

**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-12909-CPK-JTG

Honorable Charles P. Kocoras

Magistrate Jeffrey T. Gilbert

TEMPORARY RESTRAINING ORDER

Plaintiff XYZ Corporation, (“PLAINTIFF”) filed a 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 Complaint and attached hereto (collectively, “Defendants”) to the Complaint. 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 Defendant because Defendant directly targets its business activities toward consumers in the United States, including consumers in the State of Illinois. Specifically, PLAINTIFF has provided a basis to conclude that Defendant has targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers, offers shipping to the United States, including to the State of Illinois, and has sold knockoff/counterfeit products through the unauthorized use and display of PLAINTIFF’s federally registered trademark (the “Plaintiff’s Trademark”) to

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

residents of the State of Illinois. (Docket Nos. 1-1 and 2-1, Exhibit 1 to the Complaint, which includes the federally registered trademark associated with the Plaintiff's Trademark and attached hereto).

In this case, PLAINTIFF has presented screenshot evidence that Defendant's e-commerce store on Walmart.com 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 Trademark through which Illinois residents can and do purchase knockoff/counterfeit Plaintiff's, Modlily Brand products. *See* Docket No. [9-2 and 10-2] Exhibit 1 to the Declaration of Katherine M. Kuhn in Support of Motion for Temporary Restraining Order, which includes screenshot evidence and internet links confirming that Defendant's Internet store displays the Plaintiff's Trademark without authorization in offering knockoff/counterfeit 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 trademark infringement and counterfeiting, unfair competition, 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 Trademark by Defendant on its Internet stores in enticing the purchase of knockoff/counterfeit Plaintiff's products that are of inferior quality. The Court also finds that it need not balance the interests of Defendant in this case because there is credible evidence to conclude they are engaged in, among other things, willful trademark infringement of the Plaintiff's Trademark.

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 Katherine M. Kuhn 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 immediate Order, Defendant 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 Trademark, 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 Trademark;
- 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 Trademark;
- 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 Trademark; 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., Afiliast 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 Walmart Temu, 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., Afiliat 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 Trademark.

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 the 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. Within seven (7) court days of entry of this Order, PLAINTIFF shall deposit with the Court \$5,000.00, 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.

10. 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.

This Temporary Restraining Order without notice is entered at 4:00 P.M. on this 20th day of December 2024 and shall remain in effect for fourteen (14) calendar days. Any motion to extend this Order must be filed by 01/02/2025.

A handwritten signature in black ink, reading "Charles P. Kocoras". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Charles P. Kocoras
United States District Judge

DATE: December 20, 2024

United States of America

United States Patent and Trademark Office

modlily

Reg. No. 5,994,759

Registered Feb. 25, 2020

Int. Cl.: 25 Trademark Principal Register

En Fang (CHINA INDIVIDUAL)

No.24 Balongqiao, Xingzhuang Community Neighborhood Committee, Wenfeng Street Tanghe County, Henan, CHINA 473400

CLASS 25: Aprons; Bathrobes; Belts for clothing; Bikinis; Blazers; Blouses; Boots; Bras; Bustiers; Camisoles; Capes; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Coats; Dresses; Gloves; Hats; Heels; Jackets; Jumpers; Jumpsuits; Kimonos; Knitwear, namely, knit tops, knit bottoms; Leggings; Lingerie; Negligees; Night gowns; Pajamas; Pants; Parkas; Pumps as footwear; Rainwear; Sandals; Scarves; Shawls; Shirts; Shoes; Short trousers; Socks; Sweaters; Sweatshirts; Swimwear; T-shirts; Tank tops; Vests; Women's shoes, namely, foldable flats

FIRST USE 10-11-2014; IN COMMERCE 10-11-2014

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

The wording "MODLILY" has no meaning in a foreign language. SER. NO. 88-489,042, FILED 06-25-2019



Andrei Iancu

Director of the United States
Patent and Trademark Office



REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years* What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods* What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

