

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

OSPREY LLC,

Plaintiff,

v.

ALFIE PET, *et al.*,

Defendants.

Civil Action No. 22-790

(Judge Hardy)

**PRELIMINARY INJUNCTION ORDER**

Whereas, Plaintiff 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 the Defendants identified on **Schedule “A”** to the Complaint and attached hereto (collectively, the “Defendants”). The Court has considered the Application, the evidence in the record, and the applicable law.

WHEREAS, 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 1, 2022, 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 the Third Party Service Providers and Financial Institutions, in light of

Defendants' intentional and willful offerings for sale and/or sales of Infringing Products<sup>1</sup> (“Application”); and

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

(C) Order re-scheduling Show Cause Hearing from June 16, 2021 to June 21, 2016.

WHEREAS, pursuant to the terms of the Alternative Service Order, the Defendants have been served with notice of this re-scheduled Show Cause Hearing; and

WHEREAS, on June 21, 2022, Plaintiff appeared for the Order to Show Cause Hearing, however no Defendants appeared. Further, none of the Third Party Service Provider(s) or Financial Institution(s) appeared.

## **ORDER**

### **I. Restraining Order**

A. IT IS HEREBY ORDERED, IT IS HEREBY ORDERED, as sufficient cause has been shown, the injunctive relief previously granted on June 1, 2022, shall remain in place through the pendency of this litigation, and issuing this Preliminary Injunction (hereafter “PI Order”) is warranted under FRCP 65, and Section 34 of the Lanham Act.

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 shall continue to be restrained as follows:

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<sup>1</sup> As alleged in Plaintiff's Complaint, Defendants have offered for sale, sold, and distributed infringing and counterfeit goods and are willfully and intentionally promoting, selling, offering for sale and distributing goods bearing and/or using counterfeits and confusing or substantially similar imitations of Plaintiff's registered trademark FrogLog<sup>®</sup>, and/or its trade dress, which closely mimic the appearance of Plaintiff's genuine product within this district and throughout the United States by operating e-commerce stores established at least one of the Amazon.com, eBay.com, Wish.com, or AliExpress.com Internet marketplaces using their respective Store Names and Seller Names set forth on **Schedule “A”** hereto (collectively, the “Seller IDs”)(“Infringing Product(s)).

- (1) from (a) their unauthorized and unlicensed use of Plaintiff's Mark, Plaintiff's Works and/or Plaintiff's Trade Dress 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<sup>2</sup>, Plaintiff's Works<sup>3</sup>, and/or Plaintiff's Trade Dress;
- (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,<sup>4</sup> Merchant Storefronts<sup>5</sup> 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 display for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order;

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<sup>2</sup> Plaintiff's Mark refers to U.S. Reg. No. 5,390,968 for FROGLOG for "Non-metal floating container comprised of a fabric pouch containing an inflated bladder and sandbag, placed on the edge of a swimming pool for small animals to escape using the ramp attached to the floating device" in class 20.

<sup>3</sup> Plaintiff's Works refers to various published photographs, videos, artwork, creative text and product instructions appearing on Plaintiff's web site froglog.us.

<sup>4</sup> 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 ("Third Party Service Provider(s))" 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.

<sup>5</sup> 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.

- (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 Plaintiffs' Mark and/or Plaintiffs' Works and/or Plaintiff's Trade Dress 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 Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. AliPay (China) Internet Technology Co. Ltd.,

and Alipay.com Co., Ltd. (collectively referred to as “AliPay”)<sup>6</sup>, 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;<sup>7</sup>

- (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

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<sup>6</sup> WorldPay US, Inc. (“WorldPay”) processes transactions on behalf of Alibaba and Alipay, which may appear as “Aliexpress” on a cardholder’s credit card statement.

<sup>7</sup> 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 discovery 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 Plaintiffs' Mark, Plaintiffs' Works, and/or Plaintiff's Trade Dress 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 PI Order and the Alternative Service Order shall remain in effect during the pendency of this action or until further order of the Court, and Plaintiff shall serve the Defendants with a copy of this PI Order in accordance with the Alternative Service Order.

