

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

TALISMAN DESIGNS, LLC,

Plaintiff,

v.

JACKSUN, *et al.*,

Defendants.

Civil Action No.

21-cv-777

(Judge Schwab)

PRELIMINARY INJUNCTION ORDER

Whereas on June 15, 2021, Plaintiff filed an *Ex Parte* Application for the following: 1) a temporary restraining order; 2) an order restraining assets and Merchant Storefronts¹; 3) an order to show cause why a preliminary injunction should not issue; and 4) an order authorizing expedited discovery against the Defendants identified on **Schedule “A”** to the Complaint and attached hereto (collectively, the “Defendants”), in light of the Defendant’s intentional and willful offering for sale and sales of knock-off and infringing products.² (“Application”).

¹ As defined in the Complaint, 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, including Infringing 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.

² As alleged in the Complaint, Defendants are Defendants are using without authorization Plaintiff’s copyrighted sculpture (“Plaintiff’s Work”), while promoting, selling, offering for sale and distributing knock-offs of Plaintiff’s Product in a willful attempt to pass off their knock-off products as genuine versions of Plaintiff’s Products within this district and throughout the United States by operating e-commerce stores established at least via the Internet marketplace websites Amazon.com, wish.com, aliexpress.com, and eBay.com under their Store Names and Seller Names identified on Schedule “A” hereto (the “Seller IDs”).

Whereas, on that same day, Plaintiff filed an Ex Parte Motion for an Order Authorizing Alternative Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3);

Whereas on June 16, 2021, at 9:00 a.m., 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”); and

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

Whereas on June 21, 2021, the TRO was extended upon Plaintiff’s motion and good cause shown; and

WHEREAS, pursuant to the terms of the Alternative Service Order, the Defendants have been served with notice of this Show Cause Hearing and none have entered an appearance or filed on opposition to the Show Cause Order. Further, none of the Third Party Service Provider(s) or Financial Institution(s) have entered an appearance or filed an opposition to the Show Cause Order.

I. Restraining Order

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, the injunctive relief previously granted on June 16, 2021, shall remain in place through the pendency of this litigation, and issuing this Preliminary Injunction (hereafter “PI Order”) is warranted under FRCP 65, and 17 U.S.C. § 502.

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 Work 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 Work;
- (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,³ Merchant Storefronts⁴ 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 means of importation, exportation, advertising, marketing, promotion, distribution, and/or

³ 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.

⁴ 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.

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 Work 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;⁵

- (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, provide Plaintiff’s counsel with all data that details (i) an accounting of the total funds restrained and identifies the financial

⁵ 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.

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' Work;

(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 until such further order issued by the Court or stipulated to by the parties.

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that:

(1) Amazon shall be restrained and enjoined, from processing payments for any products listed under the following Amazon Standard Identification Numbers (ASINs):

B07DW6MZWL (red BACON BIN[®]), B07F1F6RQH (pink BACON BIN[®]), (B07HJX4646 –red twin pack BACON BIN[®]), and B07HJSB44L (red BACON BIN[®] with a hot pad), by any Seller that has not been authorized by Plaintiff, Plaintiff shall provide notice to Amazon of Plaintiff’s authorized sellers;

(2) upon Plaintiff’s request, Amazon shall remove listings and/or advertisements for any product that Plaintiff identifies as unfairly competing, and/or is advertised with any of the Plaintiff’s copyrighted images or sculpture, with Plaintiff’s BACON BIN[®] grease container, and which has been identified as shipping from, or as originating from, outside the United States, by suspending, tombstoning, and/or deleting, the identified listing (i.e., preventing a seller from listing for sale under the identified ASIN);

(3) the Third Party Service Providers and Financial Institutions,⁶ are hereby restrained 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

⁶ As defined, *supra*, Financial Institutions, include, any banks, financial institutions, credit card companies and payment processing agencies, such as AliPay US Inc. d/b/a Alipay.com (“Alipay”), Amazon Payments, Inc. d/b/a pay.amazon.com, Context Logic, Inc. d/b/a wish.com, and PayPal, Inc. d/b/a paypal.com (“PayPal”), and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of any Defendant.

account is located in the U.S. or abroad) (“Defendants’ Financial Accounts”) until further ordered by this Court; and

C. IT IS HEREBY ORDERED, as sufficient cause has been shown,

- (1) that no funds restrained by this Order shall be transferred or surrendered by Third Party Service Providers or Financial Institutions, for any purpose (other than pursuant to a chargeback made pursuant to the their respective security interest in the funds) without express authorization of this Court or Plaintiff’s counsel.
- (2) Any Third Party Service Provider or Financial Institution or any Defendant or financial institution account holder subject to this Order may petition the Court to modify the asset restraint set out in this Order; and
- (3) This Order shall remain in effect until such further dates as set by the Court or stipulated by the parties.

