

JUDGE CASTEL

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20 CV 6454

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SPIN MASTER LTD. and SPIN MASTER, INC.,

Plaintiffs

v.

3CN8518, 4YOURSELF, ANBA-5562,
BESTBEEDEALS, BESTOFWORLD2010,
BIGHOME77, CHARUKA132,
CHINASHOPPING.CENTER, COOLBUYING-
GROUP, D.ONLINESTORE, EMILY154,
FAITHCHINA, GREATANDSUPERDEALS,
JERBE_99, KENT_CT, MAGIC-PRODUCT1,
MMSHOPMM, MY_KADO,
NORTHERNCOMM_33, SAVINGURBUY,
TECHMIKE_300, TRENDNCELEBSTORE,
YAESHOP, YDSHIPPING and ZOH05480,

Defendants

Civil Case No.:

[PROPOSED]

1) TEMPORARY RESTRAINING
ORDER; 2) ORDER
RESTRAINING MERCHANT
STOREFRONTS AND ORDER OF
ATTACHMENT OF DEFENDANTS'
ASSETS WITH THE FINANCIAL
INSTITUTIONS; 3) ORDER TO
SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE; 4) ORDER
AUTHORIZING BIFURCATED
AND ALTERNATIVE SERVICE;
AND 5) ORDER AUTHORIZING
EXPEDITED DISCOVERY

FILED UNDER SEAL

GLOSSARY

| Term | Definition |
|----------------------------------|---|
| Plaintiffs or Spin Master | Spin Master Ltd. and Spin Master, Inc. |
| Defendants | 3cn8518, 4yourself, anba-5562, bestbeedeals, bestofworld2010, bighome77, charuka132, chinashopping.center, coolbuying-group, d.onlinestore, emily154, faithchina, greatandsuperdeals, jerbe_99, kent_ct, magic-product1, mmmshopmm, my_kado, northerncomm_33, savingurbuy, techmike_300, trendncelebstore, yaeshop, ydshipping and zoho5480 |
| eBay | eBay.com, a San Jose, California-based online marketplace and e-commerce platform owned by eBay Inc., a Delaware corporation, that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale and/or sell in what it characterizes as either auction-style or fixed-price formats and ship their retail products, which, upon information and belief, originate from China, among other locations, directly to consumers worldwide and specifically to consumers residing in the U.S., including in New York |
| Epstein Drangel | Epstein Drangel LLP, counsel for Plaintiffs |
| New York Address | 244 Madison Ave, No. 411, New York, New York 10016 |
| Complaint | Plaintiffs' Complaint filed on August 14, 2020 |
| Application | Plaintiffs' <i>Ex Parte</i> Application for: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts (as defined <i>infra</i>) and Defendants' Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery filed on August 14, 2020 |
| Harrs Dec. | Declaration of Christopher Harrs in Support of Plaintiffs' Application |
| Yamali Dec. | Declaration of Danielle S. Yamali in Support of Plaintiffs' Application |
| Flutterbye Works | U.S. Copyright Registration Nos: VA 1-899-358 covering the Flutterbye packaging artwork, VA 1-861-460 covering the Flutterbye Flying toy figurine, VA 1-901-312 covering the Flutterbye Flower Fairy toy, 1-913-178 covering the Flutterbye Ocean Fairy toy, VA 1-912-815 covering the Flutterbye Sunbeam Fairy toy, VA 1-900-805 covering the Flutterbye Stardust Fairy toy and VA 1-899-356 covering the Flutterbye Fairy |

| | |
|---------------------------------------|--|
| | instruction manual |
| Flutterbye Products | Hand-held winged toys that are designed to look like fairies. They are motor-controlled and float above users' palms using electrostatic levitation, and each Flutterbye Fairy includes a decorative base |
| Infringing Products | Products bearing or used in connection with the Flutterbye Works, and/or products in packaging and/or containing labels and/or hang tags bearing the Flutterbye Works, and/or bearing or used in connection artwork that is substantially similar to the Flutterbye Works and/or products that are identical or substantially similar to the Flutterbye Products |
| Infringing Listings | Defendants' listings for Infringing Products |
| User Accounts | Any and all websites and any and all accounts with online marketplace platforms such as eBay, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them |
| Merchant Storefronts | Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Infringing Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them |
| Defendants' Assets | Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad) |
| Defendants' Financial Accounts | Any and all financial accounts associated with or utilized by any Defendants or any Defendants' User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad) |

