

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

AQUAPAW BRANDS LLC,

Plaintiff,

v.

TIKTOKS, *et al.*,

Defendants.

Civil Action No. 21-696-CCW

**FILED UNDER SEAL**

**DECLARATION OF BRIAN SAMUEL MALKIN  
IN SUPPORT OF PLAINTIFF'S *EX PARTE* MOTION FOR AN ORDER  
TO EXTEND THE TEMPORARY RESTRAINING ORDER, CONTINUE THE SHOW  
CAUSE HEARING, AND MODIFY THE BRIEFING SCHEDULE**

I, Brian Samuel Malkin, hereby declare as follows:

1. I am over eighteen (18) years of age. I have never been convicted of a felony or any criminal offense involving moral turpitude, and I am fully competent to testify to the matters stated herein. I have personal knowledge of every statement made in this Declaration and such statements are true and correct.

2. I am one of the attorneys working for Ference & Associates LLC ("the Ference Firm" or "Plaintiff's Counsel"), legal counsel for Plaintiff. I make this declaration in support of Plaintiff's *Ex Parte* Motion for an Order to Extend the Temporary Restraining Order, Continue the Show Cause Hearing, and Modify the Briefing Schedule.

3. On May 26, 2021, this Court entered a Sealed Order ("Order") granting 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 **Schedule “A”** attached to the Complaint, 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)”), Amazon Payments, Inc. d/b/a pay.amazon.com, PayPal, Inc. d/b/a paypal.com (“PayPal”) and Context Logic, Inc d/b/a wish.com (“Financial Institution(s)”) (the “Order”).

4. On May 26, 2021 (the same day the Order was received), the Order was served upon all the relevant third parties.

5. The Order provides that each of the Financial Institutions and Third-Party Service Providers is to locate and freeze the Defendants’ Assets and to provide the Plaintiff’s counsel with the contact information necessary to serve the Defendants.

6. Serving any of the Defendants before each Financial Institution confirms compliance risks the Defendants being able to secret their funds and to alert other Defendants to do the same before the asset freeze is completed.

7. As of yesterday (June 2, 2021), PayPal, eBay and Wish have confirmed compliance with the Order.

8. Amazon confirmed compliance today (June 3, 2021) which now permits Plaintiff to serve all the Defendants per the Court Order and Plaintiff is doing so today.

9. Based upon the third-party delay in processing the Order, it is not possible for Plaintiff’s counsel to serve the Defendants in accordance with the Order before the Defendants are required to respond to the show cause hearing (June 2, 2021).

10. It would appear that an extension of 2 weeks would allow the Plaintiff to properly serve the Defendants and ensure there is sufficient notice and opportunity for the

Defendants to respond to the Show Cause Order.

I declare under the penalty of perjury laws of the United States of America that to the best of my knowledge the foregoing is true and correct.

Executed this June 3, 2021 at Pittsburgh, Pennsylvania.

/s/ Brian Samuel Malkin

Brian Samuel Malkin