

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

GCI OUTDOOR LLC,

Plaintiff,

v.

GCIOUTDOORSALE.COM,

Defendant.

Case No. 1:22-cv-4877

Judge Rebecca R. Pallmeyer

Magistrate Judge Maria Valdez

SEALED TEMPORARY RESTRAINING ORDER

Plaintiff GCI OUTDOOR LLC (“Plaintiff”) filed an *Ex Parte* Motion for Entry of a Temporary Restraining Order and Other Relief, including a Temporary Injunction, a Temporary Asset Restraint, a temporary transfer of the domain name GCIOUTDOORSALE.COM, Expedited Discovery, and Service of Process by Email and/or Electronic Publication, (the “Motion”) against the fully interactive, e-commerce store GCIOUTDOORSALE.COM (“Defendant”). After reviewing the Motion and the accompanying record, this Court GRANTS Plaintiff’s Motion as follows.

This Court finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendant because Defendant directly targets its business activities toward consumers in the United States, including Illinois. Specifically, Plaintiff GCI OUTDOOR LLC has provided a basis to conclude that Defendant has targeted sales to Illinois residents by setting up and operating the e-commerce store GCIOUTDOORSALE.COM that targets United States consumers, offers shipping to the United States, including Illinois, and has offered products for sale to Illinois residents using infringing and counterfeit versions of Plaintiff GCI OUTDOOR LLC’s federally registered trademarks, which are covered by U.S. Trademark Registration Nos. 6,637,503;

6,504,919; 5,284,443; 5,254,698; 6,008,245; 4,963,756; 2,278,144; and 2,144,358 (collectively, the “GCI Trademarks”). In this case, Plaintiff has presented screenshot evidence that Defendant is reaching out to do business with Illinois residents by operating the commercial, interactive internet store GCIOUTDOORSALE.COM through which Illinois residents can purchase products using counterfeit versions of the GCI Trademarks. *See* Docket No. [10], which includes screenshot evidence confirming that Defendant GCIOUTDOORSALE.COM does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the GCI Trademarks.

This Court also finds that issuing this Order without notice pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure is appropriate because GCI OUTDOOR LLC has presented specific facts in the Declaration of JEFF POLKE in support of the Motion and accompanying evidence clearly showing that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition. Specifically, in the absence of an *ex parte* Order, Defendant could and likely would move any assets from accounts in financial institutions under this Court’s jurisdiction to off-shore accounts. Accordingly, this Court orders that:

1. Defendant, its officers, agents, employees, attorneys, and all persons acting for, with, by, through, under, or in active concert with them be temporarily enjoined and restrained from:
 - a. using the GCI Trademarks or any reproductions, counterfeit copies, or colorable imitations in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine GCI OUTDOOR LLC product or not authorized by GCI OUTDOOR LLC to be sold in connection with the GCI Trademarks;

- b. passing off, inducing, or enabling others to sell or pass off any product as a genuine GCI OUTDOOR LLC product or any other product produced by GCI OUTDOOR LLC, that is not GCI OUTDOOR LLC's or not produced under the authorization, control, or supervision of GCI OUTDOOR LLC and approved by GCI OUTDOOR SALE LLC for sale under the GCI Trademarks;
- c. committing any acts calculated to cause consumers to believe that Defendant's products are those sold under the authorization, control, or supervision of GCI OUTDOOR LLC, or are sponsored by, approved by, or otherwise connected with GCI OUTDOOR LLC;
- d. manufacturing, 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 GCI OUTDOOR LLC, nor authorized by GCI OUTDOOR LLC to be sold or offered for sale, and which bear any of GCI OUTDOOR LLC's trademarks, including the GCI Trademarks, or any reproductions, counterfeit copies, or colorable imitations;
- e. discontinue the use of the GCI Trademarks, or any confusingly similar trademarks, on or in connection with all internet websites, domain names, or business owned and operated, or controlled by them, including the internet website operating under the domain name GCIOUTDOORSALE.COM; and
- f. discontinue the use of the GCI Trademarks, or any confusingly similar trademarks within domain name extensions, metatags or other markers within website source code, from use on any webpage (including as the title of any web page), from any advertising links to other websites, from search engines' databases or cache memory, and any other form of use of such terms which is visible to a computer user or serves to direct

computer searches to internet websites registered, owned, or operated by Defendant, including the internet website operating under GCIOUTDOORSALE.COM.