On this day, the Court considered Plaintiffs' *ex parte* application for the following: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts and attaching Defendants' Assets with the Financial Institutions; 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery against Defendants, Third Party Service Providers and Financial Institutions in light of Defendants' intentional and willful offerings for sale and/or sales of Infringing Products.¹ A complete list of Defendants is attached hereto as **Schedule A**, which also includes links to Defendants' Merchant Storefronts and Infringing Listings. Having reviewed the Application, Declarations of Christopher Hars and Danielle S. Yamali, along with exhibits attached thereto and other evidence submitted in support thereof, the Court makes the following findings of fact and conclusions of law:

FACTUAL FINDINGS & CONCLUSIONS OF LAW

~~1. Plaintiffs are part of a large, multinational toy and entertainment company started in 1994 that designs and sells innovative children's lifestyle products and toys under their own well-known brands, including Twisty Petz®, Flutterbye Fairy®, Bunchems® and Hatchimals®, as well as under their licensed properties, such as Paw Patrol® and Air Hogs®;~~

2. Plaintiffs sell their Spin Master Products throughout the U.S. and the world through major retailers, quality toy stores, department stores and online marketplaces, including, but not limited to, Walmart, Target, Kohl's, and Amazon.com, among others;

3. In addition, Plaintiffs sell their Spin Master Products directly through Plaintiffs' website, available at www.shop.spinmaster.com, as well as through their websites dedicated to the individual Spin Master Products;

¹ Where a defined term is referenced herein and not defined herein, the defined term should be understood as it is defined in the Glossary.

4. ~~One of Plaintiffs' most successful products is its Flutterbye Products, which are hand-held, winged toys that are designed to look like fairies. The Flutterbye Products are motor-controlled and float above users' palms using electrostatic levitation. Additionally, each Flutterbye Products includes a decorative base;~~

5. The Flutterbye Products generally retail from \$25.00 to \$50.00;

6. Plaintiffs are the exclusive owners of all intellectual property rights in and to the Flutterbye Products, including both registered and unregistered copyrights.

7. For example, Plaintiffs are the owners of the following U.S. Copyright Registration Numbers: VA 1-899-358 covering the Flutterbye packaging artwork, VA 1-861-460 covering the Flutterbye Flying toy figurine, VA 1-901-312 covering the Flutterbye Flower Fairy toy, 1-913-178 covering the Flutterbye Ocean Fairy toy, VA 1-912-815 covering the Flutterbye Sunbeam Fairy toy, VA 1-900-805 covering the Flutterbye Stardust Fairy toy and VA 1-899-356 covering the Flutterbye Fairy instruction manual;

8. Defendants are reproducing, copying, preparing derivative works of, publicly displaying and/or distributing, transferring and/or selling copies of Plaintiffs' Flutterbye Works and/or manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling Infringing Product bearing or used in connection with Plaintiffs' Flutterbye Works and/or products in packaging and/or containing labels and/or hang tags bearing Plaintiffs' Flutterbye Works and/or bearing or used in connection with artwork that is substantially similar to the Flutterbye Works through Defendants' User Accounts and Merchant Storefronts with eBay (*see Schedule A* for links to Defendants' Merchant Storefronts and Infringing Listings);

9. eBay is an online marketplace and e-commerce platform that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale, sell and

ship their retail products originating primarily from China, among other locations, directly to consumers worldwide and specifically to consumers residing in the U.S., including New York;

10. Defendants are not, nor have they ever been, authorized by Plaintiffs or any of their authorized agents, authorized licensees or authorized distributors to reproduce, copy, prepare derivative works of, publicly display and/or distribute, transfer and/or sell copies of Plaintiffs' Flutterbye Works and/or copy, manufacture, import, export, advertise, market, promote, distribute, display, offer for sale and/or sell Flutterbye Products and/or products bearing or used in connection with Plaintiffs' Flutterbye Works and/or products in packaging and/or containing labels and/or hang tags bearing Plaintiffs' Flutterbye Works and/or bearing or used in connection with artwork that is substantially similar to the Flutterbye Works;

