

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

LULULEMON ATHLETICA CANADA INC.,

Plaintiff,

v.

DREAMDRIFTS.COM AND THE
INDIVIDUALS AND ENTITIES OPERATING
DREAMDRIFTS.COM,

Defendants.

Case No. 22-cv-01543

Judge John Z. Lee

Magistrate Judge Susan E. Cox



PRELIMINARY INJUNCTION ORDER


THIS CAUSE being before the Court on Plaintiff Lululemon Athletica Canada Inc.’s (“Lululemon”) Motion for Entry of 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 on Schedule A attached hereto (collectively, the “Defendants”) and using the fully interactive, e-commerce stores¹ operating under the seller aliases identified in Schedule A (collectively, the “Seller Aliases”).

This Court further 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 Seller Aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, have sold products using infringing and counterfeit versions of

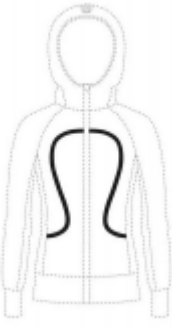

¹ The e-commerce store urls are listed on Schedule A hereto under the Seller Aliases and Domain Names.


Lululemon's federally registered trademarks (the LULULEMON Trademarks) to residents of Illinois. A list of the LULULEMON Trademarks is included in the chart below.

Registration No.	Trademark	Goods and Services
4,391,115	LULULEMON	Clothing, namely, t-shirts, shirts, tank tops, sweatshirts, sweaters, jerseys, jumpers, pants, sweatpants, shorts, skirts, dresses, jackets, coats, vests, underwear, socks, warm-up suits, bodysuits, leotards, tights, leggings, leg warmers; headwear, namely, hats, caps, toques, visors, headbands, bandanas; clothing accessories, namely, belts, scarves, shawls, shoulder wraps, arm warmers, mittens, gloves; sandals in class 025.
3,990,179	LULULEMON	Retail store services featuring clothing, apparel, accessories, headwear, socks, yoga equipment, athletic equipment, bags, backpacks, tote bags, pre-recorded DVDs, featuring topics relating to yoga instruction, yoga philosophy, exercise and health living; online retail store services featuring clothing, apparel, accessories, headwear, socks, yoga equipment, athletic equipment, bags, backpacks, tote bags, pre-recorded DVDs, featuring topics relating to yoga instruction, yoga philosophy, exercise and health living in class 035.
2,607,811	lululemon  athletica	Clothing, namely, pants, shirts, t-shirts, shorts, sweatshirts, sweatpants, socks, jackets, coats, hats in class 025.
2,460,180		Clothing, namely, pants, shirts, t-shirts, shorts, sweatshirts, sweatpants, socks, jackets, coats, hats in class 025.

Registration No.	Trademark	Goods and Services
3,985,877		Retail store services featuring clothing, apparel, accessories, headwear, socks, yoga equipment, athletic equipment, bags, backpacks, tote bags, pre-recorded DVDs, featuring topics relating to yoga instruction, yoga philosophy, exercise and health living; online retail store services featuring clothing, apparel, accessories, headwear, socks, yoga equipment, athletic equipment, bags, backpacks, tote bags, pre-recorded DVDs, featuring topics relating to yoga instruction, yoga philosophy, exercise and health living in class 035.
3,024,374	LUON	Clothing, namely, T-shirts, shirts, pants, shorts, sweatshirts, sweatpants, tank tops, jackets, coats and hats for men, women and children in class 025.
3,116,371	SILVERESCENT	Clothing, namely T-shirts, shirts, pants, shorts, skirts, dresses, sweatshirts, sweatpants, tank tops, underwear, socks, jackets, coats, headwear, footwear in class 025.
3,272,013	VITASEA	Dresses; Pants; Shirts; Skirts; Sweat pants; Sweat shirts; T-shirts; Tank tops; Underwear in class 025.
3,976,389	LUXTREME	Body suits; Jackets; Leggings; Pants; Shirts; Shorts; Skirts; Tank tops; Tights in class 025.
3,978,257	GROOVE	Yoga pants in class 025.
3,978,258	GROOVE PANT	Yoga pants in class 025.
4,033,939	SET-MY-PONYTAIL-FREE	Clothing, namely, hooded sweatshirts, jackets and coats; Headwear, namely, hats and caps in class 025.

