

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

WHAM-O HOLDING, LTD. and  
INTERSPORT CORP. d/b/a WHAM-O,

Plaintiffs,

v.

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

Defendants.

No. 21-cv-01641  
Judge Franklin U. Valderrama

**PRELIMINARY INJUNCTION ORDER**

THIS CAUSE being before the Court on Plaintiffs, WHAM-O HOLDING, LTD. and INTERSPORT CORP. d/b/a WHAM-O (“WHAM-O” or “Plaintiffs”), Motion for a Preliminary Injunction, and this Court having heard the evidence before it hereby GRANTS Plaintiffs’ 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 based on WHAM-O’s un rebutted assertions that the Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, Defendants have targeted sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more online marketplace accounts (the “Defendant Online Stores”), offer shipping to the United States, including Illinois, accept payment in U.S. dollars, and have sold products using counterfeit and infringing versions of the HULA HOOP Trademark. “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, Plaintiffs have presented screenshot evidence that each Defendant Online 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. 14, which includes screenshot evidence confirming that each Defendant Online Store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the HULA HOOP trademark, U.S. Trademark Registration No. 739,307 (“The HULA HOOP Trademark”).

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

Specifically, WHAM-O has proved a *prima facie* case of trademark infringement because (1) the HULA HOOP 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 HULA HOOP Trademark, and (3) Defendants’ use of the HULA HOOP Trademark is causing a likelihood of confusion as to the origin or sponsorship of Defendants’ products with WHAM-O.

Furthermore, Defendants' continued and unauthorized use of the HULA HOOP Trademark irreparably harms WHAM-O through diminished goodwill and brand confidence, damage to WHAM-O's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, WHAM-O 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, 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 HULA HOOP Trademark 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 HULA HOOP product or not authorized by WHAM-O to be sold in connection with the HULA HOOP Trademark;
  - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine HULA HOOP product or any other product produced by WHAM-O, that is not WHAM-O's or not produced under the authorization, control or supervision of WHAM-O and approved by WHAM-O for sale under the HULA HOOP Trademark;
  - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control or supervision of WHAM-O, or are sponsored by, approved by, or otherwise connected with HULA HOOP;

- d. further infringing the HULA HOOP Trademark and damaging WHAM-O's goodwill;
  - e. otherwise competing unfairly with WHAM-O 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 WHAM-O, nor authorized by WHAM-O to be sold or offered for sale, and which bear the HULA HOOP 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, or any other online marketplace account that is being used to sell or is the means by which Defendants could continue to sell Counterfeit/Infringing HULA HOOP products; and
  - h. operating and/or hosting at the Online Marketplace Accounts and any other online marketplace accounts registered or operated by Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing the HULA HOOP Trademark or any reproductions, counterfeit copies or colorable imitations thereof that is not a genuine HULA HOOP product or not authorized by WHAM-O to be sold in connection with the HULA HOOP Trademark.
2. Those in privity with Defendants and with actual notice of this Order, including any online marketplaces such as, but not limited to Amazon, (collectively, "Marketplaces"), social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing and Yahoo, shall within five (5) 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 HULA HOOP Trademark, 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 HULA HOOP Trademark; and
  - c. take all steps necessary to prevent links to the Defendant Online Marketplace Accounts identified in Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Online Stores from any search index.
3. 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' Online Stores or other websites operated by Defendants, including, without limitation, any online marketplace platforms such as Marketplaces, 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, Alipay, Western Union, third party processors and other payment processing service providers, shippers, and online marketplace registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide WHAM-O expedited discovery, pursuant to Federal Rules of Civil Procedure 33, 34, and 36, 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 Defendant Online Stores, and Defendants' financial accounts, as well as providing a full accounting of Defendants' sales and listing history related to their respective Online Marketplace Accounts;
  - c. Defendants' websites and/or any Defendant Online Stores;
  - d. the Defendant Online Stores 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, Amazon, PayPal, Alipay, Western Union, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
4. 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.
  5. eBay, Inc. ("eBay"), PayPal, Inc. ("PayPal"), Context Logic, Inc. ("WISH"), Amazon Payments, Inc. ("Amazon"), and Alipay US, Inc. and its entities ("Alipay"), shall,

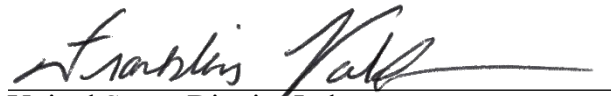
within five (5) business days of receipt of this Order, for any Defendant or any of Defendants' Online Marketplace Accounts or websites:

