

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 21-61098-CIV-COHN/STRAUSS

APPLE CORPS LIMITED and SUBAFILMS
LIMITED,

Plaintiffs,

vs.

THE INDIVIDUALS, BUSINESS ENTITIES
AND UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A,"

Defendants.

ORDER GRANTING MOTION FOR PRELIMINARY INJUNCTION

THIS CAUSE is before the Court upon Plaintiffs' Motion for Preliminary Injunction [DE 6] ("Motion"). The Court has considered the Motion, the Application for Temporary Restraining Order, and is otherwise fully advised in the premises. The Court also heard oral arguments from Plaintiffs' counsel at a motion hearing held on June 22, 2021. Although Defendants received sufficient notice of these proceedings, no Defendant responded to the Motion or appeared at the preliminary-injunction hearing.

I. Background

On May 25, 2021, Plaintiffs filed this action against ninety-eight individuals, business entities, or unincorporated associations, and on June 10, 2021, Plaintiffs filed their Amended Complaint.¹ See generally DE 1 and 16 (Compl. and Amend. Compl.) Plaintiffs allege that Defendants are selling goods bearing or using counterfeit and

¹ Defendants are the Individuals, Business Entities, or Unincorporated Associations identified on Schedule "A" attached hereto.

confusingly similar imitations of various registered trademarks owned by Plaintiffs (“Plaintiffs’ Marks”). See id. at ¶¶ 12, 34-42, 56-60. Plaintiffs thus have asserted the following claims against Defendants: (1) counterfeiting and infringement under section 32 of the Lanham Act, 15 U.S.C. § 1114; (2) false designation of origin under section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); (3) common-law unfair competition; and (4) common-law trademark infringement. DE 1 ¶¶ 49–71.

On May 26, 2021, Plaintiffs filed their *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets. DE 6. On May 27, 2021, the Court granted Plaintiffs’ request for a Temporary Restraining Order (“TRO”). See DE 11. Based on strong evidence that Defendants are selling counterfeit and infringing versions of Plaintiffs’ trademarked goods, the Court found that Plaintiffs had established all four requirements for a TRO: (1) a substantial likelihood of success on the merits; (2) that Plaintiffs would suffer irreparable injury if a restraining order were not granted; (3) that the threatened injury to Plaintiffs outweighed the harm the relief would cause to Defendants; and (4) that entry of the restraining order would serve the public interest. See id. at 7; Schiavo ex rel. Schindler v. Schiavo, 403 F.3d 1223, 1225-26 (11th Cir. 2005).² Further, noting that Plaintiffs may be entitled to equitable recovery of Defendants’ illegal profits, see 15 U.S.C. § 1117(a), the Court found that a temporary asset restraint was warranted because “Plaintiffs have good

² Additionally, the Court determined that a TRO should issue without notice to Defendants because they could “easily and quickly change the ownership or modify e-commerce store data and content, change payment accounts, redirect consumer traffic to other seller identification names, and transfer assets and ownership of the Seller IDs, thereby thwarting Plaintiffs’ ability to obtain meaningful relief.” DE 11 at 9; see Fed. R. Civ. P. 65(b)(1).

reason to believe Defendants will hide or transfer their ill-gotten assets beyond the jurisdiction of this Court unless those assets are restrained.” DE 11 at 10.

The Court thus temporarily restrained Defendants and associated persons from using infringing versions of Plaintiffs’ Marks in connection with their products and internet-based e-commerce stores. See DE 11 at 10-11. The Court also ordered Amazon Payments, Inc., eBay, Inc., PayPal, Inc., ContextLogic, Inc., and their related companies and affiliates, to identify and restrain all funds in payment accounts associated with Defendants and to transfer those funds to a holding account. See id. at 12. Moreover, the Court required Plaintiffs to post a bond of \$10,000.00 and, after Defendants’ payment accounts were restrained, to promptly serve the Complaint, the Motion, and the TRO upon Defendants through their known e-mail address accounts and a webpage containing the case filings. See id. at 14-15.³

On June 3, 2021, Plaintiffs filed their *Ex Parte* Motion to Extend Temporary Restraining Order Dated May 27, 2021 and to Continue Hearing Scheduled for June 8, 2021 in Connection with Motion for Preliminary Injunction in order to give Defendants sufficient notice and to give the relevant financial institutions sufficient time to process and respond to the TRO. See DE 12. On June 3, 2021, the Court entered a Sealed Order Granting *Ex Parte* Motion to Extend Temporary Restraining Order and to Continue Hearing on Motion for Preliminary Injunction, continuing the hearing on Plaintiffs’ request for a preliminary injunction until June 22, 2021, and directing Defendants to file and serve any Response to the Motion no later than noon on June 17, 2021. See DE 13 at 2. The Court cautioned Defendants that “if they do not timely

³ Plaintiffs have complied with the bond and service requirements. See DE 14 (Notice of Filing Bond); DE 21 and 22 (Certificates of Service).

respond to Plaintiffs' Motion for Preliminary Injunction and do not appear at the scheduled hearing, the Court may enter a preliminary injunction against them by default." See DE 11 at 16 (emphasis omitted).

