent. Corp. v. Roberto*, No. 12-cv-5750, 2013 WL 5748896, at *2-3 (N.D. Ill. Oct. 22, 2013); *ThermaPure, Inc. v. Temp-Air, Inc.*, No. 10-cv-4724, 2010 WL 5419090, at *4 (N.D. Ill. Dec. 22, 2010); *Spread Spectrum Screening, LLC v. Eastman Kodak Co.*, No. 10 C 1101, 2010 WL

3516106, at *2 (N.D. Ill. Sept. 1, 2010); *SB Designs v. Reebok Int'l, Ltd.*, 305 F.Supp.2d 888, 892 (N.D. Ill. 2004). This is simply not the case before the Court.

Plaintiff has specifically limited its claims against the identified Defendants because they have infringed the same or similar federally registered copyright protected works. (Mangano Decl. ¶ 20.) Moreover, each of the named Defendants are Chinese nationals or entities accused of offering their counterfeit products through the Walmart platform. (*Id.*) All the named Defendants are alleged to be engaged in an affiliated online network whereby they, at least, obtain their counterfeit goods through the same sources. (*Id.*) These facts clearly, and unquestionably, meet the common issues of fact or law required for proper joinder under Federal Rule of Civil Procedure 20(a)(2). *Estée Lauder Cosms. Ltd. v. P'ships & Unincorporated Ass'ns Identified on Schedule "A"*, 334 F.R.D. 182, 185 (N.D. Ill. 2020) (quoting *Ross ex rel. Ross v. Bd. of Educ. of Twp. High Sch. Dist. 211*, 486 F.3d 279, 284 (7th Cir. 2007)). Accordingly, any improper joinder arguments advanced by Defendants should fail.

c. Plaintiff has Established Entitlement to Entry of a Preliminary Injunction.

Plaintiff respectfully requests that this Court convert the TRO to a preliminary injunction to prevent further unlawful conduct by Defendants, to preserve its access to valuable evidence that would otherwise be destroyed, and to restrain funds derived from intentional, infringing actions that would otherwise be absconded by Defendants, thereby providing Plaintiff with no meaningful relief despite the unquestionable viability of its claims. (Mangano Decl. ¶ 21.) Courts in this judicial district addressing similar allegations of Internet-based intellectual property infringement and associated counterfeiting activity have issued preliminary injunctive relief after entering a temporary restraining order. *See, e.g., Alicia Vannoy Call v. The P'ships*, No. 23-cv-04043 (N.D. Ill. July 25, 2023) (unpublished).

i. This Court Has Already Found the Requirements for a Preliminary Injunction Have Been Satisfied.

The standards applicable to granting a temporary restraining order and those applicable to granting a preliminary injunction are virtually identical, thereby justifying extending a temporary restraining order to preliminary injunctive relief appropriate absent compelling intervening facts or circumstances. *See, e.g., Charter Nat'l Bank & Trust v. Charter One Fin., Inc.*, No. 1:01-cv-00905, 2001 WL 527404, at *1 (N.D. Ill. May 15, 2001) (citations omitted). A temporary restraining order or preliminary injunction may be issued upon a showing that: “(1) there is a reasonable likelihood that Plaintiff will succeed on the merits; (2) Plaintiff will suffer irreparable injury if the order is not granted because there is no adequate remedy at law; (3) the balance of hardships tips in Plaintiff’s favor; and (4) the public interest will not be disserved by the injunction.” *Columbia Pictures Indus., Inc. v. Jasso*, 927 F. Supp. 1075, 1076 (N.D. Ill. 1996). By virtue of this Court’s entry of the TRO, it has already found that the above requirements have been satisfied. The underlying circumstances justifying the Court’s entry of the TRO still exist and equally support entry of a preliminary injunction as requested by Plaintiff.

ii. Plaintiff Would Suffer Irreparable Harm if the Requested Preliminary Injunction is Not Granted.

Separate and apart from the Court’s prior decision to enter temporary injunctive relief, Plaintiff would unquestionably suffer irreparable harm if preliminary injunctive relief is not granted. In this regard, the Copyright Act expressly authorizes courts to issue “grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.” 17 U.S.C. § 502(a).

