

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

ENTERTAINMENT ONE UK LTD.,

Plaintiff,

Case No.: 1:19-cv-02988

v.

Judge Manish S. Shah

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

Magistrate Judge Jeffrey T. Gilbert

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
MOTION FOR ENTRY OF A PRELIMINARY INJUNCTION**

Plaintiff submits this Memorandum of Law in support of its Motion for Entry of a Preliminary Injunction.

MEMORANDUM OF LAW

I. INTRODUCTION

Plaintiff, Entertainment One UK Ltd. (“eOne” or “Plaintiff”), brings the present action against the Defendants identified on Schedule A (collectively, the “Defendants”) for federal trademark infringement and counterfeiting (Count I), false designation of origin (Count II), violation of the Illinois Uniform Deceptive Trade Practices Act (Count III) and Copyright Infringement 17 U.S.C. § 501(a) (Count IV). As alleged in eOne’s Complaint, the Defendants are promoting, advertising, distributing, offering for sale, and selling products infringing eOne’s PEPPA PIG trademarks and copyrights (the “Counterfeit/infringing PEPPA PIG Products”) through various fully interactive commercial Internet websites operating under at least the Defendant Domain Names and Online Marketplace Accounts listed in Schedule A (collectively, the “Defendant Internet Stores”). In addition, the defendants are selling unauthorized products that are based on and derived from the copyrighted subject matter created by eOne, hereinafter referred to as the “PEPPA PIG Works.”

II. STATEMENT OF FACTS

On May 20, 2019, this Court granted eOne’s Motion for a Temporary Restraining Order (“the TRO”). Docket Entry No. 17. The TRO authorized eOne to provide notice of these proceedings and the preliminary injunction hearing to Defendants by electronically publishing a link to the Complaint, the TRO and other relevant documents on a website to which the Defendant Domain Names which are transferred to eOne’s control redirect, or by sending an e-mail to the e-mail addresses identified in Exhibit 3 to the Declaration of Paul Varley and any e-mail addresses provided for Defendants by third parties that includes a link to said website. TRO at ¶ 14. Since and pursuant to entry of the TRO, dozens of eBay, PayPal, WISH and Alipay

accounts associated with the Defendant Internet Stores have been frozen. *See* Declaration of Keith A. Vogt (hereinafter “Vogt Declaration”) at ¶ 2.

eOne respectfully requests that this Court convert the TRO to a preliminary injunction against Defendants, so that they remain enjoined from the manufacture, importation, distribution, offering for sale, and sale of Counterfeit PEPPA PIG Products during the pendency of this litigation. As part of the Preliminary Injunction, eOne requests that the Defendant Domain Names remain in eOne’s control and that Defendants’ eBay, PayPal, WISH and Alipay accounts remain frozen until completion of these proceedings.

III. ARGUMENT

a) **A Preliminary Injunction Extending Relief Already Granted in the TRO Is Appropriate**

eOne respectfully requests that this Court convert the TRO to a preliminary injunction to prevent further unlawful conduct by Defendants. This Court, in addressing similar allegations of Internet-based counterfeiting, has also issued preliminary injunctions following a temporary restraining order. *See, Entertainment One UK Ltd. v. The Partnerships and Unincorporated Associations Identified on Schedule “A”*, No. 19-cv-00786 (N.D. Ill. Mar. 5, 2019) and *Wham-O Holding, Ltd. And Intersport Corp. d/b/a Wham-O v. The Partnerships and Unincorporated Associations Identified on Schedule “A”*, No. 18-cv-7162 (N.D. Ill. Nov. 21, 2018). *See* Exhibit 1 to Declaration of Keith A. Vogt (hereinafter “Vogt Declaration”).

i) **This Court Has Already Found that the Requirements for a Preliminary Injunction Have Been Satisfied**

Since the standard for granting a TRO and the standard for granting a preliminary injunction are identical in this Circuit, the requirements for entry of a preliminary injunction extending the TRO have been satisfied. *See, e.g. Charter Nat’l Bank & Trust v. Charter One Fin., Inc.*, No. 1:01-cv-00905, 2001 WL 527404, *1 (N.D. Ill. May 15, 2001) (citations omitted).

