

**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. 1:22-cv-01094

Judge Virginia M. Kendall

Magistrate Judge Sunil R. Harjani

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 as follows.

This Court finds TOHO has provided notice to Defendants in accordance with the Temporary Restraining Order entered March 8, 2022, [18] (“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, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiff a written report under oath providing: (a) the identity and location, including contact information, their true name and physical address, and all associated e-mail addresses, of Defendant; (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 Stores of Defendants, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history; and (c) the steps taken by Defendants to comply with paragraphs 1, (a)-(d) above.
3. Defendants shall not transfer or dispose of any money or other of Defendants' assets in any of Defendants' financial accounts.
4. 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 Heguang International Limited or Dunhuang Group d/b/a DHGATE, DHGate.com, DHPORT, DHLINK and DHPAY ("DHgate"), Alipay US, Inc., Alibaba Group Holding Ltd., Alipay.com Co., Ltd. and any related AliExpress

or Alibaba entities (“Alipay”), Amazon Payments, Inc. (“Amazon”) and PayPal, Inc. (“PayPal”), (collectively, the “Third Party Providers”), shall, within three (3) business 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:

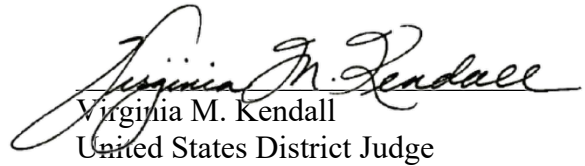
- a. the identities and locations of Defendants, their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;
 - b. the nature of Defendants’ operations and all 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, Alipay, DHgate, Amazon and PayPal, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
5. Upon TOHO’s request, those with notice of this Order, including the Third Party Providers as defined in Paragraph 4 shall within three (3) business 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.

6. Any Third Party Providers, including Alipay, DHgate, Amazon and PayPal, shall, within three (3) business 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.
7. 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/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 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 "ADAM JAMES KISHAN and all other Defendants identified in the Complaint" that shall apply to all Defendants. The combination of providing notice via electronic publication and/or 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 Schedule A to the Complaint [2], Exhibit 2 to the Declaration of Koji Ueda [12], the TRO [18] 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 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:


Virginia M. Kendall
United States District Judge

Dated: March 31, 2022

Schedule A

No.	Defendants
1	
2	AiFangGongYiPinJingYingBu
3	Akokoi
4	AREG's
5	Balialisa
6	BETTER-FUTURE
7	BIGINI
8	Blueangle
9	cdclu58u
10	cghfgrxc
11	Colorful Girl
12	Cute George
13	CVIEGKJ06EGV9
14	Dawn Kenelm Geri
15	DEIYINYAN
16	Dnthcc
17	Dongqixing Technology
18	GAVIN HOWARD
19	GOODOLD
20	heilongjiangleichendianlikejifazhanyouxiangongsi
21	2019 Woman T-Shirt Store
22	A QUINCY HOUSE Store
23	AISAIZ 88jewelry Store
24	Animax Base Store
25	Anime Fantasy Store
26	Babaimai2323 Store
27	Buleflyer Specialist Store
28	Childhood dreammer Store
29	Coolest Shoe&Bag Store
30	Costumebase
31	coszone
32	Cozy Corner Store
33	CozyBed Store
34	Created Toy Store
35	Depicting Life Store
36	Emerit daliy products Store
37	Enico MiniBricks Store
38	fdwd 1985 Store
39	Gaming Keyboards Gamer Store
40	Global RockSpace Store
41	happiness-room Store

42	Hom How Hom Store
43	SEVEYFAN Store
44	shaunyang Crafts Store
45	Shop5419041 Store
46	Shop5429029 Store
47	SLOUPPG Official Store
48	TDFR Store
49	The Anime Games Store
50	The Film Movie Store
51	The Gifts Store
52	The man2018 Store
53	THE NLMU Official Store
54	ThiKin Design Dropshipping Store
55	Thousand Little Houses Store
56	Thousands of children's factories Store
57	Tian nv Store
58	To BE Store
59	Toy World House Store
60	Trendyclothes Store
61	Trendyman Store
62	T-shirt 02 Store
63	T-shirt 03 Store
64	T-shirt and Hoodie manufacturers Store
65	Tshit Store
66	T-shirt Store
67	Twoc Store
68	Uhappy Store
69	UNCLEDONJM Store
70	Upupup! Store
71	US KIDS clothes Factory Store
72	VagaryTees Official Store
73	Wall & Art Store
74	Wall Decor Life Store
75	Warm Hoodie Store
76	WAZIR YouMeng Store
77	WELO-CHILD Store
78	WenXuanClothing Store
79	wesdsds Store
80	WJillJun Store
81	WO DE GUAGUA 520 Store
82	world belongs to you Store
83	World Minifigs Bricks Store
84	World phone cases Store
85	WXDUUZ Aimee Store
86	WXDUUZ duoduo Store

