

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 0:23-cv-61976-WPD

LEI TANG,

Plaintiff,

v.

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

**ORDER ON PLAINTIFF’S AMENDED
MOTION FOR ENTRY OF A PRELIMINARY INJUNCTION**

THIS MATTER comes before the Court on Plaintiff Lei Tang’s Amended Motion for Entry of a Preliminary Injunction. (“Plaintiff’s Motion for PI”). [DE 30]. Plaintiff, Lei Tang, (“Plaintiff”) moves for entry of preliminary injunction against Certain Defendants, Individuals, Partnerships, and Unincorporated Associations Identified on Schedule “A” to the Complaint as No. 10-24, 30-34, 36-49, and attached hereto, (collectively “Defendants” herein), and an order restraining the financial accounts used by Defendants pursuant to 17 U.S.C. § 504(b) and Federal Rule of Civil Procedure 65(a).

The Court has carefully considered the Motion, the record, and the governing law. For the reasons stated below, the Plaintiff’s Amended Motion for Entry of a Preliminary Injunction [DE 30] is **GRANTED**.

I. FACTUAL BACKGROUND

Plaintiff is the owner of Copyright Registration Nos. VA0002250612 and VA0002250627, (hereinafter, “the Tang Works”) which have effective registration dates of May 10 and 11, 2020, respectively. (Declaration of Lei Tang, hereinafter “the Tang Declaration,” D.E. 7 at ¶¶ 5, 7).

Since June of 2020, Plaintiff has utilized the Tang Works in connection with the advertisement, marketing and sale of retail items, as depicted therein, in interstate and foreign commerce, including commerce in the State of Florida and the Southern District of Florida. (*Id.* at ¶ 10)

In order to counter widespread infringement of the Tang Works, Plaintiff has undertaken an investigation which has established that Defendants are using various storefronts on at least the Amazon, ebay, and Walmart ecommerce platforms to sell products to consumers in the United States and the State of Florida, including the Southern District of Florida. (D.E. 7 at ¶ 17). The investigation revealed that the Defendants sell retail items through these platforms by marketing, advertising and soliciting sales using the Tang Works without permission through their respective Seller ID's. (*Id.* at 18). The Defendants are not now, nor have they ever been, authorized or licensed to use Plaintiff's Tang Works. (*Id.* at ¶ 24)

Plaintiff personally analyzed each of the screenshots and photographs of the products shown in Exhibit Four of the Tang Declaration and determined that products are being offered for sale to residents of the United States and the State of Florida utilizing the unauthorized and infringing copies of the Tang Works. (*Id.* at ¶ 21) Plaintiff reached this conclusion through visual inspection of the photographs of the photographs and screenshots included in Exhibit Four as they appeared on Defendants' online stores. (*Id.*)

II. LEGAL STANDARD

The Copyright Act provides that courts may grant injunctive relief "on such terms as it may deem reasonable to prevent or restrain infringement of a copyright." 17 U.S.C. § 502(a). A party seeking to obtain a preliminary injunction must demonstrate:

- (1) a substantial likelihood of success on the merits,
- (2) a substantial threat of irreparable injury if the injunction were not granted,
- (3) that the threatened injury to the plaintiff outweighs the harm an injunction may cause the defendant, and

(4) that granting the injunction would not disserve the public interest.

Suntrust Bank v. Houghton Mifflin Company, 268 F.3d 1257, 1265 (11th Cir. 2001) (citing *Am. Red Cross v. Palm Beach Blood Bank, Inc.*, 143 F.3d 1407, 1410 (11th Cir.1998)) (applying the test to a preliminary injunction in a Copyright Act case).

III. CONCLUSIONS OF LAW

The declarations that Plaintiff submitted in support of its *Ex Parte* Application for Temporary Restraining Order and the representations made in the Motion for Preliminary Injunction support the following conclusions of law:

A. The Plaintiff has a strong probability of proving at trial that (1) Plaintiff owns valid copyrights for the Tang Works and (2) Defendants copied constituent elements of the Tang Works that are original.

B. Because of the infringement of the Tang Works, the Plaintiff is likely to suffer immediate and irreparable injury if a preliminary injunction is not granted. The following specific facts, as set forth in the Plaintiff's Complaint, Application for Temporary Restraining Order, and accompanying declarations, demonstrate that immediate and irreparable loss, damage, and injury will result to the Plaintiff and to consumers before the Defendants can be heard in opposition unless the Plaintiff's request for relief is granted:

1. The Defendants own or control Internet based e-commerce stores through which Defendants sell products utilizing Plaintiff's Tang Works without permission;

2. There is good cause to believe that more products that do not originate with and are not approved by Plaintiff will appear in the marketplace that are marketed and sold utilizing unauthorized and infringing copies of Plaintiff's Tang Works without permission; that consumers are likely to be misled, confused, and disappointed by the quality of these products; and that the

Plaintiff may suffer loss of sales for its genuine products and an unnatural erosion of the legitimate marketplace in which it operates.

