

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

MICHELLE E. DE SOUSA, *et al.*,

Plaintiffs,

v.

SMART726, *et al.*,

Defendants.

Civil Action No. 24-cv-1653

Judge Stickman

FILED UNDER SEAL

AMENDED PRELIMINARY INJUNCTION ORDER

WHEREAS, on December 10, 2024, Plaintiffs 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”), 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”)¹, Amazon Payments, Inc., Walmart Pay, PayPal, Inc. d/b/a paypal.com, and Context Logic, Inc. d/b/a Wish.com (“Financial Institutions”).²

WHEREAS, on the same day, Plaintiffs 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 December 11, 2024, 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”)(November 11, 2024); and

(B) an Order Authorizing Alternative Service on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3)(December 11, 2024); and

WHEREAS, on December 23, 2024, at 11:00 a.m., Plaintiffs 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 December 11, 2024, 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

¹ WorldPay US, Inc. (“WorldPay”) processes transactions on behalf of Alibaba and Alipay, which may appear as “AliExpress” on a cardholder’s credit card statement.

² 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.

Patent Act. The Court finds that Plaintiff relies upon a presumptively valid patent, and that nothing in the record calls that validity into question. The evidence establishes that Plaintiffs have shown a sufficient likelihood of success on the merits of this action. The Court also concludes that Plaintiffs 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 Plaintiffs to suffer loss profits, compromise the value of Plaintiffs' brand, and negatively impact Plaintiffs' 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 Plaintiffs have 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 Plaintiffs' 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 Plaintiffs' 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,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 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;

³ 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, 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.

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.

- (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”), 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”)⁵, Amazon Payments, Inc., Walmart Pay, PayPal, Inc. d/b/a paypal.com, and Context Logic, Inc. d/b/a Wish.com (“Financial Institutions”)⁶, 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

⁵ WorldPay US, Inc. (“WorldPay”) processes transactions on behalf of Alibaba and Alipay, which may appear as “AliExpress” on a cardholder’s credit card statement.

⁶ Plaintiffs acknowledge that they are seeking multiple forms of relief. Plaintiffs will promptly provide supplemental briefing or oral argument on any issue should the Court request it.

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;⁷

(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 Plaintiffs’ 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 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

⁷ 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.

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; (in order to confirm compliance with this Order, the Plaintiffs are permitted leave to serve a subpoena on such Third Party Service Provider(s) and Financial Institution(s) seeking the following information: (a) Bank account and routing numbers registered and used with regard to each seller account; (b) Financial records and other documents identifying the use of third-party payment service providers such as Payoneer and Wise; (c) Dates when funds were last sent from the seller to their seller account and the respective amount transferred; (d) Dates when funds were last sent from the seller account to the seller and the respective amount transferred; (e) amount and location of the seller's assets that are in Amazon's control; (f) copies any insurance policies owned by the Defendants; and (g) all documents identifying the Defendants.

(10) Upon Plaintiffs' 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 Plaintiffs' 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,

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

(2) all online marketplaces, including but not limited to, Amazon.com, ebay.com, AliExpress.com, Temu, Walmart.com, and Wish.com, shall, in the event a request for takedown or delisting of Plaintiff's Products occurs, upon receipt of this Order, immediately relist or otherwise reinstate Plaintiff's Products so that they may be purchased on the online marketplace, including, but not limited to, Plaintiff's Products with Amazon Identification Numbers: B0778SYWVP, B0778VH32L, B0778TTQ7J, and B00JKPWFOU.

II. Order Authorizing Discovery

A. IT IS FURTHER ORDERED, as sufficient cause has been shown through Defendants' failure to appear at the show cause hearing, Plaintiffs 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) 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, insurance policies, 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 Plaintiffs' Patent, and/or Plaintiffs' Works, in connection with the distribution, marketing, advertising, offering for sale, or sale of any Infringing Products.

