

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

HONG KONG YU'EN E-COMMERCE 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-12483-EEB-MDW**

**Honorable Judge Elaine E. Bucklo  
Magistrate M. David Weisman**

HEARING DATE: January 15, 2025  
HEARING TIME: 9:45 AM  
COURTROOM: 2243

**PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff HONG KONG YU'EN E-COMMERCE CO. LIMITED, ("Plaintiff") hereby moves this Honorable Court for entry of a Preliminary Injunction (the "Motion"). The scope of the requested Preliminary Injunction is substantially identical to the Temporary Restraining Order (the "TRO") entered December 26, 2024. [Dkt. No. 23]. On January 3, 2024, Plaintiff effectuated electronic service of process on the named Schedule "A" Defendants for which the Amazon online sales platform provided email addresses [Dkt. No. 29], and the First Amended Complaint on January 6, 2025 [Dkt. No. 30]. Accordingly, Plaintiff's Motion, for which notice will be provided, is properly submitted to the Court on a non-*ex parte* basis.

To the extent the Motion is not adjudicated prior to expiration of the TRO, on January 9, 2025, Plaintiff respectfully requests that its currently entered TRO and pending application for preliminary injunctive relief be converted to a preliminary injunction because the time for extending the TRO exceeds that authorized under Federal Rule of Civil Procedure 65(b). *See H-D Mich., LLC v. Hellenic Duty Free Shops S.A.*, 694 F.3d 827, 843-45 (7th Cir. 2012).

Plaintiff's Motion is made and based on the accompanying Memorandum of Law in Support of Plaintiff's Motion for Preliminary Injunction, the Declaration of Shawn M. Mangano, Esq. (the "Mangano Decl."), the Declaration of En Fang (the "Fang Decl."), and any arguments of counsel entertained by the Court.

DATED: January 9, 2025

Respectfully submitted,

By: /s/ Shawn A. Mangano

Shawn. A. Mangano (IL Bar No. 6299408)

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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day of January 2025, 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 <http://blointernetenforcement.com>, and distributed to ecommerce platform, Amazon.

Respectfully submitted,

By: /s/ Shawn A. Mangano  
Shawn A. Mangano (IL Bar No.6299408)  
**BAYRAMOGLU LAW OFFICES LLC**

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

Plaintiff HONG KONG YU'EN E-COMMERCE CO. LIMITED, ("Plaintiff") submits this Memorandum of Law in support of its Motion for 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. No. 8], the Declaration of Shawn A. Mangano, Esq. (the "Mangano Decl."), the Declaration of En Fang (the "Fang 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**

Through the Motion, Plaintiff requests entry of a Preliminary Injunction, with notice, after a hearing. On January 3, 2025, the named Schedule "A" Defendants for which the Amazon online sales platform (the "Platform") provided email addresses associated with their storefronts/accounts were served electronically as authorized by the TRO entered by the Court. (Mangano Decl. 5.)

As such, Plaintiff's Motion is properly submitted to the Court on a non-*ex parte* basis.

Plaintiff's Motion requests entry of a Preliminary Injunction against the Defendants listed in Schedule "A" ("Defendants") that are operating online sales storefronts (the "Online Marketplace") on the Amazon online sales platform (the "Platform"), which uses, without authorization, Plaintiff's federally registered trademark (the "Brand Trademark") to offer competing products of inferior quality (the "Counterfeit Products") for sale through the Platform. (Mangano Decl. 6-7.) Specifically, Defendants incorporates Plaintiff's Brand Trademark, without authorization to do so, in its Counterfeit Product descriptions, Search Engine Optimization ("SEO") terms, and other means to deceptively attract unwitting consumers looking for genuine Brand Trademark products to its Online Marketplace offering inferior, knockoff goods. (*Id.*) Defendant's unauthorized and infringing conduct has subjected Plaintiff to irreparable harm through, at least, the loss of consumer goodwill in the Brand Trademark and the loss of consumer goodwill in the quality of authentic products offered by the company through the Brand Trademark. (Fang Decl. 7-9.)

