

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

CHARLES BRIT TURNER,

Plaintiff,

Civil Action No.: 1:20-cv-02997

v.

Judge Robert W. Gettleman

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

Magistrate Judge Susan E. Cox

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, CHARLES BRIT TURNER, (“TURNER” 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 Civil Conspiracy (Count IV). As alleged in TURNER’s Complaint, the Defendants are promoting, advertising, distributing, offering for sale, and selling products infringing the BLACKBERRY SMOKE Trademark (the “Counterfeit/infringing BLACKBERRY SMOKE Products”) through various fully interactive commercial Internet websites operating under at least the Defendant Online Marketplace Accounts listed in Schedule A (collectively, the “Defendant Internet Stores”).

### II. STATEMENT OF FACTS

On May 21, 2020, this Court granted TURNER’s Motion for a Temporary Restraining Order (the “TRO”). Docket Entry No. 15. The TRO authorized TURNER 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 or by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Charles Brit Turner and any e-mail addresses provided for Defendants by third parties that includes a link to said website. TRO at ¶12. Since and pursuant to entry of the TRO, dozens of eBay, PayPal, WISH, Amazon, Alipay and DHGate accounts associated with the Defendant Internet Stores have been frozen. *See* Declaration of Keith A. Vogt (hereinafter “Vogt Declaration”) at ¶ 2.

TURNER 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 BLACKBERRY SMOKE Products during the pendency of this litigation. As part of the Preliminary Injunction, TURNER requests that Defendants' eBay, PayPal, WISH, Amazon, Alipay and DHGate accounts remain frozen until completion of these proceedings.

### III. ARGUMENT

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

TURNER 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, e.g., Polyblank Designs Ltd. v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 19-cv-00591 (N.D. Ill. Mar. 07, 2019) and *Hamann GmbH v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 19-cv-04876 (N.D. Ill. Aug. 27, 2019) (granting Preliminary Injunction). *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).

TURNER 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 BLACKBERRY SMOKE 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 TURNER is entitled as set forth in the Complaint far exceeds any amount contained in any of the Defendants' frozen eBay, PayPal, WISH, Amazon, Alipay and DHGate accounts. 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, TURNER respectfully requests that this Court enter the preliminary injunction.

DATED: June 10, 2020

Respectfully submitted,

/s/ Keith A. Vogt

Keith A. Vogt (Bar No. 6207971)

Keith Vogt, Ltd.

111 West Jackson Boulevard, Suite 1700

Chicago, Illinois 60604

Telephone: 312-675-6079

E-mail: keith@vogtip.com

***ATTORNEY FOR PLAINTIFF***

**CERTIFICATE OF SERVICE**

I hereby certify that on June 10, 2020, 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 and I will send an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Charles Brit Turner 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**

CHARLES BRIT TURNER,

Plaintiff,

Civil Action No.: 1:20-cv-02997

v.

Judge Robert W. Gettleman

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

Magistrate Judge Susan E. Cox

Defendants.

**DECLARATION OF KEITH A. VOGT**

I, Keith A. Vogt, of Chicago, 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, Amazon, Alipay and DHGate 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, 2020 at Chicago, Illinois.

/s/Keith A. Vogt

Keith A. Vogt

# Exhibit 1

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

POLYBLANK DESIGNS LIMITED,

Plaintiff,

Case No.: 1:19-cv-591

v.

Judge Robert W. Gettleman

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

Magistrate Judge Sunil R. Harjani

Defendants.

**PRELIMINARY INJUNCTION ORDER**

THIS CAUSE being before the Court on Plaintiff, Polyblank Designs Limited (“PDL” 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. “In the context of cases like this one, that means a plaintiff must show that each defendant is actually operating an interactive website that is accessible in Illinois and that each defendant has aimed such site at Illinois by standing ready, willing and able to ship its counterfeit goods to customers in Illinois in particular (or otherwise has some sufficient voluntary contacts with the state).” *Am. Bridal & Prom Indus. Ass’n v. P’ships & Unincorporated Ass’ns Identified on Schedule A*, 192 F.Supp.3d 924, 934 (N.D. Ill. 2016). In this case, Plaintiff has 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. See



Docket No. 11 which include screenshot evidence confirming that each Defendant Internet Store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the PETS ROCK trademark, U.S. Trademark Registration No. 5,097,681 and/or products infringing PETS ROCK Works.

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

Specifically, PDL has proved a *prima facie* case of trademark infringement because (1) the PETS ROCK trademark is a distinctive mark and registered with the U.S. Patent and Trademark Office on the Principal Register and the PETS ROCK Works are registered copyrights, (2) Defendants are not licensed or authorized to use any of the PETS ROCK trademark and PETS ROCK Works, and (3) Defendants’ use of the PETS ROCK trademark and PETS ROCK Works is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with PDL. Furthermore, Defendants’ continued and unauthorized use of the PETS ROCK trademark and PETS ROCK Works irreparably harms PDL through diminished goodwill and brand confidence, damage to PDL’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, PDL 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 PDL's PETS ROCK 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 PETS ROCK product or not authorized by PDL to be sold in connection with PDL's PETS ROCK trademark and PETS ROCK Works;
  - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine PETS ROCK product or any other product produced by PDL, that is not PDL's or not produced under the authorization, control or supervision of PDL and approved by PDL for sale under PDL's PETS ROCK trademark and PETS ROCK Works;
  - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of PDL, or are sponsored by, approved by, or otherwise connected with PDL;
  - d. further infringing PDL's PETS ROCK trademark and PETS ROCK Works and damaging PDL's goodwill;
  - e. otherwise competing unfairly with PDL 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 PDL, nor authorized by PDL to be sold or offered for sale, and which bear any of PDL's PETS ROCK trademark and PETS