As with the issued TRO, Plaintiff requests issuance of the preliminary injunction to prevent the Defendants from using, without authorization, the company’s copyright protected

images in connection with the manufacture, importation, distribution, offering for sale, and sale of counterfeit products. (Mangano Decl. ¶ 21.) This results in the direct harm to Plaintiff's brand reputation and loss of consumer goodwill, both of which are harms that are virtually impossible to ascertain the resulting economic loss (*Id.*). See *Life Spine, Inc. v. Aegis Spine, Inc.*, 8 F.4th 531, 546 (7th Cir. 2021); *Ty, Inc. v. Jones Group, Inc.*, 237 F.3d 891, 902 (7th Cir. 2001). As such, these harms constitute irreparable harm. *Ibid.* Absent issuance of this requested preliminary injunctive relief, Defendants' intentional infringement of Plaintiff's federally secured rights will unquestionably continue. (Mangano Decl. ¶ 21.) As such, extension of this relief, which was originally granted through issuance of the TRO, should be further continued through issuance of the requested preliminary injunction until this case is fully adjudicated by the Court. Failure to extend the injunctive relief previously granted through issuance of the TRO subjects Plaintiff to irreparable harm through the continued violation of its federally registered rights granted in and to the copyrighted works at-issue in this action. (*Id.*)

Plaintiff's demonstration of irreparable harm absent conversion of the TRO to a preliminary injunction is also based on the high likelihood that Defendants would delete links to their online stores, thereby erasing key evidence related to their online accounts such as product sales information and ill-gotten funds derived from their intentional infringement of the company's copyright protected works, that would otherwise be deleted, or transferred to unknown locales, unless they remain frozen until conclusion of this action. (*Id.* ¶ 21.) This harm simply cannot be monetarily quantified and, as such, supports a finding of irreparable harm. See *Graphic Design Marketing, Inc. v. Xtreme Enterprises, Inc.*, 772 F.Supp.2d 1029, 1034 (E.D. Wis. 2011). This same harm justified entry of the TRO and it continues to exist today, which clearly justifies entry of the requested preliminary injunction. (Mangano Decl. ¶ 21.) Simply put,

absent extending the relief granted under the TRO to a preliminary injunction, Plaintiff would be irreparably harmed through Defendants' efforts to avoid enforcement of the company federally protected rights by this Court. (*Id.*)

iii. The Balance of the Hardships Tips Strongly in Plaintiff's Favor And Issuing Injunctive Relief is in The Public's Interest.

The next two inquiries presented for the issuance of the requested injunctive relief consider the balance of the hardships between the Plaintiff and the parties being restrained, and whether the issuing the injunction would be in the public's interest. *See Columbia Pictures Indus., Inc.*, 927 F. Supp. at 1076. Here, both factors support granting Plaintiff's Motion.

Turning first to the balance of the hardships, Plaintiff has demonstrated a direct copying of its federally registered copyright protected images. [Dkt. No. 5-4.] In fact, the evidence presented raises an extremely strong inference that Defendants have willfully infringed Plaintiff's copyright protected works. Under these circumstances, very little, if any, deference should be given to any hardships experienced by Defendants should injunctive relief be entered in Plaintiff's favor. Accordingly, the balance of the hardships tips strongly in Plaintiff's favor.

Likewise, issuance of the requested injunctive relief is in the public's interest. "The Copyright Act evidences a public interest in creativity by demonstrating an intent to provide an economic reward for creative expression." *Midway Mfg. Co. v. Artic Intern., Inc.*, 547 F.Supp. 999, 1015 (N.D. Ill. 1982). By granting Plaintiff's Motion, the Court would be furthering that interest by rewarding the company's development and dissemination of new styles, colors, and sizes of women's clothing, which is visually displayed through its advertising and marketing images such as those reflected in its copyright protected works in this action. On the other hand, there would be no public interest furthered by allowing Defendants to continue to distribute and sell their counterfeit products through the unauthorized use of Plaintiff's copyright protected

images. Accordingly, the public's interest would be strongly served by granting Plaintiff's Motion.

B. The Current Bond is Sufficient to Protect Defendants' Interests.

The Court has previously required Plaintiff to post a bond in the sum of \$5,000.00 in connection with issuance of the TRO. [Dkt. No. 19.] The exact same circumstances supporting the Court's determination of this bond amount apply to Plaintiff's request for entry of a preliminary injunction. (Mangano Decl. ¶ 23.) Moreover, the Court is presented with facts and supporting evidence that clearly demonstrates Defendants have infringed Plaintiff's copyright protected works. (*Id.*) This blatant, intentional conduct demonstrates that Plaintiff has an exceptionally high likelihood of success on the merits of its asserted claims for relief. *See Columbia Pictures Indus., Inc.*, 927 F. Supp. at 1076. Such a strong showing militates against a subsequent finding that injunctive relief was improperly granted. To the extent the Court is inclined to increase the bond in this action any such increase should not exceed a total of bond amount of \$10,000.

E. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court grant its request for

entry of a preliminary injunction and maintain the current bond amount required under the TRO, together with issuing any other relief that it deems just and proper.

DATED: May 24, 2024

Respectfully submitted,

By: /s/ Shawn A. Mangano
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May 2024, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Illinois, Eastern Division, using the electronic case filing system. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means. Notice of this filing is provided to unrepresented parties for whom contact information has been provided via email and by posting the filing on a URL contained on our website <https://blointernetenforcement.com/>, and distributed to ecommerce platform, Walmart.

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**IN THE UNITED STATES DISTRICT COURT
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HONG KONG LEYUZHEN TECHNOLOGY
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THE INDIVIDUALS, CORPORATIONS,
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Defendants.

Case No.: 1:24-cv-01652-JCD-KLHH

Honorable Jeremy C. Daniel

Magistrate Keri L. Holleb Hotling

Hearing: June 4, 2024, at 9:30 a.m.

DECLARATION OF SHAWN A. MANGANO, ESQ.
IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

I, Shawn A. Mangano, of the City of Las Vegas, in the State of Nevada, declare as follows:

1. Except as otherwise expressly stated to the contrary, this declaration is based upon my personal knowledge of the following facts and, if called as a witness, I could and would competently testify to the statements made herein.

2. I make this declaration in support of Plaintiff's Motion for Entry of a Preliminary Injunction (the "Motion").

3. I am an attorney at law, duly admitted to practice before the Courts of the State of Illinois and the United States District Court for the Northern District of Illinois. I am one of the attorneys for Plaintiff Hong Kong Leyuzhen Technology Co. Ltd. ("Plaintiff"). I make this declaration from my matters within my own personal knowledge unless stated otherwise.

4. Plaintiff's Motion for Temporary Restraining Order (the "TRO") was granted by the Court on May 16, 2024. [Dkt. No. 19.] On May 23, 2024, Walmart provided Plaintiff with the requested email addresses associated with Defendants' online accounts necessary to effectuate electronic service of process, which was completed the same day.

5. Plaintiff has voluntarily requested its identity be unsealed in its Notice of Temporary Restraining Order Compliance [Dkt. No. 24], which informed the Court that Walmart had substantively complied with its requirements under the TRO.

6. Plaintiff had sought to proceed anonymously in this action because its "Rotita" brand ("Rotita") is an extremely well-known source of women's clothing in the United States and has been the subject of rampant counterfeit sales through online platforms such as Amazon, Walmart, Aliexpress, eBay, Walmart, and Alibaba. These are the six largest online retailers in the World – and Plaintiff does not sell its products through any one of them. Rather, Plaintiff only sells its genuine Rotita brand products through its website rotita.com.

7. When Plaintiff decided to take action against these counterfeit sellers, it fully appreciated that once the company's identity was known and the related brand being protected was concomitantly revealed, counterfeit operators across all six online platforms would immediately delete links to their online accounts, halt access to their online sales records, and siphon any ill-gotten gains held in their online accounts to offshore accounts beyond the jurisdiction of this Court. In addition, these bad actors would quickly disseminate all known information concerning Plaintiff and its brand enforcement efforts by Internet posts on such counterfeit seller website and message boards as "SellerDefense.cn."

8. In fact, Defendant sellers have superficially sought information about numerous pending cases initiated in this judicial district including actions pending before Judge Kendall,

Judge Cummings, Judge Pacold, and Judge Wood. As a result, each of these Courts determined that Plaintiff had established “exceptional circumstances” necessary to permit Plaintiff to proceed under a corporate pseudonym.

9. Plaintiff’s estimated gross revenue from United States sales likely exceeds \$20,000,000 USD per year. Of this amount, Plaintiff estimates that over \$1,000,000 is derived from sales in the State of Illinois. Moreover, Plaintiff spends anywhere from \$8,000,000 to \$12,000,000 USD each year to specifically advertise its Rotita brand in the United States through such online advertising sources as Google Ads, Facebook, and Bing. Furthermore, the company has spent more than \$80,000 in filing fees paid to the United States Copyright Office just to secure registration of copyright protected works being asserted in eleven (11) enforcement actions initiated in this judicial district. Simply put, Plaintiff is an extremely successful company that earns millions of dollars from product sales in the United States – including within the State of Illinois. To do so, Plaintiff annually spends tens of millions of dollars advertising in the United States to promote the sale of its brand.