The foregoing circumstances demonstrate that Plaintiff's Motion squarely meets the requirements for entry of preliminary injunctive relief. *See, e.g., Columbia Pictures Indus., Inc. v. Jasso*, 927 F. Supp. 1075, 1076 (N.D. Ill. 1996). In short, Plaintiff's Motion demonstrates a high likelihood of success on the merits of its claims for relief, including its trademark infringement allegations, based on the direct, unauthorized use of its federally registered Brand Trademark. Moreover, Plaintiff would clearly suffer irreparable harm absent entry of injunctive relief based on the unauthorized infringement of its rights held in and to the Brand Trademark. Finally, the balance of the hardships tips decidedly in the company's favor, and granting the requested relief

is in the public interest. Accordingly, and as argued below, the Court should grant the Motion and enter a Preliminary Injunction against the Defendant.

## **II. STATEMENT OF FACTS**

### **a. Plaintiff's Brand Trademark is Highly Successful and the Company Spends a Considerable Amount in the United States to Protect and Promote It.**

This action involves enforcement of Plaintiff's federally registered trademark reflected in the Brand Trademark. (Mangano Decl. 6 Fang Decl. 4-5.) The Asserted Brand (the "Asserted 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 Walmart and Amazon, which Walmart is at issue in this action. (*Ibid.*) These are two of the largest online retailers in the World and Plaintiff does not sell its products through any one of them. (*Ibid.*) Rather, Plaintiff only sells its genuine Asserted Brand products through its own website, Modlily.com. (*Ibid.*)

Plaintiff derives a significant amount of revenue from the sale of its Asserted Branded products in the United States. Plaintiff's estimated gross revenue from United States sales likely exceeds 25,000,000 USD per year. (Fang Decl. 6.) Of this amount, Plaintiff estimates that well over 1,500,000 is derived from sales in the State of Illinois. (*Id.*) In sum, Plaintiff is a highly successful company that services a considerable number of patrons in the United States and, more specifically, in the State of Illinois.

Commensurate with these sales, Plaintiff spends a considerable amount of the operating capital in the United States to protect and promote the Asserted Brand through use of the Brand Trademark. (*Id.*) Specifically, Plaintiff estimates that it spends anywhere from 8,000,000 to 12,000,000 USD each year to advertise its Asserted Brand in the United States through such online advertising sources as Google Ads, Facebook, and Bing. (*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 Asserted Brand. (*Id.*)

Succinctly stated, Plaintiff simply will no longer tolerate the proliferation of counterfeit sales through the unauthorized use of its federally registered Brand Trademark on online platforms, such as Walmart, through which it does not offer its genuine products. As such, Defendant's counterfeit operations must be stopped. Otherwise, Plaintiff's intellectual property rights reflected in the Brand Trademark, which it has paid significant funds to obtain exclusive rights in and to, and that it spends considerable resources to advertise and promote, are rendered overwhelmingly diminished if not rendered worthless. (Fang Decl. 6.)

**b. Plaintiff as Presented Substantial Evidence of Trademark Infringement.**

As previously presented to this Court in connection with the company's request for entry of a temporary restraining order [Dkt. No. 8], Plaintiff has presented substantial evidence that Defendant is using its Brand Trademark without authorization to do so in connection with its sales of Counterfeit Products. [*Id.*] This evidence includes a literal one-for-one unauthorized copying of Brand Trademark and its unauthorized display on Defendant's Online Marketplace, which is offering substandard, counterfeit products for sale to United States citizens, including those residing in the State of Illinois. [*Id.*] Substantively, this evidence clearly demonstrates that Plaintiff has an extremely high likelihood of success on the merits of its trademark infringement claim, as well as its associated claims for false designation of origin and violation of Illinois' deceptive trade practices act.

As also previously argued to this Court in support of its request for entry of a temporary restraining order [Dkt. No. 8], Plaintiff would unquestionably suffer irreparable harm absent entry of injunctive relief through the spoliation of essential evidence and Defendant absconding with

significant ill-gotten gains derived from their intentional infringement of Plaintiff's Brand Trademark. These facts continue to exist today and also supports entry of preliminary injunctive relief effective until full adjudication of this matter. (Mangano Decl. 10.) Accordingly, as argued herein, Plaintiff respectfully requests the Court further enjoin the Defendants through entry of a Preliminary Injunction.

