

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

LVMH SWISS MANUFACTURES SA,

Plaintiff,

v.

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

Defendants.

Case No. 20-cv-07053

Judge Andrea R. Wood

Magistrate Judge Sunil R. Harjani

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff LVMH Swiss Manufactures SA’s (“Plaintiff” or “Tag Heuer”) Motion for Entry of 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 fully interactive, e-commerce stores¹ operating under the seller aliases identified in Schedule A to the Second Amended Complaint and attached hereto (collectively, the “Seller Aliases”), and this Court having heard the evidence before it hereby GRANTS Plaintiff’s Motion in its entirety.

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 have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, have sold products using infringing and counterfeit versions of

¹ The e-commerce store urls are listed on Schedule A hereto under the Seller Aliases and Domain Names.

Plaintiff's federally registered trademarks ("Plaintiff's Trademarks") to residents of Illinois. A list of Plaintiff's Trademarks is included in the chart below.

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
2,281,436	TAG HEUER	September 28, 1999	For: Clocks, watches and parts thereof in class 014.
5,202,283	TAG HEUER	May 16, 2017	<p>For: soaps; perfumes; cosmetics, creams, and lotions for the body and hair; shampoos; makeup and makeup removers; lipstick; beauty masks; shaving preparations; after-shave lotions and balms; non-medicated toiletries; deodorants for personal use; leather polishes; preservative creams for leather in class 003.</p> <p>For: apparatus for recording, transmission, reproduction, or processing of sound or images; electronic timers and timing sensors; calculating machines; equipment for data processing; timing dials and timing sensors; electronic timers; chronographs for use as specialized time recording apparatus; game software; computer operating software for smartwatches and mobile electronic devices; computer software for sending and receiving electronic mail, text messages, data, photographs, and videos; computer software for accessing, browsing, and</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			searching online databases; computer software for sensing, monitoring, recording, displaying, measuring, and transmitting global positioning, direction, distance, altitude, speed, navigational information, weather information, temperature, physical activity level, heart rate, pulse rate, blood pressure, calories burned, steps taken, and biometric data; computer software for tracking and managing information regarding health, fitness, and wellness programs; computer peripherals; telephones; tablet computers; MP3 players; smartwatches; wearable computers; smartphones featuring a watch; accessories for computers, telephones, tablet computers, MP3 players, and smartwatches, namely, displays, monitors, protective covers, carrying cases, stands, batteries, battery chargers, headphones, speakers, headsets, microphones, car audio adapters, remote controls, connection cables, power adapters, docking stations, and adapter plugs; spectacles; sunglasses; optical lenses and glasses; spectacle cases; memory cards and integrated circuit cards; downloadable electronic publications in