2. Defendant shall not transfer or dispose of any money or other of Defendant's assets in any of Defendant's financial accounts.
3. Defendant shall not transfer ownership of the domain name GCIOUTDOORSALE.COM during the pendency of this action, or until further order of the Court.
4. Defendant shall preserve copies of all computer files relating to the use of the domain name GCIOUTDOORSALE.COM and shall take all steps necessary to retrieve computer files relating to the use of the domain name GCIOUTDOORSALE.COM that may have been deleted before the entry of this Order.
5. GCI OUTDOOR LLC is authorized to issue expedited written discovery to Defendant, pursuant to Federal Rules of Civil Procedure 33, 34, and 36, related to:
 - a. the identity and location of Defendant, its officers, agents, employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;
 - b. the nature of Defendant's operations and all associated sales, methods of payment for services, and financial information, including, without limitation, identifying information associated with the domain GCIOUTDOORSALE.COM and Defendant's financial accounts, including Defendant's sales and listing history related to the domain GCIOUTDOORSALE.COM; and
 - c. any financial accounts owned or controlled by Defendant, including their officers, agents, employees, attorneys, and any persons acting in active 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, Inc. (“PayPal”) or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

6. Upon GCI OUTDOOR LLC’s request, any third party with actual notice of this Order who is providing services for Defendant, or in connection Defendant’s GCIOUTDOORSALE.COM domain name, including, without limitation, any online marketplace platforms such as Alipay, Alibaba, DHgate, and PayPal, (collectively, the “Third Party Providers”), shall within five (5) business days after receipt of such notice, provide to GCI OUTDOOR LLC expedited discovery, limited to copies of documents and records in such person’s or entity’s possession or control sufficient to determine:
 - a. the identities and locations of Defendant, its officers, agents, employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;
 - b. the nature of Defendant’s operations and all associated sales, methods of payment for services, and financial information, including, without limitation, identifying information associated with the GCIOUTDOORSALE.COM domain name and Defendant’s financial accounts, including Defendant’s sales and listing history related to Defendant GCIOUTDOORSALE.COM’s store; and
 - c. any financial accounts owned or controlled by Defendant, its their officers, agents, servants, employees, attorneys, and any persons acting in active 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, Alipay, Alibaba, DHgate, and PayPal, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

7. Upon GCI OUTDOOR LLC's request, those with notice of this Order, including the Third Party Providers as defined in Paragraph 6, shall within five (5) business days after receipt of such notice, disable and cease displaying any advertisements used by or associated with Defendant in connection with the sale of counterfeit and infringing goods using the GCI Trademarks.
8. Any Third Party Providers, including Alipay, Alibaba, DHgate, and PayPal, shall, within five (5) business days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendant GCIOUTDOORSALE.COM, including, but not limited to, any financial accounts connected to the information listed the e-mail addresses identified in Exhibit 2 to the Declaration of JEFF POLKE, and any e-mail addresses provided for Defendant by third parties; and
 - b. restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendant's assets until further order by this Court.
9. Upon GCI OUTDOOR LLC's request, the domain name registrar and/or privacy protection service for the domain name GCIOUTDOORSALE.COM is ordered to disclose to Plaintiff the true identity of and contact information of the registrant of the GCIOUTDOORSALE.COM domain name.
10. Upon entry of this Order, Plaintiff shall provide a copy of the Order by e-mail to the registrar of record for the domain name GCIOUTDOORSALE.COM. Upon receipt of the Order, the registrar of record for the domain name GCIOUTDOORSALE.COM shall

immediately lock the domain name GCIOUTDOORSALE.COM; shall notify the registrant of record of the Order; and shall provide notice of the locking of the domain name to the registrant of record. After providing such notice to the registrar so the domain name may be locked, Plaintiff shall also provide notice and a copy of this order to the registrant for the domain name GCIOUTDOORSALE.COM via email to the email address provided as part of the domain registration data for the domain name GCIOUTDOORSALE.COM. If an email address was not provided as part of the domain registration data for the domain name GCIOUTDOORSALE.COM, Plaintiff shall provide notice and a copy of this Order to the operator of GCIOUTDOORSALE.COM via an onsite email address and/or online contact form provided on the domain name GCIOUTDOORSALE.COM. Forty-eight (48) hours after emailing this Order to the registrar of record and the registrants, Plaintiff shall provide a copy of this Order to the registrar and registry for the domain name GCIOUTDOORSALE.COM for the purposes described in Paragraph 11, below;

