

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

WHAM-O HOLDING, LTD. and
INTERSPORT CORP. d/b/a WHAM-O,

Plaintiffs,

v.

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

Defendants.

Case No.: 1:21-cv-03703

Judge Gary Feinerman

Magistrate Judge Sheila M. Finnegan

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiffs, WHAM-O HOLDING, LTD. and INTERSPORT CORP. d/b/a WHAM-O (“WHAM-O” or “Plaintiffs”), Motion for a Preliminary Injunction, and this Court having heard the evidence before it hereby GRANTS Plaintiffs’ 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 this case, Plaintiffs have 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 Plaintiffs’ 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

FRISBEE Trademarks, U.S. Trademark Registration Nos. 4,046,202; 970,089 and 679,186 (The “FRISBEE 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 WHAM-O’s previously granted Motion for a Temporary Restraining Order establishes that WHAM-O has a likelihood of success on the merits; that no remedy at law exists; and that WHAM-O will suffer irreparable harm if the injunction is not granted.

Specifically, WHAM-O has proved a *prima facie* case of trademark infringement because (1) the FRISBEE 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 FRISBEE Trademarks, and (3) Defendants’ use of the FRISBEE Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with WHAM-O. Furthermore, Defendants’ continued and unauthorized use of the FRISBEE Trademarks irreparably harms WHAM-O through diminished goodwill and brand confidence, damage to WHAM-O’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, WHAM-O 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 FRISBEE 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 FRISBEE product or not authorized by WHAM-O to be sold in connection with the FRISBEE Trademarks;
- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine FRISBEE product or any other product produced by WHAM-O, that is not WHAM-O's or not produced under the authorization, control or supervision of WHAM-O and approved by WHAM-O for sale under the FRISBEE Trademarks;
- c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of WHAM-O, or are sponsored by, approved by, or otherwise connected with FRISBEE;
- d. further infringing the FRISBEE Trademarks and damaging WHAM-O's goodwill;
- e. otherwise competing unfairly with WHAM-O 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 WHAM-O, nor authorized by WHAM-O to be sold or offered for sale, and which bear any of the FRISBEE Trademarks or any reproductions, counterfeit copies or colorable imitations thereof;

- g. using, linking to, transferring, selling, exercising control over, or otherwise owning the Defendant Internet Stores, 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 FRISBEE products; and
 - h. operating and/or hosting at the Defendant Internet Stores and any other online marketplace accounts registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing the FRISBEE Trademarks or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine FRISBEE product or not authorized by WHAM-O to be sold in connection with the FRISBEE Trademarks.
- 2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to, PayPal, Amazon, WISH and Alipay, (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 FRISBEE 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 FRISBEE Trademarks; and

- c. take all steps necessary to prevent links to the Defendant Internet Stores identified in Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Internet 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' Internet Stores 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, but not limited to, PayPal, Alipay, 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 three (3) business days after receipt of such notice, provide to WHAM-O 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, servants, employees, confederates, 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 Internet Stores, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Defendant Internet Stores;

- c. Defendants' websites and/or any Defendant Internet Stores;
 - d. the Defendant Internet Stores registered by Defendants; and
 - e. 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, WISH, Amazon, PayPal, Alipay, 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. Alipay US Inc. and its related companies and affiliates (“Alipay”), Amazon Payments, Inc. (“Amazon”) Context Logic, Inc. (“WISH”), shall, within three (3) business days of receipt of this Order, for any Defendant or any of Defendant Internet Stores or websites:
- a. locate all accounts and funds connected to Defendants, Defendant Internet Stores, including, but not limited to, any eBay, PayPal, WISH, and Amazon accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Todd Richards; 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 Defendant Internet Stores, shall within three (3) business days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants, or Defendant Internet Stores, 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 Todd Richards; 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. WHAM-O 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 Exhibit 2 to the Declaration of Todd Richards 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 “4beautyuse and all other Defendants identified in 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 Marketplaces 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 days' notice to WHAM-O 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 [2], which includes a list of the Defendant Online Marketplace Accounts; (2) screenshot printouts showing the active Defendant Internet Stores [12] (Exhibit 2 to the Declaration of Todd Richards), and the Temporary Restraining Order [17].
10. The \$10,000 bond posted by WHAM-O shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: August 16, 2021



U.S. District Court Judge

SCHEDULE A

No.	Defendants
1	4beautyuse
2	aisdzhang
3	Cool Cain
4	decembermall
5	Elizabetbus
6	frallosa knitting
7	fry5784gfht121
8	Hathaway SLA SLS 3D Printing Service
9	Hua fan electric drill
10	illusoryMa
11	jose15
12	Laserbeautyworld
13	Maymarketmall
14	nbmxtudtrr
15	rtihfuig
16	shop4uu
17	Showing For Yourself
18	sijbofjak
19	Small peak building materials
20	Store My Tinos
21	sureultrasonic
22	Taop Email
23	UULASER
24	VIMIE ACCESSORIES
25	Vitadana
26	wangshunagshuang9019
27	ybbbb
28	★★★Charlie Store★★★
29	86-York
30	aimiao
31	A-myt
32	AnnieAnn
33	answecall
34	AoWeiWangDianZi
35	APRILTF
36	AQUAROBCC
37	Arc Yinyin
38	Arestle Housewares

