

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-60505-CIV-SINGHAL

CHANEL, INC.,

Plaintiff,

v.

REPLICACHANELSALE.COM, *et al.*,

Defendants.

/





**ORDER GRANTING *EX PARTE* APPLICATION FOR ENTRY OF
TEMPORARY RESTRAINING ORDER and SETTING HEARING**

THIS CAUSE is before the Court on Plaintiff's *Ex Parte* Application for Entry of Temporary Restraining Order and Preliminary Injunction (the "Application") (DE [5]). Plaintiff, Chanel, Inc., moves *ex parte* for entry of a temporary restraining order against Defendants, the Individuals, Business Entities, or Unincorporated Associations identified on Schedule "A," under 15 U.S.C. § 1116, Federal Rule of Civil Procedure 65, and The All Writs Act, 28 U.S.C. § 1651(a). For the reasons discussed below, the Court grants the Application.

I. BACKGROUND¹

Plaintiff is the registered owner of the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (the "Chanel Marks"):

¹ The factual background is taken from Plaintiff's Complaint, Application, and supporting Declarations submitted by Plaintiff.

Trademark	Registration Number	Registration Date	Classes/Goods
CHANEL	0,626,035	May 1, 1956	IC 018 - Women's Handbags
CHANEL	1,241,265	June 7, 1983	IC 025 - Suits, Jackets, Skirts, Dresses, Pants, Blouses, Tunics, Sweaters, Cardigans, Coats, Raincoats, Scarves, Shoes and Boots
	1,314,511	January 15, 1985	IC 018 - Leather Goods-Namely, Handbags
CHANEL	1,347,677	July 9, 1985	IC 018 - Leather Goods-Namely, Handbags
	1,501,898	August 30, 1988	IC 006 - Keychains IC 014 - Costume Jewelry IC 025 - Blouses, Shoes, Belts, Scarves, Jackets, Men's Ties IC 026 - Brooches and Buttons for Clothing
CHANEL	1,733,051	November 17, 1992	IC 018 - Leather Goods; namely, Handbags, Wallets, Travel Bags, Luggage, Business and Credit Card Cases, Change Purses, Tote Bags, Cosmetic Bags Sold Empty, and Garment Bags for Travel
	1,734,822	November 24, 1992	IC 018 - Leather Goods; Namely, Handbags, Wallets, Travel Bags, Luggage, Business Card Cases, Change Purses, Tote Bags, and Cosmetic Bags Sold Empty
	4,241,822	November 13, 2012	IC 025 - For Clothing, namely, Coats, Jackets, Dresses, Tops, Blouses, Sweaters, Cardigans, Skirts, Vests, Pants, Jeans, Belts, Swim Wear, Pareos, Hats, Scarves, Ties, Gloves, Footwear, Hosiery

(See Declaration of Elizabeth Han in Support of Plaintiff's Application for Temporary Restraining Order ("Han Decl.") ¶ 4; (DE [5-1]); see *also* United States Trademark

Registrations for the Chanel Marks at issue attached as Composite Exhibit 1 to the Complaint.) The Chanel Marks are used in connection with the manufacture and distribution of high-quality goods in the categories identified above. (See Han Decl. ¶¶ 4-5 (DE [5-1]).)

Defendants, by operating interactive, commercial Internet websites under their domain names identified on the attached Schedule “A” (the “Subject Domain Names”) have advertised, promoted, offered for sale, or sold goods bearing and/or using what the Plaintiff has determined to be counterfeits, infringements, reproductions, and/or colorable imitations of the Chanel Marks. (See Han Decl. ¶¶ 9-11, nn.1-2 (DE [5-1]); Declaration of Stephen M. Gaffigan in Support of Plaintiff’s Application for Temporary Restraining Order (“Gaffigan Decl.”) ¶ 2, nn.1-2 (DE [5-2]).)

Although each Defendant may not copy and infringe each Chanel Mark for each category of goods protected, the Plaintiff has submitted sufficient evidence showing each Defendant has infringed at least one or more of the Chanel Marks. (See Han Decl. ¶¶ 10-11 (DE [5-1]).) Defendants are not now, nor have they ever been, authorized or licensed to use, reproduce, or make counterfeits, reproductions, or colorable imitations of the Chanel Marks. (See Han Decl. ¶¶ 9-11 (DE [5-1]).)

