

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

WHAM-O HOLDING, LTD. and
INTERSPORT CORP. d/b/a WHAM-O,

Case No.: 1:20-cv-04202

Plaintiffs,

Judge Thomas M. Durkin

v.

Magistrate Judge Sheila M. Finnegan

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

Defendants.

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiffs, WHAM-O HOLDING, LTD. and INTERSPORT CORP. d/b/a WHAM-O (“WHAM-O” or “Plaintiffs”), Motion for a Preliminary Injunction, and this Court having heard the evidence before it hereby GRANTS Plaintiffs’ 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, Plaintiffs have 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 Plaintiffs' trademarks. *See* Docket No. 11 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 FRISBEE trademarks, U.S. Trademark Registration Nos. 4,046,202; 970,089 and 679,186 ("The FRISBEE trademarks").

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

Specifically, WHAM-O has proved a *prima facie* case of trademark infringement because (1) the FRISBEE trademarks are distinctive marks and are registered with the U.S. Patent and Trademark Office on the Principal Register, (2) Defendants are not licensed or authorized to use the FRISBEE trademarks, and (3) Defendants' use of the FRISBEE trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with WHAM-O. Furthermore, Defendants' continued and unauthorized use of the FRISBEE trademarks irreparably harms WHAM-O through diminished goodwill and brand confidence, damage to WHAM-O's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, WHAM-O 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 the FRISBEE trademarks 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 FRISBEE product or not authorized by WHAM-O to be sold in connection with the FRISBEE trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine FRISBEE product or any other product produced by WHAM-O, that is not WHAM-O's or not produced under the authorization, control or supervision of WHAM-O and approved by WHAM-O for sale under the FRISBEE trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of WHAM-O, or are sponsored by, approved by, or otherwise connected with FRISBEE;
 - d. further infringing the FRISBEE trademarks and damaging WHAM-O's goodwill;
 - e. otherwise competing unfairly with WHAM-O 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 WHAM-O, nor authorized by WHAM-O to be sold or offered for sale, and which bear any of the FRISBEE trademarks 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 FRISBEE 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 the FRISBEE trademarks or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine FRISBEE product or not authorized by WHAM-O to be sold in connection with the FRISBEE trademarks.
2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to PayPal, WISH and Alipay, (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

FRISBEE trademarks, 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 FRISBEE trademarks; 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, but not limited to, PayPal, Alipay, Western Union, third party processors and other payment processing service providers, shippers, and online marketplace registrars (collectively, the "Third Party Providers") shall, within three (3) business days after receipt of such notice, provide to WHAM-O 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, Alipay, 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. PayPal, Inc. ("PayPal"), Context Logic, Inc. ("WISH") and Alipay US, Inc. and its entities ("Alipay"), shall, within three (3) 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 and Alipay accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Todd Richards; 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 three (3) 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 2 to the Declaration of Todd Richards; 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. WHAM-O 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 2 to the Declaration of Todd Richards 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 "atmjp 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 WHAM-O or on shorter notice as set by this Court.
9. The \$10,000 bond posted by WHAM-O shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: August 18, 2020

Thomas M. Guskens

U.S. District Court Judge

SCHEDULE A

No.	Defendants
1	atmjp
2	manusshop
3	Loves Boutique
4	tim_q
5	Wuhan Tianpin Business Trading Company
6	fanlei11
7	Linjou ling nine
8	liulei135
9	lizhichao11
10	wenxiaozi
11	Double boutique
12	One Song Away
13	littlevolcano01
14	Sclrecoely
15	PTstore18s
16	Southumbrella06
17	Look forward to823
18	xylophone
19	varition
20	xiaoHgaoduandingzhi
21	qianqianwomen
22	Super Gloal Trade Co,Ltd
23	Jiaowanzi Store
24	now here shop
25	rx989656
26	Xiao Hao 1999
27	yguoxiangxiang
28	jingwanlin
29	qiaofuding123456
30	tongyuqing
31	wangzhishuang
32	lianghuan520q
33	tanlijuan
34	exoterica
35	Prettycottage
36	Eddie Store
37	Shop5006319 Store
38	love life Store

39	WarmCurrent Store
40	365-Days Booming Store
41	A Cozy Store
42	Best Tools Online Dropshipping Store
43	E-Tool&Life Store
44	Happiness House Store
45	Lighting & Tools & House Improvement Store
46	Lovely home, Sweet life
47	Sturdy Tool&Lighting Store
48	Beautiful LovePet Store
49	Celebrate For The World Store
50	Our Globel shipping Groceries Store
51	Overseas Dropshipping Factory Store
52	Shop5485202 Store
53	ALL you loving Store
54	Cutepet Store
55	Fantasy Garden & Life House Store
56	HOUSE SHOP Store
57	Practical Kitchen Store
58	Shopping in your Store
59	Tooyoo Daily Commodity Store
60	Yunjin Meijia Store
61	PETruler Official Store
62	YOHOPET Official Store
63	Shop5235004 Store
64	Shop5235015 Store
65	Shop5235025 Store
66	Shop5235042 Store
67	agselling
68	Changzhou Daya Import & Export Corp., Ltd.
69	Changzhou Eagle Technology Co., Ltd.
70	DONGGUAN AASIN TECHNOLOGY CO., LTD.
71	Dongguan Nike Industrial Limited
72	e-bestshare88
73	Fuzhou Smart Artifact Co., Limited
74	Hangzhou Hongke Sports Equipment Co., Ltd.
75	Nanjing Allshing Trade Company Limited
76	Ningbo Fenghua Yixin Art & Craft Co., Ltd.
77	Ningbo Ishow Import & Export Co., Ltd.
78	Ningbo Smart Market Sourcing Ltd.
79	Ningbo Vicball Sporting Goods Co., Ltd.

