

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LULU CHENG,

Plaintiff,

v.

AIWEN CHEN, et al.,

Defendants.

UNDER SEAL

CIVIL ACTION NO.
1:25-CV-03300-JPB

**TEMPORARY RESTRAINING ORDER, ASSET FREEZE ORDER
AND ORDER TO SHOW CAUSE**

This matter is before the Court on Lulu Cheng’s (“Plaintiff”) Motion for Entry of a Temporary Restraining Order, Including a Temporary Injunction, a Temporary Asset Restraint, Expedited Discovery and Order to Show Cause (“Motion for TRO”) [Doc. 4]. As discussed below, Plaintiff has satisfied the requirements for the issuance of an *ex parte* temporary restraining order and the additional relief requested.

I. APPLICABLE LEGAL STANDARDS

A court will issue a temporary restraining order where the requesting party demonstrates the following four factors: (1) it has a substantial likelihood of success on the merits; (2) the moving party will suffer irreparable injury if the order is not granted; (3) the threatened injury to the plaintiff outweighs the harm the relief would

inflict on the non-movant; and (4) entry of the order would serve the public interest.

Schiavo ex. rel Schindler v. Schiavo, 403 F.3d 1223, 1225–26 (11th Cir.

2005); Cathedral Art Metal Co. v. Divinity Boutique, LLC, No. 1:18-CV-141, 2018 WL 566510, at *4 (N.D. Ga. Jan. 26, 2018) (applying the four-part test and granting a preliminary injunction in a Lanham Act case).

Courts may issue a temporary restraining order without notice to the adverse party where the facts in an affidavit demonstrate the moving party will suffer immediate and irreparable injury, loss or damage before the adverse party can be heard in opposition, and the movant’s attorney certifies in writing why notice should not be required. Fed. R. Civ. P. 65(b)(1). Where a defendant’s identity is known and notice can be feasibly given, the court may still grant an *ex parte* seizure order if providing notice to the defendant would “render fruitless the further prosecution of the action.” AT&T Broadband v. Tech Commc’ns, Inc., 381 F.3d 1309, 1319 (11th Cir. 2004) (quoting In re Vuitton et Fils, S.A., 606 F.2d 1, 5 (2d Cir. 1979)). “The weight of authority around the country appears to favor the granting of *ex parte* seizure orders in trademark counterfeiting cases, where fake versions of well-known brands are deliberately passed off to the public as the genuine article.” Fimab-Finanziaria Maglificio Biellese Fratelli Fila S.p.A. v. Kitchen, 548 F. Supp. 248, 249 (S.D. Fla.

1982). The justification for an *ex parte* seizure order is even more compelling where a significant amount of evidence pertaining to the counterfeiting activity is in electronic form and therefore subject to quick, easy and untraceable destruction by the defendants. Dell Inc. v. BelgiumDomains, LLC, No. Civ. 07-22674, 2007 WL 6862341, at *2 (S.D. Fla. Nov. 21, 2007); see also Chanel, Inc. v. chanel255.org, No. 12-21762-CIV, 2012 WL 12845630, at *5 (S.D. Fla. May 17, 2012).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court, having reviewed Plaintiff’s Motion, Memorandum and supporting declarations and evidence, makes the following findings of facts and conclusions of law:

A. Plaintiff’s Trademarks

- 1) Plaintiff owns all intellectual property, including all trademark rights, of the YAYASHI brand, which produces, markets and distributes toothpaste and tooth powder.
- 2) Plaintiff owns the following:

Reg. No.	Trademark	Goods / Services
7,587,215	YAYASHI	CLASS 3: Toothpastes; Teeth whitening preparations; Tooth powder

B. Defendants' Advertising and Sale of Counterfeit and Infringing Goods

- 3) Each Defendant is believed to be a non-U.S. entity, association, or individual located in China or elsewhere in Asia, each of whom sells, offers for sale, distributes and/or advertises goods through its virtual storefronts on e-commerce marketplaces like Amazon ("Marketplace" or collectively the "Marketplaces" or "Online Stores").
- 4) Each Defendant uses in commerce a reproduction, counterfeit, copy or colorable imitation of Plaintiff's Mark on or in connection with the sale, offer for sale, distribution or advertising of goods on their respective virtual storefronts on the Marketplaces ("Counterfeit Products").
- 5) Each Defendant has offered Counterfeit Products for sale throughout the United States. Each Defendant is willing to engage in commercial transactions with residents of the United States and ship Counterfeit Products to the United States.
- 6) Defendants are subject to the personal jurisdiction of this Court pursuant to Rule 4(k)(2) of the Federal Rules of Civil Procedure, and exercising jurisdiction over Defendants is consistent with the United States