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, or until further order of the Court:

(1) providing services for any accounts through which Defendants engage in the sale of Infringing Products, including without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts;

(2) displaying any advertisements used by or associated with Defendants in connection with the sale of Infringing Products; and

(3) displaying links to any User Accounts or Merchant Storefronts associated with the Defendants in search results, including but not limited to, having links to any product listings, User Accounts, or Merchant Storefronts in any search index.

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

(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 (ASIN): B004UHY2TY (Froglog 1-pack) or ASIN: B01LQR8W2S (Froglog 2-pack) by any Seller that has not been authorized by Plaintiff; 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 Number (ASIN): B004UHY2TY (Froglog 1-pack) or ASIN: B01LQR8W2S (Froglog 2-pack), 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, any 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 unfairly competing, infringing on the Plaintiff's Mark, using Plaintiff's Works as shown in Exhibit 1 of the Complaint or infringing on the Plaintiff's Trade Dress;
- (4) Upon Plaintiff's request, any online marketplaces, including but not limited to, Amazon.com, ebay.com, aliexpress.com, and wish.com shall remove listings and/or advertisements for any product that identified by the Plaintiff as unfairly competing and originating from a Country other than the United States, whether sold by the Defendant or other persons or entities;
- (5) However, the seller controlling such listings shall not be subject to financial account restraint; and

(6) this Order shall remain in effect during the pendency of this action or until further order of the Court.

## 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 Plaintiffs' 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 Plaintiffs' 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 Plaintiffs' 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 Plaintiffs' Works, and/or Plaintiff's Trade Dress in connection with the distribution, marketing, advertising, offering for sale, or sale of any products, and any products which use Plaintiffs' Plaintiffs' Mark, and/or Plaintiffs' Works, and/or Plaintiff's Trade Dress.

### **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.

**IV. Unsealing Order**

IT IS FURTHER ORDERED, there being no further reason to keep the case sealed, the Clerk is directed to unseal the case and all the papers on the docket.

**SO ORDERED.**

SIGNED this 21<sup>st</sup> day of June, 11:00<sup>AM</sup>, 2022  
Pittsburgh, Pennsylvania

  
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W. Scott Hardy  
UNITED STATES DISTRICT JUDGE

**Schedule “A”**  
**Defendants with Store Name and Seller ID**

<b>Defendant Number</b>	<b>Defendant/Store Name</b>	<b>Seller ID</b>
1	Alfie Pet	A3FW635O47SEWO
2	Ashley-chosmo	A2F9ZPGYG007FS
3	BESLIVE	ACVXC9SU2IDFA
4	Bingwei Chi	A2BGZ03NFJWCMQ
5	[REDACTED]	[REDACTED]
6	EXKRT	ADVFESHRRW7ZD
7	fuxinyi	A1WUSO5K7ODEHU
8	Good Impression Store	A2ICSUZZHK8XFS
9	Guangli_US	AKH2WQLFS5DIE
10	GunPiao-US	AAML0DVEXQ60M
11	hefeicuanqiongshangmaoyouxiangongsi	A123UMD7LSMF5X
12	Henan Qiongliao Trading Co., Ltd.	A36LA8AELKXFVL
13	henanshunluanshangmaoyouxiangongsi	A3BBJA4O5JL6XQ
14	House of Retail	A2ZBIFWQY7J4ZZ
15	LKJYBG	A11YV6N3THAXXX
16	LSJX	A1F0ZOMEU5NC0U
17	quanzhoulinashangmaoyouxiangongsi	A3F3BBPSIW9XD1
18	SanJiaoMei	AA1BFT0486IZD
19	Sunlight & Sunflower	A1LO7X54XWYGC
20	Super Clearance	A1N5NWPPY491EV
21	TAHUAONUS	A26QEE6QF68O6T
22	TUTULOO	A1ZV9E5QP7BKAQ
23	ussupplymed	A2Q8RZL664V1N2
24	Xunpei US	A24N7BUK509Z70
25	zhengzhoukuayouidianzikejiyouxiangongsi	A2YKWKVVX5GTLO
26	Happy-paradise Store	912176889
27	Juanmaozhu Store	911796685
28	brandyo	144509976092
29	frayedknot03	255509366792
30	hanksattictreasures	255508537069
31	sunt498	265643455186
32	treasure hunter_4life	334375368616
33	yudandansu	597999df8ee78d47ef378561
34	Leaftoautum	5a659340ef626b519b76e4ff