

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 24-62388-CIV-SINGHAL**

ADIDAS AG, *et al.*,

Plaintiffs,

vs.

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

Defendants.

**DECLARATION OF VIRGILIO GIGANTE IN SUPPORT OF
PLAINTIFFS’ *EX PARTE* MOTION FOR ORDER AUTHORIZING
ALTERNATE SERVICE OF PROCESS ON DEFENDANTS PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 4(f)(3)**

I, Virgilio Gigante, declare and state as follows:

1. I am an attorney duly authorized and licensed to practice before this Court, and I am one of the counsels of record for Plaintiffs, adidas AG, adidas International Marketing B.V., and adidas America, Inc. (“Plaintiffs”) in the above captioned action. I submit this Declaration, which is filed in support of Plaintiffs’ *Ex Parte* Motion for Order Authorizing Alternate Service of Process (“Motion for Alternate Service”) on Defendants, the Individuals, Business Entities, or Unincorporated Associations identified on Schedule “A” to Plaintiffs’ *Ex Parte*¹ Motion for

¹ Plaintiffs are moving for alternate service *ex parte* as Plaintiffs have yet to provide Defendants with notice of this action. Plaintiffs filed their *Ex Parte* Application for Temporary Restraining Order and Preliminary Injunction (“Application for Temporary Restraining Order”) [DE 6], which is currently pending before the Court. The Motion for Alternate Service of Process makes reference to Plaintiffs’ Application for Temporary Restraining Order, and as such, Plaintiffs seek to prevent premature disclosure of that filing. However, Plaintiffs are filing this Motion so that, in the event Plaintiffs’ Application for Temporary Restraining Order and the Motion for Alternate Service of Process are granted, Plaintiffs can effectuate service of process pursuant to Rule 4 of the Federal Rules of Civil Procedure simultaneously with providing notice of the Court’s order on Plaintiffs’ Application for Temporary Restraining Order.

Alternate Service (“Defendants”). I am personally knowledgeable of the matters set forth in this Declaration and, if called upon to do so, I could and would competently testify to the following facts set forth below.

2. On December 20, 2024, Plaintiffs filed their *Ex Parte* Application for Temporary Restraining Order [DE 6]. I hereby incorporate by reference all factual allegations contained in my Declaration in Support of Plaintiffs’ Application for Temporary Restraining Order [DE 6-2].

3. Prior to filing this action, my firm accessed the commercial Internet websites operating under the domain names identified on Schedule “A” attached to Plaintiffs’ Complaint [DE 1] (the “Subject Domain Names”). The websites advertise, offer for sale, and/or promote products using counterfeits and infringements of one or more of Plaintiffs’ trademarks at issue. Defendants have structured their website businesses so that the primary means for customers to purchase Defendants’ counterfeit goods at issue is by placing an order electronically. Defendants purport to take and confirm orders online as well via e-mail and/or private messaging services such as WhatsApp, and they communicate with customers via electronic means, including e-mail and onsite contact forms. True and correct copies of the relevant web pages captured and downloaded by my firm reflecting samples of the Internet websites operating under the Subject Domain Names displaying Plaintiffs’ branded items offered for sale are attached as Composite Exhibit “1” to my Declaration in Support of Plaintiff’s Application for Temporary Restraining Order [DE 6-3].

4. My firm obtained the publicly available domain name registration data (“WHOIS” records) for each of the Subject Domain Names identifying the contact information Defendants provided their registrars. My firm also obtained the available e-mail addresses and onsite contact forms identified in connection with the websites operating under Defendants’ respective Subject Domain Names. Additionally, Defendants can receive notice of this action by e-mail via the

designated domain name Registrar's e-mail address or domain contact form for the Subject Domain Names. The e-mail addresses for Defendants are provided on Schedule "A" to Plaintiffs' Motion for Alternate Service.

5. Plaintiffs will also notify Defendants of this action via website posting. Plaintiffs have created a serving notice website and will be posting copies of the Complaint, the Application for Temporary Restraining Order, this Motion, and all other pleadings, orders, and documents on file in this action on their designated website located at <http://servingnotice.com/D41s9x/index.html> ("Plaintiffs' Serving Notice Website"), such that anyone accessing Plaintiffs' Serving Notice Website will find copies of all documents filed in this action. The address for Plaintiffs' Serving Notice Website will be provided to Defendants via their known e-mail addresses, onsite contact forms, and/or private message accounts, and will be included as part of service of process in this matter.

6. Accordingly, each Defendant will be provided with notice of this action electronically via e-mail by providing the address to Plaintiffs' Serving Notice Website to their corresponding e-mail addresses, onsite contact forms, corresponding private messaging applications and/or services, or via the designated domain name registrar that Defendants use to conduct their commercial transactions via the Subject Domain Names. In this manner, Defendants will receive a web address at which they can access all electronic filings to view, print, or download any document filed in the case similar to the court's CM/ECF procedures.

7. Plaintiffs have investigated Defendants and have reasonable cause to suspect Defendants may reside and/or operate in China, the United Kingdom, or other foreign countries, and/or redistribute products from sources in those locations. Plaintiffs' investigation looked at multiple connection data points, such as data Defendants identified in the WHOIS records for each

of their respective Subject Domain Names, as well as information contained on Defendants' websites operating thereunder. While Plaintiffs have not been able to identify a valid physical address for service of process on Defendants, Plaintiffs have good cause to believe Defendants are not residents of the United States.

8. I reviewed the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters ("Hague Convention"), to which the United States, China, and the United Kingdom are signatories. A true and correct copy of the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters and a list of the signatory Members are attached hereto as Composite Exhibit "1."² China and the United Kingdom have declared that they oppose, either fully or partially, to the service of documents in their territories by the alternative means of service outlined in Article 10 of the Convention, including the service of process by postal channels.³ However, the Hague Convention does not preclude service by e-mail, and the declarations to the Hague Convention filed by China and the United Kingdom do not expressly prohibit service via e-mail or website posting.⁴

² See also Hague Service Convention, November 15, 1965, 20 U.S.T. 361, available at <https://www.hcch.net/en/instruments/conventions/full-text/?cid=17> (last visited December 20, 2024) (full text of the Hague Service Convention); <https://www.hcch.net/en/instruments/conventions/status-table/?cid=17> (last visited December 20, 2024) (listing the current contracting states).

³ The United Kingdom has not declared any opposition to the alternative means of service by postal channels outlined in Article 10(a) of the Hague Convention, but rather, imposes additional requirements under Articles (b) and (c).

⁴ Composite Exhibit 1 also contains a true and correct printout of China's and the United Kingdom's Declaration/Reservation/Notification in regards to the Hague Convention, available at <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=393&disp=resdn>; <https://www.hcch.net/en/instruments/conventions/status->

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed December 20, 2024, at Fort Lauderdale, Florida.



Virgilio Gigante

[table/notifications/?csid=427&disp=resdn;https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=427&disp=resdn](https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=427&disp=resdn) (last visited December 20, 2024).