11. Plaintiffs are likely to prevail on their Copyright Act claim at trial;

12. As a result of Defendants' infringements, Plaintiffs, as well as consumers, are likely to suffer immediate and irreparable losses, damages and injuries before Defendants can be heard in opposition, unless Plaintiffs' Application for *ex parte* relief is granted;

a. Defendants have offered for sale and sold substandard Infringing Products that infringe Plaintiffs' Flutterbye Works;

b. Plaintiffs have well-founded fears that more Infringing Products will appear in the marketplace; that consumers may be misled and disappointed by the quality of these Infringing Products, and that Plaintiffs may suffer loss of sales for their Flutterbye Products; and

c. Plaintiffs have well-founded fears that if they proceed on notice to Defendants on this Application, Defendants will: (i) secret, conceal, destroy, alter, sell-off, transfer or otherwise dispose of or deal with Infringing Products or other goods that infringe the Flutterbye Works, the means of obtaining or manufacturing such Infringing Products, and records relating thereto that are in their possession or under their control, (ii)

~~inform their suppliers and others of Plaintiffs' claims with the result being that those suppliers and others may also secret, conceal, sell-off or otherwise dispose of Infringing Products or other goods infringing the Flutterbye Works, the means of obtaining or manufacturing such Infringing Products, and records relating thereto that are in their possession or under their control, (iii) secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from its sales of Infringing Products or other goods infringing the Flutterbye Works and records relating thereto that are in their possession or under their control and/or (iv) open new User Accounts and Merchant Storefront under new or different names and continue to offer for sale and sell Infringing Products with little to no consequence;~~

③-13. The balance of potential harm to Defendants of being prevented from continuing to profit from their illegal and infringing activities if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiffs, their business, and to their reputations if a temporary restraining order is not issued;

④-14. Public interest favors issuance of the temporary restraining order in order to protect Plaintiffs' interests in and to their Flutterbye Works, and to protect the public from defrauded by Defendants' substandard Infringing Products as Flutterbye Products;

15. ~~Plaintiffs have not publicized their request for a temporary restraining order in any way;~~

⑤-16. Service on Defendants via electronic means is reasonably calculated to result in proper notice to Defendants.

⑥-17. If Defendants are given notice of the Application, they are likely to secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Infringing Products or other goods infringing the Flutterbye Works. Therefore, good cause exists for granting Plaintiffs' request for an asset attachment order. It typically takes the Financial Institutions a minimum of

five (5) days after service of the Order to locate, attach and freeze Defendants' Assets and/or Defendants' Financial Accounts and it is anticipated that it will take the Third Party Service Providers a minimum of five (5) days to freeze Defendants' Merchant Storefronts. As such, the Court allows enough time for Plaintiffs to serve the Financial Institutions and Third Party Service Providers with this Order, and for the Financial Institutions and Third Party Service Providers to comply with the Paragraphs I(B)(1) through I(B)(2) and I(C)(1) of this Order, respectively, before requiring service on Defendants.

~~18. Similarly, if Defendants are given notice of the Application, they are likely to destroy, move, hide or otherwise make inaccessible to Plaintiffs the records and documents relating to Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Infringing Products. Therefore Plaintiffs have good cause to be granted expedited discovery.~~

ORDER

Based on the foregoing findings of fact and conclusions of law, Plaintiffs' Application is hereby **GRANTED** as follows:

I. Temporary Restraining Order

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Defendants are hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiffs' Application for a preliminary injunction as referenced in **Paragraph (II)(A)** below:

- 1) reproducing, copying, preparing derivative works of, publicly displaying and/or distributing, transferring and/or selling copies of Plaintiffs' Flutterbye Works through their manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Infringing Products, or any other products using the Flutterbye Works and/or works that are

substantially similar to, identical to and constitute an infringement of the Flutterbye Works;

- 2) directly or indirectly infringing in any manner Plaintiffs' Flutterbye Works;
- 3) using any reproduction, copy or colorable imitation of Plaintiffs' Flutterbye Works, to identify any goods or service not authorized by Plaintiffs;
- 4) using Plaintiffs' Flutterbye Works and/or any other works that are substantially similar to the Flutterbye Works, on or in connection with Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, offering for sale, selling and/or otherwise dealing in Infringing Products;
- 5) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Infringing Products and/or (ii) any computer files, data, business records, documents or any other records or evidence relating to their User Accounts, Merchant Storefronts or Defendants' Assets and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Infringing Products;
- 6) effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other means of importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Infringing Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order; and
- 7) knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(7) above and I(B)(1) through I(B)(2) and I(C)(1) below.

