

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

AIRIGAN SOLUTIONS, LLC,

Plaintiff,

v.

RAINBOW ISLAND STORE, *et al.*,

Defendants

Civil Action No. 23-cv-1327

(Judge Stickman)

**[PROPOSED] PRELIMINARY INJUNCTION ORDER**

WHEREAS, on July 25, 2023, 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 all of the Defendants identified on the attached Schedule “A”, Amazon Services, LLC d/b/a Amazon.com, and Amazon Payments, Inc. d/b/a Amazon Pay (collectively “Amazon”), Joybuy Marketplace operated by Jingdong E-Commerce (Trade) Hong Kong Co. , Ltd and JD E-Commerce America (collectively, “Joybuy”), Whaleco Inc., a Delaware Corporation, which is a wholly owned subsidiary of Pinduoduo Inc. which is owned by PDD Holdings (collectively, “Temu”), eBay, Inc. d/b/a ebay.com, Walmart Inc. and Wal-Mart.com USA, LLC, wish.com, Alibaba.com US LLC d/b/a Alibaba.com and Aliexpress.com (“Third Party Service Providers”) and financial institutions, including but not limited to, 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>1</sup>,

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<sup>1</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.

Amazon Payments, Inc., Walmart Pay, PayPal, Inc. d/b/a paypal.com, and Context Logic, Inc. d/b/a wish.com (“Financial Institutions”).<sup>2</sup>;

WHEREAS, on the 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, the Court entered the following Orders:

(A) 1) a temporary restraining order; 2) an order restraining assets and Merchant Storefronts, against all the Defendants identified on the attached **Schedule “A”**, the Third-Party Service Providers, and the Financial Institutions (“TRO”)(July 28, 2023) (ECF No. 21); and

(B) an Order Authorizing Alternative Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3)(February 16, 2023) (ECF No. 22);

WHEREAS, on August 11, 2023 at 10:30 a.m., Plaintiff appeared for the Order to Show Cause Hearing, however no Defendants appeared. Further, no Third-Party Service Providers or Financial Institutions appeared.

### **I. Order Continuing Restraints**

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, the injunctive relief previously granted on July 25, 2023 (ECF No. 21), shall remain in place through the pendency of this litigation, and issuing this Preliminary Injunction (hereafter “PI Order”) is warranted under FRCP 65, Section 34 of the Lanham Act, and Section 283 of the Patent Act. The Court finds that Plaintiff relies upon a presumptively valid patent,

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<sup>2</sup> Plaintiff acknowledges that it is seeking multiple forms of relief. Plaintiff will promptly provide supplemental briefing or oral argument on any issue should the Court request it.

and that nothing in the record calls that validity into question. The evidence establishes that Plaintiff has shown a sufficient likelihood of success on the merits of this action. The Court also concludes that Plaintiff has shown that immediate and irreparable injury, loss, and damage will likely result should the relief entered by this Order not be granted.

Specifically, the Court finds that Defendants' infringing products are likely to continue to cause Plaintiff to suffer loss profits, compromise the value of Plaintiff's brand, and negatively impact Plaintiff's relationships with its current customers and its ability to attract new customers. Defendants will not be harmed by the imposition of the injunctive relief requested, because the injunction only prohibits Defendants from taking actions they are otherwise not entitled to perform under the law. And finally, the public interest favors the issuance of the requested injunction, and Plaintiff has no adequate remedy at law for the immediate and irreparable harms identified.

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:

- (1) from (a) their unauthorized and unlicensed use of Plaintiff's Patent, distribution, marketing, advertising, offering for sale, or sale of any Infringing Products; and (b) shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner products that infringe upon at least one claim of the Plaintiff's Patent;
- (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>3</sup> Merchant Storefronts<sup>4</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;

(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 cease offering for sale the Infringing Products 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;

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<sup>3</sup> As defined in the Application, a “User Account” is, as defined in the Complaint, any and all accounts with at least one of the online marketplace platform(s), Aliexpress.com, Amazon.com, eBay.com, Joybuy, Temu, Walmart.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.

<sup>4</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.

