

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

Dongguan Zhouda Technology Co. Ltd, et al.,

Plaintiff,

v.

Xinjie Dai,

Defendant.

CASE NO. 2:25-cv-00536-TL

**Second Motion for Entry of Temporary
Restraining Order**

**Note on Motion Calendar:
Date June 16, 2025**

NOW COMES Dengzhou Sandstorm Trading Co., Ltd. d/b/a Sandstorm2024, Dengzhou Muyi Commerce Co. Ltd., d/b/a ZJT, and Dengzhou Xingshan Trading Co., Ltd d/b/a DDDU (“Plaintiffs”), by and through their undersigned counsel, and move this Court to enter a temporary restraining order regarding defendant’s actions and argues as follows:

I. Introduction

Plaintiffs operate storefronts on the Amazon.com (“Amazon”) marketplace through which each Plaintiffs sell various consumer products, including “tumbler” cup lids. Defendant caused, wrongfully, patent infringement complaints based on U.S. Patent No. D1,056,616 (the ‘616 Patent”) to be submitted to Amazon to effect the deactivation of products Plaintiffs were lawfully selling [Dkt 7 at ¶ 21-27].

As a result of Plaintiff’s infringement complaints, Amazon prevented and continues to prevent Plaintiffs from selling their products from their respective storefronts. However, the invention claimed in the ‘616 Patent is invalid as it is anticipated by prior art. The design disclosed in the ‘616 Patent was patented, in public use, on sale, or otherwise available to the

1 public at least as early as June 25, 2024, which predates the ‘616 Patent’s filing date of July 31,
2 2024. Based on Amazon’s policy, it is expected that Amazon will continue to prevent Plaintiffs
3 from selling Plaintiff’s Product based on its alleged infringement of the invalid ‘616 Patent,
4 thereby causing irreparable harm and damage to Plaintiff’s business and reputation. Only
5 injunctive relief will prevent this harm from continuing.

6 Plaintiffs provided notice of this motion to Defendant on June 16, 2025 via its email
7 address, such email address being identified to Plaintiffs by third-party Amazon within the
8 infringement notices. [Dkt. 1-2 - 1-7].

8 **II. Argument**

9 **a. Legal Standard**

10 District Courts within this Circuit hold that the standard for granting a TRO and the
11 standard for granting a preliminary injunction are identical. *See, e.g., United States v. City of*
12 *Seattle*, 474 F. Supp. 3d 1181, 1185 (W.D. Wash. 2020). A party seeking to obtain a preliminary
13 injunction or TRO must demonstrate: (1) that its case has some likelihood of success on the
14 merits; (2) a likelihood of irreparable harm in the absence of preliminary relief; (3) that the
15 balance of equities tips favor of the moving party; and (4) that the injunction is in the public
16 interest. *See, Stormans, Inc. v. Selecky*, 586 F.3d 1109 (9th Cir. 2009). All four elements must
17 be satisfied. *hiQ Labs, Inc. v. LinkedIn Corp.*, 31 F.4th 1180 (9th Cir. 2022). The factors are
18 evaluated on a “sliding scale,” however, meaning that “a stronger showing of one element may
19 offset a weaker showing of another.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127,
20 1131 (9th Cir. 2011). Following, the Ninth Circuit has repeatedly held that “when the balance
21 when the balance of equities “tips sharply in the plaintiff’s favor,” the plaintiff must raise only
“serious questions’ on the merits - a lesser showing than likelihood of success.” *Fellowship of*

1 Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ., 82 F.4th 664, 684 (9th Cir. 2023);
 2 HydroFLOW USA, LLC v. ECO Integrated Techs., Inc., 2024 WL 988951 at *3 (W.D. Wash.
 3 Mar. 7, 2024).

