

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

BAOWEN CHEN,

Plaintiff,

v.

THE PARTNERSHIPS and  
UNINCORPORATED  
ASSOCIATIONS IDENTIFIED ON  
SCHEDULE “A”,

Defendants.

Civil Action No.: 2:26-cv-00344

Judge: Hon. Philip P. Simon

Magistrate Judge: Hon. Andrew P.  
Rodovich

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S *EX PARTE* MOTION FOR  
ENTRY OF A (1) TEMPORARY RESTRAINING ORDER, (2) ASSET  
RESTRAINING ORDER, AND (3) EXPEDITED DISCOVERY ORDER**

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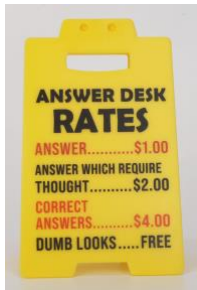
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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Plaintiff Baowen Chen (“Plaintiff”) brings this action against the defendants identified on Schedule “A” to the Complaint (collectively, the “Defendants”) for copyright infringement (Count I). As alleged in the Complaint, Defendants are selling unauthorized products that are direct copies of, or derivative works of, Plaintiff’s registered copyrighted work (the “Work-in-Suit”). Defendants are also promoting, advertising, marketing, distributing, and offering for sale products that infringe the Work-in-Suit (the “Infringing Products”) through various ecommerce storefronts and internet websites identified in Schedule “A” to the Complaint (collectively, the “Defendant Internet Stores”). Defendants’ unauthorized conduct generates profits by infringing and trading off Plaintiff’s protected intellectual property.

|                                                                                                                         |                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| <p>Plaintiff’s copyrighted work</p>  | <p>Defendant earn more’s listing</p>  |
| <p>Plaintiff’s copyrighted work</p>  | <p>Defendant Smilelife’s listing</p>  |

|                                                                                                                         |                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <p>Plaintiff's copyrighted work</p>    | <p>Defendant booktion's listing</p>           |
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|                                                                                                                         |                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
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| <p>Plaintiff's copyrighted work</p>    | <p>Defendant subtle fragrance's listing</p>  |
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|                                                                                                                         |                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
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| <p>Plaintiff's copyrighted work</p>   | <p>Defendant ODOKEI store's listing</p>    |
| <p>Plaintiff's copyrighted work</p>  | <p>Defendant heran-trading's listing</p>  |

|                                                                                                                         |                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
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| <p>Plaintiff's copyrighted work</p>  | <p>Defendant small vegetable basket's listing</p>  |

|                                                                                                                       |                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| <p>Plaintiff's copyrighted work</p>  | <p>Defendant MUZHA's listing</p>  |
| <p>Plaintiff's copyrighted work</p>  | <p>Defendant Amille's listing</p>  |

The Defendant Internet Stores are designed to appear to be selling authorized products, but actually sell unauthorized and unlicensed Infringing Products to unknowing consumers. The Defendant Internet 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 Defendants' piracy operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Defendants attempt to avoid liability by concealing their identities and the full scope and interworking of their piracy operation. Plaintiff has filed this action to combat Defendants' infringement, as well as to protect unknowing consumers from purchasing Infringing Products over the internet.

This Court has personal jurisdiction over Defendants because each Defendant targets Indiana residents and has offered to sell, and on information and belief, has

sold and continues to sell Infringing Products to consumers within the United States, including the State of Indiana. Specifically, Defendants are reaching out to do business with Indiana residents by operating one or more commercial, interactive internet stores through which Indiana residents can purchase products being sold in connection with the Work-in-Suit. Defendants directly target unlawful business activities toward consumers in Indiana, cause harm to Plaintiff's business within this judicial district, and have caused and will continue to cause irreparable injury to Plaintiff. Defendants deceive the public by trading upon Plaintiff's reputation and goodwill by using their commercial, interactive internet stores to sell and/or offer for sale unlicensed Infringing Products in connection with Plaintiff's copyrights.

