

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

Case No.: 1:25-cv-21931-MARTINEZ

XYZ CORPORATION,

Plaintiff,

v.

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

Defendants.

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Plaintiff, XYZ Corporation ("Plaintiff"), pursuant to 15 U.S.C. § 1116, Fed. R. Civ. P. 65, and The All Writs Act, 28 U.S.C § 1651(a), respectfully moves for entry of a preliminary injunction order against the Individuals, Corporations, Limited Liability Companies, Partnerships, and Unincorporated Associations (the "Defendants") identified in Schedule "A" to the Complaint (Dkt. No. 1-1), which enjoins the manufacture, importation, distribution, offer for sale, and sale of goods using and/or displaying Plaintiff's federally registered trademark.

Plaintiff's Motion is made based on the pleadings on file in this action, Plaintiff's Motion for Temporary Restraining Order [Dkt. No. 12] and the Declarations attached thereto, this Motion, and the Declaration of Emily Heim the ("Heim 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]. As alleged in the Complaint, Defendants are unlawfully and without authorization using Plaintiff's federally registered trademark "MODLILY" (the "Brand Trademark") to promote, advertise, market, distribute, offer for sale, and sell its own products (the "Counterfeit Products") through their e-commerce stores (the "Online Stores") maintained on the Walmart marketplace online sales platform (the "Platform").

Each Defendant's ongoing unlawful activities should continue to be restrained. Plaintiff respectfully requests that this Court issue a preliminary injunction order (1) restraining each Defendant's continued manufacture, importation, distribution, offering for sale, and sale of the Counterfeit Products and (2) restraining each Defendant's assets to preserve Plaintiff's right to an equitable accounting.

Plaintiff's well-plead factual allegations, which must be accepted as true, and evidence submitted through declarations submitted in support with the Motion for Temporary Restraining Order [Dkt. No. 12], establish that issuing a preliminary injunction order against Defendants is necessary and proper. Plaintiff has already demonstrated a strong likelihood of success on the merits. Plaintiff is the owner of its valid federally registered trademark. The issuance of a preliminary injunction order 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 infringing use of the Brand Trademark.

II. PROCEDURAL HISTORY

On June 30, 2025, this Court granted Plaintiff's request for a temporary restraining order ("TRO") on an *ex parte* basis. [Dkt. No. 21]. On May 30, 2025, the Court also authorized and directed Plaintiff to provide notice of these proceedings and the preliminary injunction hearing to the Defendants by electronically publishing a link to the Complaint, the TRO, and other relevant documents on a website, together with effectuating electronic service by email transmission to any

addresses provided for the Defendants by third party online platforms. [Dkt. No. 15.] On July 14, 2025, Walmart produced the Defendants' email address. (Heim Decl. ¶ 5.) Plaintiff effectuated electronic service of process on the Defendants on the same day, July 14, 2025. (*Id.* ¶ 6.)

Based on the foregoing procedural history, including having effectuated electronic service of process to the Defendant as required by the Order Granting Motion for Alternate Service of Process by E-mail and/or Electronic Service [Dkt. No. 15], Plaintiff respectfully requests the Court now enter a Preliminary Injunction in this matter. Plaintiff further requests the Court issue a Minute Order setting a deadline for the Defendants to submit any oppositions to the Motion prior to conducting a scheduled hearing. Plaintiff will immediately serve the Defendants electronically with the requested Minute Order once it is issued by the Court. Substantively, as stated earlier, and as argued below, Plaintiff's request for issuance of a preliminary injunction is in full compliance with the applicable standards for granting such relief.

III. ARGUMENT

A. This Court has already found that the requirements for a preliminary injunction have been met.

Plaintiff respectfully requests that this Court convert the TRO to a preliminary injunction to prevent further illegal conduct by Defendants. Plaintiff asserts that no circumstances have changed since Plaintiff had previously requested relief in the form of a Temporary Restraining Order. As such, Plaintiff is unaware of any new information that would affect the Court's original analysis.

The requirements for issuing a preliminary injunction are the same as those for entering a TRO, namely, "(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, at *4 (S.D. Fla. November 18, 2024) (citing *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225-26 (11th Cir. 2005)). As this Court has already entered a TRO on July 7, 2025, it has previously been found that the above requirements have been met. Therefore, the requirements for entry of a preliminary injunction extending the TRO have also been satisfied and Plaintiff's request should be granted.