### **III. APPLICABLE LEGAL STANDARDS**

To be entitled to preliminary injunctive relief, the moving party must first show that it has (1) a reasonable likelihood of success on the merits of its claims for relief, and (2) that it would suffer irreparable harm absent entry of injunctive relief. *See Publications Int'l v. Meredith Corp.*, 88 F.3d 473, 478 (7th Cir. 1996).

If these threshold requirements are met by the moving party, the court then "exercise[s] its discretion whether the balance of the harms weighs in favor of the moving party or whether the nonmoving party or the public interest will be harmed sufficiently such that the injunction should be denied." *Christian Legal Soc'y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2018). "This process involves engaging in what we term the sliding scale approach the more likely the [moving party] will succeed on the merits, the less the balance of irreparable harms need favor the [moving party's] position." *Ty, Inc. v. Jones Group, Inc.*, 237 F.3d 891, 895 (7th Cir. 2001).

Application of the foregoing legal standards to Plaintiff's Motion demonstrates that it is entitled to entry of a Preliminary Injunction.

### **IV. ARGUMENT**

Plaintiff's Motion essentially asks the Court to enter a Preliminary Injunction after having granted its prior request for entry of the TRO. [Dkt. No. 23.] 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). Plaintiff is independently entitled to entry of preliminary injunctive relief in this action based on the record presented. Even without consideration for this presumption, the circumstances presented clearly justify granting Plaintiff's request for preliminary injunctive relief.

**a. Plaintiff Has Demonstrated a High Likelihood of Success on the Merits.**

As demonstrated in through its TRO submissions, Plaintiff has a high likelihood of success on the merits of, at least, its trademark infringement claim for relief. [Dkt. No. 8] Moreover, all of Plaintiff's asserted claims for relief are predicated on the unauthorized use of its Brand Trademark by the Defendants. Thus, Plaintiff's showing that Defendant has used its Brand Trademark without authorized virtually compels Defendant's liability on its claims for relief for false designation of origin and violation of Illinois deceptive trade practices act. [Dkt. Nos. 1, 27.]

A defendant is liable for trademark infringement and counterfeiting under the Lanham Act if it, "without the consent of the registrant, use[s] in commerce any reproduction, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods ... which such use is likely to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. 1114(1). A Lanham Act trademark infringement claim has two elements. 15 U.S.C. 1125(a). First, Plaintiff must show "that its mark is protected under the Lanham Act." *See Barbecue Marx, Inc. v. 551 Ogden, Inc.*, 235 F.3d 1041, 1043 (7th Cir. 2000). Second, Plaintiff must show that the challenged mark is likely to cause confusion among consumers. *See Id.*

In this case, Plaintiff's Brand Trademark is distinctive and is registered with the USPTO. (Mangano Decl. 6.) Plaintiff's Brand Trademark registration is valid, subsisting, in full force

and effect. (*Id.*) The registration for the Brand Trademark constitutes *prima facie* evidence of its validity and of Plaintiff's exclusive right to use pursuant to 15 U.S.C. 1057(b). Furthermore, Plaintiff has not licensed or authorized Defendant to use its Brand Trademark, and the Defendant is not an authorized retailers of genuine Brand products. (Mangano Decl. 9 Fang Decl. 7.)

Turning next to the likelihood of confusion, the Seventh Circuit has held that where "one produces counterfeit goods in an apparent attempt to capitalize upon the popularity of, and demand for, another's product, there is a presumption of a likelihood of confusion." *Microsoft Corp. v. Rechanik*, 249 F. App'x 476, 479 (7th Cir. 2007). Accordingly, the Court can presume a likelihood of confusion from Defendant's unauthorized use of the Brand Trademark.

The result is the same when considered in light of the Seventh Circuit's seven enumerated factors to determine whether there is a likelihood of confusion, which include: (1) similarity between the marks in appearance and suggestion (2) similarity of the products (3) area and manner of concurrent use (4) degree of care likely to be exercised by consumers (5) strength of complainant's mark (6) actual confusion and (7) intent of the defendants to palm off their products as that of another. *AutoZone, Inc. v. Strick*, 543 F.3d 923, 929 (7th Cir. 2008). No one factor is dispositive, but the similarity of the marks, actual confusion, and the defendant's intent are "particularly important." *AutoZone, Inc.*, 543 F.3d at 929.