Plaintiff’s representative reviewed and visually inspected the web page captures reflecting the products offered for sale bearing the Chanel Marks by the Defendants via the Subject Domain Names, and determined the products were non-genuine, unauthorized versions of the Plaintiff’s products, or used images of authentic products in order to facilitate the sale of non-genuine versions of Plaintiff’s products. (See Han Decl. ¶¶ 10-11 (DE [5-1]).)

II. LEGAL STANDARD

To obtain a temporary restraining order, a party must demonstrate “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the nonmovant; and (4) that the entry of the relief would serve the public interest.” *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225-26 (11th Cir. 2005) (citations omitted). Additionally, a court may issue a temporary restraining order without notice to the adverse party or its attorney only if:

(A) 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

(B) 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). *Ex parte* temporary restraining orders “should be restricted to serving their underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing and no longer.” *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cty.*, 415 U.S. 423, 439 (1974).

III. CONCLUSIONS OF LAW

The declarations Plaintiff submitted in support of its Application support the following conclusions of law:

A. Plaintiff has a strong probability of proving at trial that consumers are likely to be confused by Defendants’ advertisement, promotion, sale, offer for sale, and/or distribution of goods bearing and/or using counterfeits, reproductions, or colorable imitations of the Chanel Marks, and that the products Defendants are selling and

promoting for sale are copies of Plaintiff's products that bear copies of the Chanel Marks.

B. Because of the infringement of the Chanel Marks, Plaintiff is likely to suffer immediate and irreparable injury if a temporary restraining order is not granted. The following specific facts, as set forth in Plaintiff's Complaint, Application, and accompanying declarations, demonstrate that immediate and irreparable loss, damage, and injury will result to Plaintiff and to consumers before Defendants can be heard in opposition unless Plaintiff's request for *ex parte* relief is granted:

1. Defendants own or control Internet websites operating under their domain names that advertise, promote, offer for sale, and sell products bearing and/or using counterfeit and infringing trademarks in violation of Plaintiff's rights;

2. There is good cause to believe that more counterfeit and infringing products bearing and/or using Plaintiff's trademarks will appear in the marketplace; consumers are likely to be misled, confused, and disappointed by the quality of these products; and Plaintiff may suffer loss of sales for its genuine products and an unnatural erosion of the legitimate marketplace in which it operates; and

3. There is good cause to believe if Plaintiff proceeds on notice to Defendants on this Application for Temporary Restraining Order, Defendants can easily and quickly transfer the registrations for many of the Subject Domain Names, or modify domain registration data and content, change hosts, and redirect consumer traffic to other websites, thereby thwarting Plaintiff's ability to obtain meaningful relief.

C. The balance of potential harm to Defendants in restraining their trade in counterfeit and infringing branded goods if a temporary restraining order is issued is far

outweighed by the potential harm to Plaintiff, its reputation, and its goodwill as a manufacturer and distributor of quality products, if such relief is not issued.

D. The public interest favors issuance of the temporary restraining order to protect Plaintiff's trademark interests and protect the public from being defrauded by the palming off of counterfeit and infringing branded goods as Plaintiff's genuine goods. Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff's *Ex Parte* Application for Temporary Restraining Order (DE [5]) is **GRANTED**, according to the terms set forth below:

(1) 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 are hereby temporarily restrained as follows:

- a. From manufacturing, importing, advertising, promoting, offering to sell, selling, distributing, or transferring any products bearing and/or using the Chanel Marks, or any confusingly similar trademarks, other than those actually manufactured or distributed by Plaintiff; and
- b. From secreting, concealing, destroying, selling off, transferring, or otherwise disposing of: (i) any products, not manufactured or distributed by Plaintiff, bearing the Chanel Marks, or any confusingly similar trademarks; or (ii) any evidence relating to the manufacture, importation, sale, offer for sale, distribution, or transfer of any products bearing the Chanel Marks, or any confusingly similar trademarks.

