

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 1:25-cv-21819-MOORE

XYZ CORPORATION,

Plaintiff,

v.

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

Defendants.

**PLAINTIFF'S RENEWED *EX PARTE* MOTION FOR TEMPORARY
RESTRAINING ORDER, INCLUDING A TEMPORARY ASSET
RESTRAINT AND EXPEDITED DISCOVERY**

Plaintiff, XYZ Corporation ("Plaintiff"), pursuant to 17 U.S.C. § 502, Fed. R. Civ. P. 65, and The All Writs Act, 28 U.S.C § 1651(a), respectfully moves on an *ex parte* basis for entry of a temporary restraining order against the Individuals, Corporations, Limited Liability Companies, Partnerships, and Unincorporated Associations (the "Defendants") identified on Schedule "A" to the Complaint (Dkt. No. 1-1), which enjoins the manufacture, importation, distribution, offer for sale, and sale of goods using Plaintiff's federally registered trademark in the description of the goods. Plaintiff further seeks entry of a temporary asset restraint and expedited discovery.

Plaintiff's Motion is made based on the pleadings on file in this action, this Motion, the Declaration of William R. Brees (the "Brees Decl."), the Declaration of Anisah Beaston (the "Beaston Decl."), and the Declaration of En Fang (the "Fang Decl.>").

I. INTRODUCTION

Plaintiff brings this action against the Defendants for federal trademark infringement (Count I), federal false designation of origin (Count II), trademark infringement under Florida common law (Count III), and unfair competition under Florida common law (Count IV). [Dkt. No. 1]. Plaintiff founded its brand (the “Brand”) in 2017, which is dedicated to women’s fashion apparel and serves consumers in the United States and throughout the world. [Fang Decl. ¶¶ 5-6]. Since founding the Brand, Plaintiff has expended significant time, financial and corporate resources to promote, market, develop, and establish the Brand as a high quality and reputable source for women’s fashion apparel, accessories, and related merchandise. [Fang Decl. ¶ 11].

As alleged in the Complaint, Defendants are unlawfully and without authorization using Plaintiff’s federally registered trademark (the “Brand Trademark”) to promote, advertise, market, distribute, offer for sale, and sell its own products, including women’s clothing, merchandise, and related items, (the “Counterfeit Products”) through their marketplace accounts (the “Online Marketplaces”) maintained on the Amazon marketplace online sales platform (the “Platform”). [Dkt. No. 1 at 2; Brees Decl. ¶ 4.] In short, Defendants operate a highly sophisticated network whereby they offer the Counterfeit Products, of lesser quality and at a discounted price, by associating these inferior products with Plaintiff’s Brand through the unauthorized use of the Brand Trademark. [Brees Decl. ¶ 4].

Specifically, Defendants created accounts on the Platform to sell their Counterfeit Products through the unauthorized use, employment, digital incorporation, or other online display of the Brand Trademark. [Brees Decl. ¶ 5]. 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

fashion apparel. Online Marketplaces under the auspices that they are selling authentic Brand products when they are not doing so. [*Id.*].

To implement its scheme, Defendants are alleged to secure its Counterfeit Products from a manufacturing source based in the People’s Republic of China (“China”). [*Id.*]. Defendants are alleged to use a manufacturing source such that Defendants would know that they do not have authorization to sell or market under Plaintiff’s Brand Trademark had Defendants been acting alone. This leads Plaintiff to believe Defendants are acting in concert with or being encouraged by others. [*Id.*] The Counterfeit Products being sold by Defendants are simply incapable of being produced independently without the support of a supply chain and manufacturing source capable of supplying considerable, misled, consumer demand. [*Id.*] Plaintiff has filed this action to stop Defendants’ unauthorized use of the Brand Trademark to promote and sell their Counterfeit Products and continue their scheme of misleading consumers, including the citizens of the State of Florida. [*Id.*].

Each Defendant created an Online Store that appears to sell genuine products but instead sells unauthorized and unlicensed competing products to unknowing consumers who mistakenly believe them to be Plaintiff’s products because they are advertised using the Brand Trademark. The Online Stores share unique identifiers, such as design elements and similarities of the infringing products offered for sale, establishing a logical relationship between them and suggesting that each Defendant’s online intellectual property infringement operation arises from the same transaction, occurrence, or series of transactions or occurrences, as the other Defendants.

Each Defendant is reaching out to do business with Florida residents by operating one or more commercial, interactive Online Stores through which Florida residents can purchase products being sold in connection with the infringing use of the Brand Trademark. By directly targeting

their unlawful business activities toward consumers in Florida, Defendants cause harm to Plaintiff's business within this Judicial District and has caused and will continue to cause irreparable injury to Plaintiff. As such, this Court has personal jurisdiction over each Defendant because each Defendant targets Florida residents and has offered to sell, has sold, and on information and belief, continues to sell the Counterfeit Products to consumers within the United States, including customers within the State of Florida.

Should the Court not find this enough to grant jurisdiction over each Defendant, the Defendants are, based on the best information available, foreign entities, even if masquerading as domestic entities. Plaintiff is an international entity, and the Defendants are international entities. Therefore, Defendants are not reasonably subject to a state court in this action, and the exercise of jurisdiction comports with notions of fair play and substantial justice because the Defendants target the United States and could reasonably predict that the same would subject them to jurisdiction in the United States. Therefore, each Defendant is subject to jurisdiction under Fed. R. Civ. Pro. 4(k).

Each Defendant's ongoing unlawful activities should be restrained. Plaintiff respectfully requests that this Court issue an *ex parte* Temporary Restraining Order (1) temporarily restraining each Defendant's continued manufacture, importation, distribution, offering for sale, and sale of the Counterfeit Products; (2) temporarily restraining each Defendant's assets to preserve Plaintiff's right to an equitable accounting; and (3) authorizing expedited discovery allowing Plaintiff to inspect and copy each Defendant's records relating to each Defendant's infringement and each Defendant's financial accounts.

Plaintiff's well-pleaded factual allegations, which must be accepted as true, and evidence submitted through declarations, establish that issuing a temporary restraining order against Defendants is necessary and proper. Plaintiff can demonstrate a strong likelihood of success on

the merits. Plaintiff is the owner of its valid federally registered trademark. The issuance of a temporary restraining order (“TRO”) is also in the public interest because it will prevent confusion among the public and prevent unknowing consumers from being deceived into purchasing products of unknown quality from an unknown source, based on the use of the infringing use of the Brand Trademark.

Courts regularly grant these requests due to the critical need to establish an economic disincentive for offshore counterfeiting activities. *See, e.g., The North Face Apparel Corp., et al. v. The Individuals, Corporations, Limited Liability Companies, Partnerships, and Unincorporated Associations Identified on Schedule A*, No.: 0:22-cv-60193, ECF No. 11 (S.D. Fla. Jan. 27, 2022) (granting orders requested here in similar case); *Louis Vuitton Malletier v. The Individuals, Business Entities, and Unincorporated Associations identified on Schedule A*, No. 0:22-cv-60192, ECF No. 9 (S.D. Fla. Jan. 28, 2022) (same). Furthermore, under Federal Rule of Civil Procedure 65(d)(2)(C), this Court has the power to bind any third parties, such as financial institutions, who are in active concert with Defendants or who aid Defendants and are given actual notice of the order. Additionally, a prejudgment asset freeze is also proper since Plaintiff seeks an equitable remedy in the accounting of Defendants’ profits pursuant to 17 U.S.C. § 504.