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			<p>the nature of books, newsletters, catalogs, and brochures in the fields of watches, chronometric instruments, jewelry, apparel, luggage, leather accessories, personal care products, luxury goods, sports, and fashion; electronic sensors, monitors, and displays used to provide and display official time at sporting, cultural, wellness, entertainment, and educational events; electronic connected bracelets and connected cuffs for tracking the movement of people that also have a function of transmitting, and/or receiving data to and/or from personal digital assistants, tablets, smart phones and personal computers through internet websites and other computer and electronic communication networks in class 009.</p> <p>For: jewelry; precious stones; horological instruments, namely, watches, wristwatches, and constitutive parts therefor; alarm clocks, clocks and other chronometric instruments, chronometers, chronographs as watches, chronometric apparatus for sports timing, chronometric apparatus for measuring</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			<p>and marking the time; watch bands, watch chains, watch springs, watch dials or watch glasses, watch winders, watch cases being parts of watches, cases and boxes adapted for holding watches; precious metals and their alloys; jewelry cases; boxes of precious metal; key rings, trinkets or fobs of precious metals; cuff links; bracelets; rings; medals; watches that also have a function of transmitting and/or receiving data to and/or from personal digital assistants, tablets, smart phones and personal computers through internet websites and other computer and electronic communication networks; watches containing an electronic game function, watches incorporating a telecommunication function; leather boxes adapted for holding watches in class 014.</p> <p>For: passport holders and cases in class 016.</p> <p>For: goods of leather and imitation leather, namely, leather or leatherboard boxes, leather or imitation leather envelopes, travel chests, bags, garment bags for travel, trunks, suitcases, luggage, carrying boxes intended for toiletry articles</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			<p>sold empty, rucksacks, handbags, beach bags, reusable shopping bags, shoulder bags, carrying cases, attaché cases, briefcases, school satchels, under-arm bags, wallets, purses, money pouches, key cases, credit card holders; umbrellas, parasols, sun umbrellas, walking sticks in class 018.</p> <p>For: clothing, namely, underwear, sweaters, shirts, bodices, corsets, suits, vests, raincoats, skirts, coats, trousers, jumpers, dresses, jackets, shawls, sashes for wear, scarves, neckties, pocket squares, suspenders, gloves, belts, stockings, tights, socks, singlets, bathing suits and bathrobes; footwear; headwear in class 025.</p> <p>For: retail store services and online retail store services featuring cosmetics, hair care and skin care preparations, perfumes, shaving preparations, toiletries, smartwatches, computers, tablet computers, computer hardware, computer software, computer peripherals, telephones, mobile electronic devices, health, fitness and exercise sensors, monitors and displays, computer gaming machines and electronic</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			<p>games, and accessories for computers, telephones, and mobile electronic devices, sunglasses, spectacles, optical lenses and glasses, spectacle cases, jewelry and precious stones, watches, clocks, chronometric instruments, accessories for watches and chronometric instruments, leather goods, leatherware, bags, briefcases, luggage, wallets, purses, umbrellas, clothing, footwear, and headgear; public relations; advertising services for luxury products, namely, cosmetics, perfumes, optical goods, telephones, wearable electronic devices, jewelry, horological products, watches, connected watches, smartwatches, luggage, leatherware, bags, clothing, clothing accessories; business management and organization consultancy in the field of luxury goods in class 035.</p>
2,407,950	TAG HEUER LINK	November 28, 2000	<p>For: Horological instruments and chronometrical instruments, namely watches, wrist-watches, straps for wrist-watches and watch cases, travel clocks, clocks, chronographs for use as watches, chronometers-- powder compacts and jewel cases in precious metals or</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			coated with precious metals; jewelry made of precious metals or coated with precious metals in class 014.
3,569,070	HEUER	February 3, 2009	<p>For: time measuring apparatus and instruments, namely, electronic stop watches, remote control miniprinter timers, electronic and manual timers, photocell timers, starting gate timers, telephone liaison timers, impulse distributor timers, electronic pistol starting timers, manual contactor timers, electric time control switches and their parts; cameras, digital audio players and handheld mobile digital electronic devices for use as a digital audio player, and for use as a camera; accessories for handheld mobile digital electronic devices, namely, cases, batteries, chargers, stands in class 009.</p> <p>For: horological and chronometric instruments, namely, watches, watchbands, chronometers, chronographs for use as watches in class 014.</p>
4,868,760	TAG	December 15, 2015	For: Timepieces and chronometric instruments in class 014.

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
1,435,463	FORMULA 1	April 7, 1987	For: Mechanical watches, and their constituent parts in class 014.
3,046,300	AQUARACER	January 17, 2006	For: Jewelry, precious stones; timepieces and chronometric instruments, namely watches, watchbands, chronometers, chronographs for use as watches, clocks in class 014.
1,471,988		January 12, 1988	<p>For: Time measuring instruments, namely, electronic stop watches, remote control mini-printer timers, electronic and manual timers, photocell timers, starting gate timers, telephone liaison timers, impulse distributor timers, electronic pistol starting timers, manual contactor timers in class 009.</p> <p>For: Clocks, watches and parts thereof in class 014.</p> <p>For: Sportswear, namely, parkas in class 025.</p>
2,484,514		September 4, 2001	<p>For: telephone and parts thereof, optical goods, namely spectacles, sunglasses, spectacle frames, spectacles cases in class 009.</p> <p>For: organization of exhibitions for cultural or educational purposes in class 041.</p>

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES

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 Entry of a Temporary Restraining Order establishes that Plaintiff has demonstrated 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 proved a *prima facie* case of trademark infringement because (1) Plaintiff’s 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 any of Plaintiff’s Trademarks, and (3) Defendants’ use of Plaintiff’s Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with Plaintiff. Furthermore, Defendants’ continued and unauthorized use of Plaintiff’s 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. As such, 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 preliminarily enjoined and restrained from:

- a. using Plaintiff's 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 Plaintiff's Product or not authorized by Plaintiff to be sold in connection with Plaintiff's Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Plaintiff's Product or any 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 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 Trademarks and damaging Plaintiff's goodwill; and
 - e. manufacturing, 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 any of Plaintiff's trademarks, including the Plaintiff's Trademarks, or any reproductions, counterfeit copies or colorable imitations thereof.
2. The domain name registries for the Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, within ten (10) business days of receipt of this Order, shall, at Plaintiff's choosing:
 - a. unlock and change the registrar of record for the Domain Names to a registrar of Plaintiff's selection until further ordered by this Court; or

