

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 21-61332-CIV-RUIZ**

CHANEL, INC.,

Plaintiff,

vs.

THE INDIVIDUALS, BUSINESS ENTITIES,
AND UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

**DECLARATION OF STEPHEN M. GAFFIGAN IN SUPPORT OF PLAINTIFF’S
EX PARTE APPLICATION FOR ENTRY OF TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND ORDER RESTRAINING TRANSFER OF ASSETS**

I, Stephen M. Gaffigan, declare and state as follows:

1. I am an attorney for Plaintiff, Chanel, Inc. (“Chanel” or “Plaintiff”), in the above captioned action. I submit this Declaration, which is filed in support of Plaintiff’s *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (the “Application for Temporary Restraining Order”) against Defendants, the Individuals, Business Entities, and Unincorporated Associations Identified on Schedule “A” attached to Plaintiff’s Application for Temporary Restraining Order (collectively “Defendants”). I am personally knowledgeable of the matters set forth in this Declaration and, if called upon to do so, I could and would competently testify to the following facts set forth below.

RE: INVESTIGATION OF DEFENDANTS

2. On Chanel’s behalf, my firm retained AED Investigations, Inc., and Invisible Inc, both licensed private investigative firms (collectively “Investigative Firms”), to investigate the suspected sales of counterfeit Chanel-branded products by Defendants, and to determine

Defendants' payment account data for receipt of funds paid to Defendants for the sale of counterfeit Chanel branded products. At the conclusion of the investigation, I received the detailed web pages and photographs¹ produced by the Investigative Firms reflecting the Chanel-branded products ordered² from Defendants via the Internet based e-commerce stores, interactive photo albums,³ and fully interactive, commercial websites operating under Defendants' seller identification names or domain names identified on Schedule "A" to the Application for Temporary Restraining Order (the "Seller IDs and Subject Domain Names") and provided copies of the same to Chanel's representative for review. True and correct copies of the web page captures and photographs produced by the Investigative Firms, and provided to my firm thereafter, reflecting samples of the Chanel-branded goods Defendants are promoting, advertising, offering for sale, and selling⁴ via the e-commerce stores, photo albums, and websites

¹ My firm received photographs of some of the Chanel-branded items the Investigative Firms received from certain Defendants and provided those to Chanel's representative. True and correct copies of these photographs are included in Composite Exhibit "1" attached to the respective Declarations of Eric Rosaler and Kathleen Burns in Support of Plaintiff's Application for Temporary Restraining Order.

² The Investigative Firms were instructed not to transmit the funds to finalize the sale for the orders from most of the Defendants so as to avoid adding money to Defendants' coffers.

³ Defendants 1-23 and 25 operate photo albums under their Seller IDs through the non-party social media and/or image hosting websites, Instagram.com, Yupoo.com, and Szwego.com, respectively. These Defendants use their Seller IDs in tandem with electronic communication via private messaging applications and/or services such as WhatsApp, Wechat, and Instagram.com in order to complete their offer and sale of counterfeit and infringing Chanel-branded products. Specifically, consumers are able to browse listings of Chanel branded products online via Defendants' respective photo albums, ultimately directing customers to send inquiries, exchange data, and complete purchases via electronic communication with Defendants. See generally Composite Exhibit "1" attached to the Declaration of Eric Rosaler in Support of Plaintiff's Application for Temporary Restraining Order.

⁴ The investigation revealed certain Defendants use multiple e-commerce stores, photo albums, and/or commercial websites in concert to facilitate their counterfeiting activities and/or to ultimately complete their offer and sale of Chanel-branded products. See generally Composite Exhibit "1" attached to the respective Declarations of Eric Rosaler and Kathleen Burns in

operating under the Seller IDs and Subject Domain Names are attached as Composite Exhibit “1” to the respective Declarations of Eric Rosaler and Kathleen Burns in Support of Plaintiff’s Application for Temporary Restraining Order.