"The determination of whether there is a substantial likelihood of success on the merits 'does not contemplate a finding of fixed quantitative value. Rather, a sliding scale can be employed, balancing the hardships associated with the issuance or denial of a preliminary injunction with the degree of likelihood of success on the merits.'" *Faculty S. of Fla. Int'l Univ. v. Winn*, 477 F. Supp. 2d 1198, 1203 (S.D. Fla. 2007) (citing *Fla. Med. Ass'n, Inc. v. U.S. Dept. of Health, Educ., & Welfare*, 601 F.2d 199, 203 n.2 (5th Cir. 1979)). For example, where "the balance of equities weighs heavily in favor of granting the [injunction]," the movant[s] need only show a substantial case on the merits." *Gonzalez v. Reno*, 2000 U.S. App. LEXIS 7025, 2000 WL 381901, at *1 (11th Cir. 2000).

As established by the evidence in the Declarations of William Brees [Dkt. No. 12-1] and E. Fang [Dkt. No. 12-3] with the submission of the Motion for TRO [Dkt. No. 12], and by this Court's entry of the TRO [Dkt. No. 21], the above requirements for entry of a preliminary injunction have been satisfied. The record establishes that through the Defendants' illegal operations the Defendants have infringed upon Plaintiff's federally registered Brand Trademark. Thus, Plaintiff is entitled to preliminary injunctive relief.

B. The current bond is sufficient to protect the Defendants' interests.

The Court has previously required Plaintiff to post a bond in the sum of \$10,000.00 in connection with issuance of the TRO. 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. 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 preliminary injunction.

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court enter a Preliminary Injunction. If required, a minute order setting a deadline for Defendant to oppose the Motion, which Plaintiff will immediately serve Defendant with the Minute Order if issued by the Court. If a hearing on the Preliminary Injunction Motion cannot be heard prior to the current expiration of the TRO, Plaintiff requests a fourteen (14) day extension of the TRO or until there is a ruling on the Preliminary Injunction Motion. Plaintiff additionally respectfully requests the Court maintain the current bond amount required under the TRO, together with issuing any other relief that it deems just and proper.

Dated: July 30, 2025

Respectfully Submitted,

By: /s/ William R. Brees

William R. Brees (Bar No. 98886)

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Emily M. Heim (Bar. No. 1015867)

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, hereby certify that on the 30th day of July, 2025, I electronically filed the foregoing document with the clerk of the court using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented 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 is listed below and has been provided via email and by posting the filing on a URL contained on our website <http://blointernetenforcement.com>, and a link to said website in the email provided by third-party.

/s/ William R. Brees
WILLIAM R. BREES (FL BAR NO. 98886)
BAYRAMOGLU LAW OFFICES LLC

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Defendants.

**DECLARATION OF EMILY M. HEIM IN SUPPORT OF
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

I, Emily Heim, of the City of Saint Petersburg, in the State of 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 Motion for Preliminary Injunction (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"). 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 June 30, 2025, [Dkt. No. 21].

5. On July 14, 2025, the designated online platform, Walmart.com, (the “Platform”) provided Plaintiff with the email addresses for the named Defendants listed on Schedule “A”, (the “Defendants”) so that electronic service of process authorized under the TRO could be effectuated.

6. On July 14, 2025, Plaintiff effectuated electronic service of process on the Defendants, [Dkt. No. 27].

7. On July 3, 2025 Plaintiff began processing the procurement of the required surety bond in the amount of \$10,000.00 and the transmission to the clerk’s office. The bond was received by the clerk’s office on July 14, 2025.

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

Executed on July 30, 2025, in Saint Petersburg, Florida.

By: /s/ Emily M. Heim
EMILY M. HEIM, ES .

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2025, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, I will electronically publish the documents on a website, and I will send an e-mail to any e-mail addresses identified by the Platform, Walmart, for Defendant, includes a link to said website.

Respectfully Submitted,

By: /s/ William R. Brees

William R. Brees (Bar No. 98886)

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Emily M. Heim (Bar No. 1015867)

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Defendants.

[PROPOSED] PRELIMINARY INJUNCTION ORDER

THIS CAUSE comes before the Court on Plaintiff's Motion for Preliminary Injunction (the "Motion") [Dkt. No. 28] against the against the fully interactive, e-commerce stores¹ (the "Online Stores") operating under the seller aliases identified in Schedule A to the Complaint and attached hereto (collectively, the "Defendants"). After reviewing the Motion and the accompanying record, this Court **GRANTS** Plaintiff's Motion.

