

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

DOGGIE DENTAL INC, *et al.*,

Plaintiffs,

v.

MAX_BUY, *et al.*,

Defendants.

Civil Action No. 19-cv-746

Judge Hornak

FILED UNDER SEAL

**DECLARATION OF BRIAN SAMUEL MALKIN
IN SUPPORT OF PLAINTIFFS' *EX PARTE* MOTION FOR AN ORDER
TO EXTEND THE TEMPORARY RESTRAINING ORDER, CONTINUE THE SHOW
CAUSE HEARING, AND MODIFY THE BRIEFING SCHEDULE**

I, Brian Samuel Malkin, hereby declare as follows:

1. I am over eighteen (18) years of age. I have never been convicted of a felony or any criminal offense involving moral turpitude, and I am fully competent to testify to the matters stated herein. I have personal knowledge of every statement made in this Declaration and such statements are true and correct.

2. I am one of the attorneys working for Ference & Associates LLC ("the Ference Firm" or "Plaintiffs' Counsel"), legal counsel for Plaintiffs. I make this declaration in support of Plaintiffs' *Ex Parte* Motion for an Order to Extend the Temporary Restraining Order, Continue the Show Cause Hearing, and Modify the Briefing Schedule.

3. On June 27, 2019, this Court entered a Sealed Order ("Order") (ECF No. 15) granting 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 **Schedule “A”** attached to the Complaint, and eBay, Inc. d/b/a eBay.com (“eBay”) and PayPal, Inc. d/b/a paypal.com (“PayPal”).

4. The Order was served on PayPal the same day it was entered (July 27, 2019), but, by July 1, 2019, PayPal’s legal department indicated that PayPal did not yet have enough information to perform the search, identification and restraint of the defendant’s financial accounts. The necessary information was promptly obtained from eBay and transmitted to PayPal.

5. As of today (July 8, 2019), PayPal finally provided Plaintiffs with a list of restrained accounts associated with many of Defendants’ Seller IDs on eBay. However, not all of the accounts have been identified and restrained by PayPal. Thus, it will be necessary for Plaintiffs to further investigate to ensure all accounts have been restrained before the Defendants are served with notice of this lawsuit.

6. Sections I and Section III of the Order provide that PayPal is to locate and freeze the Defendants’ Assets and to provide the Plaintiffs’ counsel with the contact information necessary to serve the Defendants, and then, Plaintiffs are to serve the Defendants.

7. In my experience, since PayPal has not yet confirmed compliance with Sections I and III of the Order, serving any of the Defendants before that compliance risks the Defendants being able to secret their funds and to alert other Defendants to do the same before the asset freeze is completed.

8. Thus, in order to prevent the Defendants from escaping the effects of the Court’s Order, it is necessary to wait for PayPal to confirm the asset freeze before serving any of the Defendants in this case.

9. In my experience, it would be prudent to extend the dates such that the TRO is extended to and includes July 19, 2019.

10. I declare under the penalty of perjury laws of the United States of America that to the best of my knowledge the foregoing is true and correct.

Executed this 8th of July, 2019, at Pittsburgh, Pennsylvania.

/s/ Brian Samuel Malkin
Brian Samuel Malkin