Registration No.	Trademark	Goods and Services
4,214,049	WUNDER UNDER	Clothing, namely crop pants, pants, shorts, tights, leggings in class 025.
4,214,052	POWER Y	Clothing, namely, tank tops, bras in class 025.
4,219,265	RULU	Clothing, namely, T-shirts, shirts, pants, shorts, sweatshirts, sweatpants, tank tops, underwear, socks, jackets, coats and hats for men, women and children in class 025.
4,234,113	DEFINE JACKET	Clothing, namely, jackets in class 025.
4,333,759	SCUBA	Clothing, namely, hooded sweatshirts, jackets, coats, tops in class 025.
4,823,727	LOCK 'EM DOWN	Clothing, namely, underwear in class 025.
4,832,086	NAKEDSEAM	Athletic apparel, namely, pants, shorts, crops, leggings, shirts, t-shirts, tank tops, jackets, and outerwear, namely, coats in class 025.
4,832,139	CUFFINS	Clothing, namely, jackets, sweatshirts, shirts, sweaters in class 025.
4,846,298	LUXCHANGE	Apparel, namely, jackets, coats, parkas, and sweatshirts in class 025.
4,905,437	PACE BREAKER	Clothing, namely, shorts and underwear in class 025.
4,964,908	FULL-ON	Athletic apparel, namely, pants, shorts, crop pants, tights and leggings all for men, women and children; all of the foregoing expressly excluding cosmetics in class 025.
5,040,370	ALL THE RIGHT PLACES	Clothing, namely, crop pants, pants, shorts, tights, leggings in class 025.

Registration No.	Trademark	Goods and Services
5,041,355	BLOCK-IT POCKET	Clothing, namely, pants, sweatpants, shorts in class 025.
5,413,086	SWIFTLY	Clothing, namely, t-shirts, shirts, tank tops, sweatshirts, sweaters; clothing accessories, namely, arm warmers and scarves; headwear, namely, headbands in class 025.
5,617,645	TIGHT STUFF	Clothing, namely, pants, tights, and leggings in class 025.
5,666,869	NULU	Clothing, namely, shirts, tank tops, pants, sweatpants, shorts, dresses, jackets, bodysuits, leotards, tights, bras in class 025.
5,751,880	SERIOUSLY LIGHT	Clothing, namely, t-shirts, shirts, tank tops and headbands in class 025.
4,897,183		Hooded sweat shirts; Jackets; Coats in class 025.
4,986,083		Clothing, namely, tights, pants in class 025.

Registration No.	Trademark	Goods and Services
5,393,854		Clothing, namely, tights, pants, leggings in class 025.

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 Lululemon’s previously granted Motion for Entry of a Temporary Restraining Order establishes that Lululemon has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that Lululemon will suffer irreparable harm if the injunction is not granted. Specifically, Lululemon has proved a *prima facie* case of trademark infringement because (1) the LULULEMON 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 LULULEMON Trademarks, and (3) Defendants’ use of the LULULEMON Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with Lululemon. Furthermore, Defendants’ continued and unauthorized use of the LULULEMON Trademarks irreparably harms Lululemon through diminished goodwill and brand confidence, damage to Lululemon’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, Lululemon 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. As such, 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 preliminarily enjoined and restrained from:
 - a. using the LULULEMON 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 Lululemon Product or not authorized by Lululemon to be sold in connection with the LULULEMON Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Lululemon Product or any other product produced by Lululemon, that is not Lululemon's or not produced under the authorization, control or supervision of Lululemon and approved by Lululemon for sale under the LULULEMON Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of Lululemon, or are sponsored by, approved by, or otherwise connected with Lululemon;
 - d. further infringing the LULULEMON Trademarks and damaging Lululemon's goodwill; and
 - e. 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 Lululemon, nor authorized by Lululemon to be sold or offered for sale, and which bear any of Lululemon's trademarks, including the

