

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-62388-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

**ORDER GRANTING *EX PARTE* APPLICATION FOR ENTRY OF
TEMPORARY RESTRAINING ORDER**


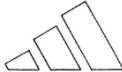




THIS CAUSE is before the Court on Plaintiffs' *Ex Parte* Application for Entry of Temporary Restraining Order and Preliminary Injunction (the "Application") (DE 6]). Plaintiffs adidas AG, adidas International Marketing B.V., adidas America, Inc. (collectively "Plaintiffs") move *ex parte* for entry of a temporary restraining order against Defendants, the Individuals, Business Entities, and Unincorporated Associations Identified on Schedule "A" under 15 U.S.C. § 1116, Federal Rule of Civil Procedure 65, The All Writs Act, 28 U.S.C. § 1651(a), and the Court's inherent authority. For the reasons discussed below, the Court grants the Application.


I. BACKGROUND¹

Plaintiffs are the owners of the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (the “adidas Marks”):

Trademark	Registration Number	Registration Date	Class / Goods
ADIDAS	0,891,222	May 19, 1970	IC25. sport shoes namely, track and field shoes, baseball, boxing, football, skating, golf, and soccer shoes; sportswear namely, suits, shorts, pants, tights, shirts, gloves, and the like; jerseys; socks; sport shoes namely, track and field training shoes, basketball shoes, and tennis shoes.
	0,973,161	November 20, 1973	IC 018. tote bags. IC 25. specific purpose athletic shoes; general purpose sport shoes, sportswear-namely, suits, shorts, pants, tights, shirts, jerseys, socks, and gloves.
adidas	1,300,627	October 16, 1984	IC 025. Sportswear-Namely, Suits, Shorts, Pants, Tights, Shirts, Jerseys, Socks, Gloves, Jackets, Coats, Swimwear, Sweaters, Caps, Pullovers, Warm-Up Suits, Boots, Shoes, Slippers.
	1,310,140	December 18, 1984	IC 025. Sportswear-Namely, Suits, Shorts, Pants, Tights, Shirts, Jerseys, Socks, Gloves, Jackets, Coats, Swimwear, Sweaters, Caps, Pullovers, Warm-Up Suits, Rain Suits, Ski Suits, Jump Suits, Boots, Shoes, Slippers.
	1,815,956	January 11, 1994	IC 25. athletic footwear.

¹ The factual background is taken from Plaintiffs’ Complaint, Application, and supporting Declarations.

	1,833,868	May 3, 1994	IC 25. athletic footwear.
	2,179,796	August 11, 1998	IC 025. sports and leisure wear, namely shorts, pants, shirts, T-shirts, jerseys, tights, socks, gloves, jackets, swimwear, sweaters, caps and hats, pullovers, warm-up suits, rain-suits, ski suits, jump suits, boots, slippers, sandals, specific purpose athletic shoes, and general purpose sport shoes.
	2,278,589	September 21, 1999	IC 025. athletic and leisure footwear.
	2,411,802	December 12, 2000	IC 018. All purpose sport bags, athletic bags, traveling bags, backpacks, knapsacks. IC 025. Sports and leisure wear, namely, shorts, pants, shirts, T-shirts, jerseys, socks, gloves, jackets, swimwear, caps and hats, pullovers, sweat-shirts, sweat suits, track suits, warm-up suits; boots, sandals, specific purpose athletic shoes and general all purpose sports shoes. IC 028. Sports balls and playground balls; guards for athletic use, namely, shin guards, knee guards and leg guards.
	3,029,129	December 13, 2005	IC 025. Footwear.
	3,029,135	December 13, 2005	IC 025. Footwear.

