

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

XYZ CORPORATION,

Plaintiff,

v.

Civil Action No. 1:23-cv-00673-PTG-JFA

**THE UNINCORPORATED ASSOCIATIONS
IDENTIFIED IN SCHEDULE A,**

Defendants.

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF *EX PARTE* MOTION TO
EXTEND THE TEMPORARY RESTRAINING ORDER**

Pursuant to Rule 65(b)(2) of the Federal Rules of Civil Procedure and the Court’s inherent power to effectuate its own orders, Plaintiff XYZ Corporation seeks to extend the Temporary Restraining Order granted and entered by the Court on June 8, 2023 [ECF 43] (“the TRO”) and scheduled to expire on July 6, 2023, by a period of fourteen (14) days until July 20, 2023.

On June 8, 2023, this Court entered the TRO against the Defendants identified on Schedule A to the Verified Complaint [ECF 43]. On June 22, 2023, this Court extended the TRO for a period of fourteen [14] days until July 6, 2023 [ECF 56]. Since receiving the TRO, Plaintiff’s Counsel has been working diligently to ensure compliance with its terms by PayPal, Alipay, AliExpress, eBay, and Wish. *See* Declaration of Monica Riva Talley (the “Talley Decl.”) at ¶¶ 4-15.

On June 14, 2023, Plaintiff served PayPal, Alipay, AliExpress, eBay, and Wish with a copy of the Temporary Restraining Order (“TRO”), Verified Complaint, Sealed Schedule A to the Complaint, and Plaintiff’s First Set of Interrogatories to ascertain Defendants’ identities and the location and value of Defendants’ financial accounts related to the sale of the counterfeit goods named in Plaintiff’s Verified Complaint. Talley Decl. at ¶ 5.

On June 14, 2023, Plaintiff received a response from Wish requesting an Excel document with specific ID numbers so that Wish can comply with the Plaintiff’s First Set of Interrogatories. Talley Decl. at ¶ 6. On June 15, 2023, Plaintiff provided the requested Excel document to Wish. *Id.* at ¶ 7. On June 15, 2023, Plaintiff received a response from PayPal noting that PayPal does not have the ability to identify PayPal accounts using eBay and Wish identifiers and that Plaintiff must first obtain alternate identifying information from Wish and eBay and then provide that information to PayPal. *Id.* at ¶ 8. On June 15, 2023, Plaintiff received a request from eBay for an Excel document listing the Defendants’ and requesting information regarding the identity of Plaintiff. *Id.* at ¶ 9. On June 16, 2023, Plaintiff received a similar request from Wish regarding the identity of Plaintiff. *Id.* at ¶ 10. On June 20, 2023, Plaintiff responded to Wish and eBay by indicating that Plaintiff does not wish to reveal its identity at this time. *Id.* at ¶ 11. On June 21, 2023, Plaintiff provided eBay with the Excel file they requested. *Id.* at ¶ 14. On June 23, 2023, Plaintiff received access to an Excel spreadsheet with information regarding Defendants from eBay. *Id.* at ¶ 17. On June 30, 2023, Wish provided Plaintiff with an Excel file containing information regarding Defendants. Also on June 30, 2023, Plaintiff filed its Motion to Amend the Temporary Restraining Order to require eBay, Wish, and AliExpress to seize the Defendant’s seller accounts. *Id.* at ¶ 21. This Court granted that motion on July 3, 2023 and Plaintiff is preparing to serve the amended TRO as soon as possible. *Id.* at ¶ 22-23. Once

Defendant's accounts on one platform are seized, they will undoubtedly act to protect their remaining assets on the other platforms by removing them to an account outside this Court's jurisdiction. *Id.* at ¶ 22-23. To avoid this result, which would frustrate the purpose of the TRO, Plaintiff is diligently working to ensure compliance of the TRO by PayPal, AliPay, AliExpress, eBay, and Wish in a timely manner, while also trying to coordinate seizure timing across platforms.

On June 20, 2023, Plaintiff received correspondence from a representative of AliPay indicating that she no longer handles TRO-related matters and redirecting our correspondence to the appropriate personnel. *Id.* at ¶ 12. Plaintiff has not received a response from AliExpress. *Id.* at ¶ 15. On June 21, 2023, Plaintiff sent additional correspondence to AliExpress regarding the TRO and Plaintiff's First Set of Interrogatories. On June 24, 2023, Plaintiff sent additional correspondence to AliPay regarding the TRO and Plaintiff's First Set of Interrogatories. *Id.* at ¶ 18. On June 25, 2023, Plaintiff received correspondence from AliExpress and AliPay requesting certain information regarding the Defendants. *Id.* at ¶ 19. Plaintiff is in still in the process of reviewing and compiling the requested information.

Rule 65(b)(2) states that a temporary restraining order entered without notice may be extended provided a party can show, prior to expiration of the order, good cause for such an extension. Fed. R. Civ. P. 65(b)(2). Plaintiff respectfully submits that there is good cause to extend the TRO, since there is a high probability that the Defendants will continue to harm Plaintiff without the TRO in place. Specifically, Defendants will likely attempt to move any assets from their financial accounts to other accounts, potentially outside of this Court's jurisdiction. As discussed in Plaintiff's Memorandum in Support of its *Ex Parte* Motion for Entry of a Temporary Restraining Order, and as found by the Court in granting the TRO, this

possibility of harm is significant. In addition, Plaintiff needs this additional time to obtain the necessary information from the seller and payment platforms to locate and effectuate service on the Defendants. Accordingly, in the interest of justice, Plaintiff submits that extension of the TRO is necessary.

In light of the above, Plaintiff respectfully requests that the TRO scheduled to expire on July 6, 2023 be extended for a period of fourteen (14) days until July 20, 2023.

Date: July 6, 2023

Respectfully submitted,

/s/ Monica Riva Talley
Monica Riva Talley (VSB No. 41840)
Nicholas J. Nowak (*pro hac vice*)
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Ave., NW
Washington, DC 20005
Telephone No.: (202) 371-2600
Facsimile No.: (202) 371-2540
mtalley@sternekessler.com
nnowak@sternekessler.com

Attorneys for Plaintiff XYZ Corporation