4 **b. Plaintiffs are likely to succeed on the merits.**

5 A design patent is presumed valid and the opposer seeking to invalidate a patent on the
 6 basis of anticipation has the ultimate burden of persuasion to prove invalidity be clear and
 7 convincing evidence. BitTitan, Inc. v. SkyKick, Inc., 2015 WL 5081130 at *3 (W.D. Wash. Aug.
 8 27, 2015). At the injunction stage however, “the trial court does not resolve the validity
 9 question, but only makes an assessment of the persuasiveness of the challenger’s evidence,
 10 recognizing that it is doing so without all evidence that may come out at trial.” Titan Tire Corp.
 11 v. Case New Holland, Inc., 566 F.3d 1372, 1377 (Fed. Cir. 2009); Biomedical Device
 12 Consultants & Lab’ys of Colorado, LLC v. Vivitro Labs, Inc., 2023 WL 6783296 at *6 (C.D.
 13 Cal. Aug. 29, 2023), aff’d, No. 2023-2393, 2024 WL 1318251 (Fed. Cir. Mar. 28, 2024).

14 A patent claim is invalid as anticipated if “the claimed invention was patented, described
 15 in a printed publication, or in public use, on sale, or otherwise available to the public before the
 16 effective filing date of the claimed invention” 35 U.S.C. § 102(a)(1). To establish anticipation,
 17 there must be evidence that a person of ordinary skill in the art would recognize the presence of
 18 “each and every claim limitation” in a single prior art reference, either “explicitly or inherently.”
 19 Syntrix Biosystems, Inc. v. Illumina, Inc., 2013 WL 593801at *5 (W.D. Wash. Feb. 15, 2013);
 20 Laughing Rabbit, Inc. v. Nat’l Auto. Parts Ass’n, 2014 WL 556007 at *5 (W.D. Wash. Feb. 11,
 21 2014) (“A design is anticipated when the average observer takes the new design for a design that
 already exists.”); *see also*, Design Ideas, Ltd. v. Target Corp., 2021 WL 6058698 at *2 (C.D. Ill.
 Dec. 21, 2021) (internal citations omitted) (“A design patent is ‘anticipated,’ that is, invalid

1 because it is not new, if, in the eye of an ordinary observer, giving such attention as a purchaser
2 usually gives, the design is substantially identical to a prior design that was commercially
3 available more than a year before the later patent's filing date.”).

4 The invention claimed in the ‘616 Patent is anticipated by at least one prior art reference.
5 A true and correct copy of EU Design Registration No 015062918-0001 was previously filed as
6 [Dkt. 9-1] (the “Prior Art Design”) identifying third-parties Jianren Cai as the designer and
7 Ningbo Yiren Technology Co., Ltd. as the design's owner. As shown in [Dkt. 9-2], a comparison
8 of the Prior Art Design and Defendant's ‘616 patent where views are shared shows that the Prior
9 Art Design is identical to Defendant's ‘616 patent, and an ordinary observer would very likely
10 recognize that the design of the ‘616 Patent is “substantially the same” as the Prior Art Design.
11 Notably, the ‘616 Patent disclaims (in broken lines) the lower threaded portion of the lid top and
12 upon careful comparison of the ‘616 Patent and the Prior Art Design, it is apparent that
13 Defendant attempted to obfuscate the similarities between the design in the ‘616 patent and the
14 Prior Art Design by:

- 15 (i) illustrating the top view where the straw structure was extended, rather than
16 collapsed as shown in the Prior Art Design (Dkt. 9-2 p. 4);
- 17 (ii) showing a reverse side of the top front perspective view of the lid where the straw
18 structure is extended, showing the “back” part of the straw structure and not the
19 front (Dkt. 9-2 p. 2);
- 20 (iii) showing a reverse side of the other top front perspective view of the lid where the
21 straw structure is collapsed, showing the “back” part of the straw structure and not
the front (Dkt. 9-2 p. 3);
- (iv) showing the left side view of the lid with the straw structure extended, rather than
collapsed as shown in the Prior Art Design (Dkt. 9-2 p. 5);
- (v) showing the right side view of the lid with the straw structure extended, rather
than collapsed as shown in the Prior Art Design (Dkt. 9-2 p. 6);
- (vi) showing the front view of the lid with the straw structure extended, rather than
collapsed as shown in the Prior Art Design (Dkt. 9-2 p. 7);
- (vii) showing the rear view of the lid with the straw structure extended, rather than

1 collapsed as shown in the Prior Art Design (Dkt. 9-2 p. 8).