10. Plaintiff’s operative Complaint in this action is but one piece in a multi-action copyright enforcement campaign that seeks to dismantle a criminal network that operates through six (6) of the largest online retail platforms in existence and includes over 2,500 named Schedule “A” Defendants. These named Schedule “A” Defendants are alleged to be engaged in the practice of copying Plaintiff’s copyright protected product images almost instantaneously after they are first displayed on the company’s website and then associating these images with sale and promotion of unauthorized, counterfeit products of substandard quality, thereby deceiving consumers – including the citizens of the State of Illinois. Moreover, given the nature of Plaintiff’s goods, such large-scale sales operations over multiple online retail platforms require considerable

supply chain coordination that could not reasonably be accomplished independently by any of the named Defendants.

11. The sophistication of Defendants' online, counterfeit sales network is further demonstrated by the skill with which they identify Schedule "A" plaintiffs, their allegedly infringed products or brands, and then immediately disseminating this information throughout their network by posting on online websites such as "SellerDefense.cn." The dissemination of this information then immediately results in the named Defendants siphoning off all illicit funds held in their online accounts. (*Id.*) This results in plaintiffs being deprived of any meaningful opportunity to redress the harm caused by Defendants' infringing conduct by attacking their financial resources. The multiple copyright enforcement actions commenced by Plaintiff in this judicial district have been specifically targeted by this tactic – including actions pending before Judge Cummings, Judge Kendall, Judge Wood, and Judge Pacold.

12. As also previously argued to this Court in support of its request for entry of a temporary restraining order, Plaintiff would unquestionably suffer irreparable harm absent entry of injunctive relief through the spoliation of essential evidence and Defendants absconding with significant ill-gotten gains derived from their intentional infringement of Plaintiff's federally secured copyright protected works. These facts still exist today and support entry of preliminary injunctive relief effective until full adjudication of this matter. Moreover, refusing to grant such relief would completely diminish the considerable financial resources paid by Plaintiff to secure the federal copyright registrations sought to be enforced in this action, and in the other ten (10) pending actions in this judicial district, and ignore the tens of millions of dollars spend by the company to promote and advertise the Rotita brand in the United States.

13. On May 23, 2024, the designated online platform provided Plaintiff with the requested email addresses associated with Defendants' online accounts necessary to effectuate electronic service of process. The same day, Plaintiff completed electronic service of process by e-mail on the named Schedule "A" Defendants as required by the TRO.

14. On May 24, 2024, Plaintiff filed a Notice of Temporary Restraining Order Compliance [Dkt. No. 24], which advised the Court that Walmart had substantively complied with the TRO's requirements to provide the email addresses associated with Defendants' online stores, and it has frozen Defendants' online stores and related accounts. Based on Walmart's substantial compliance with the TRO's requirements, Plaintiff has asked the Court to unseal its identity.

15. Substantively, the TRO authorized and directed Plaintiff to provide notice of these proceedings and the preliminary injunction hearing to Defendants by electronically publishing a link to the Complaint, the TRO, and other relevant documents on a website, together with effectuating electronic service by email transmission to any addresses provided for Defendants by third party online platforms. [Dkt. No. 19 ¶ 7.] Plaintiff has complied with these requirements by serving the designated online platform with a copy of the TRO and the related subpoena requesting information, including that required to effectuate electronic service, for the named Defendants.

16. An anticipated key argument from the appearing Defendants in this action is that the Court cannot reasonably exercise personal jurisdiction over them because they have not engaged in any infringing sales within the State of Illinois. This argument has been raised by several Defendants in other Schedule "A" actions involving Plaintiff in this judicial district.

17. Defendants have directly targeted their counterfeit sales activities, through online sales platforms not utilized by Plaintiff, in the United States, including to the residents of the State

of Illinois, through, at least, fully interactive, e-commerce stores operating under their designated aliases on the Walmart platform.

18. Specifically, Defendants have targeted online sales to Illinois residents by setting up, maintaining, and operating Walmart-based e-commerce stores using their seller aliases that target United States consumers, including residents of the State of Illinois, whereby these targeted sales individuals can purchase counterfeit Rotita brand products. Moreover, a third-party was able to physically place an order for at least two counterfeit Rotita products from a Defendants' online Walmart store front that displayed, without authorization, Plaintiff's copyright protected images. These counterfeit products are being shipped to the State of Illinois.

