

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

LUKE COMBS,

Plaintiff,

v.

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

Defendants.

Civil Action No.: 1:21-cv-02373

Judge John Z. Lee

Magistrate Judge Young B. Kim

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff, Luke Combs (“Luke Combs” or “Plaintiff”), Motion for 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 defendants identified in Schedule A (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. “In the context of cases like this one, that means a plaintiff must show that each defendant is actually operating an interactive website that is accessible in Illinois and that each defendant has aimed such site at Illinois by standing ready, willing and able to ship its counterfeit goods to customers in Illinois in particular (or otherwise has some sufficient voluntary contacts with the state).” *Am. Bridal & Prom Indus. Ass’n v. P’ships & Unincorporated Ass’ns Identified on Schedule A*, 192 F.Supp.3d 924, 934 (N.D. Ill. 2016). In this case, Plaintiff has presented screenshot evidence that each Defendant Online Store is reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can and do purchase products using counterfeit versions of Plaintiff’s trademarks. *See*

Docket No. 13 which includes screenshot evidence confirming that each Defendant Online Store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the LUKE COMBS trademarks, U.S. Trademark Registration Nos. 5,573,127; 5,417,705; and 5,573,124 (“The LUKE COMBS Trademarks”).

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 Luke Combs’s previously granted Motion for a Temporary Restraining Order establishes that Luke Combs has a likelihood of success on the merits; that no remedy at law exists; and that Luke Combs will suffer irreparable harm if the injunction is not granted.

Specifically, Luke Combs has proved a *prima facie* case of trademark infringement because (1) the LUKE COMBS 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 the LUKE COMBS Trademarks, and (3) Defendants’ use of the LUKE COMBS Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with Luke Combs. Furthermore, Defendants’ continued and unauthorized use of the LUKE COMBS 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, Luke Combs 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 affiliates, officers, agents, employees, attorneys, and all persons acting for, with, by, through, under or in active concert with them be temporarily enjoined and restrained from:
 - a. using the LUKE COMBS 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 LUKE COMBS product or not authorized by Plaintiff to be sold in connection with the LUKE COMBS Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine LUKE COMBS product or any other product produced by Luke Combs, that is not Plaintiff's or not produced under the authorization, control or supervision of Plaintiff and approved by Plaintiff for sale under the LUKE COMBS 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 Luke Combs;
 - d. further infringing the LUKE COMBS Trademarks and damaging Plaintiff's goodwill;
 - e. otherwise competing unfairly with Luke Combs in any manner;
 - f. 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 the LUKE COMBS Trademarks or any reproductions, counterfeit copies or colorable imitations thereof;

- g. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, or any other online marketplace account that is being used to sell or is the means by which Defendants could continue to sell Counterfeit/Infringing LUKE COMBS products.
2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to, WISH, PayPal and Alibaba Group Holding Ltd. along with any related Alibaba entities (collectively, "Marketplaces"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, 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 LUKE COMBS 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 LUKE COMBS Trademarks; and
 - c. take all steps necessary to prevent links to the Defendant Online Stores identified in Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Online Stores from any search index.

3. Defendants and 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 Marketplace Accounts or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as Marketplaces, advertisers, Facebook, Internet Service Providers ("ISP"), web hosts, back-end service providers, web designers, sponsored search engine or ad-word providers, banks, merchant account providers, including PayPal, Alibaba, Western Union, third party processors and other payment processing service providers, shippers, and online marketplace registrars (collectively, the "Third Party Providers") shall, within three (3) business days after receipt of such notice, provide to LUKE COMBS 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, employees, attorneys, and any persons acting in concert or participation with them, including all known contact information;
 - b. the nature of Defendants' operations and all associated sales and financial information, including, without limitation, identifying information associated with the Defendant Online Stores, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Stores;
 - c. Defendants' websites and/or any Online Marketplace Accounts;
 - d. the Defendant Online Stores registered by Defendants; and
 - e. any financial accounts owned or controlled by Defendants, including their agents, employees, 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, WISH, Western Union, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

4. Defendants and any persons in active concert or participation with them who have actual notice of this Order shall be temporarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
5. ContextLogic, Inc. ("WISH") and PayPal, Inc. ("PayPal"), shall, within three (3) business days of receipt of this Order, for any Defendant or any of Defendants' Online Stores or websites: Locate all accounts and funds connected to Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any WISH and PayPal accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Christopher T. Kappy; and Restrain and enjoin any such accounts or funds that are non-U.S. foreign based from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
6. Any banks, savings and loan associations, payment processors, or other financial institutions, for any Defendant or any of Defendants' Online Marketplace Accounts or websites, shall within two (2) business days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants, or Defendants' Online Marketplace Accounts, including, but not limited to, any accounts

connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Christopher T. Kappy; and

b. restrain and enjoin such accounts from receiving, transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.

7. LUKE COMBS may provide notice of these proceedings to Defendants, including notice of the preliminary injunction hearing 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, or by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Christopher T. Kappy and any e-mail addresses provided for Defendants by third parties that includes a link to said website. The Clerk of Court is directed to issue a single original summons in the name of "guayrn 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 Online Marketplace Accounts 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.

8. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to Luke Combs or on shorter notice as set by this Court.

9. The \$10,000 bond posted by Luke Combs shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: 5/28/21



John Z. Lee
U.S. District Court Judge

SCHEDULE A

No.	Defendant(s)
1	guayrn
2	xee82293