2 Importantly, the Prior Art Design was first published in EU Intellectual Property Office Bulletin
 3 2024/118 on June 25, 2024 has a registration date of July 6, 2024, and was not cited by the ‘616
 4 Patent’s examiner during prosecution. [Dkt 1-1]. A true and correct copy of EU Intellectual
 5 Property Office Bulletin 2024/118 obtained from the EU Intellectual Property Office website¹
 6 was previously filed as [Dkt. 9-3]. Accordingly, since the design disclosed in the Prior Art Patent
 7 was patented, in public use, on sale, or otherwise available to the public at least as early as June
 8 25, 2024, which predates the ‘616 Patent’s filing date of July 31, 2024 [Dkt. 1-1], the ‘616 Patent
 is invalid. Ids.

9 **c. There is no adequate remedy at law, and Plaintiffs will suffer irreparable harm**
 10 **in the absence of preliminary relief.**

11 Defendant has not brought a design patent infringement claim against Plaintiffs in court.
 12 However, through its complaints issued against Plaintiffs on the Amazon.com platform,
 13 Defendant has been able to obtain a *de facto* injunction from Amazon. Plaintiffs’ intangible
 14 injuries like reputation, advertising efforts, loss of potential customers, ranking and reviews,
 15 termination as a repeat offender, or loss of goodwill constitutes irreparable harm. [Dkt. 11 at ¶ 7];
 16 [Dkt. 15 at ¶ 7]; Dkt. 16 at ¶ 7]; *See, Herb Reed Enterprises, LLC v. Fla. Ent. Mgmt., Inc.*, 736
 17 F.3d 1239, 1250 (9th Cir. 2013) (“Evidence of loss of control over business reputation and
 18 damage to goodwill could constitute irreparable harm.”); Rent-A-Ctr., Inc. v. Canyon Television
 19 & Appliance Rental, Inc., 944 F.2d 597, 603 (9th Cir. 1991) (“intangible injuries, such as damage
 20 to ongoing recruitment efforts and goodwill, qualify as irreparable harm.”); Life Spine, Inc. v.

21 ¹ See <https://euipo.europa.eu/eSearch/#details/designs/015062918-0001>, last accessed June 16, 2025

1 Aegis Spine, Inc., 8 F.4th 531, 546 (7th Cir. 2021) (“it is well established that the loss of
2 goodwill and reputation, if proven, can constitute irreparable harm.”); Hill v. Xyquad, Inc., 939
3 F.2d 627, 631 (8th Cir. 1991) (“When the status quo is one of business activity and the
4 alternative of ‘rest’ causes irreparable harm, we have favored the activity.”).

5 This case is almost identical to Medcursor, where the court found irreparable harm to the
6 plaintiff where, like here, the defendant filed an infringement notice with Amazon based on
7 plaintiff’s purported infringement of defendant’s invalid design patent. Medcursor Inc. v.
8 Shenzen KLM Internet Trading Co., 543 F. Supp. 3d 866 (C.D. Cal. 2021). The court found that
9 plaintiff had “raised at least two forms of concrete irreparable harm it is likely to suffer if relief
10 [was] denied,” namely that: (1) “the infringement notice will likely result in deactivation of
11 Plaintiff’s seller’s account” which would “effectively put Plaintiff out of business;” and (2) that
12 “Plaintiff’s product delisting, if left unchecked, will likely result in nonquantifiable damages
13 relating to lost business opportunities on Amazon, including product placement disadvantages.”
14 Id. at 878-79. Like the plaintiff in Medcursor, Plaintiffs sell their products substantially on
15 Amazon.com, and Plaintiffs’ inability to sell the products at issue would likely result in Plaintiffs
16 going out of business. Moreover, Amazon.com deactivates selling accounts without advanced
17 warning, and Plaintiff’s prior experience and Amazon policy substantiates Plaintiff’s belief that a
18 prolonged delisting of multiple ASINs, as is the case here, will result in the deactivation of
19 Plaintiff’s Amazon.com selling account at any time. [Dkt. 11 at ¶ 8-9]; [Dkt. 15 at ¶ 8-9]; Dkt. 16
20 at ¶ 8-9]. Even though Amazon does not provide a timetable for when Amazon will deactivate
21 Plaintiffs’ selling accounts, if Plaintiffs have to wait until the end of the lawsuit to seek
reactivation of their Amazon listings, deactivation of Plaintiffs’ selling accounts becomes very
likely. Id.; Design Furnishings, Inc. v. Zen Path, LLC, 2010 WL 5418893 at *7 (E.D. Cal. Dec.

