

**FILED**

JUN 12 2019

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

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

DOGGIE DENTAL, INC., *et al.*,

Plaintiffs,

Civil Action No. 19-082

v.

ANYWILL, *et al.*,

Defendants.

**FILED UNDER SEAL**

**REQUEST FOR JUDICIAL NOTICE OF TEMPORARY RESTRAINING ORDERS  
IN OTHER CASES GRANTING THE RELIEF SOUGHT IN THE PRESENT CASE**

Plaintiffs request judicial notice of the following orders in other cases granting the relief sought in the present case:

<i>Ex.</i>	<i>Case Name</i>	<i>Platform</i>	<i>Date</i>	<i>Document</i>	<i>Bond Amt.</i>
1	<i>Airigan Solutions, LLC v. Babymove</i> , No. 19-cv-166 (W.D. Pa.) (Fischer, J.)	Amazon.com	2/14/19 2/14/19	TRO Order Granting Motion Authorizing Alternate Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3)	\$5,000
2	<i>Airigan Solutions, LLC v. Artifacts Selling</i> , No. 18-cv-1462 (W.D. Pa.) (Fischer, J.)	eBay.com AliExpress.com	11/02/18 11/02/18	TRO Order Authorizing Alternate Service of Process on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3)	\$5,000

<b>Ex.</b>	<b>Case Name</b>	<b>Platform</b>	<b>Date</b>	<b>Document</b>	<b>Bond Amt.</b>
3	<i>Millenium IP, Inc. v. The Partnerships and Unincorporated Associations Identified on Schedule "A", No. 18-cv-3778 (N.D. Ill.)</i>	Alibaba.com Amazon.com eBay.com iOffer.com wish.com	6/6/18	TRO  Alternative service appears in ¶ 13 of TRO	\$10,000
4	<i>Nu Image, Inc. v. The Partnerships and Unincorporated Associations Identified on Schedule "A", No. 17-cv-2918 (N.D. Ill.)</i>	Alibaba.com Amazon.com eBay.com iOffer.com wish.com	5/12/17	TRO  Alternative service appears in ¶ 10 of TRO	\$10,000

Respectfully submitted,

Dated: June 12, 2019

/s/ Stanley D. Ference III

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Attorneys for Plaintiffs

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

AIRIGAN SOLUTIONS, LLC.,

Plaintiff,

v.

BABYMOVE, *et al.*,

Defendants.

Civil Action No. 19-166

**FILED UNDER SEAL**

**1) TEMPORARY RESTRAINING ORDER; 2) ORDER RESTRAINING ASSETS AND  
MERCHANT STOREFRONTS; 3) ORDER TO SHOW CAUSE WHY A PRELIMINARY  
INJUNCTION SHOULD NOT ISSUE; AND 4) ORDER AUTHORIZING EXPEDITED  
DISCOVERY**

On this day the Court considered Plaintiff's *Ex Parte* Application for the following: 1) a temporary restraining order; 2) an order restraining assets and Merchant Storefronts (as defined *infra*); 3) an order to show cause why a preliminary injunction should not issue; and 4) an order authorizing expedited discovery against all of the Defendants identified on the attached **Schedule "A"**, and Context Logic, Inc. d/b/a wish.com ("Third Party Service Provider" or "Wish"), and PayPal, Inc. d/b/a paypal.com ("PayPal") in light of Defendants' intentional and willful offerings for sale and/or sales of Counterfeit Products (as defined *infra*) ("Application") Having reviewed the Application, the Declarations of Margaret B. Tyler, Brian Samuel Malkin, Stanley D. Ference III, and Jennifer Lineberry, along with the exhibits attached thereto and other evidence submitted in support thereof, the Court makes the following findings of fact and conclusions of law:

**FACTUAL FINDINGS & CONCLUSION OF LAW**

1. Plaintiff is likely to prevail on its Lanham Act claims, patent claims, and related state law claims at trial;
2. As a result of Defendants' infringements, Plaintiff as well as consumers are likely to suffer immediate and irreparable losses, damages and injuries before Defendants can be heard in opposition, unless Plaintiff's Application for *ex parte* relief is granted:
  - a. Defendants have offered for sale and sold substandard products bearing or using Plaintiff's registered trademark (*i.e.*, U.S. Trademark Reg. No. 5,142,630 for the wordmark "NEGG") and/or that use packaging that bears and/or is used in connection with marks and/or trade dress (hereinafter referred to as the "NEGG Marks) that is confusing or substantially similar to Plaintiff's authentic products sold using the NEGG Marks ("NEGG Products") and/or that infringe at least Claim 1 of Plaintiff's U.S. Patent No. 9,968,211 entitled "PERSONAL EGG PEELER" (hereinafter referred to as "the '211 patent") (collectively referred to as, "Counterfeit Product(s)" or "Infringing Product(s)") that overall infringe the NEGG Marks and/or at least Claim 1 of the '211 patent through accounts with the online marketplace platform wish.com by Defendants ("User Account<sup>1</sup>(s)");
  - b. Plaintiff has well-founded fears that more Counterfeit Products will appear in the marketplace; that consumers may be misled, confused and disappointed by the quality

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<sup>1</sup> As defined in the Application, a "User Account" is, as defined in the Complaint, any and all accounts with online marketplace platform wish.com and paypal.com, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all other persons in active concert with any of them.

- of these Counterfeit Products, resulting in injury to Plaintiff's reputation and goodwill; and that Plaintiff may suffer loss of sales for its NEGG Products; and
- c. Plaintiff has well-founded fears that if it proceeds on notice to Defendants on this Application, Defendants will: (i) secret, conceal, destroy, alter, sell-off, transfer or otherwise dispose of or deal with Counterfeit Products or other goods that infringe the NEGG Marks and/or at least Claim 1 of the '211 patent, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto are in their possession or under their control, (ii) inform their suppliers and others of Plaintiff's claims with the result being that those suppliers and others may also secret, conceal, sell-off or otherwise dispose of Counterfeit Products or other goods infringing the NEGG Marks and/or at least Claim 1 of the '211 patent, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto that are in their possession or under their control, (iii) secret, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Counterfeit Products or other goods infringing NEGG Marks and/or at least Claim 1 of the '211 patent and records relating thereto that are in their possession or under their control and/or (iv) open new User Accounts through which Defendants, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in products, including Counterfeit Products ("Merchant Storefront(s)<sup>2</sup>") under new or different names and to continue to offer for sale and sell Counterfeit Products with little to no consequence;

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<sup>2</sup> As defined in the Application, a "Merchant Storefront" is any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in products, including Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them.

3. The balance of potential harm to Defendants of being prevented from continuing to profit from their illegal and infringing activities if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiff, its business, the goodwill and reputation built up in and associated with the NEGG Marks and to its reputation if a temporary restraining order is not issued; in the absence of a temporary restraining order Plaintiff would be forced to compete against its own patented invention, a situation that places a substantial hardship on a patentee;

4. Public interest favors issuance of the temporary restraining order in order to protect Plaintiff's interests in and to its NEGG Marks and its patented invention and to protect the public from being deceived and defrauded by Defendants' passing off of their substandard Counterfeit products as NEGG Products.