Here, Defendants are accused of directly copying and using Plaintiff's Brand Trademark, without authorization, to promote the sale of its Counterfeit Products. (Fang Decl. 7-8.) Moreover, Defendant is accused of doing so to divert consumers desiring to purchase authentic Brand products from Plaintiff to its Online Marketplace to solicit purchases of Counterfeit Products. (*Id.*) These circumstances justify a finding of likelihood of confusion under either the

Seventh Circuit's presumption of such conclusion or through application of its seven-factor analysis. *See AutoZone, Inc.*, 543 F.3d at 929.

Based on the foregoing circumstances, Plaintiff has demonstrated an extremely high likelihood of success on the merits of its asserted claims in this action against Defendants, all of which are factually predicated on the unauthorized use of its Brand Trademark. [Dkt. No. 1, 27.] Accordingly, Plaintiff has clearly demonstrated that it has a high likelihood of success on the merits for its asserted claims for relief, which satisfies the first requirement for issuance of the requested injunctive relief. *See Publications Int'l*, 88 F.3d at 478.

**b. Plaintiff Would Suffer Irreparable Harm Absent Entry of Injunctive Relief.**

Next, Plaintiff would unquestionably suffer irreparable harm if preliminary injunctive relief is not granted. *See id.* The Lanham Act authorizes courts to issue injunctive relief "according to principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of the registrant of a mark ...." 15 U.S.C. 1116(a).

As with the issued TRO, Plaintiff requests issuance of the preliminary injunction to prevent the Defendants from using, without authorization, the company's Brand Trademark in connection with the manufacture, importation, distribution, offering for sale, and sale of its Counterfeit Products. (Mangano Decl. 12.) Allowing such conduct to continue would subject Plaintiff to continuing, direct harm to its Brand Trademark and Asserted Brand through the loss of reputation and loss of consumer goodwill. (*Id.*; Fang Decl. 9.) Both of these harms are incapable of being ascertained through resulting economic loss, thereby demonstrating irreparable harm. *See Life Spine, Inc. v. Aegis Spine, Inc.*, 8 F.4th 531, 546 (7th Cir. 2021) *Ty, Inc.*, 237 F.3d at 902. Accordingly, absent issuance of this requested preliminary injunctive relief, Defendants' intentional infringement of its Brand Trademark will unquestionably continue and subject the

company to irreparable harm now and in the future. (Mangano Decl. 12 Fang Decl. 9.)

Plaintiff's demonstration of irreparable harm is also supported by the high likelihood that Defendant would delete information related to its Online Marketplace if preliminary injunctive relief is not granted, 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 Brand Trademark. (Mangano Decl. 14.) 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. *See id.* Simply put, absent granting the requested injunctive relief, Plaintiff would be irreparably harmed through Defendant's efforts to avoid enforcement of the company federally protected rights by this Court. (Mangano Decl. 14 Fang Decl. 8-10.)

**c. The Balance of the Harms is Tilted Strongly in Favor of Plaintiff and Entry of Injunctive Relief is in the Public Interest.**

Having satisfied the first two requirements for issuance of preliminary injunctive relief, the next two inquiries presented 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 Defendant's illegal use of its Brand Trademark. [Dkt. Nos. 1, 8, 27] In fact, the evidence presented raises an extremely strong inference that Defendants have willfully infringed Plaintiff's Brand Trademark. 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. 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 with the Asserted Brand and Brand Trademark such as those reflected in in this action. (Fang Decl. 11.) On the other hand, there would be no public interest furthered by allowing Defendant to continue to distribute and sell their counterfeit products through the unauthorized use of Plaintiff's Brand Trademark. Accordingly, the public's interest would be strongly served by granting Plaintiff's Motion.

**V. There is Good Cause to Extend the Temporary Restraining Order Until There is a Ruling on this Motion.**

The TRO issued in this matter is set to expire on January 9, 2025. [Dkt. No. 23.] As such, Plaintiff requests an extension of the TRO to maintain the status quo until there a hearing can be conducted on the Motion. Granting such relief is appropriate, so that Defendants are provided with an opportunity to oppose Plaintiff's request for entry of preliminary injunctive relief.

