

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JUANREN WU,

Plaintiff,

v.

THE PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

Case No. 26-cv-00358

Judge Andrea R. Wood

Magistrate Judge Beth W. Jantz

**PLAINTIFF’S *EX PARTE* MOTION FOR ENTRY OF A TEMPORARY
RESTRAINING ORDER, INCLUDING A TEMPORARY INJUNCTION,
A TEMPORARY ASSET RESTRAINT
AND INCORPORATED MEMORANDUM OF LAW**

Plaintiff Juanren Wu, (“Plaintiff”) seeks entry of an *ex parte* temporary restraining order, including a temporary injunction against Defendants enjoining the making, using, offering for sale, selling and/or importing into the United States for subsequent sale or use products infringing on the Paint Pen Patented design. In addition, Plaintiff seeks a temporary asset restraint to preserve an equitable accounting of profits and expedited discovery. In support of its request, Plaintiff submits the following Memorandum of Law.

MEMORANDUM OF LAW

I. INTRODUCTION AND PROCEDURAL HISTORY

Plaintiff filed the Amended Complaint on February 3, 2026, in order to combat the willful and intentional infringement of its federally registered design patent, No. US-D1,049,230-S (the “Paint Pen Patent”). [Doc. 7 at ¶4, 6]. Specifically, Plaintiff brought its suit under the provisions of the Patent Act, 35 U.S.C. § 1, et seq., 28 U.S.C. §1338(a) and 28 U.S.C. § 1331. [Doc. 7 at ¶¶ 1, 32-37].

On February 10, 2026, Plaintiff moved for Electronic Service of Process Pursuant to Fed. R. Civ. Pro. 4(f)(3). [Doc. 12]. Plaintiff now seeks entry of an *ex parte* temporary restraining order, including a temporary injunction enjoining the making, using, offering for sale, selling and/or importing into the United States for subsequent sale or use products infringing on the Paint Pen Patented design. In addition, Plaintiff seeks a temporary asset restraint to preserve the status quo and provide an accounting of assets.

II. STATEMENT OF FACTS

A. Plaintiff's Rights

Plaintiff is the owner of the entire rights to the Paint Pen Patent. Declaration of Juanren Wu (“Wu Dec.”) at ¶3. The Paint Pen Patent was issued on October 29, 2024, and received Registration No. US-D1,049,230-S. *Id.* at ¶¶ 3-4.

As testified by Plaintiff, Plaintiff has expended substantial time, money, and other resources in advertising, promoting and selling Diamond Paint Pen Tips featuring the design claimed in the Paint Pen Patent. *Id.* at ¶6 As such, the Paint Pen Patent is a valuable asset to Plaintiff's business and Plaintiff's success heavily relies on the exclusive use of the Paint Pen Patent. *Id.*

B. Defendants' Unlawful Activities

The success of Plaintiff's products utilizing the Paint Pen Patented design has resulted in significant infringement. In order to counter widespread infringement of the Paint Pen Patent, Plaintiff, with the assistance of others under its supervision and control, has undertaken an investigation which established that Defendants are using e-commerce storefronts on at least the Amazon platform to sell products to consumers in the United States and the State of Illinois, including the Northern District of Illinois, by making, using, offering for sale, selling and/or

importing into the United States for subsequent sale or use products utilizing the Paint Pen Patented design without permission (hereinafter “Unauthorized Products”). Plaintiff’s detailed allegations demonstrate that the Defendants display substantially similar or identical images among the Defendants’ Internet Stores. [Doc. 7 at ¶¶ 21-25].

The stores identified on the Schedule A share identifiers, such as templates with common design elements that intentionally omit any contact information or other information for Identifying Defendants or other Seller Aliases they operate or use. *See* Wu Dec. at ¶15. Additionally, Unauthorized Products for sale by the Seller Aliases bear similar irregularities and indicia of being unauthorized to one another, suggesting that the Unauthorized Products were manufactured by and come from a common source and that Defendants are Interrelated. *Id.* The unauthorized use of the Paint Pen Patented design in the sale of products continues to cause confusion among consumers and has resulted in a loss of sales to and reputation of Plaintiff. Wu Dec. at ¶22. In the event that Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend its Amended Complaint accordingly.