5. Plaintiff has not publicized its request for a temporary restraining order in any way.

6. Service on Defendants via electronic means is reasonably calculated to result in proper notice to Defendants.

7. This Court has the inherent authority to issue a prejudgment asset restraint when plaintiff's complaint seeks relief in equity. In addition, Plaintiff has shown a strong likelihood of succeeding on the merits of its trademark infringement and counterfeiting claim, so according to the Lanham Act 15 U.S.C. § 1117(a)(1), Plaintiff is entitled, "subject to the principles of equity, to recover ... defendant's profits." Plaintiff seeks, among other relief, that Defendants account for and pay to Plaintiff all profits realized by Defendants by reason of Defendants' unlawful acts. Therefore, this Court has the inherent equitable authority to grant Plaintiff's request for a prejudgment asset freeze to preserve the relief sought by Plaintiff.

8. If Defendants are given notice of the Application, they are likely to secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Counterfeit Products or other goods infringing the NEGG Marks and at least Claim 1 of the '211 patent. Therefore, good cause exists for granting Plaintiff's request for an asset restraining order. It typically takes Financial Institutions a minimum of five (5) days to locate, attach and freeze Defendants' Assets (as defined *infra*) and/or Defendants' Financial Accounts (as defined *infra*) and it is not unusual for the Third Party Service Provider(s) (as defined *infra*) operating the online marketplaces a minimum of two (2) weeks to freeze Defendants' Merchant Storefronts. As such, the Court allows enough time for Plaintiff to serve the Financial Institutions and the Third Party Service Provider(s) with this Order and for the Financial Institutions and/or the Third Party Service Provider(s) to comply with the Paragraphs I(B)(1) through I(B)(2) and I(C)(1) of this Order, respectively, before requiring service on Defendants.

9. Similarly, if Defendants are given notice of the Application, they are likely to destroy, move, hide or otherwise make inaccessible to Plaintiff the records and documents relating to Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Counterfeit Products. Therefore, Plaintiff has good cause to be granted expedited discovery.

### **ORDER**

Based on the foregoing findings of fact and conclusions of law, Plaintiff's Application is hereby **GRANTED** as follows (the "Order"):

#### **I. Temporary Restraining Order**

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that each Defendant, 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 restrained as follows:

- (1) from manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Counterfeit Products;
- (2) from secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products and/or (ii) any computer files, data, business records, documents or any other records or evidence relating to their User Accounts, Merchant Storefronts or any money, securities or other property or assets of Defendants (hereinafter collectively referred to as “Defendants’ Assets”) and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products;
- (3) effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other means of importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order;
- (4) each Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this Order shall immediately discontinue use of any marks that are confusingly similar with the Plaintiff’s NEGG ® trademark, within metatags or other markers within website

source code, from use on any web page (including as the title of any product listing), from any advertising links to other websites offering Counterfeit Products for sale, from search engines' databases or cache memory, and any other form of use such that the NEGG ® trademark or a confusingly similar mark are visible to a computer user or serves to direct computer searches to a Merchant Storefront registered, owned, or operated by each Defendant, including the Merchant Storefronts operating under the Seller IDs;

- (5) each Defendant shall not transfer ownership of the User Accounts or Merchant Storefronts associated with the Seller IDs;
- (6) each Defendant shall preserve copies of all computer files relating to the use of any User Accounts and/or Merchant Storefronts under the Seller IDs and shall take steps necessary to retrieve computer files relating to the use of the User Accounts and/or Merchant Storefronts under their Seller IDs that may be deleted before the entry of this Order;
- (7) upon receipt of the notice of this Order, Wish and PayPal, and their related companies and affiliates, shall immediately identify and restrain all funds, as opposed to ongoing account activity, in the accounts related to the Defendants as identified on Schedule "A" hereto, as well as all funds in or which are transmitted into (i) any other accounts of the same customer(s); (ii) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other accounts subject to this Order; and (iii) any other accounts tied to or used by any of the Seller IDs identified on Schedule "A" hereto;
- (8) Wish and PayPal shall immediately divert to a holding account for the trust of the Court all funds in all accounts related to Defendants identified in Schedule "A" hereto, and associated payment accounts, and any other accounts for the same customer(s) as well as

any other accounts which transfer funds into the same financial institution account(s) as any other accounts subject to this Order;

- (9) Wish and PayPal shall further, within five (5) business days of receiving this Order, provider Plaintiff's counsel with all data that details (i) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (ii) the account transactions related to all funds transmitted into financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account holders, until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by Wish or PayPal for any purpose (other than pursuant to a chargeback made pursuant to Wish or PayPal's security interest in the funds) without express authorization of this Court;
- (10) this Order shall apply to the Seller IDs, associated Accounts and Merchant Storefronts, and any other seller identification names, Accounts or Merchant Storefronts, or Wish or PayPal accounts which are being used by Defendants for the purpose of counterfeiting the NEGG products at issue in this action and/or unfairly competing with Plaintiff;
- (11) Wish, PayPal, or any Defendant or financial institution account holder subject to this Order may petition the Court to modify the asset restraint set out in this Order;
- (12) this Order shall remain in effect until the date for the hearing to show cause why a preliminary injunction should not be issued as set forth below, or until such further dates as set by the Court or stipulated by the parties;

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Wish and PayPal are hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiff's Application for a preliminary injunction, or until further order of the Court:

secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defendants' Assets from or to financial accounts associated with or utilized by any Defendant or any Defendant's User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad) ("Defendants' Financial Accounts") until further ordered by this Court;

C. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Wish and PayPal are hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiff's Application for a preliminary injunction, or until further order of the Court: within (5) days after receipt of service of this Order: providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts;

D. IT IS HEREBY ORDERED, as sufficient cause has been shown, that after Plaintiff's Counsel has received confirmation from Wish and PayPal regarding the funds restrained as directed herein, the Plaintiff shall serve the Defendants as directed in the separately entered Order Authorizing Alternative Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3).

**II. Order to Show Cause Why a Preliminary Injunction  
Should Not Issue and Order of Notice**

Defendants are hereby ORDERED to show cause before this Court in the United States District Court for the Western District of Pennsylvania, the U.S. Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania in Courtroom No. 5B on **Wednesday, February 27, 2019 at 3:00 p.m.** or at such other time that this Court deems appropriate, why a preliminary injunction, pursuant to FRCP 65(a), should not issue.

**III. Order Authorizing Expedited Discovery**

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- (1) Plaintiff may propound interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall provide written responses under oath to such interrogatories within fourteen (14) days of service to Plaintiff or Plaintiff's counsel.
- (2) Plaintiff may serve requests for the production of documents pursuant to FRCP 26 and 34, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall produce all documents responsive to such requests within fourteen (14) days of service to Plaintiff's counsel.

- (3) Plaintiff may serve requests for admission to FRCP 26 and 36, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall provide written responses under oath to such requests within fourteen (14) days of service to Plaintiff or Plaintiff's counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

Within fourteen (14) days of receiving actual notice of this Order, Wish and PayPal shall provide to Plaintiff's counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, documents and records relating to:

- a. any and all User Accounts and Defendants' Merchant Storefronts and account details, including, without limitation, identifying information and account numbers for any and all User Accounts and Defendants' Merchant Storefronts that Defendants have ever had and/or currently maintain with the respective Third Party Service Provider;
- b. the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided;
- c. the Defendants' methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendants' User Accounts and Defendants' Merchant Storefronts, a full accounting of Defendants' sales history and listing history under such accounts

and Defendants' Financial Accounts associated with Defendants' User Accounts and Defendants' Merchant Storefronts; and

- d. Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of Counterfeit Products, or any other products bearing the NEGG Marks and/or marks that are confusingly similar to, identical to, and constitute an infringement of the NEGG Marks and/or infringed at least claim 1 of the '211 patent.