3. My firm obtained the available e-mail addresses identified in connection with Defendants 26-49’s respective Internet websites operating under the Subject Domain Names.⁵

RE: EX PARTE RELIEF

4. It has been my experience that in multiple litigations involving online counterfeiting that, in the absence of a temporary restraining order without notice, Defendants can and will significantly alter the status quo before the Court can determine the parties’ respective rights. In particular, the e-commerce stores, photo albums, and the domain names and associated websites at issue herein are under Defendants’ complete control. Thus, Defendants have the ability to change the ownership or modify domain registration, e-commerce store, photo album, and private messaging account data and content, change payment accounts, redirect consumer traffic to other seller identification names, private messaging accounts, and domain names, and transfer assets and ownership of the Seller IDs and Subject Domain Names. Such modifications can happen in a short span of time after Defendants are provided with notice of this action. Thus, Defendants can easily electronically transfer and secret the funds sought to be restrained if they obtain advance notice of Plaintiff’s Application for Temporary Restraining Order and thereby thwart the Court’s ability to grant meaningful relief and can completely erase the status quo. As Defendants engage in illegal trademark counterfeiting activities, Chanel has no

Support of Plaintiff’s Application for Temporary Restraining Order.

⁵ The e-mail addresses and other means of electronic contact provided by Defendants in connection with their respective Seller IDs and Subject Domain Names, including any e-mail addresses used to communicate with Chanel’s investigators, are also included in Schedule “A” annexed to the Application for Temporary Restraining Order.

reason to believe Defendants will make their assets available for recovery pursuant to an accounting of profits or will adhere to the authority of this Court any more than they have adhered to federal trademark law. This case is being filed on an *ex parte* basis to prevent such an injustice from occurring herein.

5. Furthermore, I have personal knowledge that under the operating rules of most domain name Registrars, Registrants can easily transfer ownership of domain names simply by submitting an authorization letter and an application form. Defendants involved in domain name litigation easily can, and often will, modify registration data and content, change hosts, and redirect traffic to other websites they control. All of these things can happen in a very short span of time after Defendants are provided with notice of a lawsuit.

6. I have learned through multiple prior cases I have filed on behalf of Chanel and other clients that, upon notice of a lawsuit, counterfeit website owners often immediately set up a redirect for their website which essentially informs a search engine that the website being crawled has permanently moved to another domain and instructs the search engine to divert traffic to the other website. The result is to slingshot the new domains to the top of the search engine results pages by leveraging the Internet traffic to the domains in suit which was built through the illegal use of the plaintiff's trademarks.

7. Attached hereto as Composite Exhibit "1" are four examples of post-suit redirects captured by my Firm with respect to four domain names, chanelfans.com, yeschanelgifts.com, tick2buy.com, and watches-collection.com, which previously were home to counterfeit websites. As reflected in the Exhibit, after the domain name owners received notice of an action but before the domain names were transferred to the plaintiff through litigation, the owners simply redirected all traffic to new domain names, chanelfan.com, yeschanelgift.com, morncity.com,

and replicagood.com, respectively. Accordingly, by the time the plaintiff obtained control of the domain names, all of the value to the counterfeiters had already been diverted to the new domain names, and the plaintiff was left to start over. In short, injunctive relief was rendered almost meaningless by advance notice to the domain name owners that the websites were the subject of a legal action.

RE: RESTRAINING TRANSFER OF ASSETS

8. Defendants 1-23⁶ and 25 use the non-party social media website or image hosting websites, Instagram.com, Yupoo.com, and Szwego.com, respectively, to support and drive consumer traffic to their counterfeiting operations and encourage consumers to complete their purchases via private messaging applications and/or services such as WhatsApp, Wechat, and Instagram.com. Chanel obtained evidence that Defendants 1-21 and 25, as well as Defendants 26-49 who operate via commercial Internet websites under their respective Subject Domain Names, use money transfer and retention services with PayPal, Inc. ("PayPal"), as a method to receive monies generated through the sale of counterfeit products. Chanel also obtained evidence that Defendants 90, 275, 303, and 310, who operate via the non-party Internet marketplace platforms Wish.com or DHgate.com, use money transfer and retention services with PayPal as an additional payment method to receive monies generated through the sale of counterfeit products. I know from multiple past actions involving the restraint of payment accounts that PayPal accounts are actually the e-mail addresses used by PayPal to communicate with the account owners.