Plaintiff respectfully requests that this Court issue an *ex parte* Temporary Restraining Order: (1) temporarily restraining Defendants' continued manufacture, importation, distribution, offering for sale, and sale of Infringing Products; (2) temporarily restraining Defendants' assets to preserve Plaintiff's right to an equitable accounting; and (3) authorizing expedited discovery allowing Plaintiff to inspect and copy Defendants' records relating to the manufacture, distribution, offering for sale, and sale of Infringing Products and Defendants' financial accounts.

Indeed, considering the covert nature of offshore infringing activities and the vital need to establish an economic disincentive for infringement, courts regularly issue such orders. *See, e.g., Jeff Bartels v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 23-cv-00444 (N.D. Ill. Jan. 27, 2023); *Cecilia Granata v. The Partnerships and Unincorporated Associations Identified on*

*Schedule “A”*, No. 23-cv-02076 (N.D. Ill. Apr. 7, 2023); *see also In re Vuitton et Fils*, S.A., 606 F.2d 1 (2d Cir. 1979) (holding that *ex parte* temporary restraining orders are indispensable to the commencement of an action when they are the sole method of preserving a state of affairs in which the court can provide effective final relief).

Plaintiff’s well-pleaded factual allegations, which must be accepted as true, and the 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 the copyright registration(s) covering the Work-in-Suit, and Defendants sold and offered to sell products that infringe the Work-in-Suit.

In addition, Defendants have and continue to irreparably harm Plaintiff through diminished goodwill and damage to Plaintiff’s reputation. Monetary damages are inadequate to compensate Plaintiff for these harms, making injunctive relief particularly appropriate in this matter.

Issuance of an injunction is also in the public interest because it will prevent unknowing consumers from being deceived into purchasing Infringing Products.

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 the Defendants or who aid and abet Defendants and are given actual notice of the order. Similarly, an asset freeze is also proper since Plaintiff seeks an equitable remedy in the accounting of Defendants’ profits pursuant to 17 U.S.C. § 504(b).

Finally, an order authorizing service of process by email and/or electronic publication is proper as a result of Defendants’ intentional efforts to conceal their identities and operate their business online. Serving Defendants electronically is the best method for notifying them of this action and providing them the opportunity to defend and present their objections.

## **II. STATEMENT OF FACTS**

The facts set forth below are supported by the Declaration of Baowen Chen (“Chen decl.”) and the Declaration of Zhan Jin (“Jin decl.”), each filed concurrently herewith.

### **A. Plaintiff’s Copyrights and Products**

Plaintiff is the owner of the federal copyright registration that protects the creative content of Plaintiff’s original product photographs. Plaintiff is a product designer and photographer from Huazhou City, Guangdong, China. Plaintiff’s work features a group of original published photographs of Plaintiff’s “Caution Desk Sign” desktop sign, capturing its distinctive humorous rate-list text, its alternating black-and-red lettering with dotted leader lines, and its stacked typographic arrangement. Products sold by, or under the authority of, Plaintiff in connection with the Work-in-Suit are referred to herein as the “Plaintiff’s Products.” Chen decl. at ¶ 3.

Plaintiff is the owner of United States Copyright Registration No(s). VA 2-487-100 covering the Work-in-Suit. *Id.* at ¶ 5. True and correct copies of the federal

copyright registration certificates for the Work-in-Suit are attached to the Chen decl. as Exhibit A. *Id.*

Also, substantial time, money, and other resources have been expended in developing, advertising, and otherwise promoting the Work-in-Suit. *Id.* at ¶ 7. Thus, the Work-in-Suit is widely recognized and exclusively associated by consumers, the public, and the trade as being associated with Plaintiff. *Id.*

## **B. Defendants' Unlawful Activities**

The success of the Work-in-Suit has resulted in significant infringement of Plaintiff's copyrights. *Id.* at ¶ 8. The Defendant Internet Stores have been identified and linked to numerous marketplace listings, which were offering for sale, selling, and importing Infringing Products to consumers in this judicial district and throughout the United States. *Id.*

### **i. Defendants Operate Legitimate-Looking Internet Stores**

Upon information and belief, Defendants facilitate sales by designing the Defendant Internet Stores so that they appear to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers selling genuine Plaintiff's Products. Chen decl. at ¶ 10. Many of the Defendant Internet Stores look sophisticated and accept payment in U.S. dollars via credit cards and/or PayPal, or operate storefronts on legitimate ecommerce platforms, such as Amazon.com. *Id.* Defendant Internet Stores often include images and design elements that make it

very difficult for consumers to distinguish the Infringing Products from authentic products. *Id.*

