

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 23-60728-CIV-SMITH**

GUCCI AMERICA, INC.,

Plaintiff,

vs.

AUTHENTICGUCCIBAGSOUTLETUSA.COM,
et al.,

Defendants.

**PLAINTIFF’S MOTION FOR ORDER AUTHORIZING ALTERNATE SERVICE OF
PROCESS ON DEFENDANTS PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 4(f)(3) AND MEMORANDUM OF LAW IN SUPPORT THEREOF**

Plaintiff, Gucci America, Inc. (“Gucci” or “Plaintiff”) hereby moves this Honorable Court for an order authorizing alternate service of process on Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule “A” hereto (“Defendants”) pursuant to Federal Rule of Civil Procedure 4(f)(3). In support thereof, Gucci submits the following memorandum of law.

I. INTRODUCTION

Gucci is suing Defendants for trademark counterfeiting and infringement, false designation of origin, cybersquatting, common law unfair competition, and common law trademark infringement. Defendants are knowingly and intentionally promoting, advertising, distributing, offering for sale, and selling goods bearing counterfeits and confusingly similar imitations of Gucci’s registered trademarks within this district and throughout the United States through the interactive, commercial Internet websites and supporting domains operating under the domain names identified on Schedule “A” hereto (the “Subject Domain Names”).

Pursuant to Federal Rule of Civil Procedure 4(f)(3), Gucci requests an order authorizing service of process on Defendants via electronic mail (“e-mail”) and via website posting. Alternate service by e-mail and by posting on a designated website are appropriate and necessary in this case, because Defendants (1) operate via the Internet; and (2) rely on electronic communications to operate their businesses. As such, Gucci has the ability to contact Defendants directly and provide notice of Gucci’s claims against them electronically via e-mail to Defendants’ known e-mail addresses, including onsite contact forms embedded directly in Defendants’ respective websites. Additionally, Gucci has created a website and will be posting copies of the Complaint, this instant Motion, and all other pleadings and documents filed in this action. Gucci respectfully submits that an order allowing service of process and service of all filings and discovery via e-mail and by posting on a designated website in this case will benefit all parties and the Court by ensuring Defendants receive immediate notice of the pendency of this action and allowing this action to move forward expeditiously. Absent the ability to serve Defendants by e-mail and/or by website posting, Gucci will almost certainly be left without the ability to pursue a remedy.

II. STATEMENT OF FACTS

A. Defendants Identify Electronic Means for Contact.

Defendants operate Internet-based businesses and identify e-mail, including onsite contact forms, as a means of communication. (See Wiborg-Rodriguez Decl. ¶¶ 3-4; see also Schedule “A.”)¹ As a practical matter, it is necessary for merchants who operate entirely online, such as Defendants, to provide customers with an accurate electronic means of contact by which customers may contact the merchants to ask questions about the merchants’ products, place

¹ The e-mail addresses and other means of electronic contact for Defendants are provided on Schedule “A” hereto. (Wiborg-Rodriguez Decl. ¶ 3.)

orders from the merchants, and receive information from the merchants regarding the shipments of orders. Moreover, e-commerce defendants generally must maintain accurate e-mail addresses where the domain registrar may communicate with them regarding issues related to the purchase, transfer, and maintenance of their domain name accounts. Additionally, Gucci has created a serving notice website appearing at the URL <http://servingnotice.com/G29ap/index.html> (“Plaintiff’s Website”), such that anyone accessing Plaintiff’s Website will find copies of all documents filed in this action. (See Wiborg-Rodriguez Decl. ¶¶ 5-6.)

Specifically, Gucci’s counsel obtained the publicly available domain name registration records (“WHOIS” records) for each of the Subject Domain Names identifying the contact e-mail addresses Defendants provided their registrars. (See Wiborg-Rodriguez Decl. ¶ 3.) Additionally, Gucci’s counsel obtained the available e-mail addresses and onsite contact forms Defendants identified in connection with their respective Internet websites. (Id.) Each Defendant will be provided with notice of this action electronically via e-mail by providing the address to Plaintiff’s designated serving notice website to the e-mail addresses provided by Defendants as part of the domain registration data for each of the Subject Domain Names or on their respective websites operating thereunder, including customer service e-mail addresses and onsite contact forms, or via their designated Registrar’s domain owner contact form or e-mail address. (See id. at ¶ 4.) 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. (Id.)