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers and Financial Institutions are hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiffs' Application for a preliminary injunction as referenced in **Paragraph (II)(A)** below, or until further order of the Court:

- 1) secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defendants' Assets from or to Defendants' Financial Accounts until further ordered by this Court;
- 2) secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with any computer files, data, business records, documents or any other records or evidence relating to Defendants' Assets and Defendants' Financial Accounts; and
- 3) knowingly instructing any person or business entity to engage in any of the activities referred to in subparagraphs I(A)(I) through I(A)(7) and I(B)(1) through I(B)(2) above and I(C)(1) below.

C. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the Third Party Service Providers are hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiffs' Application for a preliminary injunction as referenced in **Paragraph (II)(A)** below, or until further order of the Court:

- 1) within five (5) days after receipt of service of this Order, providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts; and

*including
intermediate
Saturday and
Sunday*

- 2) knowingly instructing any other person or business entity to engage in any of the activities referred to in subparagraphs I(A)(1) through I(A)(7), I(B)(1) through I(B)(2) and I(C)(1) above.

II. Order to Show Cause Why A Preliminary Injunction Should Not Issue And Order Of Notice

A. Defendants are hereby ORDERED to show cause before this Court in Courtroom 11D of the United States District Court for the Southern District of New York at 500 Pearl Street/40 Foley Square, New York, New York on September 8, 2020 at 2 p.m. or at such other time that this Court deems appropriate, why a preliminary injunction, pursuant to Fed. R. Civ. P. 65(a), should not issue.

B. IT IS FURTHER ORDERED that opposing papers, if any, shall be filed electronically with the Court and served on Plaintiffs' counsel by delivering copies thereof to the office of Epstein Drangel LLP at 60 East 42nd Street, Suite 2520, New York, NY 10165, Attn: Jason M. Drangel on or before August 31, 2020. Plaintiffs shall file any Reply papers on or before September 3, 2020.

C. IT IS FURTHER ORDERED that Defendants are hereby given notice that failure to appear at the show cause hearing scheduled in **Paragraph II(A)** above may result in the imposition of a preliminary injunction against them pursuant to Fed. R. Civ. P. 65, which may take effect immediately upon the expiration of this Order, and may extend throughout the length of the litigation under the same terms and conditions set forth in this Order.

III. Order of Attachment

A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 64 and N.Y. C.P.L.R. §§ 6201 and 6211 and this Court's inherent equitable power to issue provisional remedies ancillary to its authority to provide final equitable relief, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order, the Financial Institutions shall locate and attach

Defendants' Financial Accounts and shall provide written confirmation of such attachment to Plaintiffs' counsel.

IV. Order Authorizing Bifurcated and Alternative Service by Electronic Means

A. IT IS FURTHER ORDERED pursuant to Fed. R. Civ. P. 4(f)(3), as sufficient cause has been shown, that service may be made on, and shall be deemed effective as to Defendants if it is completed by the following means:

1) delivery of: (i) PDF copies of this Order together with the Summons and Complaint, or (ii) a link to a secure website (including NutStore, a large mail link created through Rmail.com and via website publication through a specific page dedicated to this Lawsuit accessible through ipcounselorslawsuit.com) where each Defendant will be able to download PDF copies of this Order together with the Summons and Complaint, and all papers filed in support of Plaintiffs' Application seeking this Order to Defendants' e-mail addresses to be determined after having been identified by eBay pursuant to **Paragraph V(C)**.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means ordered herein shall be deemed effective as to Defendants, Third Party Service Providers and Financial Institutions through the pendency of this action.

C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means ordered herein shall be made within five (5) days of the Financial Institutions and Third Party Service Providers' compliance with **Paragraphs III(A) and V(C)** of this Order, *inclusive of Saturdays and Sundays.*

D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that the Clerk of the Court shall issue a single original summons in the name of "3cn8518 and all other Defendants identified in the Complaint" that will apply to all Defendants.