Constitution and its laws. Based on the facts set forth above, it is reasonable for Defendants to expect that they may be sued in the United States. SEC v. Carrillo, 115 F.3d 1540, 1542–47 (11th Cir. 1997) (holding that the court had personal jurisdiction over a foreign corporation where the defendant placed ads for securities in two airlines’ in-flight magazines, mailed offering materials directly to U.S. investors and maintained U.S. bank accounts to receive payment from investors); Louis Vuitton Malletier, S.A. v. Mosseri, 736 F.3d 1339, 1355–58 (11th Cir. 2013) (affirming jurisdiction over non-resident who sold counterfeit products through fully-interactive website).

- 7) Plaintiff has never authorized Defendants to use Plaintiff’s Mark in the advertising, promotion or sale of any goods in the United States.
- 8) Plaintiff has established that the Counterfeit Products offered for sale by Defendants are not genuine and that Defendants are using Plaintiff’s Mark or a colorable imitation of Plaintiff’s Mark on or in connection with the advertising and promotion of their Counterfeit Products.
- 9) Plaintiff has established that it is substantially likely to succeed on the merits of its trademark infringement claims:

- a) Plaintiff owns a valid federal trademark registration for Plaintiff's Mark;
- b) The Counterfeit Products that Defendants are advertising and offering for sale are not genuine;
- c) Defendants are using spurious marks that are identical with, or substantially indistinguishable from, Plaintiff's Mark in commerce on or in connection with the advertising, offering for sale and/or sale of the Counterfeit Products; and
- d) Defendant's use of Plaintiff's Mark or colorable imitations of Plaintiff's Mark is likely to cause consumer confusion, mistake or deception as to the source or origin of the Counterfeit Products; and
- e) Alternatively and/or additionally, each Defendant is using in commerce a word, term, name, symbol or device, or a combination thereof, or a false or misleading representation of fact on or in connection with its goods in a manner that is likely to cause confusion, or to cause mistake, or to deceive, as to the affiliation, connection, or association of each Defendant with Plaintiff, or as to

the origin, sponsorship, or approval of each Defendant's goods or commercial activities by Plaintiff.

- 10) Plaintiff has shown that it is likely to suffer irreparable harm if an injunction does not issue. The Counterfeit Products are of inferior quality to Plaintiff's genuine goods, misleading consumers as to the true quality of Plaintiff's products and causing consumer confusion, mistake and deception, all to the detriment of Plaintiff's goodwill. The continued sale of the Counterfeit Products threatens Plaintiff with the loss of control over its reputation and loss of the considerable goodwill it has established with customers. Moreover, Plaintiff has established that Counterfeit Products typically do not meet applicable product safety or labeling requirements. This is more than sufficient to establish a likelihood of irreparable harm. Ferrellgas Partners, L.P. v. Barrow, 143 F. App'x 180, 190–91 (11th Cir. 2005) (“[T]he most corrosive and irreparable harm attributable to trademark infringement is the inability of the victim to control and nature and quality of the defendants' goods.” (alteration in original) (quoting Int'l Kennel Club of Chi., Inc. v. Mighty Star, Inc., 846 F.2d 1079, 1092 (7th Cir. 1998))); Crossfit, Inc. v. Quinnie, 232 F. Supp.

3d 1295, 1316 (N.D. Ga. 2017).

- 11) It is likely that Plaintiff and consumers who purchase Defendants' Counterfeit Products will suffer immediate and irreparable loss, damage or injury unless Plaintiff's request for *ex parte* relief is granted:
 - a) It is likely that Defendants will continue to sell counterfeit and infringing goods through their e-commerce Marketplace storefronts in the absence of the requested TRO;
 - b) As a result, it is likely that consumers will continue to be misled, confused and disappointed by the quality of these products, thereby significantly and irreparably damaging Plaintiff's valuable goodwill; and
 - c) Plaintiff will continue to suffer lost sales of genuine products as the result of the lower-cost Counterfeit Products offered for sale by Defendants.

- 12) The balance of harms favors Plaintiff. If Plaintiff is required to provide Defendants notice of the Application for TRO or if the TRO is denied, Defendants will be able to shut down their Marketplace storefronts, transfer their ill-gotten gains away from the Marketplaces and otherwise

take steps to hide their infringing conduct and prevent Plaintiff from obtaining meaningful relief. In contrast, if the Court grants the requested *ex parte* TRO, Defendants will be prohibited from continuing to advertise, offer for sale and sell Counterfeit Products to consumers in the United States and may be required to disgorge their ill-gotten gains from the past sale of such Counterfeit Products, neither of which constitutes any substantial harm.