Furthermore, Gucci will be able to provide each Defendant notice of this action via public announcement on Gucci’s designated website. (See Wiborg-Rodriguez Decl. ¶ 5.) Gucci has created its Website appearing at the URL <http://servingnotice.com/G29ap/index.html>,

whereon copies of the Complaint, the instant Motion, and all other pleadings, documents, and orders on file in this action are posted such that anyone accessing Plaintiff's Website will find copies of all documents filed in this action. (Id.) The address for Plaintiff's Website will be provided to Defendants via e-mail to their known e-mail accounts and will be included as part of service of process in this matter. (Id.)

B. Defendants Rely on Electronic Communications.

Defendants have structured their website businesses so that the means for customers to purchase Defendants' counterfeit goods at issue is by placing an order electronically. (See Wiborg-Rodriguez Decl. ¶ 2.) Defendants purport to take and confirm orders online as well as via e-mail and communicate with customers via electronic means, including e-mail and onsite contact forms. (See id.; see also relevant webpage captures from Defendants' Internet websites operating under the Subject Domain Names displaying Gucci-branded items offered for sale attached as Comp. Ex. 2 to Plaintiff's Complaint [DE 1-3 through 1-4], incorporated herein by reference.) Clearly, Defendants rely on electronic means as a reliable form of contact.

III. ARGUMENT

Pursuant to Federal Rule of Civil Procedure 4(h)(2), a foreign partnership or other unincorporated association may be served with process in any manner prescribed by Rule 4(f) for serving foreign individuals. Federal Rule of Civil Procedure 4(f)(3), in turn, allows a district court to authorize an alternate method for service to be effected upon a foreign defendant provided that it is not prohibited by international agreement and is reasonably calculated to give notice to the defendant. In the present matter, alternate service of process by e-mail and by posting on Plaintiff's Website are appropriate given that Defendants have established Internet-based businesses by which they rely on electronic communication for their operation. Accordingly, this Court should permit service on Defendants by e-mail and website posting.

A. The Court May Authorize Service via Electronic Mail and Website Posting Pursuant to Federal Rule of Civil Procedure 4(f)(3).

Federal Rule of Civil Procedure 4(h)(2) allows a foreign business entity to be served with process “in any manner prescribed by Rule 4(f),” including any manner ordered under Rule 4(f)(3). U.S. Commodity Futures Trading Comm’n v. Aliaga, 272 F.R.D. 617, 619 (S.D. Fla. 2011). A foreign partnership or other unincorporated association can therefore be served in the same manner as serving a foreign individual pursuant to Rule 4(f)(3). Id. Federal Rule of Civil Procedure 4(f)(3) allows alternative methods for service of process, so long as those methods are not prohibited by international agreement and are directed by the Court. See Prewitt Enters., Inc. v. The Org. of Petrol. Exporting Countries, 353 F.3d 916, 923 (11th Cir. 2003). See also Brookshire Bros., Ltd. v. Chiquita Brands Int’l, Case No. 05-CIV-21962, 2007 WL 1577771, at *2 (S.D. Fla. May 31, 2007); Rio Props. Inc., v. Rio Int’l Interlink, 284 F.3d 1007, 1014 (9th Cir. 2002). In fact, “as long as court-directed and not prohibited by an international agreement, service of process ordered under Rule 4(f)(3) may be accomplished in contravention of the laws of the foreign country.” Chanel, Inc. v. Zhixian, Case No. 10-cv-60585-JIC, 2010 WL 1740695, at *3 (S.D. Fla. April 29, 2010) (quoting Rio Props., 284 F.3d at 1014 and citing Mayoral–Amy v. BHI Corp., 180 F.R.D. 456, 459 n. 4 (S.D. Fla. 1998)).