Rule 65 of the Federal Rules of Civil Procedure ("Rule 65") dictates that under ordinary circumstances, a temporary restraining order cannot exceed 14 days, although the court may extend it "for a like period" for good cause. Fed. R. Civ. P. 65(b)(2). However, in *H-D Mich., LLC v. Hellenic Duty Free Shops S.A.*, the Seventh Circuit affirmed that allowing a TRO to remain in effect until a decision on a motion for preliminary injunction was proper. *H-D Mich., LLC*, 694 F.3d 827, 843-45 (7th Cir. 2012). In affirming the TRO extension, the Seventh Circuit explicitly recognized that there will be cases where the maximum 28-day limit does not give the parties

sufficient time to prepare for a preliminary injunction hearing. *H-D Mich., LLC*, 694 F.3d at 843-45. If the extension exceeds the maximum duration for a TRO under Rule 65(b), the extension “becomes in effect a preliminary injunction that is appealable, but the order remains effective.” *Id.* at 844 *see also, Christian Dior Couture, S.A. v. The Partnerships, et al.*, No. 21-cv-04861 (N.D. Ill. Nov. 19, 2021) (Docket Entry 32) (further extending TRO to and including the date on which the Court would adjudicate the motion for preliminary injunction, exceeding the maximum duration for a TRO under Rule 65(b)) *Luxottica Group S.p.A., et al. v. rbzxr.com, et al.*, No. 20-cv-02297 (N.D. Ill. May 12, 2020) (Docket Entry 52) (same).

Defendants have been provided with notice of this case. If there is justifiable grounds for failing to extend the TRO or converting the granted TRO into a Preliminary Injunction pending a hearing on Plaintiff’s Motion, Defendants will be able to present such evidence. In addition, Plaintiff respectfully submits that there is good cause to extend the TRO, since there is a high probability that the Defendants will continue to irreparably harm Plaintiff without the TRO in place, which includes potential efforts by the Defendant to move any assets from its Platform-based and other financial accounts to off-shore bank accounts absent extension of the TRO without prior to adjudication of the company’s Motion for entry of preliminary injunctive relief.

#### **VI. 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. 23.] The exact same circumstances, if not more, supporting the Court’s determination of this bond amount apply to Plaintiff’s request for entry of a Preliminary Injunction. (Mangano Decl. 14.) Moreover, the Court is presented with facts and supporting evidence that clearly demonstrates Defendant has infringed Plaintiff’s Brand

Trademark. (*Id.* Fang Decl. 8-10.) 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. Accordingly, Plaintiff requests the Court maintain the current bond amount required for issuance of the TRO for issuance of the preliminary injunction.

## VII. CONCLUSION

For the foregoing reasons, Plaintiff additionally 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: January 9, 2025

Respectfully submitted,

By: /s/ Shawn A. Mangano

Shawn A. Mangano (ADRC 6299408)

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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day of January 2025, 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 <http://blointernetenforcement.com>, and distributed to ecommerce platform, Amazon.

Respectfully submitted,

By: /s/ Shawn A. Mangano  
Shawn A. Mangano (IL Bar No.6299408)  
**BAYRAMOGLU LAW OFFICES LLC**



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**Honorable Judge Elaine E. Bucklo  
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**DECLARATION OF SHAWN A. MANGANO**  
**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 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 lead counsel of for Plaintiff HONG KONG YU'EN E-COMMERCE CO. LIMITED, ("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 December 26, 2024. [Dkt. No. 23].

5. On January 2, 2025, the designated online platform, Amazon, (the “Platform”) provided Plaintiff with the email address for the named Defendant (the “Defendant”) so that electronic service of process authorized under the TRO could be effectuated. After receiving the email address from the Platform, Plaintiff electronically served the Defendants with a copy of the Complaint, Summons, and TRO on January 3, 2025 [Dkt. No. 29], and the First Amended Complaint on January 6, 2025 [Dkt. No. 30].

