

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

PINK FLOYD (1987) LIMITED,

Plaintiff,

v.

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

Defendants.

Case No. 22-cv-04969

Judge Matthew F. Kennelly

PRELIMINARY INJUNCTION ORDER

Plaintiff PINK FLOYD (1987) LIMITED (“PFL” or “Plaintiff”) filed a Motion for Entry of a Preliminary Injunction against the against the fully interactive, e-commerce stores operating under the seller aliases identified in Schedule A to the Complaint and attached hereto (collectively, “Defendant Internet Stores”) and using at least the domain names identified in Schedule A (the “Defendant Domain Names”). After reviewing the Motion and the accompanying record, this Court GRANTS PFL’s Motion in part as follows.

This Court finds PFL has provided notice to Defendants in accordance with the Temporary Restraining Order entered September 15, 2022, [13] (“TRO”), and Federal Rule of Civil Procedure 65(a)(1).

This Court also finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendants because Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, PFL has provided a basis to conclude that Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Defendant Internet

Stores, offer shipping to the United States, including Illinois, and have sold products using infringing and counterfeit versions of PFL's federally registered trademarks, which are covered by U.S. Trademark Registration Nos. 2,194,702; 3,247,700; 4,232,255; 4,236,037; 5,521,572; and 6,514,317 (the "PINK FLOYD Trademarks") to residents of Illinois. In this case, PFL has presented screenshot evidence that each Defendant e-commerce store is reaching out to do business with Illinois residents by operating one or more commercial, interactive internet stores operating at the Defendant Domain Names through which Illinois residents can purchase products using counterfeit versions of the PINK FLOYD Trademarks. *See* Docket No. [11], which includes screenshot evidence confirming that each Defendant e-commerce store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the PINK FLOYD Trademarks.

This Court also finds that the injunctive relief previously granted in the 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 PFL's previously granted Motion for Entry of a TRO establishes that PFL has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that PFL will suffer irreparable harm if the injunction is not granted.

Specifically, PFL has proved a *prima facie* case of trademark infringement because (1) the PINK FLOYD Trademarks are distinctive marks and are 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 PINK FLOYD Trademarks, and (3) Defendants' use of the PINK FLOYD Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with PINK FLOYD. Furthermore, Defendants' continued and unauthorized use of the

PINK FLOYD Trademarks irreparably harms PFL through diminished goodwill and brand confidence, damage to PFL's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, PFL 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 officers, agents, servants, employees, attorneys, and all persons acting for, with, by, through, under, or in active concert with them be preliminarily enjoined and restrained from:
 - a. using the PINK FLOYD 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 PFL product or not authorized by PFL to be sold in connection with the PINK FLOYD Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine PFL product or any other product produced by PFL, that is not PFL's or not produced under the authorization, control, or supervision of PFL and approved by PFL for sale under the PINK FLOYD Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of PFL, or are sponsored by, approved by, or otherwise connected with PFL; and
 - 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 PFL, nor authorized by PFL to be sold or offered for sale, and which bear any of PFL's trademarks, including the

PINK FLOYD Trademarks, or any reproductions, counterfeit copies, or colorable imitations.

- e. Discontinue the use of the PINK FLOYD Trademarks, or any confusingly similar trademarks, on or in connection with all internet websites, domain names, or businesses owned and operated, or controlled by them, including the internet websites operating under the Defendant Domain Names; and
 - f. Discontinue the use of the PINK FLOYD 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 webpage), from any advertising links to other websites, from search engines' databases or cache memory, and any other form of use of such terms which are visible to a computer user or serves to direct computer searches to internet websites registered, owned, or operated by Defendants, including the internet websites operating under the Defendant Domain Names.
2. Defendants shall not transfer or dispose of any money or other of Defendants' assets in any of Defendants' financial accounts.
 3. Defendants shall not transfer ownership of the Defendant Domain Names during the pendency of this action, or until further order of the Court.
 4. Defendants shall preserve copies of all computer files relating to the use of the Defendant Domain Names and shall take all steps necessary to retrieve computer files relating to the use of the Defendant Domain Names that may have been deleted before the entry of this order.

5. 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, and the domain name registrars, including, but not limited to, GoDaddy Operating Company LLC, Name.com, PDR LTD. d/b/a/ PublicDomainRegistry.com, and Namecheap Inc., within seven (7) calendar days of receipt of this Order or prior to the expiration of this Order, whichever date shall occur first, shall disable the Defendant Domain Names and make them inactive and untransferable until further order by this Court.
6. Upon PFL's request, Defendants and any third party with actual notice of this Order who is providing services for any of Defendants, or in connection with any of Defendants' Defendant Internet Stores, including, without limitation, any online marketplace platforms such as PayPal, Inc. ("PayPal") (the "Third Party Providers"), shall, within seven (7) calendar days after receipt of such notice, provide to PFL 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 Defendants, their officers, agents, servants, 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 Defendants' operations and all associated sales, methods of payment for services, and financial information, including, without limitation, identifying information associated with the Defendant Internet Stores and Defendant Domain Names and Defendants' financial accounts, including Defendants' sales and listing

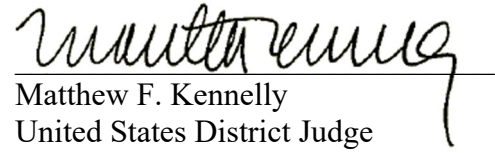
history related to their respective Defendant Internet Stores and Defendant Domain Names; and

- c. any financial accounts owned or controlled by Defendants, including 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, PayPal, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
7. Upon PFL's request, those with notice of this Order, including the Third Party Providers as defined in Paragraph 6, shall within seven (7) calendar days after receipt of such notice, disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the PINK FLOYD Trademarks.
 8. Any Third Party Providers, including PayPal, shall, within seven (7) calendar days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants' Defendant Internet Stores and Defendant Domain Names, including, but not limited to, any financial accounts connected to the information listed in Schedule A hereto, the e-mail addresses identified in Exhibit 2 to the Declaration of Thomas Schlegel, and any e-mail addresses provided for Defendants by third parties; and
 - b. restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further order by this Court.

9. Upon PFL's request, the domain name registrars and/or privacy protection services for the Defendant Domain Names are ordered to disclose to PFL the true identities of and contact information of the registrants of the Defendant Domain Names.
10. This Order shall apply to the Defendant Domain Names, associated websites, and any other domain names and websites which are being used by Defendants for the purpose of counterfeiting the PINK FLOYD Trademarks at issue in this action and/or unfairly competing with PFL.
11. PFL may provide notice of the proceedings in this case to Defendants, including service of process pursuant to Fed. R. Civ. P. 4(f)(3), and any future motions, by electronically publishing a link to the Pleadings, 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 Thomas Schlegel and any e-mail addresses provided for Defendants by third parties. The Clerk of the Court is directed to issue a single original summons in the name of "iteeglobal.com and all other Defendants identified in the Operative Complaint" that shall apply to all Defendants. The combination of providing notice via electronic publication and/or e-mail, along with any notice that Defendants receive from 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.
12. Any Defendants that are 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.

13. The ten thousand dollar (\$10,000) bond posted by PFL shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

SO ORDERED:


Matthew F. Kennelly
United States District Judge

Dated: 9/26/2022

Schedule A

No.	Defendants
1	iteeglobal.com
2	rocktee.net
3	perfecttouchprinted.com