

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

KTM AG,

Plaintiff,

v.

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

Defendants.

Case No.: 21-cv-2732

Judge Sara L. Ellis

**PRELIMINARY INJUNCTION ORDER**

THIS CAUSE being before the Court on KTM AG'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 KTM Trademarks (the "KTM 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 KTM Trademarks are distinctive marks and registered with the U.S. Patent and Trademark Office on the Principal Register as U.S. Trademark Registration Nos. 3,606,168; 3,547,084; 3,440,999; 3,436,150 and 4,650,809 for the KTM marks, (2) Defendants are not licensed or authorized to use KTM Trademarks, and (3) Defendants' use of the KTM Trademarks are causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with KTM AG. Furthermore, Defendants' continued and unauthorized use of the KTM 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 KTM 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 KTM Product or is not authorized by Plaintiff to be sold in connection with Plaintiff's KTM Trademarks;

- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine KTM 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 KTM 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 KTM 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 KTM 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 Counterfeit KTM 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 KTM Trademarks or any confusingly similar reproductions, counterfeit copies, or colorable imitations thereof that is not a genuine KTM Product or is not authorized by Plaintiff to be sold in connection with Plaintiff's KTM 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 Wish 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, Context Logic, Inc. ("Wish"), 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, Wish, 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 KTM 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 KTM 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. Wish 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 Wish 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. 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.
9. Plaintiff's Schedule A to the Complaint and the TRO is 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.

Dated: June 21, 2021



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The Honorable Sara L. Ellis  
U.S. District Judge

**SCHEDULE A**

<b>No.</b>	<b>Defendant Name / Alias</b>
1	abbc6556565fds65
2	abbraccia
3	acidophilus milk
4	acituna
5	ACIZAGEJFSJIFUO
6	Actinidia chinensis Planch
7	AIHUAZHANG56
8	ainiyiwannian184
9	amagogo
10	amleso
11	angrngp
12	asafdmkgfty
13	asdfewdfghoj
14	asfsfdgfh
15	aternee
16	baizhuo666888
17	balikha
18	balsam pear
19	banana163dan
20	Baxter
21	BengjushilB
22	BengzhanguanyanyAk
23	BifeijurongkWz
24	BitunhuioJ
25	buzhur22
26	Caiyuyuyu
27	caomeishoes
28	Cartu
29	cat Paw
30	cheetahshuo
31	chenhaoem
32	ChenshipingfH
33	Chitsu
34	ChuangdonggaiaM
35	CHUNFENGSHEN
36	cuixinxin25
37	DaogengtuixingeT
38	DBsdkaow

39	dkxnbffjckmdns
40	2804063425
41	020MOTO
42	17shop
43	18912883939@163.com
44	a litter story
45	AAAUP
46	AERUILBV
47	ai18141
48	AIMEISTORE
49	AIRDIGI TECHNOLOGY CO.,LIMITED
50	alysa zhang
51	Amazingzhouxi
52	Ambrosia Owen
53	amootu
54	Anna Foreign Trade Shop
55	anweat
56	AR28 Parts
57	Attractivestore
58	Atwood
59	Autar
60	Auto Parts
61	autoandmotorcycleaccessoriesshop
62	BackforthTradelt
63	baigang fashion
64	baimengchun2680
65	BaiShiHui
66	bayuezhaguoer
67	Beautiful Beauty Beauty Style
68	Beauty
69	beihanji86
70	BELOVINGSHOP
71	Benson
72	Betterprice
73	Bewestern
74	biaochemopei
75	Big E2
76	Bigbossboss
77	Bigoot
78	biiighead



79	BingoChoice
80	Binxizhi
81	bismarck
82	blaacakapron
83	BLAMLRO
84	bluedanube2019
85	Blueskygoods Co., Ltd
86	blusky
87	bnshdjuk
88	bomikeji123
89	Bosueshop
90	Brexidux
91	buiguanqun123
92	BUSITECH Trading Co.,Ltd
93	caihou fashion
94	cainiane26
95	candidacream
96	caoqin1588
97	Car Styling
98	Caryt
99	CBY13579
100	Chaaaff
101	ChangXiangYi
102	channy trade
103	chendunpo
104	chengxiaorui
105	chengyuanshop
106	chenshaozhen0
107	chenxiuying1121
108	chenyujie123
109	chifoo
110	chiwanji
111	Christmases
112	ChristopherUUA
113	chulisia
114	chutongyun22588
115	citymoode
116	cjeihf
117	Clock Clock12
118	CNfactory
119	conaingxiu

120	Conchana
121	Connor Heckert
122	Coscoo
123	Coshine Group CO., LIMITED
124	creativity fashion
125	Creatoormall
126	crittonpxjvpn
127	Crusader
128	cutebuyqq
129	Cwhjun_kk
130	CXJ-0809
131	CzoreyDxavy
132	dailing fashion
133	Damei shop
134	Damian R. Gibson--
135	Dana Espinoza
136	daosjdoiahoi
137	darlingtonmall@163.com
138	DAVID CORNN JR
139	Davidaall
140	DDDUP
141	Delaman
142	dengjie fashion
143	Devandra
144	dfhdurery
145	DHDDH
146	dingzhong fashion
147	diwenhua2580
148	DJ motorcycle
149	DLPstore
150	Domcxry