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No.	Seller's Name	Link to Seller's Website
1	guangzhoucankaijikejiyouxia ngongsi CanJIKJ Storefront 9 Infringements	https://www.walmart.com/seller/101684203?itemId=9565062949&pageName=item&returnUrl=%2Fip%2FWomens-Clothing-Women-s-Casual-Fashion-Jacket-Knitted-Loose-Sweater-Fall-And-Winter-New-Short-Section-Of-The-Row-Buttons-Shirts-Modlily-Tops-Women-Be%2F9565062949
2	guangzhoubomingumaoyiyou xiangongsi CHANGMOO Storefront 64 Infringements	https://www.walmart.com/seller/101654694?itemId=7519619067&pageName=item&returnUrl=%2Fip%2FCHANGMOO-Womens-Hawaiian-Shirt-Big-and-Tall-Cotton-Hawaiian-Shirts-for-Women-Summer-Womens-Summer-Tops-and-Blouses-Work-Modlily-Tops-for-Women%2F7519619067
3	GuangZhouXinBaoDianQiYo uXianGongSi WCMZJ Storefront 3 Infringements	https://www.walmart.com/seller/101592831?itemId=5608790508&pageName=item&returnUrl=%2Fip%2FWCMZJ-Tank-Tops-for-Women-Loose-Fit-Spaghetti-Strap-Round-Neck-Eyelet-Embroidery-Shirts-Cami-Casual-2024-Summer-Clothes-Flowy-Shirts-Pink-3XL%2F5608790508
4	ShenZhenShiPinWuHuiWanJ uYouXianGongSi Dazajoo Womens Clothing Deals Storefront 19 Infringements	https://www.walmart.com/seller/101564305?itemId=5728512590&pageName=item&returnUrl=%2Fip%2FEyelet-Embroidery-Blouses-for-Women-Striped-Round-Neck-T-Shirts-2024-Womens-Dressy-Casual-3-4-Sleeve-Loose-Fit-Summer-Tops-Green-Medium%2F5728512590
5	Dongguan Haizhixin E-commerce Co,Ltd DreamFish Storefront 60 Infringements	https://www.walmart.com/seller/101463630?itemId=8819757898&pageName=item&returnUrl=%2Fip%2FDreamFish-Women-s-Pajamas-Set-2-Piece-Outfits-V-Neck-Lounge-Sleepwear-Ladies-Pjs-Sets-with-Pockets%2F8819757898
6	GuangZhouShiTangShengFu ZhuangYouXianGongSi Tang Shen Storefront 35 Infringements	https://www.walmart.com/seller/101694887?itemId=5891544980&pageName=item&returnUrl=%2Fip%2FSummer-Savings-Clearance-2024-Women-s-Fashionable-V-Neck-Lace-Short-Sleeved-Casual-Solid-Color-T-shirt-Top-Womens-Shirt-Short-Sleeve-Modlily-Top%2F5891544980

