

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

EOMJI COMPANY GmbH,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS, et
al.,

Defendants.

Case No. 21-cv-5670

Judge Martha M. Pacold

Magistrate Judge Young B. Kim

PRELIMINARY INJUNCTION ORDER

Plaintiff EMOJI COMPANY GmbH (“Plaintiff”) filed a Motion for Entry of a Preliminary Injunction against the against the fully interactive, e-commerce stores¹ operating under the seller aliases identified in Schedule A to the Complaint and attached hereto (collectively, “Defendants”) and using at least the domain names identified in Schedule A (the “Defendant Domain Names”) and the online marketplace accounts identified in Schedule A (the “Online Marketplaces”). After reviewing the Motion and the accompanying record, this Court GRANTS Plaintiff’s Motion in part as follows.

This Court finds Plaintiff has provided notice to Defendants in accordance with the Temporary Restraining Order entered November 19, 2021, [Dkt. Nos. 21, 22] (“TRO”) and extended on December 1, 2021 to December 17, 2021 [Dkt. No. 24], and Federal Rule of Civil Procedure 65(a)(1).

¹ The e-commerce store urls are listed on Schedule A hereto under the Online Marketplaces.

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, Plaintiff 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 Plaintiff's federally registered trademarks (the "EMOJI Trademarks") to residents of Illinois. In this case, Plaintiff 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 EMOJI Trademarks. *See* Docket Nos. 11-15, which include 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 EMOJI 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 Plaintiff's previously granted Motion for Entry of a TRO establishes that Plaintiff has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that Plaintiff will suffer irreparable harm if the injunction is not granted.

Specifically, Plaintiff has proved a *prima facie* case of trademark infringement because (1) the EMOJI 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 EMOJI Trademarks, and (3) Defendants' use of the EMOJI Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with Plaintiff. Furthermore, Defendants' continued and unauthorized use of the EMOJI Trademarks irreparably harms Plaintiff 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, Plaintiff 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 EMOJI 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 EMOJI product or not authorized by Plaintiff to be sold in connection with the EMOJI Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine EMOJI product or any other product produced by Plaintiff, that is not Plaintiff's or not produced under the authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale under the EMOJI Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff; 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 Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of Plaintiff's trademarks, including the EMOJI Trademarks, 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. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, and the domain name registrars, including, but not limited to, GoDaddy Operating Company LLC, Name.com, PDR LTD. d/b/a/ PublicDomainRegistry.com, and Namecheap Inc., within seven (7) calendar days of receipt of this Order or prior to the expiration of this Order, whichever date shall occur first, shall disable the Defendant Domain Names and make them inactive and untransferable until further order by this Court.
4. Upon Plaintiff'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 eBay, Inc., AliExpress, Alibaba Group Holding Ltd. ("Alibaba"), Amazon.com, Inc., ContextLogic Inc. d/b/a Wish.com ("Wish.com"), and Dhgate (collectively, the "Third Party Providers"), shall, within seven (7) calendar days after receipt of such notice, provide to Plaintiff 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.com, Alibaba, Ant Financial Services Group ("Ant Financial"), Amazon Pay, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
5. Upon Plaintiff's request, those with notice of this Order, including the Third Party Providers as defined in Paragraph 4, 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 EMOJI Trademarks.

6. Any Third Party Providers, including PayPal, Alipay, Alibaba, Ant Financial, Wish.com, and Amazon Pay, 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 Schedule A hereto, the e-mail addresses identified in Exhibit 2 to the Declaration of Jose Santiago, 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. Plaintiff 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 2 to the Declaration of Jose Santiago 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 "vwtgfwtg and all other Defendants identified in the Operative 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.

8. Plaintiff's Complaint [Dkt. No. 1], Schedule A to the Complaint [Dkt. No. 7], Exhibit 2 to the Declaration of Jose Santiago [Dkt. Nos. 11-15], and the TRO [Dkt. No. 22] are unsealed.
9. 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.
10. The \$10,000 bond posted by Plaintiff shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

Date: December 16, 2021

/s/ Martha M. Pacold
United States District Judge

Schedule A

No.	Defendant Name / Alias
1	vwtgfwtg
2	vxbfzxdg
3	vxvhgj
4	xcbgfh
5	xcfdsfvs
6	xcmdxtf
7	xcvchh
8	xdegzss
9	xdcvt
10	xdvgrj
11	xfgea
12	xfghzf
13	xfgsrgh
14	xgxgzdgf
15	Xiaoshuiyi
16	xiehuadi
17	XIguan Tilamen Pansen QAPP
18	xilheya
19	XIONG YONG YING FATION WEARING STORE
20	xtuydg
21	xvcxbcnh
22	xzciuhdf
23	xzfggf
24	xzvfk
25	xzxdsfv
26	yandg
27	yanghuchen8839660
28	yangxingyu2219
29	yangyifan169248
30	yaolilads
31	yaozhangy
32	Yasteon
33	ybjudyr
34	ybsysr
35	ybtiry
36	ydbbadfa
37	ydbsl41242
38	ydfght
39	YettaEv
40	yghjfg
41	yhyev
42	yinweini