	3,104,117	June 13, 2006	<p>IC 009. Optical apparatus and instruments, namely, eyeglasses and sunglasses.</p> <p>IC 014. Horological and chronometric instruments, namely, watches</p> <p>IC 018. Leather and imitations of leather, and goods made from these materials in the nature of bags for general and sport use, namely, handbags, tote bags, waist packs, overnight bags, backpacks, knapsacks and beach bags; trunks; traveling bags for general and sport use; leather and imitations of leather and goods made from these materials, namely, wallets, briefcases.</p> <p>IC 025. Sports and leisure wear, namely suits, shorts, pants, sweatpants, skirts, skorts, dresses, blouses, shirts, T-shirts, sleeveless tops, polo shirts, vests, jerseys, sweaters, sweatshirts, pullovers, coats, jackets, track suits, training suits, warm-up suits, swimwear, underwear, socks, gloves, scarves, wristbands and belts; headgear, namely caps, hats, visors, headbands; athletic footwear and leisure foot wear, namely boots, sandals, specific purpose athletic shoes and general purpose sports shoes.</p>
BOOST	3,580,958	February 24, 2009	IC 025. Clothing, namely, shirts; footwear.
NMD	5,218,628	June 6, 2017	IC 025. Footwear.
SPLY-350	5,413,495	February 27, 2018	IC 025. Footwear.

See Declaration of Amanda Luz in Support of Plaintiffs' Application for Temporary Restraining Order ("Luz Decl.") ¶¶ 4-5; (DE [6-1]); see *a/so* United States Trademark Registrations of the adidas Marks attached as Composite Exhibit 1 to the Complaint (DE [1-2]). The adidas Marks are used in connection with the manufacture and distribution of quality goods in the categories identified above. See Luz Decl. ¶ 5 (DE [6-1]).

Defendants, by operating commercial websites under their domain names identified on Schedule "A" ("Subject Domain Names") have advertised, promoted, offered for sale, or sold goods bearing and/or using what Plaintiffs have determined to be counterfeits, infringements, reproductions and/or colorable imitations of the adidas Marks. See Luz Decl. ¶¶ 13–15 (DE [6-1]); Declaration of Virgilio Gigante in Support of Plaintiffs' Application for Temporary Restraining Order ("Gigante Decl.") ¶ 2 (DE [6-2]); Gigante Decl. Comp. Ex. 1 (DE [6-3]).

Although each Defendant may not copy and infringe each of the adidas Marks for each category of goods protected, Plaintiffs have submitted sufficient evidence showing each Defendant has infringed, at least, one or more of the adidas Marks. See Luz Decl. ¶¶ 13–15 (DE [6-1]); Gigante Decl. ¶ 2 (DE [6-2]); Gigante Decl. Comp. Ex. 1 (DE [6-3]). Defendants are not now, nor have they ever been, authorized or licensed to use, reproduce, or make counterfeits, reproductions, or colorable imitations of the adidas Marks. See Luz Decl. ¶¶ 13-15 (DE [6-2]). Plaintiffs' representative reviewed and visually inspected the adidas branded goods by reviewing the websites operating under the Subject Domain Names, or the detailed web page captures and images of the items bearing the adidas Marks, and determined the products were non-genuine, unauthorized versions of Plaintiffs' goods. See Luz Decl. ¶¶ 14–15 (DE [6-1]).

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 non-movant; 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 Plaintiffs submitted in support of their Application support the following conclusions of law:

A. Plaintiffs have 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 adidas Marks, and that the products Defendants are selling and

promoting for sale are copies of Plaintiffs' products that bear or use copies of the adidas Marks.

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

1. Defendants own or control commercial 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 Plaintiffs' rights;

2. There is good cause to believe that more counterfeit and infringing products bearing and/or using Plaintiffs' trademarks will appear in the marketplace; consumers are likely to be misled, confused, or disappointed by the quality of these products; and that Plaintiffs may suffer loss of sales for their genuine products; and

3. There is good cause to believe that if Plaintiffs proceed on notice to Defendants on this Application, Defendants can easily and quickly change the ownership or modify domain registration data and content, redirect consumer traffic to other domain names, and transfer ownership of the Subject Domain Names, thereby thwarting Plaintiffs' 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 Plaintiffs, their respective reputations, and their goodwill as manufacturers and distributors of quality products, if such relief is not issued.

D. The public interest favors issuance of the temporary restraining order to protect Plaintiffs' trademark interests and protect the public from being defrauded by the palming off of counterfeit and infringing goods as Plaintiffs' genuine goods.

