

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

KTM AG,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A
HERETO,

Defendants.

Case No.: 22-cv-709

Judge Harry D. Leinenweber

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff KTM AG's Motion for a Preliminary Injunction, and this Court having considered 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 attached hereto (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 are reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products bearing infringing and/or counterfeit versions of Plaintiff's KTM and DUKE Trademarks (the "KTM Products").

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 Plaintiff's previously granted Motion for a Temporary Restraining Order establishes that Plaintiff has 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 made a *prima facie* showing of trademark infringement because (1) the KTM and DUKE Trademarks are distinctive marks and registered with the U.S. Patent and Trademark Office on the Principal Register as U.S. Trademark Registration Nos. 3,606,168; 3,547,084; 3,440,999 and 3,436,150 for the KTM Trademark and Registration No. 4,650,809 for the DUKE Trademark, (2) Defendants are not licensed or authorized to use the KTM or DUKE Trademarks, and (3) Defendants' use of the KTM and DUKE Trademarks are causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with KTM AG. Furthermore, Defendants' continued and unauthorized use of the KTM and DUKE 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 Plaintiff's KTM and DUKE Trademarks or any confusingly similar trademarks or names in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine KTM Product or is not authorized by Plaintiff to be sold in connection with Plaintiff's KTM and DUKE Trademarks;
- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine KTM Product or other product produced by Plaintiff, that is not Plaintiff's or is not produced under the authorization, control or supervision of Plaintiff and approved by Plaintiff for sale under Plaintiff's KTM and DUKE 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;
- d. further infringing Plaintiff's KTM and DUKE Trademarks and damaging Plaintiff's goodwill;
- e. 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 Plaintiff's KTM and DUKE Trademarks or any confusingly similar reproductions, counterfeit copies or colorable imitations thereof;

- f. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, the Defendant Domain Names, or any other domain name or online marketplace account that is being used to sell Counterfeit KTM Products; and
 - g. operating and/or hosting websites at the Defendant Domain Names and any other domain names registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing Plaintiff's KTM Trademarks or any confusingly similar reproduction, counterfeit copy or colorable imitation thereof that is not a genuine KTM Product or is not authorized by Plaintiff to be sold in connection with Plaintiff's KTM and DUKE Trademarks.
- 2. Each Defendant, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiff a written report under oath providing: (a) their true name and physical address, (b) all websites and online marketplace accounts on any platform that it owns and/or operate (c) their financial accounts, including all ContextLogic, Inc. ("Wish"), Aliexpress, Alipay, eBay and PayPal, Inc. ("PayPal") accounts, and (d) the steps taken by that Defendant to comply with paragraph 1, a through h, above.
- 3. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afiliast Limited, CentralNic, Nominet, and the Public Interest Registry, within five (5) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall, at Plaintiff's choosing:
 - a. unlock and change the registrar of record for the Defendant Domain Names to a registrar of Plaintiff's selection until further ordered by this Court, and

the domain name registrars shall take any steps necessary to transfer the Defendant Domain Names to a registrar of Plaintiff's selection until further ordered by this Court; or

- b. disable the Defendant Domain Names and make them inactive and untransferable until further ordered by this Court.

- 4. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as iOffer and Wish, Aliexpress, Alipay, eBay, PayPal, social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Domain Names, and domain name registrars, 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 KTM and DUKE 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 KTM and DUKE Trademarks; and
- c. take all steps necessary to prevent links to the Defendant Domain Names identified in Schedule A from displaying in search results. This includes, but is not limited to, removing links to the Defendant Domain Names from any search index.

- 5. 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' websites at the

Defendant Domain Names or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as iOffer, Wish, Aliexpress, Alipay, eBay, PayPal, 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 Wish, Aliexpress, Alipay, eBay, PayPal, third party processors and other payment processing service providers, shippers, and domain name registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide to Plaintiff 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, 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 Online Marketplace Accounts, the Defendant Domain Names, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts and Defendant Domain Names;
- c. Defendants' websites and/or any Online Marketplace Accounts;
- d. The Defendant Domain Names or any domain name registered by Defendants; and

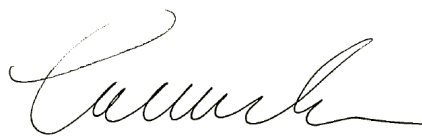
- e. Any financial accounts owned or controlled by Defendants, including their agents, servants, employees, attorneys, and any persons acting in concert or participation with them, including such accounts residing with or under the control of any banks, savings and loan associations, payment processors or other financial institutions, including, without limitation, Wish, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
- 6. Defendants and any persons in active concert or participation with them who have actual notice of this Order shall be restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
- 7. Wish 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 Wish accounts connected to the information listed in Schedule A hereto; and
 - b. Restrain and enjoin any such accounts from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
- 8. Aliexpress and Alipay 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 Aliexpress and Alipay accounts connected to the information listed in Schedule A hereto; and

- b. Restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
9. eBay 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 eBay accounts connected to the information listed in Schedule A hereto; and
 - b. Restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
10. PayPal 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 PayPal accounts connected to the information listed in Schedule A hereto; and
 - b. Restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
11. Plaintiff may provide notice of these proceedings to Defendants, including notice of any future hearings 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 to which the Defendant Domain Names are transferred to Plaintiff's control will redirect, or by sending an e-mail to the e-mail addresses identified in Schedule A hereto and any e-mail addresses provided for Defendants by third parties accompanied by a link

to the website where the above-identified documents are located. The Clerk of Court is directed to issue a single original summons in the name of “jialangyi and all other Defendants identified in Schedule A to the Complaint” that shall apply to all Defendants. The combination of providing notice via electronic publication or e-mail, along with any notice that Defendants receive from domain name registrars 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.