III. ARGUMENT

A. This Court May Exercise Personal Jurisdiction Over Defendants

Rule 65(b), Federal Rules of Civil Procedure, permits a Court to issue an *ex parte* TRO where immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition. Fed. R. Civ. P. 65(b). Entry of a TRO is appropriate because it would immediately stop the Defendants from their wrongful use of the registered intellectual property and preserve the status quo until a hearing can be held.

This Court may properly exercise personal jurisdiction over Defendants since Defendants directly target business activities toward consumers in the United States, including Illinois, through

at least the fully interactive, commercial Defendant Internet Stores. [Doc. 7 at ¶¶ 2-3]; Wu Dec. at ¶¶15, 17-18. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and/or 1400(a). [Doc. 7 at ¶¶5-7]. Specifically, Defendants are reaching out to do business with Illinois residents by operating one or more commercial, interactive Defendant Internet Stores through which Illinois residents can purchase products utilizing the Paint Pen Patented design. *Id.* at ¶¶4, 17; Wu Dec. at ¶10. On information and belief, Defendants have sold and shipped products to Illinois residents through their interactive Defendant Internet Stores.

B. Standard for Temporary Restraining Order and Preliminary Injunction

Courts have the discretion to issue an injunction to “prevent the violation of any rights secured by patent.” 35 U.S.C. § 283. A party seeking to obtain a preliminary injunction must demonstrate:

- (1) a substantial likelihood of success on the merits,
- (2) a substantial threat of irreparable injury if the injunction were not granted,
- (3) that the threatened injury to the plaintiff outweighs the harm an injunction may cause the defendant, and
- (4) that granting the injunction would not disserve the public interest.

See Korte v. Sebelius, 735 F.3d 654, 665 (7th Cir. 2013).

District Courts within this Circuit hold that the standard for granting a TRO and the standard for granting a preliminary injunction are identical. *See, e.g., Charter Nat'l Bank and Trust v. Charter One Financial, Inc.*, 2001 WL 527404 (N.D. Ill. May 15, 2001) (unreported). The movant must make an initial showing that (1) its case has a likelihood of success on the merits, (2) no adequate remedy at law exists, and (3) they will suffer irreparable harm if injunctive relief is not granted. *See, e.g., Hodgkins ex rel. Hodgkins v. Peterson*, 355 F.3d 1048, 1054–55 (7th Cir. 2004). If the movant meets the burden on these three requirements, then the Court considers two additional criteria: (4) whether the balance of harm to the plaintiff if the TRO is wrongly denied

outweighs the harm to the defendant if the TRO is wrongly granted, and (5) the public interest. *Cooper v. Salazar*, 196 F.3d 809, 813 (7th Cir.1999).

The Seventh Circuit has emphasized that, although Rule 65(b) expressly contemplates the issuance of *ex parte* TRO's, the circumstances under which an *ex parte* TRO should be granted are very limited. *American Can Co. v. Mansukhani*, 742 F.2d 314, 321-22 (7th Cir. 1984) (quoting *Granny Goose Foods*, 415 U.S. 423, 438-39, 94 S.Ct. 1113, 39 L.Ed.2d 435 (1974)). Specifically, a TRO without notice may be entered where the specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required. Fed. R. Civ. P. 65(b)(1)(A)-(B). The "common formula" is that TROs are intended to preserve the status quo only for so long as is needed to hold a hearing. *Chicago United Indus., Ltd. v. City of Chicago*, 445 F.3d 940, 944 (7th Cir. 2006) (internal citation omitted).

C. Plaintiff Will Likely Succeed on the Merits of Design Patent Infringement

To establish a likelihood of success on the merits "the patentee seeking a preliminary injunction in a patent infringement suit must show that it will likely prove infringement, and that it will likely withstand challenges, if any, to the validity of the patent. *Titan Tire Corp. v. Case New Holland, Inc.*, 566 F.3d 1372, 1376 (Fed. Cir. 2009) (citing *Genetech, Inc. v. Novo Nordisk A/S*, 108 F.3d 1361, 1364 (Fed. Cir. 1997).