E. IT IS FURTHER ORDERED, as sufficient cause has been shown, that service may be made and shall be deemed effective as to the following if it is completed by the below means:

- 1) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where PayPal will be able to download a PDF copy of this Order via electronic mail to EE Omaha Legal Specialist at EEOMALegalSpecialist@paypal.com;
- 2) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where eBay, via eBay's Registered Agent, will be able to download a PDF copy of this Order via electronic mail at copyright@ebay.com, to Bryce Baker at brybaker@ebay.com and to Joanna Lahtinen at jlahtinen@ebay.com;
- 3) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where Payoneer will be able to download a PDF copy of this Order via electronic mail to Payoneer's Customer Service Management at customerservicemanager@payoneer.com and Edward Tulin, counsel for Payoneer, at Edward.Tulin@skadden.com; and
- 4) delivery of: (i) a PDF copy of this Order, or (ii) a link to a secure website where PingPong will be able to download a PDF copy of this Order via electronic mail to PingPong's Legal Department at xieqt@pingpongx.com and legal@pingpongx.com.

V. Order Authorizing Expedited Discovery

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days after receiving service of this Order, each Defendant shall serve upon Plaintiffs' counsel a written report under oath providing:
 - a. their true name and physical address;
 - b. the name and location and URL of any and all websites that Defendants own and/or operate and the name, location, account numbers and URL for any and all User Accounts and Merchant Storefronts on any Third Party Service Provider platform that Defendants own and/or operate;

- c. the complete sales records for any and all sales of Infringing Products, including but not limited to number of units sold, the price per unit, total gross revenues received (in U.S. dollars) and the dates thereof;
- d. the account details for any and all of Defendants' Financial Accounts, including, but not limited to, the account numbers and current account balances; and
- e. the steps taken by each Defendant, or other person served to comply with **Section I**, above.

2) Plaintiffs may serve interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure as well as Local Civil Rule 33.3 of the Local Rules for the Southern and Eastern Districts of New York and Defendants who are served with this Order shall provide written responses under oath to such interrogatories within fourteen (14) days of service to Plaintiffs' counsel.

3) Plaintiffs may serve requests for the production of documents pursuant to Fed. R. Civ. P. 26 and 34, and Defendants who are served with this Order and the requests for the production of documents shall produce all documents responsive to such requests within fourteen (14) days of service to Plaintiffs' counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order the Financial Institutions shall identify any and all of Defendants' Financial Accounts, and provide Plaintiffs' counsel with a summary report containing account details for any and all such accounts, which shall include, at a minimum, identifying information for Defendants, including contact information for Defendants (including, but not limited to, mailing addresses and e-mail addresses), account numbers and account balances for any and all of Defendants' Financial Accounts and confirmation of said compliance with this Order.

C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within five (5) days of receipt of service of this Order, the Third Party Service Providers shall identify any and all of Defendants' User Accounts and Merchant Storefronts, and provide Plaintiffs' counsel with a summary report containing account details for any and all User Accounts and Merchant Storefronts, which shall include, at a minimum, identifying information for Defendants and Defendants' User Accounts and Defendants' Merchant Storefronts, contact information for Defendants (including, but not limited to, mailing addresses and e-mail addresses) and confirmation of said compliance with this Order.

D. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days of receiving actual notice of this Order, all Financial Institutions who are served with this Order shall provide Plaintiffs' counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to any and all of Defendants' Financial Accounts, including, but not limited to, documents and records relating to:
 - a. account numbers;
 - b. current account balances;
 - c. any and all identifying information for Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, names, addresses and contact information;
 - d. any and all account opening documents and records, including, but not limited to, account applications, signature cards, identification documents and if a business entity, any and all business documents provided for the opening of each and every of Defendants' Financial Accounts;
 - e. any and all deposits and withdrawals during the previous year from each and every one of Defendants' Financial Accounts and any and all supporting documentation,

including, but not limited to, deposit slips, withdrawal slips, cancelled checks and account statements; and

- f. any and all wire transfers into each and every one of Defendants' Financial Accounts during the previous year, including, but not limited to, documents sufficient to show the identity of the destination of the transferred funds, the identity of the beneficiary's bank and the beneficiary's account number.

E. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- 1) Within fourteen (14) days of receipt of service of this Order, the Third Party Service Providers shall provide to Plaintiffs' counsel all documents and records in its possession, custody or control (whether located in the U.S. or abroad) relating to Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, documents and records relating to:
 - a. any and all User Accounts and Defendants' Merchant Storefronts and account details, including, without limitation, identifying information and account numbers for any and all User Accounts and Defendants' Merchant Storefronts that Defendants have ever had and/or currently maintain with the Third Party Service Providers that were not previously provided pursuant to Paragraph V(C);
 - b. the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided pursuant to Paragraph V(C);
 - c. the nature of Defendants' businesses and operations, methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendants' User Accounts and Defendants' Merchant Storefronts, a full accounting of Defendants' sales history and listing history under such accounts and Defendants' Financial Accounts with

any and all Financial Institutions associated with Defendants' User Accounts and Defendants' Merchant Storefronts; and

- d. Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of Infringing Products, or any other products incorporating one or more of the Flutterbye Works and/or artwork that is substantially similar to, identical to and constitutes infringement of the Flutterbye Works.

VI. Security Bond

- A. IT IS FURTHER ORDERED that Plaintiffs shall place security in the amount of \$5,000.00 Dollars (five thousand) with the Court which amount is determined adequate for the payment of any damages any person may be entitled to recover as a result of an improper or wrongful restraint ordered hereunder.

VII. Sealing Order

- A. IT IS FURTHER ORDERED that Plaintiffs' Complaint and exhibits attached thereto, and Plaintiffs' *ex parte* Application and the Declarations of Christopher Harrs and Danielle S. Yamali in support thereof and exhibits attached thereto and this Order shall remain sealed until for seven (?) days from the date of this Order the ~~Financial Institutions and Third Party Service Providers~~ comply with ~~Paragraphs I(B), (C), III(A) and V(C)~~ of this Order.

SO ORDERED.

SIGNED this 10th day of August, 2020, at 1:20 p.m.