As noted above, Defendants neither responded to the Motion nor appeared at the related hearing. Before the hearing, Plaintiffs identified three witnesses who had submitted written declarations in support of the Motion. See DE 24. Because Defendants did not appear at the hearing, however, Plaintiffs relied on the witnesses' declarations in lieu of live testimony.

II. Discussion

The preliminary injunction Plaintiffs seek would maintain the relief granted in the TRO until this case is decided on the merits. The requirements for issuing a preliminary injunction are the same as those for entering a TRO, namely, "(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that the entry of the relief would serve the public interest." Schiavo ex. rel Schindler v. Schiavo, 403 F.3d 1223, 1225–26 (11th Cir. 2005) Because a preliminary injunction is "an extraordinary and drastic remedy," it may not be granted unless the moving party "clearly carries the burden of persuasion as to the four prerequisites." Church v. City of Huntsville, 30 F.3d 1332, 1342 (11th Cir. 1994) (internal quotation marks omitted); see McDonald's Corp. v. Robertson, 147 F.3d 1301, 1306 (11th Cir. 1998). Unlike a TRO, a preliminary injunction requires notice to the adverse party and a hearing. See Fed. R. Civ. P. 65(a).

Here, Plaintiffs are substantially likely to succeed on the merits of their claims. Plaintiffs have offered clear evidence that Defendants are selling goods bearing or using unauthorized, infringing copies of Plaintiffs' Marks, thereby confusing the public about the origin of those goods. See 15 U.S.C. §§ 1114, 1125(a) (federal trademark claims); see also DE 6 at 11-12 (Motion) (explaining that same factors showing Plaintiffs' likelihood of success on federal trademark claims demonstrate likely success on their common-law claims for unfair competition and trademark infringement). Further, allowing Defendants to continue this illegal conduct would cause irreparable harm to Plaintiffs by damaging the reputation and goodwill associated with their genuine trademarked goods, and by allowing Defendants to profit from their sale of counterfeit products. And, because Defendants have no right to sell these illicit goods, the balance of harms strongly favors Plaintiffs. Last, enjoining Defendants' conduct—the unlawful sale of fraudulent goods to consumers—serves the public interest. Plaintiffs have therefore clearly proven all four requirements for a preliminary injunction. See Schiavo, 403 F.3d at 1225–26; Church, 30 F.3d at 1342.

Although Defendants have been given notice of the Motion and an opportunity to respond, they have made no effort to rebut Plaintiffs' evidence warranting a preliminary injunction. The Court thus concludes that Plaintiffs' Motion should be granted.

A. Conclusion

For the reasons discussed, it is hereby

ORDERED AND ADJUDGED as follows:

1. Plaintiffs' Motion for Preliminary Injunction [DE 6] is **GRANTED**;

2. All Provisions of the Court's Order Granting *Ex Parte* Application for Entry of Temporary Restraining Order [DE 11], incorporated by reference in this Order, shall remain in effect while this case is pending or until otherwise ordered; and

3. Plaintiffs shall promptly serve a copy of this Order on Defendants through the means specified in paragraph 14 of the Order Granting *Ex Parte* Application for Entry of Temporary Restraining Order [DE 11 at 14-15].

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, on this 22nd day of June, 2021.