II. APPLICABLE LEGAL STANDARDS

A. This Court May Exercise Personal Jurisdiction Over Each Defendant

Without the benefit of an evidentiary hearing, Plaintiff bears only the burden of making a *prima facie* case for personal jurisdiction; the company’s asserted facts should be accepted as true, and any factual determinations should be resolved in its favor. *See Cable/Home Commun. Corp. v. Network Prods.*, 902 F.2d 829, 855 (11th Cir. 1990) (citing *Morris v. SSE, Inc.*, 843 F.2d 489, 492 (11th Cir. 1988); *Delong Equip. Co. v. Washington Mills Abrasive Co.*, 840 F.2d 843, 845

(11th Cir. 1988); *see also Nissim Corp. v. Clearplay, Inc.*, 351 F. Supp. 2d 1343, 1345 (S.D. Fla. 2004).

More specifically, the Southern District of Florida regularly exercises personal jurisdiction over websites using registered trademarks and/or copyrights without authorization in connection with the offering for sale and selling of knockoff and counterfeit merchandise to Florida residents over the internet. *See, e.g., Cheng Yizhou v. Individuals, P'ships, and Unincorporated Associated Identified on Schedule "A"*, 2022 U.S. Dist. LEXIS 222468; *Betty's Best, Inc. v. Individuals*, 2023 U.S. Dist. LEXIS 207706, *23 (S.D. Fla. Nov. 17, 2023); *Crazy Forts Inc. v. Individuals, Bus. Entities, & Unincorporated Ass'ns Identified on Schedule "A"*, 2023 U.S. Dist. LEXIS 72956; *Dohler S.A. v. Gift Guru*, 2017 U.S. Dist. LEXIS 170280 *13 (S.D. Fla. October 16, 2017) (stating the allegations support a finding that Defendants committed the tortious act of trademark infringement and caused injury to Plaintiff in Florida); *Max'Is Creations v. Individuals*, 2021 U.S. Dist. LEXIS 180656, *3 (S.D. Fla. September 21, 2021); *Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F.3d 1339, 1354 (11th Cir. 2013) (stating “because in this case the alleged infringement clearly also occurred in Florida by virtue of the website's accessibility in Florida.”) (quoting *Licciardello v. Lovelady*, 544 F.3d 1280, 1283 (11th Cir. 2008); *Blue Spring Partners, LLC v. Individuals, Corps., Ltd. Liab. Co., P'ships, & Unincorporated Ass 'ns Identified on Schedule A*, 2025 U.S. Dist. LEXIS 42576, *7 (S.D. Fla. March 10, 2025).

Application of the above standards demonstrates the Court can properly exercise specific personal jurisdiction over Defendants because they have specifically targeted the sale of the Counterfeit Products to citizens of the State of Florida. [Brees Decl. ¶ 11]. Moreover, Plaintiff has secured evidence that Defendants have sold these competing products in Florida. [*Id.*; Beaston Decl. ¶¶ 3-4, Ex. 1.] Given that the Defendants have physically shipped the Counterfeit Products

that have intentionally and willfully used, without authorization, Plaintiff's Brand Trademark to consummate such sales, the Court can unquestionably exercise specific personal jurisdiction over them.

B. Standards for Temporary Restraining Order

The requirements for issuing temporary restraining order ("TRO") are: "(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that the entry of the relief would serve the public interest." *Yeti Coolers, LLC v. Individuals, Bus. Entities, & Unincorporated Ass'ns Identified on Schedule "A"*, 2024 U.S. Dist. LEXIS 240407, *4 (S.D. Fla. November 18, 2024) (citing *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225-26 (11th Cir. 2005)).

None of the four requirements "has a fixed quantitative value. Rather, a sliding scale is utilized, which takes into account the intensity of each in a given calculus." *Smiley Co. SPRL v. Individuals, P'ships & Unincorporated Ass'n Identified on Schedule A*, 2023 U.S. Dist. LEXIS 178603, *6 (S.D. Fla. August 31, 2023). "No one factor, however, is controlling; this Court must consider the factors jointly, and a strong showing on one factor may compensate for a weaker showing on another." *Zhipeng Yin v. Diaz*, 2025 U.S. Dist. LEXIS 24436, *16 (S.D. Fla. February 10, 2025) (citing *Falls*, 609 F. Supp. 3d at 1281 (citing *Fla. Med. Ass'n, Inc. v. U.S. Dep't of Health, Educ. & Welfare*, 601 F.2d 199, 203 n.2 (5th Cir. 1979))).

Additionally, a court may only issue a temporary restraining order without notice to the adverse party or its attorney if: (1) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (2) the movant's attorney certifies in writing any efforts made

to give notice and the reasons why it should not be required. *Mainsail Parent, LLC v. Jewell*, 2024 U.S. Dist. LEXIS 187698, *5 (S.D. Fla. July 31, 2024) (citing Fed. R. Civ. P. 65(b)(1)). A sworn declaration, explaining why imminent irreparable injury will occur before Defendants can be heard on this matter, and that notice should not be required, accompanies this Motion.

III. ARGUMENT

To stop each Defendant's sale of the Counterfeit Products in connection with and using the Brand Trademark, Plaintiff requests that this Court issue a temporary restraining order ordering expedited discovery and the freezing of Defendants' assets. Without the relief requested, Defendants' unlawful activities will continue unabated, and Plaintiff and consumers will suffer irreparable harm. Rule 65 of the Federal Rules of Civil Procedure allows the Court to issue an *ex parte* temporary restraining order where immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition. Fed. R. Civ. P. 65(b).

Each Defendant fraudulently promotes, advertises, offers to sell, and sells goods that infringe upon Plaintiff's trademark rights. Defendants are creating a false association in the minds of consumers between the Defendants and Plaintiff by deceiving consumers into believing that the competing products for sale on Defendants' Online Stores are Plaintiff's products or associated with or authorized by Plaintiff. The entry of a temporary restraining order is appropriate because it will immediately stop the Defendants from benefiting from their wrongful use of the Brand Trademark and preserve the status quo until a hearing can be held.

In the absence of a temporary restraining order without notice, each Defendant can and likely will move any assets from U.S.-based bank accounts and take other steps to evade enforcement, such as redirecting traffic to other websites they control. Courts have recognized that civil actions against counterfeiters present special challenges that justify proceeding on an *ex parte*

basis. *See Dell Inc. v. Belgium Domains, LLC*, Case No. 07-22674, 2007 WL 6862341, at *2 (S.D. Fla. Nov. 21, 2007) (*ex parte* relief more compelling where Defendants' scheme "is in electronic form and subject to quick, easy, untraceable destruction by Defendants").

In light of the inherently deceptive nature of the infringing business, and the likelihood that the Defendants have violated federal copyright laws, the Plaintiff has good reason to believe the Defendants will hide or transfer their ill-gotten assets beyond the jurisdiction of this Court unless those assets are restrained.

Twows, LLC v. Individuals P'ships, & Unincorporated Ass'ns Identified Schedule "A", No. 8:23-cv-00139-WFJ-MRM, 2023 U.S. Dist. LEXIS 61814, at *8-9 (M.D. Fla. Apr. 7, 2023).

Plaintiff, therefore, respectfully requests this Court to issue the requested *ex parte* temporary restraining order. This Court has original subject matter jurisdiction over the federal copyright claim under the United States Copyright Laws, 17 U.S.C. § 101 et seq., 28 U.S.C. § 1338(a)-(b), and 28 U.S.C. § 1331. This Court has jurisdiction over the trademark infringement and unfair competition claims that arises under the laws of the State of Florida pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391, 1400.

