

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

INFMETRY LLC,)	
)	
Plaintiff,)	
)	Case No. 22 C 1715
v.)	
)	
THE PARTNERSHIPS and)	Judge John Robert Blakey
UNINCORPORATED)	
ASSOCIATIONS IDENTIFIED ON)	
SCHEDULE "A,")	
)	
Defendants.)	

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff Infmetry's ("Plaintiff") Amended Motion for Entry of a Preliminary Injunction (the "Motion") [23] against Defendant Nos. 1 (Formemory), 2 (Musiicc), 3 (For memory), and 6 (Hongfago) ("Defendants") as identified in the Schedule A ("Defendant Online Stores") attached hereto.

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 Defendant Online Stores through which Illinois residents can and do purchase products using spurious and unauthorized versions of the CAPSULE LETTERS Mark:

Registration Number	Trademark	Goods and Services
6,146,776	Capsule Letters	For: Paper stationery with inspirational messages imprinted thereon; Personalized written or printed messages in decorative miniature envelopes contained in a jar IC 016.

This registration is valid and un-cancelled. Defendants display images protected by Plaintiff's copyright on the Defendant Online Stores and offer to sell and sell clothing items bearing images protected by Plaintiff's copyright without Plaintiff's permission or consent

This Court also finds that injunctive relief previously granted in the temporary retaining order (the "TRO") [14] should remain in place as to the Defendants 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 Entry of a TRO establishes that Plaintiff has demonstrated a likelihood of success on the merits, that no remedy at law exists, and that Plaintiff will suffer irreparable harm if the injunction isn't granted.

Specifically, Plaintiff has proved a *prima facie* case of trademark infringement, false designation of origin, passing off, and unfair competition because: (i) the Defendants used a false designation of origin (*i.e.*, that of Plaintiff) by using spurious versions of the CAPSULE LETTERS Mark in connection with the offer for sale of their unauthorized goods; (ii) the Defendants caused those goods to enter and be

available within U.S. interstate commerce; and (3) consumers are likely to be confused by Defendants' false representations that their Infringing Capsule Letters Products are in fact sourced from Plaintiff.

Moreover, Defendants' continuing and unauthorized use of the CAPSULE LETTERS Mark irreparably harms Plaintiff through diminished goodwill and brand confidence, damages to Plaintiff's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, thus, Plaintiff has an inadequate remedy at law. The public interest is served by entry of this Preliminary Injunction to dispel the public confusion created by Defendants' actions. Thus, 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 CAPSULE LETTERS Mark 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 Capsule Letters Product or not authorized by Plaintiff to be sold in connection with the CAPSULE LETTERS Mark;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Capsule Letters Product or any other product produced by Plaintiff, that is not Plaintiff's or not produced under the authorization,

control or supervision of Plaintiff and approved by Plaintiff for sale under the CAPSULE LETTERS Mark;

- 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 the CAPSULE LETTERS Mark and damaging Plaintiff's goodwill;
 - e. otherwise competing unfairly with Plaintiff in any manner;
 - f. 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 Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of Plaintiff's trademarks, including the CAPSULE LETTERS Mark, or any reproductions, counterfeit copies, or colorable imitations thereof;
 - g. using, linking to, transferring, selling, exercising control over, or otherwise owning or operating the infringing webstores, websites, or any other domain name that is being used to sell or is the means by which Defendants could continue to sell Infringing Capsule Letters Products;
- and

- h.** operating and/or hosting infringing websites, online storefronts, and any domain names registered or operated by Defendants which are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing the CAPSULE LETTERS Mark or any reproductions, counterfeit copies, or colorable imitations thereof that is not a genuine Capsule Letters Product or not authorized by Plaintiff to be sold in connection with the CAPSULE LETTERS Mark;
- 2.** 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 the Defendant Online Stores or other online marketplace accounts operated by Defendants, including, without limitation, any online marketplace platforms such as Amazon, eBay, Wish, AliExpress, Joom, Vova, web hosts, sponsored search engine or ad-word providers, credit cards, banks, merchant account providers, third party processors and other payment processing service providers such as PayPal, AliPay, Payoneer, Skrill, Ping Pong, Wish, and Amazon Payments, and Internet search engines such as Google, Bing and Yahoo (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, 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;

