

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

KTM AG,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A
HERETO,

Defendants.

Case No.: 22-cv-1457

Judge Matthew F. Kennelly

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff KTM AG's Motion for a Preliminary Injunction, and this Court having considered the evidence before it hereby GRANTS Plaintiff's Motion for Entry of a Preliminary Injunction in its entirety against the Defendants identified in Schedule A attached hereto (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. Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products bearing infringing and/or counterfeit versions of Plaintiff's KTM and DUKE Trademarks (the "KTM Products").

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 Plaintiff has 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 made a *prima facie* showing of trademark infringement because (1) the KTM and DUKE Trademarks are distinctive marks and registered with the U.S. Patent and Trademark Office on the Principal Register as U.S. Trademark Registration Nos. 3,606,168; 3,547,084; 3,440,999 and 3,436,150 for the KTM Trademark and Registration No. 4,650,809 for the DUKE Trademark, (2) Defendants are not licensed or authorized to use the KTM or DUKE Trademarks, and (3) Defendants' use of the KTM and DUKE Trademarks are causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with KTM AG. Furthermore, Defendants' continued and unauthorized use of the KTM and DUKE 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.

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 Plaintiff's KTM and DUKE Trademarks or any confusingly similar trademarks or names in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine KTM Product or is not authorized by Plaintiff to be sold in connection with Plaintiff's KTM and DUKE Trademarks;
- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine KTM Product or other product produced by Plaintiff, that is not Plaintiff's or is not produced under the authorization, control or supervision of Plaintiff and approved by Plaintiff for sale under Plaintiff's KTM and DUKE Trademarks;
- 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 Plaintiff's KTM and DUKE Trademarks and damaging Plaintiff's goodwill;
- e. 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 Plaintiff's KTM and DUKE Trademarks or any confusingly similar reproductions, counterfeit copies or colorable imitations thereof;

- f. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, the Defendant Domain Names, or any other domain name or online marketplace account that is being used to sell Counterfeit KTM Products; and
 - g. operating and/or hosting websites at the Defendant Domain Names 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 KTM Trademarks or any confusingly similar reproduction, counterfeit copy or colorable imitation thereof that is not a genuine KTM Product or is not authorized by Plaintiff to be sold in connection with Plaintiff's KTM and DUKE Trademarks.
- 2. Each Defendant, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiff a written report under oath providing: (a) their true name and physical address, (b) all websites and online marketplace accounts on any platform that it owns and/or operate (c) their financial accounts, including all ContextLogic, Inc. ("Wish"), Aliexpress, Alipay, eBay and PayPal, Inc. ("PayPal") accounts, and (d) the steps taken by that Defendant to comply with paragraph 1, a through h, above.
- 3. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afiliast Limited, CentralNic, Nominet, and the Public Interest Registry, within five (5) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall, at Plaintiff's choosing:
 - a. unlock and change the registrar of record for the Defendant Domain Names to a registrar of Plaintiff's selection until further ordered by this Court, and

the domain name registrars shall take any steps necessary to transfer the Defendant Domain Names to a registrar of Plaintiff's selection until further ordered by this Court; or

- b. disable the Defendant Domain Names and make them inactive and untransferable until further ordered by this Court.

- 4. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as iOffer and Wish, Aliexpress, Alipay, eBay, PayPal, social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Domain Names, and domain name registrars, shall within five (5) 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 KTM and DUKE Trademarks, including any accounts associated with the Defendants listed in 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 KTM and DUKE Trademarks; and
- c. take all steps necessary to prevent links to the Defendant Domain Names identified in Schedule A from displaying in search results. This includes, but is not limited to, removing links to the Defendant Domain Names from any search index.

- 5. 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 Domain Names or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as iOffer, Wish, Aliexpress, Alipay, eBay, PayPal, 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 Wish, Aliexpress, Alipay, eBay, PayPal, third party processors and other payment processing service providers, shippers, and domain name registrars (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, 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 Online Marketplace Accounts, the Defendant Domain Names, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts and Defendant Domain Names;
- c. Defendants' websites and/or any Online Marketplace Accounts;
- d. The Defendant Domain Names or any domain name registered by Defendants; and

- e. Any financial accounts owned or controlled by Defendants, including their agents, servants, employees, 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, Wish, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
- 6. Defendants and any persons in active concert or participation with them who have actual notice of this Order shall be restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
- 7. Wish shall, 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' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any Wish accounts connected to the information listed in Schedule A hereto; and
 - b. Restrain and enjoin any such accounts from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
- 8. Aliexpress and Alipay shall, 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' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any Aliexpress and Alipay 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.
- 9. eBay shall, 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' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any eBay 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.
- 10. PayPal shall, 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' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any PayPal 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.
- 11. Plaintiff may provide notice of these proceedings to Defendants, including notice of any future hearings 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 to which the Defendant Domain Names are transferred to Plaintiff's control will redirect, or by sending an e-mail to the e-mail addresses identified in Schedule A hereto and any e-mail addresses provided for Defendants by third parties accompanied by a link

to the website where the above-identified documents are located. The Clerk of Court is directed to issue a single original summons in the name of “jialangyi and all other Defendants identified in Schedule A to the 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 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.

