

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

GORGE DESIGN GROUP, LLC, *et al.*,

Plaintiffs,

v.

SYARME, *et al.*,

Defendants.

Civil Action No. 20-1384

(Judge Stickman)

PRELIMINARY INJUNCTION ORDER

WHEREAS, on September 15, 2020, Gorge Design Group, LLC and Kirby Erdely (“Plaintiffs” or “Gorge”) filed an *Ex Parte* Application seeking 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, said orders issuing against all of the Defendants identified on the attached Schedule “A”, and Third Party Service Providers and Financial Institutions, in light of Defendants’ intentional and willful offerings for sale and/or sales of Infringing Products¹ (“Application”);

WHEREAS, on the same day, Plaintiffs filed an Ex Parte Motion for an Order Authorizing Alternative Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3);

¹ As alleged in Plaintiff’s Complaint, Defendants have offered for sale, sold, and distributed knock-off and infringing versions of Plaintiffs’ Ultimate Ground Anchor ground anchor product which closely mimic the appearance of Plaintiffs’ genuine product within this district and throughout the United States by operating e-commerce stores established at least via the wish.com, aliexpress.com, and eBay.com.com Internet marketplace using their respective Store Names and Seller Names set forth on Schedule “A”. The Defendants identified in **Schedule “A”** of the Complaint, were and/are, *inter alia*, promoting, selling, offering for sale and distributing their Infringing Products, thus (i) unfairly competing by using Plaintiffs’ photographs, videos, artwork, creative text and product instructions while marketing their knock-off products in a willful attempt to pass off their knock-off products as genuine versions of Plaintiffs’ Products; and (ii) infringing at least one of the claims of Plaintiffs’ registered U.S. Patent. (“Infringing Product”).

WHEREAS, On September 21, 2020, the Court entered the following Orders:

(A) (1) a temporary restraining order; (2) an order restraining assets and Merchant Storefronts, (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 the Third Party Service Providers and Financial Institutions; and

(B) Order Authorizing Alternative Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3) (“the Alternative Service Order”);

WHEREAS, pursuant to the terms of the Alternative Service Order, the Defendants have been served with notice of this Show Cause Hearing; and

WHEREAS, on October 5, 2020, Plaintiff appeared for the Order to Show Cause Hearing, however no Defendants appeared. Further, none of the Third Party Service Provider(s) or Financial Institution(s) appeared.

ORDER

I. Restraining Order

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, the injunctive relief previously granted on September 21, 2020, shall remain in place through the pendency of this litigation or until further order of this Court, and issuing this Preliminary Injunction is warranted under FRCP 65, the Lanham Act, 15 U.S.C. § 1125(a) and the Patent Act, 15 U.S.C. § 281, and related state laws.

Accordingly, 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 continue to be restrained as follows:

- (1) from (a) their unauthorized and unlicensed use of Plaintiffs' Mark², Plaintiffs' Works³ and infringement of at least one claim of the '198 Patent⁴ in connection with the distribution, marketing, advertising, offering for sale, or sale of any products; 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' Mark, Plaintiffs' Works, or infringe the claims of the '198 Patent;
- (2) from secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with any computer files, data, business records, documents or any other records or evidence relating to their User Accounts,⁵ Merchant Storefronts⁶ or any money, securities or other property or assets of Defendants (hereinafter collectively referred to as "Defendants' Assets");
- (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, and/or

² As defined in the Application, Plaintiffs' Mark is its common law trademark ULTIMATE GROUND ANCHOR.

³ As defined in the Application, Plaintiffs' Works are its published photographs, videos, artwork, creative text and product instructions appearing on kickstarter.com and orangescrew.com

⁴ Refers to U.S. Patent No. 7309198 for "Re-useable threaded tie downs".

⁵ As defined in the Application, a "User Account" is, as defined in the Complaint, any and all accounts with online marketplace platform(s) 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.