**ii. Defendants Use Fictitious Aliases and Common Tactics to Evade Take Down**

Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their network of Defendant Internet Stores. *Id.* at ¶ 12. Upon information and belief, Defendants regularly create new websites and online marketplace accounts on various platforms using the identities listed in Schedule “A” to the Complaint, as well as other unknown fictitious names and/or addresses. *Id.* Such Defendant Internet Store registration patterns are one of many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their piracy operation, and to avoid being shut down. *Id.*

Even though Defendants operate under multiple fictitious names, there are numerous similarities among the Defendant Internet Stores. *Id.* at ¶ 13. For example, many of the Defendant websites have virtually identical layouts, even though different aliases were used to register the respective marketplace accounts. *Id.* In addition, the Infringing Products for sale in the Defendant Internet Stores bear similar indicia of being reproductions of one another, suggesting that the Infringing Products were manufactured by and come from a common source and that, upon information and belief, Defendants are interrelated. *Id.* The Defendant Internet Stores also include other notable common features, including use of the same

registration patterns, unique shopping cart platforms, accepted payment methods, check-out methods, metadata, illegitimate SEO tactics, HTML user-defined variables, lack of contact information, identically or similarly priced items and volume sales discounts, the same incorrect grammar and misspellings, similar hosting services, similar name servers, and the use of the same text and images. *Id.*

In addition to operating under multiple fictitious names, Defendants in this case and defendants in other similar cases against online infringers use a variety of other common tactics to evade enforcement efforts. *Id.* at ¶ 14. *See also* Jin decl. at ¶¶ 2-3. For example, infringers like Defendants will often register new payment accounts or online marketplace accounts under new aliases once they receive notice of a lawsuit. *Id.* *See also* Chen decl. at ¶ 14. Infringers also often move website hosting to rogue servers located outside the United States once notice of a lawsuit is received. *Id.* *See also* Jin decl. at ¶ 3. Infringers also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection. Chen decl. at ¶ 14.

Further, infringers such as Defendants typically operate multiple credit card merchant accounts and PayPal or similar accounts behind layers of payment gateways so that they can continue operation. Chen decl. at ¶ 15. Upon information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their accounts to off-shore bank accounts outside the jurisdiction of this Court. *Id.* *See also* Jin decl. at ¶ 4. Indeed, analysis of transaction logs from similar cases brought by other copyright owners indicates that off-shore infringers regularly move

funds from their U.S. accounts to China-based bank accounts outside the jurisdiction of this Court. Jin decl. at ¶ 6.

Plaintiff's well-pleaded allegations regarding registration patterns, similarities among the Defendant Internet Stores and the Infringing Products for sale thereon, and common tactics employed to evade enforcement establish a logical relationship among the Defendants suggesting that Defendants are an interrelated group of infringers. Upon information and belief, Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell products in connection with unauthorized versions of the Work-in-Suit in the same transaction, occurrence, or series of transactions or occurrences. As indicated above, the tactics used by Defendants to conceal their identities and the full scope of their pirating operation make it virtually impossible for Plaintiff to discover the true identities of the Defendants, the exact interworking of the Defendants' pirating network, and the relationship among Defendants. In the event that Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

### **III. ARGUMENT**

Defendants' purposeful, intentional, and unlawful conduct is causing and will continue to cause irreparable harm to Plaintiff's reputation and the goodwill symbolized by the Work-in-Suit.

To stop Defendants' sale of Infringing Products, Plaintiff respectfully requests that this Court issue a temporary restraining order ordering, among other things,

that notice of these proceedings and of the freeze of Defendants' assets be provided by publishing the information on a designated website as well as by sending emails to the email addresses Defendants used to register and maintain their seller accounts with each platform on which they sell. Without the relief requested by Plaintiff's instant Motion, Defendants' unlawful activity will continue unabated, and Plaintiff and consumers will suffer irreparable harm.

