

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**MUHAMMAD ALI ENTERPRISES
LLC,**

Plaintiff,

v.

aabc147, et al.,

Defendants.

Civil Action No. 1:21-cv-01214-AT

PRELIMINARY INJUNCTION ORDER

INTRODUCTION

THIS CAUSE has come before the Court on Plaintiff Muhammad Ali Enterprises LLC's ("Plaintiff's") Motion for an Order to Show Cause why a Preliminary Injunction Should Not Issue ("Motion for Preliminary Injunction") pursuant to Rule 65 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1651(a), 15 U.S.C. § 1116, 15 U.S.C. § 1114, and 15 U.S.C § 1125(a). The Court previously entered a temporary restraining order ("TRO"), which included an asset freeze and other equitable relief.

As discussed below, Plaintiff has satisfied the requirements for the issuance of a preliminary injunction.

I. APPLICABLE LEGAL STANDARDS

A court will issue a preliminary injunction where the requesting party demonstrates the following four factors: (1) it has a substantial likelihood of success on the merits; (2) the moving party will suffer irreparable injury if the order is not granted; (3) that the threatened injury to the plaintiff outweighs the harm the relief would inflict on the non-movant; and (4) entry of the order would serve the public interest. *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005) (per curiam); *Cathedral Art Metal Co. v. Divinity Boutique, LLC*, 2018 WL 566510 at *4 (N.D. Ga. 2018) (applying four-part test and granting preliminary injunction in a Lanham Act case).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court, having reviewed the Plaintiff’s Motion, Memorandum, and supporting declarations and evidence, makes the following findings of facts and conclusions of law:

A. Plaintiff's Trademarks

1) Plaintiff owns all intellectual property, including all trademark rights, of Muhammad Ali's estate and is current owner of the global trademark portfolio of the late Muhammad Ali.

2) Plaintiff has adopted, used and/or registered numerous trademarks in connection with various products, including the following, ("**Plaintiff's Marks**")

Mark	U.S. Federal Reg. Nos.
MUHAMMAD ALI	5263215
MUHAMMAD ALI	3772766
MUHAMMAD ALI	3968626
MUHAMMAD ALI	3732734
CASSIUS CLAY	3779469
ALI	4031813
THE GREATEST	3898186
RUMBLE IN THE JUNGLE	3982443

B. Defendants' Advertising and Sale of Counterfeit and Infringing Works.

3) Defendants are foreign distributors and resellers of a variety of goods. Defendants advertise and sell their goods through online marketplaces such as

Alibaba, AliExpress, DHGate, Amazon, Ebay, Joom, and/or Wish

(“**Marketplaces**”).

4) Defendants offer to sell and offer to ship their goods to buyers located in the United States, including in this judicial district.

5) Defendants accept payment for their goods in U.S. Dollars through a variety of payment processors and financial institutions, including AliPay, DHPay, PayPal, and ContextLogic (“**Financial Institutions**”).

6) Each Defendant is advertising and offering for sale goods using or bearing counterfeit copies of at least one of Plaintiff’s Marks, is using a counterfeit of at least one of Plaintiff’s Marks in its listings for non-genuine copies of Plaintiff’s goods, or is using a confusingly similar trademark to one of Plaintiff’s Marks in the marketing and sale of its goods (“**Counterfeit Products**”) through its virtual storefront(s) on the Marketplaces.

7) Each Defendant has sold and shipped, and/or is willing to sell and ship, Counterfeit Products to customers in the United States, including in this judicial district.

8) Defendants are subject to the personal jurisdiction of this Court pursuant to Rule 4(k)(2) of the Federal Rules of Civil Procedure, and exercising jurisdiction over Defendants is consistent with the United States Constitution and

its laws. Based on the facts set forth above, it is reasonable for Defendants to expect that they may be sued in the United States. *U.S. S.E.C. v. Carrillo*, 115 F.3d 1540, 1542-47 (11th Cir. 1997)(holding court had personal jurisdiction over foreign corporation where defendant placed ads for securities in two airlines' in-flight magazines, mailed offering materials directly to U.S. investors, and maintained U.S. bank accounts to receive payment from investors.); *Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F.3d 1339, 1355-58 (11th Cir. 2013)(affirming jurisdiction over non-resident who sold counterfeit products through fully-interactive website).

9) Plaintiff has never authorized any of the Defendants to use any of Plaintiff's Marks on or in the advertising, promotion, or sale of any goods in the United States.

10) Plaintiff has established that the Counterfeit Products offered for sale by Defendants are not genuine and that Defendants are using one or more of Plaintiff's Marks on or in connection with the advertising and promotion of their Counterfeit Products.

