

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

BAD VIBES FOREVER, LLC,

Plaintiff,

v.

THE PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”,

Defendants.

Case No. 22-cv-01792

Judge Franklin U. Valderrama

SECOND PRELIMINARY INJUNCTION ORDER

Plaintiff BAD VIBES FOREVER, LLC (“BAD VIBES”) filed a Second Motion for Entry of a Preliminary Injunction [26] against the against the fully interactive, e-commerce stores operating under the seller aliases identified in as Seller Nos. 51–250 on Schedule A to the Complaint and attached hereto (collectively, “Defendants”) and using at least the online marketplace accounts identified in Schedule A (the “Defendant Internet Stores”). After reviewing the Motion and the accompanying record, the Court GRANTS BAD VIBES’ Motion as follows.

The Court finds BAD VIBES has provided notice to Defendants in accordance with the Temporary Restraining Order entered June 13, 2022, [16] (the “TRO”), and Federal Rule of Civil Procedure 65(a)(1).

The Court also finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendants based on Plaintiff’s un rebutted assertions that Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, BAD VIBES has provided a basis to conclude that 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, and have sold products using infringing and counterfeit versions of BAD VIBES' federally registered trademarks, which are covered by U.S. Trademark Registration Nos. 5,654,600; 5,771,321; and 5,627,992 (the "XXXTENTACION Trademarks") to residents of Illinois. In this case, BAD VIBES has presented screenshot evidence that each Defendant e-commerce store is reaching out to do business with Illinois residents by operating one or more commercial, interactive internet stores through which Illinois residents can purchase products using counterfeit versions of the XXXTENTACION Trademarks. *See* Docket No. [14], which includes screenshot evidence confirming that each Defendant e-commerce store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the XXXTENTACION Trademarks.

The Court also finds that the injunctive relief previously granted in the 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 BAD VIBES' previously granted Motion for Entry of a TRO establishes that BAD VIBES has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that BAD VIBES will suffer irreparable harm if the injunction is not granted.

Specifically, BAD VIBES has proved a *prima facie* case of trademark infringement because (1) the XXXTENTACION 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 XXXTENTACION Trademarks, and (3) Defendants' use of the

XXXTENTACION Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with BAD VIBES. Furthermore, Defendants' continued and unauthorized use of the XXXTENTACION Trademarks irreparably harms BAD VIBES through diminished goodwill and brand confidence, damage to BAD VIBES' reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, BAD VIBES 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, the 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 the XXXTENTACION Trademarks or any reproductions, counterfeit copies, or colorable imitations in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine BAD VIBES product or not authorized by BAD VIBES to be sold in connection with the XXXTENTACION Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine BAD VIBES product or any other product produced by BAD VIBES, that is not BAD VIBES' or not produced under the authorization, control, or supervision of BAD VIBES and approved by BAD VIBES for sale under the XXXTENTACION Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of BAD

VIBES, or are sponsored by, approved by, or otherwise connected with BAD VIBES; and

- d. 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 BAD VIBES, nor authorized by BAD VIBES to be sold or offered for sale, and which bear any of BAD VIBES' trademarks, including the XXXTENTACION Trademarks, or any reproductions, counterfeit copies, or colorable imitations.
2. Defendants, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiff a written report under oath providing: (a) the identity and location, including contact information, their true name and physical address, and all associated e-mail addresses, of Defendant; (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 Internet Stores of Defendants, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history; and (c) the steps taken by Defendants to comply with paragraphs 1, (a)-(d) above.
3. Defendants shall not transfer or dispose of any money or other of Defendants' assets in any of Defendants' financial accounts.
4. Upon BAD VIBES' request, Defendants and any third party with actual notice of this Order who is providing services for any of Defendants, or in connection with any of Defendants' Defendant Internet Stores, including, without limitation, any online marketplace platforms such as Alipay US, Inc. and its related entities ("Alipay")