### **V. Security Bond**

IT IS FURTHER ORDERED that Plaintiff shall place security (corporate surety bond, cash, certified check, or attorney's check) in the amount of Five Thousand Dollars (\$5,000.00) with the Court, which amount is determined adequate for the payment of any damages any person may be entitled to recover as a result of an improper or wrongful restraint ordered hereunder.

### **SO ORDERED.**

SIGNED this 14<sup>th</sup> day of February, 2019, at 11:00 a.m.  
Pittsburgh, Pennsylvania

*s/Nora Barry Fischer*  
Nora Barry Fischer  
U.S. District Judge

**SCHEDULE "A"**  
**DEFENDANTS BY STORENAME AND MERCHANT ID**

<b>Def No.</b>	<b>Store Name</b>	<b>Merchant ID</b>
1	Babymove	5a0053d9448a525e05f95b61
2	BinggoHO	59b780a8776ab911b97fe10e
3	BOUCHlet	59f292f19fbc517588f33c9d
4	Clynch	59f2e8540a332a6c1cd3c84f
5	Cobre Guisante E Co Ltd	5a65563187c25b41a3b940d9
6	Drakales	5a02c731471c1473154520dd
7	Fashionw	53abb83fd91139358bc33000
8	Flyingdreamss	5a0053d9448a525e05f95b61
9	Koofar	590c32aa0f961729bf71b3a3
10	Leapon	5a04103c37f9f833f59737a4
11	Linenstoreonline889	59dde1b6dbd28202fc4a0336
12	Loverver	58aae9777584195057a197cb
13	Maternitybargains4less	582c7b5f728de64721487e86
14	PENNYMAI	5a3f4e80da6ce64e16594439
15	Poley	5a050b4437f9f81e6b0dd89d
16	Sharongoogloe9	59b8e806eea5c553061c50c9
17	Ticloy	59e9558cdc7a91139c84a7b4
18	VOTRON ONLINE, LLC	566194f756521824069d571c
19	WhileHot	5a0ffbc4149ff83ea610805d
20	Yingweiyan	5ab9fe801b98df7014c70343

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

AIRIGAN SOLUTIONS, LLC.,

Plaintiff,

v.

ARTIFACTS\_SELLING, *et al.*,

Defendants.

Civil Action No. 18-1462

**FILED UNDER SEAL**

**1) TEMPORARY RESTRAINING ORDER; 2) ORDER RESTRAINING ASSETS AND MERCHANT STOREFRONTS; 3) ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE; AND 4) ORDER AUTHORIZING EXPEDITED DISCOVERY**

On this day the Court considered Plaintiff's *Ex Parte* Application for the following: 1) a temporary restraining order; 2) an order restraining assets and Merchant Storefronts (as defined *infra*); 3) an order to show cause why a preliminary injunction should not issue; and 4) an order authorizing expedited discovery against all of the Defendants identified on the attached **Schedule "A"**, Alibaba Group Holding Ltd. and Alibaba.com US LLC d/b/a AliExpress.com (collectively "Alibaba"), Alipay US Inc. d/b/a Alipay.com ("Alipay"), eBay, Inc. d/b/a ebay.com ("eBay"), and PayPal, Inc. d/b/a paypal.com ("PayPal"), in light of Defendants' intentional and willful offerings for sale and/or sales of Counterfeit Products (as defined *infra*) ("Application") Having reviewed the Application, the Declarations of Margaret B. Tyler, Brian Samuel Malkin, Stanley D. Ference III, and Jennifer Lineberry, along with the exhibits attached thereto and other evidence submitted in support thereof, the Court makes the following findings of fact and conclusions of law:

**FACTUAL FINDINGS & CONCLUSION OF LAW**

1. Plaintiff is likely to prevail on its Lanham Act claims, patent claims, and related state law claims at trial;
2. As a result of Defendants' infringements, Plaintiff as well as consumers are likely to suffer immediate and irreparable losses, damages and injuries before Defendants can be heard in opposition, unless Plaintiff's Application for *ex parte* relief is granted:
  - a. Defendants have offered for sale and sold substandard products bearing or using Plaintiff's registered trademark (*i.e.*, U.S. Trademark Reg. No. 5,142,630 for the wordmark "NEGG") and/or that use packaging that bears and/or is used in connection with marks and/or trade dress (hereinafter referred to as the "NEGG Marks) that is confusing or substantially similar to Plaintiff's authentic products sold using the NEGG Marks ("NEGG Products") and/or that infringe at least Claim 1 of Plaintiff's U.S. Patent No. 9,968,211 entitled "PERSONAL EGG PEELER" (hereinafter referred to as "the '211 patent") (collectively referred to as, "Counterfeit Product(s)" or "Infringing Product(s)") that overall infringe the NEGG Marks and/or at least Claim 1 of the '211 patent through accounts with the online marketplace platforms Aliexpress.com and eBay.com by Defendants ("User Account<sup>1</sup>(s)");
  - b. Plaintiff has well-founded fears that more Counterfeit Products will appear in the marketplace; that consumers may be misled, confused and disappointed by the quality

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<sup>1</sup> As defined in the Application, a "User Account" is, as defined in the Complaint, any and all accounts with online marketplace platforms Aliexpress.com and eBay.com, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all other persons in active concert with any of them.

- of these Counterfeit Products, resulting in injury to Plaintiff's reputation and goodwill; and that Plaintiff may suffer loss of sales for its NEGG Products; and
- c. Plaintiff has well-founded fears that if it proceeds on notice to Defendants on this Application, Defendants will: (i) secret, conceal, destroy, alter, sell-off, transfer or otherwise dispose of or deal with Counterfeit Products or other goods that infringe the NEGG Marks and/or at least Claim 1 of the '211 patent, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto are in their possession or under their control, (ii) inform their suppliers and others of Plaintiff's claims with the result being that those suppliers and others may also secret, conceal, sell-off or otherwise dispose of Counterfeit Products or other goods infringing the NEGG Marks and/or at least Claim 1 of the '211 patent, the means of obtaining or manufacturing such Counterfeit Products, and records relating thereto that are in their possession or under their control, (iii) secret, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Counterfeit Products or other goods infringing NEGG Marks and/or at least Claim 1 of the '211 patent and records relating thereto that are in their possession or under their control and/or (iv) open new User Accounts through which Defendants, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in products, including Counterfeit Products ("Merchant Storefront(s)<sup>2</sup>") under new or different names and to continue to offer for sale and sell Counterfeit Products with little to no consequence;

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<sup>2</sup> As defined in the Application, a "Merchant Storefront" is any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in products, including Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them.

3. The balance of potential harm to Defendants of being prevented from continuing to profit from their illegal and infringing activities if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiff, its business, the goodwill and reputation built up in and associated with the NEGG Marks and to its reputation if a temporary restraining order is not issued; in the absence of a temporary restraining order Plaintiff would be forced to compete against its own patented invention, a situation that places a substantial hardship on a patentee;

4. Public interest favors issuance of the temporary restraining order in order to protect Plaintiff's interests in and to its NEGG Marks and its patented invention and to protect the public from being deceived and defrauded by Defendants' passing off of their substandard Counterfeit products as NEGG Products.

5. Plaintiff has not publicized its request for a temporary restraining order in any way.

6. Service on Defendants via electronic means is reasonably calculated to result in proper notice to Defendants.

7. This Court has the inherent authority to issue a prejudgment asset restraint when plaintiff's complaint seeks relief in equity. In addition, Plaintiff has shown a strong likelihood of succeeding on the merits of its trademark infringement and counterfeiting claim, so according to the Lanham Act 15 U.S.C. § 1117(a)(1), Plaintiff is entitled, "subject to the principles of equity, to recover ... defendant's profits." Plaintiff seeks, among other relief, that Defendants account for and pay to Plaintiff all profits realized by Defendants by reason of Defendants' unlawful acts. Therefore, this Court has the inherent equitable authority to grant Plaintiff's request for a prejudgment asset freeze to preserve the relief sought by Plaintiff.