87	WXGO Tshirt Store
88	X Task Force Official Store
89	X ZONE Store
90	XCZJ 3D Print factory Store
91	XIAN XIAN 8 Store
92	xiao guo Store
93	Xiaoshuang Boutique Store
94	Xiaowanwan Store
95	xindongli Store
96	XINER666 Store
97	XINYOU Children Store
98	XinZhao Store
99	xiyang trading Store
100	XR Wall Painting Store
101	xuxi Store
102	XY boutique stickers Store
103	Yangzhou Lsd Electronic Co., Ltd.
104	Yangzhou Wosen Toys Co., Ltd.
105	YANWEI Store
106	YanyuAlina Store
107	ye688 Store
108	YEAR Clock Store
109	yellowpods Store
110	Yin&JGe Art Paintings Decor Store
111	Yingtian Chuanfu Maoyi Store
112	YIS'QI Store
113	YJCART Store
114	YOFOCOO Official Store
115	Yohi wiik Store
116	yongchen Store
117	yongzhi Store
118	youzhiqingnian FY clothes Store
119	YQH South Store 2 Store
120	Yuan LXIU Store
121	Yuanyuan No. 2 Children Store
122	YUAO910557200 Store Store
123	YUHONG01 Store
124	Yuri Anime Jewelrys Store
125	YU-YI Store
126	ZAY Store
127	zhangy Store
128	zhao good luck Store
129	zhiheng Store
130	Zillions Store
131	ZKH.10 Store

132	Zororong No.4 Store
133	Zororong No2 Store
134	ZQP Factory Store
135	ZY1993 Store
136	abmosstore
137	Abstyle
138	allinbag
139	Babysdhgates
140	bearonly
141	beibag
142	bifende001
143	bking
144	bluemoodd
145	brand backpack
146	bt tws factory
147	cinderelladress
148	coloroom
149	coworld
150	duanhu
151	Fashion Clothing Wholesale
152	fashion5the3belt
153	flowter
154	fundhgatego
155	glowdragon
156	hair_fly2020
157	vogueapparel
158	walkerfranck
159	Wangbeiche
160	wangzhi_hao8
161	wannergarment
162	Watch2013
163	wattystore
164	wayoff
165	wayslestore
166	we_do
167	wearbeauty
168	weisdhgate
169	wellcup
170	wildmarkstoree
171	williem
172	windrunnerjacket
173	wm674916693
174	Wobu
175	womenclothespink
176	womenclothesvestidoe

177	womendesigneroutfits
178	womendesignertshirts
179	womenunderwears
180	wondercraftroom
181	workclothes
182	wqasysos
183	wrapfairy
184	wugaoxue
185	wumami
186	xiale
187	xiamendhwholesale
188	xianfeiyu
189	xiaocao02
190	xiaohua1214
191	xiaolin2018
192	xiatian4
193	xiatian7
194	xiedf
195	xiequanhui2008
196	xinpiao
197	Xixicup
198	xmyijie02
199	xuthusstore
200	Xymy777
201	y73shop
202	yakima
203	yanghuaifu2008
204	Yanyefen
205	yaxunfuzhou
206	yellowcup
207	yesterlike
208	yg03tshirt
209	yg04tshirt
210	yg05tshirt
211	yhxw57
212	yishop
213	yiweidhgate
214	yizhan05
215	yjh_010
216	yjh_017
217	yjh_024
218	yjh_036
219	yohistore
220	yolkice
221	yoyogo

222	ys_shop
223	yubin01
224	yubin02
225	yubin06
226	yubin07
227	Yubin09
228	yubin11
229	yubin4
230	yubin7
231	Yuhuicuo
232	yujiu
233	yunwa04
234	yuxin0002
235	yuxin0003
236	yuxin0010
237	yuxin02
238	yuxin03
239	yuxin09
240	yzlwatchfine
241	Zaeystore
242	zehangame
243	zhangjingxin2