- a. locate all accounts and funds connected to Defendants, Defendants' Online Stores or Defendants' websites, including, but not limited to, any eBay, PayPal, WISH, Amazon, and Alipay accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Todd Richards; 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.
6. 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, or Defendants' Online Stores, including, but not limited to, any accounts connected to the information listed in Schedule A hereto or the email addresses identified in Exhibit 2 to the Declaration of Todd Richards; 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.
7. WHAM-O 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, and by sending an e-mail to the e-mail addresses identified in

Exhibit 2 to the Declaration of Todd Richards 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 “4dcavitationmall. and all other Defendants identified in Complaint” that shall apply to all Defendants. The combination of providing notice via electronic publication and e-mail, along with any notice that Defendants receive from Online Marketplace Accounts 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.

8. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order on three (3) days’ notice to WHAM-O or on shorter notice as set by this Court.
9. The \$10,000 bond posted by WHAM-O shall remain with the Court until a Final disposition of this case or until this Preliminary Injunction is terminated.
10. The Clerk is directed to unseal any previously sealed documents in this matter, namely (1) R. 3, Plaintiffs’ Schedule A attached to the Complaint, which includes a list of the Defendant Online Stores; (2) R. 14, screenshot printouts showing the active Defendant Online Stores (Exhibit 2 to the Declaration of Todd Richards); and (3) R. 17, the Temporary Restraining Order.

Date: 5/10/2021

  
United States District Judge  
Franklin U. Valderrama



**SCHEDULE A**

<b>No.</b>	<b>Defendants</b>
1	4dcavitationmall
2	avnesmoelevic 0
3	cocoa_design
4	d.emporium
5	lilma-4989
6	maheshudayanga679
7	myultr_5
8	nm-online-store
9	thilo lk2014
10	ugsy3993
11	umayanishop
12	value-dollar-store
13	viraadikar-0
14	wag9113_vkdojvcrs
15	worldshop93
16	dongfenyihao
17	haienstore
18	hajdsfds33
19	happydeal20
20	himilk
21	JIANGjy
22	Jorge Cedillos
23	lixiaoyanlongshuai
24	Lsaoex
25	lufenglin
26	mjnqbfv19
27	Poongam
28	SaPaTa Company
29	shenzhen xinshengshang technology co.LTD
30	smart_life99
31	Stubbornness
32	Sunring
33	whaleuncle
34	Xgody_sunrun
35	XL-bridge-01
36	yikupo
37	yuuann
38	zhangjianli111
39	24 Hours Online
40	ABETER
41	AIDUHUNSHASHOP
42	AMZCOOE

43	AMZZD
44	baboland
45	BAIHAITUN
46	BAOMABA
47	Bigshayu
48	Body Health & Care
49	CAMEL HILIFE
50	CASA DE EVA
51	Chao Miao
52	CHENG FEI
53	ChenHengg
54	Cheriser
55	CHILEAF
56	chunqiaoshop
57	CHWufEN US 7-15 Days Shipping
58	CN Little seller US
59	Conglibai Electronic
60	Coolkehair
61	Cosmic galaxy us
62	cuishanhuwai
63	CWYP
64	daikegongsi
65	DaLianShunFaXinXingDianLiJianSheGongChengYou
66	dashengM01
67	dehong555
68	DIANSHENG
69	dingqishangmao
70	DSKFLG
71	duanxuYBD
72	enshishipengzhanhangshangmaoyouxiangongsi
73	EUMENIDES
74	euyr5
75	Excellent quality NACH
76	FADIANDIAN
77	Fat boy variety store
78	fenghongbaihuo
79	FER-HONG
80	Fgir/gjf58
81	flybaby
82	for you thing
83	fuxingyu
84	fyquanyou-1
85	Gellphak
86	Goohifunny
87	Gotooshop