11) Plaintiff has established that it is substantially likely to succeed on the merits of its trademark infringement claims:

- a) Plaintiff owns valid federal trademark registrations for Plaintiff's Marks;

- b) The Counterfeit Products that Defendants are advertising and offering for sale are not genuine;
- c) Defendants are using spurious marks that are identical with, or substantially indistinguishable from, one or more of Plaintiff's Marks in commerce on or in connection with the advertising, offering for sale, and/or sale of the Counterfeit Products; and
- d) Defendants' use of Plaintiff's Marks on or in connection with the advertising and sale of Counterfeit Products is likely to cause consumer confusion, mistake, or deception as to the source or origin of the Counterfeit Products.

12) Under 15 U.S.C. § 1116(a) (2020), Plaintiff is entitled to a rebuttable presumption of irreparable harm in cases where, as here, Plaintiff is seeking a preliminary injunction and has demonstrated a likelihood of success on the merits. As held in the preceding paragraph, Plaintiff has made a demonstration of a likelihood of success on the merits and is, therefore, automatically entitled to a presumption of irreparable harm, thereby satisfying the second factor of the preliminary injunction analysis.

13) Even in the absence of this rebuttable presumption, Plaintiff has shown that it is likely to suffer irreparable harm if an injunction does not issue. The

Counterfeit Products are of inferior quality to Plaintiff's genuine goods, misleading consumers as to the true quality of Plaintiff's goods and causing consumer confusion, mistake, and deception all to the detriment of Plaintiff's goodwill. The continued sale of the Counterfeit Products threatens Plaintiff with the loss of control of its reputation and loss of the considerable goodwill it has established with customers. Moreover, Plaintiff has established that Counterfeit Products typically do not meet applicable product safety or labeling requirements. This is more than sufficient to establish a likelihood of irreparable harm. *Ferrellgas Partners, L.P.*, 143 Fed. Appx. 180, 190 (11th Cir. 2005); *Crossfit, Inc. v. Quinnie*, 232 F. Supp.3d 1295, 1316 (N.D. Ga. 2017) ("The most corrosive and irreparable harm attributable to trademark infringement is the inability of the victim to control the nature and quality of the defendants' goods.").

14) It is likely that Plaintiff and consumers who purchase Defendants' Counterfeit Products will suffer immediate and irreparable loss, damage, or injury unless Plaintiff's request for *ex parte* relief is granted:

- a) It is likely that Defendants will continue to sell counterfeit and infringing goods through their virtual storefronts on the Marketplaces storefronts in the absence of the requested injunction;

- b) As a result, it is likely that consumers will continue to be misled, confused, and disappointed by the quality of these goods, thereby significantly and irreparably damaging Plaintiff's valuable goodwill; and
- c) Plaintiff will continue to suffer lost sales of genuine goods as the result of the lower-cost Counterfeit Products offered for sale by Defendants.

15) The balance of harms favors Plaintiff. If the injunction is denied, Defendants will be able to shut down their virtual storefronts on the Marketplaces, transfer their ill-gotten gains away from the Marketplaces, and otherwise take immediate steps to conceal their infringing conduct and prevent Plaintiff from obtaining meaningful relief. In contrast, if the Court grants the requested injunction, Defendants will be prohibited from continuing to advertise, offer for sale, and sell Counterfeit Products to consumers in the United States and may be required to disgorge their ill-gotten gains from the past sale of such Counterfeit Products, neither of which constitutes any substantial harm.

16) Granting the injunction will also be in the public's interest. It will remove from the stream of commerce counterfeit and infringing goods that do not

meet Plaintiff's quality control requirements, thereby preventing further consumer harm, confusion, mistake, or deception.

17) Plaintiff has requested a permanent injunction and recovery of Defendants' ill-gotten profits from their sale of Counterfeit Products pursuant to 15 U.S.C. § 1117(a).

18) By requesting equitable relief, Plaintiff has invoked this 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. v. Sunrise Intern. Trading Inc.*, 51 F.3d 982, 987 (11th Cir. 1995) (citing *Fed. Trade Comm'n v. U.S. Oil & Gas Corp.*, 748 F.2d 1431, 1433–34 (11th Cir. 1984)).

19) Defendants are likely to destroy evidence of their counterfeiting activities, such as evidence regarding their virtual storefronts and payment processing histories on the Marketplaces and other financial institutions, as well as hide and/or transfer any ill-gotten proceeds from the sale of Counterfeit Products outside of the jurisdiction of this Court, unless those assets are frozen or otherwise restrained.

