

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

EMOJI COMPANY GmbH,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON
SCHEDULE A HERETO,

Defendants.

Case No.: 21-cv-1461

Judge Robert M. Dow, Jr.

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 the 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 officers, agents, servants, employees, attorneys, and all persons acting for, with, by, through, under or in active concert with them be 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 is 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 is 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. 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;
- f. 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

- g. 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 operates (c) their financial accounts, including all eBay, PayPal, Amazon, Alipay and DHgate accounts, and (d) the steps taken by that Defendant to comply with paragraph 1, a through g, above.
- 3. The domain name registries for the Defendant Domain Names, including, but not limited to, Amazon.com, Inc. ("Amazon"), eBay.com ("eBay"), DHgate, 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, eBay, PayPal, Amazon, Alipay and DHgate, 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 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 EMOJI Trademarks; and
 - c. take all steps necessary to prevent links to the Defendant Domain Names identified in 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 persons in active concert or participation with them who have actual notice of this Order shall be restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
- 6. eBay shall, within five (5) business days of receipt of this Order, for any Defendant or any of Defendants' Online Marketplace Accounts or websites:

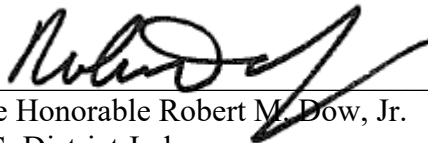
- a. Locate all accounts and funds connected to Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any eBay accounts connected to the information listed in Schedule A hereto; and
 - b. Restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
7. PayPal shall, within five (5) 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 accounts connected to the information listed in Schedule A hereto; 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. Amazon shall, within five (5) 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 Amazon accounts connected to the information listed in Schedule A hereto; 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.
9. Alipay shall, within five (5) 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 Alipay accounts connected to the information listed in Schedule A hereto; 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.
10. DHgate shall, within five (5) 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 DHgate accounts connected to the information listed in Schedule A hereto; 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.
11. 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 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.

12. Plaintiff's Schedule A to the Complaint and the TRO is unsealed.
13. 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.

Dated: April 20, 2021



The Honorable Robert M. Dow, Jr.
U.S. District Judge

SCHEDULE A

No.	Defendant Name / Alias
1	powerherbal
2	powerherbal1
3	TeeGreenShop
4	thuybeautiful
5	Disney Baby Dreamer Store
6	Disney Sweethearts Store
7	clickhermes
8	emma696
9	1918well
10	aaravjewellers
11	ap2020us
12	bbjewels678
13	bestdealstore_3
14	best-king2016
15	bigment
16	breezecm12
17	cartier_jewelry8182
18	cav-633
19	chermoi2-6
20	chinatoindiauk_9
21	cosamat-84
22	daminda-1224
23	diamonds_kinga1
24	good222288
25	gooleen
26	gunjan.traders
27	h123ningbo_0
28	happyever_online_store
29	happylovesell
30	hardik-gems
31	hashtruck
32	humantom
33	iconic_gems
34	iranranas_0
35	lakper-7570
36	major_craft_2015
37	methz_online_store
38	morliber12324

39	munzi_store
40	orenmall
41	revathvinot_0
42	selling.kings
43	shiwith_0
44	silvostyles
45	suphphonko-0
46	world_electro90
47	your_choice97_9
48	Pianoter
49	PJKKawesome
50	Poogky
51	PSDWETS PRODUCTS
52	qedsdvdsv
53	qianrongzx
54	QIfengAMZ
55	QingDaoFenYuanShangMaoYouXianGongSi
56	qinghuiwei
57	qingliuxianlongjinzhenshuangpengxiabaihuo
58	QIXIANGFUZHUANG
59	Qliver
60	QueenA Home
61	quyuanguanliquchengxinpingjiashenghuochaoshi
62	QYStore
63	Rouge80s
64	Royal&Co
65	ruiqikejiyouxiangongsi
66	Sareesper
67	sdcvsdcs
68	SDFBMJN
69	Sesame shop
70	ShangHaiXuannShiYeYouXianGongSi
71	shanlinxinshangmaomenshibu
72	shengshihoujie us
73	shenzu.shop
74	Shetrade
75	ShiJiaZhuangYuanHuWuLiuYouXianGongSi
76	ShiZhongQuGaoJiYouBingDian
77	Shoe'N Tale
78	shopdoz
79	SILJE ESMARALDA

80	SIPONE
81	storyX
82	STREND
83	Stumfree
84	suixiankeyaobaihuodian
85	Super-Opp
86	teemojiang
87	THANH LAM
88	The Red Circle
89	The Wonderful Art Of Hair
90	tianfuxingjiaju
91	TLYCHB
92	Today's Deals Store
93	Tomorrow Will Better
94	TOUGE INC
95	TweetyBed
96	VAANTIN
97	VBKJWSJK
98	wangyueyaxin
99	weihailelvxinxijishuyouxiangongsishop
100	WenHaShv
101	Wild Warm
102	Windecisivly
103	WuHanBaiDeShiJiaShangWuFuWuYouXianGongSi
104	wujvshoufuUS
105	XEREWERWE
106	Xiamen Xingchengde Elevator Engineering Co., Ltd.
107	XiangChengShiHuaYuanJinHuiYuanChaoShi
108	xiangchengshikezhengzhatuqingyunfuwuyouxiangongsi
109	xiangchengshisaidudushangmaoyouxiangongsi
110	xiaolelejiangjiang
111	xinkejingjixinx
112	xinyixinyidian
113	xuyanhong4280
114	xuzhuang
115	yaoyuanxh
116	ydt
117	yimashilinyunfengmaoyiyouxiangongsi
118	yiwushiyalingdianzishangwuyouxiangongsi
119	YOMIQIU
120	Yongkang Zhiying Xinyu Hardware Products Factory

121	YongXiang
122	YOUCANDOIT
123	yuchanggongyekeji
124	yunzhenshangmao1
125	yupeiriyongpindian
126	Zed Blue Market
127	Zenladen
128	zenuozhiyi
129	zhang Oriental Shop
130	ZhangJianMingBang
131	Zhbest
132	zhengzhouzhizhiruiwangluokejiyouxiangongsi
133	ZHOUHAOMAOYI
134	ZiBoYingBeiTeDianZiKeJiYouXianGongSi
135	众志辉腾 (天津) 商贸有限公司
136	Akinalbella Store
137	BebekOdam Store
138	DXB-Life Store
139	Feiseli Sunglasses Store
140	Hongya Decorative Painting Store
141	NYTICARET Store
142	Shop2926026 Store
143	Shop3611024 Store
144	Shop5743013 Store
145	Shop910830022 Store
146	andyfans
147	b2b_life
148	babyandmom2
149	Beenni
150	budding
151	caronline
152	dhgate00006
153	dhgateshien
154	fancysunnyfashion
155	fashion5dstore
156	Fashionhotop
157	gengduo
158	guichenshirt
159	huijuanstores
160	hxuecon
161	jasmine86

162	jimphei
163	jjiasong2019
164	mlb168
165	teepublic