3. There is good cause to believe that the Defendants can easily and quickly change the ownership or modify domain registration and e-commerce store account data and content, change payment accounts, redirect consumer traffic to other seller identification names, and transfer assets and ownership of Seller IDs thereby thwarting the Plaintiff's ability to obtain meaningful relief.

C. If a preliminary injunction is issued, the potential harm to the Plaintiff, his reputation, and his goodwill associated with the Tang Works far outweighs the potential harm to the Defendants in restraining their trade associated with their use of the Tang Works.

D. The public interest favors issuance of the preliminary injunction to protect the Plaintiff's copyright interests, to encourage respect for the law and to protect the public from being defrauded.

E. Pursuant to 17 U.S.C. § 504(b), "[t]he copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages."

F. Requesting equitable relief "invokes the district court's inherent equitable powers to order preliminary relief, including an asset freeze, in order to assure the availability of permanent relief." *Levi Strauss & Co.*, 51 F.3d at 987 (citing *Federal Trade Commission v. United States Oil & Gas Corp.*, 748 F.2d 1431, 1433-34 (11th Cir. 1984)).

G. In light of the inherently deceptive nature of the counterfeiting business, and the likelihood that the Defendants have violated federal copyright laws, the Plaintiff has good reason

to believe the Defendants will hide or transfer their ill-gotten assets beyond the jurisdiction of this Court unless those assets are restrained.

Upon review of the Plaintiff's Complaint, Motion for Entry of Preliminary Injunction, and supporting evidentiary submissions, the Court hereby

ORDERS AND ADJUDGES that the Plaintiff's Amended Motion for Entry of a Preliminary Injunction Order (D.E. 30) is GRANTED, under the terms set forth below:

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 are temporarily enjoined and restrained from:

a. reproducing, distributing copies of, making derivative works of, or publicly displaying the Tang Works in any manner without the express authorization of Plaintiff;

b. using the Tang Works in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants;

c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;

d. further infringing the Tang Works and damaging Plaintiff's goodwill; and

e. from secreting, concealing, destroying, selling off, transferring, or otherwise disposing of: (i) any evidence relating to the manufacture, importation, sale, offer for sale, distribution, or transfer of any products marketed, sold or offered for sale using the Tang Works or substantially similar reproductions; or (ii) any assets or other financial accounts subject to this Order, in the actual or constructive possession of, or owned, controlled, or held by, or subject to

access by, any of the Defendants, including, but not limited to, any assets held by or on behalf of any of the Defendants.

2. Each of the Defendants, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any of the Defendants having notice of this Order shall immediately discontinue the use of the Tang Works, or substantially similar images, on or in connection with, all Internet based e-commerce stores owned and operated, or controlled by them, including the Internet based e-commerce stores operating under the Seller ID's.

(3) Each of the Defendants shall not transfer ownership of the Seller IDs during the pendency of this action, or until further Order of the Court.

(4) Upon receipt of notice of this Order, the Defendants and any third party financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms that are providing services for any of the Defendants, including but not limited to, Amazon, Amazon Pay, Ebay, Paypal, Walmart, Stripe and Payoneer and their related companies and affiliates (collectively, the "Third Party Providers"), shall within five (5) business days after receipt of notice of this Order,

a. Restrain the transfer of all funds, including funds relating to ongoing account activity, held or received for the Defendants' benefit or to be transferred into the Defendants' respective financial accounts, restrain any other financial accounts tied thereto, and immediately divert those restrained funds to a holding account for the trust of the Court. Such restraining of the funds and the disclosure of the related financial institution account information (as provided below) shall be made without notice to the account owners or the financial institutions until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered

by any Third Party Provider for any purpose (other than pursuant to a chargeback made pursuant to their security interest in the funds) without the express authorization of this Court.

b. Provide Plaintiff expedited discovery of the following: (i) the identity of all financial accounts and/or sub-accounts associated with the Internet based e-commerce stores operating under the Seller IDs identified on the Schedule "A" to the Complaint, and attached hereto, as well as any other accounts of the same customer(s); (ii) the identity and location of the Defendants identified in the Schedule "A," including all known contact information including any and all known aliases and associated e-mail addresses; (iii) an accounting of the total funds restrained and identities of the financial account(s) and sub-account(s) for which the restrained funds are related.

(5) Any Defendant or Third Party Provider subject to this Order may petition the Court to modify the asset restraint set out in this Order.