In light of the foregoing, it is hereby **ORDERED AND ADJUDGED** that Plaintiff's Motion for Preliminary Injunction is **GRANTED** as follows:

1) Each Defendant (as reflected on the attached Exhibit A), its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this Order is hereby ordered for the duration of this lawsuit, to:

- a) Cease or refrain from manufacturing, advertising, offering for sale, selling, distributing, destroying, selling off, transferring, or otherwise disposing of any Counterfeit Products;
- b) Cease or refrain from manufacturing, advertising, offering to sell, selling, reproducing, or distributing any goods bearing Plaintiff's Marks, or any confusingly similar trademarks, other than genuine products manufactured or distributed by Plaintiff or its authorized manufacturers and distributors; and
- c) Cease or refrain from destroying, selling off, transferring, or otherwise disposing of any documents, electronically stored information, or financial records or assets of any kind relating to the manufacture, importation, sale, offer for sale, distribution, or transfer of any Counterfeit Products;
- d) Cease or refrain from using Plaintiff's Marks, or any confusingly similar trademarks, on or in connection with any virtual

storefront that any Defendant may own, operate, or control on any Marketplace;

- e) Cease or refrain from any and all use of Plaintiff's Marks, or any confusingly similar trademarks, as metatags, on any webpage (including the title of any web page), in any advertising links to other websites, from search engines' databases or cache memory, or any other form of use of such terms that are visible to a computer user or serves to direct computer searches to virtual storefronts registered, owned, or operated by any Defendant on any Marketplace; and
- f) Cease or refrain from altering, disabling, closing, or transferring ownership of any virtual storefront on any Marketplace during the pendency of this Action, or until further Order of the Court.

2) For the duration of this suit, each Defendant must preserve all documents and electronically stored information arising from or related to its sale, offering for sale, advertising, or promotion of Counterfeit Products through its virtual storefronts located on the Marketplaces.

3) All financial institutions, such as payment processors, banks, escrow services, money transmitters, or Marketplaces, including but not limited to: PayPal, Inc. ("PayPal"), Ant Financial Services Group d/b/a AliPay and AliPay

US, Inc. (“AliPay”), DHPay Inc. (“DHPay”), Camel FinTech, Inc. (“Camel FinTech”), ContextLogic, Inc. (“ContextLogic”), or any other companies that engage or have engaged in the processing or transfer of money of or on behalf of any Defendants by virtue of their operation of virtual storefronts on any of the Marketplaces (the “Financial Institutions”) who receive actual notice of this Order shall immediately attach and freeze all funds in any accounts owned, controlled or utilized by or associated with Defendants or otherwise prohibit the transfer of any funds out of any such accounts and divert any frozen funds and any additional funds that may be transferred into the accounts into a holding account at the Marketplace or the respective Financial Institution for the trust of the Court, with such frozen funds and/or holding accounts being held, maintained, and/or located exclusively within the United States.

4) Within seven (7) days of receiving actual notice of this Order, all Financial Institutions shall provide a report to Plaintiff for each Defendant having any account with the Financial Institution, the report to include, at a minimum, the following information:

- a) Legal name and email address of each Defendant;
- b) Current account balances and amount of funds attached, frozen, and being held in trust pursuant to this Order;

c) Identity of all financial accounts linked to or associated with each Defendant's account associated with the virtual storefronts on the Marketplaces, or from or to which funds have been transferred from the attached accounts, including the name of the financial institution, account numbers, routing numbers, and other relevant data to allow Plaintiff to seek further application of this Order.

5) No funds restrained by this Order shall be transferred or surrendered by any Financial Institution or Marketplace for any purpose (other than pursuant to a chargeback made pursuant to their security interest in the funds) without the express authorization of the Court.

6) Upon receipt of notice of this Order, each Marketplace (including but not limited to Alibaba, AliExpress, DHGate, Amazon, Ebay, Joom, and Wish, as well as any other e-commerce platform hosting virtual storefronts for any Defendant) on which a Defendant maintains a virtual storefront or account is ordered to immediately:

a) Provide to Plaintiff the name and email address of each Defendant having an account or store on the Marketplace;

b) Freeze all funds held or received by the Marketplace for any Defendant's benefit; and

c) Disable each Defendant's virtual storefronts on the Marketplaces and any accounts associated with each Defendant and cease providing any services to Defendants.

7) Plaintiff may notify the Marketplaces and Financial Institutions of this Order by electronic means, including by electronic mail.

8) Pursuant to this Court's discretion, Plaintiff shall not presently be required to post a bond or other security. *BellSouth Telecommunications, Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005). However, any Defendant may appear and immediately challenge this portion of the Order by providing the Court with a reasonable estimation of its potential lost sales, along with supporting documentation sufficient to allow the Court to decide what an appropriate amount of surety would be. Plaintiff will then have one (1) week in which to file a response.

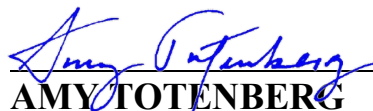
9) This Order shall expire upon entry of a final judgment in this case.

