

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

FRIDA KAHLO CORPORATION,

Plaintiff,

Case No.: 1:21-cv-04899

v.

Judge Elaine E. Bucklo

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

Magistrate Judge Young B. Kim

Defendants.

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff, FRIDA KAHLO CORPORATION’s (“FKC” 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”).

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. Specifically, Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Defendant Internet Stores, offer shipping to the United States, including Illinois, accept payment in U.S. dollars, and have sold products using counterfeit and infringing versions of FKC’s federally registered trademarks to residents of Illinois. *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 FRIDA KAHLO trademarks, U.S. Trademark Registration Nos. 5,700,393; 5,186,539; 5,341,582;

5,351,310; 4,739,999; 3,326,314; 3,326,313; 3,787,499; 3,799,598 and 3,318,902 (collectively, the “FRIDA KAHLO Trademarks”).

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

Specifically, FKC has proved a *prima facie* case of trademark infringement because (1) the FRIDA KAHLO 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 the FRIDA KAHLO Trademarks, and (3) Defendants’ use of the FRIDA KAHLO Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with FKC. Furthermore, Defendants’ continued and unauthorized use of the FRIDA KAHLO Trademarks irreparably harms FRIDA KAHLO through diminished goodwill and brand confidence, damage to FKC’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, FKC 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 FRIDA KAHLO Trademarks 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 FRIDA KAHLO product or not authorized by FKC to be sold in connection with the FRIDA KAHLO Trademarks;
- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine FRIDA KAHLO product or any other product produced by FKC, that is not FKC's or not produced under the authorization, control or supervision of FKC and approved by FKC for sale under the FRIDA KAHLO Trademarks;
- c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of FKC, or are sponsored by, approved by, or otherwise connected with FRIDA KAHLO;
- d. further infringing the FRIDA KAHLO Trademarks and damaging FKC's goodwill;
- e. otherwise competing unfairly with FKC 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 FKC, nor authorized by FKC to be sold or offered for sale, and which bear any of the FRIDA KAHLO Trademarks 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 FRIDA KAHLO products; and

- h. operating and/or hosting websites by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing the FRIDA KAHLO Trademarks or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine FRIDA KAHLO product or not authorized by FKC to be sold in connection with the FRIDA KAHLO Trademarks.
- 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, and Amazon (collectively, "Marketplaces"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, shall within five (5) 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 FRIDA KAHLO Trademarks, 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 FRIDA KAHLO Trademarks; 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 Defendants' online marketplace accounts or other websites operated by Defendants, including, without limitation, any online

marketplace platforms such as the 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 eBay, PayPal, WISH, Amazon, Western Union, third party processors and other payment processing service providers, shippers, and online marketplace registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide to FKC 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 online marketplace accounts;
- 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, Amazon, 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. FKC is authorized to issue expedited written discovery, pursuant to the Federal Rules of Civil Procedure 33, 34 and 36, related 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, including any and all associated e-mail addresses; and
 - 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, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplaces.
6. eBay, Inc. ("eBay"), PayPal, Inc. ("PayPal"), ContextLogic, Inc. ("WISH"), and Amazon Payments, Inc. ("Amazon"), shall, within five (5) 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 Amazon accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Carlos Dorado; 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.
- 7. Any banks, savings and loan associations, payment processors, or other financial institutions, for any Defendant or any of Defendants' Internet Stores or websites, shall within five (5) business days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants, or Defendants' 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 2 to the Declaration of Carlos Dorado; 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. FKC 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 2 to the Declaration of Carlos Dorado 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 "2015.sinam 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 Online Marketplace Accounts 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.

9. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to FKC 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) Plaintiffs' Schedule A attached to the Complaint [2], which includes a list of the Defendant Online Marketplace Accounts; (2) screenshot printouts showing the active Defendant Internet Stores (Exhibit 2 to the Declaration of Carlos Dorado) [12], and (3) The Temporary Restraining Order [17].
11. The \$10,000 bond posted by FKC shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: October 1, 2021


U.S. District Court Judge

SCHEDULE A

No.	Defendants
1	2015.sinam
2	agura.gintama
3	aihuangli8
4	akrasulaima_0
5	andafavia
6	avocad 8
7	bapurw50
8	best.parent
9	bolzter_meet
10	dekool_coolz
11	hazmtaju0
12	jeanli26
13	juasr-47
14	julkar 82
15	laka-66
16	liefdego
17	lunarlion
18	tonpur-0
19	2ccm
20	5VVPPC
21	9CCM
22	cuilianping4632155
23	doulong087580
24	fuxueying26806565
25	gaolanhua53221455
26	gongyanyan0804
27	guonan123456
28	hansuling7890
29	huangweihua756569
30	jiajiangwei4895996
31	kongxianghai548
32	Kou Chun Yu
33	lisufen5567
34	lixiaoqiao123
35	longqing78564
36	lvhuqin7890
37	niceVIP
38	qanli159374
39	taoxicai537
40	wangjiangwei1120
41	wangxiuyuan123
42	wangzhongyi0711

43	weidingfu134679
44	yuanhongfei72672
45	yufu5632147
46	yushuxian125
47	zhaochuang3721
48	zhaohua245
49	12cpviayrxy
50	90lgjobzki
51	ABC-LED-DIRECT
52	agovtner27z
53	aishanghh
54	bangpingbaihuo
55	BHRETI
56	binshehima
57	Bipengsheng
58	Bravenca Store
59	cgsjcmv
60	Choubiao
61	CozyRoomz
62	Cute hedgehog
63	dsgsegreh
64	DTPShop
65	EJudge
66	fftgfggbh
67	fimend
68	FKLSDFJASF
69	fudingxingxinwujinmaoyiyouxiangongsi
70	FuhoviLa
71	Genuine-Store
72	gghghgffrt
73	GoldFish&Shark
74	hayalai.kalw51
75	hnujbgbcvgft
76	HuangXinFu
77	hvggvbhjhnnjk
78	Italy NestWilk
79	J.COXLOD
80	jiuquzhoushangmao
81	juhnjhhghyhjuyhjn
82	junwakk
83	kameleon t-shirts
84	KANWOM
85	Kjsdaae
86	Lvliang Wansheng Dianzi Shangwu Youxiangongsi
87	LZX XZL

88	Maikurixukay
89	Ming Horse
90	ngyuanlu
91	nhdxa74
92	Novelty License Plate Cover
93	qutaosilzhe
94	qyajdnn
95	SIMONO
96	Soft season DIY
97	TaiYang648
98	TeeTM
99	tgcvgghn
100	tianjiaf
101	tnq59njocfg
102	TRUONG THANH NHI
103	VANTEAK
104	V-spirit
105	wgjsag55
106	xianshigaoxinquhuizhixintushuxiaoshoubu
107	yixintechs
108	Yuinlong
109	zdsuosuiy
110	Zhang Ruii
111	ZhongQiu