Rule 65(b) of the Federal Rules of Civil Procedure provides that the Court may 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). The Defendants here fraudulently promote, advertise, offer to sell, and sell goods in connection with the Work-in-Suit via the Defendant Internet Stores. Defendants are creating a false association in the minds of consumers between the Defendants and Plaintiff by deceiving consumers into believing that the Infringing Products for sale on Defendants' websites are owned, sponsored, or endorsed by Plaintiff. The entry of a temporary restraining order is appropriate because it would immediately stop the Defendants from benefiting from their wrongful use of the Work-in-Suit and preserve the status quo until such time as a hearing can be held.

In the absence of a temporary restraining order without notice, the Defendants can and likely will modify registration data and content, change hosts, redirect traffic to other websites in their control, and move any assets from U.S.-based accounts, including PayPal or similar accounts. Courts have recognized that civil actions

against infringers present special challenges that justify proceeding on an *ex parte* basis. *See Columbia Pictures Indus., Inc. v. Jasso*, 927 F. Supp. 1075, 1077 (N.D. Ill. 1996) (observing that “proceedings against those who deliberately traffic in infringing merchandise are often useless if notice is given to the infringers”). As such, Plaintiff respectfully requests that this Court issue the requested *ex parte* temporary restraining order. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Federal Copyright Act, 17 U.S.C. § 101, *et seq.*, 28 U.S.C. §§ 1338(a)-(b), and 28 U.S.C. § 1331.

**A. This Court May Exercise Personal Jurisdiction over Defendants**

This Court may properly exercise personal jurisdiction over Defendants since Defendants directly target business activities toward consumers in the United States, including Indiana, by directly offering for sale products into this judicial district as well as through at least the fully interactive, commercial Defendant Internet Stores. Specifically, Defendants are reaching out to do business with Indiana residents by operating one or more commercial, interactive Defendant Internet Stores through which Indiana residents can purchase products replicating the Work-in-Suit without authorization. Each Defendant has targeted sales from Indiana residents by operating online stores that offer shipping to the United States, including Indiana, and has offered to sell, and on information and belief, has sold and continues to sell Infringing Products to consumers within the United States, including the State of Indiana. *See* Complaint at ¶ 18. *See NBA Properties, Incorporated v. HANWJH*, 46

F.4th 614, 624 (7th Cir. Aug. 16, 2022) (“[I]n assessing purposeful direction, what matters is [the defendant’s] structuring of its own activities so as to target the [Indiana] market”).

Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

Through at least the fully interactive commercial internet websites operating under the Defendant Internet Stores, each of the Defendants has targeted sales from Indiana residents by offering shipping to the United States, including Indiana, and, on information and belief, has sold or offered to sell Infringing Products to residents of the United States, including Indiana. Each of the Defendants is committing tortious acts in Indiana, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Indiana.

**B. Standard for Temporary Restraining Order and Preliminary Injunction**

District Courts within this Circuit have held that the standard for granting a temporary restraining order and the standard for granting a preliminary injunction are identical. *Black v. Friedrichsen*, No. 1:19-CV-307-TLS-SLC, 2022 WL 374502, at \*2 (N.D. Ind. Feb. 8, 2022) (quoting *USA-Halal Chamber of Commerce, Inc. v. Best Choice Meats, Inc.*, 402 F. Supp. 3d 427, 433 (N.D. Ill. 2019)). A party seeking to obtain a preliminary injunction must demonstrate: (1) that its case has some likelihood of success on the merits; (2) that no adequate remedy at law exists; and (3) that it will suffer irreparable harm if the injunction is not granted. *Ty, Inc. v. The Jones Group, Inc.*, 237 F.3d 891, 895 (7th Cir. 2001). If the Court is satisfied that these three

conditions have been met, then it must consider the harm that the nonmoving party will suffer if preliminary relief is granted, balancing such harm against the irreparable harm the moving party will suffer if relief is denied. *Id.* Finally, the Court must consider the potential effect on the public interest (non-parties) in denying or granting the injunction. *Id.* The Court then weighs all of these factors, “sitting as would a chancellor in equity,” when it decides whether to grant the injunction. *Id.* (quoting *Abbott Labs. v. Mead Johnson & Co.*, 971 F.2d 6, 11 (7th Cir. 1992)). This process involves engaging in what the Court has deemed “the sliding scale approach” – the more likely the Plaintiff will succeed on the merits, the less the balance of harms need favor the Plaintiff’s position. *Id.* The sliding scale approach is not mathematical in nature; rather, “it is more properly characterized as subjective and intuitive, one which permits district courts to weigh the competing considerations and mold appropriate relief.” *Id.* at 895-896. The greater the movant’s likelihood of succeeding on the merits, the less the balancing of harms need be in his favor. *See Eli Lilly & Co. v. Natural Answers, Inc.*, 233 F.3d 456, 461 (7th Cir. 2000).