- b. disable the Domain Names and make them inactive and untransferable until further ordered by this Court.
3. The domain name registrars, including, but not limited to, GoDaddy Operating Company, LLC (“GoDaddy”), Name.com, PDR LTD. d/b/a PublicDomainRegistry.com (“PDR”), and Namecheap Inc. (“Namecheap”), within ten (10) business days of receipt of this Order, shall take any steps necessary to transfer the Domain Names to a registrar account of Plaintiff’s selection so that the Domain Names can be redirected or disabled until further ordered by this Court.
4. Upon Plaintiff’s request, 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’ Seller Aliases and Domain Names, including, without limitation, any online marketplace platforms such as eBay, Inc. (“eBay”), AliExpress, Alibaba Group Holding Ltd. (“Alibaba”), Amazon.com, Inc. (“Amazon”), ContextLogic Inc. d/b/a Wish.com (“Wish.com”), and Dhgate (collectively, the “Third Party Providers”) shall, within ten (10) 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, and all associated e-mail addresses;
 - b. the nature of Defendants’ operations and all associated sales, methods of payment for services and financial information, including, without limitation, identifying information associated with the Seller Aliases, Domain Names, and Defendants’

- financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Seller Aliases and Domain Names; and
- c. 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, PayPal, Inc. ("PayPal"), Alipay, Alibaba, Ant Financial Services Group ("Ant Financial"), Wish.com, Amazon Pay, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
5. Upon Plaintiff's request, those with notice of the injunction, including Third Party Providers as defined in Paragraph 4, shall, within ten (10) business days after receipt of such notice, disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the Plaintiff's Trademarks.
 6. Defendants shall be temporarily and preliminarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
 7. Any Third Party Providers, including PayPal, Alipay, Alibaba, Ant Financial, Wish.com, and Amazon Pay, shall, within ten (10) business days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants' Seller Aliases and Domain Names, including, but not limited to, any financial accounts connected to the information listed in Schedule A hereto, the e-mail addresses identified in Exhibits 5

and 6 to the Declaration of Nicolas Lambert, and any e-mail addresses provided for Defendants by third parties; and

- b. restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
8. Plaintiff is authorized to issue expedited written discovery, pursuant to the Federal Rules of Civil Procedure 33, 34 and 36, related 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, including any and all associated e-mail addresses; and
 - b. the nature of Defendants' operations and all associated sales, methods of payment for services and financial information, including, without limitation, identifying information associated with the Seller Aliases, Domain Names, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Seller Aliases and Domain Names.

Plaintiff is authorized to issue any such expedited discovery requests via e-mail. Defendants shall respond to any such discovery requests within ten (10) business days of being served via e-mail.

9. Plaintiff may provide notice of these proceedings to Defendants, including service of process pursuant to Fed. R. Civ. P. 4(f)(3), and any future motions, by electronically publishing a link to the Second Amended Complaint, this Order and other relevant documents on a website to which the Domain Names which are transferred to Plaintiff's control will redirect, or by sending an e-mail to the e-mail addresses identified in Exhibits

5 and 6 to the Declaration of Nicolas Lambert and any e-mail addresses provided for Defendants by third parties that includes a link to said website. The Clerk of the Court is directed to issue a single original summons in the name of “The Partnerships and all other Defendants identified in the Second Amended Complaint” that shall apply to all Defendants. 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.

10. Schedule A to the Complaint [2], Amended Complaint [10] and Second Amended Complaint [28], Exhibits 5 and 6 to the Declaration of Nicolas Lambert [17] and [18], and the TRO [32] are unsealed.
11. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order as permitted by and in compliance with the Federal Rules of Civil Procedure and Northern District of Illinois Local Rules.
12. The \$1,000 bond posted by Plaintiff shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: January 5, 2020

IT IS SO ORDERED.



Andrea R. Wood
United States District Judge

**LVMH SWISS MANUFACTURES SA v. The Partnerships and Unincorporated Associations
Identified on Schedule "A" - Case No. 20-cv-07053**

Schedule A

No.	Seller Aliases
1	1kmluxurya.com
3	1kmluxuryc.com

No.	Seller Aliases
2	1kmluxuryb.com

No.	Domain Names
1	1kmluxurya.com
3	1kmluxuryc.com

No.	Domain Names
2	1kmluxuryb.com