8. If Defendants are given notice of the Application, they are likely to secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from their sales of Counterfeit Products or other goods infringing the NEGG Marks and at least Claim 1 of the '211 patent. Therefore, good cause exists for granting Plaintiff's request for an asset restraining order. It typically takes Financial Institutions a minimum of five (5) days to locate, attach and freeze Defendants' Assets (as defined *infra*) and/or Defendants' Financial Accounts (as defined *infra*) and it is not unusual for the Third Party Service Provider(s) (as defined *infra*) operating the online marketplaces a minimum of two (2) weeks to freeze Defendants' Merchant Storefronts. As such, the Court allows enough time for Plaintiff to serve the Financial Institutions and the Third Party Service Provider(s) with this Order and for the Financial Institutions and/or the Third Party Service Provider(s) to comply with the Paragraphs I(B)(1) through I(B)(2) and I(C)(1) of this Order, respectively, before requiring service on Defendants.

9. Similarly, if Defendants are given notice of the Application, they are likely to destroy, move, hide or otherwise make inaccessible to Plaintiff the records and documents relating to Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or sale of Counterfeit Products. Therefore, Plaintiff has good cause to be granted expedited discovery.

### **ORDER**

Based on the foregoing findings of fact and conclusions of law, Plaintiff's Application is hereby **GRANTED** as follows (the "Order"):

### **I. Temporary Restraining Order**

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that each Defendant, 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 restrained as follows:

- (1) from manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Counterfeit Products;
- (2) from secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products and/or (ii) any computer files, data, business records, documents or any other records or evidence relating to their User Accounts, Merchant Storefronts or any money, securities or other property or assets of Defendants (hereinafter collectively referred to as “Defendants’ Assets”) and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products;
- (3) effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other means of importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order;
- (4) each Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this

Order shall immediately discontinue use of any marks that are confusingly similar with the Plaintiff's NEGG ® trademark, within metatags or other markers within website source code, from use on any web page (including as the title of any product listing), from any advertising links to other websites offering Counterfeit Products for sale, from search engines' databases or cache memory, and any other form of use such that the NEGG ® trademark or a confusingly similar mark are visible to a computer user or serves to direct computer searches to a Merchant Storefront registered, owned, or operated by each Defendant, including the Merchant Storefronts operating under the Seller IDs;

- (5) each Defendant shall not transfer ownership of the User Accounts or Merchant Storefronts associated with the Seller IDs;
- (6) each Defendant shall preserve copies of all computer files relating to the use of any User Accounts and/or Merchant Storefronts under the Seller IDs and shall take steps necessary to retrieve computer files relating to the use of the User Accounts and/or Merchant Storefronts under their Seller IDs that may be deleted before the entry of this Order;
- (7) upon receipt of the notice of this Order, Alibaba, AliExpress, Alipay, eBay and PayPal, and their related companies and affiliates, shall immediately identify and restrain all funds, as opposed to ongoing account activity, in the accounts related to the Defendants as identified on Schedule "A" hereto, as well as all funds in or which are transmitted into (i) any other accounts of the same customer(s); (ii) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other accounts subject to this Order; and (iii) any other accounts tied to or used by any of the Seller IDs identified on Schedule "A" hereto;

- (8) Alibaba, AliExpress, Alipay, eBay and PayPal shall immediately divert to a holding account for the trust of the Court all funds in all accounts related to Defendants identified in Schedule “A” hereto, and associated payment accounts, and any other accounts for the same customer(s) as well as any other accounts which transfer funds into the same financial institution account(s) as any other accounts subject to this Order;
- (9) Alibaba, AliExpress, Alipay, eBay and PayPal shall further, within five (5) business days of receiving this Order, provide Plaintiff’s counsel with all data that details (i) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (ii) the account transactions related to all funds transmitted into financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account holders, until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by Alibaba, AliExpress, Alipay, eBay and PayPal for any purpose (other than pursuant to a chargeback made pursuant to Alibaba, AliExpress, Alipay, eBay and PayPal security interest in the funds) without express authorization of this Court;
- (10) this Order shall apply to the Seller IDs, associated Accounts and Merchant Storefronts, and any other seller identification names, Accounts or Merchant Storefronts, or Alibaba, AliExpress, Alipay, eBay and PayPal which are being used by Defendants for the purpose of counterfeiting the NEGG products at issue in this action and/or unfairly competing with Plaintiff;

(11) Alibaba, AliExpress, Alipay, eBay and PayPal, or any Defendant or financial institution account holder subject to this Order may petition the Court to modify the asset restraint set out in this Order;

(12) this Order shall remain in effect until the date for the hearing to show cause why a preliminary injunction should not be issued as set forth below, or until such further dates as set by the Court or stipulated by the parties;

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Alibaba, AliExpress Alipay, eBay, and PayPal are hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiff's Application for a preliminary injunction, or until further order of the Court:

secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defendants' Assets from or to financial accounts associated with or utilized by any Defendant or any Defendant's User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad) ("Defendants' Financial Accounts") until further ordered by this Court;

C. IT IS HEREBY ORDERED, as sufficient cause has been shown, that Alibaba, AliExpress, Alipay, eBay, and PayPal are hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiff's Application for a preliminary injunction, or until further order of the Court: within (5) days after receipt of service of this Order: providing services to Defendants, Defendants' User Accounts and

Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts.

**II. Order to Show Cause Why a Preliminary Injunction  
Should Not Issue and Order of Notice**

Defendants are hereby ORDERED to show cause before this Court in the United States District Court for the Western District of Pennsylvania, the U.S. Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania in Courtroom No. 5B on the **26th day of November, 2018 at 9:00 a.m.** or at such other time that this Court deems appropriate, why a preliminary injunction, pursuant to FRCP 65(a), should not issue.

**III. Order Authorizing Expedited Discovery**

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- (1) Plaintiff may propound interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall provide written responses under oath to such interrogatories within fourteen (14) days of service to Plaintiff or Plaintiff's counsel.
- (2) Plaintiff may serve requests for the production of documents pursuant to FRCP 26 and 34, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall produce all documents responsive to such requests within fourteen (14) days of service to Plaintiff's counsel.

- (3) Plaintiff may serve requests for admission to FRCP 26 and 36, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall provide written responses under oath to such requests within fourteen (14) days of service to Plaintiff or Plaintiff's counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

Within fourteen (14) days of receiving actual notice of this Order, Alibaba, AliExpress, Alipay, eBay, and PayPal shall provide to Plaintiff's counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, documents and records relating to:

- a. any and all User Accounts and Defendants' Merchant Storefronts and account details, including, without limitation, identifying information and account numbers for any and all User Accounts and Defendants' Merchant Storefronts that Defendants have ever had and/or currently maintain with the respective Third Party Service Provider;
- b. the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided;
- c. the Defendants' methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendants' User Accounts and Defendants' Merchant Storefronts, a full accounting of Defendants' sales history and listing history under such accounts

and Defendants' Financial Accounts associated with Defendants' User Accounts and Defendants' Merchant Storefronts; and

- d. Defendants' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of Counterfeit Products, or any other products bearing the NEGG Marks and/or marks that are confusingly similar to, identical to, and constitute an infringement of the NEGG Marks and/or infringed at least claim 1 of the '211 patent.

