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

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| HONG KONG LEYUZHEN TECHNOLOGY CO. LIMITED,<br><br>Plaintiff,<br><br>v.<br><br>THE INDIVIDUALS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS AND UNINCORPORATED ASSOCIATIONS IDENTIFIED IN SCHEDULE "A" HERETO,<br><br>Defendants. | **Case No. 1:24-cv-12324-JJT-LKM**<br><br>**Honorable John J. Tharp, Jr.**<br>**Magistrate Laura K. McNally** |

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

Plaintiff HONG KONG LEYUZHEN TECHNOLOGY CO. LIMITED ("Plaintiff") submits this Memorandum of Law in support of its Motion for Preliminary Injunction (the "Motion").

The Motion is supported by the pleadings and papers on file in this action, including the Motion for Temporary Restraining Order [Dkt. Nos. 15 through 10-8, 11, 13 through 13-1], the Declaration of Shawn A. Mangano, Esq. (the "Mangano Decl."), the Declaration of Liangjie Li (the "Li Decl."), together with the arguments set forth herein and any oral argument by counsel entertained by the Court at the hearing set on this matter.

## I. INTRODUCTION

Plaintiff's Motion requests entry of a Preliminary Injunction. On January 3, 2025, the named Schedule "A" Defendants (the "Defendants") for which the Temu online sales platform (the "Platform") provided email addresses associated with their storefronts/accounts were served electronically as authorized by the Temporary Restraining Order (the "TRO") entered by the Court December 16, 2024, [Dkt. No. 15] and extended up to and including January 13, 2025 [Dkt. No 21]. (Mangano Decl. ¶ 5.) As such, Plaintiff's Motion is properly submitted to the Court on a non-*ex parte* basis.

Substantively, the Motion is based on Plaintiff's demonstration of a high likelihood of success on the merits of its claims for relief, including its copyright infringement allegations based on direct, unauthorized copying of its federally registered copyright protected images, the fact that the company would clearly suffer irreparable harm absent entry of injunctive relief, because the balance of the hardships tips decidedly in the company's favor, and granting the requested relief is in the public interest. *See, e.g., Columbia Pictures Indus., Inc. v. Jasso*, 927 F. Supp. 1075, 1076 (N.D. Ill. 1996). To date, Plaintiff has presented virtually identical grounds for the issuance of preliminary injunctive relief, and such relief has been granted, by numerous courts in this judicial district. *See, e.g., Hong Kong Leyuzhen Tech. Co., Ltd. v. The Individuals,* Case No. 1:24-cv-01807, Dkt. No. 63 (Kendall, C.J.); *Hong Kong Leyuzhen Tech. Co., Ltd. v. The Individuals,* Case No. 1:24-cv-02939, Dkt. No. 83 (Kennelly, J.); *Hong Kong Leyuzhen Tech. Co., Ltd. v. The Individuals,* Case No. 1:24-cv-03210, Dkt. No. 71 (Pacold, J.); *Hong Kong Leyuzhen Tech. Co., Ltd. v. The Individuals,* Case No. 1:24-cv-01652, Dkt. No. 30 (Daniel, J.); *Hong Kong Leyuzhen Tech. Co., Ltd. v. The Individuals,* Case No. 1:24-cv-01547, Dkt. No. 41 (Wood, J.); *Hong Kong Leyuzhen Tech. Co., Ltd. v. The Individuals,* Case No. 1:24-cv-01705, Dkt. No. 43 (Cummings, J.). Plaintiff believes these numerous prior decisions demonstrate the merits of the company's current request for issuance of preliminary injunctive relief by this Court. Accordingly, and as argued below, Plaintiff asserts that the Court should grant the Motion and enter a Preliminary Injunction against the Defendants, which is consistent with its prior rulings.