(2) 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 the use of the Chanel Marks, or any confusingly similar trademarks, on or in connection with all Internet websites owned and operated, or controlled by them, including the Internet websites operating under the Subject Domain Names;

(3) 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 the use of the Chanel Marks, or any confusingly similar trademarks, within domain name extensions, metatags or other markers within website source code, from use on any webpage (including as the title of any web page), from any advertising links to other websites, from search engines' databases or cache memory, and any other form of use of such terms that are visible to a computer user or serves to direct computer searches to websites registered, owned, or operated by each Defendant, including the Internet websites operating under the Subject Domain Names;

(4) Each Defendant shall not transfer ownership of the Internet websites operating under the Subject Domain Names during the pendency of this action, or until further Court Order;

(5) Each Defendant shall preserve copies of all computer files relating to the use of any of the Internet websites operating under the Subject Domain Names and shall take all steps necessary to retrieve computer files relating to the use of the Internet

websites operating under the Subject Domain Names that may have been deleted before the entry of this Order;

(6) Upon Plaintiff's request, the domain name registrar and/or privacy protection service for any of the Subject Domain Names for which the registrant uses such privacy protection service to conceal the registrant's identify and contact information is ordered to disclose to Plaintiff the true identities and contact information of those registrants;

(7) Upon entry of this Order, Plaintiff shall provide a copy of the Order by e-mail to the registrar of record for each of the Subject Domain Names. Upon receipt of the Order, the registrar of record for each of the Subject Domain Names shall immediately lock each of the Subject Domain Names; shall notify each registrant of record of the Order; and shall provide notice of the locking of the domain name to the registrant of record. After providing such notice to the registrars so the domain names may be locked, Plaintiff shall also provide notice and a copy of this Order to the registrant for each Subject Domain Name via e-mail to the e-mail address provided as part of the domain registration data for each of the Subject Domain Names identified in the Application for Temporary Restraining Order. If an e-mail address was not provided as part of the domain registration data for a Subject Domain Name, Plaintiff shall provide notice and a copy of this Order to the operators of the Internet websites via an onsite e-mail address and/or online contact form provided on the Internet websites operating under such Subject Domain Names. Forty-eight (48) hours after e-mailing this Order to the registrars of record and the registrants, Plaintiff shall provide a copy of this

Order to the registrars and the registries for the Subject Domain Names for the purposes described in Paragraph 8, below;

(8) The domain name registrars for the Subject Domain Names shall immediately assist in changing the registrar of record for the Subject Domain Names to a holding account with a registrar of Plaintiff's choosing (the "New Registrar"), excepting any such domain names which such registrars have been notified in writing by Plaintiff have been or will be dismissed from this action, or as to which Plaintiff has withdrawn its request to immediately transfer such domain names. To the extent the registrars do not assist in changing the registrars of record for the domains under their respective control within one business day of receipt of this Order, the top-level domain (TLD) registries for the Subject Domain Names or their administrators, including backend registry operators or administrators, within five business days of receipt of this Order, shall change, or assist in changing, the registrar of record for the Subject Domain Names to a holding account with the New Registrar, excepting any such domain names which such registries have been notified in writing by Plaintiff have been or will be dismissed from this action or as to which Plaintiff has withdrawn its request to immediately transfer such domain names. Upon the change of the registrar of record for the Subject Domain Names, the New Registrar will maintain access to the Subject Domain Names in trust for the Court during the pendency of this action. Additionally, the New Registrar shall immediately institute a temporary 302 domain name redirection which will automatically redirect any visitor to the Subject Domain Names to the following Uniform Resource Locator ("URL") <http://servingnotice.com/cYfc7/index.html>, whereon copies of the Complaint, this Order, and all other documents on file in this action shall be displayed.

Alternatively, the New Registrar may update the Domain Name System ("DNS") data it maintains for the Subject Domain Names, which link the domain names to the IP addresses where their associated websites are hosted, to NS1.MEDIATEMPLE.NET and NS2.MEDIATEMPLE.NET, which will cause the domain names to resolve to the website where copies of the Complaint, this Order, and all other documents on file in this action shall be displayed. After the New Registrar has effected this change, the Subject Domain Names shall be placed on lock status by the New Registrar, preventing the modification or deletion of the domains by the New Registrar or Defendants;

(9) This Order shall apply to the Subject Domain Names, associated websites, corresponding websites' URLs, and any other domain names, websites, and corresponding websites' URLs which are being used by Defendants for counterfeiting the Chanel Marks at issue in this action and/or unfairly competing with Plaintiff;

(10) As a matter of law, this Order shall no longer apply to any Defendant or associated domain name dismissed from this action or as to which Plaintiff has withdrawn its request for a temporary restraining order; and

(11) This Order shall remain in effect until the date for the hearing on the Motion for Preliminary Injunction set forth below, or until such further dates as set by the Court or stipulated by the parties.