This Court finds Plaintiff has provided notice to the Defendants in accordance with the Temporary Restraining Order ("TRO") entered on June 30, 2025, [Dkt. No. 21], and Federal Rule of Civil Procedure 65(a)(1).

This Court also finds, in the absence of adversarial presentation, that it has personal jurisdiction over the Defendants because the Defendants directly target their business activities toward consumers in the United States, including Florida. Specifically, Plaintiff has provided a

¹ The e-commerce store URLs are listed on Schedule A hereto.

basis to conclude that the Defendants have targeted sales to Florida residents by setting up and operating e-commerce stores that target United States consumers using one or more seller aliases, offer shipping to the United States, including to the State of Florida, and intentionally offering for sale women's apparel and fashion items ("Counterfeit Products") that are unlawfully and without authorization using Plaintiff's federally registered trademark "MODLILY" (the "Brand Trademark").

In this case, Plaintiff has presented screenshot evidence that each of the Defendants' e-commerce stores (the "Online Stores") on the online Walmart.com marketplace platform (the "Platform") is reaching out to do business with Florida residents by operating one or more commercial, interactive internet stores that use, without authorization, Plaintiff's Brand Trademark. Brees Decl., Exhibit 1 to the Motion for TRO [Dkt. No. 12-1]. Through the Defendants' Online Stores, Florida residents can and do purchase competing products that use without authorization the Brand Trademark; these lead consumers to think they are purchasing Plaintiff's legitimate MODLILY brand products. Accordingly, the Court finds that Plaintiff has a likelihood of success on the merits of its trademark infringement, false designation of origin, and Florida common law trademark infringement and unfair competition claims for relief.

The Court additionally finds that issuance of the requested injunctive relief would be in the public interest by protecting consumers from being misled by Defendants' unauthorized use of Plaintiff's Brand Trademark on their Online Stores to entice the purchase of the counterfeit products.

This Court also finds that the injunctive relief previously granted in the TRO should remain in place through the pendency of this litigation and that issuing this Preliminary Injunction is warranted under Federal Rule of Civil Procedure 65. Accordingly, this Court orders that:

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

- a. Using or displaying the Plaintiff's Trademark or any reproduction, counterfeit, copy or colorable imitation of Plaintiff's Trademark in connection with the manufacture, importation, distribution, advertisement, offer for sale and/or sale of merchandise that is not the genuine products of Plaintiff, or in any manner likely to cause others to believe that the infringing products are connected with Plaintiff or Plaintiff's genuine products;
- b. Shipping, delivering, holding for sale, transferring, or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which use Plaintiff's Trademark;
- c. Using, linking to, transferring, selling, exercising control over, or otherwise owning the user accounts associated with Plaintiff's Trademark, the Online Marketplaces listed in Schedule A attached to the Complaint, or any other domain name or online marketplace account that is being used to sell Defendant's products, or is how Defendant could continue to sell Counterfeit Products;
- d. Manufacturing, distributing, promoting, or selling any labels, tags, decals, emblems, signs or other forms of markings, packaging, wrappers, containers, or promotional materials bearing Plaintiff's Trademark or any marks that include or are colorable imitations of or confusingly similar to Plaintiff's Trademark;

- e. Passing off or enabling others to sell or pass off any goods that are not Plaintiff's genuine good as being Plaintiff's genuine goods;
- f. Falsely representing that Defendants or Defendants' goods are affiliated with, connected to, or sponsored by Plaintiff;
- g. Committing any acts calculated to cause consumers to believe that Defendants' goods are Plaintiff's goods;
- h. Communicating in any manner with any suppliers of the Counterfeit Products or any other people involved in advertising, offering for sale, or selling the Counterfeit Products regarding the existence of this litigation, or taking any action that would have the effect of revealing to such persons that Plaintiff initiated this litigation;
- i. Representing by any means whatsoever, directly or indirectly, or doing any other acts or things calculated or likely to cause confusion or mistake, or to deceive consumers into believing that Defendants' goods are the goods of Plaintiff or that there is any affiliation or connection between Plaintiff or its goods and Defendants or its goods/services, and from otherwise unfairly competing with Plaintiff;
- j. Advertising, marketing, promoting, offering to sell, selling, distributing, and/or taking orders for the Counterfeit Products;
- k. Fulfilling orders for, or shipping or distributing the Counterfeit Products;
- l. Destroying, altering, disposing of, concealing, tampering with or in any manner secreting any and all business records, invoices, correspondence, books of account, receipts or other documentation relating or referring in any manner to the manufacture, advertising, acquisition, importation, purchase, sale or offer for sale, or distribution of any merchandise using Plaintiff's Trademark or any marks that