As to the validity of the Paint Pen Patent, an issued patent holds a statutory presumption of validity. 35 U.S.C. § 282. "If a patentee moves for a preliminary injunction and the alleged infringer does not challenge validity, the very existence of the patent with its concomitant presumption of validity satisfies the patentee's burden of showing a likelihood of success on the

validity issue.” *Titan Tire*, 566 F.3d at 1377 (citing *Purdue Pharma L.P. v. Boehringer Ingelheim GmbH*, 237 F.3d 1359, 1365 (Fed. Cir. 2001); *Canon Comp. Sys., v. Nu-Kote Int’lm Inc.*, 134 F.3d 1085, 1088 (Fed. Cir. 1998)). Here, the Paint Pen Patent was issued on October 29, 2024. Wu Dec. at ¶X. The U.S. registration for the Paint Pen Patent is valid, subsisting, and in full force and effect. *Id.* at ¶X. Therefore, the Paint Pen Patent is entitled to a statutory presumption of validity.

As to infringement, the ordinary observer test is used to determine design patent infringement. *Gorham Co. v. White*, 81 U.S. 511, 528 (1871); *Curver Luxemborg, SARL v. Home Expressions Inc.*, 938 F.3d 1334, 1343 (Fed. Cir. 2019). Under the ordinary observer test, an accused product infringes a design patent if “in the eye of an ordinary observer... two designs are substantially the same,” such that “the resemblance is such as to deceive such an observer, inducing him to purchase one supposing it to be the other.” *Gorham*, 81 U.S. at 528.

As alleged in the Amended Complaint, and as shown in Exhibit 3 to the Wu Dec, Defendants are making, using, offering for sale, selling and/or importing into the United States for subsequent sale or use products infringing on the Paint Pen Patented design. [Docs. 7 at ¶ 4, 30, 34; 11]. The Unauthorized Products sold on Defendants ecommerce-stores are virtually identical to the patented design such that an ordinary observer would be deceived into thinking the Accused Product was the same as the design embodied in the Paint Pen Patent. As such, Plaintiff is likely to establish a prima facie case of design patent infringement.

D. There Is No Adequate Remedy at Law, and Plaintiff Will Suffer Irreparable Harm in the Absence of Preliminary Relief

The Patent Act provides specific authority to order injunctive relief and empowers the Court to “grant injunctions in accordance with the principles of equity to prevent the violation of any right secured by patent, on such terms as the court deems reasonable.” 35 U.S.C. § 283. The relevant harm is that which accrues between the court’s holding on the motion for a TRO and the

entry of a preliminary injunction. *Abbott Labs v. Mead Johnson & Company*, 971 F.2d 6 n.6 (7th Cir. 1992) (“We emphasize that the relevant harms are only those that accrue between a court’s ruling upon the preliminary injunction motion and the entry of final judgment”) (citing *Roland Mach. Co. v. Dresser Indus., Inc.*, 749 F.2d 380, 391 (7th Cir. 1984); see also *In re Aimster Copyright Litigation*, 334 F.3d 643, 655 (7th Cir. 2003), cert. denied, 540 U.S. 1107 (2004).

The second such harm to Plaintiff is where the Defendants are not prevented from continued use of Plaintiff’s registered design patent. Why would any potential licensee pay Plaintiff for the use of the registered image for marketing if others simply take it for free? In addition, the search optimization features commonly used by infringers compete directly with the Plaintiff. This causes a devaluation of the Paint Pen Patent overall, despite the investment of time and money Plaintiff has put into its development. [Doc. 7 at ¶¶28-31]; Wu Dec. at ¶¶20-24. On this point, Plaintiff, testifies to the devaluation of the Paint Pen Patent due to Defendants’ willful infringement and that Plaintiff is likely to suffer future devaluation, showing irreparable harm. [Doc. 7 at ¶¶28, 35]; Wu Dec. at ¶20-24; Declaration of L. Ford Banister, II (“Banister Dec.”) at ¶20.

Given that Defendants hide their true identities and operate from outside the United States, it is unlikely that Plaintiff can recover any monetary damages award. Further, foreign online perpetrators such as Defendants are likely to cause irreparable harm by avoiding judgments rendered in United States courts. See *Foodcomm Int’l v. Barry*, 328 F.3d 300, 305 n.2 (7th Cir. 2003) (holding that plaintiffs established a likelihood of irreparable injury with no adequate remedy at law where defendants were Australian citizens with “no significant assets in the United States”).

