

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

CHRISTOPHER ORLANDO TORRES AND
NYANIFY INC.,

Plaintiffs,

v.

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

Defendants.

Case No. 21-cv-05848

Chief Judge Rebecca R. Pallmeyer

Magistrate Judge Sunil R. Harjani

PRELIMINARY INJUNCTION ORDER

Plaintiffs CHRISTOPHER ORLANDO TORRES and NYANIFY INC. (collectively, “NYANIFY” or “Plaintiffs”) filed a Motion for Entry of a Preliminary Injunction against the against the fully interactive, e-commerce stores operating under the seller aliases identified in Amended Schedule A to the Complaint and attached hereto (collectively, “Defendants”) and using at least the online marketplace accounts identified in Amended Schedule A (the “Online Marketplaces”). After reviewing the Motion and the accompanying record, this Court GRANTS NYANIFY’s Motion in part as follows.

This Court finds NYANIFY has provided notice to Defendants in accordance with the Temporary Restraining Order entered November 3, 2021, [16] (“TRO”), and Federal Rule of Civil Procedure 65(a)(1).

This Court also finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendants because Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, NYANIFY has provided a basis to conclude that 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, and have sold products using infringing and counterfeit versions of NYANIFY's federally registered trademarks, which are protected by U.S. Trademark Registration Nos. 4,376,980; 4,377,351; and 4,457,316 (collectively the "NYAN CAT Trademarks") and/or products infringing the NYAN CAT copyrights, which are protected by U.S. Copyright Registration Nos. VA 1-798-668; VA 1-798-676; VAu 1-085-556; VAu 1-085-557; VA 1-798-670; VAu 1-085-560; VA 1-798-673; VA 1-839-405; VAu 1-115-641; VA 1-839-409; VAu 1-115-636; VAu 1-085-559; VA 1-798-672; VAu 1-085-563; VA 1-798-674; VA 1-798-675; VAu 1-114-946 and VAu 1-063-390 (collectively, the "NYAN CAT Works") to residents of Illinois. In this case, NYANIFY has presented screenshot evidence that each Defendant e-commerce 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 and infringing versions of the NYAN CAT Trademarks and NYAN CAT Works. *See* Docket No. 12, which includes screenshot evidence confirming that each Defendant e-commerce store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the NYAN CAT Trademarks and NYAN CAT Works.

This Court also finds that the injunctive relief previously granted in the 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 NYANIFY's previously granted Motion for Entry of a TRO establishes that NYANIFY has demonstrated a likelihood of success on the merits; that

no remedy at law exists; and that NYANIFY will suffer irreparable harm if the injunction is not granted.

Specifically, NYANIFY has proved a *prima facie* case of trademark and copyright infringement because (1) the NYAN CAT Trademarks are distinctive marks and are registered with the U.S. Patent and Trademark Office on the Principal Register and the NYAN CAT Works are registered with the U.S. Copyright Office, (2) Defendants are not licensed or authorized to use any of the NYAN CAT Trademarks or NYAN CAT Works, and (3) Defendants' use of the NYAN CAT Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with NYANIFY. Furthermore, Defendants' continued and unauthorized use of the NYAN CAT Trademarks irreparably harms NYANIFY through diminished goodwill and brand confidence, damage to NYANIFY's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, NYANIFY 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 officers, agents, employees, attorneys, and all persons acting for, with, by, through, under, or in active concert with them be preliminarily enjoined and restrained from:
 - a. using the NYAN CAT Trademarks and NYAN CAT Works or any reproductions, counterfeit copies, or colorable imitations in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine NYANIFY product or not authorized by NYANIFY to be sold in connection with the NYAN CAT Trademarks and NYAN CAT Works;

- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine NYANIFY product or any other product produced by NYANIFY, that is not NYANIFY's or not produced under the authorization, control, or supervision of NYANIFY and approved by NYANIFY for sale under the NYAN CAT Trademarks and NYAN CAT Works;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of NYANIFY, or are sponsored by, approved by, or otherwise connected with NYANIFY; and
 - d. manufacturing, 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 NYANIFY, nor authorized by NYANIFY to be sold or offered for sale, and which bear any of NYANIFY's trademarks or copyrights, including the NYAN CAT Trademarks and NYAN CAT Works, or any reproductions, counterfeit copies, or colorable imitations.
- 2. Defendants shall not transfer or dispose of any money or other of Defendants' assets in any of Defendants' financial accounts.
 - 3. Upon NYANIFY's request, Defendants and any third party with actual notice of this Order who is providing services for any of Defendants, or in connection with any of Defendants' Online Marketplaces, including, without limitation, any online marketplace platforms such as Amazon Payments, Inc. ("Amazon") and ContextLogic Inc. ("WISH"), shall, within seven (7) calendar days after receipt of such notice,

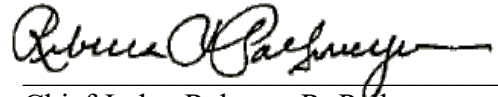
provide to NYANIFY expedited discovery, limited to copies of documents and records in such person's or entity's possession or control sufficient to determine:

- a. the identities and locations of Defendants, their officers, agents, servants, employees, attorneys, and any persons acting in active 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 officers, agents, servants, employees, attorneys, and any persons acting in active 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, WISH, Alibaba, Ant Financial Services Group ("Ant Financial"), Amazon, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
4. Upon NYANIFY's request, those with notice of this Order, including the Third Party Providers as defined in Paragraph 3, shall within seven (7) calendar days after receipt of such notice, disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the NYAN CAT Trademarks and NYAN CAT Works.

5. Any Third Party Providers, including WISH, and Amazon, shall, within seven (7) calendar days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants' seller aliases, including, but not limited to, any financial accounts connected to the information listed in Amended Schedule A hereto, the e-mail addresses identified in Exhibit 3 to the Declaration of Christopher Orlando Torres, 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 order by this Court.
6. NYANIFY may provide notice of the proceedings in this case 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 Pleadings, this Order, and other relevant documents on a website and by sending an e-mail with a link to said website to the e-mail addresses identified in Exhibit 3 to the Declaration of Christopher Orlando Torres and any e-mail addresses provided for Defendants by third parties. The Clerk of the Court is directed to issue a single original summons in the name of "feng4442585 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.
7. Plaintiffs' Schedule A [2], Exhibit 3 to the Declaration of Christopher Orlando Torres [12], and the TRO [16] are unsealed.

8. 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 the Northern District of Illinois Local Rules. Any third party impacted by this Order may move for appropriate relief.
9. The Ten Thousand Dollar (\$10,000) bond posted by NYANIFY shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

SO ORDERED:



Chief Judge Rebecca R. Pallmeyer
United States District Judge

Dated: November 17, 2021

Amended Schedule A

No.	Defendants
1	feng4442585
2	huangli54728
3	iugfdjks2as
4	jeameng
5	jeewee66
6	Jennifer Roberts
7	Jerry Orourke
8	jeya226jeya226
9	Joseph Babcock
10	linlili55177
11	liufongan
12	lulijuan4428
13	maxiaobin464848
14	mruye3
15	nanxuebinglj
16	niuyanyan5289
17	quying23056
18	Regina Sandifer
19	Scott Lavery
20	sdiofghjdfg
21	sfdsf56dfshj
22	ShaodELu.
23	shitoutiaosu
24	tan0495ydufg
25	Tangshanshan0415
26	tanguodong202
27	tdfjasdjk188
28	Thomas ONeilly
29	uf503
30	utijgi supper-market
31	uwyfrgues66
32	uxwr56lei
33	wangbin23074
34	wangjiaxin89741
35	wangp123456789
36	wangpeilin
37	wangyang1218
38	Williamcb
39	wuyanxiafan
40	YangXuZhi
41	yaobushini
42	yaohong01779