⁶ The investigation revealed Defendants 22 and 23 operate their Seller IDs via Yupoo.com in concert with their Seller IDs via AliExpress.com to ultimately complete their offer and sale of Chanel-branded products. See also paragraph 9, below.

9. Defendant 24 uses the non-party Internet marketplace platform, AliExpress.com (“AliExpress”), to support and drive consumer traffic to its counterfeiting operations. Individual merchants operating through the AliExpress marketplace platform have their payments processed on their behalf using an aggregate escrow account in the name of Alibaba.com Hong Kong Limited which operates the AliExpress.com platform, Alipay.com Co., Ltd. (“Alipay”), and its related company, AliPay (China) Internet Technology Co. Ltd., which is licensed to operate the website Alipay.com, conduct substantially all of the payment processing and all of the escrow services for the payments made via AliExpress, and are both subsidiaries of Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. (“Ant Financial Services”). The AliExpress platform itself is not the ultimate merchant, but because it accepts and processes payments on behalf of its individual merchants, it is the only party which can tie a particular Seller ID and/or store number to a reported transaction and identify the merchant’s funds held in sub-accounts within the aggregate account. Additionally, Defendant Numbers 22-24, have their payments processed on their behalf using PayPal, identifying the payee “Alipay Singapore E-Commerce Private Limited,” which is the aggregate PayPal account for purchases made via PayPal on AliExpress.com. Alipay Singapore E-Commerce is not the ultimate merchant, but it can tie a particular Seller ID using the seller’s unique merchant identification number to a reported transaction and identify the merchant’s funds held in sub-accounts within its aggregate account.

10. Defendants 50-57 use the non-party Internet marketplace platform, Amazon.com, Inc. (“Amazon”), to support and drive consumer traffic to their counterfeiting operations. Amazon is an e-commerce marketplace that allows Defendants to conduct their commercial transactions privately via Amazon’s payment processing and retention service, Amazon Payments, Inc. As such, Defendants’ payment information is not publicly disclosed. However,


because Amazon also operates as a money transmitter for sales made on Amazon, it has the ability to identify and restrain the payment accounts associated with Defendants 50-57.

11. Defendants 58-247 use the non-party Internet marketplace platform, Wish.com, which is operated by ContextLogic, Inc. (“ContextLogic”) to support and drive consumer traffic to their counterfeiting operations. Individual merchants operating through the Wish.com marketplace platform have their payments processed on their behalf using an aggregate escrow account in the name of “WISH,” which may appear as “PAYPAL *Wish” as the payee on a PayPal receipt. The Wish.com platform itself is not the ultimate merchant, but because it accepts and processes payments on behalf of its individual merchants, it is the only party which can tie a particular Seller ID using the seller’s unique merchant identification number to a reported transaction and identify the merchant’s funds held in sub-accounts within the aggregate account.

12. Defendants 248-349 use the non-party Internet marketplace platform, DHgate.com, to support and drive consumer traffic to their counterfeiting operations. Individual merchants operating through the DHgate.com marketplace platform have their payments processed on their behalf via DHgate.com’s third-party payment platform, DHpay.com, which may appear as “DHGATE” on a cardholder’s credit card statement. The DHgate.com and DHpay.com platforms are operated by the Dunhuang Group, who utilizes Camel FinTech Inc to process transactions and deal with refunds and chargebacks on behalf of DHgate.com to its customers. Although the DHgate.com platform itself is not the ultimate merchant, all purchases on DHgate.com are automatically made via their escrow process, such that a reported transaction tied to a particular Seller ID and/or store number, and the merchant’s funds associated therewith, can be identified within the aggregate escrow account.

13. Multiple past actions filed by Chanel and other brand owners have demonstrated that counterfeiters often do not identify the payment accounts they are using in attempts to evade detection. However, I reasonably believe that the above-named entities have the ability to and will in fact comply with a temporary restraining order of the type now sought by Chanel.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed the 29th day of June, 2021, at Hollywood, Florida.


Stephen M. Gaffigan