10) This Order shall apply to Defendants, their associated virtual storefronts on the Marketplaces, and any other websites, domain names, seller identification names, e-commerce stores, or Financial Institution accounts which are being used by Defendants for the purpose of advertising, offering for sale, and

selling any Counterfeit Products at issue in this action and/or unfairly competing with Plaintiff.

11) Defendants and/or any other affected persons may challenge the appropriateness of this Order and move to dissolve this preliminary injunction and may request to be heard by contacting Mr. Harry Martin via email at Harry_Martin@gand.uscourts.gov, at which time the Court will schedule a hearing to hear argument on Defendants' behalf. Plaintiff is **DIRECTED** to serve a copy of this Order on each Defendant using the email addresses provided by the Marketplaces, Financial Institutions, or Defendants themselves, or by other electronic means reasonably calculated to result in actual notice. Plaintiff is **FURTHER DIRECTED** to immediately notify the Court if any Defendant requests additional information on how to request dissolution of this Order.

SO ORDERED this 23rd day of April, 2021.



AMY TOTENBERG
UNITED STATES DISTRICT JUDGE

EXHIBIT A

LIST OF ALL NAMED DEFENDANTS SUBJECT TO ORDER

1. **aabc147**
2. **alpharettagate**
3. **annarbormall**
4. **aristotelesgate**
5. **art4you**
6. **artheaven**
7. **ashley323**
8. **asiteonetrade**
9. **atlanticcitybest**
10. **augustagate**
11. **authenticgate**
12. **aututerseller**
13. **azoresgate**
14. **bacongate**
15. **battlecreekmall**
16. **bettycat**
17. **brunswickgate**

18. **bstshopping**
19. **burbankgate**
20. **caddigate**
21. **caesargate**
22. **carsoncitybest**
23. **carsonyep**
24. **casesgate**
25. **catherine004**
26. **ceylongate**
27. **chenghongjie2009**
28. **cherryhillgoods**
29. **chinaartscentre**
30. **coenshop**
31. **coldgate**
32. **colin1987**
33. **cong02**
34. **cong04**
35. **countrysideshop**
36. **crichtonshop**

37. **cx324**
38. **dafucloth**
39. **davismask_006**
40. **delshop**
41. **delshopsss**
42. **detroitmall**
43. **dh_hoinco**
44. **dhlemontree**
45. **dhprivate**
46. **dickensgate**
47. **dingdang535**
48. **dou02**
49. **downeygate**
50. **duluthmall**
51. **elybest**
52. **eneiing88**
53. **englandgate**
54. **ericwang_1449**
55. **fashion89show**

56. **fitchburgshop**
57. **floragate**
58. **flowerworld885**
59. **fordshop**
60. **foreverfriends**
61. **fortmyersgate**
62. **godblessui**
63. **godmorningwe**
64. **gohtegate**
65. **goodtime98**
66. **guangcity_123**
67. **hanshuochina01**
68. **happy668899store**
69. **hobokenbest**
70. **Home decoration**
71. **homerosgate**
72. **honwen**
73. **informsgate**
74. **irvinegate**

75. **jellicoshop**
76. **jiakpu**
77. **jimlucky123**
78. **jing1005**
79. **jinhe21012507**
80. **jinwenwu_573**
81. **jwdhgate**
82. **kapalian**
83. **kkxxdh**
84. **kong01**
85. **lagunagate**
86. **lasvegasbest**
87. **lincolnbest**
88. **liuliuwh**
89. **longbranchbest**
90. **love_olympic**
91. **love_sky**
92. **ludingtonmall**
93. **luolioutlet**

94. **luolisale**
95. **m2008cn**
96. **make06**
97. **malory320**
98. **manhattanshop**
99. **mariagate**
100. **marymaiuss**
101. **maskfashiondh**
102. **meimeigallery**
103. **moan2017**
104. **monkeymall**
105. **monroemall**
106. **mu02**
107. **muskegonmall**
108. **newbrunswickbest**
109. **nice8688**
110. **niguelgate**
111. **observationsgate**
112. **Oil Painting Art World**

113. peabodyshop

114. piano_201

115. pjb00755246

116. platongate

117. pleasantongate

118. priscille

119. quality516

120. rabbitshops

121. renobest

122. satesuigg

123. shakespearegate

124. shinyyao

125. sidandianzi

126. skyblueblue

127. soamazing

128. store2002

129. thackeraygate

130. thwaitesgate

131. trentonbest

- 132. **vinelandgoods**
- 133. **voicemanys**
- 134. **watsongate**
- 135. **waycrossgate**
- 136. **wichitashop**
- 137. **wmc0418**
- 138. **wuhuanhuan1620**
- 139. **xu0215**
- 140. **yjh_008**
- 141. **yong518**
- 142. **zhouzhaoyu**
- 143. **zhusdhgates**
- 144. **ziggieuhh**
- 145. **zwinzseller**