23, 2010) (finding a likelihood of irreparable harm where the effect of defendant’s infringement notices filed on eBay against Plaintiff’s non-infringing listings would likely “terminate [plaintiff’s listings], temporarily restrict plaintiff from selling on one or both of its accounts, or suspend or terminate plaintiff’s accounts.”). Specifically, because Plaintiffs conduct their business substantially on Amazon, a suspension of their selling accounts would likely result in Plaintiff going out of business. [Dkt. 11 at ¶ 4-9]; [Dkt. 15 at ¶ 4-9]; Dkt. 16 at ¶ 4-9]. Moreover, even if Plaintiffs’ Amazon accounts are not deactivated, Plaintiff’s inability to sell the delisted products and the disposal and destruction of the delisted products would likely result in Plaintiffs going out of business. Ids.; Second Declaration of Chenyang Ma at ¶ 3; Second Declaration of Mengdi Zhao at ¶ 3; Second Declaration of Yuan Cao at ¶ 3. Moreover, as a result of Defendant’s infringement complaint; Defendant ZJT’s inventory of tumbler cup lids that would generate more than \$56,211 in sales revenue is scheduled to be disposed of and destroyed June 20, 2025, Ma Decl. at ¶ 3, Exhibit A; Defendant Sandstorm2024’s inventory of tumbler cup lids that would generate more than \$48,823 in sales revenue is scheduled to be disposed of and destroyed on June 20, 2025, and June 26, 2025, Ma Decl. at ¶ 3, Exhibit A; and, Defendant DDDU’s inventory of tumbler cup lids that would generate more than \$45,125 in sales revenue is scheduled to be disposed of and destroyed on June 20, 2025, and June 21, 2025. Cao Decl. at ¶ 3, Exhibit A. Critically, Defendant is based in China, and, upon information and belief, has no domestic presence in the United States, thus it will likely be impossible for Plaintiffs to recover future monetary damages from Defendant to compensate them for the value of the destroyed inventory. This likely inability to recover monetary damages from Defendant for the destroyed inventory constitutes irreparable harm. Liberty Mut. Ins. Co. v. Frank Coluccio Constr. Co., 2019 WL 5802071 at *2 (W.D. Wash. Nov. 7, 2019) (“to demonstrate irreparable harm in this case

1 [plaintiff] ‘must show a likelihood of dissipation of the claimed assets, or other inability to
 2 recover monetary damages, if relief is not granted.’”), *citing*, Johnson v. Couturier, 572 F.3d
 3 1067, 1085 (9th Cir. 2009); Las Vegas Sands Corp. v. Fan Yu Ming, 360 F. Supp. 3d 1072, 1080
 4 (D. Nev. 2019) (finding irreparable harm was shown based upon Plaintiff’s likely inability to
 5 “recover a monetary judgment against a foreign defendant with no presence in the United
 6 States.”); Omix-ADA, Inc. v. Qingdao Hairunkaiyuan Auto Parts Co., 2017 WL 9400748 at *1
 7 (D. Nev. Nov. 22, 2017) (finding irreparable harm was demonstrated, in part, because defendant
 8 “ha[d] no presence in the United States “ thus it “may be difficult or impossible for [plaintiff] to
 9 recover a money judgment against [defendant].”); Hayward Indus., Inc. v. Ningbo C.F. Elec.
 10 Tech Co., LTD., 2024 WL 1587024 at *2 (W.D.N.C. Apr. 11, 2024) (citing cases and noting that
 11 “[n]umerous district courts have found that the prospect of collecting money damages from a
 12 foreign defendant with few to no assets in the United States tips in favor of a finding of
 13 irreparable harm.”).

