

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

COUNTING CROWS, LLC,

Plaintiff,

Civil Action No.: 1:21-cv-02643

v.

Judge Ronald A. Guzman

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

Magistrate Judge Sunil R. Harjani

Defendants.

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff, COUNTING CROWS, LLC (“COUNTING CROWS” 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 Internet Store is reaching out to do business with Illinois

residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products using counterfeit versions of Plaintiff's trademarks. *See* Docket No. 12 which includes screenshot evidence confirming that each Defendant Internet Store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the COUNTING CROWS trademarks, U.S. Trademark Registration Nos. 2,727,299 and 1,941,717 ("The COUNTING CROWS 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 Plaintiff's previously granted Motion for a Temporary Restraining Order establishes that COUNTING CROWS has a likelihood of success on the merits; that no remedy at law exists; and that COUNTING CROWS will suffer irreparable harm if the injunction is not granted.

Specifically, COUNTING CROWS has proved a *prima facie* case of trademark infringement because (1) the COUNTING CROWS 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 COUNTING CROWS Trademarks, and (3) Defendants' use of the COUNTING CROWS Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with COUNTING CROWS. Furthermore, Defendants' continued and unauthorized use of the COUNTING CROWS Trademarks irreparably harms COUNTING CROWS 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, COUNTING CROWS 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 COUNTING CROWS 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 COUNTING CROWS Product or not authorized by COUNTING CROWS to be sold in connection with the COUNTING CROWS Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine COUNTING CROWS Product or any other product produced by COUNTING CROWS, that is not Plaintiff's or not produced under the authorization, control or supervision of COUNTING CROWS and approved by COUNTING CROWS for sale under the COUNTING CROWS Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of COUNTING CROWS, or are sponsored by, approved by, or otherwise connected with COUNTING CROWS;
 - d. further infringing the COUNTING CROWS Trademarks and damaging Plaintiff's goodwill;

- e. otherwise competing unfairly with COUNTING CROWS 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 COUNTING CROWS, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of the COUNTING CROWS 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 COUNTING CROWS products; and
- h. operating and/or hosting websites registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing the COUNTING CROWS Trademarks or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine COUNTING CROWS Products or not authorized by COUNTING CROWS to be sold in connection with the COUNTING CROWS Trademarks.

2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to, WISH, Amazon, PayPal, and DHgate (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 COUNTING CROWS 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 COUNTING CROWS Trademarks; and
 - c. take all steps necessary to prevent links to the Defendant Online Marketplace Accounts identified in Schedule A from displaying in search results, including, but not limited to, removing links to the Online Marketplace Accounts 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, Amazon, WISH, Western Union, third party processors and other payment processing service providers, shippers, and online marketplace registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide to COUNTING CROWS 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 Online Marketplace Accounts, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts;
 - c. Defendants' websites and/or any Online Marketplace Accounts;
 - d. the Defendant Internet 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, Amazon, PayPal, eBay, 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"), Amazon Payments, Inc. ("Amazon"), PayPal, Inc. ("PayPal") and Heguang International Limited or Dunhuang Group d/b/a DHGATE,

DHgate.com, DHPORT, DHLINK and DHPAY (“DHgate”) and its related companies and affiliates shall, within two (2) 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, Amazon, PayPal, and DHgate accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Adam F. Duritz; and

- b. 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 Adam F. Duritz; 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. COUNTING CROWS 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 Adam F. Duritz 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 “Yearzimm 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 three (3) days' notice to COUNTING CROWS or on shorter notice as set by this Court.

9. The Clerk is directed to unseal any previously sealed documents in this matter, namely (1) Plaintiffs' Schedule A attached to the Complaint, which includes a list of the Defendant Online Marketplace Accounts; and (2) screenshot printouts showing the active Defendant Internet Stores (Exhibit 2 to the Declaration of Adam F. Duritz).

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

Dated: June 16, 2021



U.S. District Court Judge

SCHEDULE A

No.	Defendant
1	Yearzimm
2	
3	fangjianglingshop
4	liuyuechaodedianpu
5	ming fashion
6	pangfei fashion
7	echosky
8	sunminjie fashion
9	Carol Seaman's women's dress
10	qianglimaoyishangxing
11	tur323783
12	fengchen13138
13	huangxianhui66058
14	qixueyu1994
15	JJYYUU66
16	tujixiao
17	jialangyi
18	zjnbaby
19	laiyanting123
20	aila036
21	Rosalyn1
22	suenXIAO-54
23	youqiang fashion
24	fhueyuhwn
25	hu4717z
26	Huangdekai258258
27	canbencanben
28	liangailian
29	rarnur9378
30	BarnhartEE
31	luodongyang6565465
32	wangxiaolan123
33	weimeiyue6688
34	zhangying62
35	wupengxer
36	FisherEE