### **V. Security Bond**

IT IS FURTHER ORDERED that Plaintiff shall place security (corporate surety bond, cash, certified check, or attorney's check) in the amount of five thousand dollars (\$5,000.00) with the Court, which amount is determined adequate for the payment of any damages any person may be entitled to recover as a result of an improper or wrongful restraint ordered hereunder.

### **SO ORDERED.**

SIGNED this 31st day of October, 2018, at 1:45 p.m.  
Pittsburgh, Pennsylvania

*s/Nora Barry Fischer*  
UNITED DISTRICT JUDGE

cc Stanley D. Ference, III, Esq.  
[courts@ferencelaw.com](mailto:courts@ferencelaw.com)  
Brian Samuel Malkin, Esq.  
[bmalkin@ferencelaw.com](mailto:bmalkin@ferencelaw.com)

**SCHEDULE "A"**  
**DEFENDANTS BY ITEM NUMBER AND PAYPAL E-MAIL**

<b>Def. No.</b>	<b>Defendant / eBay Seller Name</b>	<b>eBay Item No.</b>	<b>PayPal E-mail</b>
1	artifacts_selling	263692630410	rubytony@hotmail.com
2	*ka_warehouse*no*tax*freeshipping	253932898390	kimo982009@yahoo.com
3	its-raining-deals-2	173395988292	itsrainingdeals2@gmail.com
4	lightning_deals_express	202468563425	payments@dropshiptool.io
5	mradreams	123417788791	katmisery@yahoo.com
6	orderagain	263798023404	shop@shopsalesave.com
7	thangeinllc9	163232709524	thangeinllc@gmail.com
8	theclearancecat	283041986596	shipperebaystore@gmail.com
9	us-bestdeals	113272475964	bestdeals.ebaystore@gmail.com
10	yuanbeaty	163238663668	luolianyuncx@outlook.com

<b>Def. No.</b>	<b>Defendant / AliExpress Store Name</b>	<b>Store Number</b>	<b>Seller Name / PayPal E-mail</b>
11	bbutterfly Store	3629016	xie530436686@163.com
12	Shop2952092 Store	2952092	Linda Yang
13	Shop4438004 Store	4438004	manager@mxdoll.com
14	warmhome 365 Store	4265018	Ada Zhao
15	ZiDuKe1 Store	2882319	Fly Josh

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

MILLENNIUM IP, INC. and MILLENNIUM MEDIA,  
INC.,

Plaintiffs,

v.

THE PARTNERSHIPS AND UNINCORPORATED  
ASSOCIATIONS IDENTIFIED ON SCHEDULE "A",

Defendants.

Case No.: 1:18-cv-03778

Judge Jorge L. Alonso

Magistrate Judge Maria Valdez

**SEALED TEMPORARY RESTRAINING ORDER**

THIS CAUSE being before the Court on Plaintiffs' *Ex Parte* Motion for Entry of a Temporary Restraining Order, Including a Temporary Injunction, a Temporary Asset Restraint, Expedited Discovery, and Service of Process by Email and/or Electronic Publication (the "Ex Parte Motion") against the defendants identified on Schedule A to the Complaint and attached hereto (collectively, the "Defendants") and using at least the domain names identified in Schedule A (the "Defendant Domain Names") and the online marketplace accounts identified in Schedule A (the "Online Marketplace Accounts"), and this Court having heard the evidence before it hereby GRANTS Plaintiffs' Ex Parte Motion in its entirety.

This Court further finds that it has personal jurisdiction over the Defendants since the Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can purchase products bearing counterfeit versions of the EXPENDABLES Copyrights

This Court also finds that issuing this Order without notice pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure is appropriate because Plaintiffs have presented specific facts in the Declaration of Trevor Short, paragraphs 14-22, and the Declaration of Keith A. Vogt, paragraphs 1-4, and accompanying evidence clearly showing that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition. Specifically, in the absence of an *ex parte* Order, Defendants could and likely would modify registration data and content, change hosts, redirect traffic to other websites in their control, and move any assets from accounts in U.S.-based financial institutions to offshore accounts. *Id.* As other courts have recognized, proceedings against those who deliberately traffic in infringing merchandise are often useless if notice is given to the adverse party. Accordingly, this Court orders that:

1. Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, under or in active concert with them be temporarily enjoined and restrained from: (a) their unauthorized and unlicensed use of Plaintiffs' EXPENDABLES trademark and copyrights in connection with the distribution, marketing, advertising, offering for sale, or sale of any product; and (b) shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner products which use Plaintiffs' EXPENDABLES trademark and copyrights.
2. Each Defendant, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiffs a written report under oath providing: (a) their true name and physical address, (b) all websites and online marketplace accounts on any platform that they own and/or operate (c) their financial accounts, including all

PayPal accounts, and (d) the steps taken by each Defendant to comply with paragraphs 1 and b, above.

3. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as iOffer and Alibaba Group Holding Ltd., Alipay.com Co., Ltd. and any related Alibaba entities (collectively, "Alibaba"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Domain Names, and domain name registrars, shall within three (3) business days of receipt of this Order: (a) disable and cease providing services for any accounts through which Defendants engage in the sale of infringing goods using the EXPENDABLES trademark and copyrights including any accounts associated with the Defendants listed on Schedule A; and (b) disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of infringing goods using the EXPENDABLES trademark and copyrights.
4. 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 Defendants' websites at the Defendant Domain Names or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as iOffer and Alibaba, advertisers, Facebook, Internet Service Providers ("ISP"), web hosts, back-end service providers, web designers, sponsored search engine or ad-word providers, banks, merchant account providers, including Amazon, PayPal, Alibaba, Western Union, third party processors and other payment processing service providers, shippers, and domain name registrars (collectively, the "Third

Party Providers") shall, within five (5) business days after receipt of such notice, provide to Plaintiffs expedited discovery, including 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; (b) the nature of Defendants' operations and all associated sales and financial information, including, without limitation, identifying information associated with the Online Marketplace Accounts, the Defendant Domain Names, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts and Defendant Domain Names; (c) Defendants' websites and/or any Online Marketplace Accounts; (d) The Defendant Domain Names or any domain name registered by Defendants; and (e) Any financial accounts owned or controlled by Defendants, including their agents, servants, 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, Alibaba, Western Union, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

5. 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.

6. PayPal, Inc. ("PayPal") shall, within two (2) business days of receipt of this Order, for any Defendant or any of Defendants' Online Marketplace Accounts or websites:
  - a. Locate all accounts and funds connected to and related to Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any PayPal accounts connected to and related to the information listed in Schedule A hereto and the email addresses identified in Exhibit 2 to the Declaration of Paul Varley; and
  - b. Restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
7. Amazon Payments, Inc. ("Amazon") and its related companies and affiliates shall, within two (2) business days of receipt of this Order, identify and restrain all funds, as opposed to ongoing account activity, in or which hereafter are transmitted into the Amazon accounts related to Defendants as identified on Schedule "A" hereto, as well as all funds in or which are transmitted into (i) any other accounts of the same customer(s), (ii) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other Amazon accounts subject to this Order; and (iii) any other Amazon accounts tied to or used by any of the Seller IDs identified on Schedule "A" hereto; Amazon shall further, provide Plaintiff's counsel with all data which details (i) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (ii) the account transactions related to all funds

transmitted into the financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account owners until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by Amazon for any purpose (other than pursuant to a chargeback made pursuant to Amazon's security interest in the funds) without the express authorization of this Court;