- 13) Plaintiff has further demonstrated that this TRO should be granted *ex parte* to avoid giving Defendants an opportunity to destroy relevant evidence, much of which is in electronic form. If Plaintiff gives Defendants notice of its Application for TRO, Defendants are likely to delete their existing online e-commerce Marketplace storefronts, transfer any ill-gotten gains away from the Marketplaces and otherwise hide their identities, cover up evidence of their infringing activities and shield their ill-gotten assets in an effort to avoid liability and prevent Plaintiff from achieving a meaningful recovery, including financial compensation and permanent injunctive relief. Foreign parties that sell Counterfeit Products often “disappear” when notified that their conduct is unlawful, only to set

up a new online storefront under a new identity, with new financial accounts.

- 14) Granting Plaintiff an *ex parte* TRO will also be in the public's interest. It will remove from the stream of commerce counterfeit and infringing goods that do not meet Plaintiff's quality control requirements, thereby preventing further consumer confusion, mistake or deception.

In light of the foregoing, it is hereby **ORDERED AND ADJUDGED** that Plaintiff's Motion for *Ex Parte* Temporary Restraining Order is **GRANTED** as follows:

- 1) Each Defendant (as reflected on the attached Exhibit A), its officers, directors, employees, agents, subsidiaries, distributors and all persons in active concert or participation with any Defendant having notice of this Order are hereby temporarily enjoined and restrained from:
 - a) Using the YAYASHI trademark or any reproductions, counterfeit copies or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale of any product that is not a genuine YAYASHI product or not authorized by Plaintiff to be sold in connection with the YAYASHI trademark;

- b) Passing off, inducing or enabling others to sell or pass off any product as a genuine YAYASHI product or any other product produced by Plaintiff, that is not Plaintiff's or not produced under the authorization, control or supervision of Plaintiff and approved by Plaintiff for sale under the YAYASHI trademark.
- 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 the YAYASHI trademark and damaging Plaintiff's commercial goodwill;
- e) Otherwise competing unfairly with Plaintiff in any manner;
- f) 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 Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of Plaintiff's trademarks, including the YAYASHI trademark, or any

reproductions, counterfeit copies or colorable imitations thereof;

and

- g) Using, linking to, transferring, selling, exercising control over or otherwise owning or operating infringing webstores, websites or any other domain name that is being used to sell or is the means by which Defendants could continue to sell Counterfeit Products.
- 2) 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 the Defendant Online Stores or other online marketplace accounts operated by Defendants, including, without limitation, any online marketplace platforms such as Amazon, eBay, web hosts, sponsored search engine or ad-word providers, credit cards, banks, merchant account providers, third party processors and other payment processing service providers such as PayPal and Amazon Payments, and Internet search engines such as Google, Bing and Yahoo (collectively, the “Third Party Providers”) shall, within five business days after receipt of such notices, provide to Plaintiff 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, confederates, attorneys and any persons acting in concert or participation with them, including all known contact information, including any and all associated email 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 Defendant Online Stores and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Stores;
- c) Any of the Defendant Online Stores;
- d) Any other online marketplace accounts registered by Defendants;
and
- e) Any financial accounts owned or controlled by Defendants, including their agents, services, employees, confederates, 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, PayPal and Amazon Pay, or other merchant account providers, payment providers, third party processors and credit card associations.

- 3) Upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including the Third-Party Providers, shall within five business days after receipt of such notice:
 - a) Disable and cease providing services being used by Defendants, currently or in the future, to engage in the sale of goods using the YAYASHI trademark;
 - 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 YAYASHI trademark;
and
 - c) Take all steps necessary to prevent links to the Defendant Online Stores from displaying in search results, including, but not limited to, removing links to the Defendant Online Stores from any search index.
- 4) Defendants and any persons in active concert or participation with them

who have actual notice of this Order shall be temporarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.

- 5) PayPal, Inc., Amazon Payments, Inc. and any banks, savings and loan associations, payment processors or other financial institutions shall, within two business days of receipt of this Order, for any Defendant or any of the Defendant Online Stores:
 - a) Locate all accounts and funds connected to Defendants or the Defendant Online Stores, including but not limited to, any PayPal or Amazon Payment accounts connected to any email addresses provided for Defendants by third parties; and
 - b) Restrain and enjoin any such accounts or funds that are not U.S. based from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
- 6) A hearing by video conference is set before this Court, technical details to follow, on **July 22, 2025, at 12:00 PM**, at which time Defendants and/or any other affected persons may challenge the appropriateness of this Order and move to dissolve the same, shall provide a reasonable estimate

of their potential lost sales with supporting documentation and requested bond amount and shall appear and show cause why a preliminary injunction should not issue, at which time the Court will hear argument on Plaintiff's requested preliminary injunction.