JAMES I. COHN
United States District Judge

Copies provided to:
Counsel of record via CM/ECF

**SCHEDULE A:
DEFENDANTS BY NUMBER, SELLER ID, AND
FINANCIAL ACCOUNT INFORMATION**

Def. No.	Defendant / Seller ID	Financial Account Information	Amazon Item ASIN / Infringing Product Number
1	AI-XUEYANG	A261ZQSELH5POG	B08QYRMFB9
2	Arta & Partner	A31CTIXH6NULTL	B07XTLTJ84 B07XLN5M4N
3	Azaria Henry	A1JCANPYHDKLS5	B08XJCYHJK
4	Best luck yu	A2KRLIZHFJJ3BZ	B08MZV6X61
5	BOXIU	A4GF6XOU55X9E	B08R8BW7Q4 B08TCCRHWK
6	Brandyteeco	A2E10X7PQORF8N	B08TW5QJZX
7	buy buy buy	A2X2QR3NN93YGN	B08QJMW7FC
8	chasalee.tep152	ASN5L0A7J3DCR	B0915ZYRV2
9	Chen Hehao	A1Y4MDE7VO2UQ5	B08RP4PGNX B08RP3TPFY
10	chen1224	A1I3U56TKHF07L	B08XVD6DW6
11	Chuacotinnhan Store	AJGT5CI4YE2CP	B08XPT26L8
12	COZY STORES	A2FEGESCC5NN2I	B08PBWS5HN
13	Damcore Store	A178610FXM4XAB	B091DP6F4M
14	DDTETDY Animation Store	A6OJKP3C4LQQQ	B08XPQV7QF
15	Doublemillion Shop	AOOD2NZMC4F4I	B08SHRBWN2
16	Dragon Fruitee	A27VY1656IV23W	B07XZ8722L B07XZ81PKD
17	Felix Henry	A1R36I7RWLHIUA	B08Y7ZW6D1
18	FireBoy	AIWRS2PE7SRDE	B08S75JQ89
19	FireCube	A3NOWZQX7PZ847	B08P7K1QNJ
20	FuXiyun	A2BX4H9IYJ7FCF	B08Y6GLZF3 B08Y6DS1WR
21	Glowing-Store	A3BVXWFUY0QACV	B091F9MSDQ
22	GuangZhouTianHeQuKeYongS hangMaoYouXianGongSi	A3GL7J3PP5X34V	B08V8MDRD6
23	hieuduong store	ADNX2I4IBGPVY	B08ZL7VSML

24	HomeTow	A2MPSUPE3EVKSV	B08ZYFSJS5
25	I'dRatherBe	A3NTDG6XL23B3U	B08W53J7RP
26	Isabellateeco	AM29PWCP3M2FE	B091TX3VFS
27	Jalapeno Closet	AGCFY8VRNA3EN	B08YR37KTD
28	jishoushidengchunfuzhuangdian	A1YGNFJWUUKZXX	B08VJ663W7
29	Jocelina	AYF7SNXV7EFLS	B00W3DRVG8
30	Khanh 1133	A3A4PA9NIYIQP0	B07ZHWPNNQG B07ZHWSKC2
31	KOIINGMOO	A3EPCPFDWJP9FW	B08VDHB4NR
32	Lalasea	A1YH2K6676SD8N	B08XMG18ZG
33	lanshanquhaizhimingriyongpinb aihuodian	A19MY5IK5N57BX	B08W526PP5
34	lifuHONEY	A3QF15ZXM75DXF	B08CDG5543
35	LuckyBaby-D3	ASOKTCKI6PJ9T	B08RS58619 B08RS65HPJ
36	Lungnae TEE	A2PEATEJBZ35TA	B08T9HZDW4
37	Lykusharako	A1B4ZEKEXXUZ8V	B08K33XW6Q B08K2ZTHM6
38	Micy-store	AK2RV0BWL6WMG	B08XK4DFWX
39	MinRuiRui	ANNPL8HI2H75Q	B08TWSB1S7
40	Retro Science Gear Store	A2F66WNQFO1DXC	B08KGL99GC B08KGG2RSD
41	RLLOPY	ALSINE2O8B4V8	B08SM91R4Q
42	RunShou Magasin	A258VYOBKCPW32	B08W3C2PXZ B08W38WFDG
43	sadgasdgadsfga	A1XFQQCT5TTBPX	B08HK3GFFN
44	ShanDongDingYanCanYinGua nLiYouXianGongSi	ACE287ZOPIGT5	B08T1PCLLD
45	shangshuixianbosenfuzhuangy ouxiangongsi	ARAO5G0SCR4CC	B08VNNK5JF B08VNF1X3C
46	Shucheng Yude Bookstore	A12WV1FAISW70B	B08QS45YR6
47	SPECIALSHOP1	A1L9DQ0QMQXC7A	B08YR7DS9R
48	Stacko	ARYZYEJGSEDMJ	B08Y6MRG11
49	STH-US	AU8GJZW47Y1CH	B08QDCRG6B