A. The Court can Properly Exercise Personal Jurisdiction Over the Defendants.

As set forth above, the Court can properly exercise specific personal jurisdiction over each Defendant because they have specifically targeted their infringing activities to the State of Florida. *See, e.g., Max'Is Creations v. Individuals*, 2021 U.S. Dist. LEXIS 180656, *3. Here, each Defendant has engaged in such specific activities causing harm to Plaintiff, thereby justifying the exercise of personal jurisdiction over them. Specifically, each Defendant, by advertising and

shipping products to the State of Florida, has engaged in business in Florida, subjecting each Defendant to Jurisdiction within the State of Florida under Florida Statute §48.193(1)(a)(1).

Additionally, each Defendant has tarnished the brand recognition of Plaintiff's Brand Trademark in the State of Florida and participated in unfair competition under Florida law by using the Brand Trademark in the descriptions of the Counterfeit Products. Thus, they have committed a tort within the State of Florida, subjecting them to jurisdiction in the State of Florida under Florida Statute §48.193(1)(a)(2).

Each Defendant is a foreign company, and the Plaintiff is a foreign entity, subjecting each Defendant to jurisdiction under Fed. R. Civ. Pro. 4(k), because jurisdiction is consistent with Florida's Long Arm Statute and predictable, because each Defendant is a foreign entity targeting the United States, and could reasonably predict being hailed into court where they committed the tortious act of violating the Florida Deceptive and Unfair Practices Act. Venue is appropriate for a foreign entity in any district of the United States, and jurisdiction is consistent with both Florida's Long-Arm Statute, and notions of fair play and substantial justice.

Plaintiff has demonstrated a *prima facie* showing that this Court has specific personal jurisdiction over the Defendants. Defendants, alleged to be residing or operating in outside the United States, and are alleged to have committed a tortious act within the state of Florida in satisfaction of Fla. Stat. §48.193(1)(b). Licciardello v. Lovelady, 544 F.3d 1280, 1283 (11th Cir. 2008). Additionally, jurisdiction is properly pled pursuant to Fed. R. Civ. P. 4(k)(2), the federal long arm statute, because Plaintiff's claims arise under federal U.S. Copyright Law and Defendants have not consented to jurisdiction in another state. Viahart, LLC v. Does 1-54, 2022 U.S. Dist. LEXIS 164459, 2022 WL 4138590, *9-10 (E.D. Tex. July 18, 2022).

Twows, LLC v. Individuals P'ships, & Unincorporated Ass'ns Identified Schedule "A", No. 8:23-cv-00139-WFJ-MRM, 2023 U.S. Dist. LEXIS 61814, at *5 (M.D. Fla. Apr. 7, 2023)

Each Defendant targets Florida residents, has offered to sell, and continues to target their Counterfeit Products to Florida consumers, using Plaintiff's Brand Trademark without

authorization. [Brees Decl. ¶ 11; Beaston Decl. ¶¶3-4, Ex. 1]. Specifically, each Defendant is reaching out to do business with Florida residents by operating one or more commercial, interactive internet-based stores through which Florida residents can purchase the Counterfeit Products, which employ without authorization Plaintiff's Brand Trademark. [*Ibid.*]. Plaintiff has direct evidence of each Defendant's consummation of sales to residents of the State of Florida and Defendants' shipping of the products to Florida. [Beaston Decl. ¶¶ 3-4, Ex. 1.] Based on these circumstances, there is absolutely no question that the Court can properly exercise specific personal jurisdiction over the Defendants.

B. Plaintiff is Entitled to a Temporary Restraining Order.

1. Plaintiff enjoys a high likelihood of success on the merits of its claims.

Plaintiff's Complaint asserts claims for relief involving federal trademark infringement, federal false designation of origin, and trademark infringement and unfair competition under Florida common law. The gravamen for each of these claims is the unauthorized use of Plaintiff's Brand Trademark to sell, advertise, display, or offer to sell Defendants' Counterfeit Products. Accordingly, if Plaintiff establishes a likelihood of success that Defendants are infringing its Brand Trademark, it has a commensurate likelihood of success on its asserted claims for relief.

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. *See* 15 U.S.C. § 1125(a). First, a plaintiff must show "that its mark is protected under the Lanham

Act". Second, a plaintiff must show that the challenged mark is likely to cause confusion among consumers. *Commodores Ent. Corp. v. McClary*, 879 F.3d 1114, 1130-31 (11th Cir. 2018).

Plaintiff's Brand Trademark is distinctive and is registered with the USPTO. [Brees Decl. ¶ 4]. Plaintiff's Brand Trademark registration is valid, subsisting, in full force and effect. [*Id.*]. The registrations for the Brand Trademark constitutes prima facie evidence of their validity and of Plaintiff's exclusive right to use them pursuant to 15 U.S.C. §1057(b). Furthermore, Plaintiff has not licensed or authorized Defendants to use its Brand Trademark, and none of the Defendants are authorized retailers of genuine Brand products. [Brees Decl. ¶ 4; En Fang Decl. ¶ 5].

Turning next to the likelihood of confusion, "Courts have held that when 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 likelihood of confusion." *Spy Optic Inc. v. Melbourne Wholesale, Inc.*, 2018 U.S. Dist. LEXIS 17084, *7 (S.D. Fla. January 31, 2018) (internal quotations removed). Accordingly, the Court can presume a likelihood of confusion from Defendants' unauthorized use of the Brand Trademark.

The result is the same when considered in light of the Eleventh Circuit's seven enumerated factors to determine whether there is a likelihood of confusion, which include: (1) strength of the mark alleged to have been infringed; (2) similarity of the infringed and infringing marks; (3) similarity between the goods and services offered under the two marks; (4) similarity of the actual sales methods used by the holders of the marks, such as their sales outlets and customer base; (5) similarity of advertising methods; (6) intent of the alleged infringer to misappropriate the proprietor's good will; and (7) the existence and extent of actual confusion in the consuming public. *Savannah Coll. of Art & Design v. Sportswear, Inc.*, 983 F.3d 1273, 1280-1281 (11th Cir. 2020). Of these factors, the type of mark and evidence of actual confusion are

considered the most important. *Fla. Int'l Univ. Bd. of Trs. v. Fla. Nat'l Univ., Inc.*, 91 F. Supp. 3d 1265, 1274 (S.D. Fla. March 3, 2015) (citing *Dieter v. B & H Indus. of Sw. Fla., Inc.*, 880 F.2d 322, 326 (11th Cir. 1989)).

Each Defendant has used, without authorization, Plaintiff's Brand Trademark, to promote the sale of their Counterfeit Products. Each Defendant uses the Brand Trademark in order to divert consumers desiring to purchase authentic Brand products from Plaintiff to its own Online Marketplace to solicit purchases of Counterfeit Products. As such, there is likelihood of confusion under either the presumption of such conclusion or through application of its seven-factor analysis. Accordingly, Plaintiff has demonstrated a high likelihood of success on the merits of all asserted claims against the Defendants.

2. Plaintiff has no adequate remedy at law and would suffer irreparable harm without the Court's issuance of a temporary restraining order.

Plaintiff will suffer irreparable harm unless this Court issues the requested relief. Each Defendant has blatantly used the Brand Trademark and totally disregarded Plaintiff's right to exclude them from using the federally protected trademark, causing irreparable harm to Plaintiff's efforts to advertise, market, offer for sale, and sell its Brand products. Every time a Defendant offers to sell and/or sells a product using Plaintiff's Brand Trademark, Plaintiff suffers a direct loss, which monetary damages cannot adequately compensate for because they fail to address the loss of control over Plaintiff's intellectual property. Loss of quality control over goods sold utilizing Plaintiff's Brand Trademark is neither calculable nor precisely compensable. "The most corrosive and irreparable harm attributable to trademark infringement is the inability of the victim to control the nature and quality of the defendants' goods." *Ferrellgas Ptnrs., L.P. v. Barrow*, 143 Fed. Appx. 180, 190 (11th Cir. 2005). As such, monetary damages are likely to be inadequate compensation. *Badia Spices, Inc. v. Gel Spice Co.*, 2019 U.S. Dist. LEXIS 113626, *5 (S.D. Fla.