(6) In addition to other methods authorized by law, Plaintiff may provide notice of these proceedings to third parties by delivery of this Order and other relevant documents to the following Online Marketplace platforms, Financial Institutions and/or Third Party Service Providers at the following addresses:

- i. Amazon at legal@amazon.com and registrar-abuse@amazon.com;
- ii. PayPal, attention EE Omaha Legal Specialist at EEOMALegalSpecialist@paypal.com;
- iii. eBay, Inc., Ms. Kara Ricupero, Senior Director, Global Information Governance, at kricupero@ebay.com, copyright@ebay.com and/or tros@ebay.com;
- iv. Stripe, Attn. Legal, at notices@stripe.com;
- v. Payoneer, VP of Operations at VPOperations@Payoneer.com and/or Melissa

Godwin, Legal Counsel, at melissa.godwin@us.dlapiper.com;

- vi. Walmart Inc. at Legal@walmartlegal.com and
TROlegalcomms@walmartlegal.com;
- vii. DHGate at patrol@dhgate.com;
- viii. Wish at Doro.Park@btlaw.com; Dwight.Lueck@btlaw.com;

Brittany.Smith@btlaw.com; Rocky.Cislak@btlaw.com

- ix. Aliexpress at ipr-ustro@aliexpress.com

(7) This Order shall apply to the Seller IDs, associated ecommerce stores and websites, and any other seller identification names, e-commerce stores, domain names, websites, or financial accounts which are being used by Defendants for the purpose of infringing the Tang Works at issue in this action and/or unfairly competing with Plaintiff.

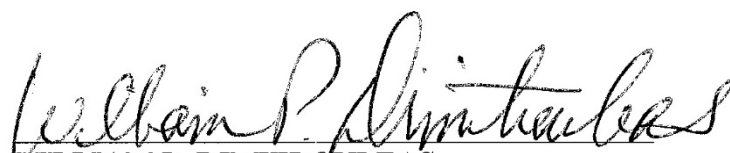
(8) The Court determines that the bond in the amount of Twenty Five Thousand Dollars and Zero Cents (\$25,000.00), posted by Plaintiff on November 3, 2023 is sufficient and shall remain with the Court until a final disposition or until this Preliminary Injunction is dissolved or terminated.

(10) This preliminary injunction order shall remain in effect until a final disposition or until this Preliminary Injunction is dissolved or terminated.

(11) Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on two days' notice to Plaintiff or on shorter notice as set by this Court.

DONE AND ORDERED in Chambers at Ft. Lauderdale, Broward County, Florida this 15th day of December, 2023.

cc: counsel of record


WILLIAM P. DIMITROULEAS
United States District Judge

SCHEDULE A

Def. No.	Platform	STORE NAME
1	Alibaba	EXCLUDED
2	Alibaba	EXCLUDED
3	Alibaba	EXCLUDED
4	Alibaba	EXCLUDED
5	Alibaba	EXCLUDED
6	Alibaba	EXCLUDED
7	Alibaba	EXCLUDED
8	Alibaba	EXCLUDED
9	Alibaba	EXCLUDED
10	AliExpress	GHJKKSAR Store
11	Amazon	HeHeXuan
12	Amazon	Mr. Shang's boutique
13	Amazon	xingxingfa
14	Amazon	Yixinchao Shop
15	DHgate	denimbi Store
16	DHgate	derricky Store
17	ebay	hbjsxthree

18	ebay	jiaojia-99
19	ebay	jiaoq-92
20	ebay	mudrwman
21	ebay	sell_tek
22	ebay	yew.fashion20
23	ebay	zuanqian1
24	ebay	zyyltd_17
25	etsy	EXCLUDED
26	etsy	EXCLUDED
27	Individual	DISMISSED (DE 19)
28	Individual	DISMISSED (DE 19)
29	Individual	DISMISSED (DE 19)
30	Walmart	AURORA TRADE INC
31	Walmart	Grand Birches Inc
32	Walmart	Hortus Supellectilem INC
33	Walmart	Htpoil Holding Trade Co., Ltd
34	Walmart	Iaobao Limited
35	Walmart	EXCLUDED
36	Walmart	KENBI FURNITURE
37	walmart	Martin Company LLC
38	Walmart	MOUSAVI INC
39	Walmart	Phone & Accessories Inc

40	Walmart	Shenzhenshi Yizhuanglong Maoyi Youxiangongsi
41	Walmart	Specialty Shop
42	Walmart	stay real Shop
43	walmart	Yirtree
44	Wish	Abless
45	Wish	Cangrejos Number One Fetis
46	Wish	Christmas Decoration
47	Wish	Cker
48	Wish	FIYO Diamond Painting Art
49	Wish	Grandi Brick King