14 Plaintiff’s inability to sell these delisted products, the destruction of perfectly salable
 15 inventory with the inability to collect damages, and the blemish of the wrongfully-applied
 16 account strike creates - in light of Amazon’s ability to terminate accounts for any reason -
 17 materially risks Plaintiff going out of business. [Dkt. 7 at ¶ 6]. Loss of a business clearly
 18 constitutes irreparable harm. Medcursor Inc., 543 F. Supp. 3d at 878 (“if left in place, the
 19 [Amazon] infringement notice will likely again result in deactivation of Plaintiff’s seller’s
 20 account. This will effectively put Plaintiffs out of business. This is irreparable harm.”); Am.
 21 Trucking Associations, Inc. v. City of Los Angeles, 559 F.3d 1046, 1058 (9th Cir. 2009) (finding
 irreparable harm where “it is likely that all of that part of the carrier’s business will evaporate,
 even if it does other things elsewhere,” and “at the very least[,] a loss of customer goodwill” will

1 result based on inability to transact with customers at the port). At a minimum, Plaintiff’s “actual
2 product delisting and likely account suspension will prevent it from interacting with its
3 customers, likely resulting in a loss of goodwill.” [Dkt. 11 at ¶ 8]; [Dkt. 15 at ¶ 8]; [Dkt. 16 at ¶
4 8]. And at a maximum, Plaintiff’s product delistings and account suspension “it will result in
5 Plaintiff going out of business upon being suspended from Amazon, a seemingly make-or-break
6 sales platform in the current e-commerce environment.” *Id.*; [Dkt. 7 at ¶ 6-7].

7 Moreover, the products delisted and scheduled to be destroyed because of Defendant’s
8 infringement notice were one of Plaintiff’s best-selling products and Plaintiff’s harm from the
9 delisting and destruction of these products is difficult to quantify because it includes lost sales
10 and business opportunities. [Dkt. 11 at ¶ 4]; [Dkt. 15 at ¶ 4]; [Dkt. 16 at ¶ 4]; Amaretto Ranch
11 Breedables v. Ozimals, Inc., 2010 WL 5387774 at *2 (N.D. Cal. Dec. 21, 2010) (finding that
12 plaintiff had established irreparable harm where defendant filed false DMCA takedown
13 notification because “if its product disappears (or if marketability is dramatically affected) it will
14 likely permanently lose perspective customers”); Robert Bosch LLC v. Pylon Mfg. Corp., 659
15 F.3d 1142 (Fed. Cir. 2011) (finding that there was “no basis on which the district court rationally
16 could have concluded that [plaintiff] failed to demonstrate irreparable harm” where there was
17 evidence of direct competition in the market and loss of market share and access to potential
18 customers); Abbott Labs. v. Sandoz, Inc., 544 F.3d 1341, 1362 (Fed. Cir. 2008), *citing*, Polymer
19 Technologies, Inc. v. Bridwell, 103 F.3d 970, 975-76 (Fed. Cir. 1996) (“loss of market
20 opportunities cannot be quantified or adequately compensated, and is evidence of irreparable
21 harm”). Particularly, the delisting of Plaintiff’s products has caused and continues to cause loss
of Amazon customers and sales, which in turn results in harm to Plaintiff’s Amazon ranking and
product placement. [Dkt. 11 at ¶ 7-8]; [Dkt. 15 at ¶ 7-8]; [Dkt. 16 at ¶ 7-8]. Active and frequent

1 sales improve Amazon ranking and product placement and prior to the infringement notice,
 2 Plaintiff's tumbler cup lid sales were booming, which was achieved through years of diligent
 3 sales and active marketing. Ids. However, because Plaintiffs are no longer able to sell the
 4 delisted products, Plaintiff's ranking and product placement will likely continue to fall due to a
 5 lack of sales. Id. This constitutes irreparable harm. *See, Medcursor Inc.*, 543 F. Supp. 3d at 879
 6 ("the Court finds that Plaintiff's product delisting, if left unchecked, will likely result in
 7 nonquantifiable damages relating to lost business opportunities on Amazon, including product
 8 placement disadvantages such as losing Plaintiff's previously held first-page status."); Beyond
 9 Blond Prods., LLC v. Heldman, 479 F. Supp. 3d 874, 888 (C.D. Cal. 2020), *aff'd sub*
 10 *nom.* Beyond Blond Prods., LLC v. ComedyMX, LLC, No. 21-55990, 2022 WL 1101756 (9th
 11 Cir. Apr. 13, 2022) (granting injunction requiring retraction of Amazon copyright takedown
 12 notices because "[r]eputational harm and loss of goodwill can be irreparable harm" and "[s]o can
 13 threatened loss of prospective customers"); Amaretto Ranch Breedables, 2010 WL 5387774 at *2
 14 (finding that plaintiff had established irreparable harm where defendant filed false DMCA
 takedown notification because "if its product disappears (or if marketability is dramatically
 affected) it will likely permanently lose perspective customers").