July 8, 2019). Therefore, Plaintiff will continue to suffer irreparable harm unless Defendants' infringing activity is stopped.

Since Plaintiff has shown a likelihood of success on the merits of its trademark infringement, false designation of origin, and trademark infringement and unfair competition under Florida common law claims for relief, Plaintiff is entitled to a rebuttable presumption of irreparable harm. *See* 15 U.S.C. § 1116(a). Irreparable injury includes loss of control of reputation, loss of trade, and loss of goodwill. *Vital Pharms., Inc. v. Monster Energy Co.*, 2020 U.S. Dist. LEXIS 13042, *25 (S.D. Fla. January 24, 2020). Irreparable injury can also be based upon the possibility of injury." *Id.*; *Accord Edge Sys. LLC v. Aguila*, No. 14-24517, 2015 U.S. Dist. LEXIS 145268, *13 (S.D. Fla. Jan. 29, 2015).

Defendants' unauthorized use of the Brand Trademark has and continues to irreparably harm Plaintiff through diminished goodwill and brand confidence, damage to Plaintiff's reputation, loss of exclusivity, and loss of future sales. [Brees Decl. ¶¶ 7, 20; Fang Decl. ¶¶ 20-21]. The extent of the harm to Plaintiff's reputation and the goodwill associated therewith and the possible diversion of customers due to loss in Brand confidence are both irreparable and incalculable, thus warranting an immediate halt to Defendants' infringing activities through injunctive relief. *See Clock9Nine LLC v. Individuals*, 2025 U.S. Dist. LEXIS 49172, *15 (S.D. Fla. March 18, 2025); *Arista Records, Inc. v. Beker Enters., Inc.*, 298 F. Supp. 2d 1310, 1312 (S.D. Fla. 2003)). Accordingly, Plaintiff will suffer immediate and irreparable injury, loss, or damage if a TRO is not issued in accordance with Federal Rule of Civil Procedure 65(b)(1).

3. *The balance of the hardships favors issuance of a temporary restraining order.*

If the Court finds that Plaintiff has demonstrated (1) a likelihood of success on the merits, (2) no adequate remedy at law, and (3) the threat of irreparable harm if preliminary relief is not

granted, then it must next consider the harm that Defendants will suffer if preliminary relief is granted, balancing such harm against the irreparable harm that Plaintiff will suffer if relief is denied. *Yeti Coolers*, 2024 U.S. Dist. LEXIS 240407, *4.

When balancing the hardship of both parties, courts will generally favor the plaintiff as "a company cannot build a business on infringements and then argue that enforcing the law will cripple that business." *C.B. Fleet Co., Inc. v. Unico Holdings, Inc.*, 510 F. Supp. 2d 1078, 1083 (S.D. Fla. 2007) (quoting *CBS, Inc. v. Primetime 24 Joint Venture*, 9 F. Supp. 2d 1333, 1345 (S.D. Fla. 1998)). "When considering the balance of hardships between the parties in infringement cases, courts generally favor the trademark owner." *Krause Int'l Inc. v. Reed Elsevier, Inc.*, 866 F. Supp. 585, 587-88 (D.D.C. 1994). This is because "[o]ne who adopts the mark of another for similar goods acts at his own peril since he has no claim to the profits or advantages thereby derived." *Burger King Corp. v. Majeed*, 805 F. Supp. 994, 1006 (S.D. Fla. 1992) (internal quotation marks omitted). Therefore, the balance of harms "cannot favor a defendant whose injury results from the knowing infringement of the plaintiff's trademark." *Malarkey-Taylor Assocs., Inc. v. Cellular Telecomms. Indus. Ass'n*, 929 F. Supp. 473, 478 (D.D.C. 1996).

Defendants have been profiting from the sale of the Counterfeit Products. Thus, the balance of equities tips decisively in Plaintiff's favor. The public is currently under the false impression that Defendants are operating their Online Stores with Plaintiff's approval and endorsement. Accordingly, the balance of potential harm to the Defendants in restraining their trade in counterfeit and infringing branded goods if a TRO is issued is far outweighed by the potential harm to the Plaintiff, its reputation, and its goodwill as a manufacturer and distributor of quality products if such relief is not issued. *Creeled, Inc. v. Individuals*, No. 8:22-cv-2379-MSS-TGW, 2022 U.S. Dist. LEXIS 239482, at *8-9 (M.D. Fla. Dec. 2, 2022).

4. Issuance of a temporary restraining order is in the public interest.

A temporary restraining order in these circumstances is in the public interest because each Defendant is engaged in illegal activities and is directly defrauding the consuming public by palming off Defendant's competing Products as genuine Brand products through the use of the Brand Trademark. "The public interest is served by preventing consumer confusion in the marketplace." *Davidoff & CIE, S.A. v. PLD Int'l Corp.*, 263 F.3d 1297, 1304 (11th Cir. 2001). The relief Plaintiff requests unquestionably seeks to not only protect the value of Plaintiff's Brand and the Brand Trademark, but also serves to protect consumers against being duped into purchasing the Counterfeit Products under the misleading representations that they are securing authentic Brand products from an authorized source. [Fang Decl. ¶ 21]. Accordingly, Plaintiff's request for issuance of temporary injunctive relief is in the public interest.

Plaintiff has demonstrated that it is likely to succeed on the merits of its claims for relief. It has also shown that it lacks an adequate remedy at law and would suffer irreparable harm if each Defendant's continuing conduct is not immediately restrained pending a hearing. Additionally, Plaintiff has established that the balance of hardships favors issuing the requested injunction and that granting its *Ex Parte* Motion is in the public interest. Accordingly, Plaintiff respectfully requests that the Court grant the Motion and enter a temporary restraining order against Defendants.

C. Preventing the Fraudulent Transfer of Assets is Appropriate.

Plaintiff also requests an *ex parte* restraint of Defendants' assets so that Plaintiff's right to an equitable accounting of Defendants' profits from sales of the Counterfeit Products is not impaired. Without this restraint, Defendants are likely to transfer financial assets overseas fraudulently. It appears that the Defendants in this case hold most of their assets in foreign countries, making it easy to conceal assets, which will render an accounting by Plaintiff

meaningless. There is good cause to believe that if the Plaintiff gave notice to the Defendants of this application for TRO, the Defendants can easily and quickly change the ownership or modify domain registration and e-commerce store account data and content, change payment accounts, redirect consumer traffic to other seller identification names, and transfer assets and ownership of Seller IDs thereby thwarting the Plaintiff's ability to obtain meaningful relief. *Creeled, Inc. v. Individuals*, No. 8:22-cv-2379-MSS-TGW, 2022 U.S. Dist. LEXIS 239482, at *8 (M.D. Fla. Dec. 2, 2022).