80	pwstore
81	readygo
82	Shanghai Aimi Pet Products Co., Ltd.
83	Shanghai Shengchou Plastic Ltd.
84	Shenzhen Fuly Technology Co., Ltd.
85	somanoon
86	Taizhou Shanyue Packaging Container Co., Ltd.
87	Tangshan Qiming Trade Co., Ltd.
88	Wenzhou Mega Trading Co., Ltd.
89	Yiwu Anjiu Import & Export Co., Ltd.
90	Zhumadian Soule Commerce And Trade Co., Ltd.
91	aa_sports
92	Ali-innovation
93	AMYJANE JEWELRY COLLECTION
94	anyqiqi1
95	Beaut-Pavilion
96	Buy directly from China
97	Cheerfssver95
98	Cherry Fashions
99	Diaotaboo
100	DIYcase Inc.
101	Duction
102	eesule666
103	haidugogo
104	hanyuxuan Store
105	Hintana
106	homeyl
107	HongHome
108	hoosdu
109	jamesclothes Inc
110	JANCJ
111	Jinhengyang
112	Kaliou
113	kawayi lin
114	LCC STORE
115	lifecake64
116	lixiao
117	Love Travel
118	LuoXue Ltd.company
119	MAKOSHOP
120	maybeadv

121	mengfang123
122	nichetopia
123	NING TOY
124	OUCHEN
125	pgdz
126	Pinpy Lifestyle International
127	qwfy
128	Ren Huang
129	SeeYouAgain1
130	shenzhenshizhchengshangpindianzikejiyouxiangongsi
131	suling international
132	Surprize
133	tangxiaohua
134	taotaodexionsak
135	tengfei168
136	TIXIANG
137	Ty
138	Vikaka
139	wanpinyou
140	Xqqqqqqqq
141	yanz
142	yaoping
143	yiwuchangshuoshangmaoyouxiangongsi
144	yuanyumeifadale
145	zouzhaocheng
146	All Pecfect Store
147	AShine life Store
148	Chinatown Department Store
149	Co-co'sPet Store
150	Da Da Store
151	Daily life is Goods Store
152	Daily Use Everyday Store
153	DogCat Store
154	Dogs/Cats/Birds Product Store
155	Dongguan City Geedyn Technology Co., Ltd.
156	Dreamer-Lifestyle Store
157	ETSREWO Store
158	FML PET Official Store
159	Hangzhou Fuyang MarBo Rackets Co., Ltd.
160	HappysKids Store
161	hereformeting Store

162	HM SFTT Store
163	HomeSweet Store
164	House Lover Store
165	huayan's accessories store
166	jarvanIV Store
167	JINKJING Store
168	kingccpet264278 Store
169	LANSI Decoration Store
170	LanYing Pets Store
171	Little Mouse House Store
172	Merry Hommylife Store
173	MGKPET Global Store
174	Miogar Store
175	Niaroko's Store
176	OCHINE Franchised Store
177	Pething Mall
178	Petsbeds Store
179	Puyang pag trading Co.,LTD
180	QWJ's kitty Store
181	Reed Daily Gadgets Store
182	Shanghai Yizo Industrial Limited
183	Shanghai Your Industry Co., Ltd.
184	Shantou Toptrue Toys Trading Firm
185	Shenzhen Yijiamei Silicone & Rubber Co., Limited
186	Shenzhen Z&L Crafts Products Co., Ltd.
187	Shijiazhuang Roc Cattle Import and Export Trading Co., Ltd.
188	Ship within 24h Drop shipping Store
189	Shop1768047 Store
190	Shop1938613 Store
191	Shop4514074 Store
192	Shop5126080 Store
193	Shop5134046 Store
194	Shop5235006 Store
195	Shop5235011 Store
196	Shop5235013 Store
197	Shop5235019 Store
198	Shop5235020 Store
199	Shop5235022 Store
200	Shop5235034 Store
201	Shop5235037 Store
202	Shop5235046 Store

203	Shop5235053 Store
204	Shop5397033 Store
205	superCassiopeia Store
206	SuperGalio Store
207	Suqian Lianshun Stationery Co., Ltd.
208	TLHOTTOP Store
209	UtopiaHome Store
210	Vieruodis Boutiques Store
211	WaKaWaka House Store
212	Weifang Xinshijie Crafts Co., Ltd.
213	Welcome to my Store
214	Wonder4 Life Store
215	Yiwu Shanrun Trading Co., Ltd.
216	OutdoorXL

