

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

GLOBAL MERCHANDISING SERVICES
LTD.,

Plaintiff,

v.

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

Defendants.

Case No. 22-cv-02303

Judge Edmond E. Chang

Magistrate Judge Gabriel A. Fuentes

PRELIMINARY INJUNCTION ORDER

Plaintiff GLOBAL MERCHANDISING SERVICES LTD. (“GLOBAL”) filed a Motion for Entry of a Preliminary Injunction against the against the fully interactive, e-commerce stores operating under the seller aliases identified in [Amended] Schedule A to the Complaint and attached hereto (collectively, “Defendants”) using at least the online marketplace accounts identified in [Amended] Schedule A (the “Defendant Internet Stores”). After reviewing the Motion and the accompanying record, this Court GRANTS GLOBAL’s Motion as follows.

This Court finds GLOBAL has provided notice to Defendants in accordance with the Temporary Restraining Order entered August 3, 2022, [15] (“TRO”), and Federal Rule of Civil Procedure 65(a)(1).

This Court also finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendants because Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, GLOBAL 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 GLOBAL's federally registered trademarks, which are protected by U.S. Trademark Registration Nos. 3,041,455; 3,041,456; 3,492,601; 4,554,060 and 4,802,001 (the "MOTÖRHEAD Trademarks") to residents of Illinois. In this case, GLOBAL 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 MOTÖRHEAD Trademarks. *See* Docket No. [13], 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 MOTÖRHEAD Trademarks.

This 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 GLOBAL's previously granted Motion for Entry of a TRO establishes that GLOBAL has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that GLOBAL will suffer irreparable harm if the injunction is not granted.

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

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

GLOBAL, or are sponsored by, approved by, or otherwise connected with GLOBAL; 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 GLOBAL, nor authorized by GLOBAL to be sold or offered for sale, and which bear any of GLOBAL's trademarks, including the MOTÖRHEAD 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 Online 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 GLOBAL's 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 companies and affiliates

(“Alipay”) (collectively, the “Third Party Providers”), shall, within seven (7) calendar days after receipt of such notice, provide to GLOBAL 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 GLOBAL’s request, those with notice of this Order, 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

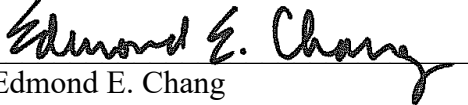
Defendants in connection with the sale of counterfeit and infringing goods using the MOTÖRHEAD Trademarks.

6. Any Third Party Providers, including Alipay, shall, within seven (7) calendar days of receipt of this Order, for any Defendant or any of Defendants' Defendant Internet Stores or websites:
 - 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 [Amended] Schedule A hereto, the e-mail addresses identified in Exhibit 2 to the Declaration of Thomas Schlegel, 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 this Court.
7. GLOBAL 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 Pleadings, this Order, and other relevant documents on a website and by sending an e-mail with a link to said website to the e-mail addresses identified in Exhibit 2 to the Declaration of Thomas Schlegel 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 "Mr. Fifteen Store and all other Defendants identified in the Complaint" that shall apply to all Defendants. 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.

8. Plaintiff's [Amended] Schedule A to the Complaint [8], Exhibit 2 to the Declaration of Thomas Schlegel [13], and the TRO [15] are unsealed.
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) bond posted by GLOBAL shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

SO ORDERED:


Edmond E. Chang
United States District Judge

Dated: August 16, 2022

[Amended] Schedule A

No.	Defendants
1	Mr. Fifteen Store
2	Mr.18 Store
3	Mr.23 Store