

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

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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	)	

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**Plaintiff’s Motion for Entry of a Preliminary Injunction**

**NOW COMES** Copyright Rightsholder Identified in Exhibit 1 (“Plaintiff”), by and through his undersigned counsel, and submits this Memorandum of Law in support of Plaintiff’s Motion for Entry of a Preliminary Injunction.

**I. Introduction**

Plaintiff Copyright Rightsholder Identified in Exhibit 1 (“Plaintiff”) has brought the present action against the defendants in Schedule A of the Complaint (collectively, “Defendants”) under section 17 U.S.C. § 501 of the Copyright Act. As Plaintiff alleges in the Complaint, Defendants are selling products using pirated copies of Plaintiff’s work (the “Infringing Products”) through at least the fully interactive, e-commerce stores and online marketplaces identified within the Schedule A attached to the Complaint. Defendants utilize these online marketplaces to create seller aliases to increase their chances of avoiding detection by U.S. Customs and Border patrol.

On July 21, 2023, this Court granted Plaintiff’s Ex Parte Motion for Entry of a Temporary Restraining Order (“TRO”). [Dkt. 14]. The TRO authorized Plaintiff to provide to defendants notice of these proceedings and the preliminary injunction hearing to Defendants by electronically publishing a link to the Complaint, the TRO, and other relevant documents on a website and sending an email to the email addresses provided by third parties (e.g., PayPal, eBay, and Amazon)

that included a link to said website. [Dkt. 14, at ¶ 6]. Pursuant to the TRO and since the TRO was entered, eBay, PayPal and Amazon accounts associated with the Defendant Online Stores have been restrained. *See*, Declaration of Adam Urbanczyk, at ¶ 2. On August 1, 2023, the Court extended the TRO through August 18, 2023. [Dkt. 17]. Plaintiff respectfully requests this Court to convert the TRO to a preliminary injunction against the Defendants so that the Defendants remain enjoined from reproducing, distributing, displaying, or otherwise exploiting without authorization the Plaintiff Work during the pendency of this litigation. As part of the preliminary injunction, Plaintiff requests that Defendants' PayPal, Amazon, and eBay accounts, where applicable, remain restrained until completion of these proceedings.

## II. Argument

### a. **A preliminary injunction extending relief already granted in the TRO is appropriate.**

Plaintiff respectfully requests that this Court convert the TRO to a preliminary injunction to prevent further unlawful conduct by Defendants. Courts addressing similar allegations of e-Commerce infringement have also issued preliminary injunctions following a temporary restraining order. *See, e.g., Deckers Outdoor Corp. v. The P'ships and Unincorporated Assocs. Identified on Schedule "A"*, No. 15-cv-3249 Dkt. 32 (N.D. Ill. May 6, 2015); *Oakley, Inc. v. Does 1-100*, No. 12-cv-9864 Dkt. 23 (N.D. Ill. Dec. 27, 2012); *Mon Cheri Bridals, LLC v Does 1-464*, No. 19-cv-02362 Dkt. 31 (N.D. Ill. May 21, 2019).

*i. This Court has already found that the requirements for entry of a preliminary injunction have been satisfied.*

In the Seventh Circuit, the standard for granting a preliminary injunction is identical to the standard for entering a TRO, and in this case the requirements for entry of a preliminary injunction have been satisfied. *See, e.g., Charter Nat'l Bank & Trust v. Charter One Fin., Inc.*, 2001 WL 527404,

at \*1 (N.D. Ill. May 15, 2001) (citation omitted). Generally, a party seeking to obtain a preliminary injunction or must demonstrate: (i) that such party's case has some likelihood of success on the merits; (ii) that no adequate remedy at law exists; and (iii) that such party will suffer irreparable harm if the injunction is not granted. Ty, Inc. v. The Jones Group, Inc., 237 F.3d 891, 895 (7th Cir. 2001); Columbia Pictures Indus., Inc. v. Jasso, 927 F. Supp. 1075, 1076 (N.D. Ill. 1996); *see*, Coach, Inc. v. The P'ships & Unincorporated Assocs. Identified on Schedule "A", 2013 WL 5477573, at \*1 (N.D. Ill. Oct. 1, 2013) (granting preliminary injunction against foreign online resellers after entry of TRO). Because this Court has already entered the TRO, this Court has already found the requirements for entry of the preliminary injunction have been met.

*ii. The equitable relief sought, including asset restraint, remains appropriate.*

In addition to this Court's inherent authority to issue injunctive relief, the Copyright Act specifically authorizes courts to "grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright" (17 U.S.C. § 502) and provides that any of Defendants' infringing products be impounded and destroyed. (17 U.S.C. § 503).

Accordingly, Plaintiff requests conversion of the TRO into a preliminary injunction so that Defendants' infringing activities remain stymied and their account in U.S.-associated financial institutions remains restrained and frozen. Since the TRO's entry, PayPal, eBay, and Amazon have provided Plaintiff with information including the identity of payment accounts linked to the Defendant Online Stores which were offering for sale and/or selling products by using unauthorized displays and reproductions of the Plaintiff Work. In the absence of a preliminary injunction, Defendants will be motivated to and may move assets from their U.S.-associated payment accounts, including eBay, PayPal, and Amazon accounts, to an offshore account or otherwise transferred beyond recovery. Therefore, Defendants' assets should remain restrained and frozen for the remainder of these proceedings, subject to further court order.

The Complaint describes damages to which Plaintiff is entitled, including Defendants profits under 17 U.S.S. § 504(a) and actual damages under 17 U.S.C. § 504(b) exceeding any amount contained in any Defendant's restrained PayPal or Amazon account. As such, an order continuing to freeze the Defendants' assets should be entered. *See, e.g., Banister v. Firestone*, 2018 WL 4224444 at \*9 (N.D. Ill. Sept. 5, 2018) (acknowledging Court's authority to freeze assets where plaintiff sought equitable remedies under section 17 U.S.C. § 504(b) of the Copyright Act); *CSC Holdings, Inc. v. Redisi*, 309 F.3d 988 (7th Cir. 2002) ("since the assets in question...were the profits of the [defendants] made by unlawfully stealing [the plaintiffs'] services, the freeze was appropriate and may remain in place pending final disposition of this case."); *Deckers Outdoor Corp. v. P'ships & Unincorporated Assocs. Identified on Schedule A*, 2013 WL 12314399 (N.D. Ill. Oct. 31, 2013) ("[I]here is an exception to the general ban on prejudgment asset restraint where an equitable remedy is sought."); *Monster Energy Co. v. Wensheng*, 136 F. Supp. 3d 897, 910 (N.D. Ill. 2015) (denying motion to dissolve preliminary injunction in light of Lanham Act and Copyright Act claims and maintaining injunction bond at \$10,000).

### **III. Conclusion**

In light of the foregoing and this Court's previous entry of the TRO, Plaintiff respectfully requests this Court to enter the preliminary injunction against the Defendants under the terms which were employed in the TRO. *Coach*, 2013 WL 5477573, at \*4.

Dated: August 15, 2023

Respectfully Submitted

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**Certificate of Service**

I hereby certify that on the August 15, 2023, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, I will electronically publish the documents on a website, and I will send an e-mail to the e-mail addresses provided for Defendants by third parties that includes a link to said website.

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