

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

PATAGONIA, INC.,

Plaintiff,

v.

OUTDOORWEARS.STORE and THE
INDIVIDUALS AND ENTITIES OPERATING
OUTDOORWEARS.STORE,

Defendants.

Case No. 22-cv-00832

Judge John Z. Lee

Magistrate Judge Maria Valdez



PRELIMINARY INJUNCTION ORDER


THIS CAUSE being before the Court on Plaintiff Patagonia, Inc.’s (“Plaintiff” or “Patagonia”) Motion for Entry of a Preliminary Injunction, and this Court having heard the evidence before it hereby GRANTS Patagonia’s Motion for Entry of a Preliminary Injunction against the fully interactive e-commerce stores¹ operating under the seller aliases identified in Schedule A attached hereto (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 have sold products using infringing and counterfeit versions of Patagonia’s federally registered

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

trademarks (“PATAGONIA Trademarks”) to residents of Illinois. A list of the PATAGONIA Trademarks is included in the below chart.

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
1,189,402	PATAGONIA	Feb. 9, 1982	For: Men’s and Women’s Clothing-Namely, Sweaters, Rugby Shirts, Walking Shorts, Trousers, Jackets, Mittens, Hoods and Rainwear in class 025.
2,260,188	PATAGONIA	July 13, 1999	For: computerized on-line ordering activities in the field of clothing and accessories in class 035. For: providing information in the field of technical clothing and accessories for use in recreational, sporting and leisure activities; providing information in the field of existing and evolving environmental issues in class 042.
2,662,619	PATAGONIA	Dec. 17, 2002	For: Retail store services featuring clothing, footwear, luggage and a wide variety of sporting goods and accessories in class 035.
1,294,523		Sep. 11, 1984	For: Men’s, Women’s and Children’s Clothing-Namely, Jackets, Pants, Vests, Gloves, Pullovers, Cardigans, Socks, Sweaters, Underwear, Shirts, Shorts, Skirts and Belts in class 025.
1,775,623		June 8, 1993	For: luggage back packs, and all-purpose sports bags in class 018.
2,392,685	PATAGONIA.COM	Oct. 10, 2000	For: on-line retail store and mail order services featuring technical clothing, footwear, and accessories in class 035.

REGISTRATION NUMBER	REGISTERED TRADEMARK	REGISTRATION DATE	INTERNATIONAL CLASSES
			For: computer services in the nature of on-line information related to the environment and clothing in class 042.
4,500,490		Mar. 25, 2014	For: shirts, pants, shorts in class 025.
4,809,249	MERINO AIR	Sep. 8, 2015	For: clothing and garments made in whole or substantial part of merino wool, namely, undergarments; base layer garments, namely, undergarments, underwear, thermal shirts, pants, tops and bottoms, all made in whole or substantial part of merino wool 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 Plaintiff’s previously granted Motion for Entry of a Temporary Restraining Order 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 is not granted. Specifically, Plaintiff has proved a *prima facie* case of trademark infringement because (1) the PATAGONIA 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 PATAGONIA Trademarks, and (3) Defendants’ use of the PATAGONIA Trademarks is causing a likelihood of confusion as to

the origin or sponsorship of Defendants' products with Plaintiff. Furthermore, Defendants' continued and unauthorized use of the PATAGONIA 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. As such, this Court orders that:

1. Defendants, their affiliates, 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 PATAGONIA 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 PATAGONIA® product or not authorized by Patagonia to be sold in connection with the PATAGONIA Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine PATAGONIA® product or any other product produced by Patagonia, that is not Patagonia's or not produced under the authorization, control or supervision of Patagonia and approved by Patagonia for sale under the PATAGONIA Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of Patagonia, or are sponsored by, approved by, or otherwise connected with Patagonia;

- d. further infringing the PATAGONIA Trademarks and damaging Patagonia'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 Patagonia, nor authorized by Patagonia to be sold or offered for sale, and which bear any of Patagonia's trademarks, including the PATAGONIA 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., Afiliis Limited, CentralNic, Nominet, and the Public Interest Registry, within ten (10) business days of receipt of this Order, shall, at Patagonia's choosing:
- a. unlock and change the registrar of record for the Domain Names to a registrar of Patagonia'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 Patagonia's selection so that the Domain Names can be redirected or disabled until further ordered by this Court.
4. Upon Patagonia'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 Online Marketplaces

or 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 Patagonia 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 Online Marketplaces, Domain Names and Defendants’ financial accounts, as well as providing a full accounting of Defendants’ sales and listing history related to their respective Online Marketplaces 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”), Amazon Pay, Wish.com, Walmart, DHgate or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

5. Upon Patagonia'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 PATAGONIA 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' Seller Aliases, Online Marketplaces 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. Patagonia is authorized to issue expedited written discovery, pursuant to 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, Domain Names and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplaces and Domain Names.

Patagonia 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. Patagonia may provide notice of these proceedings to Defendants, including 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 to which the Domain Names which are transferred to Patagonia's control will redirect, or by sending an e-mail to the e-mail addresses identified in Exhibits 5 and 6 to the Declaration of Robert Tadlock and any 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 "OUTDOORWEARS.STORE and the Individuals and Entities Operating OUTDOORWEARS.STORE" 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 5 and 6 to the Declaration of Robert Tadlock [20], [21], and the TRO [33] 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 Patagonia 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 over a horizontal line.

John Z. Lee
United States District Judge

**Patagonia, Inc. v. outdoorwears.store and the Individuals and Entities Operating
outdoorwears.store - Case No. 22-cv-00832**

Schedule A

Defendant Domain Names		
No	URL	Name / Seller Alias
1	outdoorwears.store	outdoorwears.store