

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

EMOJI COMPANY GmbH,

Plaintiff,

v.

WUPENGFEI et al.,

Defendants.

Case No.: 20-cv-3862

Judge: Joan B. Gottschall

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on EMOJI COMPANY GmbH's Motion for a Preliminary Injunction, and this Court having considered 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 attached hereto (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. Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products bearing infringing and/or counterfeit versions of Plaintiff's EMOJI Trademarks (the "EMOJI Products").

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 Plaintiff's

previously granted Motion for a Temporary Restraining Order establishes that Plaintiff has a likelihood of success on the merits; that no remedy at law exists; and that Plaintiff will suffer irreparable harm if the injunction is not granted.

Specifically, Plaintiff has made a *prima facie* showing of trademark infringement because (1) the EMOJI Trademarks are distinctive marks and registered with the U.S. Patent and Trademark Office on the Principal Register as U.S. Trademark Registration Nos. 4,868,832; 5,202,078 and 5,415,510 for the EMOJI marks, (2) Defendants are not licensed or authorized to use EMOJI Trademarks, and (3) Defendants' use of the EMOJI Trademarks are causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with EMOJI COMPANY GmbH. Furthermore, Defendants' continued and unauthorized use of the EMOJI Trademarks irreparably harms Plaintiff through diminished goodwill and brand confidence, damage to Plaintiff's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, Plaintiff 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 Plaintiff's EMOJI Trademarks or any confusingly similar 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 EMOJI Product or not authorized by Plaintiff to be sold in connection with Plaintiff's EMOJI Trademarks;

- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine EMOJI Product or other product produced by Plaintiff, that is not Plaintiff's or not produced under the authorization, control or supervision of Plaintiff and approved by Plaintiff for sale under Plaintiff's EMOJI Trademarks;
- c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
- d. further infringing Plaintiff's EMOJI Trademarks and damaging Plaintiff's goodwill;
- e. otherwise competing unfairly with Plaintiff 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 Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear Plaintiff's EMOJI Trademarks or any confusingly similar reproductions, counterfeit copies or colorable imitations thereof;
- g. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, the Defendant Domain Names, or

any other domain name or online marketplace account that is being used to sell (now or in the future) Counterfeit EMOJI Products; and

- h. operating and/or hosting websites at the Defendant Domain Names and any other domain names registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing Plaintiff's EMOJI Trademarks or any confusingly similar reproductions, counterfeit copies or colorable imitations thereof that is not a genuine EMOJI Product or not authorized by Plaintiff to be sold in connection with Plaintiff's EMOJI Trademarks.
2. Each Defendant, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiff a written report under oath providing: (a) their true name and physical address, (b) all websites and online marketplace accounts on any platform that it owns and/or operate (c) their financial accounts, including all Wish accounts, and (d) the steps taken by that Defendant to comply with paragraph 1, a through h, above.
3. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, within three (3) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall, at Plaintiff's choosing:
 - a. unlock and change the registrar of record for the Defendant Domain Names to a registrar of Plaintiff's selection until further ordered by this Court, and the domain name registrars shall take any steps necessary to transfer the Defendant Domain Names to a registrar of Plaintiff's selection until further ordered by this Court; or

- b. disable the Defendant Domain Names and make them inactive and untransferable until further ordered by this Court.
4. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as iOffer and Alibaba Group Holding Ltd., Alipay.com Co., Ltd. and any related Alibaba entities (collectively, "Alibaba"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Domain Names, and domain name registrars, 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 EMOJI Trademarks, including any accounts associated with the Defendants listed on 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 EMOJI Trademarks; and
 - c. take all steps necessary to prevent links to the Defendant Domain Names identified on Schedule A from displaying in search results. This includes, but is not limited to removing links to the Defendant Domain Names from any search index.
5. 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' websites at the Defendant Domain Names or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as iOffer and Alibaba, 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 Wish, third party processors and other payment processing service providers, shippers, and domain name registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide to Plaintiff 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, the Defendant Domain Names, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts and Defendant Domain Names;
- c. Defendants' websites and/or any Online Marketplace Accounts;
- d. The Defendant Domain Names or any domain name 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, Wish and Western Union, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