ROCK 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 PETS ROCK 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 PDL's PETS ROCK trademark and PETS ROCK Works or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine PETS ROCK product or not authorized by PDL to be sold in connection with PDL's PETS ROCK trademark and PETS ROCK Works.
2. 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 PDL's choosing:
- a. unlock and change the registrar of record for the Defendant Domain Names to a registrar of PDL'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 PDL'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 PETS ROCK trademark and PETS ROCK 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 PETS ROCK trademark and PETS ROCK 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 PDL 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 five (5) 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"), ContextLogic, Inc. ("WISH"), Amazon Payments, Inc. ("Amazon"), Alipay.com Co., Ltd./Alipay US, Inc. ("Alipay") and Alibaba Group Holding Limited ("Alibaba"), shall, within five (5) 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 PayPal, WISH, Amazon, Alipay and Alibaba accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 3 to the Declaration of David Denholm; 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 five (5) 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 David Denholm; 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. PDL 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 PDL's control will redirect, or by sending an e-mail to the e-mail addresses identified in Exhibit 3 to the Declaration of David Denholm 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 "Artprintdecor and all other Defendants identified in Complaint" from 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 PDL or on shorter notice as set by this Court.
12. The \$10,000 bond posted by PDL shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: March 7, 2019

  
U.S. District Court Judge



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

HAMANN GmbH,

Plaintiff,

v.

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

Defendants.

Case No.: 1:19-cv-04876

Judge Robert W. Gettleman  
Magistrate Judge M. David Weisman

**PRELIMINARY INJUNCTION ORDER**

THIS CAUSE being before the Court on Plaintiff, HAMANN GmbH ("HAMANN" 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 the 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 the context of cases like this one, that means a plaintiff must show that each defendant is actually operating an interactive website that is accessible in Illinois and that each defendant has aimed such site at Illinois by standing ready, willing and able to ship its counterfeit goods to customers in Illinois in particular (or otherwise has some sufficient voluntary contacts with the state)." *Am. Bridal & Prom Indus. Ass'n v. P'ships & Unincorporated Ass'ns Identified on Schedule A*, 192 F.Supp.3d 924, 934 (N.D. Ill. 2016). In this case, Plaintiff has 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. *See*

Exhibit 2 to the Declaration of Christian Zierhut in Support of Ex Parte Motion which include screenshot evidence confirming that each Defendant Internet Store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the HAMANN trademark, U.S. Trademark Registration No. 2,367,439.

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

Specifically, HAMANN has proved a *prima facie* case of trademark infringement because (1) the HAMANN trademark is a distinctive mark and is registered with the U.S. Patent and Trademark Office on the Principal Register, (2) Defendants are not licensed or authorized to use the HAMANN trademark, and (3) Defendants’ use of the HAMANN trademark is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with HAMANN. Furthermore, Defendants’ continued and unauthorized use of the HAMANN trademark irreparably harms HAMANN through diminished goodwill and brand confidence, damage to HAMANN’s reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, HAMANN 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 HAMMAN'S HAMMAN MOTORSPORT 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 HAMANN product or not authorized by HAMANN to be sold in connection with HAMMAN'S HAMMAN MOTORSPORT trademark;
  - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine HAMANN product or any other product produced by HAMANN, that is not HAMANN's or not produced under the authorization, control or supervision of HAMANN and approved by HAMANN for sale under HAMANN's HAMANN MOTOR SPORT trademark;
  - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of HAMANN, or are sponsored by, approved by, or otherwise connected with HAMANN;
  - d. further infringing HAMANN's HAMANN MOTORSPORT trademark and damaging HAMANN's goodwill;
  - e. otherwise competing unfairly with HAMANN 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 HAMANN, nor authorized by HAMANN to be sold or offered for sale, and which bear any of HAMMAN'S HAMMAN MOTORSPORT trademark 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 HAMANN 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 Plaintiff's HAMANN trademark or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine HAMANN product or not authorized by HAMANN to be sold in connection with Plaintiff's HAMANN trademark.

2. 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 three (3) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall, at HAMANN's choosing:

- a. unlock and change the registrar of record for the Defendant Domain Names to a registrar of HAMANN'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 HAMANN'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, and Alibaba Group Holding Ltd., Alipay.com Co., Ltd. and 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 HAMANN trademark, including any accounts associated with the Defendants listed on the 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 HAMANN trademark; and
- c. take all steps necessary to prevent links to the Defendant Domain Names identified on the 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 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 HAMANN 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, 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 the Schedule A until further ordered by this Court.
8. eBay, Inc. ("eBay"), PayPal, Inc. ("PayPal"), ContextLogic, Inc. ("WISH"), Amazon Payments, Inc. ("Amazon") and Alipay US, Inc. ("Alipay") 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, WISH, Amazon and Alipay accounts connected to the information listed in the Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Christian Zierhut; 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 the Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Christian Zierhut; 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. HAMANN 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 HAMANN's control will redirect, or by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Christian Zierhut 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 "alanna6666168 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 HAMANN or on shorter notice as set by this Court.
12. The \$10,000 bond posted by HAMANN shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.

Dated: August 27, 2019

  
\_\_\_\_\_  
U.S. District Court Judge