

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

METALLICA, A CALIFORNIA GENERAL PARTNERSHIP,

PLAINTIFF,

V.

THE PARTNERSHIPS AND UNINCORPORATED  
ASSOCIATIONS IDENTIFIED ON SCHEDULE A,

DEFENDANTS.

CASE No.: 1:22-cv-02054

JUDGE ROBERT M. DOW, JR

MAGISTRATE JUDGE BETH W. JANTZ

**PRELIMINARY INJUNCTION ORDER**

THIS CAUSE being before the Court on Plaintiff, Metallica, a California general partnership's ("Metallica" or "Plaintiff") Motion for 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 (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. "In the context of cases like this one, that means a plaintiff must show that each defendant is actually operating an interactive website that is accessible in Illinois and that each defendant has aimed such site at Illinois by standing ready, willing and able to ship its counterfeit goods to customers in Illinois in particular (or otherwise has some sufficient voluntary contacts with the state)." *Am. Bridal & Prom Indus. Ass'n v. P'ships & Unincorporated Ass'ns Identified on Schedule A*, 192 F.Supp.3d 924, 934 (N.D. Ill. 2016). In this case, Plaintiff has presented screenshot evidence that each Defendant is reaching out to do business with Illinois residents by

operating one or more commercial, interactive Internet Stores through which Illinois residents can and do purchase products using counterfeit versions of Plaintiffs' Trademarks and Copyrights (collectively referred to as "Defendant Internet Store" or "Seller Aliases"). See Docket No. 9, Exhibit 3 to the Declaration of Paul Varley, which includes screenshot evidence confirming that each defendant online marketplace account does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the Metallica Trademarks and Copyrights ("Metallica Trademarks" and "Metallica Copyrights").

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 Metallica has a likelihood of success on the merits; that no remedy at law exists; and that Metallica will suffer irreparable harm if the injunction is not granted.

Specifically, Metallica has proved a *prima facie* case of trademark infringement because: (1) the Metallica Trademarks are distinctive marks and registered with the U.S. Patent and Trademark Office on the Principal Register; (2) Plaintiff's federally registered trademarks are valid and in full force and effect; (3) Defendants are not licensed or authorized to use any of the Metallica Trademarks and/or Copyrights; and, (4) Defendants' use of the Metallica Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with Metallica. Furthermore, Defendants' continued and unauthorized use of the Metallica Trademarks irreparably harms Metallica 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, Metallica 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 affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under, or in active concert with them be temporarily enjoined and restrained from:

- a. using Plaintiff's Metallica Trademarks, Copyrights and/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 Metallica product or not authorized by Metallica to be sold in connection with Plaintiff's Metallica Trademarks and/or Copyrights;
- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Metallica product or any other product produced by Metallica, that is not Plaintiff's nor produced under the authorization, control or supervision of Metallica nor approved by Metallica for sale under Plaintiff's Metallica Trademarks and/or Copyrights;
- c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of Metallica, or are sponsored by, approved by, or otherwise connected with Metallica;
- d. further infringing Plaintiff's Metallica Trademarks and/or Copyrights and damaging Metallica's goodwill;
- e. otherwise competing unfairly with Metallica in any manner;
- f. 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 Metallica, nor authorized by Metallica to be sold or offered for sale, and which bear any of Plaintiff's Metallica Trademarks, Copyrights, and/or any reproductions, counterfeit copies, or colorable imitations thereof;

- g. using, linking to, transferring, selling, exercising control over, or otherwise owning the Defendant Internet Stores or any other domain name or online marketplace account that is being used to sell or is the means by which Defendants could continue to sell Counterfeit Metallica Products; and
- h. operating and/or hosting websites at the Defendant Internet Stores 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 Metallica Trademarks or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine Metallica product or not authorized by Metallica to be sold in connection with Plaintiff's Metallica Trademarks.