### **C. Plaintiff Will Likely Succeed on the Merits**

To establish copyright infringement under 17 U.S.C. § 501, a plaintiff must prove two elements: (1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original. *JCW Investments, Inc. v. Novelty, Inc.*, 482 F.3d 910, 914 (7th Cir. 2007). Moreover, copyright protection extends to works derived from the original work since Section 101 of the Copyright Act defines a “derivative work” as “a work based upon one or more preexisting works, such as a

translation, musical arrangement, dramatization, fictionalization... or any other form in which a work may be recast, transformed, or adapted.” 17 U.S.C. § 101. Here, Plaintiff owns the registered copyright(s) for the Work-in-Suit. Chen decl. at ¶ 5. The accused products use the protected work or are derived from the distinctive creative content found in the Work-in-Suit. As such, the infringement is clear and establishes that Plaintiff is likely to succeed on the merits of this claim.

**D. There Is No Adequate Remedy at Law and Plaintiff Will Suffer Irreparable Harm in the Absence of Preliminary Relief**

Irreparable injury “almost inevitably follows” when there is a high probability of confusion because such injury “may not be fully compensable in damages.” *Helene Curtis Industries, Inc. v. Church & Dwight Co., Inc.*, 560 F.2d 1325, 1332 (7th Cir. 1977) (citation omitted). “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.” *Int’l Kennel Club of Chicago, Inc. v. Mighty Star, Inc.*, 846 F.2d 1079, 1092 (7th Cir. 1988).

The harm caused by the copyright infringement of the Work-in-Suit is equally insidious. The infringements deprive Plaintiff of the ability to control the creative content protected by the copyrights, devalue the Work-in-Suit by associating it with inferior quality goods, and undermine the value of the copyrights by creating the impression that infringement may be undertaken with impunity, which threatens Plaintiff’s ability to develop further artwork and markets for the existing work. Chen decl. at ¶¶ 16-20. These are recognized irreparable harms for which monetary

compensation is inadequate. Irreparable injury in copyright infringement cases is shown when “remedies available at law, such as monetary damages, are inadequate to compensate for that injury.” *Salinger v. Colting*, 607 F.3d 68, 80 (2d Cir. 2010) (citing *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006)). Accordingly, Plaintiff has established that it will be irreparably harmed by Defendants’ infringing conduct.

### **E. The Balancing of Harms Tips in Plaintiff’s Favor**

As noted above, if the Court is satisfied 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 Plaintiff will suffer if relief is denied. *Ty, Inc.*, 237 F.3d at 895.

As willful infringers, Defendants are entitled to little equitable consideration. This is especially true in the copyright context, since Defendants “cannot complain” of being forced to cease their infringement. *Warner Bros. Entm’t, Inc. v. WTV Sys.*, 824 F. Supp. 2d 1003, 1014-15 (C.D. Cal. 2011).

As Plaintiff has demonstrated, Defendants have been profiting from the sale of Infringing Products. Thus, the balance of equities tips decisively in Plaintiff’s favor. As such, equity requires that Defendants be ordered to cease their unlawful conduct.

## **F. Issuance of the Injunction Is in the Public Interest**

“[I]t is virtually axiomatic that the public interest can only be served by upholding copyright protections and, correspondingly, preventing the misappropriation of skills, creative energies, and resources which are invested in the protected work.” *Apple Computer, Inc. v. Franklin Computer Corp.*, 714 F.2d 1240, 1255 (3d Cir. 1983). This is especially true here since protecting the creative content of the Work-in-Suit extends far beyond protecting the works of the producing artist. It also protects the integrity of Plaintiff’s Products and encourages creative expression.