43	Yjacy
44	ynufud
45	ynwqc53shop
46	yogvs
47	ysbjga
48	ytwqo
49	ytyytyj
50	yubdr
51	yubtxdr
52	yudfgfhj
53	yuihrt
54	yundrb
55	yusfhhg
56	yuuby
57	ywserb
58	Yyaydnx
59	Yybrazl
60	Yycrary
61	Yydekzn
62	Yyduman
63	Yyduria
64	Yyharkl
65	Yylatew
66	Yylucim
67	Yymarse
68	Yymcqhe
69	Yymieuz
70	Yyprize
71	Yyproul
72	Yyschno
73	Yysissi
74	Yysplsb
75	Yystabr
76	Yysummk
77	Yytheea
78	Yytijer
79	Yytiuvw
80	Yywandr
81	zacate
82	Zack Barnwelli
83	ZAfraHu
84	zanaanz
85	ZAurora
86	ZCamille
87	ZDWAK XHYVVF CMGQ

88	ZEdwina
89	ZFannyL
90	ZFayJos
91	zfcggs
92	zfdhn
93	ZGerald
94	ZGrisel
95	ZHaleHa
96	zhangqingmei
97	zhangxubhy
98	ZHarold
99	ZHilary
100	vxcbhgui
101	walletmerchant
102	waqtsf
103	weihong9901
104	weijiazuo
105	wfxdcx
106	witkey888
107	wylucc
108	wyuping
109	xcvnjg
110	xdfashion000
111	xiamingxiak
112	XianDu
113	xianjun
114	xianonlineshop
115	xiao sore
116	xiaohanxiao
117	xiaojj
118	xiaokangzhang supper-market
119	xiaoqiunvzhuang
120	xiaotianxipu
121	xiaotong2d
122	xiaoxie147
123	xiaoxuedeja
124	xiaoyunnvzhuangdian
125	xiayajun11365
126	xiedongmei99
127	xinaidawangluo
128	xingjingrui1
129	xinxiaohong gfhgh6
130	xinxingongzuoshi
131	Xinyu trade
132	Xiongyunhao525

133	xiwenwenstore
134	XO7C5K65J
135	xswgn
136	xuecailian
137	xuejiajia0986
138	XUGUIXIAO56
139	xulingfeng2759
140	XxRaeLi
141	YaAkr
142	YaliaonuotuoyZ
143	yamtwv
144	yangbing151762
145	yangchenghao
146	yangfumei9918
147	yanghengyu1452
148	yangjiahui45465
149	yanglijun033
150	yangshuyan5856356
151	yangynag45
152	yangyue702566
153	yanmaoqun66058
154	Yanting3
155	yao chunlin's store
156	yaopanjiuding
157	yayazhijia
158	ybrtbr
159	ydueyxge0
160	Yelaiska
161	YIJIN060
162	YIJIN29
163	yingwuzhe
164	yinshenfajue
165	yinyandong123
166	yiwu city xialida garment co.,ltd
167	YIwuDina
168	yiwusunshine
169	YIWUU xiao shang pin dian pu
170	yixichaoks
171	Yodem lamp
172	YongKangST
173	YoPgiea
174	Yote
175	You Heart 118
176	Youth Store
177	yt02jrs2

178	YTJDTJhgfgfh
179	YTstore
180	ytujghg
181	yuancuiping
182	yuanjinshi
183	yuanrui123
184	yuanwenhao12
185	yuefude
186	yuehengCC
187	yuejinyang
188	yueshimingshi
189	yuexinhappy
190	YujiaStore
191	yujinjin
192	yumiaomiao
193	yuna0031
194	yunyunfashion
195	Yuxiangclothingstore
196	yuxiaofen1
197	yuxingxue54648
198	YvonneC
199	ywcompeteyouth34
200	yyaao
201	Yyyarin
202	YYTT9T9
203	yzf623713
204	Zaihe Online Business
205	zalbaba
206	ZBBshop
207	zcxczsed
208	ZElvaEs
209	ZElvisS
210	Zenglonggenshop
211	ZenithY
212	ZeWoo-Shop
213	ZFS nice
214	ZGYUXIN
215	ZH sporting goods
216	ZhanggantaoyaaJ
217	zhanghaifeng 0510
218	Zhanghao7838
219	zhangjiaxin46455
220	zhangmenyuan
221	zhangn268682
222	zhangqi66

223	zhangrongrong3
224	zhangsan66057
225	zhangsumei81616
226	zhangtao0922
227	Zhangxiaohuo Guangzhou
228	zhangyu2018
229	zhangzhanyun123
230	zhangzhaotuan
231	zhangzhen95271
232	zhaojingyuan00852
233	Zhaomengfei668
234	zheng20170204
235	Zhengkaistore
236	zhengwenjuan
237	zhengxueke'
238	zhenruijujudu
239	zhijie dh
240	zhoucai Store
241	zhouhui Store
242	zhoujiayi9436
243	Z-houle store
244	ZhouLi98566
245	zhouxiongbing11452
246	zhouying1989
247	zhruy888
248	zhudeyu66058
249	zhuifeitradng
250	zhujialong5521