

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BROADWAY PINE BRANDS LLC,

Plaintiff,

v.

SHIRO HOUSE, *et al.*,

Defendants.

Civil Action No. 21-406

(Judge Ranjan)

PRELIMINARY INJUNCTION ORDER

WHEREAS, on March 29, 2021, Plaintiff, Broadway Pine Brands LLC filed an *Ex Parte* Application for the following: 1) a temporary restraining order; 2) an order restraining assets and Merchant Storefronts (as defined *infra*); 3) an order to show cause why a preliminary injunction should not issue; and 4) an order authorizing expedited discovery against all of the Defendants identified on the attached Schedule “A”, Alibaba.com US LLC d/b/a Aliexpress.com (“Aliexpress”), Amazon.com, Inc. and its affiliate, Amazon Services LLC d/b/a Amazon.com (“Amazon”), eBay, Inc. d/b/a eBay.com (“eBay”), and Context Logic, Inc d/b/a wish.com (“Wish”) (“Third Party Service Provider(s)”) and AliPay US Inc. d/b/a Alipay.com (“Alipay”), Amazon Payments, Inc. d/b/a pay.amazon.com, and PayPal, Inc. d/b/a paypal.com (“PayPal”) (“Financial Institution(s)”), in light of Defendants’ intentional and willful offerings for sale and/or sales of Knock-Off Products¹ (“Application”).

¹ As alleged in Plaintiffs’ Complaint, “. . .the Defendants identified in **Schedule “A”** of the Complaint, As alleged in the Complaint, Defendants are either (i) using without authorization Plaintiff’s distinct photograph(s)(“Plaintiff’s Works”),while promoting, selling, offering for sale and distributing knock-offs of Plaintiff’s Product thus unfairly competing, in a willful attempt to pass off their knock-off products as genuine versions of Plaintiff’s Products, and/or (ii) using Plaintiff’s federally registered service mark Butterfly Craze[®] (“Plaintiff’s Mark”), while offering to sell and selling knock-offs of Plaintiff’s Product, thus counterfeiting.

WHEREAS on March 30, 2021, the Court entered the following Orders:

(A) 1) a temporary restraining order; 2) an order restraining assets and Merchant Storefronts; 3) an order to show cause why a preliminary injunction should not issue; and 4) an order authorizing expedited discovery against all of the Defendants identified on the attached **Schedule “A”**, and Amazon (“TRO”) (ECF No. 19); and

(B) an Order Authorizing Alternative Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3);

WHEREAS, on April 14, 2021, upon Plaintiff’s Motion, the Court extended the temporary restraining order and ordered the Defendants to appear on May 13, 2021 at 1:00 pm., and show cause why a preliminary injunction should not be entered (ECF No. 23);

WHEREAS, the Court then re-scheduled the show cause hearing to one hour later at 2:00 p.m. on the same day; and

WHEREAS, on May 13, 2021 at 2:00 p.m., Plaintiff appeared for the Order to Show Cause Hearing, however no Defendants appeared. Further, no Third Parties or Financial Institutions appeared to oppose the show cause order.

ORDER

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that the injunctive relief previously granted on March 30, 2021, and extended and shall remain in place through the pendency of this litigation or until further order of this Court, and issuing this

While all of the Defendants are alleged to be unfairly competing, Plaintiff has alleged that only Defendant Nos. 7, 14, 16, 23, 28, 32, 40, 41, 44, 54, 55, 60, 69, 70, and 74 have used Plaintiff’s Mark to sell their goods. To be the unfairly competing products, whether counterfeit or not, are referred to as Knock-Offs.

Preliminary Injunction is warranted under 15 U.S.C. § 1116, Federal Rules of Civil Procedure 64 and 65, and The All Writs Act, 28 U.S.C. § 1651(a).