15 In sum, Plaintiffs will continue to suffer irreparable harm without this Court's
 16 intervention ordering withdrawal of the Amazon takedown notice, and the temporary restraining
 17 order is necessary to restore the status quo. Medcursor Inc., 543 F. Supp. 3d 866; Beyond Blond
 18 Prods., 479 F. Supp. 3d at 888 (granting injunction requiring retraction of Amazon copyright
 19 takedown notices because "[r]eputational harm and loss of goodwill can be irreparable harm"
 20 and "[s]o can threatened loss of prospective customers"); Stuhlbarg Int'l Sales Co. v. John D.
Brush & Co., 240 F.3d 832, 838 (9th Cir. 2001) (affirming injunctive relief to restore status quo

1 to allow “the immediate release of its goods to avoid irreparable harm stemming from lost
 2 contracts and customers, and harm to its business reputation and goodwill.”); Biosafe-One, Inc.
 3 v. Hawks, 524 F. Supp. 2d 452, 468 (S.D.N.Y. 2007) (finding irreparable harm and noting that a
 4 “preliminary injunction is necessary to return defendants to the position they occupied before
 5 plaintiffs filed the DMCA notices with their web hosting companies, as plaintiffs have
 6 demonstrated twice that they will submit notices even when defendants’ website is not
 7 infringing.”)

8 **d. The balancing of harms weighs in Plaintiff’s favor and supports the entry of the**
 9 **TRO.**

10 The injunctive relief sought here is limited in scope, in that it restores the status quo by
 11 reversing Defendant’s *de facto* injunction preventing sales of Plaintiffs’ products on Amazon.
 12 Plaintiffs’ Amazon sales represent a substantial portion of Plaintiffs’ business and Defendant’s
 13 infringement complaint of its invalid patent has caused and will continue to cause Plaintiffs to
 14 lose prospective customers, goodwill, reputation, and potential permanent termination of their
 15 Amazon account. If the injunction is not issued Plaintiffs will suffer harm to their businesses
 16 that could be severe enough impact its ability to continue as a going concern. Design
 17 Furnishings, Inc. v. Zen Path, LLC, 2010 WL 5418893 at *7-8 (E.D. Cal. Dec. 23, 2010) (finding
 18 that the balance of equities tipped “sharply” in party’s favor because of the irreparable harm that
 19 would result from eBay’s likely response to false DMCA notices would be terminating listings,
 20 and suspending or terminating the party’s account).

21 Conversely, a “preliminary injunction barring [Defendant] from sending additional
 [infringement] notices...would impose little or no burden on [Defendant].” Biosafe-One, Inc. v.
Hawks, 524 F. Supp. 2d 452, 469 (S.D.N.Y. 2007) (finding balance of hardships weighed in

defendant's favor and granting preliminary injunction barring plaintiff from sending additional notices). What's more, to "the extent Defendant[] can prevail on proving infringement and overcoming Plaintiff's invalidity evidence, Defendant['s] injuries may be compensated by damages." Medcursor; *See also, Amaretto Ranch Breedables v. Ozimals, Inc.*, 2010 WL 5387774 at *3 (N.D. Cal. Dec. 21, 2010) ("What's more, if [Defendant] is allowed to continue to market and sell its products as it [previously did], [Plaintiff] can obtain money damages from [Defendant] if [Defendant] is in fact infringing [Plaintiff]'s copyright."). Accordingly, the balance of equities favors the granting of a preliminary injunction ordering withdrawal of the infringement notice to Amazon, whereby if Defendant can prove its discreditable patent infringement claims, it is compensable through damages.

e. Public interest is served by entry of the injunction.