- LULULEMON Trademarks, or any reproductions, counterfeit copies or colorable imitations thereof.
2. The domain name registries for the Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afiliast Limited, CentralNic, Nominet, and the Public Interest Registry, within ten (10) business days of receipt of this Order, shall, at Lululemon's choosing:
 - a. unlock and change the registrar of record for the Domain Names to a registrar of Lululemon's selection until further ordered by this Court; or
 - b. disable the Domain Names and make them inactive and untransferable until further ordered by this Court.
 3. The domain name registrars, including, but not limited to, GoDaddy Operating Company, LLC ("GoDaddy"), Name.com, PDR LTD. d/b/a PublicDomainRegistry.com ("PDR"), and Namecheap Inc. ("Namecheap"), within ten (10) business days of receipt of this Order, shall take any steps necessary to transfer the Domain Names to a registrar account of Lululemon's selection so that the Domain Names can be redirected or disabled until further ordered by this Court.
 4. Upon Lululemon's request, any third party with actual notice of this Order who is providing services for any of the Defendants, or in connection with any of the Defendants' Seller Aliases and Domain Names, including, without limitation, any online marketplace platforms such as eBay, Inc. ("eBay"), AliExpress, Alibaba Group Holding Ltd. ("Alibaba"), Amazon.com, Inc. ("Amazon"), ContextLogic Inc. d/b/a Wish.com ("Wish.com"), Walmart, Inc. ("Walmart"), and DHgate, (collectively, the "Third Party Providers") shall, within seven (7) calendar days after receipt of such notice, provide to

Lululemon 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, 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 Seller Aliases, Domain Names, and Defendants' financial accounts, including Defendants' sales and listing history related to their respective Seller Aliases and Domain Names; and
 - c. 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, PayPal, Inc. ("PayPal"), eBay, Alipay, Alibaba, Ant Financial Services Group ("Ant Financial"), Wish.com, Amazon Pay, Walmart, DHgate or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
5. Upon Lululemon's request, those with notice of the injunction, 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 LULULEMON Trademarks:

6. Defendants shall be temporarily and preliminarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
7. Any Third Party Providers, including PayPal, eBay, Alipay, Alibaba, Ant Financial, Wish.com, Walmart, DHgate and Amazon Pay, shall, within seven (7) calendar days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants and the Seller Aliases and Domain Names, including, but not limited to, any financial 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.
8. Lululemon 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 Seller Aliases, Domain Names, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Seller Aliases and Domain Names.

Lululemon is authorized to issue any such expedited discovery requests via e-mail. Defendants shall respond to any such discovery requests within three (3) business days of being served via e-mail.

9. Lululemon may provide notice of these proceedings 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 Amended Complaint, this Order and other relevant documents on a website to which the Domain Names which are transferred to Lululemon's control will redirect, or by sending an e-mail to the e-mail addresses provided for Defendants by third parties that includes a link to said website. The Clerk of the Court is directed to issue a single original summons in the name of "DREAMDRIFTS.COM and the Individuals and Entities Operating DREAMDRIFTS.COM" 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.
10. Schedule A to the Complaint [2] and Amended Complaint [15], Exhibits 4 and 5 to the Declaration of Jenny Vo [20] and [21], and the TRO [28] are unsealed.
11. 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 Northern District of Illinois Local Rules.
12. The \$1,000 bond posted by Lululemon shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

IT IS SO ORDERED.

DATED: May 6, 2022

A handwritten signature in black ink, appearing to read "John Z. Lee", written in a cursive style.

John Z. Lee
United States District Judge

**Lululemon Athletica Canada Inc v. The Partnerships and Unincorporated Associations
Identified on Schedule "A" - Case No. 22-cv-01543**

Schedule A

Defendant Domain Names		
No	URL	Name / Seller Alias
1	dreamdrifts.com	dreamdrifts.com