Courts have the inherent authority to issue a prejudgment asset restraint when a plaintiff's complaint seeks relief in equity. *Animale Grp. Inc. v. Sunny's Perfume Inc.*, 256 F. App'x 707, 709 (5th Cir. 2007); *Levi Strauss & Co. v. Sunrise Int'l Trading Inc.*, 51 F.3d 982, 987 (11th Cir. 1995); *Reebok Int'l Ltd. v. Marnatech Enters., Inc.*, 970 F.2d 552, 559 (9th Cir. 1992). Plaintiff has demonstrated that it will likely succeed on the merits of its claims. As such, Plaintiff will be entitled to an accounting and payment of the profits earned by Defendants through their online intellectual property infringement scheme. See 17 U.S.C. § 504. Therefore, this Court has the inherent equitable authority to grant Plaintiff's request for a prejudgment asset freeze to preserve the relief sought by Plaintiff. See *SEC v. ETS Payphones*, 408 F.3d 727, 735 (11th Cir. 2005) (finding it proper to freeze all of the defendant's assets, because it was necessary to preserve sufficient funds for the potential disgorgement in the case).

Courts have previously entered asset restraining orders due to the infringing business's illicit nature and infringers' ability to practically eliminate their evidentiary trails by conducting their business entirely over the Internet. See e.g., *Levi Strauss & Co. v. Sunrise Int'l Trading*, 51 F.3d 982 (11th Cir. 1995); *SEC v. ETS Payphones*, 408 F.3d 727, 735 (11th Cir. 2005) (finding it proper to restrain all of the defendant's assets to preserve funds for disgorgement). Furthermore,

the Eleventh Circuit has previously emphasized the necessity of such an asset restraint when necessary to protect relief, holding that a “request for equitable relief invokes the district court’s inherent equitable powers to order preliminary relief, including an asset freeze, to assure the availability of permanent relief.” *Federal Trade Commission v. United States Oil and Gas Corp.*, 748 F.2d 1431, 1433-34 (11th Cir. 1984) (district court may exercise its full range of equitable powers, including a preliminary asset restraint, to ensure that permanent equitable relief will be possible).

Plaintiff has shown a likelihood of success on the merits, immediate and irreparable harm suffered due to each Defendant’s activities, and that, unless each Defendant’s assets are frozen, each Defendant will likely hide or move their ill-gotten funds to offshore bank accounts. Accordingly, a temporary restraining order preventing the transfer of each Defendant’s assets is proper.

D. A Minimal Bond Should Secure the Temporary Restraining Order

The posting of security upon issuance of a temporary restraining order or preliminary injunction is vested in the Court’s sound discretion. *AFC Enterprises, Inc. v. THG Rest. Group, LLC*, 416 F. App’x 898 (11th Cir. 2011); *HPC US Fund 1, L.P. v. Wood*, 2014 U.S. Dist. LEXIS 188945, *5 (S.D. Fla. May 9, 2014). Because of the firm and unequivocal evidence supporting its claims for copyright infringement, Plaintiff respectfully requests that this Court require the Plaintiff to post a bond of no more than five thousand dollars (\$5,000.00 USD), subject to an increase at the Court’s discretion should an application be made in the interest of justice.

Similar bonds have been authorized in actions commenced in this judicial district to guard against the improper issuance of injunctive relief, where a high likelihood of success on the merits has been demonstrated. *See Tucker v. Blackfisk Marine, LLC*, No. 22-CV-61953, 2023 U.S. Dist. LEXIS 4423, 2023 WL 141980 (S.D. Fla. Jan. 10, 2023) (explaining that a nominal bond in the

amount of \$5,000 constituted sufficient security for purposes of entering a TRO). Accordingly, Plaintiff asks that the Court require it to post a bond in an amount not to exceed five thousand dollars (\$5,000.00 USD) as security in this action and in connection with the issuance of the requested temporary injunctive relief.

E. Plaintiff is Entitled to Expedited Discovery.

The Supreme Court has held that “federal courts have the power to order at their discretion, the discovery of facts necessary to ascertain their competency to entertain the merits.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). A district court has wide latitude in determining whether to grant a party’s request for discovery. *Id.* Furthermore, courts have broad power over discovery and may permit discovery to aid in identifying unknown defendants. *See* Fed. R. Civ. P. 26(b)(s).

Plaintiff requests that the Court authorize expedited discovery so that Plaintiff may subpoena the Amazon Platform to obtain, among other things, each Defendant’s email address maintained with the Platform. Second, Plaintiff respectfully requests expedited discovery to discover the bank and payment system accounts each Defendant uses for their unlawful intellectual property infringement operations. The expedited discovery requested in Plaintiff’s Motion is limited to include only what is essential to prevent further irreparable harm. Discovery of each Defendant’s email addresses is necessary to effectuate electronic service of process for these proceedings. Further, the discovery of each Defendant’s financial accounts so that they can be frozen is necessary to ensure that their infringement will be contained. *See, e.g. Hyper ICE, Inc. v. Wuyouxiangongsi*, 2024 U.S. Dist. LEXIS 132913, *3 (S.D. Fla. June 25, 2024). Without this relief, Plaintiff’s seizure and asset restraint may have limited value because Plaintiff will not know the entities upon whom to serve the order. This Court has broad power over discovery and may permit discovery to aid in identifying unknown defendants.

Plaintiff's undersigned counsel is aware that the third-party marketplaces and payment services contemplated in the proposed order have cooperated with intellectual property owners in prior cases and under similar circumstances and are accustomed to doing so as part of their business operations. These third parties can comply with these expedited discovery requests without undue burden. Accordingly, Plaintiff respectfully requests that the Court grant permission to conduct expedited discovery directed to each Defendant and the Platform at issue in this action.

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant its Motion and issue a Temporary Restraining Order as to Defendants. Plaintiff additionally asks the Court to set security, in the form of cash and/or a bond, in the amount of five thousand dollars (\$5,000.00 USD), for issuance of the Temporary Restraining Order.

Plaintiff also requests that the Court authorize it to conduct expedited discovery on each Defendant and the designated Platform, which would be primarily directed towards obtaining each Defendant's email addresses maintained with the Platform and obtaining financial information concerning sales of the Counterfeit Products, account balances related to same, and associated information.

Dated: May 28, 2025

Respectfully Submitted,

By: /s/ William R. Brees
William R. Brees (Bar No. 98886)
william@bayramoglu-legal.com
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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:25-cv-21819-MOORE

XYZ CORPORATION.,

Plaintiff,

v.

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

Defendants.

**DECLARATION OF WILLIAM R. BREES, ESQ. IN SUPPORT OF PLAINTIFF'S
RENEWED MOTION FOR TEMPORARY RESTRAINING ORDER**

I, William R. Brees, Esq., of St. Petersburg, Florida, 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 Renewed Motion for Temporary Restraining Order, including a temporary injunction, a temporary asset restraint, and expedited discovery (the "Motion").

3. I am an attorney at law, duly admitted to practice before the Courts of the State of Florida and the United States District Court for the Southern District of Florida. I am one of the attorneys for Plaintiff, XYZ Corporation ("Plaintiff"). From my experience as an intellectual property attorney, I am knowledgeable about intellectual property protection including, but not limited to, trademarks, copyrights, other intellectual property, sales, online sales, and associated

international operations. I make this declaration from within my own knowledge unless stated otherwise.

4. As alleged in the Complaint [Dkt. No. 1], Defendants are unlawfully using Plaintiff's federally registered trademark for the word mark [REDACTED] (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 Marketplaces") maintained on such online sales platforms such as eBay, AliExpress, Alibaba, Walmart.com, Wish.com, Etsy, DHgate, Temu, and Amazon, the platform at issue in this case (the "Platform"). [Dkt. No. 1-3.] In short, Defendants operate a highly sophisticated network whereby they offer the Counterfeit Products, of lesser quality and at a discounted price, by associating these inferior products with Plaintiff's brand through the unauthorized use of the Brand Trademark.