Accordingly, each Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this Order are hereby restrained as follows:

- (1) from (a) their unauthorized and unlicensed use of Plaintiff's Mark and/or Plaintiff's Works in connection with the distribution, marketing, advertising, offering for sale, or sale of any products; and (b) shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner products which use Plaintiff's Mark and/or Plaintiff's Works;
- (2) from secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with any computer files, data, business records, documents or any other records or evidence relating to their User Accounts,² Merchant Storefronts³ or any money, securities or other property or assets of Defendants (hereinafter collectively referred to as "Defendants' Assets");
- (3) effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other

² As defined in the Application, a "User Account" is, as defined in the Complaint, any and all accounts with online marketplace platform(s) Amazon.com, eBay.com, Aliexpress.com, and wish.com as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all other persons in active concert with any of them.

³ As defined in the Application, a "Merchant Storefront" is any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in products which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them.

means of importation, exportation, advertising, marketing, promotion, distribution, and/or display for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order;

- (4) each Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this Order shall immediately discontinue use of the Plaintiff's Mark and/or Plaintiff's Works within metatags or other markers within website source code, from use on any web page (including as the title of any product listing), from any advertising links to other websites, from search engines' databases or cache memory, and any other form of use such terms or Works which is visible to a computer user or serves to direct computer searches to Internet based e-commerce stores owned, or operated by each Defendant, including the Merchant Storefronts operating under the Seller IDs;
- (5) each Defendant shall not transfer ownership of the User Accounts or Merchant Storefronts associated with the Seller IDs;
- (6) each Defendant shall preserve copies of all computer files relating to the use of any User Accounts and/or Merchant Storefronts under the Seller IDs and shall take steps necessary to retrieve computer files relating to the use of the User Accounts and/or Merchant Storefronts under their Seller IDs that may be deleted before the entry of this Order;
- (7) upon receipt of notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including, but not limited, to Alibaba.com US LLC d/b/a Aliexpress.com ("Aliexpress"), Amazon.com, Inc. and its affiliate, Amazon Services LLC d/b/a Amazon.com ("Amazon"), eBay, Inc. d/b/a eBay.com ("eBay"), and Context Logic, Inc d/b/a

wish.com (“Wish”) (“Third Party Service Provider(s)”) and AliPay US Inc. d/b/a Alipay.com (“Alipay”), Amazon Payments, Inc. d/b/a pay.amazon.com, and PayPal, Inc. d/b/a paypal.com (“PayPal”) (“Financial Institution(s)”), and their related companies and affiliates, shall immediately identify and restrain all funds, as opposed to ongoing account activity, in or which are hereafter transmitted into the accounts related to the Defendants as identified on Schedule “A” hereto, as well as all funds in or which are transmitted into (i) any other accounts of the same customer(s); (ii) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other accounts subject to this Order; and (iii) any other accounts tied to or used by any of the Seller IDs identified on Schedule “A” hereto;⁴

(8) upon receipt of notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third Party Service Provider(s) and the Financial Institution(s), shall immediately divert to a holding account for the trust of the Court all funds in or which are hereafter transmitted into all accounts related to Defendants identified in Schedule “A” hereto, and associated payment accounts, and any other accounts for the same customer(s) as well as any other accounts which transfer funds into the same financial institution account(s) as any other accounts subject to this Order;

(9) The Third Party Service Provider(s) and Financial Institution(s) shall further, within five (5) business days of receiving this Order, provider Plaintiff’s counsel with all data that

⁴ This Order contemplates that discovery may reveal that Defendants may have other user accounts operated by other Third Party Service Providers and Financial Institutions and that the additionally discovered Third Party Service Providers and Financial Institutions, once identified and provided with notice, shall also be subject to the discovery, restraints and injunctions set forth in this Order.

details (i) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (ii) the account transactions related to all funds transmitted into financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account holders, until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by any Third Party Service Provider or Financial Institution for any purpose (other than pursuant to a chargeback made pursuant to that Third Party Service Provider or Financial Institution's security interest in the funds) without express authorization of this Court;