19. Plaintiff has specifically limited its claims against the identified Defendants because they have infringed the same or similar federally registered copyright protected works. Moreover, each of the named Defendants are Chinese nationals or entities accused of offering their counterfeit products through Walmart's online platform. All the named Defendants are alleged to be engaged in an affiliated online network whereby they, at least, obtain their counterfeit goods through the same sources.

20. As with the issued TRO, Plaintiff requests issuance of the preliminary injunction to prevent the Defendants from using, without authorization, the company's copyright protected images in connection with the manufacture, importation, distribution, offering for sale, and sale of counterfeit products. Absent issuance of this requested preliminary injunctive relief, Defendants' intentional infringement of Plaintiff's federally secured rights will unquestionably continue. This results in the direct harm to Plaintiff's brand reputation and loss of consumer goodwill, both of which are harms that are virtually impossible to ascertain the resulting economic loss.

21. Plaintiff also requests conversion of the TRO to a preliminary injunction so that Defendants' online accounts, which contain essential illegal product sales information and ill-gotten funds derived from their intentional infringement of the company's copyright protected works that would otherwise be transferred to unknown locales, remain frozen until conclusion of this action. This same harm justified entry of the TRO and it continues to exist today, which clearly justifies entry of the requested preliminary injunction. Simply put, absent extending the relief granted under the TRO to a preliminary injunction, Plaintiff would be irreparably harmed through Defendants' efforts to avoid enforcement of the company federally protected rights by this Court.

22. The Court has previously required Plaintiff to post a bond in the sum of \$5,000.00 in connection with issuance of the TRO. [Dkt. No. 21.] The exact same circumstances supporting the Court's determination of this bond amount apply to Plaintiff's request for entry of a preliminary injunction. Moreover, the Court is presented with facts and supporting evidence that clearly demonstrates Defendants have infringed Plaintiff's copyright protected works. Should the Court be inclined to increase the bond required in this matter, Plaintiff asks that it be increased to no more than \$10,000.

23. In *Volkswagen AG, et al. v. hkseller*2011, et al.*, No. 18-cv-07621 (N.D. Ill. May 6, 2019), the Court found that the defendants deliberately evaded asset restraint. Despite assurances, defendants depleted their PayPal account before a hearing. When the restraint was reinstated, they swiftly withdrew \$20,000. With their counsel withdrawing and no response to plaintiffs' motion for summary judgment, a \$200,000 judgment was entered, which remains unpaid beyond the restrained funds.

24. In *PopSockets LLC v. Xuebo50, et al.*, No. 17-cv-06101 (N.D. Ill. Oct. 12, 2017), a defendant's PayPal account, initially holding \$1,611,921, was restrained. The account was released

under the condition that several hundred thousand dollars, earmarked for potential consumer chargebacks, couldn't be withdrawn. However, due to a misunderstanding with PayPal, the defendant reduced the balance to \$36,469 upon receiving notice of the lawsuit. The defendant didn't appear in the case, resulting in a default judgment entered against them.

25. In my experience, even when defendants cannot access funds from their accounts, they often resort to alternative tactics to evade asset restraints. For instance, in *Monster Energy Company v. Zuichudesecai, et al.*, No. 19-cv-00551 (N.D. Ill. Aug. 8, 2019), the defendant's PayPal account was initially frozen with a balance of \$72,370. After securing legal representation and filing a motion to dismiss, the defendant's motion was rejected, leading to their attorney withdrawing from the case. Despite court orders to find new representation or respond to the claims, the defendant failed to do so, resulting in a default judgment against them. Yet, during the legal proceedings, the defendant clandestinely collaborated with buyers to initiate chargebacks, causing the account balance to plummet to -\$17,657.

26. For these reasons, in the absence of issuance of the requested preliminary injunction, Defendants would likely move any assets from accounts in financial institutions subject to this Court's jurisdiction to offshore accounts outside of this Court's jurisdiction.

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct.

Executed on May 24, 2024, in Las Vegas, Nevada.

By: /s/ Shawn A. Mangano
SHAWN A. MANGANO, ESQ.

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May, 2024, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Illinois, Eastern Division, using the electronic case filing system. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means. Notice of this filing is provided to unrepresented parties for whom contact information has been provided via email and by posting the filing on a URL contained on our website blointernetenforcement.com/, and distributed to ecommerce platform, Walmart.

By: /s/ Shawn A. Mangano
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