- 7) **SERVICE BY ALTERNATE MEANS**: Plaintiff shall serve copies of the Complaint, Motion for Temporary Restraining Order and this Temporary Restraining Order on each Defendant by electronically publishing a link to the Complaint, this Order and other relevant documents on a website and by sending an email to the email addresses identified by third parties, that includes a link to said website and notice of this action.
- 8) Any response or opposition to Plaintiff's Motion for Preliminary Injunction must be filed and served on Plaintiff's counsel by **July 17, 2025**, and filed with the Court, along with Proof of Service. Plaintiff shall file any reply memorandum prior to the hearing set for **July 22, 2025**. The above dates may be revised upon stipulation by all parties and approval of this Court. **Defendants are on notice that failure to appear at the hearing may result in the imposition of a preliminary**

injunction against them.

- 9) Plaintiff is ordered to remit a bond in the amount of \$10,000 within seven days of this Order.

This Temporary Restraining Order expires within fourteen days unless extended for good cause.

SO ORDERED this 8th day of July, 2025.



J. P. BOULEE
United States District Judge

EXHIBIT A

LIST OF ALL NAMED DEFENDANTS SUBJECT TO ORDER

Store Name	Store URL	Listing URL
Aiwen chen	https://www.amazon.com/sp?ie=UTF8&seller=AGUK1K15CZ1TA	https://www.amazon.com/Toothpaste-Fresh-Breath-Stain-Removal/dp/B0CZHSPMQJ
AllegoYuky	https://www.amazon.com/sp?ie=UTF8&seller=A3CQ98JRNC70NA	https://www.amazon.com/Probiotic-Toothpaste-Probiotics-Whitening-Cleaning/dp/B0D9C2SRP4
Baizuan	https://www.amazon.com/sp?ie=UTF8&seller=A1RT0GK8Y4NP7TS	https://www.amazon.com/whitening-Toothpaste-brightening-probiotic-Removing/dp/B0DGH117TB
Chauming	https://www.amazon.com/sp?ie=UTF8&seller=AMFM5198B4PX7	https://www.amazon.com/Probiotic-6-Toothpaste-Whitening-Probiotics-Breath/dp/B0DB14NWBYP
Dongli1688	https://www.amazon.com/sp?ie=UTF8&seller=A123OHRWLN3OBZ	https://www.amazon.com/Whitening-Toothpaste-Probiotics-Promotes-Brightening/dp/B0DB8DHYRM

FACECOI US	https://www.amazon.com/sp?ie=UTF8&seller=A1IAWQK1B7P2WG	https://www.amazon.com/dp/B0C5348LD7
Fangxiang Gu	https://www.amazon.com/sp?ie=UTF8&seller=AA977BY2LIMAU	https://www.amazon.com/Toothpaste-Probiotic-Fresh-Breath-Cleaning/dp/B0D9NBHS9W
FEILIAM AO	https://www.amazon.com/sp?ie=UTF8&seller=A3OLQO69TO8VU6	https://www.amazon.com/Toothpaste-Brightening-Removing-Whitener-Whitener/dp/B0C61Z664Y
fu668666sk r	https://www.amazon.com/sp?ie=UTF8&seller=A2G7NVY5TTNFX6	https://www.amazon.com/Yayashi-S-Probiotics-Toothpaste-Breath-Removing/dp/B0CKZZCG1M
guilinshiwa nxrnngmao y1	https://www.amazon.com/sp?ie=UTF8&seller=AIBCG2EZ0ZTM	https://www.amazon.com/Toothpaste-Whitening-Probiotics-Toothpaste%EF%BC%8CSuper-Toothpaste%EF%BC%882Pcs%EF%BC%89/dp/B0DB2DVEDPR
LAN'DO	https://www.amazon.com/sp?ie=UTF8&seller=ADCBKTSNKWCT9	https://www.amazon.com/Toothpaste-Whitening-Cleaning-1Pcs-120g-Correcting/dp/B0DJJKFPP
LOTOTIC E	https://www.amazon.com/sp?ie=UTF8&seller=A2AYSWDIEY92U5	https://www.amazon.com/Probiotic-Toothpaste-Whitening-Probiotic-4-Brightening/dp/B0CBJW5YR2