(10) Upon Plaintiff's request, any Internet marketplace who is provided with notice of this Order, including but not limited to the Third Party Service Provider(s) and Financial Institution(s), shall immediately cease fulfillment of and sequester Defendants' inventory assets corresponding to the Seller IDs identified on Schedule "A" hereto in its inventory, possession, custody, or control, and hold such goods in trust for the Court during pendency of this action;

(11) this Order shall apply to the Seller IDs, associated Accounts and Merchant Storefronts, and any other seller identification names, Accounts or Merchant Storefronts, Third Party Service Provider or Financial Institution accounts which are being used by Defendants for the purpose of infringing the Plaintiff's Mark and/or Works and/or unfairly competing with Plaintiff;

(12) Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third-

Party Service Provider(s) and the Financial Institution(s), subject to this Order may petition the Court to modify the asset restraint set out in this Order; and

(13) this Order shall remain in effect until the date for the hearing to show cause why a preliminary injunction should not be issued as set forth below, or until such further dates as set by the Court or stipulated by the parties.

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that upon Plaintiff's request, any Internet marketplace who is provided with notice of this Order, including but not limited to the Third-Party Service Providers and Financial Institutions, is hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiff's Application for a preliminary injunction, or until further order of the Court:

(1) secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defendants' Assets from or to financial accounts associated with or utilized by any Defendant or any Defendant's User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad) ("Defendants' Financial Accounts") until further ordered by this Court; and

(2) within (5) days after receiving notice of this Order, providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts, and any other listings linked to the same sellers or linked to any other alias seller identification names being used and/or controlled by Defendants.

C. IT IS FURTHER ORDERED, as sufficient cause has been shown, that, upon Plaintiffs' request, within no later than five (5) calendar days of Plaintiffs' request:

(1) Amazon.com, Inc., and its related companies and affiliates, including Amazon Services, LLC, and Amazon Payments, Inc. (collectively "Amazon"), are hereby restrained and enjoined, pending the hearing and determination of Plaintiff's Application for a preliminary injunction, or until further order of the Court, from processing payments for any products listed under the following Amazon Standard Identification Numbers (ASINs): B00ZAS7HBM (hot pink large DAISY PILLOW), B00ZAS7J2Y (blue large DAISY PILLOW), B007496M20 (pink large DAISY PILLOW), B0073VWDDG (purple large DAISY PILLOW), B0073WL200 (green large DAISY PILLOW), B01EZ31P8S (blue medium DAISY PILLOW), B01EZ31P9M (hot pink medium DAISY PILLOW), by any Seller that has not been authorized by Plaintiff; contemporaneously with the service of this Order, Plaintiff shall provide notice to Amazon of Plaintiff's authorized sellers;

(2) Amazon.com, Inc., and its related companies and affiliates, including Amazon Services, LLC, and Amazon Payments, Inc., shall place the following Amazon Standard Identification Numbers (ASINs): B00ZAS7HBM (hot pink large DAISY PILLOW), B00ZAS7J2Y (blue large DAISY PILLOW), B007496M20 (pink large DAISY PILLOW), B0073VWDDG (purple large DAISY PILLOW), B0073WL200 (green large DAISY PILLOW), B01EZ31P8S (blue medium DAISY PILLOW), B01EZ31P9M (hot pink medium DAISY PILLOW), into Amazon's gating program, so that Plaintiff will be able to control which sellers list product under these ASINs; and

- (3) upon Plaintiff's request, Amazon.com, Inc., and its related companies and affiliates, including Amazon Services, LLC, and Amazon Payments, Inc., shall remove listings and/or advertisements for any product that Plaintiff identifies as unfairly competing with Plaintiff's Product (i.e., preventing a seller from listing for sale under the identified ASIN); and
- (4) Upon Plaintiff's request, a Third-Party Service Provider, shall remove listings and/or advertisements for any product that infringes on Plaintiff's Works and/or Mark.