8. ALIPAY US, INC. ("ALIPAY") and its related companies and affiliates shall, within two (2) business days of receipt of this Order, identify and restrain all funds, as opposed to ongoing account activity, in or which hereafter are transmitted into the ALIPAY accounts related to Defendants as identified on Schedule "A" hereto, as well as all funds in or which are transmitted into (i) any other accounts of the same customer(s), (ii) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other ALIPAY accounts subject to this Order; and (iii) any other ALIPAY accounts tied to or used by any of the sellers identified on Schedule "A" hereto; ALIPAY shall further, provide Plaintiff's counsel with all data which details (i) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (ii) the account transactions related to all funds transmitted into the financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account owners until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by ALIPAY for any purpose (other than pursuant to a chargeback made pursuant to ALIPAY's security interest in the funds) without the express authorization of this Court;

9. ContextLogic, Inc. (“WISH”) and its related companies and affiliates shall, within two (2) business days of receipt of this Order, identify and restrain all funds, as opposed to ongoing account activity, in or which hereafter are transmitted into the WISH accounts related to Defendants as identified on Schedule “A” hereto, as well as all funds in or which are transmitted into (i) any other accounts of the same customer(s), (ii) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other WISH accounts subject to this Order; and (iii) any other WISH accounts tied to or used by any of the sellers identified on Schedule “A” hereto; WISH shall further, provide Plaintiff’s counsel with all data which details (i) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (ii) the account transactions related to all funds transmitted into the financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account owners until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by WISH for any purpose (other than pursuant to a chargeback made pursuant to WISH’s security interest in the funds) without the express authorization of this Court;
  
10. Any banks, savings and loan associations, payment processors, or other financial institutions, for any Defendant or any of Defendants' Online Marketplace Accounts or websites, shall within two (2) business days of receipt of this Order:
  - (a) Locate all accounts and funds connected to Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any accounts or related accounts connected to the information listed in Schedule A

hereto and the email addresses identified in Exhibit 2 to the Declaration of Trevor Short; and (b) Restrain and enjoin such accounts from receiving, transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.

11. Amazon Payments, Inc. (“Amazon”) and its related companies and affiliates shall, within two (2) business days of receipt of this Order, identify and restrain all funds, as opposed to ongoing account activity, in or which hereafter are transmitted into the Amazon accounts related to Defendants as identified on Schedule “A” hereto, as well as all funds in or which are transmitted into: (a) any other accounts of the same customer(s), (b) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other Amazon accounts subject to this Order; and (c) any other Amazon accounts tied to or used by any of the Seller IDs identified on Schedule “A” hereto; Amazon shall further, provide Plaintiffs’ counsel with all data which details (d) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (e) the account transactions related to all funds transmitted into the financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account owners until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by Amazon for any purpose (other than pursuant to a chargeback made pursuant to Amazon’s security interest in the funds) without the express authorization of this Court.

12. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, within three (3) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall, at Plaintiffs choosing: (a) unlock and change the registrar of record for the Defendant Domain Names to a registrar of Millennium's selection until further ordered by this Court, and the domain name registrars shall take any steps necessary to transfer the Defendant Domain Names to a registrar of Millennium's selection until further ordered by this Court; or (b) disable the Defendant Domain Names and make them inactive and untransferable until further ordered by this Court.
13. Plaintiffs may provide notice of these proceedings to Defendants, including notice of the preliminary injunction hearing and service of process pursuant to Fed.R.Civ.P. 4(f)(3), by electronically publishing a link to the Complaint, this Order and other relevant documents on any websites to which the Defendant Domain Names which are transferred to Plaintiff's control will redirect, and/or by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Trevor Short and any e-mail addresses provided for Defendants by third parties that includes a link to said website. The Clerk of Court is directed to issue a single original summons in the name of "3d night light and all other Defendants identified in the Complaint" that shall apply to all Defendants. The combination of providing notice via electronic publication and/or e-mail, along with any notice that Defendants receive from domain name registrars and payment processors, shall constitute notice reasonably calculated under all circumstances to apprise

Defendants of the pendency of the action and afford them the opportunity to present their objections.

14. Plaintiffs' Complaint, Schedule A to the Complaint, Exhibit 2 to the Declaration of Trevor Short, and this Order shall remain sealed until Defendants' financial accounts are restrained. Plaintiffs shall file unsealed versions of the Complaint, Schedule A to the Complaint, Exhibit 2 to the Declaration of Trevor Short, and this Order using the CM/ECF system prior to the expiration of this Order. Plaintiff shall deposit with the Court Ten Thousand Dollars (\$10,000.00), either cash, cashier's check or surety bond, as security, which amount was determined adequate for the payment of such damages as any person may be entitled to recover as a result of a wrongful restraint hereunder.
15. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to Plaintiffs or on shorter notice as set by this Court.

This Temporary Restraining Order without notice is entered at 10:45 a.m. on 6/6/18 and shall remain in effect for fourteen (14) days.

ENTERED:

6/6/18



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Jorge L. Alonso  
U.S. District Court Judge

**SCHEDULE A**

<b>No.</b>	<b>Defendant</b>
1	3d night light
2	9hk0762
3	ailingamei
4	aiqinggushi
5	Aka-changed
6	Alipapa Company
7	All
8	All the memories of
9	All-say
10	AMAZ Jewelry
11	amazing-trading store
12	Ami Ventures Inc
13	Angel's shape
14	anglesky
15	Arabian Nights
16	arlonstore
17	Asahi new
18	beautifulfoil
19	Beautifully
20	beauty_baby_baby
21	BeautyMark
22	Before-tide
23	best men T-shirt
24	best wallets
25	bichuzhai
26	biety company
27	Bitler-been
28	BITONGGE
29	blazing moon
30	Blklwe
31	Blooming flowers
32	blue.classic
33	bright-ma
34	Brilliant Light
35	bruce fashion
36	bruss3
37	Burning-heart
38	buzzZZ

39	C C fashion
40	caohuixiang fashion
41	Caorle
42	Carvial11
43	CCOriginalDIY
44	chan_18
45	chao Liu shi zhung
46	cheap-fine
47	chenbaospring
48	China roses
49	china top jewelry
50	Chinese FLY
51	Chuakup
52	chuangzhuokeji
53	Citrus Limon
54	Classic-top
55	Cloud
56	clubtime
57	CMHtailormade
58	Combat Time
59	Cool Deal international
60	Cool Things
61	Cost-effective
62	Cozy Cabin
63	Cross-Border
64	Crouching Tiger
65	Crystal Angel
66	Dance Queen
67	David Fashion Mall -
68	day day up wudi
69	ddyifan
70	Deal Women
71	Ding-up-shine
72	Discount butik
73	djsh
74	dlxdlx
75	Dobby
76	Dream Sherry
77	Dream&Charm
78	dreambuy
79	DRESSCLUB

80	DSG-store
81	Eagles
82	Efficiently
83	eg2
84	Electronicwholesale
85	Esales
86	especially123
87	ET-CITY
88	ever-feedfree
89	Exhibition of Xiang
90	Expert Group
91	EXPRESSSHOPMANILA
92	face-Jewelry
93	Fashion boutique store
94	Fashion People
95	Fashion.home520
96	FashionORshopping
97	Fation-quickly-shine
98	Feel-get
99	feiyang shopping
100	fenfen99
101	Festival
102	FFGG1564
103	Flagship Store
104	FOR AMAZING
105	Freezing Rain
106	FSXDP
107	Gassy-need
108	gethere
109	God
110	God of darkness
111	Golden cuckoo
112	Gorgeous vintage
113	gouzhenwen
114	Grace-ling
115	Grow up
116	GuangXi GuiLin TianYuan company
117	Guangzhou Tingtao Cultural Co. Ltd.
118	Gymboree-honey
119	HaiBo International Trade
120	hanyuzuibang

