

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

TOHO CO., LTD.,

Plaintiff,

v.

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

,

Defendants.

Case No. 21-cv-04377

Judge Sara L. Ellis

Magistrate Judge Susan E. Cox

PRELIMINARY INJUNCTION ORDER

Plaintiff TOHO CO. LTD. (“TOHO” 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 Schedule A to the Complaint and attached hereto (collectively, “Defendants”) and using at least the online marketplace accounts identified in Schedule A (the “Online Marketplaces”). After reviewing the Motion and the accompanying record, this Court GRANTS TOHO’s Motion in part as follows.

This Court finds TOHO has provided notice to Defendants in accordance with the Temporary Restraining Order entered August 31, 2021, [17] (“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, TOHO 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 TOHO's federally registered trademarks which are protected by U.S. Trademark Registration Nos. 4,183,291; 2,360,489; 2,211,328; 1,858,403; 2,134,696; 1,161,858; 1,163,122; 6,172,295; and 5,093,240 (the "GODZILLA Trademarks") to residents of Illinois. In this case, TOHO 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 purchase products using counterfeit versions of the GODZILLA Trademarks. *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 GODZILLA 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 TOHO's previously granted Motion for Entry of a TRO establishes that TOHO has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that TOHO will suffer irreparable harm if the injunction is not granted.

Specifically, TOHO has proved a *prima facie* case of trademark infringement because (1) the GODZILLA 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 GODZILLA Trademarks, and (3) Defendants' use of the GODZILLA Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants'

products with TOHO. Furthermore, Defendants' continued and unauthorized use of the GODZILLA Trademarks irreparably harms TOHO through diminished goodwill and brand confidence, damage to TOHO's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, TOHO 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 GODZILLA 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 TOHO product or not authorized by TOHO to be sold in connection with the GODZILLA Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine TOHO product or any other product produced by TOHO, that is not TOHO's or not produced under the authorization, control, or supervision of TOHO and approved by TOHO for sale under the GODZILLA Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of TOHO, or are sponsored by, approved by, or otherwise connected with TOHO; 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 TOHO, nor authorized by TOHO to be sold or offered for sale, and which bear any of TOHO's trademarks, including the GODZILLA 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. Upon TOHO'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"), Heguang International Limited or Dunhuang Group d/b/a DHGATE, DHgate.com DHPORT, DHLINK, and DHPAY ("DHgate"), eBay, Inc. ("eBay"), PayPal, Inc. ("PayPal"), ALIPAY US, INC. and its related companies and affiliates ("Alipay"), and SIA Joom, which operates the Joom.com platform ("Joom"), and Alibaba Group Holding Ltd. ("Alibaba"), (collectively, the "Third Party Providers"), shall, within seven (7) calendar days after receipt of such notice, provide to TOHO 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, Amazon, eBay, PayPal, Alipay, Alibaba, DHgate, JOOM, and Ant Financial Services Group ("Ant Financial"), or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
- 4. Upon TOHO'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 GODZILLA Trademarks.
- 5. Any Third Party Providers, including Amazon, eBay, PayPal, Alipay, Alibaba, DHgate, JOOM, and Ant Financial, 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 Koji Ueda, 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. TOHO 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 Koji Ueda 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 "ecraterplush 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. Plaintiff's Schedule A to the Complaint [2], Exhibit 2 to the Declaration of Koji Ueda [12], and the TRO [17] 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 (\$10,000) bond posted by TOHO shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

SO ORDERED:

A handwritten signature in black ink, appearing to read 'S. L. Ellis', written over a horizontal line.

Sara L. Ellis
United States District Judge

Dated: September 29, 2021

Schedule A

No.	Defendants
1	ecraterplush
2	funtoy
3	goya
4	usaposters
5	vinci-zoom
6	wagakki
7	wingor
8	zincst0re
9	123oknin
10	17feifan888
11	automusaf_0
12	bagpok
13	gentleboomssports
14	ismail-289
15	madur_chama
16	memory127
17	micro.trading
18	modelkitonline
19	morningneww
20	muljenwfgen
21	newajiya1214
22	newtrend*2011
23	noahbusiness
24	oubofengchi2021new
25	paipaicomeon888
26	pengyou20212018
27	pfqch
28	photolk
29	pingcenebbyy2
30	plainchampagne
31	pokerface2018
32	qtqstore.2018
33	ramai_youk
34	ramondragon
35	rdkjsunnyshine1992
36	rpzg2317_7
37	rubens.norsar2018
38	sangeethwickysl
39	sanjper_76
40	she*he
41	shihengtradx
42	shine.design