The plain language of Rule 4(f)(3) reflects that the decision to issue an order allowing an alternate means of service lies within the sole discretion of the District Court. Prewitt Enters., Inc., 353 F.3d at 921; Rio Props., 284 F.3d at 1116. See, e.g., Brookshire Bros., Ltd., 2007 WL 1577771, at *2 (noting that “district courts have broad discretion under Rule 4(f)(3) to authorize other methods of service”); In re Int’l Telemedia Assocs., 245 B.R. 713, 720 (N.D. Ga. 2000) (noting that Rule 4(f)(3) is designed to allow courts discretion and broad flexibility to tailor the methods of service for a particular case). Rule 4 does not require a party attempt service of

process by those methods enumerated under subsections (f)(1) and (f)(2), including by diplomatic channels and letters rogatory, before petitioning the court for alternative relief under subsection 4(f)(3). Rio Props., 284 F.3d at 1114-15; see also Brookshire Bros., Ltd., 2007 WL 1577771, at *1. In Brookshire, the Honorable Judge Marcia G. Cooke allowed substitute service on a party's attorney pursuant to Rule 4(f)(3) holding as follows:

Rule 4(f)(3) is one of three separately numbered subsections in Rule 4(f) and each subsection is separated from the one previous merely by the simple conjunction 'or.' Rule 4(f)(3) is not subsumed within or in any way dominated by Rule 4(f)'s other subsections; it stands independently, on equal footing. Moreover, no language in Rules 4(f)(1) or 4(f)(2) indicates the primacy, and certainly Rule 4(f)(3) indicates no qualifiers or limitations which indicate its availability only after attempting service of process by other means.

Brookshire Bros., Ltd., 2007 WL 1577771, at *1 (quoting Rio Props., 284 F.3d at 1015). Accord TracFone Wireless, Inc. v. Bitton, 278 F.R.D. 687, 692 (S.D. Fla. Jan 11, 2012) (noting that, in regards to Rule 4(f)(3), "there is no indication from the plain language of the Rule that the three subsections, separated by the disjunctive "or," are meant to be read as a hierarchy.") Judge Cooke further held, "[t]he invocation of Rule 4(f)(3), therefore, is neither a last resort nor extraordinary relief." Brookshire Bros., Ltd., 2007 WL 1577771, at *2.

Additionally, the Constitution itself does not mandate that service be effectuated in any particular way. Rather, Constitutional due process considerations require only that the method of service selected be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Brookshire Bros., Ltd., 2007 WL 1577771, at *1 (quoting Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)); see also TracFone Wireless, Inc., 278 F.R.D. at 692; Rio Props., 284 F.3d at 1016. Accordingly, federal courts have allowed a variety of alternative service methods, including service by e-mail and service by posting on a designated website,

where a plaintiff demonstrates the likelihood that the proposed alternative method of service will notify a defendant of the pendency of the action. See, e.g., Rio Props., 284 F.3d at 1017 (holding, “without hesitation,” that e-mail service of an online business defendant “was constitutionally acceptable”); In re Int’l Telemedia Assocs., 245 B.R. at 721 (“If any methods of communication can be reasonably calculated to provide a defendant with real notice, surely those communication channels utilized and preferred by the defendant himself must be included among them.”); National Association for Stock Car Auto Racing, Inc. v. Does, 584 F. Supp. 2d 824, 826 (W.D.N.C. 2008) (in “acknowledging the realities of the twenty-first century and the information age, the Court determined that the most appropriate place for publication was [plaintiff’s website].”).

