

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

HONG KONG YU'EN E-COMMERCE CO.
LIMITED,

Plaintiff,

v.

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

Defendants.

Case No. 1:24-cv-12483-EEB-MDW

**Honorable Judge Elaine E. Bucklo
Magistrate M. David Weisman**

HEARING DATE: January 15, 2025
HEARING TIME: 9:45 AM
COURTROOM: 2243

**DECLARATION OF SHAWN A. MANGANO
IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

I, Shawn A. Mangano, 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 Preliminary Injunction (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 lead counsel of for Plaintiff HONG KONG YU'EN E-COMMERCE CO. LIMITED, ("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 December 26, 2024. [Dkt. No. 23].

5. On January 2, 2025, the designated online platform, Amazon, (the “Platform”) provided Plaintiff with the email address for the named Defendant (the “Defendant”) so that electronic service of process authorized under the TRO could be effectuated. After receiving the email address from the Platform, Plaintiff electronically served the Defendants with a copy of the Complaint, Summons, and TRO on January 3, 2025 [Dkt. No. 29], and the First Amended Complaint on January 6, 2025 [Dkt. No. 30].

6. As alleged in the First Amended Complaint, Defendants are 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 their marketplace account(s) (the “Online Marketplace”) maintained on the Amazon online sales platform (the “Platform”). [Dkt. No. 27.] Plaintiff only sells its genuine Asserted Brand products through its own website, Modlily.com.

7. Specifically, Defendants created at least one Online Marketplace on the 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 their Online Marketplace(s) under the auspices that it is selling authentic Brand products when it is not doing so or to drive online traffic from consumers seeking authentic Brand products to their Online Marketplace offering the Counterfeit Products . To implement its scheme, Defendants are alleged to secure its Counterfeit Products from a manufacturing source(s) based in the People’s Republic of China (“China”). Defendants utilizes this manufacturing source to secure its Counterfeit Products because it is incapable of independently producing a sufficient number of

goods to supply the considerable, misled, consumers purchasing products through their Online Marketplace. Plaintiff has filed this action to stop Defendants' unauthorized use of the Brand Trademark to promote and sell their Counterfeit Products and continue its scheme of misleading consumers, including the citizens of the State of Illinois

8. Undersigned counsel performed, supervised, and/or directed investigations related to Internet-based infringement of the Brand Trademark. To date, our investigation shows that Defendants are using their Online Marketplace to sell knockoff/counterfeit Brand products from 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 Marketplace 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 Defendants' Online Marketplace, 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.

9. A review of Defendants' Online Marketplace perpetuates the illusion of legitimacy by using indicia of authenticity and security that consumers have come to associate with authorized online retailers. This includes incorporating, without authorization, Plaintiff's Brand Trademark, without authorization, in product descriptions and other uses on its Online Marketplace. Plaintiff has neither licensed nor authorized Defendant to use the Brand Trademark in any capacity.

10. As also previously argued to this Court in support of its request for entry of a temporary restraining order, Plaintiff would unquestionably suffer irreparable harm absent entry of injunctive relief through the spoliation of essential evidence and Defendant absconding with

significant ill-gotten gains derived from its intentional infringement of Plaintiff's federally secured Brand Trademark. These facts still exist today and support entry of preliminary injunctive relief effective until full adjudication of this matter.

11. Substantively, the TRO authorized and directed Plaintiff to provide notice of these proceedings and the preliminary injunction hearing to the Defendants by effectuating electronic service by email transmission to any addresses provided for Defendant by third party online platforms, including the Platform. [Dkt. No. 23 ¶14.] Plaintiff has complied with these requirements by serving the designated online platform with a copy of the TRO and the related subpoena requesting information, including that required to effectuate electronic service, for the named Defendants on January 3, 2025.

12. As with the issued TRO, Plaintiff requests issuance of the preliminary injunction to prevent the Defendants from using, without authorization, the company's Brand Trademark in connection with the manufacture, importation, distribution, offering for sale, and sale of its Counterfeit Products. Absent issuance of this requested preliminary injunctive relief, Defendant's intentional infringement of Plaintiff's Brand Trademark will unquestionably continue.

13. Plaintiff's Motion is being presented on a non-*ex parte* basis. Given that the TRO is set to expire on January 9, 2024, Plaintiff has elected to file this Motion, through which it asks the Court to extend the TRO until a hearing on the company's request for entry of a Preliminary Injunction is held. In this regard, Plaintiff asks the Court to set a hearing on its Motion on a date that provides Defendants with sufficient time to submit a response to Plaintiff's request for entry of a Preliminary Injunction.

14. Plaintiff also requests conversion of the TRO to a preliminary injunction so that Defendants' online accounts, which contain essential illegal product sales information and ill-

gotten funds derived from their intentional infringement of the company's Brand Trademark that would otherwise be transferred to unknown locales, remain frozen until conclusion of this action. This same harm justified entry of the TRO and it continues to exist today, which clearly justifies entry of the requested preliminary injunction. Simply put, absent extending the relief granted under the TRO to a preliminary injunction, Plaintiff would be irreparably harmed through Defendants' efforts to avoid enforcement of the company federally protected rights by this Court.

15. The Court has previously required Plaintiff to post a bond in the sum of \$5,000.00 in connection with issuance of the TRO. [Dkt. No. 23.] The exact same circumstances supporting the Court's determination of this bond amount apply to Plaintiff's request for entry of a preliminary injunctive relief. Moreover, the Court is presented with facts and supporting evidence that clearly demonstrates Defendant has infringed Plaintiff's Brand Trademark.

16. In *Volkswagen AG, et al. v. hkseller*2011, et al.*, No. 18-cv-07621 (N.D. Ill. May 6, 2019), the Court found that the defendants deliberately evaded asset restraint. Despite assurances, defendants depleted their PayPal account before a hearing. When the restraint was reinstated, they swiftly withdrew \$20,000. With their counsel withdrawing and no response to plaintiffs' motion for summary judgment, a \$200,000 judgment was entered, which remains unpaid beyond the restrained funds.

17. In *PopSockets LLC v. Xuebo50, et al.*, No. 17-cv-06101 (N.D. Ill. Oct. 12, 2017), a defendant's PayPal account, initially holding \$1,611,921, was restrained. The account was released under the condition that several hundred thousand dollars, earmarked for potential consumer chargebacks, couldn't be withdrawn. However, due to a misunderstanding with PayPal, the defendant reduced the balance to \$36,469 upon receiving notice of the lawsuit. The defendant didn't appear in the case, resulting in a default judgment entered against them.

18. For these reasons, in the absence of issuance of the requested Preliminary Injunction, Defendant would likely move any assets from its accounts in financial institutions subject to this Court's jurisdiction, including those associated with the Platform, to offshore accounts outside of this Court's jurisdiction.

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

Executed on January 9, 2025, in Las Vegas, Nevada.

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

CERTIFICATE OF SERVICE

I hereby certify that on the 9th 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>, and distributed to ecommerce platform, Amazon.

Respectfully submitted,

By: /s/ Shawn A. Mangano
Shawn A. Mangano (IL Bar No.6299408)
BAYRAMOGLU LAW OFFICES LLC