2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces or e-commerce platforms and payment processors such as eBay, Inc. ("eBay"), PayPal, Inc. ("PayPal"), Payoneer, Inc. ("Payoneer"), Stripe, Inc. ("Stripe"), ContextLogic, Inc. ("Wish"), Amazon Payments, Inc. ("Amazon"), Etsy, Inc. ("Etsy"), and Alipay US, Inc. ("Alipay") (collectively referred to herein as "Third-Party Providers"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Internet Stores, and domain name registrars, shall within three (3) 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 Metallica

Trademarks and/or Copyrights, including any accounts associated with the Defendants listed on 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 Metallica Trademarks and/or Copyrights; and
- c. take all steps necessary to prevent links to the Defendant Internet Stores, identified on the Schedule A, from displaying in search results, including, but not limited to, removing links to the Defendant Internet Stores from any search index.

3. 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 Internet Stores or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as iOffer and Alibaba, 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 e-commerce platforms and payment processors such as eBay, PayPal, Payoneer, Stripe, Wish, Amazon, Etsy, and Alipay, Western Union, third party processors and other payment processing service providers, shippers, and domain name registrars shall, within five (5) business days after receipt of such notice, provide to Metallica 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;

- b. the nature of Defendants' operations and all associated sales and financial information, including, without limitation, identifying information associated with the Defendant Internet Stores, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Defendant Internet Stores;
- c. Defendants' websites and/or any online marketplace accounts;
- d. The Defendant Internet Stores or any domain name 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, e-commerce platforms and payment processors such as the Third-Party Providers, Western Union, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

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. The Third-Party Providers, and any other party and/or marketplace, or payment processor in privity with Defendants, 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 Internet Stores or Defendants' websites, including, but not limited to any accounts connected to the information listed on Schedule A;
- 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. Any banks, savings and loan associations, payment processors, or other financial institutions, for any Defendant or any of Defendants' online marketplace accounts or websites, shall within five (5) business days of receipt of this Order:

- a. Locate all accounts and funds connected to Defendants, Defendants' online marketplace accounts or Defendants' websites, including, but not limited to, any accounts connected to the information listed on Schedule A; 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.

7. Metallica 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 Complaint, this Order and other relevant documents on a website, and/or by sending an email to the email addresses provided for Defendants by third parties that includes a link to said website. The Clerk of Court is directed to issue a single original summons in the name of "123CAIO Store and all other Defendants identified on Schedule A to the Complaint" that shall apply to all Defendants. The combination of providing notice via electronic publication or email, 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.

8. The Clerk of Court is directed to unseal Plaintiff's Amended Complaint, Exhibit 1 to the Complaint, Exhibit 2 to the Complaint, Schedule A to the Complaint, Motion for Temporary Restraining Order and Motion to Extend the Temporary Restraining Order and the memorandum and supporting pleadings and exhibits, Motion for Electronic Service of Process and its memorandum and supporting pleadings and exhibits, and the Temporary Restraining Order and Extension of the Temporary Restraining Order.

9. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on five (5) days' notice to Metallica or on shorter notice as set by this Court.

10. The \$10,000 bond posted by Metallica shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: May 25, 2022

  
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U.S. District Court Judge Robert M. Dow, Jr





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**SCHEDULE A TO THE COMPLAINT**

<b>No.</b>	<b>DEFENDANT / SELLER ALIAS</b>	<b>MARKETPLACE URL</b>
1	123CAIO Store	aliexpress.com/store/912328340
2	ATSUNNY Streetwear Store	aliexpress.com/store/911662253
3	HNN Store	aliexpress.com/store/912737175
4	LIDUSS Store	aliexpress.com/store/912270420
5	Shop1100264040 Store	aliexpress.com/store/1100264040
6	Z E M Store	aliexpress.com/store/912790056
7	Waroom Wall Art Store	aliexpress.com/store/1100035030
8	Aghammadli Shop	amazon.com/sp?seller=A10N875MW5UF0O
9	Conije-tshirt	amazon.com/sp?seller=A2SSY8WNRJLH8R
10	CR Pix	amazon.com/sp?seller=A7MR64MVVJEC0
11	DASHJH	amazon.com/sp?seller=A8WBPRT1YK0DF
12	hefeizaoqiaoshangmaoyouxiangongsi	amazon.com/sp?seller=A386NLSKM1DU6U
13	RainCity	amazon.com/sp?seller=A2AAHOSGSGP3JO
14	Fashion clothes 001	dhgate.com/store/21640237
15	zhangyunlongmaoyiusa	amazon.com/sp?seller=AI2MCJU9W68II
16	Bltt	dhgate.com/store/20775692
17	feisdhgate	dhgate.com/store/21651586
18	gaopushanco	dhgate.com/store/21663536
19	htb520 Store	dhgate.com/store/21662620