50	Stock Fill	A3UE58P4VKANG5	B08SHN6YZF B08SHLD9G6
51	TeeTM	A2TMO6CNSZONE2	B08RS455QG
52	tharak.kurk810	A1FM44RY4BG1B1	B08Z7X2YVS
53	Viuseay Store	A1BN7442OKW3EG	B08X3HKZYN
54	Vu Quang Dungs	A2Z565VBF5Z2Z7	B08DLLYXY3
55	Wenjings	A399GZPHT43TWW	B08GC4DJNN
56	WODEBAOBEI	A1QUFNAIHMDGNY	B08V8B1NVJ
57	Wonderful Accessories	A3OBLBA8QGVJT6	B08YD166XC B08YDHD18C
58	XBEEGroup	A2INZ0GN0G8PBG	B08LVSQ9NG
59	XIAOJINGWUJINDIAN	A2EXGVEACY4891	B08V5F5GC4
60	xiapuxianjueluanriyongpinjingyi ngbu	AM3AHG1SOX8W9	B08XQGD2Q7
61	XUFY	A3BTF36NUE5C63	B08RYMLK8N
62	yinrenzhe	A3UFP2W0JTAWE	B08XB5P4K1
63	YOU LOOK PRETTY	A2MF2HEGICL7E5	B088LS9KV1
64	zhangdonlin	A3RVX65K5RBYXS	B08TVF5B2P
65	zheng1236	A13ATAMTUUE6B3	B08SJR9TWG
66	益阳市赫山区郝运电器店	A57GQN5IRCO6N	B08MZZTF7M
67	gnort_558	GriffinLewisNorthland@outlook.com	
68	k134wo_51	K134wolusongonew-2@yahoo.com	
69	baodong8825	5f658d93e3bf2e598179473b	5f8aba2fcbe1b81d1d526b86
70	caomengcong6137	5f5743c9c83c1167fa1a373e	5fd09b17ae6133427c458747
71	chenyingdi Store	5f5debe7002f7c34819f3407	5f738af25ce73206b6cf1b17
72	Courtney Smith	5e8ac026c77ae32c89b1ef34	5fa277e61d59a63bfaad3f09
73	Dengxiaojie2822	5f87f1af7f2b9273fa0a07df	5fed66254937deadf511122b
74	fuchang123	5f8a5c6dae093f003e6c9b69	5fec5b892dd324417913e4d0
75	G YBUN	5ed46b9436b4bd1220b523db	60322a35bdd95f7e34e8418d
76	huangdi4645764	5ff696079a7e89b2dc163c99	601263a307afa000444afa1e

77	Kcy xz love	5f1e67fetc4e849883079657	5f5c66754433bb4e54781ccc
78	lihui3297	5fbb25b5b1d7bb6e4dac76be	601d04ad167280f060e11665
79	linsuruo9833	5f09715f0d3fa8003c7eb8f5	5f72f17d9d47de19e1f677ae
80	lnteeshirt	5f6b2e69d853c49bc4816250	5f8267516a55020055db1e15
81	linziyun1314	5f8a6a575d62bcd85c887e7e	5fe7024fe2a13c0457967e1f
82	lishun123	5f42168fc8e8b0067977a6b8	60064a27dd680c9e6659a0cb
83	lisiqin520	5f910b0c232f01d746b13314	5ff1bd900438b39a4c9a0868
84	liuchuanzheng258	5fa63e882c522d59fb7d8ce7	5fd6e64b4b2fe0c7b1fef943
85	LZX8910	5f851e90291f28e792a7328c	5ff04bdf4cba2e2e99dd0ee5
86	nuyjhg	5f4c84c173a06091e2dfd7e0	6030d36632fee4f689932294
87	pengchunchun839628	5f893fa81c4efcf2887185fa	5fe9a74bd5c1bd6895bb9887
88	QiaoWei15783	5f1e3e20cf8f2031f5a2e977	5f60555a8fc97d004c50af12
89	sarai2306	5e2b5839b25c5018001628a5	5fbb9628785fc2d687f313a6
90	shiyun55667	5e60f76da6757d5303430320	5f87ed117bb219004806501f
91	songge18963589	5ffe834e23c3204aff287909	601cc8e6c7f19ff0a4a8c6f8
92	wuyidan0722	5f8a51e27d0a105f46966fb9	5fe6eee28808520042740538
93	xu jewelry	58e1e7124bf8aa534a663b53	5f635fe6588c87004b8b4705
94	yangshuyan5856356	5f83df57395dda3914b9a3eb	6014cb09f32b9e533aade9b9
95	yangxuwei113	5f8bdce75d62bc333a887d75	5fed895511681125cf38fe96
96	ye yan lian520	5f852bdba6e6c07610fa46cd	5ff6d1fb414a3f2de61996e2
97	yuzhimin851218	5fa368d04839732c0c781154	6052cf7b8287f8d86bd348e1
98	zhangcunyan670813	5fffac5f902a971214840ab2	600a6f3cc50d4ce79f5d5945