E. The Balancing of Harms Tips in Plaintiff's Favor, and the Public Interest Is Served by Entry of the Injunction

The Court must next consider the harm that Defendants will suffer if preliminary relief is granted, balancing such harm against the irreparable harm Plaintiff will suffer if relief is denied. *Ty, Inc. v. The Jones Group, Inc.*, 237 F.3d 891, 895 (7th Cir. 2001). The relevant harms are only those that accrue between the court's holding on the motion for a TRO and the entry of a preliminary injunction. *Abbott Labs v. Mead Johnson & Company*, 971 F.2d 6 at n.6. It is axiomatic that an infringer cannot complain about the loss of ability to offer or sell its infringing product. *Warner Bros. Entm't Inc. v. RDR Books*, 575 F. Supp. 2d 513, 553 (S.D.N.Y. 2008) (citing *My-T Fine Corp. v. Samuels*, 69 F.2d 76, 78 (2d Cir. 1934) (Hand, J.)). There can be no harm to Defendants in theory, since an injunction will merely require that they comply with the law. In marked contrast, "the wrongful denial of injunction may well encourage others to do what defendants have done, thus increasing the injury to [Plaintiff] and inflicting expense on [Plaintiff] to defend her intellectual property interests." *Ty, Inc. v. Publications Intern., Ltd.*, 81 F. Supp. 2d 899, 903 (N.D. Ill. Jan. 24, 2000).

In the instant case, one such harm to Plaintiff would be if the Defendants' disgorged their assets prior to Plaintiff obtaining an equitable accounting. As Plaintiff has demonstrated, Defendants have been profiting from the making, using, offering for sale, selling and/or importing into the United States for subsequent sale or use products infringing on the Paint Pen Patented design. Thus, the balance of equities tips decisively in Plaintiff's favor. The public is currently under the false impression that Defendants are operating their Defendant Internet Stores with Plaintiff's approval and endorsement. In this case, the injury to the public is significant, and the injunctive relief that Plaintiff seeks is specifically intended to remedy that injury by dispelling the

public confusion created by Defendants' actions. As such, equity requires that Defendants be ordered to cease their unlawful conduct.

IV. THE EQUITABLE RELIEF SOUGHT IS APPROPRIATE

A. A Temporary Restraining Order Is Appropriate

Plaintiff requests a temporary injunction requiring the Defendants to cease any making, using, offering for sale, selling and/or importing into the United States for subsequent sale or use products infringing on the Paint Pen Patented design. Such relief is necessary to stop the ongoing harm to Plaintiff's rights in the Paint Pen Patent and the goodwill associated with Plaintiff's products utilizing the Paint Pen Patented design, to stop further harm to the consuming public, and to prevent the Defendants from continuing to benefit from their unauthorized use of Plaintiff's registered intellectual property. In the absence of a TRO without notice, the Defendants can and likely will modify registration data and content, change hosts and/or redirect traffic to other websites in their control. Wu Dec. at ¶¶12-14; Banister Dec. at ¶14.

The need for *ex parte* relief is magnified and underscored where pirating infringers operate anonymously over the Internet. *See Dell Inc. v. Belgium Domains, LLC*, Case No. 07-22674, 2007 WL 6862341 at *2 (S.D. Fla. Nov. 21, 2007) (finding *ex parte* relief more compelling where Defendants' scheme "is in electronic form and subject to quick, easy, untraceable destruction by Defendants."). Defendants' operations are sophisticated, and Plaintiff is currently unaware of both the true identities and locations of the Defendants. *See* Banister Dec. at ¶¶ 20-24. This Court, as well as others in this judicial district, regularly authorize immediate injunctive relief in similar cases involving the unauthorized use of registered intellectual property. *See Collectanea J. Limited v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, Case No. 1:24-cv-06472 (N.D. Ill. Sept. 17, 2024) (Daniel, J.); *Yiwu Baimei Electronic Commerce Co. Ltd. v. The*

Partnerships and Unincorporated Associations Identified on Schedule "A", Case No. 24-cv-2131 (N.D. Ill. May 23, 2024) (Cummings, J.); *Sega Corporation, et al. v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, Case No. 25-cv-02585 (N.D. Ill. Mar. 19, 2025) (Alonso, J.); *Warner Bros. Entertainment Inc. v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, Case No. 25-cv-02056 (N.D. Ill. Apr. 4, 2025) (Wood, J.); *Amborui Electronic Tech. Co., Ltd., v. The P'ships, et al.*, Case No. 25-cv-01466 (N.D. Ill. June 30, 2025) (Wood, J.); *Bounce Curl, LLC, v. The P'ships, et al.*, Case No. 25-cv-10383 (N.D. Ill. Dec. 23, 2025) (Wood, J.).