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

This action involves enforcement of Plaintiff's "Rotita" brand ("Rotita"). (Mangano Decl. ¶ 6; Li Decl. ¶¶ 4-5.) Rotita is an extremely well-known source of women's clothing in the United States and has been the subject of rampant counterfeit sales through online platforms such as Amazon, Temu, Alibaba, eBay, Walmart, and Aliexpress, which is at issue in this action. (Mangano Decl. ¶ 6; Li Decl. ¶¶ 4-5.) These are the six largest online retailers in the World – and Plaintiff does not sell its products through any one of them. (*Ibid.*) Rather, Plaintiff only sells its genuine Rotita brand products through its website (rotita.com). (*Ibid.*)

Plaintiff derives a significant amount of revenue from the sale of Rotita branded products in the United States. Plaintiff's estimated gross revenue from United States sales likely exceeds $20,000,000 USD per year. (Li Decl. ¶ 6.) Of this amount, Plaintiff estimates that well over $1,000,000 is derived from sales in the State of Illinois. (*Id.*) In sum, Plaintiff is a highly successful company that services a considerable number of patrons in the United States and, more specifically, in the State of Illinois.

Commensurate with these sales, Plaintiff spends a considerable amount of the operating capital in the United States to protect and promote the Rotita brand. Specifically, Plaintiff estimates that it spends anywhere from $8,000,000 to $12,000,000 USD each year to advertise its Rotita brand in the United States through such online advertising sources as Google Ads, Facebook, and Bing. (Li Decl. ¶ 6.) Furthermore, the company has spent more than $80,000 in filing fees paid to the United States Copyright Office just to secure registration of copyright protected works being asserted in eleven (11) enforcement actions initiated in this judicial district. (*Id.*) Simply put, Plaintiff is an extremely successful company that earns millions of dollars from product sales in the United States – including within the State of Illinois. (*Id.*) To do so, Plaintiff annually spends tens of millions of dollars advertising in the United States to promote the sale of its brand. (*Id.*)

Succinctly stated, Plaintiff simply will no longer tolerate the proliferation of counterfeit sales through the unauthorized use of its federally registered copyright images on online platforms through which it does not offer its genuine products. These counterfeit operators must be stopped. Otherwise, Plaintiff's intellectual property rights, which it has paid significantly to secure, are worthless. (Li Decl. ¶ 6.)

**b. This Case is Part of a Multi-Action Copyright Enforcement Campaign.**

Plaintiff's operative Complaint in this action is but one piece in a multi-action copyright enforcement campaign that seeks to dismantle a criminal network that operates through six (6) of the largest online retail platforms in existence and includes over 2,500 named Schedule "A" defendants in actions pending in this judicial district. (Mangano Decl. ¶ 7.) This criminal network is alleged to have operated, and continue to operate, in concert promoting the sale of counterfeit or knockoff Rotita brand products by using the Company's copyright protected product images to do so. (Mangano Decl. ¶ 7; Li Decl. ¶ 7.)

More specifically, the named Defendants in this action are alleged to be engaged in the practice of directly, and intentionally, copying, without authorization, Plaintiff's copyright protected product images almost instantaneously after they are first displayed on the company's website and then associating these images on their storefronts maintained on the Platform in connection with the sale and promotion of counterfeit products of substandard quality, thereby deceiving consumers – including the citizens of the State of Illinois. (*Ibid.*) Moreover, given the nature of Plaintiff's textile manufactured women's clothing products, such large-scale counterfeit sales operations over multiple online retail platforms require considerable supply chain coordination efforts that could not reasonably be accomplished independently by any of the named

Defendants. (*Ibid.*) In fact, several Schedule "A" defendants and counsel in other pending copyright enforcement actions in this judicial district have asserted that they obtained both the unauthorized images and the counterfeit products from the same manufacturing source.[1] (Mangano Decl. ¶ 9.)

In short, these counterfeit sales operations require one or more textile manufacturing factories, the sourcing of identical, counterfeit fabrics and patterns, distribution networks to fulfill retail orders for these counterfeit goods, and the end sellers needed to promote and solicit sales. (*Id.* ¶ 10.) Plaintiff's copyright infringement allegations against the Defendants in this action, and in all other actions pending in this judicial district, simply could not be accomplished alone. (*Id.*) Rather, the level of counterfeit operations presented to this Court requires the Defendants to rely upon the same, coordinated, common black market manufacturing supply chain to successfully promote, sell, and fill the orders placed because of their infringing conduct. (Mangano Decl. ¶ 10; Li Decl. ¶ 7.)