88	guangzhou jin si te ke ji you xian gong si
89	hanhandeyichu
90	HANHANJIE
91	Haowangpupuwang Housing Information Service Department, Xiaodian District, Taiyuan City
92	haoxingqingbianlidian
93	happpylife
94	Hardware store US
95	HERMEPER
96	hguaow
97	HKHT-US
98	HNXFWL
99	Holleno Lighting
100	HUALANGSM
101	Husmued
102	huwangshangdian
103	ingguojiase
104	Ioohul
105	Irismaru
106	ixm*L9137
107	JIAHENGDIANZI
108	jiangxiangujiangzhenyouniantongxiedian
109	Jie Dian Home
110	JIJIDIANZISHANGWU
111	JIIKINGWINNER
112	Jinan Chengtian Electronic Commerce Co., Ltd.
113	jinxiangmiduoaishipinyouxiangongsi
114	Jinyang Commodity Store
115	Jinyun. US
116	Jinzhong Shuangyou Huizhi Education Consulting Co.
117	JiuChangShengMaoYi
118	JMME
119	Joy Symons
120	junyius
121	kiiier
122	KJSDHFH
123	Kobowei
124	Kuruioo
125	LADONG
126	LAVIANA
127	Leaf Dream Shop
128	Leaf Song
129	liboyujudian
130	Lifesty ler
131	Lightning Express 7-13Days Arrival

132	LIJUNQIXIU
133	liliuusa
134	LINGJUN SHOES
135	linxianmuguapingxiangtangshengyandian
136	LITINGTIN
137	liuqiangstoer
138	liyouping
139	LL-USA
140	Lovely Lenkaa
141	LUCKY OCEAN STORE
142	Lunan Stone Forest
143	lykuka
144	Magic Practice Copybook
145	mai shi da
146	Meizhixin Commercial Store, Qujiang New District,
147	MianYangJuMengFanXingTiYuKeJiYouXianGongSi
148	MPIO
149	Mtotoguw
150	MT-ZYW
151	MyForeverLove
152	mzsangyi
153	NCAI
154	NDS business
155	Nuofeng Technology Inc
156	olaku
157	ONETOPU
158	ourihaoyishangmao
159	OUTLANDWAY
160	Ovnshery
161	Owlhouse
162	Pandora's Pandora's Box
163	PanFlower
164	Pengcheng Department Store
165	Phone mate
166	Qinkuan
167	QTSQYDMM
168	quanyou-2
169	Quanzhourongguomaoyiyouxiangongsi
170	runxistore
171	ruowu
172	sai ge ya
173	seroky
174	shannaus
175	shanxibobikejiyouxiangongsi
176	shanxiruierweitetieluwuziyouxiangongsi

177	shanxiyueyangyunshangwangluokejiyouxianzerengongsi
178	Shen zhen fei nuo
179	shijiatongyuan
180	shuaiYUN
181	sifang outdoor store
182	sikangma
183	Songyun
184	SONNY-US
185	StonKraft USA
186	sundamei
187	SUN-Technology
188	SYlibes
189	Syliver Direct
190	TaYoung
191	Tian Mei Shop
192	TianTianWuZi
193	TianyBM
194	Tihuunwz
195	tingze416
196	TLXM Technology
197	udhOnshD
198	Up to 88% OFF ⚡ ⚡ ★LONGDAY★★ ⚡ Best for you
199	Upsy Daisy-D
200	usyingban2102
201	Wallarenear
202	Warm Space ^ ^
203	WEIJIANqinG
204	weikai
205	WENFEN-SHOP
206	Whl-us
207	WoDBiut
208	wudixianliuyueriyongbaihuodian
209	xiangmikeji
210	xianzhupinwangluokejiyouxiangongsi
211	XiaoBoSheJiUS
212	xiaokangdian
213	xiapinfo
214	xinghuazhan
215	XINGMAI
216	xingqichen
217	Xinhuaiyin Market Boyang Computer Store
218	XINYIRONGHUA
219	XQUS
220	xueruijing
221	YANGIMN Stargazer

222	yantongyu
223	yanyongtaousa
224	Yatwan
225	YILONGTECH
226	YINQAG-US
227	YI-Sheng
228	YJXNJBBHUS
229	YlbangYa
230	YMXSR
231	Yomoni
232	youyuantrading
233	Yu Jungui's shop
234	YuanYuanLv
235	yulinwangluo
236	YUNCEZHIJIA
237	yunchengshiyianhuquxuancaikongjiandianzishangwu Ltd
238	yupeng7895
239	YYYHOME
240	Zha qi
241	ZhangJianLiang
242	zhanglie
243	ZHE CHAO
244	zhengzhouliansheshangmaoyouxiangongsi
245	 Bysoru  
246	度黑商贸
247	Catazer Bike Store
248	Enter Market Store
249	FoxSticker 2nd Store
250	Homesway E-Life Store
251	jooyoo Official Store
252	Kenken's Store
253	Riding Challenger Store
254	SEFAC Store
255	Shop911041028 Store
256	Shop911053032 Store
257	Shop911124228 Store
258	Sportsed Store
259	TOPChange Cycling Store
260	zxc002 Store