

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

Copyright Rightsholder Identified in Exhibit 1,)	
)	
)	
Plaintiff,)	
)	Case No. 1:23-cv-04507
v.)	
)	Dist. Judge Matthew F. Kennelly
The Partnerships and Unincorporated Associations Identified on Schedule A,)	
)	Mag. Judge Gabriel A. Fuentes
)	
Defendants)	

Plaintiff's Supplement to Motion for Leave to File Under Seal

NOW COMES Copyright Rightsholder Identified in Exhibit 1 (“Plaintiff”), by and through its undersigned counsel, and hereby submits this supplement to its Motion for Leave to File Under Seal [Dkt. 10].

In this action, Plaintiff is requesting temporary *ex parte* relief based on an action for copyright infringement. Sealing the requested portions of the file is necessary, initially, to prevent Defendants from learning of the subject matter of the proceedings prior to the platforms’ implementation and execution of the temporary restraining order. Defendants in intellectual property infringement cases are generally sophisticated, and the relationship between the Plaintiff’s identity and the subject matter of this dispute can be quickly established through utilizing either the United States Patent and Trademark Offices Trademark Electronic Search System (TESS) or any number of third-party services which make that data available. Plaintiff has trademark assets which, while not the subject of this dispute, do appear in the Plaintiff Work and can lead a Defendant to identify the subject of this dispute and proceed to frustrate the purpose of the underlying law and interfere with this Court’s power to grant relief.

It has been established that a party may proceed in litigation anonymously where “exceptional circumstances” outweigh the public policy in favor of identified parties and any prejudice to the opposing party that would result from anonymity. Doe v. Vill. of Deerfield, 819 F.3d 372, 377 (7th Cir. 2016). Here, exceptional circumstances exist which warrant permitting Plaintiff to, initially and temporarily, proceed anonymously. Based on Plaintiff’s counsel’s previous experience in cases involving analogous facts, Plaintiff asserts that if its identity is known, Defendants will undertake activity designed to frustrate Plaintiff’s efforts to litigate this matter and collect any potential judgment entered against the Defendants.

Specifically, such activity will likely include, without limitation, Defendants: (a) closing their Defendant Internet Stores and opening up new online stores with new registration and account information in order to evade the action; (b) transferring assets from their financial accounts, closing those accounts, and reopening new financial accounts so as to avoid asset restraints, leaving Plaintiff without a remedy; and (c) disclosing case information to third-parties in an effort to facilitate evading enforcement efforts. These efforts, undertaken by Defendants alone and/or in concert with third parties, severely diminishes the ability of intellectual property rights owners such as Plaintiff from securing redress for the injuries that they have sustained due to counterfeiting and piracy. If Plaintiff is not permitted to proceed anonymously, the identity of the Plaintiff Work would be readily available to Defendants before a temporary asset restraint is entered, which allows Defendants to complete the evasion tactics listed above, and effectively evade the current action altogether. Conversely, permitting Plaintiff to proceed anonymously (again, just initially) will not prejudice Defendants as the Plaintiff’s identity and the work at issue would be made available to them when they are served with process electronically: the Complaint, exhibits, and TRO would be accessible and viewable by them so that they could respond to the TRO if desired. The Plaintiff’s identity and intellectual property rights, and this case, have no mechanical consequence to the

Defendants until the TRO is effected, at which point Plaintiff will be able to apprise them of its identity and the rights at issue.

Once the Court has ruled upon Plaintiff's *ex parte* Motion for Temporary Restraining Order, and the third-party payment processors and online marketplaces comply with and effect the temporary restraining order - which will coincide with the platforms production of expedited discovery with which the Defendants will be served with process - the Defendants consequently will be made aware of the case and Plaintiff's identity and the Plaintiff Work at issue. Plaintiff will then promptly request that the TRO and other sealed documents be unsealed, and Plaintiff will be added to ECF.

For these reasons, Plaintiff respectfully requests that it be permitted to proceed with this action anonymously, at least until the Defendant Internet Stores and financial accounts can be restrained, in order to further mitigate the risk of Defendants attempting to evade Plaintiff's current intellectual property enforcement efforts.

Dated: July 19, 2023

Respectfully submitted,

/s/Adam E. Urbanczyk

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