II. Order Authorizing Expedited Discovery

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

- (1) Plaintiff may propound interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall provide written responses under oath to such interrogatories within fourteen (14) days of service to Plaintiff's counsel.
- (2) Plaintiff may serve requests for the production of documents pursuant to FRCP 26 and 34, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall produce all documents responsive to such requests within fourteen (14) days of service to Plaintiff's counsel.
- (3) Plaintiff may serve requests for admissions pursuant to FRCP 26 and 36, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order,

shall provide written responses under oath to such requests within fourteen (14) days of service to Plaintiff's counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within fourteen (14) days of receiving actual notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third Party Service Provider(s) and the Financial Institution(s), shall provide to Plaintiff's counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, documents and records relating to:

- (1) any and all User Accounts and Defendants' Merchant Storefronts and account details, including, without limitation, identifying information and account numbers for any and all User Accounts and Defendants' Merchant Storefronts that Defendants have ever had and/or currently maintain with the respective Third-Party Service Provider;
- (2) the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided;
- (3) the Defendants' methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendants' User Accounts and Defendants' Merchant Storefronts, a full accounting of Defendants' sales history and listing history under such accounts and Defendants' Financial Accounts associated with Defendants' User Accounts and Defendants' Merchant Storefronts; and

(4) Defendants' unauthorized and unlicensed use of Plaintiff's Mark, and/or Plaintiff's Works in connection with the distribution, marketing, advertising, offering for sale, or sale of any products, and any products which use Plaintiff's Mark, and/or Plaintiff's Works.

III. Security Bond

IT IS FURTHER ORDERED the \$5,000.00 bond posted by Plaintiff shall remain with the Court until a final disposition of this case or until further order of this Court, or until this Order is terminated.

SO ORDERED.

SIGNED this 13th day of May, 2021
Pittsburgh, Pennsylvania

s/ J. Nicholas Ranjan
J. NICHOLAS RANJAN
UNITED STATES DISTRICT JUDGE

Schedule “A”
Defendants With Store Name and Seller ID

Defendant No.	Defendant/Store Name	Seller ID
1	Shiro House	AO7O6LWW69O3X
2	*m·kvfa*	A1GPU45BQASLZ1
3	Alderaian	A3EBBM1568OB30
4	ALK7	AZ3OLQ8187630
5	aozhun	ASEUXLETIIW4Y
6	Asibeiul	A2P9NBU7XCCOFQ
7	Banens	A2SSDH8T7HB4BU
8	Bonlting	A37I1ZD81F1UJD
9	ConboEY	A229NX2SLISJ99
10	CQCYD 7-15 Days Fast Delivery	A12QD2QFPLA9X4
11	DDUOMI	A1GK27UNLJT4TZ
12	DHG CX	A103LBR8EX1N48
13	DilingÔDiling	A2FXS732O0LKOZ
14	Dimocax	AJP0PD1O3DGA2
15	Eddizu	A2DJE863SU2MU6
16	Enjoy*Life.*&	AOE9PAP4M0GU6
17	FanBo So	A2JOCW3M9KNMHZ
18	Foutou	A309F00C1L8YA8
19	Fthome	A2UDVIVQQ2SWXG
20	Georgia-visitor	A2BO95VTBINQCN
21	GH+GS	A1XAUBYOOLF1GY