**c. Plaintiff has Presented Substantial Evidence of Copyright Infringement.**

As previously presented to this Court in connection with the company's request for entry of a temporary restraining order [Dkt. Nos. 10 through 6-8], Plaintiff has presented substantial evidence that Defendants have intentionally copied its copyright protected works. [*Id.*] This evidence includes a literal one-for-one copying of these protected works and their unauthorized display on Defendants' online storefronts, which are offering substandard, counterfeit products for sale to United States citizens, including those residing in the State of Illinois. [*Id.*] Substantively,

[1] In fact, defense counsel made this assertion before Judge Kennelly at in-person oral argument on Plaintiff's motion for summary judgment. *See Hong Kong Leyuzhen Tech. Co., Ltd. v. P'ships & Unincorporated Ass'ns Identified on Schedule "A"*, Case No. 1:24-cv-02939-MFK-BWJ [Dkt. No. 80.] In response, the Court specifically found that Plaintiff had satisfied the joinder requirements of Rule 20(a)(2) based on the presence of an alleged common manufacturing source. [*Id.*]

this evidence clearly demonstrates that Plaintiff has an extremely high likelihood of success on the merits of its copyright infringement claim, as well as its associated claims for false designation of origin and violation of Illinois' deceptive trade practices act. [Dkt. No. 1.]

As also previously argued to this Court in support of its request for entry of a temporary restraining order [Dkt. Nos. 10 through 10-8, 11, 13 through 13-1], Plaintiff would unquestionably suffer irreparable harm absent entry of injunctive relief through the spoliation of essential evidence and Defendants absconding with significant ill-gotten gains derived from their intentional infringement of Plaintiff's federally secured copyright protected works. These facts still exist today and support entry of preliminary injunctive relief effective until full adjudication of this matter. (Mangano Decl. ¶ 11; Li Decl. ¶ 10.) In fact, the presentation of virtually identical facts has resulted in Plaintiff being granted preliminary injunctive relief by the following judges, in this judicial district: (1) Chief Judge Kendall (Case No. 1:24-cv-01807); (2) Judge Pacold (Case No. 1:24-cv-03210); Judge Daniel (Case No. 1:24-cv-01652); (4) Judge Wood (Case No. 1:24-cv-01547); (5) Judge Cummings (Case No. 1:24-cv-01705). (Mangano Decl. ¶ 12.) Plaintiff believes that these prior decisions granting preliminary injunctive relief is, at least, instructive in this Court's consideration of the Motion. Accordingly, as argued herein, Plaintiff respectfully requests the Court further enjoin the Defendants through entry of a Preliminary Injunction.

**d. Procedural History**

On December 16, 2024, this Court granted Plaintiff's TRO request on an *ex parte* basis. [Dkt. No. 15] and extended the TRO up to and including January 13, 2025 [Dkt. No. 21]. Substantively, the TRO authorized and directed Plaintiff to provide notice of these proceedings and the preliminary injunction hearing to 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 Defendants by third party online platforms. [Dkt. No. 15 ¶ 7.]

On December 28, 2024, the Platform produced the Defendants' email addresses and Plaintiff effectuated electronic service of process on January 3, 2025. (Mangano Decl. ¶ 5.)

Based on the foregoing procedural history, including having effectuated electronic service of process to the Defendants as required by the TRO, Plaintiff respectfully requests the Court now enter a Preliminary Injunction in this matter after a hearing is conducted. Plaintiff further requests the Court issue a Minute Order setting a deadline for Defendants to submit any oppositions to the Motion prior to conducting a scheduled hearing. Plaintiff will immediately serve 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.