5. Specifically, Defendants created the Online Marketplaces 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 Marketplaces under the auspices that they are selling authentic brand products when it is not doing so. To implement their scheme, Defendants are alleged to secure their Counterfeit Products from a manufacturing source(s) based in the People's Republic of China ("China"). The reason for this manufacturing is the Counterfeit Products being sold by Defendants are simply incapable of being produced independently without the support of a supply chain and manufacturing source capable of supplying the considerable misled consumer demand. Plaintiff

has filed this action to stop Defendants' unauthorized use of its Brand Trademark to promote and sell their Counterfeit Products and continue their scheme of misleading consumers, including the citizens of the State of Florida.

6. Plaintiff's Motion respectfully requests the Court issue a Temporary Restraining Order ("TRO") that does the following: (1) restrains Defendants' continued misappropriation of Plaintiff's Brand Trademark for the manufacture, importation, distribution, offering for sale, and sale of the Counterfeit Products; (2) restrains Defendants' assets to preserve Plaintiff's right to an equitable accounting; (3) authorizes expedited discovery allowing Plaintiff to inspect and copy Defendants' records relating to Defendants' financial accounts; and (4) authorizes service on Defendants by electronic mail and/or electronic publication.

7. Plaintiff requests the Court authorize expedited discovery so that it may subpoena the Platform to obtain, among other things, Defendants' email addresses maintained with the Online Marketplaces and confirm any and all Defendants' contact information. Plaintiff also respectfully requests expedited discovery to discover bank and payment system accounts Defendants use for their counterfeit sales operations. The expedited discovery requested in Plaintiff's proposed TRO is limited to include only what is essential to prevent further irreparable harm. For instance, discovery of the Defendants' email addresses is necessary to effectuate electronic service of process for these proceedings. Then, discovery of Defendants' financial accounts is necessary so that they can be frozen and to ensure that Defendants' infringing behavior will be contained. Plaintiff's seizure and asset restraint may have little meaningful effect without the requested relief.

8. Electronic service is appropriate and necessary in this case because Defendants: (1) have provided either false or unverifiable names and physical address information in their

registrations for Defendants' Online Marketplaces in order to conceal their location and avoid liability for their unlawful conduct; and (2) Defendants rely primarily on electronic communications to communicate with their registrars and customers, demonstrating the reliability of this method of communication by which Defendants may be apprised of the pendency of this action. Authorizing service of process solely via e-mail and/or electronic publication will benefit all parties and the Court by ensuring that Defendants receive prompt notice of this action, thus allowing this action to move forward expeditiously. Absent the ability to serve the Defendants in this manner, Plaintiff will almost certainly be left without the ability to prosecute this action in an expeditious and necessary manner or to pursue this matter to a complete final judgment.

9. Given that the Defendants are alleged to be Chinese nationals and/or Chinese entities selling Counterfeit Products on the same online Platform through the intentional and willful infringement of Plaintiff's Brand Trademark, and are alleged to be doing so through a sophisticated counterfeit network employing common supply chains and/or manufacturing sources, Plaintiff maintains that authorizing electronic service of process via email and/or electronic publication is appropriate and that such means of service comports with the constitutional requirements of due process. Additionally, Plaintiff is unable to determine the exact physical whereabouts or identities of the registrants of Defendants' Online Marketplaces due to their use of false and incomplete names and/or physical addresses. Finally, this relief is additionally supported given the Defendants' decision to operate their Online Marketplaces anonymously over the internet.

10. At first blush, the appearance of Chinese Defendants might raise concerns over whether authorization of electronic service of process is consistent with the provisions of the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and

Commercial Matters (the “Hague Convention”), of which both China and the United States are signatories. The Hague Convention does not preclude service by e-mail, and the declarations to the Hague Convention filed by China do not appear to expressly prohibit e-mail service.

11. As the undersigned counsel, I performed, supervised, and/or directed investigations related to Internet-based infringement of the Brand Trademark. To date, our investigation shows that Defendants are using Defendants’ Online Marketplaces to sell knockoff/counterfeit brand products from foreign countries such as China to consumers in the United States and elsewhere while using, without authorization, the Brand Trademark. I have directly (or someone working under my direct supervision has) analyzed Defendants’ Online Marketplaces and determined that they were using the Brand Trademark without authorization to offer knockoff products of inferior quality for sale to consumers in the United States, including to consumers in the State of Florida. This conclusion was reached through visual inspection of the products listed for sale on Defendants’ Online Marketplaces, 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.

12. True and correct copies of each link that leads to Defendants’ unauthorized use of the Brand Trademark in the body of its storefront is attached as Exhibit 3 to the Complaint [Dkt. No. 1-3].

13. Upon information and belief, Defendants typically set up online stores on well-known e-commerce platforms and, to unknowing consumers, appear to be authorized online retailers, outlet stores, or wholesalers selling genuine counterfeit products. Defendants’ Online Marketplaces appear sophisticated and accept payment in U.S. dollars via credit cards and PayPal. Defendants’ Online Marketplaces include images and design elements that make it very difficult

for consumers to identify them as counterfeit or unauthorized knockoff brand sellers. Defendants therefore perpetuate the illusion of legitimacy by using indicia of authenticity and security that consumers have come to associate with authorized online retailers. Plaintiff has not licensed or authorized Defendants to use the Brand Trademark.

14. Defendants deceive unknowing consumers by using the Brand Trademark without authorization within the content to attract various search engines crawling the Internet looking for websites relevant to consumer searches for authentic brand products. Additionally, Defendants typically use other unauthorized search engine optimization (“SEO”) tactics and social media spamming so that Defendants’ listings show up at or near the top of relevant search results and misdirect consumers searching for genuine brand products. Further, Defendants typically utilize similar illegitimate SEO tactics to propel new domain names to the top of search results after others are shut down.

15. Upon information and belief, Defendants (and similar defendants in other cases) have gone to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their massive network of online stores. For example, Plaintiff and I have found that many of Defendants’ names and physical addresses used to register Defendants’ Online Marketplaces are incomplete, contain randomly typed letters, or fail to include cities or states. Defendants in similar counterfeit and knockoff product cases, also use privacy services that conceal the owner’s identity and contact information and regularly create new websites and online marketplace accounts on various platforms, as well as other unknown fictitious names and addresses. Such Internet store registration patterns are one of many common tactics counterfeiting and product knockoff defendants utilize to conceal their identities, the full scope and interworking of their massive counterfeiting operation, and to avoid being shut down.

16. Defendants' Online Marketplaces use, without authorization, the Brand Trademark in similar or substantially similar ways to sell the Counterfeit Products of lesser quality at the same or lower pricing. Counterfeit Products for sale in Defendants' Online Marketplaces bear similar irregularities and indicia of being related to one another, suggesting that the Defendants' lesser quality products were manufactured by and come from a common manufacturing source.

17. In addition to appearing to operate under a fictitious name, Defendants in this case and defendants in other similar cases, use a variety of other common tactics to evade enforcement efforts. For example, knockoff sellers like Defendants will often register new domain names or online marketplace accounts under new aliases once they receive notice of a lawsuit. Counterfeiters and knockoff sellers also often move website hosting to rogue servers located outside the United States once notice of a lawsuit is received. Counterfeiters and knockoff sellers also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection.

18. Based on my experience in investigating counterfeit and knockoff products, including the instant investigation, knockoff sellers such as Defendants typically operate multiple credit card merchant accounts hidden behind layers of payment gateways so that they can continue operation despite legal enforcement efforts. Further, defendants, such as the Defendants in this case, typically maintain offshore bank accounts and regularly move funds from their various e-commerce accounts to these offshore accounts because they are outside the jurisdiction of United States' courts, such as this Court.