6. 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.
7. ContextLogic, Inc. ("Wish") 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 Wish accounts connected to the information listed in Schedule A hereto; and
 - b. Restrain and enjoin any such accounts or funds that are China or Hong Kong based from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
8. Plaintiff may provide notice of these proceedings to Defendants, including notice of any future hearings and service of process pursuant to Fed.R.Civ.P. 4(f)(3), by electronically publishing a link to the Amended Complaint, this Order and other relevant documents on a website to which the Defendant Domain Names are transferred to Plaintiff's control will redirect, or by sending an e-mail to the e-mail addresses identified in Schedule A hereto; and any e-mail addresses provided for Defendants by third parties accompanied by a link to the website where the above-identified documents are located. The combination of providing notice via electronic publication or e-mail, along with any

notice that Defendants receive from domain name registrars 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.

9. Plaintiff's Schedule A to the Amended Complaint, and the TRO are unsealed. All previously sealed documents in this case are unsealed.

10. Any Defendants that are subject to this Order may appear and move to dissolve or

modify the Order on two days' notice to Plaintiff or on shorter notice as set by this Court.

11. Plaintiff shall post a \$10,000.00 bond with the Court within 1 week of entry of this order.

Dated: July 22, 2020

/s/

Joan B. Gottschall
United States District Court Judge

SCHEDULE A

No	Defendants
1	wupengfei
2	wutin
3	KUANGMENGFAN
4	litingting55
5	Cherish blue grace
6	chunpingdian
7	cairui
8	chichichi
9	chn mk
10	CWJ company
11	dingdong2014
12	Guangzhou Feiyang Electronic Factory
13	guoji
14	hanxueling
15	In the shop
16	jane's super market
17	liulan store
18	pengpeng's collection
19	plokm258369@163.com
20	Romanceeee
21	shopping Happy O Yes
22	woaiwangyi188@163.com
23	yqbergkamp1204shop
24	15205060710
25	15825660678@163.com
26	2016*happystore
27	adongjiayou
28	Adventure and Monotony
29	afdesx fashion store
30	All-in Globalmartket
31	ammos nxeheimiah coltd
32	asdfgt
33	asuacxmj
34	axfybfyyzyq
35	ayu0811
36	AZI86221
37	azsahfbrs
38	ba

39	Baby Love
40	Beyond Fashion
41	biweizhijia
42	bruc shopping
43	caihao
44	caixue fashion
45	caiyidian
46	Canbin Fashion Online
47	ChangZhou liv Ltd
48	chaofeng88
49	chaoyanyu
50	CHENGXIN27
51	chenjingjing521
52	chenrong123
53	chicnova fashion
54	China various commodity shops
55	ChinaBwin
56	ChongQing Hot Pot
57	Classic trend shop
58	clothes market 2015
59	codosale
60	Composedream
61	Crayons' International Trade
62	cylkjhg
63	daiyuxiu
64	damishops
65	danxiaoxiangny
66	daserwd fashion store
67	Dawang.co.ltd
68	daxueyuan
69	Demin
70	dhfuiyeihr
71	dingqier fashion
72	DONGGUAN CHUANQI INDUSTRIAL CO., LTD.
73	dongrui shop
74	dongyi fashion
75	Dove valley shop
76	duqingyunpp
77	East International Knitting Co.,Ltd.
78	Exciting Little Farm
79	Fashion Maker Co,LTD