⁶ 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 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.

display 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 the Plaintiffs' Mark or Plaintiffs' Works 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, from search engines' databases or cache memory, and any other form of use such terms or works which is visible to a computer user or serves to direct computer searches to Internet based e-commerce stores 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 notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to Alibaba.com US LLC d/b/a Aliexpress.com ("Aliexpress"), Amazon Services LLC d/b/a amazon.com ("Amazon"), eBay, Inc. d/b/a eBay.com ("eBay"), Shopify (USA), Inc. d/b/a Shopify.com ("Shopify") ("Third Party Service Provider(s)") and AliPay US Inc. d/b/a Alipay.com ("Alipay"), Amazon Payments, Inc.

d/b/a pay.amazon.com, and PayPal, Inc. d/b/a paypal.com (“PayPal”) (“Financial Institution(s)”), and their related companies and affiliates, shall immediately identify and restrain all funds, as opposed to ongoing account activity, in or which are hereafter transmitted into 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;⁷

(8) upon receipt of notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third Party Service Provider(s) and the Financial Institution(s), shall immediately divert to a holding account for the trust of the Court all funds in or which are hereafter transmitted into 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) The Third Party Service Provider(s) and Financial Institution(s) shall further, within five (5) business days of receiving this Order, provide Plaintiffs’ 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

⁷ This Order contemplates that discovery may reveal that Defendants may have other user accounts operated by other Third Party Service Providers and Financial Institutions and that the additionally discovered Third Party Service Providers and Financial Institutions, once identified and provided with notice, shall also be subject to the discovery, restraints and injunctions set forth in this Order.

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 any Third Party Service Provider or Financial Institution for any purpose (other than pursuant to a chargeback made pursuant to that Third Party Service Provider or Financial Institution's security interest in the funds) without express authorization of this Court;

(10) Upon Plaintiffs' request, any Internet marketplace who is provided with notice of this Order, including but not limited to the Third Party Service Provider(s) and Financial Institution(s), shall immediately cease fulfillment of and sequester Defendants' inventory assets corresponding to the Seller IDs identified on Schedule "A" hereto in its inventory, possession, custody, or control, and hold such goods in trust for the Court during pendency of this action;

(11) this Order shall apply to the Seller IDs, associated Accounts and Merchant Storefronts, and any other seller identification names, Accounts or Merchant Storefronts, Third Party Service Provider or Financial Institution accounts which are being used by Defendants for the purpose of infringing the Plaintiffs' Mark, Plaintiffs' Works, and/or infringe on one or more claims of the '198 Patent at issue in this action and/or unfairly competing with Plaintiff;

(12) Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third Party Service Provider(s) and the Financial Institution(s), subject to this Order may petition the Court to modify the asset restraint set out in this Order;

(13) The domain name registries for the Defendant's 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 Plaintiffs' selection until further ordered by this Court; or

(b) disable the Defendant's Domain Names and make them inactive and untransferable until further ordered by this Court.

(14) The domain name registrars, including but not limited to, GoDaddy Operating Company, LLC ("GoDaddy"), Name.com, PDR LTD. d/b/a PublicDomainRegistry ("PDR"), and Namecheap Inc. ("Namecheap"), within three (3) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall take any steps necessary to transfer the Defendant's Domain Names to a registrar account of Plaintiffs selection so that the Defendant's Domain Names can be redirected or disabled until further ordered by this Court; and

(15) this Order shall remain in effect 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 upon Plaintiff's request, any Internet marketplace who is provided with notice of this Order, including but not limited to the Third Party Service Providers and Financial Institutions, is hereby restrained and enjoined from engaging in any of the following acts or omissions until further order of the Court:

- (1) providing services for any accounts through which Defendants engage in the sale of Infringing Products, including without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts;
- (2) displaying any advertisements used by or associated with Defendants in connection with the sale of Infringing Products; and
- (3) displaying links to any User Accounts or Merchant Storefronts associated with the Defendants in search results, including but not limited to, having links to any product listings, User Accounts, or Merchant Storefronts in any search index.