Defendant will not be able to identify a single *public* interest that would be harmed by withdrawal of the infringement complaint and restoration of Plaintiffs' sale of legitimate competing products. Conversely, the public interest would be served by quelling Defendant's nonsensical infringement complaint to discriminately shutdown of a fairly competing business instead of meeting the proper burden for a preliminary injunction to prevent infringement. "[T]he public interest is in fact benefitted by granting a preliminary injunction, because absent [Amazon]'s policies, designed to avoid [Amazon]'s liability for intellectual property infringement, it would be the claimed [patent] holder who would bear the burden of proving the [patent] infringement." Design Furnishings, 2010 WL 5418893 at *8. That burden is essentially shifted under Amazon's policies. *Id.* To withhold a preliminary injunction "would allow anyone to effectively shut down a competitor's business on [Amazon] simply by filing numerous notices that the seller's products allegedly infringe on the complaining party's [patent]." *Id.* (finding

1 public interest weighed and party's favor and granting the party's preliminary injunction
 2 enjoining defendant from submitting any further notices of claimed copyright infringement to
 3 eBay); Medcursor (granting preliminary injunction ordering party to retract any patent
 4 infringement notices filed with Amazon, and refrain from filing any further infringement
 5 notices); Beyond Blond Prods., LLC v. Heldman, 2020 WL 4782745 at *9 (C.D. Cal. Aug. 14,
 6 2020) (granting preliminary injunction ordering party to refrain from issuing any further DMCA
 7 takedown notices and withdraw its DMCA takedown notices issued to non-party Amazon).

8 Given the ubiquity of Amazon shopping to the general public, the public has an interest in
 9 a full and fair online marketplace. Where "the moving party has demonstrated a likelihood of
 10 success on patent invalidity, and likely irreparable harm flowing from the inability to reach its
 11 customers on Amazon, the public interest favors preventing a competitor from using a seemingly
 12 innocuous intellectual property rights-protection notice to effectively shut down a competitor's
 13 business." Medcursor.

**f. Plaintiffs have provided notice of this motion to Defendants and no additional
 notice should be required to prevent further harm to Plaintiffs.**

14 A federal court may issue a TRO "with or without written or oral notice to the adverse
 15 party" if "specific facts in the affidavit ... clearly show that immediate and irreparable injury,
 16 loss, or damage will result to the movant before the adverse party can be heard in opposition"
 17 and the moving party "certifies in writing any efforts made to give notice and the reasons why it
 18 should not be required." Fed. R. Civ. P. 65(b). Here, Plaintiffs provided notice of this motion to
 19 Defendant on June 16, 2025 via its email address, such email address being identified to
 20 Plaintiffs by third-party Amazon within the infringement notices. [Dkt. 1-2 - 1-7]. Moreover,
 21 after sending an email to the email address identified by Amazon within the infringement

1 complaints, Plaintiffs did not receive any indication that the message was not delivered or
2 received by Defendant. [Dkt. 19 at ¶ 10]; *See, Amazon.com, Inc. v. Chalova*, 2024 WL 458281 at
3 *2-3 (W.D. Wash. Jan. 9, 2024) (granting alternative service by email where Plaintiff sent test
4 emails “to the email addresses associated with Defendants’ Amazon selling accounts” and “did
5 not receive any error notices or bounce-back messages in response to the emails” which
6 demonstrated that the emails were still valid and that service by those emails were likely to
7 provide Defendants notice of the lawsuit); *Amazon.com Inc. v. Phmn9y3v*, 2024 WL 2087320
8 (W.D. Wash. May 7, 2024) (same). Moreover, as outlined in Plaintiffs’ motion for electronic
9 service of process, [Dkt. 18], despite ostensibly having the opportunity to provide his physical
10 contact information on the multiple complaints Defendant filed with Amazon against Plaintiffs,
11 Defendant only included his email address which indicates that Defendant designated this email
12 as its preferred contact information. *Rio Props., Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1018
13 (9th Cir. 2002) (“In fact, RII structured its business such that it could be contacted *only* via its
14 email address. RII listed no easily discoverable street address in the United States or in Costa
15 Rica. Rather, on its website and print media, RII designated its email address as its preferred
16 contact information.”). On information and belief, Defendant is not currently represented by
17 counsel and Plaintiffs have attempted to provide notice to Defendant using the email identified in
18 Defendant’s complaints against Plaintiffs. This email was the only contact information provided
19 in the complaints Defendant issued against Plaintiffs, thus, without knowing any other contact
20 information of Defendant, Plaintiffs are unaware of any what other efforts could be made to
21 provide Defendant with notice.