NO.	DEFENDANT / SELLER ALIAS	MARKETPLACE URL
20	iaohbuydhgate	dhgate.com/store/21722094
21	jasseninchina121	dhgate.com/store/21483075
22	julin101	dhgate.com/store/21713933
23	ltogclothes	dhgate.com/store/21675961
24	nooddhgate	dhgate.com/store/21645820
25	sandra_studios	dhgate.com/store/21140338
26	supremerealm	dhgate.com/store/21299230
27	ubumdhgatebuy	dhgate.com/store/21722090
28	xmlarge	dhgate.com/store/20304394
29	xhoff_white	dhgate.com/store/21754729
30	Jonny Deep	displate.com/jonny10
31	*special*offer*	ebay.com/usr/*special*offer*
32	alan_lkstore	ebay.com/usr/alan_lkstore
33	babypetals	ebay.com/usr/babypetals
34	blackfishmart	ebay.com/usr/blackfishmart
35	dixtoys	ebay.com/usr/dixtoys
36	flammenwerfer66	ebay.com/usr/flammenwerfer666
37	genesweb	ebay.com/usr/genesweb
38	gigapt	ebay.com/usr/gigapt
39	gm-decals	ebay.com/usr/gm-decals
40	hornet041062	ebay.com/usr/hornet041062
41	meedrawer	ebay.com/usr/meedrawer
42	Shenzhenshikalasuodianzishangwuyouxiangongsi	fruugo.us/search?merchantId=15103
43	Shenzhenshilintianshiyeyouxiangongsi	fruugo.us/search?merchantId=14751
44	nefls	ebay.com/usr/nefls
45	dnteeluxury	dnteeluxury.com
46	notjustaprintstore	ebay.com/usr/notjustaprintstore
47	open-gap	ebay.com/usr/open-gap
48	pandemonium_merch	ebay.com/usr/pandemonium_merch
49	rock-monster	ebay.com/usr/rock--monster
50	sticker-international	ebay.com/usr/sticker-international
51	thluxdesign	ebay.com/usr/thluxdesign
52	yengshop	ebay.com/usr/yengshop
53	yorkdecals	ebay.com/usr/yorkdecals
54	lisahamsahshop	lisahamsahshop.ecrater.com

<b>No.</b>	<b>DEFENDANT / SELLER ALIAS</b>	<b>MARKETPLACE URL</b>
55	1458Designs	etsy.com/shop/1458Designs
56	71Bandits	etsy.com/uk/shop/71Bandits
57	AnnaEmporium	etsy.com/uk/shop/AnnaEmporium
58	ArtelSlivin	etsy.com/uk/shop/ArtelSlivin
59	BetinaStatueShop	etsy.com/uk/shop/BetinaStatueShop
60	CraftsStreet	etsy.com/uk/shop/CraftsStreet
61	CustomGiftsByNiovi	etsy.com/shop/CustomGiftsByNiovi
62	DKShopVN	etsy.com/uk/shop/DKShopVN
63	irononpatchesau	etsy.com/uk/shop/irononpatchesau
64	MarkintoshDesigns	etsy.com/uk/shop/MarkintoshDesigns
65	MUSIG	etsy.com/uk/shop/MUSIG
66	MyGypsyRoseTreasures	etsy.com/uk/shop/MyGypsyRoseTreasures
67	PARISTEXASvintagetoy	etsy.com/uk/shop/PARISTEXASvintagetoy
68	POZITIFHOBI	etsy.com/uk/shop/POZITIFHOBI
69	SmilePatchDesigns	etsy.com/uk/shop/SmilePatchDesigns
70	taou	etsy.com/uk/shop/taou
71	YouclockVinyls	etsy.com/uk/shop/YouclockVinyls
72	Finger prints	fruugo.us/search?merchantId=7370
73	Shenzhen Changyun Electronics	fruugo.us/search?merchantId=13276
74	Shenzhen Lvpengcheng Technology	fruugo.us/search?merchantId=14811
75	TribalSensation	fruugo.us/search?merchantId=7388
76	Ador	ador.com
77	Bonmerch Premium	bonmerch.com
78	CTee Fashion	cteeffashion.com
79	lightinthebox	lightinthebox.com
80	Lilicloth	lilicloth.com
81	MadColourPatchy	madcolourpatchy.com/
82	My Retro Plate	myretroplate.com
83	Nemoshirt Clothing Fashion Store	nemoshirt.com
84	noxfan	noxfan.com/
85	Printerval	printerval.com/
86	Rainbowt-shirt	rainbowt-shirt.com
87	Rockinmen	rockinmenus.com/
88	Rookbrand.com	rookbrand.com
89	RooKooo	rookooo.com