19. Moreover, Plaintiff suspects that given the nature of the Counterfeit Products being sold, which are promoted using an extensive array of Plaintiff's Brand Trademark, that this is a highly sophisticated and coordinated counterfeit operation whereby the Defendants are provided

with illegal, substandard, knockoff products produced from one or more central textile manufacturing facilities. In my experience, most defendants lack the resources, ability, and capacity to manufacture the degree of Counterfeit Products being distributed through their associated online sales platforms without the support of a larger, criminal organization/network.

20. Defendants in this case, willfully and without authorization, uses the Brand Trademark to promote, advertise, offer to sell, and sell competing, poor quality goods through their Online Marketplaces maintained on the Platform. Defendants are creating a false association in the minds of consumers between their illegitimate Counterfeit Products and the authorized, legitimate brand products offered by Plaintiff by deceiving consumers through, among other things, the unauthorized display of the Brand Trademark. These circumstances justify entry of a temporary restraining order to immediately stop the Defendants from improperly benefiting from their unauthorized use of the Brand Trademark and to preserve the status quo until a hearing can be held in this matter.

21. It is highly likely that the named Defendants are a part of the collaboration of sellers that seek and distribute any and all information regarding infringement enforcement and evading repercussions for their actions while continuing to infringe on legitimate trademarks, copyrights and patents. Defendants themselves or associates of Defendants monitor United States Court filings looking for Chinese businesses and familiar trademarks that once discovered, articles are immediately published, and posts are shared in qq.com chats and disseminated throughout their network on online websites such as "SellerDefense.cn." The Plaintiff in this action, has already been flagged by SellerDefense.cn noting that Plaintiff's actions are being watched. Dissemination of this information then immediately results in named defendants siphoning off all illicit funds held in their online accounts. This results in plaintiffs being

deprived of any meaningful opportunity to redress the harm caused by defendants infringing conduct by attacking their financial resources.

22. Absent entry of a temporary restraining order without notice, Defendants can, and likely will, modify registration data and content, change hosts, redirect traffic to other websites under their control, and/or move any assets from U.S.-based bank accounts to offshore accounts.

23. Defendants' Online Marketplaces have been registered with the identified Platform, which helps increase their anonymity by interposing a third-party between the consumer and them. Without being able to discover Defendants' bank and payment system accounts, any asset restraint would be of limited value because Plaintiff would not know the entities upon whom to serve the applicable order. As such, expedited discovery is required to discover bank and payment-system accounts used by Defendants in furtherance of their trademark infringing sales operations. In this regard, Plaintiff's expedited discovery requested in its Proposed Temporary Restraining Order has been limited to include that which is only necessary to prevent further irreparable harm. This includes discovery of financial accounts necessary to freeze them so that the unauthorized and infringing activities will be contained.

24. As Defendants have engaged in deceptive practices in hiding their identity and accounts, Plaintiff's seizure and asset restraint in the Proposed Temporary Restraining Order may have little meaningful effect without also being able to serve necessary discovery, through Federal Rule of Civil Procedure 45 or otherwise, on third parties potentially associated or acting in concert with the Defendants. As such, Plaintiff requests that it additionally be permitted to engage in third-party discovery to the extent necessary to effectuate the narrow scope of inquiry identified above.

25. Further, it is respectfully submitted that *ex parte* relief will avoid immediate and irreparable injury. Indeed, if Defendants were to learn of these proceedings prematurely, the likely

result would be the destruction of relevant documentary evidence and the hiding or transferring of assets to foreign jurisdictions, which would frustrate the purpose of the underlying law and would interfere with this Court's ability to grant relief. Specifically, it appears that the Defendants in this case hold some or most of its assets in the Republic of China or Hong Kong, making it easy to hide or dispose of assets, which will render an accounting by Plaintiff meaningless.

26. Plaintiff will suffer immediate and irreparable injury, loss, or damage if an *ex parte* Temporary Restraining Order is not issued.

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

Executed on May 28, 2025, in St. Petersburg, Florida.

Respectfully Submitted

By: /s/ William R. Brees

WILLIAM R. BREES (FL BAR NO. 98886)

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:25-cv-21819-MOORE

XYZ CORPORATION,

Plaintiff,

v.

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

Defendant.

**DECLARATION OF ANISAH BEASTON IN SUPPORT OF PLAINTIFF'S *EX PARTE*
RENEWED MOTION FOR TEMPORARY RESTRAINING ORDER**

I, Anisah Beaton, of Henderson, 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 *Ex Parte Renewed* Motion for Temporary Restraining Order, Including a Temporary Asset Restraint, and Expedited Discovery (the "Motion").

3. On April 4, 2025, I placed product orders on the online Amazon platform (the "Platform") with order numbers and product titles as outlined in the table below:

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

The foregoing table represents a true and accurate summary of purchases made by me from the online marketplace storefronts maintained on the Platform (the “Online Marketplaces”) by the named Schedule “A” Defendants (the “Defendants”) in this action. Moreover, each of the foregoing purchases were made because the Online Marketplaces were 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”).

4. As outlined in the table above, all Counterfeit Products purchased on April 4, 2025. Seven of the Counterfeit Products were successfully shipped to Florida; however, one shipment was lost. All Counterfeit Products ordered by me are sold by the Defendants in this action.

5. A review of Defendants’ product listings as of the date of May 27, 2025, showed that the Counterfeit Products remain available for purchase on seven of the Defendants’ Online Marketplaces, using the Brand Trademark without authorization. As such, the Defendants are actively representing they are ready, willing, and able to sell, the Counterfeit Products and ship them to consumers in the State of Florida.

6. All purchased Counterfeit Products that resulted in completed sales transactions, includes payment being made to the selling Defendant. To the extent the Court requires physical proof that the purchased Counterfeit Products arrived in the State of Florida, I am willing to

supplement this declaration with photographic evidence demonstrating such delivery.

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

Executed on May 28, 2025 in Henderson, Nevada.

Respectfully Submitted,

/s/ Anisah Beaston

Anisah Beaston

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:25-CV-21819-MOORE/Elfenbein

XYZ Corporation,

Plaintiff,

v.

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

Defendants.

**DECLARATION OF EN FANG IN SUPPORT OF PLAINTIFF'S
MOTION FOR TEMPORARY RESTRAINING ORDER**

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 Entry of a Temporary Restraining Order, including a temporary injunction, a temporary asset restraint, expedited discovery, and service of process by email and/or electronic publication (the "Motion").

3. I am a Director for Plaintiff [REDACTED] 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 matters within my own knowledge save where otherwise stated.

4. Plaintiff is organized under the laws of the Hong Kong with a business address:

[REDACTED]

5. Plaintiff was founded on February 24, 2017 for the purpose of creating and offering innovative fashion solutions and designs for women's clothing, accessories, and related merchandise (such as swimwear, dresses, tops, bottoms, jewelry, accessories, and clothing) that is sold to consumers through the company's branded products (the "Brand") through the use, display, and advertisement of its federally registered trademark (the "Brand Trademark"), which was been issued [REDACTED] by the United States Patent and Trademark Office (the "USPTO") on February 25, 2020.

6. Plaintiff's Products are distributed and sold to consumers throughout the United States, including in Florida through Plaintiff's official website.

7. Plaintiff incorporates its distinctive mark in the design of its Brand products. The Brand products typically include Plaintiff's Brand Trademark.

8. I originally sought and obtained registration of the Brand Trademark for the USPTO as an individual. The Brand Trademark was granted registration by the USPTO on [REDACTED]

9. After obtaining registration, I assigned all rights, title, and interest in and to the Brand Trademark to Plaintiff on or about [REDACTED] which was recorded with the USPTO on

██████████ Attached hereto as Exhibit "1" is a true and correct copy of the USPTO's registration of the Brand Trademark.