A temporary restraining order or preliminary injunction may be issued upon a showing that: “(1) there is a reasonable likelihood that Plaintiff will succeed on the merits; (2) Plaintiff will suffer irreparable injury if the order is not granted because there is no adequate remedy at law; (3) the balance of hardships tips in Plaintiff’s favor; and (4) the public interest will not be disserved by the injunction.” *Columbia Pictures Indus., Inc. v. Jasso*, 927 F. Supp. 1075, 1076 (N.D. Ill. 1996). By virtue of this Court’s entry of the TRO, it has already found that the above requirements have been satisfied.

ii) The Equitable Relief Sought Remains Appropriate

The Lanham Act authorizes courts to issue injunctive relief “according to principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of the registrant of a mark” 15 U.S.C. § 1116(a).

(1) The Domain Name Transfer Order Remains Appropriate

eOne seeks a conversion of the TRO entered by this Court on May 20, 2019, allowing eOne to retain control of the Defendant Domain Names until the completion of these proceedings. To prevent the Defendants from further manufacture, importation, distribution, offering for sale, and sale of Counterfeit PEPPA PIG Products and to provide notice to Defendants regarding these proceedings, eOne respectfully requests that the injunctive relief already awarded be extended through the pendency of this case.

(2) The Asset Restraining Order Remains Appropriate

eOne also requests conversion of the TRO to a preliminary injunction so that Defendants’ accounts in U.S.-based financial institutions remain frozen. Since entry of the TRO, Plaintiff has obtained information, including the identification of dozens of foreign accounts, linked to the Defendant Internet Stores which were offering for sale and/or selling infringing PEPPA PIG Products. In the absence of a preliminary injunction, Defendants may

attempt to move any assets from any accounts in U.S.-based financial institutions to an offshore account. Therefore, Defendants' assets should remain frozen for the remainder of the proceedings. The amount of damages to which eOne is entitled as set forth in the Complaint far exceeds any amount contained in any of the Defendants' frozen eBay, PayPal, WISH and Alipay accounts. For example, eOne's prayer for relief requests statutory damages of \$2 million from each Defendant. In addition, this Court has also granted the relief requested in the pending related case. As such, an order continuing to freeze the Defendants' assets should be granted.

IV. CONCLUSION

In view of the foregoing, eOne respectfully requests that this Court enter the preliminary injunction.

DATED: June 10, 2019

Respectfully submitted,

/s/ Keith A. Vogt

Keith A. Vogt (Bar No. 6207971)

Keith Vogt, Ltd.

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Oak Park, Illinois 60302

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2019, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, I will electronically publish the documents on a website to which the Defendant Domain Names that have been transferred to eOne's control now redirect, and I will send an e-mail to the e-mail addresses identified in Exhibit 3 to the Declaration of Paul Varley and any e-mail addresses provided for Defendants by third parties that includes a link to said website.

/s/ Keith A. Vogt

Keith A. Vogt

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

ENTERTAINMENT ONE UK LTD.,

Plaintiff,

Case No.: 1:19-cv-02988

v.

Judge Manish S. Shah

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

Magistrate Judge Jeffrey T. Gilbert

Defendants.

DECLARATION OF KEITH A. VOGT

I, Keith A. Vogt, of Oak Park, Illinois, declare as follows:

1. I am an attorney at law, duly admitted to practice before the Courts of the State of Illinois and the United States District Court for the Northern District of Illinois. I am one of the attorneys for Plaintiff. Except as otherwise expressly stated to the contrary, I have personal knowledge of the following facts and, if called as a witness, I could and would competently testify as follows:
2. Since and pursuant to entry of the TRO, Plaintiff has contacted eBay, PayPal, WISH and Alipay to restrain accounts associated with the Defendant Internet Stores.
3. Exhibit 1 attached hereto is a true and correct copy of unpublished decisions cited in the Plaintiff's Memorandum.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 10, 2019 at Oak Park, Illinois.

/s/Keith A. Vogt

Keith A. Vogt

Exhibit 1

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

ENTERTAINMENT ONE UK LTD.,

Plaintiff,

v.

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

Defendants.

Case No.: 1:19-cv-00786

Judge Manish S. Shah

Magistrate Judge Susan E. Cox

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on Plaintiff, Entertainment One UK Ltd. (“eOne” or “Plaintiff”), Motion for a Preliminary Injunction, and this Court having heard the evidence before it hereby GRANTS Plaintiff’s Motion for Entry of a Preliminary Injunction in its entirety against the defendants identified in Schedule A (collectively, the “Defendants”).