Here, service on Defendants by e-mail and/or by posting on Plaintiff’s Website will satisfy due process by apprising them of the action and giving them the opportunity to answer Gucci’s claims. Gucci has verified that each Defendant has at least one form of electronic means of contact, demonstrating that this means of contact is not just effective, but the most reliable means of communicating with that Defendant, and consequently, the most reliable means of providing Defendants with notice of this action. (See Wiborg-Rodriguez Decl. ¶¶ 3-4.) Moreover, service by posting on Plaintiff’s Website will be an additional source of reliability as Defendants will be able to see copies of the Complaint and all other documents in this matter electronically via their Internet browser. (See id. at ¶ 5.) The suggested methods are the most reliable means of providing Defendants with notice of this action.

E-mail service on an online business defendant is appropriate and constitutionally acceptable in a case such as this when the plaintiff has proven that e-mail is the most effective means of providing the defendant notice of the action. See Rio Props., 284 F.3d at 1017

(concluding “not only that service of process by e-mail was proper—that is, reasonably calculated to apprise [the defendant] of the pendency of the action and afford it an opportunity to respond—but in this case, it was the method of service most likely to reach [the defendant].”). See also Popular Enters., LLC v. Webcom Media Group, Inc., 225 F.R.D. 560, 562 (E.D. Tenn. 2004) (“Under the facts and circumstances presented here, Rule 4(f)(3) clearly authorizes the court to direct service upon defendant by e-mail. The rule is expressly designed to provide courts with broad flexibility in tailoring methods of service to meet the needs of particularly difficult cases. Such flexibility necessarily includes the utilization of modern communication technologies to effect service when warranted by the facts.”) (citation omitted). The Rio Properties and Popular Enters. courts each determined e-mail service to be appropriate in part because, as in this case, the defendants conducted their business online, used e-mail, including onsite contact forms, in their business, and encouraged parties to contact them via e-mail. See id.

In cases that are factually similar to this one, a number of Courts have held that alternate forms of service pursuant to Rule 4(f)(3), such as e-mail service, are appropriate and may be the only means of effecting service of process “when faced with an international e-business scofflaw.” Rio Props., 284 F.3d at 1018; see also Chanel, Inc. v. Zhixian, 2010 WL 1740695, at *3 (e-mail service “reasonably calculated to notify Defendants of the pendency of this action and provide him with an opportunity to present objections.”); TracFone Wireless, Inc., 278 F.R.D. at 693 (finding that service of process by e-mail was reasonably calculated to apprise the defendants of the action and give it an opportunity to respond); Popular Enters., LLC, 225 F.R.D. at 563 (same); In re Int’l Telemedia Associates, 245 B.R. at 722 (“A defendant should not be allowed to evade service by confining himself to modern technological methods of communication not specifically mentioned in the Federal Rules. Rule 4(f)(3) appears to be

designed to prevent such gamesmanship by a party.” (concluding e-mail and facsimile service to be appropriate)); Chanel, Inc. v. Zhibing, Case No. 09-cv-02835, 2010 WL 1009981, at *4 (W.D. Tenn. March 17, 2010) (stating that e-mail service has the “greatest likelihood” of reaching e-commerce merchants and noting, “The federal judiciary’s own CM/ECF system alerts parties . . . by e-mail messages.” Alternate service via e-mail granted).² Gucci submits that allowing e-mail service in the present case is appropriate and comports with constitutional notions of due process, particularly given Defendants’ decisions to conduct their illegal businesses using the Internet and utilizing e-mail as a primary means of communication.

Additionally, service of a defendant by posting on a designated website, such as a plaintiff’s website, has been deemed an appropriate means of service by website posting. See National Association for Stock Car Auto Racing, 584 F. Supp. 2d at 826.³ A proposed method