10. The Brand Trademark is valid, subsisting in full force and effect. The Asserted Brand Trademark has been used exclusively and continuously by Plaintiff for many years and has never been abandoned.

11. The Brand Trademark is exclusive to Plaintiff and is displayed extensively on the Brand products, marketing, and promotional materials. Plaintiff's Brand has long been among the most popular women's clothing brands in the world and has been extensively promoted and advertised at great expense. In fact, Plaintiff typically expends more than \$10,000,000 USD annually to advertise, market, and promote the Brand and products bearing the Brand Trademark in the United States through such online advertising channels as Google Ads, Facebook, and Bing. These advertising efforts have allowed Plaintiff to recognize annual Brand-related gross revenues in excess of \$20,000,000 from United States sales, which includes over \$800,000 in annual gross sales revenue from the State of Florida. Simply put, Plaintiff's Brand and Brand Trademark have become famous throughout the United States and around the world and they represent significant, highly valued company assets.

12. The Brand Trademark is distinctive when applied to the Brand products by signifying to the purchaser that the products come from Plaintiff and are manufactured to Plaintiff's quality standards. The Brand Trademark has achieved tremendous fame and recognition, which has only added to the inherent distinctiveness of the marks. As such, the goodwill associated with the Brand Trademark is of incalculable and inestimable value to Plaintiff.

13. Plaintiff promotes and sells its Brand products through its own e-commerce website, which specifically incorporates the Brand Trademark in its URL address (the "Brand

Website”). Sales of the Brand products via the Brand Website represent a substantial portion of Plaintiff’s business. The Brand Website features proprietary content, images, and designs exclusive to the Brand and incorporates the Brand Trademark.

14. Plaintiff does not license the Brand Trademark or license, authorize, or otherwise consent to the sale of Brand Products or display of the Brand Trademark to any third-party, which the exception of a related corporate entity that exclusively sells products through its own branded website incorporating the company’s trade name/trademark in its URL. Neither Plaintiff, nor its related corporate entity, sell any Brand products or display the Brand Trademark on any third-party online sales platform, such as eBay, AliExpress, Alibaba, Wish.com, Walmart, Etsy, DHgate, Temu, and the platform at issue in this case as listed in Schedule “A” to the Complaint (the “Platform”).

15. The Brand’s success has resulted in significant counterfeiting of the Brand products and use of the Brand Trademark to advertise, market, display, offer to sell, and sell counterfeit women’s clothing, merchandise, and related products (the “Counterfeit Products”) at issue in this case. Consequently, Plaintiff has identified numerous fully interactive e-commerce stores, including those operating under the seller aliases identified in Schedule “A” to the Complaint (the “Defendants”), which were offering for sale and/or selling Counterfeit Products using, without authorization, the Brand Trademark, to do so for the purpose of soliciting consumers in the State of Florida, in the City of St. Petersburg, and throughout the Unites States. Defendants could not, individually manufacture and fulfill consumer orders for the Counterfeit Products. Rather, Defendants would necessarily be required to employ a common manufacturing source and/or common supply chains to fulfill consumer orders for the Counterfeit Products. This, along with

other identified circumstances, demonstrate that the Defendants are operating, in concert, through a sophisticated counterfeit network.

16. Plaintiff has filed this action to stop Defendants' unauthorized use of the Brand Trademark to promote and sell their Counterfeit Products and continue their scheme of misleading consumers, including the citizens of the State of Florida.

17. I perform, supervise, and/or direct investigations related to Internet-based infringement of the Brand Trademark. Our investigation shows that Defendants are individuals from the People's Republic of China ("China") or are Chinese-based entities using their e-commerce stores to sell the Counterfeit Products to consumers in the United States and elsewhere. I, or someone working under my direction, analyzed each of the e-commerce stores operating under the Defendants' control and determined that Counterfeit Products were being offered for sale to residents of the United States, including to residents of the State of Florida. This conclusion was reached through visual inspection of the Counterfeit Products listed for sale on each e-commerce store, the price at which the Counterfeit Products were offered for sale, other features commonly associated with e-commerce stores selling counterfeit products, and because Defendants and their e-commerce stores do not conduct authorized business with the company's Brand and do not have the right or authority to use the company's Brand Trademark for any reason. In addition, each e-commerce store offered shipping to the United States, including to the State of Florida. The e-commerce stores operating that were reviewed are attached as Schedule "A" to the Complaint.

18. Specifically, Defendants create numerous e-commerce stores on online sales platforms, including 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 Marketplaces under the auspices that they are selling authentic Brand products when they are not doing so.

19. Monetary damages cannot adequately compensate Plaintiff for ongoing infringement because monetary damages fail to address the loss of control of and damage to Plaintiff's reputation and goodwill. Furthermore, monetary damages are difficult, if not impossible, to ascertain due to the inability to calculate measurable damage in dollars and cents caused to Plaintiff's reputation and goodwill by acts of infringement

20. Plaintiff's goodwill and reputation are irreparably damaged when the company's Brand Trademark is used in connection with the offering for sale or sale of Counterfeit Products not authorized, produced, or manufactured by Plaintiff. Moreover, Brand confidence is damaged which can result in a loss of future sales and market share. The extent of harm to Plaintiff's reputation and goodwill, and the possible diversion of customers due to loss in Brand confidence, are largely unquantifiable

21. Plaintiff is further irreparably harmed by the unauthorized use of the Brand Trademark because Defendants' sale of Counterfeit Products by using, without authorization, the Brand Trademark eliminates the company's ability to control the nature and quality of the products received by consumers expecting authentic, genuine Brand products. Loss of quality control over goods offered for sale or sold under the Brand Trademark and, in turn, loss of control over Plaintiff's reputation, is neither calculable nor precisely compensable.

22. The use of the Brand Trademark in connection with the offering for sale or sale of goods not authorized, produced, or manufactured by Plaintiff is likely causing and will continue

to cause consumer confusion which weakens Plaintiff's brand recognition and reputation. Consumers who mistakenly believe that the Counterfeit Products they have purchased originated from Plaintiff will come to believe that Plaintiff offers low-quality products. Inferior quality products will result in increased skepticism and hesitance in consumers presented with genuine Brand products, resulting in a loss or undermining of Plaintiff's reputation and goodwill. Indeed, there is damage to Plaintiff's reputation and goodwill even if consumers know that the goods they are purchasing are counterfeit. Prospective consumers who see inferior Counterfeit Products worn or used by others may mistakenly believe such goods to be genuine and may consequently develop a poor impression of Plaintiff, its Brand, and the Brand Trademark. Such post-sale confusion results in damage to Plaintiff's reputation and correlates to a loss of unquantifiable future sales.

23. Plaintiff is further irreparably damaged due to a loss of exclusivity. The Asserted Brand products are meant to be exclusive. Plaintiff's extensive marketing efforts and innovative designs are aimed at growing and sustaining sales. The Brand Trademarks are distinctive and signify to consumers that the products originate from Plaintiff and are manufactured to Plaintiff's high-quality standards. When counterfeiters use the Brand Trademark to offer for sale or sell goods without Plaintiff's authorization, the exclusivity of the Brand products and Plaintiff's reputation are damaged and eroded, resulting in a loss of unquantifiable future sales.

24. Plaintiff will suffer immediate and irreparable injury, loss, or damage if an Temporary Restraining Order is not issued in accordance with Federal Rule of Civil Procedure 65(b)(1).

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

Executed on April 25, 2025 in Hong Kong, a special administrative region of the People's Republic of China.

Respectfully Submitted

By: En Fang
EN FANG

EXHIBIT 1

FILED UNDER SEAL