THIS COURT HEREBY 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. Plaintiff has presented evidence that each Defendant Internet Store is reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can and do purchase products using counterfeit versions of Plaintiff’s PEPPA PIG trademarks, U.S. Trademark Registration Nos. 4,783,931; 3,663,706 and 3,506,452 and/or products infringing PEPPA PIG Works. *See* Docket No. 11.

THIS COURT FURTHER FINDS that injunctive relief previously granted in the Temporary Restraining Order (“TRO”) should remain in place through the pendency of this litigation and that issuing this Preliminary Injunction is warranted under Federal Rule of Civil Procedure 65. Evidence submitted in support of this Motion and in support of eOne’s previously

granted Motion for a Temporary Restraining Order establishes that eOne has a likelihood of success on the merits; that no remedy at law exists; and that eOne will suffer irreparable harm if the injunction is not granted.

Specifically, eOne has proved a *prima facie* case of trademark infringement because (1) the PEPPA PIG trademarks are a distinctive mark and registered with the U.S. Patent and Trademark Office on the Principal Register and the PEPPA PIG Works are registered with the United States Copyright Office, (2) Defendants are not licensed or authorized to use any of the PEPPA PIG trademarks and PEPPA PIG Works, and (3) Defendants' use of the PEPPA PIG trademarks and PEPPA PIG Works is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with eOne. Furthermore, Defendants' continued and unauthorized use of the PEPPA PIG trademarks and PEPPA PIG Works irreparably harms eOne through diminished goodwill and brand confidence, damage to eOne's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, eOne 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, this Court orders that:

1. Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily enjoined and restrained from:
 - a. using eOne's PEPPA PIG or any reproductions, counterfeit copies or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a

- genuine PEPPA PIG product or not authorized by eOne to be sold in connection with eOne's PEPPA PIG trademarks and PEPPA PIG Works;
- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine PEPPA PIG product or any other product produced by eOne, that is not eOne's or not produced under the authorization, control or supervision of eOne and approved by eOne for sale under eOne's PEPPA PIG trademarks and PEPPA PIG Works;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of eOne, or are sponsored by, approved by, or otherwise connected with eOne;
 - d. further infringing eOne's PEPPA PIG trademarks and PEPPA PIG Works and damaging eOne 's goodwill;
 - e. otherwise competing unfairly with eOne in any manner;
 - f. 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 eOne, nor authorized by eOne to be sold or offered for sale, and which bear any of eOne 's PEPPA PIG trademarks and PEPPA PIG Works or any reproductions, counterfeit copies or colorable imitations thereof;
 - g. 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/Infringing PEPPA PIG Products; and

- h. 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 eOne's PEPPA PIG trademarks and PEPPA PIG Works or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine PEPPA PIG product or not authorized by eOne to be sold in connection with eOne's PEPPA PIG trademarks and PEPPA PIG Works.
2. The domain name registries for the Defendant Domain Names, including, but not limited to, VeriSign, Inc., Neustar, Inc., Afiliat 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 eOne's choosing:
 - a. unlock and change the registrar of record for the Defendant Domain Names to a registrar of eOne'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 eOne'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.
4. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as Amazon, iOffer, and Alibaba Group Holding Ltd. along with 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 counterfeit and infringing goods using the PEPPA PIG trademarks and PEPPA PIG Works, 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 the PEPPA PIG trademarks and PEPPA PIG Works; 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 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 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 eOne 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, WISH, Amazon, Alipay, Alibaba, Western Union, or 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 temporarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
7. Western Union shall, within two (2) business days of receipt of this Order, block any Western Union money transfers and funds from being received by the Defendants identified in Schedule A until further ordered by this Court.
8. eBay, Inc. ("eBay"), PayPal, Inc. ("PayPal") and ContextLogic, Inc. ("WISH") 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 Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any eBay, PayPal and WISH accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 3 to the Declaration of Paul Varley; and
 - b. Restrain and enjoin any such accounts or funds that are non-U.S. foreign based from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
9. 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 connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 3 to the Declaration of Paul Varley; 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.
10. eOne 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 a website to which the Defendant Domain Names which are transferred to eOne's control will redirect, or by sending an e-mail to the e-mail addresses identified in Exhibit 3 to the Declaration of Paul Varley 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 “adriant27 and all other Defendants identified in Complaint” that shall apply to all Defendants. The combination of providing notice via electronic publication and 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. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to eOne or on shorter notice as set by this Court.

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

Dated: March 5, 2019



Manish S. Shah
U.S. District Court Judge

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

WHAM-O HOLDING, LTD. and
INTERSPORT CORP. d/b/a WHAM-O,

Plaintiffs,

v.