(collectively, the “Third Party Providers”), shall, within ten (10) business days after receipt of such notice, provide to BAD VIBES expedited discovery, limited to copies of documents and records in such person’s or entity’s possession or control sufficient to determine:

- a. the identities and locations of Defendants, their officers, agents, servants, employees, attorneys, and any persons acting in active 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 Defendant Internet Stores and Defendants’ financial accounts, including Defendants’ sales and listing history related to their respective Defendant Internet Stores; and
 - c. any financial accounts owned or controlled by Defendants, including their officers, agents, servants, employees, attorneys, and any persons acting in active 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, Alipay, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
5. Upon BAD VIBES’ request, those with notice of this Order, including the Third Party Providers as defined in Paragraph 4, shall within ten (10) business 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 XXXTENTACION Trademarks.

6. Any Third Party Providers, including Alipay, shall, within ten (10) business days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants' seller aliases, including, but not limited to, any financial accounts connected to the information listed in Schedule A hereto, the e-mail addresses identified in Exhibit 2 to the Declaration of Robert A. Celestin, Esq., 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 order by the Court.
7. BAD VIBES may provide notice of the proceedings in this case 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 Complaint, this Order, and other relevant documents on a website or by sending an e-mail with a link to said website to the e-mail addresses identified in Exhibit 2 to the Declaration of Robert A. Celestin, Esq. and any e-mail addresses provided for Defendants by third parties. The Clerk of the Court is directed to issue a single original summons in the name of "braynac-95 and all other Defendants identified in the Operative 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 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 Schedule A to the Complaint [2], Exhibit 2 to the Declaration of Robert A. Celestin, Esq. [14], and the TRO [16].
9. 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.
10. The Ten Thousand Dollar (\$10,000.00) bond posted by BAD VIBES shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

IT IS SO ORDERED.

Date: July 19, 2022


United States District Judge
Franklin U. Valderrama

Schedule A

No.	Defendants
51	15132 Store
52	156988584 Store
53	198419 Store
54	=@~@= Store
55	@ @ Store
56	aachen5656 Store
57	AB05 Store
58	abing5566 Store
59	AHQ Clothes Store
60	AKEN Store
61	Alvis Mingo Store
62	Amazon-Official-Flagship Store
63	ANEDLEX Official Store
64	ARUO Customized Design Store
65	baobaobaobao8888999 Store
66	Bestest Store
67	Boutique 01 Store
68	chun feng Store
69	Co.,RNG Clothes Store
70	CoolCute Phone Accessories Store
71	Current gathering Store
72	Customized Phone Case-2 Store
73	da song Store
74	Dingsong digital Store
75	Dissney Store
76	EuropeanUnion Store
77	EVOCUST 2100 Store
78	F102 Store
79	FPACE Store
80	Get riches 88 Store
81	ggcc138 Store
82	GHH.8 Store
83	gogogobest Store
84	Googo Store
85	GTT11 Store
86	Guangdong Minghui Export Trade Co., Ltd.
87	High quality 37 Store
88	Honey Clear Store
89	I kpop Store
90	I Need 100 Million Store
91	Jeffomas Store
92	JW666JW Store
93	LANFENGWE Store
94	LCHY Store
95	liangyang Store

96	lingefushidian Store
97	Loseall003 Store
98	Luck Baby Store
99	M-HuoLan Cases Store
100	Man District Store
101	Milk Rabbit Planet Store
102	Million kilometers mobile phone bag Store
103	MMMMNZ Store
104	MONCER Store
105	Ms. Wu Trend Store
106	Near Luck 777 Store
107	Noger phone fitting 22 Store
108	ou ya Store
109	peach vava Store
110	peishi3 Store
111	Perseverance for you Store
112	phonecase hevey Store
113	pian xue Store
114	printing 100% cotton T-shirt 018 Store
115	QHUA Store
116	QPP GO Store
117	RuiTing03 Store
118	s18 Store
119	SANJIANG Store
120	Santa costume Store
121	shop 9900021 Store
122	Shop1100005070 Store
123	Shop1100007071 Store
124	Shop1100010086 Store
125	Shop1100011037 Store
126	Shop1100013032 Store
127	Shop1100014020 Store
128	Shop1100014040 Store
129	Shop1100034003 Store
130	Shop1100039141 Store
131	Shop1100040108 Store
132	Shop1100081191 Store
133	Shop1100082310 Store
134	Shop1100086338 Store
135	Shop1100126132 Store
136	Shop1100128124 Store
137	Shop1100139158 Store
138	Shop1100139159 Store
139	Shop1100145095 Store
140	Shop1100147336 Store
141	Shop1100151392 Store
142	Shop1100163073 Store
143	Shop1100169338 Store