80	Fashion Tops Factory
81	FASHION WEY
82	Fashion21
83	fengyandian
84	fugeng fashion
85	funnyshirts
86	gaodanfeng
87	Goblinger
88	guotongtong
89	HappyBJ
90	HEKEY
91	hhnewtrends
92	High Quality Goods
93	HK rianB store
94	huanyugaoke
95	hui_adm
96	huixu fashion store
97	jingnadian
98	jqshadow
99	JUN
100	KaiLi Rice Dumplings
101	kthzrysg
102	Lanxi Hao Bo ecommerce.Co., Ltd.
103	liaolidian
104	liaoshutingdian
105	lilonggang908906
106	LINHUAN7
107	liulijun168
108	liuqing fashion
109	longchaoqun fashion
110	lovelyxu
111	luodeying
112	luyi fashion
113	LYPP
114	mingheminxiongmei
115	MK7RVUUH
116	Mobile phone accessories LTD
117	Mosesid
118	mrkong trading company
119	new fashion 1992
120	Niecisy Handbags

121	nimengting
122	nokelo store
123	official*zhiyong
124	omhhkb shopping
125	one person001
126	ouqu334 plaza
127	Our Day
128	panliuming fashion
129	panwei 123
130	Pefect
131	pengmingzhu
132	puan fashoin
133	qianliuying8056126
134	qinxiaoning8866
135	qinxuededianpu
136	qiushu
137	Qliuyun
138	ROTASHAR
139	RuoMu
140	rzuby
141	SANWELL88
142	shench1740730
143	spearnaily
144	sportniu
145	tanghua fashion
146	THANKSCC
147	tingtingdian
148	Tongren mung flour
149	UwlyssesAyndrewmall
150	weideyua Friday
151	weiweidian
152	weiyuelong
153	wfpSimple
154	Wiodg
155	wuhoodie
156	wujinzong678
157	wujunyi5566
158	wuqiuzengqian
159	wushenghong fashion
160	WXBBV USGB IINV
161	Xia Yu Koizumi scissors brand

162	xiao jun 668
163	Xiao wu big yards shop
164	xiaomingzhang wholeshop
165	Xiaopingmilk
166	xijnmv fashion store
167	xinglidian
168	Xinlan66088
169	xutiantian2016
170	xuzhiwei
171	yadana
172	Yang_ming
173	yanmingdian
174	yanzace
175	yunyaysh
176	yxx151010
177	zeduandian
178	zfgdfgdfgzcfg
179	ziyanpingg
180	zuf55ma
181	longsand
182	racefish
183	runningcity
184	southhillpark
185	stonehomevalley
186	Sun & Spring
187	jfgiromnjdu
188	langerton
189	lotusmiss
190	sxl65546
191	fastfashiontrend
192	faxianmeideni
193	fdrhgfhjyt
194	forever new life
195	gaosiyu
196	GL
197	Globalebuy Co., LTD.
198	Graceful home
199	haolisayumi
200	Happy Island Toys Co.,LTD
201	happyboyqi
202	happylands

203	highsky009
204	Home beauty trade co., LTD
205	huahuamall
206	infantcare21
207	jialongmaoyi232123
208	K COOL
209	LBchaoshen
210	lily boutique shop
211	LookingforGOOD
212	lsj
213	Megatop
214	meiliwmoon
215	mermaidpainting
216	mi shang company
217	pin yi xuan
218	Poppyhenler
219	qianggegongsi
220	rapidwood
221	Raytrad
222	REMOFON
223	Sasha168
224	Seashell02
225	SFJ-fashion store
226	shining shoes
227	shuting
228	Silier
229	Small peak building materials
230	Splendid VENUS
231	starfruit
232	Starships
233	sweetpower
234	taishanshan
235	taomumu
236	TIMO Fashion Store
237	Waltha-foes
238	argb
239	Heio shop
240	littlefairy520
241	Mystar491
242	Seeker
243	Sunwoif Co LTD

244	Timothy
245	wisegood
246	YAOZI112233
247	Yes Fashion
248	yfy4
249	zhaijinxiu
250	zhangshulili
251	zhenzhen905
252	zhoululu86913
253	fy12345678901
254	mycos factory

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