121	haohuoba
122	Happy smeil
123	Have.Fun-99
124	Heart Sweet
125	heyiyuf
126	hillsionly's shop
127	HK HuaJiaoDFY Store
128	HK QingYe Store
129	home fashion
130	Hong Chen JZ
131	Hong Kong DaYuLong International Trade Co., Limited
132	hongly-Fu
133	Hope Family
134	Hopeday-shine
135	Hopedoor-only
136	Hotland-win
137	hotsalegoods1
138	houshouyang
139	Huahua Fashion
140	huangleil
141	huangzheyuan
142	huaqiangutou
143	Hubby-potel
144	Huey-technology
145	Hui meeting
146	hutaotaolad
147	Imagination creativity
148	Indoor stage
149	InfiniteLoop
150	In-Moon.Light
151	intimate shopping
152	iouyoe shopping
153	jack2015store
154	Jaipur
155	jess 1
156	jiacai
157	Jian happy shoping
158	jiangsu
159	jimmyhotfasion
160	Jinting-san

161	juli shop
162	justing
163	KaiKo Electronics Co., Ltd.
164	kaiping
165	Keyamei
166	King-baby
167	Kirjais
168	konglili
169	Lakely
170	lao di fang
171	Lemon tree502
172	Liangbanghong
173	Lianguan Connaught
174	LianxinKechuang
175	lifeifei fashion
176	lilijewelry
177	Linda Se's store
178	Linong Shop
179	Linpark Company
180	little nine
181	liuqinquan fashion
182	liuyumei fashion
183	liyunjie fashion
184	lizhixiong60
185	long_best_store
186	Lost-wheat-pocket
187	Love-youly
188	Luky485
189	luyi fashion
190	lvchangwei
191	mabo fashion
192	malinlin fashion
193	Mazyr
194	Meely Boutique
195	meijums
196	menghome
197	MG Fashion Belt Company
198	Millionaire
199	Mking
200	MOJANG
201	More

202	my Goods
203	nbjlmk Friday
204	New-staring
205	Ninety-women
206	nuonuo jewelry company
207	occasion
208	Outdoor
209	Overstock.com
210	Page-sun
211	Pandaeye
212	perfectfree
213	phantasy
214	Plenty of space
215	Plot-store
216	Power-pure
217	Professional
218	Professional-best
219	Pure White
220	qianshanmuxue
221	Qichi-line-shine
222	qingfengyi
223	Quietly growing
224	Quite popular place
225	qyrwan
226	Radiant-sunshine
227	Redditch
228	redradish
229	Resplendent-best
230	Royal1878
231	RuoMu
232	salesale
233	Satisfaction Percent
234	Science beauty
235	Science trade
236	SEFREE
237	SevenMore
238	shanshanjewelry
239	Shenzhen F & B Technology Co., Ltd.
240	Shenzhen zt Technology Co.,Ltd
241	shenzhenshiguangtaixingkejijyouxiangongsi
242	shenzhenshinenghuimaoyiyouxianongsi

243	shenzhenshitailianhuikejiyouxiangongsi
244	shenzhenshitenghaibaotingkejiyouxiangongsi
245	shenzhenshiyongxiangdekejiyouxiangongsi
246	Shine-daynight
247	Shining star Store
248	Shipping Method
249	Shunhong meeting
250	simple jewelry compony
251	Smaller Shop
252	Smile Zithern
253	Snow
254	somia.dress
255	Special-offerly
256	Spring Tome
257	Springhoo
258	SQDZ
259	Star sky
260	Starbeauty Jewelry
261	Starry-skyblue
262	Starsun
263	Steven Fashion Online
264	Story Jewelry
265	Stylish elegance
266	Summer Catch
267	Sunny See
268	Sunshine Star
269	sunyaoyao
270	Super shopor
271	Supermarket stores
272	TAG
273	TattooShe
274	Tencloudy-store
275	Tesco Fashion
276	texaschandler
277	the value of life
278	the_bikesmiths
279	Tianjin Bejust Technology development co.,Ltd
280	Tianjin Weize Science and Technology Development Co., Ltd.
281	tianjinliahongkejiyouxiangongsi
282	Tigress -been

283	Tinkling
284	tonybin
285	TOP International line
286	Top-speedly
287	Toynk Toys
288	tree-girl
289	Undistracted Cheung
290	Unexpected discovery
291	Unexpected Surprise
292	uniquely-dany
293	Usefully
294	Valence
295	wallflowers
296	wanwenjie
297	waterea-ya
298	Watermelon-ly
299	weimeizhubao
300	weixiaofuwu
301	welfarenow
302	Welkom
303	WelRain Fashion Store
304	Whether-not
305	Wind Wood
306	Wisdom-offer
307	With the wind
308	Wonfurt
309	Working Art
310	woshihaoren
311	wqs03
312	xiaomajunjun
313	xiaoxuanyongping
314	xiaoyingfushi
315	xiemanxiang
316	xingkong
317	xmjmyouth0123
318	XuanYueDu,Co.,Limited
319	xuchunhu
320	xyc147
321	Yane-sunshine
322	yangwuling
323	yarest

324	Yellowman
325	yifengxieye
326	YiiZl
327	YinuodaStore
328	YIWU TingPan E-commerce Ltd.
329	Yiwu yingfei E-commerce businesses
330	Young Studio
331	Your Best Fashion World
332	YOYOAccessories
333	yunyun009
334	ywlepu
335	zackzone
336	Zhairem
337	Zhangyide
338	zhangyu2018
339	ZHANGZEElectronic
340	zheyanjdf
341	zhonglian
342	zhoucdong
343	zhuozhuangdianzishangwuyouxiangongsi
344	Zuo Min Slave
345	7eavenshop
346	Accessories4Life
347	Arlene Mitchell
348	Dancing Zone (EXP)
349	DAVE LOIV
350	David Nuwayhid
351	Diane Gow
352	Fashion Ahead
353	Fronit
354	GESE
355	Gool T Shirts
356	Great Tees Co
357	Janeyer
358	Jiang Su Tong Da Yi Liao Qi Xie You Xian Gong Si
359	Karen Jackson Poo
360	KDTMK
361	LORI GRE
362	Love L
363	Marie Loc
364	Michael Monte

365	Poster777
366	Pu xiangdong
367	Queenie Shane Bright
368	Schicarpenter
369	Thongdshop
370	Travon Williams
371	Truman Gallup
372	uisdbnvh
373	wengjinhong

<b>No.</b>	<b>Defendant's Online Marketplace</b>
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14

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

NU IMAGE, INC.,

Plaintiffs,

v.

THE PARTNERSHIPS AND  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE "A",

Defendants.

Case No.: 1:17-cv-2918

Judge Charles R. Norgle, Sr.

Magistrate Judge Sidney I. Schenkier

**SEALED TEMPORARY RESTRAINING ORDER**

THIS CAUSE being before the Court on Plaintiff's *Ex Parte* Motion for Entry of a Temporary Restraining Order, Including a Temporary Injunction, a Temporary Asset Restraint, Expedited Discovery, and Service of Process by Email and/or Electronic Publication (the "Ex Parte Motion") against the defendants identified on Schedule A to the Complaint and attached hereto (collectively, the "Defendants") and using at least the domain names identified in Schedule A (the "Defendant Domain Names") and the online marketplace accounts identified in Schedule A (the "Online Marketplace Accounts"), and this Court having heard the evidence before it hereby GRANTS Plaintiff's *Ex Parte* Motion in its entirety.