UNITED STATES DISTRICT JUDGE

okm

SCHEDULE A

| No. | Defendant | Infringing Listing | Merchant Storefront |
|-----|----------------------|---|---|
| 1 | 3cn8518 | https://www.ebay.com/itm/Flying-Fairy-Doll-Induction-Infrared-Gift-Magic-Toys-Game-Control-Princess-Dolls/193062983093 | https://www.ebay.com/usr/3cn8518 |
| 2 | 4yourself | https://www.ebay.com/itm/Flying-Fairy-Electric-Induction-Hover-Princess-Remote-Toy-Doll-Amazing-Gift-2018/188345103245 | https://www.ebay.com/usr/4yourself |
| 3 | anba-5562 | https://www.ebay.com/itm/Flying-Fairy-Magical-Princess-Cute-Dolls-Toy-Flying-Drone-Dolls-Kids-Toys-Gifts/352766933605 | https://www.ebay.com/usr/anba-5562 |
| 4 | bestbeedeals | https://www.ebay.com/itm/Flying-Fairy-Magical-Princess-Cute-Dolls-Toy-Flying-Drone-Dolls-Kids-Toys-Gifts/1835256714330 | https://www.ebay.com/usr/bestbeedeals |
| 5 | bestofworld2010 | https://www.ebay.com/itm/Induction-Fairy-Magical-Princess-Dolls-Infrared-Light-Suspension-Flying-doll/184039177926 | https://www.ebay.com/usr/bestofworld2010 |
| 6 | bighome77 | https://www.ebay.com/itm/Flying-Fairy-Princess-Dolls-Infrared-Magic-Induction-Birthday-Gift-Toy-Xmas/174075109817 | https://www.ebay.com/usr/bighome77 |
| 7 | charuka132 | https://www.ebay.com/itm/Hot-Magical-Princess-Flying-Helicopter-UFO-RC-Drone-Infrared-Induction-Aircraft/352865917163 | https://www.ebay.com/usr/charuka132 |
| 8 | chinashopping.center | https://www.ebay.com/itm/Cute-Flying-Fairy-Magic-Infrared-Induction-Control-Princess-Dolls-Toy-Xmas-Gift/153765294360 | https://www.ebay.com/usr/chinashopping.center |
| 9 | coolbuying-group | https://www.ebay.com/itm/The-Flying-Pixie-Fairy-Doll-for-Girls-Learning-Education-Toys-Infrared-Induction/174115295726 | https://www.ebay.com/usr/coolbuying-group |
| 10 | d.onlinestore | https://www.ebay.com/itm/Flying-Fairy-Princess-Dolls-Magic-Infrared-Induction-Control-Toy-Xmas-Gifts-Joy/392614766411 | https://www.ebay.com/usr/d.onlinestore |
| 11 | emily154 | https://www.ebay.com/itm/Flying-Doll-Induction-Infrared-Gift-Magic-Toys-Game-Control-Princess-Dolls/253306379777 | https://www.ebay.com/usr/emily154 |
| 12 | faithchina | https://www.ebay.com/itm/Flying-Fairy-Magic-Infrared-Induction-Princess-Doll-For-Girls-Christmas-Gift/123883690930 | https://www.ebay.com/usr/faithchina |
| 13 | greatandsuperdeals | https://www.ebay.com/itm/Induction-Fairy-Magical-Princess-Dolls-Infrared-Light-Suspension-Flying-doll-toy/401863309476 | https://www.ebay.com/usr/greatandsuperdeals |
| 14 | jerbe_99 | https://www.ebay.com/itm/Flying-Fairy-Doll-Induction-Infrared-Gift-Magic-Toys-Control-Princess-Dolls-Game/383231712178 | https://www.ebay.com/usr/jerbe_99 |
| 15 | kent_ct | https://www.ebay.com/itm/FLYING-FAIRY-Flying-Toy-Drone-Helicopter-Toy-for-Kids-Children-Birthday-Gifts/392687125261 | https://www.ebay.com/usr/kent_ct |
| 16 | magic-product1 | https://www.ebay.com/itm/BUY-2-MAGIC-FLYING-FAIRY-PRINCESS-DOLL-GET-10-OFF/303267344961 | https://www.ebay.com/usr/magic-product1 |
| 17 | mmshopmm | https://www.ebay.com/itm/Toys-for-Girls-5-6-7-8-9-10-11-12-Years-Old-Flying-Fairy-Doll-Birthday-Xmas-Gift/15397791275 | https://www.ebay.com/usr/mmshopmm |
| 18 | my_kado | https://www.ebay.com/itm/Magic-Flying-Fairy-Magic-Infrared-Induction-Princess-Doll-Gift-Girls-Toys-USA/183949006176 | https://www.ebay.com/usr/my_kado |
| 19 | northerncomm_33 | https://www.ebay.com/itm/Flying-Fairy-Magical-Princess-Cute-Dolls-Toy-Flying-Drone-Dolls-Kids-Toys-Gifts/392678725610 | https://www.ebay.com/usr/northerncomm_33 |
| 20 | savingurbuy | https://www.ebay.com/itm/Magic-Flying-Fairy-Princess-Dolls-Infrared-Induction-Control-Toys-Christmas-Gift/114259635492 | https://www.ebay.com/usr/savingurbuy |
| 21 | techmike_300 | https://www.ebay.com/itm/The-Flying-Pixie-Fairy-Doll-for-Girls-Learning-Education-Toys-Infrared-Induction/1126444091788 | https://www.ebay.com/usr/techmike_300 |
| 22 | trendncelebstore | https://www.ebay.com/itm/RC-Flying-Fairy-Doll-Hand-Infrared-Induction-Control-Dolls-Child-Fly-Toy-Gift/113232426121 | https://www.ebay.com/usr/trendncelebstore |
| 23 | yaeshop | https://www.ebay.com/itm/Toys-for-Girls-4-5-6-7-8-9-10-11-12-Years-Old-Flying-Fairy-Doll-Birthday-Gift/254004182020 | https://www.ebay.com/usr/yaeshop |
| 24 | yshipping | https://www.ebay.com/itm/Flying-Luminous-Kids-Princess-Cute-Dolls-fairy-RC-Toy-Infrared-Induction-drone/303530686328 | https://www.ebay.com/usr/yshipping |
| 25 | zoho5480 | https://www.ebay.com/itm/Flying-Doll-Induction-Infrared-Gift-Magic-Toys-Game-Control-Princess-Dolls/303581909870 | https://www.ebay.com/usr/zoho5480 |