43	shopia.deal
44	shoppingforfashion
45	sitsan 34
46	six-tealtea
47	sogostore686
48	spacejunk35
49	splash-119
50	starsm19
51	stick_it_all_around
52	stickershop2007
53	suiyuejinghao
54	sunshines-04
55	suzho 25
56	sweetheartyear
57	sweetpig1022
58	tannainai887
59	tanyuanjiao8817
60	teamshairises
61	tingtinhuan1
62	tongto82
63	unclew1814-9
64	vanies-toys
65	veevan.vision
66	vincent.norsar2018
67	wangjinbing0623
68	warmhere
69	warsticks1218
70	weijiatrade2020
71	windjing2023
72	wizlenogwei
73	wjx200168
74	wu201919
75	xpheonix
76	xue 987
77	xuri2020
78	yaanrro 0
79	yangqing950515
80	yidetang 988
81	yishen 91
82	youthhobbies021
83	yuzhimindianddghjk
84	zhongjing2017
85	zuoqing2
86	zxb0326
87	zxb6565

88	85BRBAY154
89	AliDillon
90	Amerlley
91	AntonioWilliams
92	Attractive electronic office products
93	aulJohnson
94	AUNQIBAI
95	Beijing Cango Electronic Commerce
96	Beyge
97	xinluoquchangfufubaihuodian
98	+8613588947602 Store
99	027 Store
100	0L0EY Store
101	1131 Store
102	123Cap Store
103	22step by step Store
104	972555687 Store
105	Anime Cards Store
106	appleooq Store
107	bebovizi Store
108	BiBiLi Store
109	Bichun Store
110	BigBlack
111	Bilidi Co.,Ltd. Store
112	Changhao Speede Store
113	Cheap children Store
114	CherryBaby Store
115	Children and Baby House Store
116	Children's Factory Outlet Store
117	Chinese streetwear Store
118	Conscience baby children's Store
119	cx outdoors Store
120	Dirge Store
121	Disney-toys Store
122	Esera Store
123	F102 Store
124	faina's Store
125	Francis 001 Store
126	FToy Store
127	Funny Children Store
128	Funny little Yiyi's wardrobe 9797@4177 Store
129	Global Optimization Store
130	Golden childhood maternal & child toy Store
131	HasbroToy Store
132	Hekou Xiaowang Store

133	Hekou Zhenzhen Store
134	High Quality Children's Clothes Store
135	Hokyeio Clothes Store
136	HUANGYINGXIAODIANGOUWU Store
137	JINGJIE. Store
138	Jodie Rachel Store
139	Juliette Bing Store
140	LaLaLi Sisters Store
141	Le Erfei Store
142	lehao Store
143	lelefafa Store
144	LFFMHMT China Store
145	MC Korea Store Store
146	Megao Minifigs Blocks Store
147	Men's tops Store
148	Miniup Store
149	Minivo Store
150	My Lollipop Store
151	oyh9999 Store
152	Paddy Store
153	Shop4046058 Store
154	Shop910372002 Store
155	Shop911056173 Store
156	Shop911064056 Store
157	Shop911125275 Store
158	Shop911126196 Store
159	Shop911252167 Store
160	Shop911256393 Store
161	Shop911351063 Store
162	Shop911378096 Store
163	Shop911418042 Store
164	Shop911576309 Store
165	Shop911601486 Store
166	Shop911610457 Store
167	Shop911615471 Store
168	Shop911758964 Store
169	so good stars Store
170	Starlightfan Store
171	Tangmaopu specialty store Store
172	The Little Princess Store
173	Thunderstorm men's T-shirt store Store
174	Tiny Spark Official Store
175	Toy World's Store
176	Toy's World Store
177	T-shirt 08 Store

178	T-shirt 09 Store
179	tshirt good 2021 Store
180	wangcangli ZC-cat-88 Store
181	Wendy's Factory Store
182	wy06 Store
183	Xiaoxin Printing Store
184	Yonexre Store
185	Your Diary Store
186	YueXin666 Toy Store
187	YWhomeware Store
188	ZBQ Store
189	annarbormall
190	Apple6cigarettes
191	Art4you
192	authenticgate
193	axcw
194	azoresgate
195	canberragate
196	casesgate
197	Chanel5offwhite
198	colin1987
199	couldgate
200	detroitmall
201	dhgateclothey
202	Dhgateoos
203	Dhgameschu
204	dhgatetravel
205	dhjennifer
206	dhprivate
207	dingdongding06
208	emmalynlq
209	facebuk07
210	fashion1688store
211	fengzixue03
212	fitchburgshop
213	fortmyersgate
214	goodbuyer666
215	guangcity 123
216	gucionsmate
217	Handsamejie
218	happy_products
219	hareshop
220	Health9supplies
221	Hualandie
222	hunbery

223	hutchinsonshop
224	infromsgate
225	Just4urwear
226	Longziding04
227	ludingtonmall
228	manhattanshop
229	mariagate
230	marymaiuss
231	Newclothesjj
232	Little Family Expert
233	SECDIN LIMITED
234	TUNSECHY store