² See, e.g., Apple Corps v. Individuals, No. 21-60377-CIV-SMITH, 2021 U.S. Dist. LEXIS 115768 (S.D. Fla. March 1, 2021) (Order authorizing alternate service of process via, *inter alia*, e-mail); Chanel, Inc. v. Designerchanelgirl.Com, No. 20-62447-CIV-SMITH, 2020 U.S. Dist. LEXIS 248562 (S.D. Fla. Dec. 2, 2020) (same); Taylor Made Golf Co. v. Individuals, No. 20-60468-CIV-SMITH, 2020 U.S. Dist. LEXIS 109840 (S.D. Fla. April 9, 2020, docketed April 13, 2020) (same); Sa v. Berlutishoeoutlet, No. 20-60708-CIV-SMITH, 2020 U.S. Dist. LEXIS 202068 (S.D. Fla. April 9, 2020) (same); adidas Ag v. Adidasbestonline, No. 19-62774-CIV-SMITH, 2020 U.S. Dist. LEXIS 156013 (S.D. Fla. Jan. 7, 2020, docketed Jan. 8, 2020) (same). See also Malletier v. Lvhut, No. 22-cv-60228-BLOOM, 2022 U.S. Dist. LEXIS 22889 (S.D. Fla. Feb. 7, 2022) (same); Abercrombie & Fitch Trading Co. v. Hcoaustraliasale, No. 21-61967-CIV-SCOLA, 2021 U.S. Dist. LEXIS 248722 (S.D. Fla. Sept. 29, 2021) (same); Chanel, Inc. v. Chanelcf, No. 21-61238-CIV-DIMITROULEAS, 2021 U.S. Dist. LEXIS 213321 (S.D. Fla. June 16, 2021, docketed June 17, 2021) (same); Malletier v. 99usd-Louisvuitton, No. 20-62619-CIV-ALTMAN, 2020 U.S. Dist. LEXIS 260004 (S.D. Fla. Dec. 31, 2020) (same).

³ See, e.g., Apple Corps v. Individuals, No. 21-60377-CIV-SMITH, 2021 U.S. Dist. LEXIS 115768 (S.D. Fla. March 1, 2021) (Order granting alternative service via e-mail and website publication); Chanel, Inc. v. Designerchanelgirl.Com, No. 20-62447-CIV-SMITH, 2020 U.S. Dist. LEXIS 248562 (S.D. Fla. Dec. 2, 2020) (same); Taylor Made Golf Co. v. Individuals, No. 20-60468-CIV-SMITH, 2020 U.S. Dist. LEXIS 109840 (S.D. Fla. April 9, 2020, docketed April 13, 2020) (same); Sa v. Berlutishoeoutlet, No. 20-60708-CIV-SMITH, 2020 U.S. Dist. LEXIS 202068 (S.D. Fla. April 9, 2020) (same); adidas Ag v. Adidasbestonline, No. 19-62774-CIV-SMITH, 2020 U.S. Dist. LEXIS 156013 (S.D. Fla. Jan. 7, 2020, docketed Jan. 8, 2020) (same).

of website posting need only be “reasonably calculated under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” National Association for Stock Car Auto Racing, 584 F. Supp. 2d at 826 (citing Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 315-16, 70 S. Ct. 652, 94 L. Ed. 865 (1950)). In National Association for Stock Car Auto Racing, Inc. v. Does, the United States District Court for the Western District of North Carolina determined that the plaintiff could serve “Doe” defendants and apprise those defendants of a pending preliminary injunction hearing by posting on the plaintiff’s website. Id.

Accordingly, Gucci has created its Website appearing at the URL <http://servingnotice.com/G29ap/index.html>, whereon copies of the Complaint, this instant Motion, and all other pleadings, documents, and orders issued in this action are posted. (Wiborg-Rodriguez Decl. ¶ 5.) The address for Plaintiff’s Website will be provided to each Defendant via its known e-mail accounts and will be included as part of service of process in this matter. (Id.) Gucci respectfully submits that alternative service by posting the Summonses and Complaint on Plaintiff’s Website will provide notice to Defendants sufficient to meet the due process requirements for service of process pursuant to Federal Rule of Civil Procedure 4, apprise Defendants of the pendency of this action, and afford Defendants and any other interested parties an opportunity to present their answers and objections.