6. As alleged in the First Amended Complaint, Defendants are unlawfully using Plaintiff’s federally registered trademark (the “Brand Trademark”) to promote, advertise, market, distribute, offer for sale, and sell knockoff products, including women’s clothing, merchandise, and related items, (the “Counterfeit Products”) through their marketplace account(s) (the “Online Marketplace”) maintained on the Amazon online sales platform (the “Platform”). [Dkt. No. 27.] Plaintiff only sells its genuine Asserted Brand products through its own website, Modlily.com.

7. Specifically, Defendants created at least one Online Marketplace on the Platform to sell their Counterfeit Products through the unauthorized use, employment, digital incorporation, or other online display of the Brand Trademark. These tactics include incorporating, without authorization, Plaintiff’s Brand Trademark in Search Engine Optimization (“SEO”) terms, the descriptions of Counterfeit Products, meta tags, hyperlinks, and other digital assets to direct consumers to their Online Marketplace(s) under the auspices that it is selling authentic Brand products when it is not doing so or to drive online traffic from consumers seeking authentic Brand products to their Online Marketplace offering the Counterfeit Products . To implement its scheme, Defendants are alleged to secure its Counterfeit Products from a manufacturing source(s) based in the People’s Republic of China (“China”). Defendants utilizes this manufacturing source to secure its Counterfeit Products because it is incapable of independently producing a sufficient number of

goods to supply the considerable, misled, consumers purchasing products through their Online Marketplace. Plaintiff has filed this action to stop Defendants' unauthorized use of the Brand Trademark to promote and sell their Counterfeit Products and continue its scheme of misleading consumers, including the citizens of the State of Illinois

8. Undersigned counsel performed, supervised, and/or directed investigations related to Internet-based infringement of the Brand Trademark. To date, our investigation shows that Defendants are using their Online Marketplace to sell knockoff/counterfeit Brand products from China to consumers in the United States and elsewhere while using, without authorization, the Brand Trademark to do so. I have directly (or someone working under my direction supervision has) analyzed the Defendants' Online Marketplace and determined that they were using the Brand Trademark without authorization to offer knockoff, Counterfeit Products of inferior quality for sale to consumers in the United States, including to consumers in the State of Illinois. This conclusion was reached through visual inspection of the products listed for sale on Defendants' Online Marketplace, the price at which the knockoff Brand products were offered for sale, and other features commonly associated with websites selling counterfeit and/or knockoff products.

9. A review of Defendants' Online Marketplace perpetuates the illusion of legitimacy by using indicia of authenticity and security that consumers have come to associate with authorized online retailers. This includes incorporating, without authorization, Plaintiff's Brand Trademark, without authorization, in product descriptions and other uses on its Online Marketplace. Plaintiff has neither licensed nor authorized Defendant to use the Brand Trademark in any capacity.

10. 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 Defendant absconding with

significant ill-gotten gains derived from its intentional infringement of Plaintiff's federally secured Brand Trademark. These facts still exist today and support entry of preliminary injunctive relief effective until full adjudication of this matter.

11. Substantively, the TRO authorized and directed Plaintiff to provide notice of these proceedings and the preliminary injunction hearing to the Defendants by effectuating electronic service by email transmission to any addresses provided for Defendant by third party online platforms, including the Platform. [Dkt. No. 23 14.] 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 on January 3, 2025.

12. As with the issued TRO, Plaintiff requests issuance of the preliminary injunction to prevent the Defendants from using, without authorization, the company's Brand Trademark in connection with the manufacture, importation, distribution, offering for sale, and sale of its Counterfeit Products. Absent issuance of this requested preliminary injunctive relief, Defendant's intentional infringement of Plaintiff's Brand Trademark will unquestionably continue.

13. Plaintiff's Motion is being presented on a non-*ex parte* basis. Given that the TRO is set to expire on January 9, 2024, Plaintiff has elected to file this Motion, through which it asks the Court to extend the TRO until a hearing on the company's request for entry of a Preliminary Injunction is held. In this regard, Plaintiff asks the Court to set a hearing on its Motion on a date that provides Defendants with sufficient time to submit a response to Plaintiff's request for entry of a Preliminary Injunction.

14. 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 Brand Trademark 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.

15. 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. 23.] The exact same circumstances supporting the Court's determination of this bond amount apply to Plaintiff's request for entry of a preliminary injunctive relief. Moreover, the Court is presented with facts and supporting evidence that clearly demonstrates Defendant has infringed Plaintiff's Brand Trademark.