## II. APPLICABLE LEGAL STANDARDS

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

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

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

## III. ARGUMENT

Plaintiff's Motion essentially asks the Court to enter a Preliminary Injunction after having granted it prior request for entry of the TRO. [Dkt. No. 15.] Courts in this judicial district addressing similar allegations of Internet-based intellectual property infringement and associated counterfeiting activity have issued preliminary injunctive relief after entering a temporary restraining order. *See, e.g., Alicia Vannoy Call v. The P'ships,* No. 23-cv-04043 (N.D. Ill. July 25, 2023) (unpublished). Moreover, Plaintiff has already be granted injunctive relief on essentially the same facts presented to this Court in actions pending before the following judges in this judicial district: (1) Chief Judge Kendall (Case No. 1:24-cv-01807); (2) Judge Pacold (Case No. 1:24-cv-03210); Judge Daniel (Case No. 1:24-cv-01652); (4) Judge Wood (Case No. 1:24-cv-01547); (5) Judge Cummings (Case No. 1:24-cv-01705). (Mangano Decl. ¶ 12.) These circumstances aside, and as argued below, Plaintiff is independently entitled to entry of preliminary injunctive relief in this action based on the record presented.

### a. Plaintiff Has Demonstrated a High Likelihood of Success on The Merits.

As demonstrated in through its TRO submissions, Plaintiff has a high likelihood of success on the merits of, at least, its copyright infringement claim for relief. [Dkt. Nos. 10 through 10-8, 11, 13 through 13-1] In this regard, Plaintiff has shown the one-for-one unauthorized copying of its federally registered, copyright protected images. [*Id.*]

To prevail on a copyright infringement claim, a party must prove: (1) ownership of a valid copyright protected work; and (2) the unauthorized copying, display, or other use in violation of the exclusive rights granted to the owner under the Copyright Act. *See, e.g., Feist Publications, Inc. v. Rural Tel. Serv. Co.,* 499 U.S. 340, 361 (1991). "A certificate of registration from the U.S. Register of Copyrights constitutes *prima facie* evidence of validity of the copyright." *Wildlife Exp. Corp. v. Carol Wright Sales, Inc.,* 18 F.3d 502, 507 (7th Cir. 1994).

Here, Plaintiff has submitted evidence to the Court demonstrating it holds copyright registrations over the images at issue in this action. [Dkt. Nos. 1-1, 6-8.] This evidence includes further includes a list of the images covered by these copyright registrations, and a replication of the unauthorized images displayed by the Defendants on their online storefronts in connection with offering counterfeit Rotita products for sale on the Platform. [Dkt. No. 6-8.] This evidence, while it may be contested by one or more Defendants should they appear in this action, is highly persuasive evidence that Plaintiff stands a high likelihood of success on the merits of its copyright infringement claim. Accordingly, Plaintiff submits that it has more than satisfied the first element necessary of issuance of preliminary injunctive relief.

**b. Plaintiff would suffer irreparable harm absent entry of injunctive relief.**

Next, Plaintiff would unquestionably suffer irreparable harm is preliminary injunctive relief is not granted. In this regard, the Copyright Act expressly authorizes courts to issue "grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright." 17 U.S.C. § 502(a).

As with the issued TRO, Plaintiff requests issuance of the preliminary injunction to prevent the Defendants from using, without authorization, the company's copyright protected images in connection with the manufacture, importation, distribution, offering for sale, and sale of counterfeit products. (Mangano Decl. ¶ 14.) This results in the direct harm to Plaintiff's brand reputation and loss of consumer goodwill, both of which are harms that are virtually impossible to ascertain the resulting economic loss (*Id.;* Li Decl. ¶ 10.) *See Life Spine, Inc. v, Aegis Spine, Inc.,* 8 F.4th 531, 546 (7th Cir. 2021); *Ty, Inc.,* 237 F.3d at 902. As such, these harms constitute irreparable harm. (*Ibid.*) Absent issuance of this requested preliminary injunctive relief, Defendants' intentional infringement of Plaintiff's federally secured rights will unquestionably continue. (Mangano Decl. ¶ 14.)