No.	Seller's Name	Link to Seller's Website
7	guang zhou ya fei he mao yi you xian gong si zhoufen Co.ltd/ Dolkfu Storefront 2 Infringements	https://www.walmart.com/seller/101179027?itemId=5308696202&pageName=item&returnUrl=%2Fip%2FDolkfu-Short-Sleeve-Womans-Shirts-Dressy-Scoop-Neck-Smocked-Blouses-Tunics-Women-Blouses-and-Tops-Fashion%2F5308696202
8	Guangzhoumaoyuanzemaoyi youxiangongsi Encouthre Storefront 24 Infringements	https://www.walmart.com/seller/101672937?itemId=8837914981&pageName=item&returnUrl=%2Fip%2FWomens-Tops-Women-s-Casual-Knitted-Sweater-Short-Shawl-Hollow-Lightweight-Seven-Sleeves-Cardigan-Shirts-Women-Clothing-Modlily-Dark-Purple-M%2F8837914981
9	GuangZhouPeiJiDianQiYou XianGongSi Oplxuo Storefront 16 Infringements	https://www.walmart.com/seller/101592739?itemId=5426191338&pageName=item&returnUrl=%2Fip%2FSquare-Neck-Tank-Tops-for-Women-Dressy-Loose-Pleated-Tunic-Blouses-Casual-Colorblock-2024-Summer-Sleeveless-T-Shirts%2F5426191338
10	SHENZHENSHI TongMankejiyouxiangongsi TMKBGHML Storefront 1 Infringement	https://www.walmart.com/seller/101220824?itemId=1749275198&pageName=item&returnUrl=%2Fip%2FSwimsuit-Women-Tummy-Control-2-Piece-High-Waist-Bikini-Set-Push-Up-Sunflower-Print-Plus-Size-Women-Bathing-Suit-Boy-Shorts-Set%2F1749275198
11	GuangZhouShiQingLuoErWa nJuYouXianGongSi CFLVAEK Storefront 129 Infringement	https://www.walmart.com/seller/101564303?itemId=5562142859&pageName=item&returnUrl=%2Fip%2FCFLVAEK-Modlily-Ruched-Top-for-Women-Casual-Round-Neck-Tie-Dye-Blouses-Loose-Fitted-Short-Sleeve-Going-Out-Shirts%2F5562142859
12	Xiandiyixing Xinxikejifazhan youxiangongsi Yishen Clothing 198Infringements	https://www.walmart.com/seller/101644108?itemId=6978505841&pageName=item&returnUrl=%2Fip%2FShort-Sleeve-Shirts-Women-Polka-Dot-Tops-Womens-Casual-Modlily-2024-Summer-Crew-Neck-Casual-Shirt-Flowy-Tunic-Blouses-Purple-L%2F6978505841
13	guangzhoushizhuoyiqingshipi nyouxiangongsi Masrin Storefront 491 Infringements	https://www.walmart.com/global/seller/101210537
14	shenzhenshikedardianzikejiy ouxiangongsi XILIFAN Storefront 502 Infringements	https://www.walmart.com/seller/101671540?itemId=5946608356&pageName=item&returnUrl=%2Fip%2FWomen-Fashion-Trend-Leisure-Fashion-Chiffon-Dress-Modlily-Tops-for-Women%2F5946608356
15	guangzhoushigeaifuzhuangyo uxiangongsi	https://www.walmart.com/seller/101272958?itemId=5850117485&pageName=item&returnUrl=%2Fip%2FKtyne-Shirts-Women-3-4-Sleeve-Cute-Modlily-Tops-Crew-Neck-Western-

No.	Seller's Name	Link to Seller's Website
	Geai Co. ltd Storefront 3,249 Infringements	Ethnic-Style-Relaxed-Fit-Summer-Tunic-Top-Three-Quarter- Length-Blouse-Vermilion-M%2F5850117485
16	Guangzhoushiqianmeijiajuyo uxiangongsi sksloeg Storefront 4,759 Infringements	https://www.walmart.com/seller/101194748?itemId=5692286508&pageName=item&returnUrl=%2Fip%2FSKSloeg-Womens-Half-Sleeve-Tops-Blouses-V-Neck-Cute-Modlily-Spring-Summer-T-Shirt-Vintage-Floral-Print-Casual-Tunic-Blouse-Cyan-XXXL%2F5692286508
17	Zhanjiangshiqianbaodianqiyo uxiangongsi BOMYJESK Storefront 5,547 Infringements	https://www.walmart.com/seller/101630026?itemId=5849667718&pageName=item&returnUrl=%2Fip%2FBOMYJESK-Women-s-3-4-Sleeve-Tops-Round-Neck-Plus-Size-Modlily-Fashion-2024-Tshirts-Floral-Print-Dressy-Casual-Tunic-Top-Three-Quarter-Length-Pink-S%2F5849667718