

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

FAIRLY ODD TREASURES, LLC,

Plaintiff,

v.

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

Defendants.

Case No.: 1:20-cv-01494

Judge Sara L. Ellis

Magistrate Judge Jeffrey Cummings

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff, FAIRLY ODD TREASURES, LLC’s (“FOT” or “Plaintiff”), Motion for a Preliminary Injunction, and this Court having heard the evidence before it hereby GRANTS Plaintiff’s Motion for Entry of a Preliminary Injunction in its entirety against the defendants identified in Schedule A (collectively, the “Defendants”).

THIS COURT HEREBY FINDS that it has personal jurisdiction over the Defendants since the Defendants directly target their business activities toward consumers in the United States, including Illinois. “In the context of cases like this one, that means a plaintiff must show that each defendant is actually operating an interactive website that is accessible in Illinois and that each defendant has aimed such site at Illinois by standing ready, willing and able to ship its counterfeit goods to customers in Illinois in particular (or otherwise has some sufficient voluntary contacts with the state).” *Am. Bridal & Prom Indus. Ass’n v. P’ships & Unincorporated Ass’ns Identified on Schedule A*, 192 F.Supp.3d 924, 934 (N.D. Ill. 2016). In this case, Plaintiff has presented screenshot evidence that each Defendant Internet Store is reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can and do purchase products using counterfeit versions of Plaintiff’s Designs and/or

Trademark. *See* Docket No. 15 which includes screenshot evidence confirming that each Defendant Internet Store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the SIR PERKY Designs and/or Trademark, which are covered by U.S. Design Patent Nos. D706,597; D707,513 and D708,517, hereinafter referred to as the “SIR PERKY Design Patents” as well as selling and/or offering for sale products in connection with Plaintiff’s SIR PERKY Trademark, which is covered by U.S. Trademark Registration No. 4,414,499.

THIS COURT FURTHER FINDS that injunctive relief previously granted in the Temporary Restraining Order (“TRO”) should remain in place through the pendency of this litigation and that issuing this Preliminary Injunction is warranted under Federal Rule of Civil Procedure 65. Evidence submitted in support of this Motion and in support of FOT’s previously granted Motion for a Temporary Restraining Order establishes that FOT has a likelihood of success on the merits; that no remedy at law exists; and that FOT will suffer irreparable harm if the injunction is not granted.

Specifically, FOT has proved a *prima facie* case of trademark infringement because (1) the SIR PERKY trademark is a distinctive mark and is registered with the U.S. Patent and Trademark Office on the Principal Register, (2) Defendants are not licensed or authorized to use the SIR PERKY trademark, and (3) Defendants’ use of the SIR PERKY trademark is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with FOT. Furthermore, Defendants’ continued and unauthorized use of the SIR PERKY Design Patents and SIR PERKY Trademark irreparably harms FOT through diminished goodwill and brand confidence, damage to FOT’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, FOT has an inadequate remedy at law. Moreover, the public

interest is served by entry of this Preliminary Injunction to dispel the public confusion created by Defendants' actions. Accordingly, this Court orders that:

1. Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily enjoined and restrained from:
 - a. using FOT's SIR PERKY Design Patents and SIR PERKY Trademark or any reproductions, counterfeit copies or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine SIR PERKY product or not authorized by FOT to be sold in connection with FOT's SIR PERKY Design Patents and SIR PERKY Trademark;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine SIR PERKY product or any other product produced by FOT, that is not FOT's or not produced under the authorization, control or supervision of FOT and approved by FOT for sale under FOT's SIR PERKY Design Patents and SIR PERKY Trademark;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of FOT, or are sponsored by, approved by, or otherwise connected with FOT;
 - d. further infringing FOT's SIR PERKY Design Patents and SIR PERKY Trademark and damaging FOT 's goodwill;
 - e. otherwise competing unfairly with FOT in any manner;

- f. shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for FOT, nor authorized by FOT to be sold or offered for sale, and which bear any of FOT 's SIR PERKY Design Patents and SIR PERKY Trademark or any reproductions, counterfeit copies or colorable imitations thereof;
 - g. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, or any other online marketplace account that is being used to sell or is the means by which Defendants could continue to sell Counterfeit/Infringing SIR PERKY Products; and
 - h. operating and/or hosting at the Online Marketplace Accounts and any other online marketplace accounts registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing FOT's SIR PERKY Design Patents and SIR PERKY Trademark or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine SIR PERKY product or not authorized by FOT to be sold in connection with FOT's SIR PERKY Design Patents and SIR PERKY Trademark.
2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to, WISH, Amazon, Alipay, Alibaba Group Holding Ltd. along with any related Alibaba entities (collectively, "Marketplaces"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, shall within three (3) business days of receipt of this Order:

- a. disable and cease providing services for any accounts through which Defendants engage in the sale of counterfeit and infringing goods using the SIR PERKY Design Patents and SIR PERKY Trademark, including any accounts associated with the Defendants listed in Schedule A;
 - b. disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the SIR PERKY Design Patents and SIR PERKY Trademark; and
 - c. take all steps necessary to prevent links to the Defendant Online Marketplace Accounts identified in Schedule A from displaying in search results, including, but not limited to, removing links to the Online Marketplace Accounts from any search index.
3. Defendants and any third party with actual notice of this Order who is providing services for any of the Defendants, or in connection with any of Defendants' Online Marketplace Accounts or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as Marketplaces, advertisers, Facebook, Internet Service Providers ("ISP"), web hosts, back-end service providers, web designers, sponsored search engine or ad-word providers, banks, merchant account providers, including PayPal, Alibaba, Western Union, third party processors and other payment processing service providers, shippers, and online marketplace registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide to FOT expedited discovery, including copies of all documents and records in such person's or entity's possession or control relating to:

- a. The identities and locations of Defendants, their agents, servants, employees, confederates, attorneys, and any persons acting in concert or participation with them, including all known contact information;
 - b. the nature of Defendants' operations and all associated sales and financial information, including, without limitation, identifying information associated with the Online Marketplace Accounts, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts;
 - c. Defendants' websites and/or any Online Marketplace Accounts;
 - d. The Defendant Online Marketplace Accounts registered by Defendants; and
 - e. Any financial accounts owned or controlled by Defendants, including their agents, servants, employees, confederates, attorneys, and any persons acting in concert or participation with them, including such accounts residing with or under the control of any banks, savings and loan associations, payment processors or other financial institutions, including, without limitation, Amazon, PayPal, WISH, Alipay, Alibaba, Western Union, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
4. Defendants and any persons in active concert or participation with them who have actual notice of this Order shall be temporarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
 5. ContextLogic, Inc. ("WISH"), Amazon Payments, Inc. ("Amazon"), PayPal, Inc. ("PayPal"), Alipay US, Inc. and its entities ("Alipay"), Alibaba Group Holding Limited

(“Alibaba”) and Huguang International Limited or Dunhuang Group d/b/a DHGATE, DHGate.com, DHPort, DHLINK and DHPAY (“DHGate”), shall, within two (2) business days of receipt of this Order, for any Defendant or any of Defendants' Online Marketplace Accounts or websites:

- a. Locate all accounts and funds connected to Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any PayPal, WISH, Amazon, Alipay, Alibaba and DHGate accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 3 to the Declaration of Eric Hebert; and
 - b. Restrain and enjoin any such accounts or funds that are non-U.S. foreign based from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
6. Any banks, savings and loan associations, payment processors, or other financial institutions, for any Defendant or any of Defendants' Online Marketplace Accounts or websites, shall within two (2) business days of receipt of this Order:
- a. Locate all accounts and funds connected to Defendants, or Defendants' Online Marketplace Accounts, including, but not limited to, any accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 3 to the Declaration of Eric Hebert; and
 - b. Restrain and enjoin such accounts from receiving, transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
7. FOT may provide notice of these proceedings to Defendants, including notice of the preliminary injunction hearing and service of process pursuant to Fed.R.Civ.P. 4(f)(3), by

electronically publishing a link to the Complaint, this Order and other relevant documents on a website, or by sending an e-mail to the e-mail addresses identified in Exhibit 3 to the Declaration of Eric Hebert and any e-mail addresses provided for Defendants by third parties that includes a link to said website. The Clerk of Court is directed to issue a single original summons in the name of “Yiwu Anbai Trading Co., Ltd. and all other Defendants identified in Complaint” that shall apply to all Defendants. The combination of providing notice via electronic publication and e-mail, along with any notice that Defendants receive from Online Marketplace Accounts and payment processors, shall constitute notice reasonably calculated under all circumstances to apprise Defendants of the pendency of the action and afford them the opportunity to present their objections.

8. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to FOT or on shorter notice as set by this Court.
9. The \$10,000 bond posted by FOT shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: June 29, 2020



U.S. District Court Judge Sara L. Ellis

SCHEDULE A

No.	DEFENDANTS
1	Yiwu Anbai Trading Co., Ltd.
2	Shenzhen Annfly Technology Co., Ltd.
3	Dehua Fengzhu Arts & Crafts Co., Ltd.
4	Ningbo Benoy Industrial Co., Ltd.
5	Shenzhen BYF Precision Mould Co., Ltd.
6	Yiwu Elposh Imp And Exp Co., Ltd.
7	Huangshi Fusun Trade Co., Ltd.
8	Dongguan Goldenstars Ornament Co., Ltd.
9	Shenzhen Mantimelong Electronic Co., Ltd.
10	Dongguan Mework Metal Jewelry Company Limited
11	Hefei Miya Home Furnishings Co., Ltd.
12	Gaoyao Nanan Xinyipin Hardware And Plastic Factory
13	Changsha OX Arts & Crafts Co., Ltd.
14	Shenzhen Ruifuer Electronic Co., Ltd.
15	Yongkang Shunhui Import & Export Co., Ltd.
16	Yiwu Soyagift E-Business Firm
17	Shantou Chenghai Today Trading Firm
18	Zhongshan Tritrust Gifts & Crafts Co., Ltd.
19	Yangjiang Waza Hardware Products Co., Ltd.
20	Yangjiang Jiangcheng U-Joon Industrial & Trade Co., Ltd.
21	Yangjiang City Zhisheng Hardware Co., Ltd.
22	Xiamen Yoyo Ceramic Trading Co., Ltd.
23	Orientalbaking Store
24	MENHETON ST Textile Store
25	maimon Official Store
26	Allison yuan
27	Happy Home Life Museum
28	Brad's Secret
29	Smiley Mall
30	Malafor Beautiful Life Store
31	Shop1814418 Store
32	Convenience365 Store
33	Biscuits Store
34	Agoodshouse
35	House Lifestyle Store
35	Shenzhen Gole Silicone Co.,Ltd

36	CTREE CTREE Store
37	Ecofriendly Tableware Store
38	jin1956 Store
39	FEIGOLO On-Sale Store
40	qiming1 Store
41	longming1 Store
42	Helenlee Store
43	Friendly Life Store
44	BODUO Houseware Store
45	HomeAid Kitchenware Store
46	Shop4649139 Store
47	A TO Z TO ALL Store
48	Beautiful drop shipping Store
49	BcauseSimple Store
50	SunwayLife Store
51	aiboduo A+ Store
52	XHRLYLB Yanzi party daily necessities Store
53	OUSUlife Store
54	Skarner Store
55	House Things Store
56	Shop5421058 Store
57	Star-Art
58	EFPERFECT
59	Delphinus US
60	Duoles
61	BS-us
62	BuyBuyMall
63	Saihisday
64	QLL Kitchen and Dining
65	Casa
66	Cariel
67	Bestdeal International Trading
68	Viola
69	YUXIN TEK E-Commerce
70	Fidget Top
71	Topshenzhen
72	Lovesmoking
73	Egosmoker
74	Marki

75	Tinalt
76	Besttops
77	Sunnysleepvip5
78	Huaxia001
79	Love_world
80	Ouyang_xia
81	Cm2016
82	Garvielee
83	Cakestencil1
84	Tooyaa Kitchenhome
85	Dhgate_factoryseller
86	Tina316
87	Tina310
88	Knowdo
89	Tooyaa
90	Buildalldream
91	Growwin
92	Taishan05
93	Vip_mall
94	Melaniatrump
95	Steelmugstore
96	Brandmugstore
97	Jimdam
98	Cocosoly_tools
99	Yeti_s
100	Brand_yeti
101	Prodecoration
102	Household_shop4
103	Tumblers
104	Siempre01
105	Shunhuico
106	dongliangmei_no1
107	Dongliangmei_no2
108	Jiayouya
109	Princess188
110	huabob
111	Tina328
112	Tina329
113	Tracylu001

114	Andyt186
115	Andyt66
116	Andyt88
117	Gagagraceland
118	Hengli_suzie
119	Hengli_mumu
120	Bluedotlife
121	Pingwang4
122	Kitchenpartygift
123	China fashion 2017 shop
124	gotoshopping
125	King World Electronic
126	Chinese Products Interernational
127	shenzhenshijinlongxinmaoyiyouxiangongsi
128	dayddbuy
129	Aladdin_store
130	Badboys
131	Wenzhou fashion jewelry
132	Love shop 1
133	music as life
134	shishangfuzhuang
135	520Zhangmei
136	juan12
137	Frickin TShirt Company
138	HighSense
139	liusanhong
140	TAOWEIBENDIANPU
141	kgvkjfhlg
142	yjsfuliwujin