

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

MOTLEY CRUE INC.,

Plaintiff,

v.

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

Defendants.

Civil Action No.: 1:21-cv-05110

Judge Edmond E. Chang

Magistrate Judge Jeffrey Cole

PRELIMINARY INJUNCTION ORDER

Plaintiff MOTLEY CRUE INC. (“MÖTLEY CRÜE” or “Plaintiff”) 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 MÖTLEY CRÜE’s Motion as follows.

This Court finds MÖTLEY CRÜE has provided notice to Defendants in accordance with the Temporary Restraining Order entered November 24, 2021, [17] (“TRO”), and Federal Rule of Civil Procedure 65(a)(1).

This Court also finds that it has personal jurisdiction over Defendants because Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, MÖTLEY CRÜE 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 MÖTLEY CRÜE's federally registered trademarks, which are covered by U.S. Trademark Registration Nos. 1,407, 430; 3,264,871; 3,941,074; and 3,683,197 (the "MÖTLEY CRÜE Trademarks") to residents of Illinois. In this case, MÖTLEY CRÜE 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 versions of the MÖTLEY CRÜE Trademarks. *See* Docket No 13, 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 MÖTLEY CRÜE Trademarks.

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 MÖTLEY CRÜE's previously granted Motion for Entry of a TRO establishes that MÖTLEY CRÜE has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that MÖTLEY CRÜE will suffer irreparable harm if the injunction is not granted.

Specifically, MÖTLEY CRÜE has proved a *prima facie* case of trademark infringement because (1) the MÖTLEY CRÜE 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 any of the MÖTLEY CRÜE Trademarks, and (3) Defendants' use of the MÖTLEY CRÜE Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with MÖTLEY CRÜE. Furthermore, Defendants'

continued and unauthorized use of the MÖTLEY CRÜE Trademarks irreparably harms MÖTLEY CRÜE through diminished goodwill and brand confidence, damage to MÖTLEY CRÜE's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, MÖTLEY CRÜE 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, servants, 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 MÖTLEY CRÜE Trademarks 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 MÖTLEY CRÜE product or not authorized by MÖTLEY CRÜE to be sold in connection with the MÖTLEY CRÜE Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine MÖTLEY CRÜE product or any other product produced by MÖTLEY CRÜE, that is not MÖTLEY CRÜE's or not produced under the authorization, control, or supervision of MÖTLEY CRÜE and approved by MÖTLEY CRÜE for sale under the MÖTLEY CRÜE Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of MÖTLEY CRÜE, or are sponsored by, approved by, or otherwise connected with MÖTLEY CRÜE;

- d. further infringing Plaintiff's MÖTLEY CRÜE Trademarks and damaging MÖTLEY CRÜE's goodwill;
 - e. otherwise competing unfairly with MÖTLEY CRÜE in any manner;
 - f. 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 MÖTLEY CRÜE, nor authorized by MÖTLEY CRÜE to be sold or offered for sale, and which bear any of MÖTLEY CRÜE's trademarks, including the MÖTLEY CRÜE 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 MÖTLEY CRÜE Products; and
 - h. operating and/or hosting websites operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing Plaintiff's MÖTLEY CRÜE Trademarks or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine MÖTLEY CRÜE product or not authorized by MÖTLEY CRÜE to be sold in connection with Plaintiff's MÖTLEY CRÜE Trademarks.
2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to Alipay US, Inc. and its related companies and affiliates ("Alipay"), Alibaba Group Holding Ltd. along with any related Alibaba entities (collectively, "Alibaba"), 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 MÖTLEY CRÜE Trademarks, including any accounts associated with the Defendants listed in Amended 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 MÖTLEY CRÜE Trademarks; and
 - c. take all steps necessary to prevent links to the Defendant Online Marketplace Accounts identified in Amended 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 Alibaba, 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 Alipay, Western Union, third party processors and other payment processing service providers, and shippers (collectively, the "Third Party Providers"), shall, within three (3) business days after receipt of such notice, provide to MÖTLEY

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

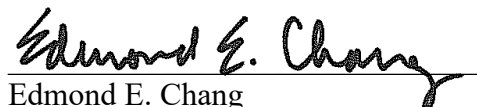
- a. the identities and locations of Defendants, their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;
 - b. the nature of Defendants' operations and all associated sales and financial information, including, without limitation, identifying information associated with the Online Marketplace Accounts, and Defendant's 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 Defendant Internet Stores;
 - d. The Defendant Internet Stores or any other accounts registered by Defendants; and
 - e. 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, Alipay, 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. Western Union Shall, within three (3) business days of receipt of this Order, block any Western Union money transfers and funds from being received by the Defendants identified in Amended Schedule A until further ordered by this Court.
6. Alipay, shall, within three (3) 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 Alipay accounts connected to the information listed in Amended Schedule A hereto, or the e-mail addresses identified in Exhibit 2 to the Declaration of Thomas Schlegel, 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.
7. 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 three (3) 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 Amended Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Thomas Schlegel; 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.
8. MÖTLEY CRÜE 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/or by sending an e-mail with a link to said website to the e-mail addresses identified in Exhibit 2 to the Declaration of Thomas Schlegel 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 “pku.14 Store 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.

9. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on three days’ notice to MÖTLEY CRÜE or on shorter notice as set by this Court.
10. The Clerk is directed to unseal any previously sealed documents in this matter, namely (1) Plaintiff’s Amended Schedule A attached to the Complaint [8], which includes a list of the Defendant Internet Stores; and (2) screenshot printouts showing the active Defendant Internet Stores (Exhibit 2 to the Declaration of Thomas Schlegel) [13].
11. The Ten Thousand Dollar (\$10,000) bond posted by MÖTLEY CRÜE shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

SO ORDERED:


Edmond E. Chang
United States District Judge

Dated: December 3, 2021

Amended Schedule A

No.	Defendants
1	pku.14 Store
2	pku.7 Store