Defendant’s confused identification of itself with respect to the Complaint is, in
Plaintiff’s estimation, entirely deliberate. Plaintiff provided Defendant with notice of Plaintiff’s

1 first motion for entry of a temporary restraining order and undersigned counsel certified as much.
2 [Dkt. 9 p. 14]; Urbanczyk Decl. ¶ 2. Plaintiff also provided Defendant with notice of Plaintiff's
3 motion for electronic service of process. [Dkt. 18 p. 9]; Urbanczyk Decl. ¶ 3. Plaintiff's counsel
4 has received zero feedback from its notice emails to Defendant, though none have bounced-back
5 or otherwise indicated to not have been delivered. Urbanczyk Decl. ¶ 2-3. Plaintiff does not
6 believe Defendant is represented by counsel. Urbanczyk Decl. ¶ 4.

7 Moreover, Plaintiffs have clearly shown that they will suffer immediate and irreparable
8 injury before Defendant can be heard in opposition. As discussed *supra* in Section II(c) the
9 delisting of Plaintiff's products has caused and continued to cause Plaintiffs irreparable harm in
10 the form of lost customers and sales, which in turn results in harm to Plaintiff's amazon ranking,
11 product placement, and storefront reputation. Moreover, Plaintiffs' inventory of the removed
12 product is schedule to be destroyed between June 20, 2025, and June 26, 2025, which further
13 constitutes irreparable harm because it will likely be impossible for Plaintiffs to recover future
14 monetary damages from Defendant to compensate them for the value of the destroyed inventory.
15 Defendant's infringement complaints omitted contact information aside from a single email
16 address, and Plaintiffs provided notice of this motion to this email address on June 16, 2025, and
17 there is no other identifiable method that Defendant can be provided notice of the current motion
18 before Plaintiffs experience great irreparable harm when their inventory is destroyed.
19 Accordingly, Plaintiffs respectfully request that this Court grant the current motion for a
20 temporary restraining order be issued without a prior hearing. Thomas v. Ocwen Loan Servicing,
21 LLC., 2017 WL 8727862 at *2 (W.D. Wash. Aug. 22, 2017) (grant TRO without a prior hearing
where plaintiff's counsel demonstrated their efforts to give notice and where plaintiff would
suffer irreparable harm if the ruling on the TRO was significantly delayed),

1 **III. Conclusion**

2 Plaintiffs' businesses continue to be irreparably harmed by Defendant's *de facto*
 3 injunction obtained from Amazon as a result of Defendant's wrongful infringement complaints of
 4 its invalid patent. Plaintiffs will continue to suffer irreparable harm without the Court's
 5 intervention ordering withdrawal of the Amazon infringement complaint and barring Defendant
 6 from sending additional specious infringement complaints in the future. In view of the
 7 foregoing, Plaintiffs requests that this Court enter a Temporary Restraining Order substantially in
 8 the form submitted herewith.

8 Dated this June 16, 2025

9 By: /s/Adam E. Urbanczyk

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Pro Hac Vice

I certify that this motion contains no more than
 4,801 words as computed by MS Word, in
 compliance with the Local Civil Rules.

Together with:

Philip P. Mann, WSBA No. 28860

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Certificate of Service

I hereby certify that the foregoing Second Motion for Entry of Temporary Restraining Order, Declaration of Yuan Cao, Declaration of Mengdi Zhao, Declaration of Chenyang Ma, Declaration of Adam E. Urbanczyk, and exhibits, were sent to defendant via email on June 16, 2025 to the address jamesthorntoncontact@gmail.com that was identified by Defendant in its Amazon.com complaints [Dkt. 1-2 - 1-7].

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