FILED

JUN 12 2019

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DOGGIE DENTAL INC., *et al.*,

Plaintiffs,

v.

ANYWILL, *et al.*,

Defendants.

Civil Action No. 19-682

FILED UNDER SEAL

PLAINTIFFS' MOTION TO FILE UNDER SEAL

This action arises from Defendants' actions in promoting, advertising, distributing, offering for sale, and selling knock-off versions of Plaintiffs' BRISTLY™ dog toothbrush (the "Infringing Product") which closely mimic the appearance of Plaintiffs' genuine product throughout the United States, including within the Commonwealth of Pennsylvania and this district, by operating fully interactive, commercial Internet based e-commerce stores.

Plaintiffs submit this application to the Court to file under seal the documents associated with the above-referenced action, including but not limited to: Plaintiffs' Complaint and exhibits attached thereto; Plaintiffs' *ex parte* application for: a temporary restraining order, an order to show cause why a preliminary injunction should not issue, an asset restraining order, and an order authorizing expedited discovery; Declarations of Peter Dertsakyan, Stanley D. Ference III, Brian Samuel Malkin, and Amy Cline, in support of Plaintiffs' Application and exhibits attached thereto; and an order authorizing alternative service; and Plaintiffs' *Ex Parte* Motion for an Order Authorizing Alternative Service (collectively "*Ex Parte* Application").

Good cause exists to file the *Ex Parte* Application under seal. A variety of Courts have granted the relief requested herein in similar cases, recognizing, *inter alia*:

a. The Internet based e-commerce stores and Seller IDs at issue in the case are under Defendants' complete control.

b. Defendants have the ability to change the ownership or modify e-commerce store data and content, change payment accounts, redirect consumer traffic to other seller identification names, and transfer assets and the ownership of the Seller IDs.

c. Such modifications can happen in a short span of time after Defendants are provided with notice of this action.

d. Defendants can easily electronically transfer and secret the funds sought to be restrained if they obtain advance notice of the relief sought by Plaintiff's *Ex Parte* Application and thereby thwart the Court's ability to grant meaningful relief and can completely erase the status quo.

e. As Defendants engage in illegal infringing activities, there is no reason for Plaintiff to believe Defendants will make their assets available for recovery.

See Airigan Solutions, LLC v. Babymove, et al., Case No. 19-cv-166-NBF (W.D. Pa., filed February 14, 2019, unsealed March 21, 2019), *Airigan Solutions, LLC v. Bufuijiugan, et al.*, Case No. 18-cv-1330-NBF (W.D. Pa., filed October 5, 2018, unsealed November 21, 2018)*; Airigan Solutions, LLC v. Artifacts_Selling, Case No. 18-cv-1462-NBF* (W.D. Pa., filed October 31, 2018, unsealed November 21, 2018); *Tavalvera Hair Products, Inc. v. Taizhou Yunsung Electrical Applicant Co., Ltd. et al*., Case No. 18-cv-00823-BAS-JLB (S.D. Cal., filed April 30,

2018, unsealed May 23, 2018); *Cartier International A.G. v. Replicapaneraiwatches.cn et al.*, No. 17-cv-62401-KMM (S.D. Fla., filed Dec. 7, 2017, unsealed January 14, 2018), and *Off-White, LLC v. 6014350 et al.*, No. 18-cv-5322-GBK (S.D.N.Y., filed June 13, 2018, unsealed June 26, 2018). Additionally, the Lanham Act specifically provides the Court with the authority to seal the file in cases involving counterfeiting. *See* 15 U.S.C. § 1116(d)(8).

Accordingly, Plaintiffs respectfully submit that the court file in this action should be sealed until the hearing on Plaintiffs' Application for an Order to Show Cause Why a Preliminary Injunction Should Not Issue or further order of the Court.

A Proposed Order granting the Application to Seal is submitted herewith.

Respectfully submitted,

Dated: June 12, 2019

/s/ Stanley D. Ference III

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