11. The domain name registrar for the domain GCIOUTDOORSALE.COM shall immediately assist in changing the registrar of record for the domain GCIOUTDOORSALE.COM, to a holding account with a registrar of Plaintiff's choosing ("the New Registrar"). To the extent the registrars do not assist in changing the registrars of record for the domains under their respective control within one (1) business day of receipt of this Order, the top-level domain (TLD) registries, for the domain name GCIOUTDOORSALE.COM, or their administrators, including backend registry operators or administrators, within five (5) business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the domain name GCIOUTDOORSALES.COM to a holding account with the New Registrar. Upon the change of the registrar of record for the domain name

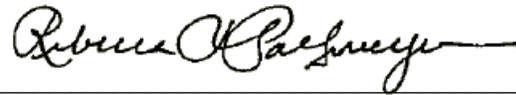
GCIOUTDOORSALE.COM, the New Registrar will maintain access to the domain name GCIOUTDOORSALE.COM in trust for the Court during the pendency of this action, or until further order of the Court. Additionally, the New Registrar shall immediately institute a temporary 302 domain name redirection which will automatically redirect any visitor to the domain name GCIOUTDOORSALE.COM to the following Uniform Resource Locator (“URL”) <http://vogtinternetenforcement.website/?case=22-4877> whereon copies of the Complaint, this Order, and all other documents on file in this action are displayed. Alternatively, the New Registrar may update the Domain Name System (“DNS”) data it maintains for the domain name GCIOUTDOORSALE.COM, which link the domain name to the IP address where the associated website is hosted, to NS1.MEDIATEMPLE.NET and NS2.MEDIATEMPLE.NET, which will cause the domain name to resolve to the website where copies of the Complaint, this Order, and all other documents on file in this action shall be displayed. After the New Registrar has effected this change, the domain name GCIOUTDOORSALE.COM shall be placed on lock status by the New Registrar, preventing the modification or deletion of the domain by the New Registrar or Defendant.

12. This Order shall apply to the domain name GCIOUTDOORSALE.COM, associated websites, and any other domain names and websites which are being used by Defendant for the purpose of counterfeiting the GCI Trademarks at issue in this action and/or unfairly competing with Plaintiff.
13. GCI OUTDOOR LLC may provide notice of the proceedings in this case to Defendant, including notice of the preliminary injunction hearing, service of process pursuant to Fed. R. Civ. P. 4(f)(3), and any future motions, by electronically publishing a link to the Complaint, this Order, and other relevant documents on a website and/or by sending an e-

mail with a link to said website to the e-mail addresses identified in Exhibit 2 to the Declaration of JEFF POLKE and any e-mail addresses provided for Defendant by third parties. The Clerk of the Court is directed to issue a single original summons in the name of “GCIOUTDOORSALE.COM” that shall apply to Defendant. The combination of providing notice via electronic publication and/or e-mail, along with any notice that Defendant receives from payment processors, shall constitute notice reasonably calculated under all circumstances to apprise Defendant of the pendency of the action and afford them the opportunity to present their objections.

14. GCI OUTDOOR LLC must provide notice to Defendant of any motion for preliminary injunction as required by Rule 65(a)(1).
15. The memorandum in support of Plaintiff’s *ex parte* motion, which includes Exhibit 2 to the Declaration of JEFF POLKE [10], and this Order shall remain sealed until Defendants’ financial accounts are restrained.
16. Within seven (7) calendar days of entry of this Order, Plaintiff shall deposit with the Court Ten Thousand Dollars (\$10,000.00), either cash or surety bond, as security, which amount has, in the absence of adversarial testing, been deemed adequate for the payment of such damages as any person may be entitled to recover as a result of a wrongful restraint hereunder.
17. Any Defendant that is subject to this Order may appear and move to dissolve or modify the Order as permitted by and in compliance with the Federal Rules of Civil Procedure and the Northern District of Illinois Local Rules. Any third party impacted by this Order may move for appropriate relief.

18. This Temporary Restraining Order without notice is entered at 4:30 P.M. on this 12th day of September, 2022 and shall remain in effect for fourteen (14) calendar days.

A handwritten signature in black ink, appearing to read "Rebecca R. Pallmeyer", with a long horizontal flourish extending to the right.

Rebecca R. Pallmeyer
United States District Judge