

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 23-61084-CIV-SMITH**

ADIDAS AG, *et al.*,

Plaintiffs,

vs.

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

Defendants.

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**DECLARATION OF VIRGILIO GIGANTE IN SUPPORT OF PLAINTIFFS’ *EX PARTE*  
APPLICATION FOR ENTRY OF TEMPORARY RESTRAINING ORDER,  
PRELIMINARY INJUNCTION, AND ORDER RESTRAINING TRANSFER OF ASSETS**

I, Virgilio Gigante, declare and state as follows:

1. I am an attorney duly authorized and licensed to practice law before all courts in the State of Florida and the Southern District of Florida. I am counsel 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* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (the “Application for Temporary Restraining Order”) against Defendants, the Individuals, Business Entities, or Unincorporated Associations identified on Schedule “A” to Plaintiffs’ Application for Temporary Restraining Order (“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.

RE: INVESTIGATION OF DEFENDANTS

2. On Plaintiffs' behalf, my firm retained Invisible Inc ("Invisible"), a licensed private investigative firm, to investigate and document the suspected sales of counterfeit and infringing versions of Plaintiffs' branded products by Defendants and to determine the available payment account data for receipt of funds paid to Defendants for the sale of such goods. At the conclusion of the investigation, I received the detailed web pages produced by Invisible reflecting Plaintiffs' branded products ordered<sup>1</sup> from Defendants via their Internet based e-commerce stores operating under their seller names identified on Schedule "A" to the Plaintiffs' Application for Temporary Restraining Order (the "E-commerce Store Names") and I provided copies of those web pages to Plaintiffs' representative for review. True and correct copies of the web page captures produced by Invisible and provided to my firm, reflecting samples of Plaintiffs' branded goods Defendants are promoting, advertising, offering for sale, and selling via the E-commerce Store Names are attached as Composite Exhibit "1" to the Declaration of Kathleen Burns in Support of Plaintiffs' Application for Temporary Restraining Order.

3. My firm obtained the publicly available registration data Defendants' E-commerce Store Names. Additionally, my firm obtained the available e-mail addresses and onsite contact forms identified in connection with Defendants' respective E-commerce Store Names.<sup>2</sup>

RE: *EX PARTE* RELIEF

4. It has been my experience that in multiple litigations involving online counterfeiting that, in the absence of a temporary restraining order without notice, a defendant can

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<sup>1</sup> Invisible did not to transmit the funds to finalize the sale for the orders from some of the Defendants so as to avoid funding Defendants' coffers.

<sup>2</sup> The e-mail addresses provided by Defendants in connection with their respective E-commerce Store Names are included on Schedule "A" attached to the Application for Temporary Restraining Order.

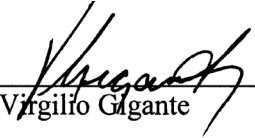
and will significantly alter the status quo before the Court can determine the parties' respective rights. In particular, the Internet based e-commerce stores at issue herein are under Defendants' complete control. As such, Defendants have the ability to change ownership or modify domain registration data, change payment accounts, redirect consumer traffic to other seller identification names, and transfer assets and ownership of the E-commerce Store Names. Such modifications can happen in a short span of time after Defendants are provided with notice of this action. Thus, Defendants can easily electronically transfer and secret the funds sought to be restrained if they obtain advance notice of Plaintiffs' Application for Temporary Restraining Order and thereby thwart the Court's ability to grant meaningful relief and can completely erase the status quo. As Defendants engage in illegal trademark counterfeiting activities, Plaintiffs have no reason to believe Defendants will make their assets available for recovery pursuant to an accounting of profits or will adhere to the authority of this Court any more than they have adhered to federal trademark law. This case is being filed on an *ex parte* basis to prevent such injustices from occurring herein.

#### RE: RESTRAINING TRANSFER OF ASSETS

5. Defendants operate via Internet based e-commerce stores under their respective E-commerce Store Names. Defendant Numbers 1–67 use money transfer and retention services with PayPal, Inc. ("PayPal"), as a method to receive monies generated through the sale of counterfeit products. Defendant Numbers 68–69 also utilize third-party payment processing services with Stripe, Inc. ("Stripe"), as methods to receive monies generated through the sale of counterfeit products.

6. Based on past experience in similar cases, I reasonably believe that PayPal and Stripe have the ability to and will in fact comply with a temporary restraining order of the type now sought by Plaintiffs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed the 9th day of June, 2023, at Ft. Lauderdale, Florida.

  
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Virgilio Gigante