Plaintiff's demonstration of irreparable harm is also based the high likelihood that Defendants would delete links to their online stores, thereby erasing key evidence related to their online accounts such as product sales information and ill-gotten funds derived from their intentional infringement of the company's copyright protected works, that would otherwise be deleted, or transferred to unknown locales, unless they remain frozen until conclusion of this action. (Mangano Decl. ¶ 15.) This harm simply cannot be monetarily quantified and, as such, supports a finding of irreparable harm. *See Graphic Design Marketing, Inc. v. Xtreme Enterprises, Inc.,* 772 F.Supp.2d 1029, 1034 (E.D. Wis. 2011). This same harm justified entry of the TRO and it continues to exist today, which clearly justifies entry of the requested preliminary injunction. (*Id.*) Simply put, absent granting the requested injunctive relief, Plaintiff would be irreparably harmed through Defendants' efforts to avoid enforcement of the company federally protected rights by this Court. (*Id.*; Li Decl. ¶ 10.)

**c. The Balance of The Hardships Tips Strongly in Favor of Plaintiff and Entry of Injunctive Relief is in The Public Interest.**

Having satisfied the first two requirements for issuance of preliminary injunctive relief, the next two inquiries presented consider the balance of the hardships between the Plaintiff and the parties being restrained, and whether the issuing the injunction would be in the public's interest.

*See Columbia Pictures Indus., Inc.*, 927 F. Supp. at 1076. Here, both factors support granting Plaintiff's Motion.

Turning first to the balance of the hardships, Plaintiff has demonstrated a direct copying of its federally registered copyright protected images. [Dkt. Nos. 10-8.] In fact, the evidence presented raises an extremely strong inference that Defendants have willfully infringed Plaintiff's copyright protected works. Under these circumstances, very little, if any, deference should be given to any hardships experienced by Defendants should injunctive relief be entered in Plaintiff's favor. Accordingly, the balance of the hardships tips strongly in Plaintiff's favor.

Likewise, issuance of the requested injunctive relief is in the public's interest. "The Copyright Act evidences a public interest in creativity by demonstrating an intent to provide an economic reward for creative expression." *Midway Mfg. Co. v. Artic Intern., Inc.,* 547 F.Supp. 999, 1015 (N.D. Ill. 1982). By granting Plaintiff's Motion, the Court would be furthering that interest by rewarding the company's development and dissemination of new styles, colors, and sizes of women's clothing, which is visually displayed through its advertising and marketing images such as those reflected in its copyright protected works in this action. (*See* Li Decl. ¶¶ 10-11.) On the other hand, there would be no public interest furthered by allowing Defendants to continue to distribute and sell their counterfeit products through the unauthorized use of Plaintiff's copyright protected images. Accordingly, the public's interest would be strongly served by granting Plaintiff's Motion.

**IV. The Current Bond is Sufficient to Protect Defendants' Interests.**

The Court has previously required Plaintiff to post a bond in the sum of $24,000.00 in connection with issuance of the TRO. [Dkt. No. 15.] The exact same circumstances, if not more, supporting the Court's determination of this bond amount apply to Plaintiff's request for entry of a Preliminary Injunction. (Mangano Decl. ¶ 16.) Moreover, the Court is presented with facts and supporting evidence that clearly demonstrates Defendants have infringed Plaintiff's copyright protected works. (*Id.*) This blatant, intentional conduct demonstrates that Plaintiff has an exceptionally high likelihood of success on the merits of its asserted claims for relief. *See Columbia Pictures Indus., Inc.*, 927 F. Supp. at 1076. Such a strong showing militates against a subsequent finding that injunctive relief was improperly granted. Accordingly, Plaintiff requests the Court maintain the current bond amount required for issuance of the TRO for issuance of the preliminary injunction.

## V. CONCLUSION

For the foregoing reasons, Plaintiff will immediately serve Defendants with this Motion and the hearing date for Preliminary Injunction, or any hearing date issued by the Court. Plaintiff additionally respectfully requests the Court grant its request for entry of a preliminary injunction and maintain the current bond amount required under the TRO, together with issuing any other relief that it deems just and proper.

DATED: January 8, 2025

Respectfully submitted,

By: */s/ Shawn A. Mangano*

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## CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of January 2025, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Illinois, Eastern Division, using the electronic case filing system. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means. Notice of this filing is provided to unrepresented parties for whom contact information has been provided via email and by posting the filing on a URL contained on our website http://blointernetenforcement.com.

By: */s/ Shawn A. Mangano*
Shawn A. Mangano (Bar No. 6299408)
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