UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-60347-CIV-SINGHAL

ADIDAS AG, ADIDAS INTERNATIONAL MARKETING B.V., and ADIDAS AMERICA, INC.,

Plaintiffs,

v.

THE INDIVIDUALS, BUSINESS ENTITIES, AND UNINCORPORATED ASSOCIATIONS IDENTIFIED ON SCHEDULE "A,"

Defendants.
_____/

SEALED ORDER AUTHORIZING ALTERNATE SERVICE OF PROCESS ON DEFENDANTS UNDER FEDERAL RULE OF CIVIL PROCEDURE 4(f)(3)

THIS CAUSE is before the Court on Plaintiffs' *Ex Parte* Motion for Order Authorizing Alternate Service of Process on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3) (the "Motion") (DE [7]). Plaintiffs seek an order granting alternate service of process on foreign Defendants in the action. Plaintiffs allege that Defendants have established Internet-based businesses and utilize electronic means as reliable forms of contact. Therefore, Plaintiffs seek to serve Defendants by both e-mail and website posting. For the reasons discussed below, the Court grants the Motion.

Federal Rules of Civil Procedure 4(h)(2) defines the contours of service on foreign corporations and incorporates the service methods set forth for individuals in Rule 4(f). Rule 4(f)(3), in turn, provides that service may be accomplished "by other means not prohibited by international agreement, as the court orders." Fed. R. Civ. P. 4(f)(3). Alternate methods of service under Rule 4(f)(3) are available without first attempting service by other means. *Rio Props., Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1015 (9th

Cir. 2002); *see also De Gazelle Grp., Inc. v. Tamaz Trading Establishment*, 817 F.3d 747, 750 (11th Cir. 2016) ("If a party cannot, or chooses not to, serve a defendant abroad using one of the methods specified in Rule 4(f)(1) and (2), the party may accomplish service 'by other means not prohibited by international agreement, as the court orders.'") (quoting Fed. R. Civ. P. 4(f)(3)). "So especially in a circumstance where service upon a foreign corporation under Rule 4(f)(1) or 4(f)(2) has been cumbersome, district courts have broad discretion under Rule 4(f)(3) to authorize other methods of service that are consistent with due process and are not prohibited by international agreements." *Brookshire Bros., Ltd. v. Chiquita Brands Int'l, Inc.,* 2007 WL 1577771, at *2 (S.D. Fla. May 31, 2007) (citing *Prewitt Enters., Inc. v. Org. of Petroleum Exporting Countries*, 353 F.3d 916, 921, 927 (11th Cir. 2003)).

For the following reasons, this Court finds that alternate service of process under Rule 4(f)(3) is warranted. First, the Hague Convention does not specifically preclude service by e-mail and website posting. Where a signatory nation has objected to the alternate means of service provided by the Hague Convention, that objection is expressly limited to those means and does not represent an objection to other forms of service, such as e-mail or website posting. *See Stat Med. Devices, Inc. v. HTL-Strefa, Inc.,* 2015 WL 5320947, at *3 (S.D. Fla. Sept. 14, 2015) (noting that an objection to the alternate forms of service set forth in the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, 658 U.N.T.S. 16, is limited to the specific forms of service objected to). A court acting under Rule 4(f)(3) therefore remains free to order alternate means of service where a signatory nation has not expressly objected to those means. *See Gurung v. Malhotra,* 279 F.R.D. 215, 219

(S.D.N.Y. 2011). Accordingly, the requested service methods are not prohibited by international agreement.

Second, Defendants have at least one known and valid form of electronic contact, and Plaintiffs have created a website for the sole purpose of providing notice of this action to Defendants, the address to which will be provided to Defendants' known e-mail accounts and onsite contact forms. Therefore, service via e-mail and through posting on a designated website is "reasonably calculated, under all the circumstances, to apprise [Defendants] of the pendency of the action and afford [them] an opportunity to present their objections." *See Brookshire Bros., Ltd*., 2007 WL 1577771, at *1 (quoting *Mullane v. Central Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)). Thus, the Court will exercise its discretion to allow service on Defendants through e-mail and website posting. Accordingly, it is hereby

ORDERED AND ADJUDGED as follows:

1. Plaintiffs' *Ex Parte* Motion for Order Authorizing Alternate Service of Process on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3) (DE [7]) is **GRANTED**.
2. In accordance with Rule 4(f)(3), Plaintiffs are permitted to serve the Summons, Complaint, and all pleadings, filings, and discovery on each Defendant:
    a. by providing the address to Plaintiffs' designated serving notice website to each Defendant via the e-mail accounts provided by that Defendant (i) as part of the data related to its e-commerce store, including customer service e-mail addresses and/or onsite

contact forms, and private messaging application and/or services, or (ii) via the registrar of record for each of the E-commerce Store Names. *See* Schedule "A" attached to the Motion for Order Authorizing Alternate Service of Process on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3) (DE [7]), which lists Defendants' means of contact; **and**

b. by publicly posting copies of the Summonses, Complaint, and all pleadings, filings, and discovery on Plaintiffs' designated serving notice website appearing at: https://servingnotice.com/D34a29f/index.html.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 6th day of March 2024.

RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished to counsel via email