37	yuebushinio
38	Vanessayya
39	Cleveylily jackets
40	Interactive Mortgage
41	Ali Petersen
42	Scott Janssen
43	Derek Williams
44	Terry Ann Price
45	HeEE
46	Brandieaace
47	xiabolin2266
48	Jo Ann Byrd
49	osienmkhds
50	sara swan
51	Brenda Baxter
52	LLEIX
53	huangzhiqiang66058
54	jiangjianliang123
55	zhangjinsuo720925
56	wangyuping73
57	wangqiuyujiping
58	Ignatius B. Wadya
59	Greg Gabel
60	chengfei123
61	Nellie gonzalez
62	wangdandan2020
63	william terrell
64	Nancy G Thompson
65	yyuge66058
66	tingting65892345
67	Bonnie Turpen
68	wtyui568
69	ieioruoje
70	JESSE MORENO
71	Nanchengchenpoll
72	Fuefar bags
73	clarence t Liitleton
74	Daynayy
75	Michael TaylorS

76	Yvette Schleiger
77	Cynthiatt
78	jewu247
79	Ann Renee Meador
80	ron mclemore
81	Julie Howser
82	Sheilatt
83	Tina Goodrow
84	Paul ODonnell
85	jana lunt
86	Isabella Santos
87	Siyijue
88	Jill enlow
89	Jeffrey Scott Outlaw
90	Tangziaohong6678
91	zhangchaixia
92	Howard5111
93	Lilan921
94	Barb White
95	xee82293
96	Lienfeuny shaver
97	abbc6556565fds65
98	Janssens155
99	tracey carney
100	Erika Fluty
101	pianpiancai
102	Donald H Gratop
103	Hale5156
104	Thomas McGuinness
105	zebezhech
106	shilei0622
107	fushru32
108	jdiajdsoidplaode
109	lijamei147
110	Robbie Poetzl
111	Karen Lander
112	Alfred E Soccorso
113	Angela Caver
114	Tami Haley

115	denise munoz
116	zejea2
117	Ruth A Mertens
118	Dana Troy Clark
119	Bridgette Barnes
120	daicaihong1967
121	Michael Grosh
122	Huilibian
123	lulijuan4428
124	zhaoaiqing0808
125	zhangzhanyun123
126	heyings778
127	Debbie Williams
128	Manche program Sakeler
129	Jacquelin Sipe
130	Kelly35
131	zhrngxeang
132	wangze52930
133	Karrie Lacroix3
134	Karen Schleu
135	shijingli1234
136	wuyang 112233
137	Dennis Tapp
138	Teresayya
139	Margaret Dowless
140	zhoujielun111
141	hjdf456gh4j65df
142	bizhijhua
143	Alexis Tigner-Mouton
144	benjamin reid miller
145	Michael Eger66
146	joe giuliano
147	Tianyuqin66088
148	Vito Colonna
149	Chenhuaiping123
150	chenfeiping
151	Wangfating
152	zhangweihua Store
153	zhengshan Store me

154	James Russell
155	Wangbaoyi601
156	tongjianhong198217
157	lvchao88988
158	tony cazzanigi43
159	xiantiansheng1314521
160	amwaoyingwan
161	Josephine Pereda
162	sandy bitton
163	g8g5g6r6
164	zhenxiyongjiu
165	qishang521
166	xiaoxie147
167	Lupe benavides
168	Pamela A Bambrick
169	Xiongxiang66058
170	yangqing123
171	Yinyijun423
172	Venbin Wutong
173	Caryn Biehl
174	Juliozxbn
175	MartaOrtizssa
176	niexin159
177	diaoxiaoran123
178	Captain piggy house
179	nijuan0735
180	hezusong5588
181	Sandra Campbell
182	Eric Gandy
183	Lynnette Montijo
184	Sandra A Martinez
185	fanxiaoyunl
186	shungliming
187	yangting3695
188	caipingwei Store
189	glenn ciano677
190	lori heath
191	lianqi Store
192	DengGuanHua199857

193	chenyingdi Store
194	chengguanghui Store
195	Harris152
196	hechen878507712
197	wuhuilingg
198	TeenWaGer
199	wangyan769
200	Patsi M. Glenn
201	Hale51
202	Scott McCallister
203	zhangliping921
204	Chengdongmei999
205	Wangyue0456
206	Jenniferaga
207	zhuyaling Store
208	zhaorulong Store
209	zhengxiangrui Store
210	zhaoyao Store
211	Aimee M Mills
212	Athena Buchanan
213	zhangjiaming Store
214	jordan Segal
215	zhangjianhua Store
216	Jisnweprite
217	fanjinping
218	Shuaige123456
219	James Willcox
220	Melody Jungle
221	guoweijie Store
222	gaokegang Store
223	chenglih
224	Erin Zebrowski
225	lilonghui166978
226	Susan Lee butterworth
227	chenxuxing Store
228	xubaoyue88888
229	lomhsjiemng
230	yanangshinide
231	hot62bigboom

232	yaopanjiuding
233	awpoekdioj
234	wudieningbin
235	zhantuiqinhui
236	beijin0544
237	zhangchaoxia8801
238	duweijun1900
239	JOYCE LAFAR
240	Judy Pinson
241	LIUJINX
242	chhui
243	yesterlike