39	Art-Capital SHOP
40	asmartstar
41	Ba Ba Jiu
42	BangGouBaiHuoDian
43	Beenyooy
44	BesteWahl
45	BKMAXINE
46	Bojiabaihuojingyingbu
47	Bshhjkg
48	bushinvren
49	BZONZOON Direct
50	Cardamom mask
51	Chastep
52	chenzhifa1247
53	Clope
54	Cogihome
55	CSYP
56	DaFuGui Shop
57	DaLianShunFaXinXingDianLiJianSheGongChengYou
58	department shop
59	Diliu store
60	DLK trading
61	Donhouse
62	DPDSCVY
63	Dream Young-DY
64	Enelly
65	Enortech
66	Feisheng Lighting
67	fenmoeri
68	FHKbh
69	Flower Style Design
70	Funny & Special
71	Fushun Jizhuo Economic And Trade Co., Ltd.
72	Gala Lafite
73	GANJIUWANLECHONGCHONGCHONG
74	Godstyle
75	Godzilla store
76	GQBH
77	guangzhoulangshaoshiyouyouxiangongsi
78	Haoze Trading
79	harrySite

80	Heng Zhiyu
81	Hillier Lake
82	Hiono
83	hongdongxianxincunxiangdenggaodiannaolingxiaobu
84	ILFYJR
85	JAGGOU STORE
86	JiaYuXiao
87	jiazhenfuwu
88	JinCanShangWuZiXunYouXianGongSi
89	jingxingzeshangmaobu
90	Jinjiang District Qingqing Gold Trade Department
91	jixian Shop
92	JL-
93	JOSSOIOJ
94	Junyuyu Boutique
95	Kelayi-store
96	Kimsong
97	li hjju
98	lichaoedian
99	Lingwu Paxian Department Store
100	Linlin Department Store, Lingwu City
101	linzhifengwoaa56
102	Littleyi
103	liudanni
104	lizhao123
105	Love yiyi
106	Lyle Esther Eagle
107	mayto pethome
108	MeiLanHuiYunFang
109	mengyunluosheng
110	Merlsou
111	Mgsda's Store
112	MONILO
113	MoonZD
114	Mrs.Qiu
115	MSHUO
116	NANTONG NUOXUAN TRADING CO., LTD
117	NewthinkingDirect
118	Ningbo Hengfeng Trading Co., Ltd.
119	NiuLinYe
120	nyuwo

121	Orman Group
122	ParlizeI
123	Peipei store
124	Petonoia
125	PETSHOP&MORE
126	PPetHome
127	quanhaijiadianI
128	RanWuA
129	rongrongluo
130	runzhongerbaihuo
131	Sam's Tool Box Us
132	Seaokais Store
133	SEPSWORD MOTOR INTERNATIONAL LIMITEDz
134	sexandthecity
135	Shenzhen Jiuri Culture Technology Co., Ltd.
136	shenzhenyouyishishishangfushiyouxiangongsi
137	SHENZHOUXZ
138	Sin x Commercial Store
139	Sinboun Direct
140	SiTongHaiShangMao
141	Skillful Art
142	Slvianey Shop
143	Sunshay
144	tengou
145	Terunat-US
146	The only option
147	TianXinFuShi
148	tianyushangcheng
149	tongfeiyinbaihuo
150	Tongxing pregnancy and baby clothing
151	Toys for US
152	Tree King House
153	UCSAJI
154	unanxuanniemaoyiyo
155	unl60301
156	urbdI814
157	warmshop888
158	WeMove Sport
159	WenHao Shop
160	Wenxin Shangmao
161	Whqysy

162	wodedian123
163	WOFAN DIRECT
164	Woowan Auce
165	wuluhua6688
166	WXLH
167	xchenjiu store
168	XiaJi
169	xin luo qu hua tan bai huo shang hang
170	xingxiaoting
171	xingyaoshangmaoyouxiangongsi
172	xinlicheaoshi
173	XUNFEIFZ
174	XXaction
175	Yaping Network Technology Co., Ltd.
176	Yibblue
177	yicheng us
178	Yigoulaite
179	Yiwu Yidu Trading
180	yiwushifangbowenhuachuanmeigongzuoshi
181	Youngheart
182	YoungLn
183	YouWardrobe
184	YQZ72II
185	YUHONG0107
186	Yurisz
187	YXFT
188	ZHAOCHEN06
189	ZhenXinBaiHuo
190	zhenxiwangshangmao
191	ZHOUGENGXIN-US
192	zhuoweida
193	zhuren
194	南方姑娘的店
195	CutePets Store
196	Doggie Wardrobe Store
197	Elfidog Store
198	FashionPet Store
199	HappyinHome Store
200	HEYPET Store
201	HHC Online Store
202	Hyhug Official Store

203	Mi Familia Store
204	Shop5005263 Store
205	Shop911261394 Store
206	Sunflowerpet Store
207	Supershop Store
208	taotaoPet Store
209	WAZIR YouMeng Store
210	Yiwu lingchong pets Store
211	Your life butler store Store