16. In *Volkswagen AG, et al. v. hkseller 11, 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.

17. In *PopSockets LLC v. Xuebo5 , 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.

18. For these reasons, in the absence of issuance of the requested Preliminary Injunction, Defendant would likely move any assets from its accounts in financial institutions subject to this Court's jurisdiction, including those associated with the Platform, 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 January 9, 2025, in Las Vegas, Nevada.

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

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day of January 2025, 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 <http://blointernetenforcement.com>, and distributed to ecommerce platform, Amazon.

Respectfully submitted,

By: /s/ Shawn A. Mangano  
Shawn A. Mangano (IL Bar No.6299408)  
**BAYRAMOGLU LAW OFFICES LLC**

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

HONG KONG YU'EN E-COMMERCE 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-12483-EEB-MDW

Honorable Judge Elaine E. Bucklo

Magistrate M. David Weisman

**DECLARATION OF EN FANG IN SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY INJUNCTION**

I, EN FANG, of Hong Kong, a special administrative region of the People's Republic of China, 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 Preliminary Injunction (the "Motion").

3. I am a Director for Plaintiff HONG KONG YU'EN E-COMMERCE CO. LIMITED, ("Plaintiff"). I am personally knowledgeable of, or have access to business records concerning, all information referenced herein including, but not limited to Plaintiff's trademarks, copyrights, other intellectual property, sales, on-line sales, advertising, marketing, and media



coverage. I make this declaration from my matters within my own personal knowledge unless stated otherwise.

4. Plaintiff markets and sells women's clothing and related items under the Asserted Brand (the "Brand").

5. 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 the online platform, Walmart (the "Platform"), which is the online sales platform at issue in this action. Plaintiff does not sell its products through Walmart. Rather, Plaintiff only sells its genuine Brand products through its own website, Modlily.com.

6. Plaintiff's rough estimated gross revenue from United States sales likely exceeds \$25,000,000 USD per year. Of this amount, Plaintiff roughly estimates that over \$1,500,000 is derived from sales in the State of Illinois. Moreover, Plaintiff spends roughly anywhere from \$8,000,000 to \$12,000,000 USD each year to specifically advertise its Asserted Brand in the United States through such online advertising sources as Google Ads, Facebook, and Bing. 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.

7. The Defendants named in the company's trademark infringement enforcement action are engaged in the practice of using Plaintiff's Brand Trademark and then associating the Brand Trademark with sale and promotion of unauthorized, counterfeit products of substandard quality, thereby deceiving consumers – including the citizens of the State of Illinois.

8. Defendants have directly targeted their counterfeit sales activities, through the Walmart online sales platform 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 Platform.

9. Plaintiff has suffered, and continues to suffer, irreparable harm through the Defendant's unauthorized use of its federally registered Brand Trademark asserted in this action. 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.

10. Plaintiff expects to earn a net profit of approximately 30% on the sale of its Asserted Brand products. This figure, however, includes substantial advertising expenses that Defendants would not have to pay since they are largely capitalizing on Plaintiff's advertising efforts by misappropriating its Brand Trademark and imbedding the Asserted Brand in their Walmart.com search engine optimization. Doing so causes their online stores to be displayed whenever someone searches for the Asserted Brand on Walmart.com despite Plaintiff not selling authentic Asserted Brand products on the platform. Based on the foregoing, I would estimate that Defendants' online stores operate at a net profit of between 40% to 50%. I believe that a disgorgement of Defendants' profits would fall within the net profit range. It is my understanding that Plaintiff is currently awaiting the Platform's compliance with the Temporary Restraining Order and associated subpoena issued in this action that requires it to produce such sales information. Absent receipt of such information, Plaintiff is forced to assume that all sales made by Defendants through the Platform and all amounts held in their online accounts are the result of infringing activity in violation of the company's intellectual property rights.

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11. 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 with the Asserted Brand and Brand Trademark such as those reflected in in this action.

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

Executed on January 9, 2025, in Hong Kong.

By: En Fang  
EN FANG

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9<sup>th</sup> day of January 2025, 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. 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

Shawn. A. Mangano (ADRC 6299408)

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*Attorneys for Plaintiff*