

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-cv-22864-ALTMAN

TOHO CO., LTD.,

Plaintiff,

v.

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

Defendants.

**SEALED ORDER AUTHORIZING
ALTERNATIVE SERVICE OF PROCESS ON DEFENDANTS**

The Plaintiff has filed an *Ex Parte* Motion for Alternative Service of Process (“Motion”) [ECF No. 10] pursuant to Rule 4(f)(3). The Plaintiff alleges that alternative service by e-mail is “appropriate and necessary in this case, because [the] Defendants (1) are foreign sellers located in China and Hong Kong, (2) operative via the Internet, and (3) rely on electronic communications to operate their Internet Stores.” Motion at 2. After careful review, we **GRANT** the Motion.

THE LAW

“Unless federal law provides otherwise, an individual—other than a minor, an incompetent person, or a person whose waiver has been filed—may be served at a place not within any judicial district of the United States . . . by other means not prohibited by international agreement, as the court orders.” FED. R. CIV. P. 4(f)(3); *see also Brookshire Bros. v. Chiquita Brands Int’l, Inc.*, 2007 WL 1577771, at *2 (S.D. Fla. May 31, 2007) (Cooke, J.) (“[D]istrict courts have broad discretion under Rule 4(f)(3) to authorize other methods of service that are consistent with due process and are not prohibited by international agreements.”). “Constitutional due process requires only that service of process provide

‘notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’ *Chanel, Inc. v. Zhixian*, 2010 WL 1740695, at *3 (S.D. Fla. Apr. 29, 2010) (Cohn, J.) (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)). “A party seeking authorization for alternate service under Rule 4(f)(3) need not attempt service by those methods enumerated under subsections (f)(1) and (f)(2), including by diplomatic channels and letters rogatory, before petitioning the Court for 4(f)(3) relief.” *Sec. & Exch. Comm’n v. Palm House Hotel, LLP*, 2018 WL 9849603, at *1-2 (S.D. Fla. Nov. 7, 2018) (Middlebrooks, J.) (cleaned up). “The decision to accept or deny service by alternate means pursuant to Rule 4(f)(3) falls soundly within the discretion of the district court.” *Ibid.*

ANALYSIS

Alternative service by email and electronic publication is appropriate here. *First*, the Plaintiff avers “that each Defendant is located in China.” Motion at 8. Both China and the United States are signatories to the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters, which does not prohibit service by email. *See* Motion at 8; *see also Karsten Mfg. Corp. v. Store*, 2018 WL 8060707, at *1 (S.D. Fla. July 26, 2018) (Altonaga, J.) (“Service by e-mail and publication is not prohibited under international agreement in this case. Although both the United States and China are signatories to the [Hague Convention], the Hague Convention does not specifically preclude e-mail and publication service.”). Some signing countries have objected to the alternative means of service outlined in Article 10 of the Hague Service Convention. But where “a signatory nation has objected to the alternative means of service provided by the Hague Convention, that objection is expressly limited to those means and does not represent an objection to other forms of service, such as e-mail or publication.” *Karsten*, 2018 WL 8060707, at *1. China “has not expressly objected to service via email or website posting.” Motion at 9. Accordingly, it appears that no other

international agreement that is relevant to our case prohibits service by email, web publication, or online messaging service.

Second, service by email or electronic publication violate due process. Each Defendant operates e-commerce businesses and “either do not provide any physical address information on their Internet Stores, or provide misleading physical address information, in order to conceal their locations and avoid liability for their unlawful conduct.” Motion at 7; *see also* Declaration of William Brees (“Brees Decl.”) [ECF No. 10-1] ¶ 20 (same). Indeed, serving the Defendants by email is the best way to “appris[e] them of the action and giv[e] them the opportunity to answer Plaintiff’s claims against them” because “each Defendant has at least one form of electronic means of contact, demonstrating that this means of contact is not just effective, but the most reliable means of communicating with that Defendant, and consequently, the most reliable means of providing Defendants with notice of this action.” Motion at 7 (citing Brees Decl. ¶¶ 8, 10–11); *see also* *DiFOLD, Inc. v. The Individuals, Bus. Entities, & Unincorporated A’ssns Identified on Schedule “A,”* 2025 WL 1757867, at *2 (S.D. Fla. Feb. 11, 2025) (Altman, J.) (approving email service where “the Defendants use at least one known and valid form of electronic contact to conduct their Internet-based businesses”).

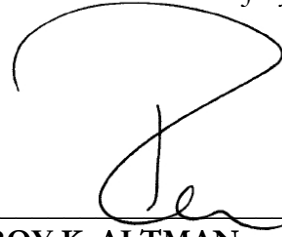
Additionally, the Plaintiff “has created a website and will be posting copies of the Complaint, this instant Motion, and other documents filed in this action.” Motion at 2. Courts in this District have authorized service of process against similar Defendants via online communications and website publication. *See Luxottica Group S.p.A & Oakley, Inc., v. The Individuals, P’ships & Unincorporated Ass’ns Identified on Schedule “A,”* 2020 WL 6529615, at *1-2 (S.D. Fla. Jan. 8, 2020) (Martinez, J.) (authorizing service of process via email, “private messaging “on an “e-commerce marketplace platform,” and website posting); *Chanel, Inc., v. The Individuals, P’ships & Unincorporated Ass’ns Identified on Schedule “A,”* 2021 WL 1053278, at *2 (S.D. Fla. Feb. 9, 2021) (Ruiz, J.) (same).

Service by email and website publication is therefore reasonably calculated, under all the circumstances, to apprise the Defendants of the pendency of this action and to afford them an opportunity to present their objections. Indeed, since the Defendants operate primarily through the Internet—and given how extensively they rely on electronic communications for the operation of their businesses—online communication and web publication are (in our view) the most likely means of providing the Defendants with notice of this action. *See* Motion at 7; *see also Nat'l Ass'n for Stock Car Auto Racing, Inc. v. Does*, 584 F. Supp. 2d. 824, 826 (W.D.N.C. 2008) (authorizing service via website publication due to “the realities of the twenty-first century and the information age”); *Tiffany (NJ) LLC v. DORAPANG Franchise Store*, 2018 WL 4828430, at *3 (S.D. Fla. July 17, 2018) (Ungaro, J.) (“The Court concludes that e-mail service and Internet publication are indeed the most likely means of communication to reach Defendants, who operate via the Internet and rely on electronic communications for the operation of their businesses.”).

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. Plaintiff's Motion [ECF No. 10] is **GRANTED**.
2. Pursuant to FED. R. CIV. P. 4(f)(3), Plaintiff is permitted to serve the Complaint, Summons, TRO, and all other filings and discovery in this matter upon each Defendant by:
 - a. electronically publishing a link to the Complaint, Summons, and TRO, and other relevant documents on the website <http://blointernetenforcement.com>, and
 - b. sending an e-mail to the e-mail addresses provided by each Defendant on the the Defendant's online store or website or by sending an e-mail to the e-mail addresses provided for each Defendant by third parties.

DONE AND ORDERED in the Southern District of Florida on July 15, 2025.

A handwritten signature in black ink, appearing to be 'Roy K. Altman', written over a horizontal line.

ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

cc: counsel of record