

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

BUSHNELL INC.,

Plaintiff,

v.

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

Defendants.

Case No.: 1:21-cv-05562

Judge Gary Feinerman

Magistrate Judge Maria Valdez

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff, BUSHNELL INC.’s (“BUSHNELL” 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”) and using at least the online marketplace accounts identified in Schedule A (the “Defendant Internet Stores”).

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, 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 BORESNAKE trademarks, U.S. Trademark Registration Nos. 2,425,833; 2,197,160; 2,258,433;

5,476,345; 2,829,753; 5,481,861; 2,890,462; and 3,053,614 (collectively, the “BORESNAKE Trademarks”) as well as Copyright Registration No. VA0002186151 (the “HOPPE’S Work”).

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

Specifically, BUSHNELL has proved a *prima facie* case of trademark and copyright infringement because (1) the BORESNAKE Trademarks are distinctive marks and are registered with the U.S. Patent and Trademark Office on the Principal Register and the HOPPE’S Work is registered with the United States Copyright Office, (2) Defendants are not licensed or authorized to use the BORESNAKE Trademarks or the HOPPE’S Work, and (3) Defendants’ use of the BORESNAKE Trademarks and HOPPE’s Work is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with BUSHNELL. Furthermore, Defendants’ continued and unauthorized use of the BORESNAKE Trademarks and HOPPE’s Work irreparably harms BUSHNELL through diminished goodwill and brand confidence, damage to BUSHNELL’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, BUSHNELL 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, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily enjoined and restrained from:
 - a. using the BORESNAKE Trademarks and HOPPE's Work 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 BORESNAKE Product or not authorized by BUSHNELL to be sold in connection with the BORESNAKE Trademarks and HOPPE's Work;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine BUSHNELL Product or any other product produced by BUSHNELL, that is not BUSHNELL's or not produced under the authorization, control or supervision of BUSHNELL and approved by BUSHNELL for sale under the BORESNAKE Trademarks and HOPPE's Work;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of BUSHNELL, or are sponsored by, approved by, or otherwise connected with BUSHNELL;
 - d. further infringing the BORESNAKE Trademarks and HOPPE's Work and damaging BUSHNELL's goodwill;
 - e. otherwise competing unfairly with BUSHNELL 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 BUSHNELL, nor authorized by BUSHNELL to be sold or offered for sale, and which bear any of the BORESNAKE Trademarks and HOPPE's Work 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 BORESNAKE 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 BORESNAKE Trademarks and HOPPE's Work or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine BORESNAKE Product or not authorized by BUSHNELL to be sold in connection with the BORESNAKE Trademarks and HOPPE's Work.

2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to eBay, PayPal, WISH, Alipay, DHgate, and Alibaba Holding Group Ltd. and its related companies and affiliates ("Alibaba") (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

BORESNAKE Trademarks and HOPPE's Work, 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 BORESNAKE Trademarks and HOPPE's Work; 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 Defendant 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, eBay, PayPal, WISH, Alipay, DHgate, 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 BUSHNELL 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, eBay, PayPal, WISH, Alipay, DHgate, and 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. eBay, Inc. ("eBay"), PayPal, Inc. ("PayPal"), Context Logic, Inc. ("WISH"), Alipay US, Inc. and its entities ("Alipay") and Huguang International Limited or Dunhuang

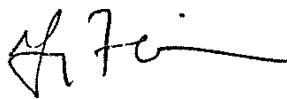
Group d/b/a DHGATE, DHGate.com, DHPORT, DHLINK and DHPAY (“DHgate”), shall, within three (3) business days of receipt of this Order, for any Defendant or any of Defendant Internet Stores or websites:

- a. locate all accounts and funds connected to Defendants, Defendant Internet Stores, including, but not limited to, any eBay, PayPal, WISH, Alipay and DHgate accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 3 to the Declaration of Daniel J. Kelly; 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 the Defendant Internet Stores or other of Defendant’s websites, 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 3 to the Declaration of Daniel J. Kelly; 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. BUSHNELL 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 3 to the Declaration of Daniel J. Kelly 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 “1st.ing 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 (3) days' notice to BUSHNELL 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 Internet Stores; (2) screenshot printouts showing the active Defendant Internet Stores (Exhibit 3 to the Declaration of Daniel J. Kelly) [12] and (3) the Temporary Restraining Order [18].
10. The \$10,000 bond posted by BUSHNELL shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: 11/22/2021



U.S. District Court Judge

SCHEDULE A

No.	Defendants
1	1st.ing
2	ampletex
3	annaserectclothes
4	axinhao288
5	bofohao
6	deerzoo
7	diylifestyle2019
8	faduoduo
9	gooddemo
10	gowinlick
11	keceshe
12	kellylogline10
13	kevin920406a
14	kjiexm9
15	liansmile
16	milletbless
17	orangesmel18
18	sgostore
19	smashinggreat
20	takehold
21	xjfang10
22	ytenda5
23	Brocyron
24	CL shopping
25	fatpig
26	fuzhoumuxiaohuwaiyongpindian
27	MariaJeans
28	marketfaves
29	Miokeuui
30	okex
31	ouyangfeng88
32	Sunner
33	The original dream
34	THKS1
35	v_show
36	yeyalei
37	yfy3
38	Yiwu Top One Store
39	yunliemaoyi1683
40	zhouffengfacai
41	zhouyuying8
42	1847 Blues Store
43	9 Clock Store
44	Activefire GLOBAL OUTDOOR Store
45	Advance Bravely Outdoor Store
46	Adventure Chaser Store

47	AEhappy Outdoor Store
48	Arrowhunt Store
49	Athletics Store
50	Be Relax Outdoor Store
51	BodyWell Store
52	Brilliant Outdoor Store
53	CC GO Store
54	Charice's Outdoor Store
55	Cornelia Store
56	Cycling TC Store
57	E-Long Outdoor Club
58	Enjoying Exercise Store
59	Everyday Outdoors Store
60	Fishing&Hunting shop
61	Fun Exercise Fans Store
62	Fuuny Outdoor Cycling Store
63	Global-Dropshipping Store
64	Grief Grocery Store
65	Gunpany Store
66	Horizon Store
67	Hunting Highlands Store
68	insland Store
69	Karito Store
70	Katie's Store
71	La Zu Store
72	Let's Go Outdoor Store
73	Masa's drop shiping Store
74	Miaosco Outdoor Store
75	Midia sportsfans online Store
76	My Outdoor Sporting Store
77	NVGRifle Store
78	ohhunt Official Store
79	One Loves One Store
80	Outdoor Assistant Store
81	Outdoor Concords Store
82	Outdoor Concors Store
83	Outdoor Pro-Droshipping Store
84	Outdoor Residence Amity Store
85	Outdoor Sporting Amity Store
86	Outdoor Workout Funny Store
87	Outoping Superer Bowl Store
88	Pro Traveler Outdoor Store
89	Professional Sporting Store
90	QM Outdoor-Sports Store
91	R Dragon Outdoor Sport Word
92	RBO Store
93	RED-HUNTING6 Store
94	Riding The Waves Store
95	SENRHY Sen Musical Store

96	Shop5424080 Store
97	Shop5567202 Store
98	Shop5790562 Store
99	Sikiwind Sportin Store
100	Sporting Concords Store
101	Sporting Harmony Store
102	Sporting Residence Store
103	Sports & Recreation Shop
104	Sportsinlife Store
105	Sportskeeper Store
106	SportsOnline Store
107	SU YAN OUTDOOR Store
108	Top-Handicraft Dropshipping Store
109	VKTECH Official Store
110	Wargame Seal Store
111	WonderHot Store
112	dd003
113	Dongtingya
114	Goyea
115	hj05
116	Lubanliu
117	miaosco
118	Qiangdhgatesco
119	Sabreta
120	superbsupplier
121	xiamensdhgates