See also Malletier v. Lvhut, No. 22-cv-60228-BLOOM, 2022 U.S. Dist. LEXIS 22889 (S.D. Fla. Feb. 7, 2022) (same); Abercrombie & Fitch Trading Co. v. Hcoaustraliasale, No. 21-61967-CIV-SCOLA, 2021 U.S. Dist. LEXIS 248722 (S.D. Fla. Sept. 29, 2021) (same); Chanel, Inc. v. Chanelcf, No. 21-61238-CIV-DIMITROULEAS, 2021 U.S. Dist. LEXIS 213321 (S.D. Fla. June 16, 2021, docketed June 17, 2021) (same); Malletier v. 99usd-Louisvuitton, No. 20-62619-CIV-ALTMAN, 2020 U.S. Dist. LEXIS 260004 (S.D. Fla. Dec. 31, 2020) (same).

B. Service of Process Via Electronic Means Are Not Prohibited by International Agreement.

Service via e-mail and via posting on a designated website are not prohibited by international agreement. Based upon the data provided in connection with Defendants' domain name registrations and Internet websites, including all of the investigative data provided thereunder, Gucci has good cause to suspect Defendants are residing in and/or shipping from the People's Republic of China ("China"), Japan, India, the Republic of Turkey ("Turkey"), Iceland, or other foreign countries and/or redistributed products from sources in those countries. (Wiborg-Rodriguez Decl. ¶ 6.) The United States, China, Japan, India, Turkey, and Iceland are signatories to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters (the "Hague Service Convention"). (Wiborg-Rodriguez Decl. ¶ 7 and Comp. Ex. 1 attached thereto, Hague Service Convention and list of signatory Members.) However, the Hague Service Convention does not preclude the Court from authorizing service of process via e-mail or posting on a designated website.⁴

Alternative means of service, such as e-mail and website posting, are not prohibited by the Hague Service Convention where a signatory nation has not expressly objected to those means. See Stat Med. Devices, Inc. v. HTL-Strefa, Inc., Case No. 15-cv-20590-FAM, 2015 U.S. Dist. LEXIS 122000 (S.D. Fla. Sept. 14, 2015) (noting that an objection to the alternative forms of service set forth in the Hague Convention is limited to the forms of service expressly objected

⁴ Additionally, according to Article 1 of the Hague Convention, "[the] convention shall not apply where the address of the person to be served with the document is not known." See Hague Convention, Art. 1, 20 U.S.T. 361 (1969). Louis Vuitton has not identified a valid address for service of process on Defendants. (See Wiborg-Rodriguez Decl. ¶ 6.) Thus, Gucci also submits that the Hague Convention does not apply in this case.

to).⁵ Article 10 to the Hague Service Convention allows service of process through means other than a signatory's Central Authority, such as "postal channels" and "judicial officers," provided the State of destination does not object to those means. See Hague Convention, Art. 10, 20 U.S.T. 361 (1969). China, Japan, India, Turkey, and Iceland have declared that they oppose, either fully or partially, the alternative means of service outlined in Article 10 of the Convention. (Wiborg-Rodriguez Decl. ¶ 7; see also Comp. Ex. 1 thereto, a true and correct printout of China's, Japan's, India's, Turkey's, and Iceland's respective Declaration/Reservation/Notification in regards to the Hague Convention.)⁶ However, that objection is specifically limited to the means of service enumerated in Article 10, and none of these countries have expressly objected to service via e-mail or website posting. (Wiborg-Rodriguez Decl. ¶ 7.) "Where a signatory nation has objected to only those means of service listed in Article [10], a court acting under Rule 4(f)(3) remains free to order alternative means of