D. IT IS HEREBY ORDERED, as the Plaintiff has established that the following product as pictured below is the subject of a federally registered Copyright for the Plaintiff’s Pig Face Sculpture;



consequently sufficient cause has been shown, that, upon Plaintiffs' request, within no later than five (5) calendar days of Plaintiffs' request: all online marketplaces, including but not limited to, Amazon.com, ebay.com, aliexpress.com, and wish.com, shall upon receipt of this Order, suspend, block, tombstone, and/or delete any and any product listings identified by the Plaintiff as either identical or substantially similar, to the Pig Face Sculpture, whether sold by the Defendant or other persons or entities.

II. Order Authorizing Discovery

- A. IT IS FURTHER ORDERED, as sufficient cause has been shown through Defendants' failure to: respond, participate in the ordered Rule 26(f) conference, and appear at the show cause hearing on July 19, 2021, Plaintiff may propound discovery upon 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) 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, to the extent not previously provided, all Third Party Service Providers and Financial Institutions 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' manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling of products which use Plaintiff's Mark, and/or Plaintiff's Trade Dress and/or Plaintiff's Works, and/or works substantially similar to 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 this PI Order is terminated.

SO ORDERED.

SIGNED this 19th day of July, 2021
Pittsburgh, Pennsylvania

s/Arthur J. Schwab

Arthur J. Schwab
United States District Judge

cc Stanley D. Ference III, Esq.
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Brian Samuel Malkin, Esq.
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Schedule “A”
Defendants With Store Name and Seller ID

Defendant No.	Defendant/Store Name	Seller ID
1	JACKSUN	A11LRDDM70W8LM
█	██████████	██████████
3	Ali-Mohamed	A3FQBH0TRX8OGO
█	██████████	██████████
5	AutoPartsStoreBM	A2DYSG17JBARF9
6	Be theBest	A1BDX9IROARHIY
7	Bernice Toby	A3T8YQ5XLUIKLF
8	BIAOJI	A1LX6PJS7PMLXH
9	BLACKBOW	A19UAW4TX5XNZW
10	Chilik	A1G6Z6KL0BKF0J
11	derousty	A21XK9YNKJ0G6O
12	duorool3	A15NHDPC0IBTF0
13	GUCHENGXIANGUOQINSH	A2UFNDVUMYEAC0
14	HaiMay US	AXTBY5HW04AFZ
15	Happy Girl Favorites	A2BDT38HQC29XG
16	henanbaixuanjianzhuangzhuangongchengyouxiang ongsi	A1SYRQHXYJ0H68
17	HMBHDHLP	A2K4HGRYGNBBGF
18	HubeiJianyundianzishangwuyouxiangongsi	A10P0FXVIRQN2P
19	Hxrmve	AQ4NR49JVZ4SN
20	Ipsr Startup Bv	A1C9848DMDNBUT

Defendant No.	Defendant/Store Name	Seller ID
21	Kingrise	A2M857F29QAE33
█	██████████	██████████
█	██████	██████████
█	████	██████████
25	QTBKV587	A2X8VGPZ1ZS441
26	Real-Listic	AK5INE3Z56WCR
27	Sowulo Shop	A3KL9GAKMKMLP3
28	Variety shop-chao	A1MLZAE7NJSJW0
29	VEAQEE	AR99PID6BK0L
█	██████	██████████
31	WANDM	A2KVE1H3Q156KX
32	westbor	AF8QO5PNQI6EG
33	WoOoW	A34OKP7II61TPM
34	Xhot-US	A2U0I32DUU2FPB
35	Yanchu	A2P2J7G588NTMV
█	██████████	██████████
37	Yuiiuess541	A14HBLNHR7FTAB
38	beauty-shop2050	373482388438
38	boston-us.store	154435102159
40	cpar1454	154423621899
41	decadeshealt-62	203267131491
42	dvs_us	124658945025

Defendant No.	Defendant/Store Name	Seller ID
43	elakashe0	384088005109
44	jeepflip45	384121333317
45	jikdins	333965671672
46	ml-9015	363380468452
47	shoutmeloud	284072848599
48	tishav92	224437438412
49	Tribe Retail	5e3b617229e7866bfbfa74d0