III. Security Bond

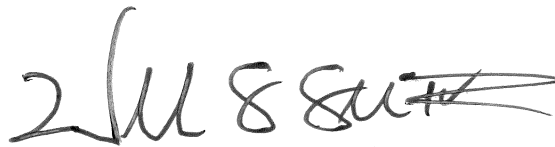
IT IS FURTHER ORDERED, the \$1,000.00 bond posted by Plaintiffs shall remain with the Court until a final disposition of this case or until this PI Order is terminated.

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 23 day of December, 2024
Pittsburgh, Pennsylvania



William S. Stickman, IV
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 Number	Store/Seller Name	Seller ID
1	smart726	205007979291
2	100dayslate_9 shop	196095579145
3	2020coming shop	364595460117
4	77SuperSevens77	364674748430
5	9happy9	235783315094
6	A whole lotta everything	155526371485
7	Accessory	156467912458
8	alodi8867	387375012173
9	aoyi	305841757126
10	aqc0888888	395622959899
11	Atomic Punk Inc.	286177158913
12	autumn188	296360471177
13	avalonbon	387499445064
14	baize_yy	235806910718
15	Bargain Warehouse	162461261532
16	beautymallus	146048631855
17	bebetty-88	275967601885
18	behindthepretty	225880492749
19	binge955	315927206420
20	BJG Deals	382085522570
21	bodui290	176538719233
22	[REDACTED]	[REDACTED]
23	cctoyoto shop	204552303380
24	cellrite727	276567277264
25	cestformidable2014	296724766397
26	chuqin-62	356275991516
27	CleopatraGoods	355733912038
28	copaseticalcat	405241126160
29	creativityparkcentral	154636662021
30	Daily necessities store	364880975352
31	darjea894195	365095542234
32	dddseeds2 shop	305283053375
33	elanza771	116152657635
34	enjoylife2018y	116114076629
35	epblhsntphe	235698610203
36	Esukceso	315062378297
37	EverydayGadgetz	146116582998

122	CozyCollective	101619355
123	DiManFeng Inc	101220832
124	Dongguang	101567330
125	dongmentaishang	102478098
126	Exzpassion	101565319
127	foshanshishaalanshangmao	102492053
128	foshanshizezaojiajuyoux	101672925
129	Golden Koi	102500031
130	guangzhoukunkai	101689019
131	HCHPEJ	101623460
132	Hongc LLC	101638846
133	hongtaibaozhuangfuliao	102507417
134	Hongwangjie Trading	101578106
135	Jianyuanwenhua	101670145
136	jinanlianjingwangluokeji.com	102490662
137	JINGJING Co.Ltd	102481928
138	JUNQI	101583459
139	KEWITY	101633473
140	lanhexingchen	102477142
141	Li loong Toys	102510034
142	LINNAO Ltd	101250922
143	LUOKU Co.Ltd	102484093
144	LzGUNGY	101661823
145	Midewhik	101464698
146	Nanwang Co. , Ltd.	101521138
147	nice maket for you	102621662
148	PINGXIAO Co.Ltd	102484277
149	QBgugu	101596074
150	Saoakiny	101576158
151	ShoppingNow Co.ltd	101222732
152	SHUJIN Co.Ltd	101677810
153	szbyhth LLCxy	102576882
154	SZD Co.Ltd	101240063
155	Taizai Trading Co. , Ltd.	102506719
156	Vongem Fashion store	101651506
157	VORCOY	101616915
158	WEIRUN Co.Ltd	101675172
159	WIN WITH SCIENCE	101289673
160	WTXUE CO.Ltd	101614067
161	XIAshuix	102490511
162	xiuxia shop	101694125
163	Yang cnct	101638538

164	Yanzihao Home Store	101592725
165	YHRY	101286232
166	Yijieelectronic	101593777
167	YU Co. , Ltd.	101521138
168	YULIJU	101651955
169	Yxmhdga	102607609
170	Sailing Expedition	5b05533159206935a1196bb6
171	yajingsongy012	63ff10e7ca51360b12630a0a