- 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 Defendant Online Stores and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Defendant Online Stores;
 - c.** any of the Defendant Online Stores;
 - d.** any other online marketplace accounts 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, PayPal, AliPay, Payoneer, Skrill, Ping Pong, Wish, and Amazon Payments, or other merchant account providers, payment providers, third party processors, and credit card associations (*e.g.*, MasterCard and VISA).
- 3.** Upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including the Third-Party Providers as described in Paragraph 2, shall within five (5) business days after receipt of such notice:

- a. disable and cease providing services being used by Defendants, currently or in the future, to engage in the sale of goods using the CAPSULE LETTERS Mark;
 - 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 CAPSULE LETTERS Mark; and
 - c. take all steps necessary to prevent links to the Defendant Online Stores identified on Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Online Stores from any search index.
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. PayPal, AliPay, Payoneer, Skrill, Ping Pong, and Amazon Payments, and any banks, savings and loan associations, payment processors, or other financial institutions, including any Third-Party Providers, shall, within two (2) business days of receipt of this Order, for any Defendant or any of the Defendant Online Stores:
 - a. locate all accounts and funds connected to Defendants or the Defendant Online Stores, including, but not limited to, any PayPal, AliPay, Payoneer, Skrill, Ping Pong, Wish, and Amazon Payments accounts

connected to the Defendant Online Stores identified in Schedule A hereto 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 ordered by this Court.
- 6.** Plaintiff 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 Amended Complaint, this Order and other relevant documents on a website and by sending an e-mail, to the e-mail addresses identified by third parties, that includes a link to said website. 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.** Amended Schedule A to the Complaint [Dkt. 5], Exhibit 1 to the Declaration of Jianfeng Huang [Dkt. 8], and the TRO [14] 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 \$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: May 19, 2022

Entered:

A handwritten signature in black ink, appearing to read "John Blakey", written over a horizontal line.

John Robert Blakey

United States District

Schedule A

Grp	No.	Def. Online Store	Store URL	Product URL
1	1	Formemory	https://www.amazon.com/sp?ie=UTF8&seller=A24E40OAXST04Q&isAmazonFulfilled=1	https://www.amazon.com/Formemory-Capsule-Valentines-Boyfriend-Girlfriend/dp/B098TLZXGW/ref=sr_1_6?crid=2WGTLNNTTKBE3Q&keywords=capsule%2Bletters&qid=1644558528&prefix=capsule%2Bletters%2Caps%2C726&sr=8-6&th=1
	2	Musiicc	https://www.amazon.com/sp?ie=UTF8&seller=A1N3WU54ZESPIL&isAmazonFulfilled=1	https://www.amazon.com/Romantic-Birthday-Creative-Christmas-Valentines/dp/B0988Z8JVQ/ref=sr_1_3?crid=2WGTLNNTTKBE3Q&keywords=capsule%2Bletters&qid=1644558528&prefix=capsule%2Bletters%2Caps%2C726&sr=8-3&th=1
	3	For memory	https://www.amazon.fr/sp?ie=UTF8&seller=A1EJB77AG8ERIB&isAmazonFulfilled=1	https://www.amazon.fr/dp/B09N6KK4WX
	6	Hongfago	https://www.amazon.de/sp?marketplaceID=A1PA6795UKMFR9&seller=A3O91J3WJY4CZ4&isAmazonFulfilled=1&ref=dp_merchant_link	https://www.amazon.de/Amycute-Buchstaben-Liebesbrief-%C3%9Cberraschung-Weihnachten/dp/B097DBZ1XB/ref=sr_1_6?__mk_de_DE=%C3%85M%C3%85%C5%BD%C3%95%C3%91&crid=1CHSN81DGR6KM&keywords=capsule%2Bletters&qid=1644565954&sprefix=capsule%2Bletters%2Caps%2C346&sr=8-6&th=1