⁵ See Apple Corps v. Individuals, No. 21-60377-CIV-SMITH, 2021 U.S. Dist. LEXIS 115768 (S.D. Fla. March 1, 2021) (authorizing e-mail service and by posting on plaintiff's designated website, noting an objection to the alternative means of service provided by the Hague Convention is expressly limited to those means and does not represent an objection to other forms of service, such as e-mail or website posting); Chanel, Inc. v. Designerchanelgirl.Com, No. 20-62447-CIV-SMITH, 2020 U.S. Dist. LEXIS 248562 (S.D. Fla. Dec. 2, 2020) (same); Taylor Made Golf Co. v. Individuals, No. 20-60468-CIV-SMITH, 2020 U.S. Dist. LEXIS 109840 (S.D. Fla. April 9, 2020, docketed April 13, 2020) (same); Sa v. Berlutishoeoutlet, No. 20-60708-CIV-SMITH, 2020 U.S. Dist. LEXIS 202068 (S.D. Fla. April 9, 2020) (same); adidas Ag v. Adidasbestonline, No. 19-62774-CIV-SMITH, 2020 U.S. Dist. LEXIS 156013 (S.D. Fla. Jan. 7, 2020, docketed Jan. 8, 2020) (same). See also Malletier v. Lvhut, No. 22-cv-60228-BLOOM, 2022 U.S. Dist. LEXIS 22889 (S.D. Fla. Feb. 7, 2022) (same); Abercrombie & Fitch Trading Co. v. Hcoaustraliasale, No. 21-61967-CIV-SCOLA, 2021 U.S. Dist. LEXIS 248722 (S.D. Fla. Sept. 29, 2021) (same); Chanel, Inc. v. Chanelcf, No. 21-61238-CIV-DIMITROULEAS, 2021 U.S. Dist. LEXIS 213321 (S.D. Fla. June 16, 2021, docketed June 17, 2021) (same); Malletier v. 99usd-Louisvuitton, No. 20-62619-CIV-ALTMAN, 2020 U.S. Dist. LEXIS 260004 (S.D. Fla. Dec. 31, 2020) (same).

⁶ Specifically, Japan and Iceland do not object to service of process by postal channels as set forth in paragraph (a) of Article 10 to the Hague Convention. (Wiborg-Rodriguez Decl. ¶ 7, n.1.)

service that are not specifically referenced in Article [10].” Gurung v. Malhotra, 279 F.R.D. 215, 219 (S.D.N.Y. 2011); see also WhosHere, Inc. v. Orun, Case No. 13-cv-00526-AJT, 2014 U.S. Dist. LEXIS 22084, at *9 (E.D. Va. Feb. 20, 2014) (authorizing e-mail service, noting objection to means of service listed in Article 10 “is specifically limited to the enumerated means of service in Article 10.”).

Moreover, an objection to the alternative means of service provided in Article 10 does not represent a *per se* objection to other forms of service, such e-mail or website posting. See In re S. African Apartheid Litig., 643 F. Supp. 2d 423, 434, 437 (S.D.N.Y. 2009) (requiring express objection to alternative method of service by signatory nation to preclude that particular means of service). Consequently, an objection to the means of alternative service provided in Article 10 is no bar to court-directed service and does not prevent this Court from authorizing alternative service of process via e-mail or website posting. See, e.g., Gurung, 279 F.R.D. at 220 (approving service of process on foreign defendants via e-mail despite India’s objection to Article 10, stating that an “objection to service through postal channels does not amount to an express rejection of service via electronic mail.”); Stat Med. Devices, Inc., 2015 U.S. Dist. LEXIS 122000 at *8-9 (permitting service of process on foreign defendants via e-mail and substituted service on domestic counsel despite Poland’s objection to Article 10, noting “This Court and many other federal courts have permitted service by electronic mail and determined that an objection to Article 10 of the Hague Convention . . . does not equate to an express objection to service via electronic mail.”); FTC v. PCCare247 Inc., Case No. 12-cv-7189-PAE, 2013 U.S. Dist. LEXIS 31969, at * 10 (S.D.N.Y. March 7, 2013) (authorizing service of process via e-mail and Facebook, explaining that “Numerous courts have held that service by email does not violate any international agreement where the objections of the recipient nation are limited to those means

enumerated in Article 10.”); WhosHere, Inc., 2014 U.S. Dist. LEXIS 22084 (authorizing service of process on foreign defendants via e-mail despite Turkey’s objection to Article 10); Richmond Techs., Inc. v. Aumtech Bus. Solutions, Case No. 11-CV-02460-LHK, 2011 U.S. Dist. LEXIS 71269 (N.D. Cal. July 1, 2011) (“[N]umerous courts have authorized alternative service under Rule 4(f)(3) even where the Hague Convention applies. This is true even in cases involving countries that, like India, have objected to the alternative forms of service permitted under Article 10 of the Hague Convention.”).