C. IT IS HEREBY ORDERED, as sufficient cause has been shown,

- (1) that no funds restrained by this Order shall be transferred or surrendered by Third Party Service Providers or Financial Institutions, for any purpose (other than pursuant to a chargeback made pursuant to the their respective security interest in the funds) without express authorization of this Court or Plaintiff's counsel.
- (2) Any Third Party Service Provider or Financial Institution 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;
- (3) Upon Plaintiff's request, Third Party Service Provider shall remove listings and/or advertisements for any product that Plaintiff identifies as unfairly competing with Plaintiff's Product, and which has been identified as shipping from, or as originating from, outside the United States;

- (4) Amazon is ordered to suspend, strong block, and/or delete any ASIN that was associated with a product already identified by prior Order of this Court in the present lawsuit to be unfairly competing, Counterfeit or Infringing as designated in the Schedule A under “**Amazon ASIN Number(s)**” (i.e., any seller is prevented from listing for sale under the identified ASIN);
- (5) However, the seller controlling such listings shall not be subject to financial account restraint; and
- (6) This Order shall remain in effect until such further dates as set by the Court or stipulated by the parties.

II. Order Authorizing Expedited Discovery

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

- (1) Plaintiffs 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 Plaintiffs’ counsel.
- (2) Plaintiffs 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 Plaintiffs’ counsel.

(3) Plaintiffs may serve requests for admissions pursuant 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 Plaintiffs' counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within fourteen (14) days of receiving actual notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third Party Service Provider(s) and the Financial Institution(s), shall provide to Plaintiffs' 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:

- (1) 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;
- (2) the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided;
- (3) 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

- (4) Defendants' unauthorized and unlicensed use of Plaintiffs' Mark, Plaintiffs' Works, and/or infringement of at least one claim of the '198 Patent in connection with the distribution, marketing, advertising, offering for sale, or sale of any products, and any products which use Plaintiffs' Plaintiffs' Mark, Plaintiffs' Works, and/or infringe at least one claim of the '198 Patent.

III. Security Bond


IT IS FURTHER ORDERED the \$5,000.00 bond posted by Plaintiff shall remain with the Court until a final disposition of this case or until further order of this Court, or until this Order is terminated.

IV. Unsealing Order

WHEREAS, the reasons for keeping the documents in this case sealed no longer exist, it is FURTHER ORDERED that the Clerk of Court is hereby directed to unseal all the documents previously filed under seal in this case.

SO ORDERED.

SIGNED this 6th day of October, 2020
Pittsburgh, Pennsylvania



William S. Stickman IV
UNITED STATES DISTRICT JUDGE

Schedule "A"
Defendants With Store Name and Seller ID

Defendant No.	Defendant/Store Name	Seller ID/Subject Domain Name
1	Syarme	A1LE71SBGVALWM
2	CAMPMAX	A26DVICKBT7YGQ
3	Freeland Outdoor	ADN9631RYBGI6
4	goumaiZILIAO	A2J37P0QUG0BZ3
5	Grassland-all	A2F6HPEI0EMAB3
6	MAMAY SUMARNA	A2EQNA5A1HK6E8
7	meaning xuansheng	A1ANGYFOI0TPHS
8	NVHUNG36	A3TM8FWSFXDTL2
9	Iam_1786	372820707148
10	skycorpworld	323981553860
11	Aimfiree Store	728882
12	alexnld	alexnld.com
13	anontee	anontee.com
█	█	█
15	bbfat	shiprole.com
16	berrous	berrous.com
█	█	█
18	capions	capions.com
19	coohome	coohome.org
20	DANCEMAGIC.SHOP	dancemagic.shop
21	inscriptionlife	inscriptionlife.com

Defendant No.	Defendant/Store Name	Seller ID/Subject Domain Name
22	izyndeal	izyndeal.com
23	lilymi	lilymi.com
24	locasdeals	locasdeals.com
■	■	■
26	motioncomm	motioncomm.com
27	myragrap	myragrap.com
28	nakathalie	oughteu.com
29	orange dancer	orangedancer.com
30	protelikes	protelikes.com
31	quandarn	another2.com
32	reachssgf	shop.reachssgf.com
33	shopbestyo	shopbestyo.com
34	showcasesf	showcasesf.com
■	■	■
36	tsmalls	tsmalls.shop
37	URBAN & HAWK	urbanandhawk.com
38	waterbests	waterbests.com
39	werebear	werebear.shop