

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

VORTEX, INC.,

Plaintiff,

v.

THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

Case No.: 1:22-cv-04189

The Honorable Gary Feinerman

PRELIMINARY INJUNCTION ORDER

THIS CAUSE is before the Court on Plaintiff Vortex, Inc.’s (“Plaintiff” or “Vortex”) Motion for Entry of a Preliminary Injunction. The Court having heard the evidence before it, hereby GRANTS Plaintiff’s Motion for Entry of a Preliminary Injunction against the Defendant partnerships and unincorporated associations identified in the accompanying Schedule A (the “Defendants”).

THIS COURT FINDS that it has personal jurisdiction over the Defendants because Defendants directly target their business activities toward the 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 infringing and/or counterfeit versions of Vortex-trademarked and copyrighted products related to *The Texas Chainsaw Massacre* films (the “TCM films”) or bearing THE TEXAS CHAINSAW MASSACRE or associated trademarks or copyrights (the “TCM Merchandise”) (the TCM Films and TCM Merchandise together are the “TCM Products”).

THIS COURT FURTHER FINDS that the injunctive relief previously granted in the Temporary Restraining Order (“TRO”) and issuing this Preliminary Injunction is warranted under Rule 65 of the Federal Rules of Civil Procedure and should remain in place through the pendency of this litigation. Evidence submitted in support of this Motion and in support of Plaintiff’s previously granted Motion for a Temporary Restraining Order establishes that Plaintiff has a likelihood of success on the merits; that no remedy at law exists; and that Plaintiff will suffer irreparable harm if the injunction is not granted.

Specifically, Vortex has established a prima facie case of trademark and copyright infringement because (1) the TCM Products bear distinctive marks that are registered with the U.S. Patent and Trademark Office and/or copyrights that are registered with the U.S. Copyright Office, (2) Defendants are not licensed or authorized to use any of Vortex’s trademarks or copyrights, and none of the Defendants are authorized retailers of genuine TCM Products, and (3) Defendants’ use of the Vortex’s trademarks and/or copyrights are causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products and/or to cause consumers to mistakenly believe that Defendants and/or Defendants’ good are affiliated, associated, or connected with, or are approved or sponsored by Vortex and/or Vortex’s goods and services. Further, Defendants’ continued and unauthorized use of the Vortex’s trademarks and/or copyrights irreparably harms Vortex through diminished goodwill and brand confidence, damage to Vortex’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage, and Vortex therefore has an inadequate remedy at law. Moreover, the public interest is served by entry of this Preliminary Injunction to dispel the public confusion created by Defendants’ actions.

Accordingly, the Court orders that:

1. Defendants, their affiliates, officers, agents, employees, attorneys, and all persons acting for, with, by, under, or in active concert with them are enjoined and restrained from:
 - a. using, advertising, marketing, manufacturing, shipping, or selling any TCM Product;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine TCM Product or any other product produced by Plaintiff, that is not Plaintiff's or is not produced under the authorization, control or supervision of Plaintiff and approved by Plaintiff for sale;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
 - d. further infringing Plaintiff's trademarks or copyrights and damaging Plaintiff's goodwill;
 - e. shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear Plaintiff's trademarks or copyrights or any confusingly similar reproductions, counterfeit copies, or colorable imitations thereof;
 - f. using, linking to, transferring, selling, exercising control over, or otherwise owning the online marketplace accounts, the Defendant domain names, or any other domain name or online marketplace account that is being used to sell or is

the means by which Defendants could continue to sell counterfeit or infringing TCM Products; and

- g. operating and/or hosting websites at the Defendant domain names and any other domain names registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing Plaintiff's trademarks or copyrights or any confusingly similar reproduction, counterfeit copy or colorable imitation thereof that is not a genuine TCM Product or is not authorized by Plaintiff to be sold.

2. Each Defendant, within ten (10) 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; and (c) their financial accounts, including all accounts connected to Alibaba, Aliexpress, and any related Alibaba entity (collectively, the "Alibaba Entities"), DH Gate, and/or Wish.

3. 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 five (5) 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 Plaintiff'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 Plaintiff's selection until further ordered by this Court; or

- b. disable the Defendant domain names and make them inactive and not transferable until further ordered by this Court.

4. Those in privity with Defendants and with actual notice of this Order, including, without limitation, any online marketplaces such as Wish.com, the Alibaba Entities, DH Gate, 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 five (5) business days of receipt of this Order:

a. disable and cease providing services for any accounts through which Defendants engage in the sale of counterfeit and infringing goods using the Vortex's trademarks or copyrights, including any accounts associated with the Defendants listed in Schedule A;

b. disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using Vortex's trademarks or copyrights; and

c. take all steps necessary to prevent links to the Defendant domain names identified in Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant domain names from any search index.

5. Defendants and any third party with actual notice of this Order that 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 Wish, the Alibaba Entities, or DH Gate, advertisers, internet service providers, web hosts, back-end service providers, web designers, sponsored search engine or ad-word providers, banks, merchant account providers, 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, 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, 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, UmPay, PayEco, AllPay, Payoneer, PayPal, LianLian Pay, PingPong, Alipay, and JPMorgan Chase & Co., and other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

6. Defendants and any persons in active concert or participation with them who have actual notice of this Order shall be restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.

7. All third-party payment processors, including, without limitation, UmPay,

PayEco, AllPay, Payoneer, PayPal, LianLian Pay, PingPong, Alipay, and/or JPMorgan Chase & Co., banks, savings and loan associations, or other financial institutions connected to online marketplace accounts or Defendants' websites shall within five (5) business days of receipt of this Order:

a. Locate and identify all financial accounts and funds connected to Defendants, Defendants' online marketplace accounts or Defendants' websites, including, but not limited to, any accounts connected to the information listed in Schedule A hereto; 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.

c. 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 for any purpose (other than pursuant to a chargeback made pursuant to the payment processor's security interest in the funds) without the express authorization of this Court.

8. Plaintiff may provide notice of these proceedings and this Order to Defendants 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 a website to which the Defendant domain names which are transferred to Plaintiff's control will redirect, or by sending an e-mail to the e-mail addresses identified in Schedule A hereto and to any e-mail addresses provided

for Defendants by third parties that includes a link to said website. Plaintiff may provide notice of these proceedings and this Order to third-parties by sending an email with a copy of this Order to the email addresses of the third parties' registered agent or legal counsel. The combination of providing notice via electronic publication 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 and any third parties of the pendency of this action and afford them the opportunity to present their objections.

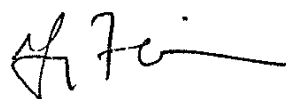
9. The Clerk is directed to unseal Plaintiff's Schedule A to the Complaint, the TRO, and any other previously sealed documents in this matter.

10. Any Defendants or third parties 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.

11. The \$10,000 bond posted by Plaintiff shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

IT IS SO ORDERED.

Dated: October 18, 2022



Hon. Gary Feinerman
United States District Judge