144	Shop1100169447 Store
145	Shop1100170364 Store
146	Shop1100171282 Store
147	Shop1100173342 Store
148	Shop1100174241 Store
149	Shop1100174311 Store
150	Shop1100175266 Store
151	Shop1100175326 Store
152	Shop1100176293 Store
153	Shop1100177257 Store
154	Shop1100177368 Store
155	Shop1100178320 Store
156	Shop1100180389 Store
157	Shop1100184106 Store
158	Shop1100185102 Store
159	Shop1100187101 Store
160	Shop1100187210 Store
161	Shop1100189112 Store
162	Shop1100189114 Store
163	Shop1100189115 Store
164	Shop1100189311 Store
165	Shop1100190104 Store
166	Shop1100192100 Store
167	Shop1100192102 Store
168	Shop1100207027 Store
169	Shop1100213722 Store
170	Shop1100215375 Store
171	Shop1100216090 Store
172	Shop1100217047 Store
173	Shop1100217272 Store
174	Shop1100218228 Store
175	Shop1100219229 Store
176	Shop1100220160 Store
177	Shop1100222207 Store
178	Shop1897218 Store
179	Shop20220224 Store
180	Shop2654109 Store
181	Shop4364017 Store
182	Shop4402032 Store
183	Shop4619038 Store
184	Shop4994189 Store
185	Shop4995331 Store
186	Shop5006330 Store
187	Shop5015214 Store
188	Shop5055182 Store
189	Shop5369273 Store
190	Shop5481031 Store
191	Shop5493190 Store

192	Shop5526042 Store
193	Shop5536004 Store
194	Shop5549001 Store
195	Shop5564007 Store
196	Shop5570014 Store
197	Shop5575023 Store
198	Shop5579023 Store
199	Shop5580007 Store
200	Shop5581008 Store
201	Shop5637320 Store
202	Shop5748091 Store
203	Shop5799790 Store
204	Shop5835150 Store
205	Shop910329231 Store
206	Shop910557066 Store
207	Shop910559024 Store
208	Shop910564081 Store
209	Shop910569013 Store
210	Shop910570047 Store
211	Shop910896035 Store
212	Shop910909027 Store
213	Shop910940071 Store
214	Shop911067223 Store
215	Shop911356035 Store
216	Shop912624717 Store
217	Shop912624960 Store
218	Shop912625537 Store
219	SIX-LEI Store
220	Streetwear01 Store
221	Sunny baby's store
222	SupzXuTidebrand Store Store
223	SWYUJCH Factory Store
224	SXDRT Store
225	T- Shirt12 Store
226	T-shirt Hoodies & Sweatshirts Store
227	t-shirt01 Store
228	TIDESHEC Store
229	TIMI Trend Store
230	tomolly Store
231	TOP007 Store
232	Trends studios Store
233	tshirts.00002 Store
234	Ufotable Store
235	UR Romantic house Store
236	UUP Store
237	Vsenfo Store
238	WAY Store
239	Weilong Men's Store Store

240	WPOWO96 Store
241	xiansheng Store
242	XUAN-C Store
243	YAMIJI Store
244	YE3100 Store
245	yilie Sound Store
246	Yiwu yiw5 e-commerce firm
247	YouthCool Store
248	ypcustom Store
249	zgrong Store
250	ZLEYCASE Store