43	ybf92bin
44	YIJIN07
45	YIJIN36
46	yinghuozhiguang
47	ylus34jing
48	yudan3045
49	zhangfukang6073
50	zhanggaoyin123
51	zhangjinlu Store
52	zhangxia5521
53	zhangzhenren1
54	zhaochunsheng4645795
55	zhengcheng fashion
56	zhouqingsu6600
57	zhuyaming6547
58	ZIHANGTXfs0002
59	zzndhguysff
60	neimenke
61	New Summer
62	NEWPAI
63	ngcanjinch
64	ni jia
65	Ningbo Groli Electric Technology Co., Ltd.
66	NingJinXianGuiRenYuanFuZhuangMenShi
67	noostethythvh
68	olikujyhtr
69	Ostyumi
70	ouyangshijie
71	PENGLIE
72	pGfb9FBzfZV
73	Phjfdj
74	PinHu
75	PiZhouShiChenZhenHuaZhuangPinJingYingBu
76	Polar lighttr
77	ponhhaibun
78	procesies
79	putianshi yinbudianzishangwuyouxiangongsi
80	PXDIYSHOP
81	Qiang Kui
82	qianghunshangmaoyouxiangongsi
83	qing gang
84	QingDaoJuXiangXinCaiLiaoKeJiYouXianGongSi
85	QingDaoKunLunShangMaoYouXianGongSi
86	qingdaopingyixinzhuangshigongchengyouxiangongsi
87	qingpinglianjiaqijiandian

88	QoQoQo
89	qu zhenpu
90	Redio CYAN
91	Renyue Deal
92	Richushuizu
93	Rongcheng Naisen Trading Co., Ltd.
94	rongyufushi
95	sanyashiqinghengjiayongdianqiyouxiangongsi
96	Say La We
97	sbvgfdb gfhr
98	sdachusa
99	senrunyiliaoqixie
100	SFSDFS
101	ShanDongBaBiTuJiaoYuZiXunYouXianGongSi
102	ShanDongDingHaoJianZhuZhuangShiGongChengYouXian Go
103	ShanDongHuaChenXinXiKeJiFuWuYouXianGongSi
104	SHANDONGTIANYUCHENG
105	Shanghai Shengxinchen
106	Shanghua General Store
107	shangshuixianboerxiaobaihuodian
108	SHAQUQUN
109	shengjia Trading
110	shenzhenshichenghaozhubaoyouxiangongsi
111	shenzhenshiweiwangrerongjiaozhanyouxiangongsi
112	shenzhenshizhiyuanxuanmaoyiyouxiangongsi
113	shifeng store02
114	Shijunzi
115	Shnvir
116	SINOVAL
117	sixiangyinyuemaoyigongsi
118	SLAFDHSUEY
119	SQmengke
120	srdtyfshvxc
121	Starlight-C
122	Step by step6
123	Street Boys
124	Suan Qiaoling
125	Suzhou Qianrui Business Management Co.,Ltd.
126	suzhoujiuqianxiangjingmijixieyouxiangongsi
127	SZxiaoyang
128	tainingxianshanchengzhenweishengzhensongbaihuodian
129	Taizhou Lingyi Plastic Industry Co.,Ltd.
130	TCguichen
131	Tee Lei