B. Preventing the Fraudulent Transfer of Assets Is Appropriate

“[D]istrict courts may restrain assets where a party seeks equitable relief.” *Sketchers U.S.A., Inc. II v. The Partnerships, et al.*, 2025 WL 1455801 at *3 (N.D. Ill. Mar. 10, 2025) (citing *CSC Holdings, Inc. v. Redisi*, 309 F.3d 988, 996 (7th Cir. 2002) (“explaining that, in [*Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308 (1999)] ‘the court specifically noted that a restraint on assets was still proper if a suit sought equitable relief.’”). When a plaintiff seeks a disgorgement of a defendant’s profits, an equitable remedy, courts have the authority to freeze assets. *Lorillard Tobacco Co. v. Montrose Wholesale Candies*, 2005 WL 3115892 at *13 (N.D. Ill. Nov. 8, 2005).

As Plaintiff in this case seeks an accounting of profits, an equitable remedy, among other relief, this Court has the authority to enter a prejudgment asset restraint to preserve the relief sought by Plaintiff. Courts in this district have frequently entered asset restraints in intellectual property cases under similar circumstances. *Vista Outdoor Operations, LLC v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, Case No. 23-cv-3584 (N.D. Ill. June 15, 2023) (Hunt, J.); *Sega Corporation, et al. v. The Partnerships and Unincorporated Associations*

Identified on Schedule "A", Case No. 25-cv-02585 (N.D. Ill. Mar. 19, 2025) (Alonso, J.); *Warner Bros. Entertainment Inc. v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, Case No. 25-cv-02056 (N.D. Ill. Apr. 4, 2025) (Wood, J.); *Yiwu Baimei Electronic Commerce Co., Ltd., a Chinese Limited Corporation v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, Case No. 23-cv-16861 (N.D. Ill. Feb. 15, 2024) (Tharp, J.); *Amborui Electronic Tech. Co., Ltd., v. The P'ships, et al.*, Case No. 25-cv-01466 (N.D. Ill. June 30, 2025) (Wood, J.); *Bounce Curl, LLC, v. The P'ships, et al.*, Case No. 25-cv-10383 (N.D. Ill. Dec. 23, 2025) (Wood, J.).

In conclusion, Plaintiff has shown a likelihood of success on the merits, an immediate and irreparable harm suffered as a result of Defendants' activities, and that unless Defendants' assets are frozen, Defendants will likely hide or move their ill-gotten funds to offshore bank accounts. [Doc. 7 at ¶22]; Wu Dec. at ¶17.

V. A BOND SHOULD SECURE THE INJUNCTIVE RELIEF

Federal Rule of Civil Procedure 65(c) provides:

No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. Fed. R. Civ. P. 65(c). the amount of the bond is left to the discretion of the court.

The amount of the bond is left to the discretion of the court. *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) (citation omitted) ("Rule 65(c) invests the district court with discretion as to the amount of security required, if any."); *Rathmann Group v. Tanenbaum*, 889 F.2d 787, 789 (8th Cir. 1989) (same). Because of the strong and unequivocal nature of Plaintiff's evidence of infringement, Plaintiff respectfully requests that this Court require Plaintiff to post a bond of no

more than ten thousand U.S. dollars (\$10,000.00). Plaintiff recognizes this Court's policy of a bond of \$1,000 per defendant. Plaintiff will timely post bond upon entry of the TRO.

VI. CONCLUSION

Defendants' illegal operations are irreparably harming Plaintiff's business, its rights in the Paint Pen Patent, and consumers. Without entry of the requested relief, Defendants' infringement will continue to lead prospective purchasers and others to believe that Defendants' use of the Paint Pen Patented design is approved by Plaintiff, when in fact, it is not. Therefore, entry of an *ex parte* order is necessary. Plaintiff respectfully requests that this Court enter a Temporary Restraining Order in the form submitted herewith.

Respectfully submitted this 10th day of February, 2026.

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