Defendant No.	Defendant/Store Name	Seller ID
22	GUOYINZHIPIN	AZXK4YLIY9QD
23	GYSTL	A31J3IIAL8RI88
24	hgs76dh	A1GNJ0L6IEMC58
25	HonMohui	A1J2LOG9IGAL2O
26	JIAHUIIdianshang	A2XNADO6Q9H5E1
27	JINGTAODIANZI	A1QYIW1HDBTTNF
28	JJcye	A20VV6JUVACB2O
29	JuanX	A1BJBLDUO3ET52
30	kwjiliguala±	A2RCFR10RMAVMU
31	lan diao	A38V9ZC6TLKPV8
32	Lindsay Nixon(20-26 Days Delivery)	A23TJ6XHINM6HD
33	Liontobuy	A1DOEP57X2K2JZ
34	LJEA-US	A2GVX087JFO5YN
35	Longtous	A1Y96VML4RNQ3
36	LONPYAO	A2M6CFO3E1R2PW
37	lucky ☆°C81US	A2VJP7ZX0UH6VC
38	LUJIAHAO180	A1P8GAC7G6FB2B
39	Marridon	A28IZYH4T3DAHC
40	mei yun	A2Z6T9H84TL1BZ
41	Mia Yonger(20-26 Days Delivery)	A2LC87COY29AOI
42	Mild Milk.	AP5N6HIAPCHCY
43	MInPInLa	A3AZJDXCVCHVQK
44	MoliQ	A2NR5E7IQNTZ3I

Defendant No.	Defendant/Store Name	Seller ID
45	MSIYOU	A2GSVW9R96OFID
46	naijing-Fast Delivery (7-15 days)	A3CNEDKDB0UAFF
47	NANCY99	A29654R28ZMDWL
48	NANGYANG	ADCHCPP17JEBO
49	Ounabing	A1IV2N6N897ZZ0
50	Owill (7-15 Days Fast Delivery)	AES3TBGYMYYV
51	PINGJIN	A1MMCOAOCOYQFA
52	powlance	A21DOA8WOKBJC9
53	QIUsujing	A3UH6UZACX29NN
54	RapidYasuo	AT07G7YS4UPSZ
55	Renpojo	AY7AAF0S7HJ8U
56	Selltam.	A11P520JI703ME
57	SHIYI Girl	AIU1IMGVXVAZQ
58	Sunday8	A2NCGU6N5OXGJB
59	Syysgift	A1EQR1IO0X7VTZ
60	The orchid shop	AZ4JDOFF8X61C
61	Tini-Store	A2N2SVY65F3QKF
62	udhOnshD	A7LJKPN8Q5IGX
63	Unparalleled	AAEJ0TZ8QBKCR
64	Wear-DOY	A2YNMWKAOZTIB3
65	WUYU STORE	A1DDBGECZL3VFW
66	XEHWG	A26P31KEZQAFFM
67	XuYuan SC	A3KK04QNGEGRD7
68	YanYanLady	A8RBVODAW00AN

Defendant No.	Defendant/Store Name	Seller ID
69	YIXUANYX	AXSS8QBGKFR6H
70	Yolo17&&&%	AUBXF2TRMPR6X
71	Youdw	A2A6AEZ0OKN47N
72	Yowein	A102J2LW09ZAA3
73	zhuxinxing	A2LS3H6FBE1SH
74	济源天翔商贸有限公司 [Jiyuan Tianxiang Trading Company]	A1JZO62R2D4VD5
75	dangworld-8	265028331607
76	linxia-2136	224316778432
77	long9tansha	363279616563
78	sironwen-0	324461177626
79	wangti-67	143918412141
80	01888 Store	4914045
81	ANIUNIU Store	3477031
82	BeautyBaby Store	3281028
83	BT dropshipping Store	911189140
84	Child's Toy Store	4929007
85	faina's Store	5484036
86	FunFun Toy Store	910318235
87	Gogomylittlebaby Store	3154019
88	goodluck baby Store	3210016
89	MUQGEW for YOU Store	4046039
90	SevenU Store	4921031
91	Shop2944189 Store	2944189

Defendant No.	Defendant/Store Name	Seller ID
92	Shop5055184 Store	5055184
93	Shop5426288 Store	5426288
94	Shop5517084 Store	5517084
95	Shop911137204 Store	911137204
96	bianyiren	5b0cb8e101287527a576e9e7
■	■	■
98	ngoc234	5e59dac3d3f7da16c02405ea