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

Defendants.

Case No.: 1:18-cv-07162

Judge Manish S. Shah

Magistrate Judge Michael T. Mason

PRELIMINARY INJUNCTION ORDER

THIS CAUSE being before the Court on WHAM-O HOLDING, LTD. and INTERSPORT CORP. d/b/a WHAM-O’s (“WHAM-O”) motion for a Preliminary Injunction, and this Court having heard the evidence before it hereby GRANTS Plaintiffs’ Motion for Entry of a Preliminary Injunction in its entirety against the defendants identified in Schedule A (collectively, the “Defendants”).

THIS COURT HEREBY 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. In this case, Plaintiffs have presented screenshot evidence that each Defendant Internet Store is reaching out to do business with Illinois residents by operating one or more commercial, interactive Internet Stores through which Illinois residents can and do purchase products using counterfeit versions of Plaintiffs’ Trademark.

THIS COURT FURTHER FINDS that injunctive relief previously granted in the Temporary Restraining Order (“TRO”) should remain in place through the pendency of this litigation and that issuing this Preliminary Injunction is warranted under Federal Rule of Civil

Procedure 65. Evidence submitted in support of this Motion and in support of WHAM-O's previously granted Motion for a Temporary Restraining Order establishes that WHAM-O has a likelihood of success on the merits; that no remedy at law exists; and that WHAM-O will suffer irreparable harm if the injunction is not granted.

Specifically, there is sufficient evidence that (1) the FRISBEE trademarks are a distinctive mark and registered with the U.S. Patent and Trademark Office on the Principal Register, (2) Defendants are not licensed or authorized to use any of the FRISBEE trademarks, and (3) Defendants' use of the FRISBEE trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with WHAM-O. Furthermore, Defendants' continued and unauthorized use of the FRISBEE trademarks irreparably harms WHAM-O through diminished goodwill and brand confidence, damage to WHAM-O's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, WHAM-O 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, this Court orders that:

1. Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily enjoined and restrained from:
 - a. using WHAM-O's FRISBEE or any reproductions, counterfeit copies or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine FRISBEE product or not authorized by WHAM-O to be sold in connection with WHAM-O's FRISBEE trademarks;

- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine FRISBEE product or any other product produced by WHAM-O, that is not WHAM-O's or not produced under the authorization, control or supervision of WHAM-O and approved by WHAM-O for sale under WHAM-O's FRISBEE trademarks;
- c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of WHAM-O, or are sponsored by, approved by, or otherwise connected with WHAM-O;
- d. further infringing WHAM-O's FRISBEE trademarks and damaging WHAM-O's goodwill;
- e. otherwise competing unfairly with WHAM-O in any manner;
- f. 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 WHAM-O, nor authorized by WHAM-O to be sold or offered for sale, and which bear any of WHAM-O's FRISBEE trademarks or any reproductions, counterfeit copies or colorable imitations thereof;
- g. 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 FRISBEE Products; 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 counterfeit and infringing goods using the FRISBEE trademarks, including any accounts associated with the Defendants listed on 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 the FRISBEE trademarks; and
 - c. take all steps necessary to prevent links to the Defendant Domain Names identified on 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 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 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 WHAM-O 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).

6. 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.
7. Western Union shall, within two (2) business days of receipt of this Order, block any Western Union money transfers and funds from being received by the Defendants identified in Schedule A until further ordered by this Court.
8. PayPal, Inc. ("PayPal"), eBay, Inc. ("eBay"), Alipay US, Inc. ("Alipay") and ContextLogic, Inc. ("WISH") 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 Defendants, Defendants' Online Marketplace Accounts or Defendants' websites, including, but not limited to, any eBay, PayPal, Alipay and WISH accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Todd Richards; and
 - b. Restrain and enjoin any such accounts or funds that are non-U.S. foreign based from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
9. 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 connected to the information listed in Schedule A hereto or the

email addresses identified in Exhibit 2 to the Declaration of Todd Richards;
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.

10. WHAM-O 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 a website to which the Defendant Domain Names which are transferred to WHAM-O's control will redirect, or by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Todd Richards 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 "babieskids and all other Defendants identified in Complaint" the Schedule A that shall apply to all Defendants. 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 of the pendency of the action and afford them the opportunity to present their objections.
11. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to WHAM-O or on shorter notice as set by this Court.

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

Dated: November 21, 2018



Manish S. Shah
U.S. District Court Judge