BOND TO BE POSTED

(12) In accordance with 15 U.S.C. § 1116(d)(5)(D) and Federal Rule of Civil Procedure 65(c), Plaintiff shall post a bond in the amount of \$10,000.00 as payment of damages to which Defendants may be entitled for a wrongful injunction or restraint, during the pendency of this action, or until further Court order.

PRELIMINARY INJUNCTION

(13) A **telephonic hearing** is set before this Court in the United States Courthouse located at 299 East Broward Boulevard, Fort Lauderdale, Florida 33301, Courtroom 110, on **Wednesday, June 8, 2022, at 4:30 P.M.**, at which time Defendants and/or any other affected persons may challenge the appropriateness of this Order and move to dissolve the same and at which time the Court will hear argument on Plaintiff's requested preliminary injunction. Counsel for all parties should use the following dial-in information: **Telephone Number: 877-402-9753; Access Code: 4709496**;

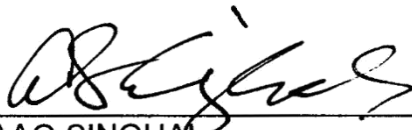
(14) Plaintiff shall serve copies of the Complaint, the Application for Temporary Restraining Order, and this Order, on each Defendant by e-mail via their corresponding e-mail address, or on each Defendant via their corresponding e-mail/online contact form provided on the Internet websites operating under the Subject Domain Names, or by providing a copy of this Order by e-mail to the registrar of record for each of the Subject Domain Names so that the registrar, in turn, notifies each Defendant of the Order, or by other means reasonably calculated to give notice which is permitted by the Court. In addition, Plaintiff shall post copies of the Complaint, Application for Temporary Restraining Order, and this Order, and all other pleadings and documents filed in this action on the website located at <http://servingnotice.com/cYfc7/index.html>, and shall provide the website address to Defendants via e-mail/online contact form, and such notice so given shall be deemed good and sufficient service thereof. Plaintiff shall continue to provide notice of these proceedings and copies of the documents on file in this matter to Defendants by regularly updating the website located at

<http://servingnotice.com/cYfc7/index.html>, or by other means reasonably calculated to give notice which is permitted by the Court;

(15) Any response or opposition to Plaintiff's Motion for Preliminary Injunction must be filed and served on Plaintiff's counsel **by May 10, 2022**. Plaintiff shall file any Reply Memorandum **by May 17, 2022**. The above dates may be revised upon stipulation by all parties and approval of this Court. Defendants are hereby on notice that failure to appear at the hearing may result in the imposition of a preliminary injunction against them under 15 U.S.C. § 1116(d), Federal Rule of Civil Procedure 65, The All Writs Act, 28 U.S.C. § 1651(a), and this Court's inherent authority;

(16) The Clerk is directed to **UNSEAL** all docket entries in this case and to e-mail a copy of the docketed order to Plaintiff's counsel at Stephen@smgpa.net.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 27th day of April 2022.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished to counsel of record via CM/ECF

SCHEDULE "A"
DEFENDANTS BY NUMBER AND SUBJECT DOMAIN NAME

Defendant Number	Defendant / Subject Domain Name
1	replicachannelsale.com
2	3jreplicachanel.com
2	ccreplicas.com
3	colestore.ru
3	stunningbag.ru
4	copyforbags.com
4	fakebagsforsale.com
4	replicachannelsales.com
4	replicasforsell.com
5	ecglobaltrade1.ru
5	ecwholesaler.ru
6	fomshop.ml
6	vbbmall.top
7	luxibags.ru
7	ssbag.ru
8	okify.ru
8	bagsall.su
9	qualityaaabags.com
9	qualitybestbags.com
10	vipshop5w.ml
10	warehouse5.top
11	aaagoodwatch.com
12	bagsaaa.ru
13	bagsu2022.cz
14	borsechanel.com
15	byluxbags.com
16	daphnesale.ru
17	e8bags.co
18	ebuypurses15a.com
19	efjoys.top
20	fabagz.com
21	fancyfactory.su
22	firstbags.ru
23	handbagsforsales.com
24	ihowears.com
25	karanfrank.com

26	luxaddict123.com
27	mybestbag.ru
28	perfectboutique.ru
29	purse-area.cn
30	replicachanelselling.com
31	repicaluxurybags.shop
32	resmartrends.com
33	sosupergoods.com
34	startree.ru
35	supervip3.com
36	theluxuriouszo.com
37	tipstar.ru
38	topmodareps.eu
39	vogueluxury.su
40	yupooalbum.ru
41	yyybag.com