132	TEo yellow
133	tetaKoff
134	TianQiaoQuLiJingShiPinDian
135	TianSP
136	Tios Artstore
137	Tisha Reveiro
138	TISSO
139	ToBeNo1
140	toolulo304
141	
142	TSBFM Store
143	Tu XiongWei
144	tuzeliriyongpinshanghang
145	Twifon PHY CYAN
146	USaasha
147	uShiZhengDongX
148	vernell Jenkins
149	vfdnvcbsvscw
150	Vicky Vandenberg
151	Voolder
152	Vswseusiehsye
153	WAIGUODIAN
154	Wang Qingzhou
155	Wang Yuyuan X
156	wanggenchao
157	WANGkz
158	wanrui
159	Wayne M Dykstra
160	WeiFangChengYiFangZhiYouXianGongSi
161	WeiFangRuiHeShengTaiHuanBaoYouXianGongSi
162	Welkes
163	WenZhouShiLuChengQuXiQiBaiHuoDian
164	William Robin
165	Williss TeK
166	WMONBTF
167	Wu WeiPing
168	WuHanYuQianXueWenHuaChuanBoYouXianGongSi
169	wuweibin55
170	wuwenxin
171	wuxiaodong19930
172	WYNDYM
173	xia zhengweifgy
174	xiamenkemeilaizaishengziyuanyouxia ngongsi
175	xiamenliangqionglingmaoyiyouxiangongsi
176	xiang daixiabhy

177	xiangchengshiloutengshangmaoyouxiangongsi
178	XiAnGuoJiGangWuQuHeShunTongXunJingXiaoQiCaiBu
179	xiao huigangghy
180	xiao mingshengbhy
181	XiheFashion
182	xingxingxiangrong
183	XinMiShiQingPingChengYongBaiHuoDian
184	XinTingw
185	XSWYGBGH
186	XunDianTangZiYiXiangQingRiYongBaiHuoJingYingBu
187	XuZhouHongMingMuYeYouXianGongSi
188	XuZhouJinJiaXinXiZiXunYouXianGongSi
189	XuZhouYongJianYiLiaoKeJiYouXianGongS
190	y47ujobclho
191	YayunyaStore
192	YE HUAPING
193	YiShangDianZiShangWuYouXianGongSi
194	YIWUJUZE
195	Yongde Laoxiangyun Trading Company
196	youhuaqiche
197	YOXIU
198	Yuansheng Medical
199	yudherbsdorko
200	yuhuataiquzhefujidianzishangwufuwuzhongxin
201	Yulongxiang
202	yun nan hua xin jian gong you xian gong si
203	yunchengkonggang
204	YunLongST
205	Yunnan Hotsun New Energy Technology Co., Ltd.
206	Yunnan Rongyuan Property Service Co., Ltd.
207	Yunnan Yunting Technology Co., Ltd.
208	Yunxian manicure
209	YuRanJiaJiYongPin (QingDao) YouXianGongSi
210	yurufuzhuangjingyingbu
211	Yymnv
212	YyTiin
213	zaozhuangshiyichengqugumengdianzishangwuzhongxin
214	zhangchanhn
215	zhangdianchonglaichongquchongwudian 88
216	ZhangJH
217	ZhangRuiFangBNHJ
218	ZhangSD
219	zhangshunqiangus
220	zhangwangshuiguo
221	Zhanmuying

222	ZhaoRuiJuan
223	zhaoyangquxiaofangshangmaoxing
224	ZhaoYuanXianZhaoYuanZhenChengChengRiZaShangDian
225	zhengyuanyan
226	Zhengzhou Zhaoyuan Auto Parts Sales Co., Ltd.
227	zhengzhoutianyuweiyeceliangyiqiyouxiangongsi
228	ZhengZhouXinJiKangYiYaoKeJiYouXianGongSi
229	Zhi Nü
230	Zhi Qian
231	ZHONGHA INDUSTRIAL LI
232	Zhongshan Guangli Office Furniture Co., Ltd.
233	ZhongYiKaiWei
234	zhou yuyongxfvds
235	ZhouKouHouZeShangMaoYouXianGongSi
236	Zhuo Lijuan
237	zi bo zhi chen dian qi ke ji you xian gong si
238	zi run
239	ziboenxinshangmaoyouxiangongsi
240	ZN05bpz8K
241	zrrttg
242	ZZguowuque
243	刘光花
244	李维514562
245	杨孝成
246	杨安琪
247	毛欣
248	深圳市晨迈电子有限公司
249	胡少翔41596451
250	苗继鹏
251	蔡静4165541
252	陈灿
253	黄梓程