Moreover, federal courts have long held that “the trademark laws ... are concerned not alone with the protection of a property right existing in an individual, but also with the protection of the public from fraud and deceit.” *Stahly, Inc. v. M.H. Jacobs Co.*, 183 F.2d 914, 917 (7th Cir. 1950) (citations omitted). This is equally true in the copyright context. In this case, the injury to the public is significant, and the injunctive relief that Plaintiff seeks is specifically intended to remedy that injury by dispelling the public confusion created by Defendants’ actions. The public has the right not to be confused and defrauded as to the source of the goods and services offered by Defendants, or as to the identity of the owner of copyrights used in connection with those goods. Unless Defendants’ unauthorized use of the Work-in-Suit is enjoined, the public will continue to be confused and misled by Defendants’ conduct.

For these reasons, it is respectfully submitted that granting Plaintiff's Motion for Entry of a Temporary Restraining Order is in the public interest.

#### **IV. THE EQUITABLE RELIEF SOUGHT IS APPROPRIATE**

Rule 65(b) of the Federal Rules of Civil Procedure provides that a court may issue a temporary restraining order without notice where facts show that the movant will suffer immediate and irreparable injury, loss, or damage before the adverse party can be heard in opposition. Moreover, 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 the Defendants or who aid and abet Defendants and are given actual notice of the order. Fed. R. Civ. P. 65. The facts in this case warrant such relief.

##### **A. A Temporary Restraining Order Immediately Enjoining Defendants' Unauthorized and Unlawful Use of the Work-in-Suit Is Appropriate**

Plaintiff requests a temporary injunction requiring the Defendants to immediately cease all use of the Work-in-Suit on or in connection with all Defendant Internet Stores and to cease their acts of copyright infringement. Such relief is necessary to stop the ongoing harm to the copyrights, as well as harm to consumers, and to prevent the Defendants from continuing to benefit from their unauthorized use of the Work-in-Suit. The need for *ex parte* relief is magnified in today's global economy where infringers can operate over the internet in an anonymous fashion.

Plaintiff is currently unaware of both the true identities and locations of the Defendants, as well as of other Defendant Internet Stores used to distribute Infringing Products.

Many courts have authorized immediate injunctive relief in similar cases involving the unauthorized use of intellectual property. *See, e.g., Jeff Bartels v. The Partnerships and Unincorporated Associations Identified on Schedule “A”*, No. 23-cv-00444 (N.D. Ill. Jan. 27, 2023); *Glitch Productions Pty, Ltd v. The P’ships*, No. 25-cv-00161 (N.D. Ind. Apr. 11, 2025) (unpublished) (Order granting *Ex Parte* Motion for Temporary Restraining Order).

#### **B. Preventing the Fraudulent Transfer of Assets Is Appropriate**

Plaintiff requests an *ex parte* restraint of Defendants’ assets to preserve Plaintiff’s right to an equitable accounting of Defendants’ profits pursuant to 17 U.S.C. § 504(b). Issuing an *ex parte* restraint will ensure Defendants’ compliance. If such a restraint is not granted in this case, Defendants may disregard their responsibilities and fraudulently transfer financial assets to overseas accounts before a restraint is ordered. Specifically, upon information and belief, the Defendants in this case hold most of their assets in China, making it easy to hide or dispose of assets, which will render an accounting by Plaintiff meaningless.

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).

The Northern District of Illinois in *Lorillard Tobacco Co. v. Montrose Wholesale Candies* entered an asset restraining order in an intellectual property infringement case brought by a tobacco company against owners of a store selling counterfeit cigarettes. *Lorillard*, 2005 WL 3115892, at \*13 (N.D. Ill. Nov. 8, 2005). The Court, citing *Grupo Mexicano de Desarrollo, S.A. v. Alliance Bond Fund*, 527 U.S. 308 (1999), recognized that it was explicitly allowed to issue a restraint on assets for lawsuits seeking equitable relief. *Id.* (citing *Grupo Mexicano*, 527 U.S. at 325 (citing *Deckert v. Independence Shares Corp.*, 311 U.S. 282 (1940))). Because the tobacco company sought a disgorgement of the storeowner’s profits, an equitable remedy, the Court found that it had the authority to freeze the storeowner’s assets. *Id.*; *see also* *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); *CSC Holdings, Inc. v. Redisi*, 309 F.3d 988 (7th Cir. 2002) (“since the assets in question ... were the profits of the [defendants] made by unlawfully stealing [the Plaintiffs’] services, the freeze was appropriate and may remain in place pending final disposition of this case.”). This Court has entered asset restraining orders in factually analogous cases asserting intellectual property infringement claims. *See Glitch Productions*, No. 25-cv-00161 (Order granting *Ex Parte* Motion for Temporary Restraining Order).