This Court further finds that it has personal jurisdiction over the Defendants since the Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores

through which Illinois residents can purchase products bearing counterfeit versions of the EXPENDABLES Trademarks and Trade Dress.

This Court also finds that issuing this Order without notice pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure is appropriate because Plaintiff has presented specific facts in the Declaration of Trevor Short, paragraphs 18-22, and the Declaration of Keith A. Vogt, paragraphs 5-9, and accompanying evidence clearly showing that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition. Specifically, in the absence of an *ex parte* Order, Defendants could and likely would modify registration data and content, change hosts, redirect traffic to other websites in their control, and move any assets from accounts in U.S.-based financial institutions to offshore accounts. *Id.* As other courts have recognized, proceedings against those who deliberately traffic in infringing merchandise are often useless if notice is given to the adverse party. Accordingly, this Court orders that:

1. Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, under or in active concert with them be temporarily enjoined and restrained from: (a) their unauthorized and unlicensed use of Plaintiff's EXPENDABLES trademark and copyright in connection with the distribution, marketing, advertising, offering for sale, or sale of any product; and (b) shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner products which use Plaintiff's EXPENDABLES trademark and copyright.

2. Each Defendant, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiff a written report under oath providing: (a) their true name and physical address, (b) all websites and online marketplace accounts on any platform that they own and/or operate (c) their financial accounts, including all PayPal accounts, and (d) the steps taken by each Defendant to comply with paragraphs 1 and b, above.
3. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as iOffer and Alibaba Group Holding Ltd., Alipay.com Co., Ltd. and any related Alibaba entities (collectively, "Alibaba"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, web hosts for the Defendant Domain Names, and domain name registrars, shall within three (3) business days of receipt of this Order: (a) disable and cease providing services for any accounts through which Defendants engage in the sale of infringing goods using the EXPENDABLES trademark and copyright including any accounts associated with the Defendants listed on Schedule A; and (b) disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of infringing goods using the EXPENDABLES trademark and copyright.
4. 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 Defendants' websites at the Defendant Domain Names or other websites

operated by Defendants, including, without limitation, any online marketplace platforms such as iOffer and Alibaba, advertisers, Facebook, Internet Service Providers ("ISP"), web hosts, back-end service providers, web designers, sponsored search engine or ad-word providers, banks, merchant account providers, including Amazon, PayPal, Alibaba, Western Union, third party processors and other payment processing service providers, shippers, and domain name registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide to Plaintiff expedited discovery, including 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; (b) the nature of Defendants' operations and all associated sales and financial information, including, without limitation, identifying information associated with the Online Marketplace Accounts, the Defendant Domain Names, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts and Defendant Domain Names; (c) Defendants' websites and/or any Online Marketplace Accounts; (d) The Defendant Domain Names or any domain name registered by Defendants; and (e) Any financial accounts owned or controlled by Defendants, including their agents, servants, 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, Alibaba, Western Union, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

5. 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.
6. PayPal, Inc. ("PayPal") shall, within two (2) business days of receipt of this Order, for any Defendant or any of Defendants' Online Marketplace Accounts or websites: (a) Locate all accounts and funds, including any related accounts, connected to Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any PayPal accounts connected to the information listed in Schedule A hereto and the email addresses identified in Exhibit 2 to the Declaration of Trevor Short; (b) Restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court; (c) The following actions may only be used to reduce the balance in any PayPal account: 1) If any Defendant loses a buyer complaint or chargeback filed before this Order, then the amount of that transaction will be debited from the Account balance; 2) on any buyer complaint or

chargeback filed before this Order, any Defendant can voluntarily refund the transaction amount for the buyer complaint or chargeback; or 3) other legal process received prior to this Order.

7. Any banks, savings and loan associations, payment processors, or other financial institutions, for any Defendant or any of Defendants' Online Marketplace Accounts or websites, shall within two (2) business days of receipt of this Order: (a) Locate all accounts and funds connected to Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any accounts or related accounts connected to the information listed in Schedule A hereto and the email addresses identified in Exhibit 2 to the Declaration of Trevor Short; and (b) Restrain and enjoin such accounts from receiving, transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
8. Amazon Payments, Inc. ("Amazon") and its related companies and affiliates shall, within two (2) business days of receipt of this Order, identify and restrain all funds, as opposed to ongoing account activity, in or which hereafter are transmitted into the Amazon accounts related to Defendants as identified on Schedule "A" hereto, as well as all funds in or which are transmitted into: (a) any other accounts of the same customer(s), (b) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other Amazon accounts subject to this Order; and (c) any other Amazon accounts tied to or used by any of the Seller IDs identified on

Schedule "A" hereto; Amazon shall further, provide Plaintiff's counsel with all data which details (d) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (e) the account transactions related to all funds transmitted into the financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account owners until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by Amazon for any purpose (other than pursuant to a chargeback made pursuant to Amazon's security interest in the funds) without the express authorization of this Court.

9. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, within three (3) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall, at Plaintiff's choosing: (a) unlock and change the registrar of record for the Defendant Domain Names to a registrar of KJP's selection until further ordered by this Court, and the domain name registrars shall take any steps necessary to transfer the Defendant Domain Names to a registrar of KJP's selection until further ordered by this Court; or (b) disable the Defendant Domain Names and make them inactive and untransferable until further ordered by this Court.

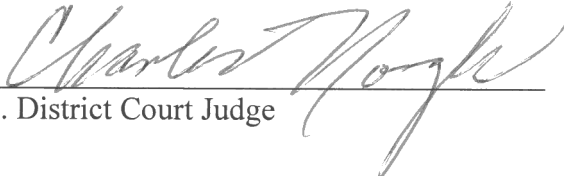
10. Plaintiff may provide notice of these proceedings to Defendants, including notice of the preliminary injunction hearing and service of process pursuant to Fed.R.Civ.P. 4(f)(3), by electronically publishing a link to the Complaint, this Order and other relevant documents on any websites to which the Defendant Domain Names which are transferred to Plaintiff's control will redirect, and/or by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Trevor Short and any e-mail addresses provided for Defendants by third parties that includes a link to said website. The Clerk of Court is directed to issue a single original summons in the name of "13802426435 and all other Defendants identified in the Complaint" that shall apply to all Defendants. The combination of providing notice via electronic publication and/or e-mail, along with any notice that Defendants receive from domain name registrars and payment processors, shall constitute notice reasonably calculated under all circumstances to apprise Defendants of the pendency of the action and afford them the opportunity to present their objections.
11. Plaintiff's Complaint, Schedule A to the Complaint, Exhibit 2 to the Declaration of Trevor Short, and this Order shall remain sealed until Defendants' financial accounts are restrained. Plaintiff shall file unsealed versions of the Complaint, Schedule A to the Complaint, Exhibit 2 to the Declaration of Trevor Short, and this Order using the CM/ECF system prior to the expiration of this Order. Plaintiff shall deposit with the Court Ten Thousand Dollars (\$10,000.00), either cash, cashier's check or surety

bond, as security, which amount was determined adequate for the payment of such damages as any person may be entitled to recover as a result of a wrongful restraint hereunder.

12. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to Plaintiff or on shorter notice as set by this Court.

This Temporary Restraining Order without notice is entered at \_\_\_\_\_ A.M. on

5/12, 2017, and shall remain in effect for fourteen (14) days.

  
\_\_\_\_\_  
U.S. District Court Judge