- (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 Amazon Services, LLC d/b/a Amazon.com, and Amazon Payments, Inc. d/b/a Amazon Pay (collectively “Amazon”), Joybuy Marketplace operated by Jingdong E-Commerce (Trade) Hong Kong Co. , Ltd and JD E-Commerce America (collectively, “Joybuy”), Whaleco Inc., a Delaware Corporation, which is a wholly owned subsidiary of Pinduoduo Inc. which is owned by PDD Holdings (collectively, “Temu”), eBay, Inc. d/b/a ebay.com, Walmart Inc. and Wal-Mart.com USA, LLC, wish.com, Alibaba.com US LLC d/b/a Alibaba.com and Aliexpress.com (“Third Party Service Providers”) and financial institutions, including but not limited to, 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>5</sup>, Amazon Payments, Inc., Walmart Pay, PayPal, Inc. d/b/a paypal.com, and Context Logic, Inc. d/b/a wish.com (“Financial Institutions”)<sup>6</sup>, and their related companies and affiliates,

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<sup>5</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>6</sup> Plaintiff acknowledges that it is seeking multiple forms of relief. Plaintiff will promptly provide supplemental briefing or oral argument on any issue should the Court request it.

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 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

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<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.

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 on at least one claim of the Plaintiff's Patent;

(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 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 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 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 Plaintiff's request, within no later than five (5) calendar days of Plaintiff's request:

(1) Amazon is ordered to remove any seller identified by Plaintiff from the following Amazon Standard Identification Numbers (ASINs): B01N7SXX0W (black NEGG<sup>®</sup>), B085G3Q3BX (blue NEGG<sup>®</sup>), B01MT9U0HK (red NEGG<sup>®</sup>), B01NATZUY2 (white NEGG<sup>®</sup>), B01N235WK4 (yellow NEGG<sup>®</sup>), B079P5N8Q6 (pink NEGG<sup>®</sup>), B079P6QVNR (fuschia NEGG<sup>®</sup>), and B079P4HPVM (green NEGG<sup>®</sup>)<sup>8</sup>;

(2) Amazon is ordered to suspend any ASIN that was associated with a product already identified by prior Order of this Court in the present lawsuit to be Counterfeit, Infringing, or unfairly competing, as designated in the Schedule A third column under “**Amazon ASIN Number(s)**” (i.e., any seller is prevented from listing for sale under the identified ASIN); and

(3) Upon Plaintiff’s request, any Third Parties are ordered to suspend any listing of a product that Plaintiff assert infringes at least one claim of the Plaintiff’s Patent, and/or infringes Plaintiff’s Works and/or Mark and/or Trade Dress, and is identified as originating outside of the United States and unfairly competing with Plaintiff’s Product.

## **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 August 11, 2023, 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

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<sup>8</sup> These are the current ASINs assigned to the Plaintiff’s Products by Amazon.

provide written responses under oath to such interrogatories 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) 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 Patent, Plaintiff's Works, Plaintiff's Trade Dress, and/or Plaintiff's Mark in connection with the distribution, marketing, advertising, offering for sale, or sale of any Infringing Products.

### **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**

WHEREAS, the reasons for keeping the documents in this case sealed no longer exist, it is FURTHER ORDERED that the Clerk of Court is hereby directed to unseal all the documents previously filed under seal in this case.

### **SO ORDERED.**

SIGNED this \_\_\_\_ day of August, 2023  
Pittsburgh, Pennsylvania

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William S. Stickman, IV  
United States District Judge

cc Stanley D. Ference III, Esq.  
courts@ferencelaw.com  
Brian Samuel Malkin, Esq.  
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**Schedule “A”**  
**Defendants with Store Name and Seller ID**

<b>Defendant Number</b>	<b>Defendant/Store Name</b>	<b>Store ID</b>
1	Rainbow Island Store	1102029136
2	Daxi City Store	1101756070
3	China Storage Store	1101809891
4	A Exquisite Life Store	1101559610
5	Corui Smart -Home Store	1102292341
6	Global Top Kitchen Store	1101305671
7	JosheLive Global Store	1102809178
8	Idea Life Store	1101384988
9	Sunho Kitchen Supplies Store	1102312511
10	SuHuo Store	1101862220
11	55 Seconds Store	1101527480
12	ShopLeisure Store	1102675728
13	Warm daily necessities Store	1101961541
14	Ningbo Lgo Commodity Co., Ltd.	1600348205452
15	Yiwu Lvya Imp&Exp Co., Ltd.	1600755609457
16	Yiwu Youshu Import And Export Co., Ltd.	1600825741112
17	degan-shop	A268IHQXJO495
18	liadasdi	A3RUK8QQLSCG00
19	Sea Whale Department Store	ANSJQ439GC2FJ
20	Vinnat us	A800K93L4PQ6B
21	Bonifv Shop	127837662069
22	FOAYJ	432243912924
23	JEKMOS	343939410334
24	KATPOSIN	5242269540779
25	Outdoor equipment of Ranger	5672550771811
26	PHIGO	5292994126765
27	SLURERBE	55614153387
28	XinXinqiqi	2689219156351