Plaintiff has shown a likelihood of success on the merits, an immediate and irreparable harm suffered as a result of Defendants' activities, and that, unless Defendants' assets are frozen, Defendants will likely hide or move their ill-gotten funds to offshore bank accounts. Accordingly, the granting of an injunction preventing the transfer of Defendants' assets is proper.

### **C. 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." *Vance v. Rumsfeld*, No. 1:06-cv-06964, 2007 WL 4557812, \*6 (N.D. Ill. Dec. 21, 2007) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351, 98 S. Ct. 2380 (1978)). A district court has wide latitude in determining whether to grant a party's request for discovery. *Id.* (citation omitted). Furthermore, courts have broad power over discovery and may permit discovery in order to aid in the identification of unknown defendants. *See* Fed. R. Civ. P. 26(b)(2).

As described above, Defendants are using third-party payment processors such as Amazon or PayPal, which helps to increase their anonymity by interposing a third party between the consumer and Defendants. 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 order.

Plaintiff respectfully requests expedited discovery to discover the bank and payment system accounts Defendants use for their infringing sales operations. The

discovery requested on an expedited basis in Plaintiff's Proposed Temporary Restraining Order has been limited to include only what is essential to prevent further irreparable harm. Discovery of these financial accounts so that they can be frozen is necessary to ensure that these activities will be contained.

Under Federal Rule of Civil Procedure 65(d)(2)(C), this Court has the power to bind any third party who is in active concert with the Defendants and who is given notice of the order to provide expedited discovery in this action. Fed. R. Civ. P. 65(d)(2)(C). Plaintiff's counsel is aware that the same third parties, in previous lawsuits, have worked with copyright owners and is not aware of any reason that Defendants or third parties cannot comply with these expedited discovery requests without undue burden. Further, all relevant third parties have in fact complied with identical requests in previous similar cases. More importantly, as Defendants have engaged in many deceptive practices in hiding their identities and accounts, the seizure and asset restraint in the Temporary Restraining Order may have little meaningful effect without the requested relief. Accordingly, Plaintiff respectfully requests that expedited discovery be granted.

## **V. A BOND SHOULD SECURE THE INJUNCTIVE RELIEF**

The posting of security upon issuance of a temporary restraining order or preliminary injunction is vested in the Court's sound discretion. *Rathmann Grp. v. Tanenbaum*, 889 F.2d 787, 789 (8th Cir. 1989); *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 421 (4th Cir. 1999); Fed. R. Civ. P. 65(c). Because of the strong and unequivocal nature of Plaintiff's evidence of infringement, Plaintiff respectfully

requests that this Court require Plaintiff to post a bond of no more than ten thousand U.S. Dollars (\$20,000.00). *See, e.g., Monster Energy Co. v. Chen Wensheng*, 136 F. Supp. 3d 897, 910-11 (N.D. Ill. 2015).

## VI. CONCLUSION

The Work-in-Suit is an important part of Plaintiff's business. That the accused products use the creative content protected by Plaintiff's copyrights is no coincidence. It is validation that consumers value these rights owned by Plaintiff. Without entry of the requested relief, the sale of Infringing Products will continue unabated. Therefore, entry of an *ex parte* order is necessary to protect Plaintiff's rights, to prevent further harm to Plaintiff and the consuming public, and to preserve the status quo. In view of the foregoing and consistent with previous similar cases, Plaintiff respectfully requests that this Court enter a Temporary Restraining Order in the form submitted herewith and set a status hearing before the expiration of the Temporary Restraining Order, at which hearing Plaintiff intends to present a motion for preliminary injunction.

Date: August 4, 2026

Respectfully submitted,

/s/ Zhan Jin

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