12. Plaintiff’s Complaint [Dkt. No. 1], Schedule A to the Complaint [Dkt. No. 7], Exhibit 2 to the Declaration of Hubert Trunkenpolz and Viktor Sigl [Dkt. Nos. 12-17], and the TRO [Dkt. No. 22] are unsealed.
13. 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.
14. 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: April 18, 2022



The Honorable Matthew F. Kennelly
U.S. District Judge

SCHEDULE A

No.	Defendant Name / Alias
1	CHEN95HAIYhcyWU
2	deteighssjh
3	dipesecevwooc
4	lalishapus
5	lathashmhk
6	Lingmyi Store
7	lishuaipeng
8	mcsoudoosrvk
9	meriglare
10	musesrlfl
11	Nideyida
12	poaretvrsd
13	rertofmqrg
14	rockible
15	sekesllplm
16	shamjina
17	sheareahgeo
18	Shiwaki
19	smeathebphd
20	smelargwlnp
21	szzheng102
22	tachiuwa
23	teekneanefw
24	thakoovufdh
25	theseethvsun
26	thystoashdhibbf
27	toatasuqpff
28	urbanloot
29	voosysccxdv
30	y asdlkhqdasd
31	zhazhahui1818
32	zhengqiao9852
33	A196 Store
34	ABPN Store
35	A-Car Store
36	AMT Store
37	car for you Store
38	Hunting Knight Store

39	LIGHT FACTORY Store
40	LuoKui Store
41	Make the car beautiful Store
42	MINILULU Store
43	North-Feather Store
44	RYAN-CAR Store
45	S peed F ly On Road Store
46	Shop5064248 Store
47	Shop5256170 Store
48	Shop5575071 Store
49	Shop5635145 Store
50	Shop5796960 Store
51	Shop5873953 Store
52	Shop5940201 Store
53	Shop911231112 Store
54	Silver Moo Store
55	Turn on your life
56	UG Motor Store
57	YEAH!Car Accessories Store
58	cyletoo
59	haid-5132
60	plainchampagne
61	vintagespares13
62	chairman of the club
63	Dgsoco parts store
64	Jackson NancyY
65	jiantaotao
66	kathleen flier
67	leiyanhong
68	lida
69	major updates
70	MELIFE
71	microtia
72	ming fashion
73	MOWOK
74	MSLW
75	N2moto
76	OliverjQpMqL
77	Perfk
78	Pinktone
79	Russell ATV DIRT Pit BIKE

80	sana
81	sharewithyou
82	shenshixiaodian
83	shuaiqi
84	stronghanppyday
85	tplz53
86	tranquillity men
87	wenzhongduox
88	xiaoxiaoshui
89	Xiefengting020503
90	Y Jack
91	yangye68
92	ygnngc HUI
93	Yisunrain Mubbles
94	YM Fashion Beauty Equipment
95	zhangwei889
96	zhaoyalin5155
97	zhengwen fashion
98	Hvlystory
99	YYUTOOL
100	555 Store
101	666-Howtide Store
102	Angels Knight Store
103	AR Fairings & Customized Store
104	BPA Official Store
105	BRAKE-SYSTEM Store
106	Car Technical Store
107	CD Knight Store Store
108	CSPART Official Store
109	CYyimi Store
110	DLSMoto Store
111	Estelle motorcycle Store
112	For Motorcycle Store
113	GARAGE-8 Store
114	GMCCHENG Racing Store
115	GUMOLING Store
116	GwC Racing Accessories Store
117	HUANGYANZHEN123 Store
118	HYPower Store
119	ijo Store
120	JFG-MOTO Store

121	JXMOTO Store
122	JZYracing Store
123	Kingway-Auto-Parts-Wholesale
124	Launched in life Store
125	LsxRacing Store
126	LUSHQ Motorcycle Part Store
127	MaxMOTO Store
128	Moto-ATV Store
129	Motor Fever Store
130	Motor Wonderland Store
131	Motorcycle Parts123 Store
132	MT-009 Store
133	MTKRACING Store
134	NewNew MT Store
135	Nianer Online Apparel Store
136	niversal motorcycle accessories Store
137	NUSIAMA 001 Store
138	Off-Road Store Store
139	Oloey kitchen Store
140	Onever Car-life Store
141	OSDAR Store
142	PEYA MOTORCYCLE PARTS Store
143	Pro Motor Parts Store
144	Racing
145	Rapidly Motor Store
146	SGerste Store
147	Shop1331728 Store
148	Shop1934904 Store
149	Shop3106033 Store
150	Shop4274021 Store
151	Shop4431018 Store
152	Shop4681111 Store
153	Shop5034019 Store
154	Shop5256025 Store
155	Shop5381215 Store
156	Shop5441296 Store
157	Shop5496024 Store
158	Shop5616134 Store
159	Shop5622073 Store
160	Shop5624015 Store

161	Shop5793837 Store
162	Shop5872562 Store
163	Shop900249414 Store
164	Shop910722118 Store
165	Shop910740017 Store
166	Shop911128046 Store
167	Shop911131159 Store
168	Shop911137167 Store
169	Shop911139134 Store
170	Shop911414339 Store
171	Shop911557096 Store
172	SOONTOR 6 Store
173	Speeding knight store Store
174	SportsStars Store
175	Super Motor Parts
176	TDPRO Factory Direct Store
177	Unicornsland Motorcycle Store
178	WS RACING Store
179	Xhssly Motorcycle Accessories Store
180	YH Locomotive Store
181	YITUOLIN Motorcycle Part Store
182	YL-Motocycle Gp Store
183	ZHANG XING YUE Store
184	zhongying520 Store