

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

FITNESS ANYWHERE LLC

Plaintiff,

v.

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

Defendants.

Case No. 21-cv-02362

Judge Martha M. Pacold

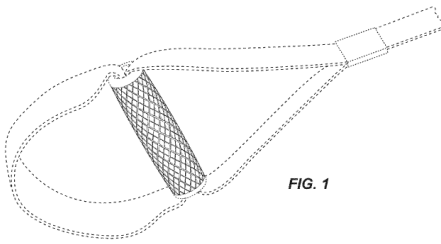
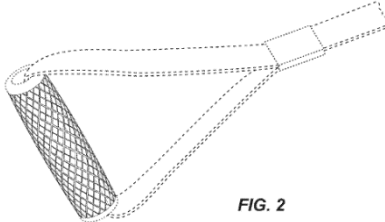
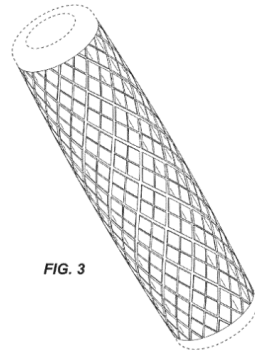
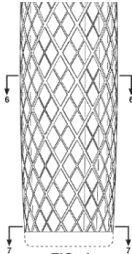

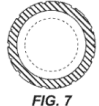
Magistrate Judge Jeffrey T. Gilbert

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff Fitness Anywhere LLC (“TRX” or “Plaintiff”) 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 Complaint and attached hereto (collectively, the “Seller Aliases”).

THIS COURT HEREBY FINDS, in the absence of adversarial presentation, 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 have sold products that infringe directly and/or indirectly TRX’s design patent shown in the below chart (the “TRX Design”).

¹ The ecommerce store urls are listed on Schedule A hereto under the Online Marketplaces.

Patent Number	Claim	Issue Date
D669,945	<div><p>FIG. 1</p><p>FIG. 2</p><p>FIG. 3</p><p>FIG. 4</p><p>FIG. 6</p><p>FIG. 7</p></div>	October 30, 2012

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 TRX’s previously granted Motion for Entry of a Temporary Restraining Order establishes that TRX has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that TRX will suffer irreparable harm if the injunction is not granted. Specifically, TRX has proved a *prima facie* case of design infringement because (1) TRX is the lawful assignee of all right, title and interest in and to the TRX Design, (2) Defendants make, use, offer for sale, sell, and/or import into the United States for subsequent sale or use products that infringe directly and/or indirectly the ornamental design claimed in the TRX Design, and (3) an ordinary observer would be deceived into thinking the Infringing Product was the same as the TRX Design. Furthermore, Defendants’ continued and unauthorized use of the TRX Design irreparably harms TRX through loss of customers’ goodwill, reputational harm, and TRX’s ability to exploit the TRX Design. Monetary damages fail to address such damage and, therefore, TRX 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. offering for sale, selling and importing any product not authorized by TRX and that include any reproduction, copy or colorable imitation of the design claimed in the TRX Design;

- b. aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon the TRX Design; and
 - c. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (a) and (b).
2. Upon TRX'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' Online Marketplaces, 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 TRX expedited discovery, including copies of all documents and records in such person's or entity's possession or control sufficient to determine:
- 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 Online Marketplaces and Defendants' financial accounts, including Defendants' sales and listing history related to their respective Online Marketplaces; 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”), Amazon Pay, Wish.com, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

3. Upon TRX’s request, those with notice of the injunction, including the Third Party Providers as defined in Paragraph 2, 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 infringing goods using the TRX Design.
4. Defendants shall be temporarily and preliminarily restrained and enjoined from transferring or disposing of any money or other of Defendants’ assets in any financial accounts connected to the information listed in Schedule A hereto until further ordered by this Court.
5. 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 Online Marketplaces, including, but not limited to, any financial accounts connected to the information listed in Schedule A hereto, the e-mail addresses identified in Exhibit 2 to the Declaration of Michael Zuercher, 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.

6. TRX 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 Online Marketplaces and Defendants' financial accounts, including Defendants' sales and listing history related to their respective Online Marketplaces.

TRX is authorized to issue any such expedited discovery requests via e-mail. Defendants shall respond to any such discovery requests within three (3) business days of being served via e-mail.

7. TRX 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 Complaint, this Order and other relevant documents on a website and by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Michael Zuercher 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 Complaint" that shall apply to all Defendants. The combination of providing notice via electronic publication and e-mail, along with any notice that Defendants receive from 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.

8. Schedule A to the Complaint [2], Exhibit 1 to the Complaint [3], Exhibit 2 the Declaration of Michael Zuercher [14], and the TRO [23] are unsealed.
9. 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.
10. The \$10,000 bond posted by TRX shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

IT IS SO ORDERED.

DATED: June 17, 2021

/s/ Martha M. Pacold
Martha M. Pacold
United States District Judge

**Fitness Anywhere LLC v. The Partnerships and Unincorporated Associations Identified on
Schedule "A" - Case No. 21-cv-2362**

Schedule A

No.	Seller Aliases
1	WonderCor eFitness Store
3	GUANNAI Store
5	Sevendays-US
7	Rock deer
9	AA62X0GB5BG3Q
11	cocopark800
13	jewelry-base

No.	Seller Aliases
2	Shop900248459 Store
4	Shop910333128 Store
6	ZGJJ
8	YangZhanHua
10	LARASTAR
12	home-life666
14	softwind.orange

No.	Online Marketplaces
1	aliexpress.com/store/5874325
3	aliexpress.com/store/900249100
5	amazon.com/sp?seller=A19XSKVVL6RJY
7	amazon.com/sp?seller=A2MUCE6E84Z7KZ
9	amazon.com/sp?seller=AA62X0GB5BG3Q
11	ebay.com/usr/cocopark800
13	ebay.com/usr/jewelry-base

No.	Online Marketplaces
2	aliexpress.com/store/900248459
4	aliexpress.com/store/910333128
6	amazon.com/sp?seller=A1AEWC6TKBY4QD
8	amazon.com/sp?seller=A3AM319IY7JDBO
10	amazon.com/sp?seller=AX3B6IN2SQEBL
12	ebay.com/usr/home-life666
14	ebay.com/usr/softwind.orange