<b>No.</b>	<b>DEFENDANT / SELLER ALIAS</b>	<b>MARKETPLACE URL</b>
90	Roxx BKK	roxxbkk.com/
91	Scorpiontee Fashion Store	scorpiontee.com/
92	Shop4fans	tshirt4fans.com
93	ShopperShirts	shoppershirts.com/
94	shopt-shirt	shopt-shirt.com/
95	Squirreltee	squirreltee.com
96	TeeDucky	teeducky.com/
97	TeeFefe	teefefe.com
98	Teeruto	teeruto.com
99	Wavetshirt	wavetshirt.com
100	Like rainbow	joom.com/en/stores/1520596005228993006-65-3-39131-1965622363
101	the gold disc man	onbuy.com/gb/shop/the-gold-disc-man/
102	weishujing6688	wish.com/merchant/5f10091a42b647064cea5cfc
103	zhangzhanyun123	wish.com/merchant/5f0c1b96a9393bf91cf31517
104	Artie Clothing Store	aliexpress.com/store/1100266265
105	HL168 Store	aliexpress.com/store/912620675
106	LI-DUS Store	aliexpress.com/store/1100257048
107	Shop1100313058 Store	aliexpress.com/store/1100313058
108	aizi01	dhgate.com/store/21741987
109	chill888	dhgate.com/store/21691433
110	dhgatewang1	dhgate.com/store/21786580
111	diaoling	dhgate.com/store/21751304
112	dior688	dhgate.com/store/21743284
113	expressfamous	dhgate.com/store/20939868
114	fw_tide_suit	dhgate.com/store/21754737
115	HelloSport86 Factory & Trade	dhgate.com/store/14501192
116	linggong	dhgate.com/store/21751314
117	lingtou	dhgate.com/store/21751311
118	lingxu04	dhgate.com/store/21751308
119	lv899	dhgate.com/store/21764392
120	mcqueen_store	dhgate.com/store/21756019
121	pianistststasd	dhgate.com/store/21732746
122	pradas_store	dhgate.com/store/21756053
123	surfingcool	dhgate.com/store/20294199

No.	DEFENDANT / SELLER ALIAS	MARKETPLACE URL
124	tangonel	dhgate.com/store/20067730
125	tiwen11	dhgate.com/store/21751567
126	topseller569	dhgate.com/store/21660057
127	xhhello2022	dhgate.com/store/21754734
128	xiaocat	dhgate.com/store/21097712
129	xuehuaxiu_a	dhgate.com/store/21617047
130	Chungkong Art	displate.com/chungkong
131	Nathascha Kehl	displate.com/nathascha
132	StuStu	displate.com/stuart36
133	The J	displate.com/julirielzi
134	Trending Music Posters	displate.com/musiceverywhere
135	Jiayuhuaxinshangmaoyouxiangongsi	fruugo.us/search?merchantId=14965
136	Shen Zhen Shi You Xin Liang Pin Ke Ji You Xian Gong Si	fruugo.us/search?merchantId=14967
137	Shenzhen Guozhifang Electronic Technology	fruugo.us/search?merchantId=14097
138	Shenzhen Hean Peptide Technology	fruugo.us/search?merchantId=13742
139	Shenzhen Pangshu Technology	fruugo.us/search?merchantId=13843
140	Shenzhenshiwuyishikejiyouxiangongsi	fruugo.us/search?merchantId=14620