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

XYZ Corporation, Plaintiff, v. THE INDIVIDUALS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS AND UNINCORPORATED ASSOCIATIONS IDENTIFIED IN SCHEDULE "A" HERETO, Defendants.	Case No. 1:24-cv-12483

DECLARATION OF SHAWN A. MANGANO, ESQ. IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

I, Shawn A. Mangano, Esq., of the City of Las Vegas, in the State of Nevada, declare as follows:

1. Except as otherwise expressly stated to the contrary, this declaration is based upon my personal knowledge of the following facts and, if called as a witness, I could and would competently testify to the statements made herein.

2. I make this declaration in support of Plaintiff's Motion for Temporary Restraining Order, including a temporary injunction, a temporary asset restraint, expedited discovery, and service of process by email and/or electronic publication (the "Motion").

3. I am an attorney at law, duly admitted to practice before the Courts of the State of Illinois and the United States District Court for the Northern District of Illinois. I am one of the attorneys for Plaintiff ("Plaintiff"). In my experience in combating online infringement as an intellectual property attorney, I am knowledgeable about key aspects of intellectual property

protection including, but not limited to, trademarks, copyrights, other intellectual property, sales, online sales, and associated international operations. I make this declaration from my matters within my own knowledge unless stated otherwise.

4. As alleged in the Complaint, Defendant is unlawfully using Plaintiff's federally registered trademark (the "Brand Trademark") to promote, advertise, market, distribute, offer for sale, and sell knockoff products, including women's clothing, merchandise, and related items, (the "Counterfeit Products") through its marketplace account(s) (the "Online Marketplace") maintained on such online sales platforms such as eBay, AliExpress, Alibaba, Wish.com, Walmart, Etsy, DHgate, Temu, and the platform at issue in this case. (the "Platform"). [Dkt. No. 1-2.] In short, Defendants operate a highly sophisticated network whereby they offer Counterfeit Products, of lesser quality and at a discounted price, by associating these inferior products with Plaintiff's Brand through the unauthorized use of the Brand Trademark.

5. Specifically, Defendants created Online Marketplaces on sales platforms, including on the Amazon.com Platform, to sell their Counterfeit Products through the unauthorized use, employment, digital incorporation, or other online display of the Brand Trademark. These tactics include incorporating, without authorization, Plaintiff's Brand Trademark in Search Engine Optimization ("SEO") terms, the descriptions of Counterfeit Products, meta tags, hyperlinks, and other digital assets to direct consumers to its Online Marketplace(s) under the auspices that it is selling authentic Brand products when it is not doing so. To implement its scheme, Defendants are alleged to secure their Counterfeit Products from a manufacturing source(s) based in the People's Republic of China ("China"). The reason for this manufacturing is the Counterfeit Products being sold by Defendants are simply incapable of being produced independently without the support of a supply chain and manufacturing source capable of supplying considerable, misled, consumer

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

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

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

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

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

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

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

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

11. Undersigned counsel performed, supervised, and/or directed investigations related to Internet-based infringement of the Brand Trademark. To date, our investigation shows that Defendant is using Defendants' Online Stores to sell knockoff/counterfeit Brand products from foreign countries such as China to consumers in the United States and elsewhere while using, without authorization, the Brand Trademark to do so. I have directly (or someone working under my direction supervision has) analyzed the Defendants' Online Marketplaces and determined that they were using the Brand Trademark without authorization to offer knockoff, Counterfeit Products of inferior quality for sale to consumers in the United States, including to consumers in the State of Illinois. This conclusion was reached through visual inspection of the products listed for sale on Defendant's Online Marketplaces, the price at which the knockoff Brand products were offered for sale, and other features commonly associated with websites selling counterfeit and/or knockoff products.

12. True and correct copies of each link that leads to Defendants' unauthorized use of the Brand Trademark in the body of its storefront is attached as Exhibit 1 to this Declaration.

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

therefore perpetuates the illusion of legitimacy by using indicia of authenticity and security that consumers have come to associate with authorized online retailers. Plaintiff has not licensed or authorized Defendants to use the Brand Trademark.

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

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

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

17. True and correct copies of Defendants' utilizing the same keywords in the body of their storefronts are attached as Exhibit 2 to this Declaration.

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

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

20. Moreover, Plaintiff suspects that given the nature of the Counterfeit Products being sold, which are promoted using an extensive array of the company's Brand Trademark, that this is a highly sophisticated and coordinated counterfeit operation whereby the Defendants are provided with illegal, substandard, knockoff products produced from one or more central textile manufacturing facilities. In my experience, most Defendants lack the resources, ability, and capacity to manufacture the degree of Counterfeit Products being distributed through their associated online sales platforms without the support of a larger, criminal organization/network.

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

22. It is highly likely that the named Defendants are a part of the collaboration of sellers that seek and distribute any and all information regarding infringement enforcement and evading repercussions for their actions while continuing to infringe on legitimate trademarks, copyrights and patents. Defendants themselves or associates of Defendants monitor United States Court filings looking for Chinese businesses and familiar trademarks that once discovered, articles are immediately published and posts are shared in qq.com chats and disseminated throughout their network on online websites such as "SellerDefense.cn." The Plaintiff in this

action, has already been flagged by SellerDefense.cn noting that Plaintiff's actions are being watched [Mangano Decl. in Support of Motion to Seal, Exhibit 1]. The dissemination of this information then immediately results in the named Defendants siphoning off all illicit funds held in their online accounts. This results in plaintiffs being deprived of any meaningful opportunity to redress the harm caused by Defendants' infringing conduct by attacking their financial resources.

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

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

25. As Defendants have engaged in deceptive practices in hiding their identity and accounts, Plaintiff's seizure and asset restraint in the Proposed Temporary Restraining Order may have little meaningful effect without also being able to serve necessary discovery, through Federal Rule of Civil Procedure 45 or otherwise, on third parties potentially associated or acting

in concert with the Defendant. As such, Plaintiff requests that it additionally be permitted to engage in third party discovery to the extent necessary to effectuate the narrow scope of inquiry identified above.

26. Further, it is respectfully submitted that *ex parte* relief will avoid immediate and irreparable injury. Indeed, if Defendants were to learn of these proceedings prematurely, the likely result would be the destruction of relevant documentary evidence and the hiding or transferring of assets to foreign jurisdictions, which would frustrate the purpose of the underlying law and would interfere with this Court's ability to grant relief. Specifically, it appears that the Defendants in this case hold some or most of their assets in the Republic of China or Hong Kong, making it easy to hide or dispose of assets, which will render an accounting by Plaintiff meaningless.

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

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

Executed on December 4, 2024, in Las Vegas, Nevada.

Respectfully Submitted

By: */s/ Shawn Mangano*
SHAWN MANGANO, ESQ.