include or are colorable imitations of or confusingly similar to Plaintiff's Trademark; and

m. Defendants shall not transfer or dispose of any money or other of Defendants' assets in any of Defendants' financial accounts.

2. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, and the domain name registrars, including, but not limited to, GoDaddy Operating Company LLC, Name.com, PDR LTD. d/b/a/ PublicDomainRegistry.com, and Namecheap Inc., within seven (7) calendar days of receipt of this Order or prior to the expiration of this Order, whichever date shall occur first, shall disable the Defendant Domain Names and make them inactive and untransferable until further order by this Court.

3. Upon Plaintiff's request, the Defendants and any third party with actual notice of this Order who is providing services for any of the Defendants, or in connection with any of the Defendants' Online Stores, including, without limitation, any online marketplace platforms such as eBay, Inc., AliExpress, Alibaba Group Holding Ltd. ("Alibaba"), Amazon.com, Inc., Walmart.com, ContextLogic Inc. d/b/a Wish.com ("Wish.com"), and Dhgate (collectively, the "Third Party Providers"), shall, within seven (7) calendar days after receipt of such notice, provide to Plaintiff expedited discovery, limited to copies of documents and records in such person's or entity's possession or control sufficient to determine:

a. the identities and locations of the Defendants, their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;

b. the nature of the Defendants' operations and all associated sales, methods of payment for services, and financial information, including, without limitation, identifying information associated with the Online Stores and the Defendants' financial accounts, including the Defendants' sales and listing history related to their respective Online Stores; and

c. any financial accounts owned or controlled by the Defendants, including their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including such accounts residing with or under the control of any banks, savings and loan associations, payment processors or other financial institutions, including, without limitation, PayPal, Inc. ("PayPal"), Alipay, Wish.com, Alibaba, Ant Financial Services Group ("Ant Financial"), Amazon Pay, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

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

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

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

6. All previous Sealed Plaintiff's Pleading(s) and documents in this case are unsealed.

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

8. The \$10,000 bond posted by Plaintiff shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

This Preliminary Injunction Order is entered at ____ on this ___th day of July, 2025.

DONE AND ORDERED in Chambers at Miami, Florida, this ___th day of July, 2025.

HONORABLE JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

SCHEDULE A

| NO. | SELLER'S NAME | LINK TO SELLER'S WEBSITE |
|------------|---|---|
| 1 | HNGS Co Ltd huainangongshaoyinkaidian zishangwuyouxiangongsi | https://www.walmart.com/global/seller/102755206 |
| 2 | Huulaibazoo GuangZhouShiMaiZiJiaJuY ouXianGongSi | https://www.walmart.com/global/seller/101646364 |
| 3 | Arnsht Shenzhenshiyouminsijiajuy ongpinyouxiangongsi | https://www.walmart.com/global/seller/102576475 |
| 4 | TUTUTUZENG shenzhenshiyajieshipinyoux iangongsi | https://www.walmart.com/global/seller/101294799 |
| 5 | Lojfhg guangzhoufangushipinyouxi angongsi | https://www.walmart.com/global/seller/101570102 |
| 6 | YanHoo DongGuanShiWeiHongDia nZiKeJiYouXianGongSi | https://www.walmart.com/global/seller/101227950 |
| 7 | Aobny Fashion shen zhen shi ji ke man wang luo ke ji you xian gong si | https://www.walmart.com/global/seller/101618722 |
| 8 | Hooksoon shenzhenyuandongxingdian zishangwuyouxiangongsi | https://www.walmart.com/global/seller/101486771 |
| 9 | Awdenio Official Store guangzhouqiantaishengfushi youxiangongsi | https://www.walmart.com/global/seller/101525274 |
| 10 | Jjayotai guangzhou funuopei shangmao youxian gongsi | https://www.walmart.com/global/seller/101176645 |