

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

**DECLARATION OF EN FANG IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION**

I, EN FANG, of Hong Kong, a special administrative region of the People's Republic of China, 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 a Director for Plaintiff HONG KONG YU'EN E-COMMERCE CO. LIMITED, ("Plaintiff"). I am personally knowledgeable of, or have access to business records concerning, all information referenced herein including, but not limited to Plaintiff's trademarks, copyrights, other intellectual property, sales, on-line sales, advertising, marketing, and media

coverage. I make this declaration from my matters within my own personal knowledge unless stated otherwise.

4. Plaintiff markets and sells women's clothing and related items under the Asserted Brand (the "Brand").

5. The Brand is an extremely well-known source of women's clothing in the United States and has been the subject of rampant counterfeit sales through the online platform, Walmart (the "Platform"), which is the online sales platform at issue in this action. Plaintiff does not sell its products through Walmart. Rather, Plaintiff only sells its genuine Brand products through its own website, Modlily.com.

6. Plaintiff's rough estimated gross revenue from United States sales likely exceeds \$25,000,000 USD per year. Of this amount, Plaintiff roughly estimates that over \$1,500,000 is derived from sales in the State of Illinois. Moreover, Plaintiff spends roughly anywhere from \$8,000,000 to \$12,000,000 USD each year to specifically advertise its Asserted Brand in the United States through such online advertising sources as Google Ads, Facebook, and Bing. 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. To do so, Plaintiff annually spends tens of millions of dollars advertising in the United States to promote the sale of its Brand.

7. The Defendants named in the company's trademark infringement enforcement action are engaged in the practice of using Plaintiff's Brand Trademark and then associating the Brand Trademark with sale and promotion of unauthorized, counterfeit products of substandard quality, thereby deceiving consumers – including the citizens of the State of Illinois.

8. Defendants have directly targeted their counterfeit sales activities, through the Walmart online sales platform not utilized by Plaintiff, in the United States, including to the

residents of the State of Illinois, through, at least, fully interactive, e-commerce stores operating under their designated aliases on the Platform.

9. Plaintiff has suffered, and continues to suffer, irreparable harm through the Defendant's unauthorized use of its federally registered Brand Trademark asserted in this action. 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.

10. Plaintiff expects to earn a net profit of approximately 30% on the sale of its Asserted Brand products. This figure, however, includes substantial advertising expenses that Defendants would not have to pay since they are largely capitalizing on Plaintiff's advertising efforts by misappropriating its Brand Trademark and imbedding the Asserted Brand in their Walmart.com search engine optimization. Doing so causes their online stores to be displayed whenever someone searches for the Asserted Brand on Walmart.com despite Plaintiff not selling authentic Asserted Brand products on the platform. Based on the foregoing, I would estimate that Defendants' online stores operate at a net profit of between 40% to 50%. I believe that a disgorgement of Defendants' profits would fall within the net profit range. It is my understanding that Plaintiff is currently awaiting the Platform's compliance with the Temporary Restraining Order and associated subpoena issued in this action that requires it to produce such sales information. Absent receipt of such information, Plaintiff is forced to assume that all sales made by Defendants through the Platform and all amounts held in their online accounts are the result of infringing activity in violation of the company's intellectual property rights.

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11. 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 with the Asserted Brand and Brand Trademark such as those reflected in in this action.

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 Hong Kong.

By: En Fang
EN FANG

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. I will electronically publish the documents on a website, and I will send an e-mail to any e-mail addresses identified in Exhibit A hereto that includes a link to said website.

By: /s/ Shawn A. Mangano

Shawn. A. Mangano (ADRC 6299408)

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