LUSCO	https://www.amazon.com/sp?ie=UTF8&seller=AJJ97WVFTBK98	https://www.amazon.com/Probiotics-WhiteningToothpaste-Toothpaste-Removing-Correcting/dp/B0CBN7B92W
MingZheng	https://www.amazon.com/sp?ie=UTF8&seller=A W7WUMFAPG701	https://www.amazon.com/Whitening-Toothpaste-Probiotic-4-4Toothpaste-2pcs-120g/dp/B0D1QLQ9H7
MusGui	https://www.amazon.com/sp?ie=UTF8&seller=A2E803DZ2KS4A N	https://www.amazon.com/Whitening-Toothpaste-probiotic-whitening-Breath/dp/B0DB13GQKT
Ruic	https://www.amazon.com/sp?ie=UTF8&seller=ATHVQYPIBGPYA	https://www.amazon.com/ProbioticSp-6-Toothpaste-Whitening-Cleaning-Brightening/dp/B0DGQHYJW1
sandakanke J1	https://www.amazon.com/sp?ie=UTF8&seller=A1ARJGPZEN0LZI	https://www.amazon.com/Super-Probiotic-6-Toothpaste-Whitening-Breath/dp/B0DHXDC48K
Sanyear	https://www.amazon.com/sp?ie=UTF8&seller=A2IOXZTZZQJXSA	https://www.amazon.com/Whitening-Toothpaste-Cleaning-Probiotic-Brightening/dp/B0D83C8MZB
Scthr Oral Care	https://www.amazon.com/sp?ie=UTF8&seller=A2NT4LF28ES8Q G	https://www.amazon.com/whitening-Toothpaste-brightening-probiotic-Removing/dp/B0DCZC8GKC

Senhaoguankeji	https://www.amazon.com/sp?ie=UTF8&seller=AR9HVKAQ05MEP	https://www.amazon.com/Probiotic-6-Toothpaste-Whitening-Cleaning-Breath120g/dp/B0D78FL9RB
ShangfeiA	https://www.amazon.com/sp?ie=UTF8&seller=A2XYDQWZY8F4UX	https://www.amazon.com/LANLV-Toothpaste-Probiotic-Whitening-Brightening/dp/B0CB8HQ9FY
TEGUAN GBEIMEI	https://www.amazon.com/sp?ie=UTF8&seller=A3SAHDDRNL9TNZ	https://www.amazon.com/Yiliku-Toothpaste-Yayashi-Brightening-Breath/dp/B0C2VVQHT3
TuJin(7-14 Day Arrive)	https://www.amazon.com/sp?ie=UTF8&seller=A2KMRZI6KDJWEB	https://www.amazon.com/Probiotic-Stain-Removal-Whitening-Toothpaste/dp/B0CT32QKX8
WINDMO	https://www.amazon.com/sp?ie=UTF8&seller=A1KW52FC6KT515	https://www.amazon.com/Super-Probiotic-Toothpaste-Whitening-Breath/dp/B0DJKM2ZGW
Xijand (8-15) Days Delivery	https://www.amazon.com/sp?ie=UTF8&seller=A3F21RIR65A8GQ	https://www.amazon.com/Whitening-Toothpaste-Probiotics-Brightening-Probiotic/dp/B0DGY28TWM
YingqiangkeJl	https://www.amazon.com/sp?ie=UTF8&seller=A391DXC1PKTJ5C	https://www.amazon.com/Super-ProbioticSp-6-Toothpaste-Whitening-Breath/dp/B0D9J8LCKH

YOUSHE ME	https://www.amazon.com/sp?ie=UTF8&seller=A7PDDCYKGT8YQ	https://www.amazon.com/Whitening-Toothpaste-Probiotic-Brightening-Cleaning/dp/B0D7YT8W5N
yuantt	https://www.amazon.com/sp?ie=UTF8&seller=AEZI11CMZWZ1J	https://www.amazon.com/YAYASHI-Toothpaste-Probiotics-Whitening-Removing/dp/B0CHJGLSYR
Zenbora	https://www.amazon.com/sp?ie=UTF8&seller=AK6K38RS0DMI2	https://www.amazon.com/Toothpaste-Probiotics-Whitening-Toothpastes-Cleansing/dp/B0DBG9SY1T
ZESEN SHOP	https://www.amazon.com/sp?ie=UTF8&seller=A2WIGYWGTXFK1	https://www.amazon.com/Supper-Probiotic-6-Toothpaste-Whitening-Breath/dp/B0D75SHF18
zhuotiansh an	https://www.amazon.com/sp?ie=UTF8&seller=AAILGMDUEP0GE	https://www.amazon.com/Toothpaste-Yayashi-Probiotic-Whitening-yAYASHI/dp/B0CB5XVQTZ