12. Plaintiff’s Complaint [Dkt. No. 1], Schedule A to the Complaint [Dkt. No. 7], Exhibit 2 to the Declaration of Hubert Trunkenpolz and Viktor Sigl [Dkt. Nos. 12-21], and the TRO [Dkt. No. 26] are unsealed.
13. 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.
14. 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.

Dated: March 15, 2022



The Honorable Harry D. Leinenweber
U.S. District Judge

SCHEDULE A

No.	Defendant Name / Alias
1	jialangyi
2	jion-ruiqi
3	JUNWEI13
4	junzilan
5	LIANGBIXIA
6	Liangyuyan
7	liqian1994
8	LIUGAI
9	liuhhhhh
10	liujiahaovc
11	LiuJiaTian02
12	LIUJINHONG88
13	LIUJUNYING122
14	liuqiyanghu
15	liuxing80650
16	lld5454
17	mallshop
18	mchssshop
19	mclaytemtu
20	minxue
21	mmnnbbvvaa
22	mmxhnly
23	nonkafei
24	panweeduey
25	phosasdbvs
26	PiuPiuShop
27	tainrenxin85696
28	xuqingyi4029
29	yinchangjie7162
30	yuxiaohu58471
31	zhoumo6753
32	zhujie6398
33	Fast-Delivery Store
34	H-King Store
35	Lu Lu Blanket Store
36	OGGO Store
37	Quanzhou Guangshi Trading Co., Ltd.
38	bikers-billet
39	dugdug-motorcycles
40	hitot-0
41	johnnguy_33
42	knight823922

43	lodaan 2291
44	mgna5957
45	nguth 9240
46	oplung-33
47	rocker biker shop
48	guoxiaobao8515
49	jiayouhaohuo
50	jimengting520
51	jinhui fashion trade
52	jiwushan
53	Joanna Motor Parts
54	Just fou you
55	kokiya
56	langpeng
57	Laoren
58	leiguihua907790543
59	liang zhuang
60	liaolei fashion
61	Lijiaye12332
62	linsuruo9833
63	LIUBING662
64	liubingbingg
65	LIUDAN089
66	liudong12345
67	liujielun fashion
68	liushuo7890
69	LIUYUCHAO
70	liuzhen fashion
71	lizhixing
72	Lyueli
73	MALING998
74	MAMAD
75	marcjshot
76	Mario sheet set
77	niclove
78	Nicolas Stos
79	nidehao
80	nieyuhon
81	one person001
82	PAH Club
83	pangkegai5
84	pengqe52
85	PINGYU96
86	sfcbnx online store
87	tuf7603qj002

88	0123456 Store
89	100% classic t-shirt Store
90	100% cotton tshirts 000888 Store
91	112757 Store
92	1685965286 Store
93	24K Store
94	4988 Store
95	5462308 Store
96	986pillowcase Store
97	Anyang Store
99	Asif Store
100	Bad Men Store
101	BangShiLun 6 Store
103	ccfg 199201 Store
106	cute-love Store
107	cy4516 Store
109	Dano wardrobe Store
110	ddrenzai Store
111	DINGKUO Store
112	dongguanjishi2 Store
114	F165 Store
115	fei 668 Store
116	Forcemoto Store
117	Forward runner Store
118	Frecher Store
119	FuFollow Motor Store
121	Geeleisuresport Store
122	G-Life Store
124	Hey , it's your Store
125	High-end buyer's Store
126	High-end custom cycling clothing factory
127	High-quality men's shop Store
129	Huston Store
130	IGNB Store
131	is your hat Store
132	J&X MOTORPART Store
134	JKS Store
135	JM Motorcycle Accessories Store
136	JYJC Store
138	KUBUG Outdoor Store
139	LBG Store
140	Leisure Fitness 2 Store
141	LhOne store Store
143	Little naughty- Store
144	LLLL Store

145	Lonely shop Store
146	Long Make a fortune Store
147	Long Sir Store
148	long1988
151	Makes You Beautiful Store
152	Marc Marquez 93 Store
153	Mayshow-Fashion Store
154	meglio Store
156	mggmg Store
157	Milii Store
159	mtst15 Store
161	muzhiying Store
163	officee Store
164	Penzo Store
165	Private visit Store
166	Pvma Men's Store
167	SeanDesign S Store
169	Shop4956005 Store
170	Shop5581119 Store
171	shop687899 tshirts Store
172	small cheng zi 3 Store
175	TOM-8 Store
176	Xiamen Jiatex Import And Export Co., Ltd.
179	yang guo Store
180	yi fan feng shun Store
181	Yifei School Bag Store
182	yishuozhijia2 Store
184	YU-NUO Store
186	ZHOUNANA Store