Accordingly, it is hereby

ORDERED AND ADJUDGED that pursuant to 15 U.S.C. § 1116, Federal Rule of Civil Procedure 65, 28 U.S.C. § 1651(a), and the Court's inherent authority, Plaintiffs' *Ex Parte* Application for Temporary Restraining Order (DE [6]) is **GRANTED**, according to the terms set forth below:

TEMPORARY RESTRAINING ORDER

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

bearing and/or using the adidas 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 adidas Marks, or any confusingly similar trademarks, on or in connection with all Internet websites, domain names, or businesses 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 adidas 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 which is visible to a computer user or serves to direct computer searches to Internet 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 Subject Domain Names during the pendency of this action, or until further Order of the Court;

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

computer files relating to the use of the Subject Domain Names that may have been deleted before the entry of this Order;

(6) Upon Plaintiffs' request, the privacy protection service for any of the Subject Domain Names for which the registrant uses such privacy protection service to conceal the registrant's identity and contact information is ordered to disclose to Plaintiffs the true identities and contact information of those registrants;

(7) Upon entry of this Order, Plaintiffs 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; 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, Plaintiffs 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, Plaintiffs 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, Plaintiffs 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 Plaintiffs' choosing (the "New Registrar"), excepting any such domain names which such registrars have been notified in writing by Plaintiffs have been or will be dismissed from this action, or as to which Plaintiffs have withdrawn their 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 Plaintiffs have been or will be dismissed from this action, or as to which Plaintiffs have withdrawn their 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/D41s9x/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 45.63.17.51, 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, and any other domain names or websites that are being used by Defendants for the purpose of counterfeiting the adidas Marks in this action and/or unfairly competing with Plaintiffs;

(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 Plaintiffs have withdrawn their 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 to 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), Plaintiffs 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. In the Court's discretion, the bond may be subject to increase should an application be made in the interest of justice.

PRELIMINARY INJUNCTION

(13) A **telephonic hearing is set before this Court on** _____, **2024**,
at _____ : _____ **.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 Plaintiffs' requested preliminary injunction. Counsel for all parties should use the following dial-in information: **Telephone Number: 877-402-9753; Access Code: 4709496;**

(14) Plaintiffs shall serve copies of the Complaint, the Application, and this Order, on each Defendant by e-mail via their corresponding e-mail address and/or online contact form or other means of electronic contact provided on the websites operating under the respective 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, Plaintiffs shall post copies of the Complaint, Application for Temporary Restraining Order, and this Order, as well as all other documents filed in this action on the website located at <http://servingnotice.com/D41s9x/index.html>, and shall provide the address to the website to Defendants via e-mail/online contact form, and such notice so given shall be deemed good and sufficient service thereof. Plaintiffs 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/D41s9x/index.html>, or by other means reasonably calculated to give notice which is permitted by the Court;

(15) Any response or opposition to Plaintiffs' Motion for Preliminary Injunction must be filed and served on Plaintiffs' counsel **within 7 days of the date of this Order**. Plaintiffs shall file any Reply Memorandum **within 7 days of the date of service of any response or opposition**. 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.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this ____ day of _____ 2024.

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 / Domain Name
1	allkicks.shop
2	91sheep.net
3	basetao.xyz
4	boolopo.net
5	carlkicks.net
6	cnfactory.co
7	cnfashionbuy.shop
8	cocokicks.xyz
9	cocosneakers.co
10	coolkicks.shoes
11	crewkicks.shoes
12	elevenkicks.co
13	fashionreps.shoes
14	flightkickz.co
15	goosemasterkim.org
16	hicoco.co
17	hypeunique.net
18	joystudio.xyz
19	kickbulk.shop
20	lkkiks.net
21	mangomeeee.shop
22	monicasneaker.co
23	mrhou.net
24	ogtony.xyz
25	perfectkicks.shoes
26	popkicks.co
27	repkicks.shoes
28	repsnkrs.co
29	shoesreplica.com
30	sneakershead.net

31	sneakerwill.shoes
32	suprize.shop
33	uaplg.org
34	ua-shoes.net
35	uasneakers.net