IV. CONCLUSION

For the foregoing reasons, Plaintiff, Gucci America, Inc., respectfully requests this Court grant the present motion and authorize service of the Summonses, the Complaint, and all filings and discovery in this matter upon each Defendant in this action:

(1) via e-mail by providing the address to Plaintiff’s designated serving notice website to Defendants via the e-mail accounts provided by that Defendant as part of the domain registration records for each of their respective domain names, including service via registrar, or on the Internet websites operating under each of their respective corresponding domain names, including customer service e-mail addresses and onsite contact forms, as identified on Schedule “A” hereto; or

(2) via website posting by posting a copy of the Complaint, Summonses, and all other filings and discovery in this matter on Plaintiff’s Website appearing at the URL <http://servingnotice.com/G29ap/index.html>.

DATED: April 19, 2023.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: **T. Raquel Wiborg-Rodriguez**

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SCHEDULE "A"
DEFENDANTS BY NUMBER AND SUBJECT DOMAIN NAME
AND MEANS OF CONTACT

Def. No.	Defendant / Subject Domain Name	Means of Contact
1	authenticguccibagsoutletusa.com	Guccihandbagok@outlook.com Authenticguccibagsoutletusa@gmail.com
2	cheapguccibags.shop	https://cheapguccibags.shop/contact-us.html
3	cheapguccibelts.shop	https://cheapguccibelts.shop/contact-us.html
4	cheapguccihandbags.shop	nicetimebuy@gmail.com
4	cheapguccionline.shop	nicetimebuy@gmail.com
4	cheapguccioutlet.shop	nicetimebuy@gmail.com
4	guccibagsoutlet.shop	nicetimebuy@gmail.com
4	guccibagsoutletshop.com	nicetimebuy@gmail.com PW-2AF97CB6E4BF33648087184FBC81E8@ PRIVACYGUARDIAN.ORG
5	guccibagoutletusa.com	Guccibagoutletusa@outlook.com
6	guccifactoryoutlet.com	Service via Registrar
7	guccifakeshop.com	ShayewMallory23@gmail.com PW-462B4E2A2A29DA71FBD6D63D85C306D0@ PRIVACYGUARDIAN.ORG
8	gucciknirps.shop	admin@bigagnesstore.com
9	gucciofficialoutlets.com	Guccihandbagok@outlook.com guccibagoutletusa@outlook.com PW-855EA63F6265FAA24F0F26AAC62FFE26@ PRIVACYGUARDIAN.ORG
10	guccireplica.ru	Service via Registrar
11	gucciselling.com	PW-361E5A922135012E54C1348B118BC0E1@ PRIVACYGUARDIAN.ORG
12	gucciverkauf.com	https://www.gucciverkauf.com/kontaktiere-uns/
13	aabbfashion.com	info@example.com
14	annaonline.store	support@robotfacebook.com j3ljnq@qq.com
15	atelier-elegant.net	atelier-elegant@hotmail.com hotsand_y52it@hotmail.com
16	brandshoefactory.com	Contact@Brandshoefactory.Com Brandshoefactory786@Gmail.Com WHOIS@FASTDOMAIN.COM
17	designbags.us	JIEWIN888@GMAIL.COM
18	designergunews.ru	edrsales@kickztalk.com service@kickztalk.com lency@designergu.ru sales@kickztalk.com
19	dolabuy.ru	https://www.dolabuy.ru/contact_us.html
20	elegantnicely.com	contacts@elegantnicely.com

		elegantnicely.store@gmail.com C4C1EBCEA17E4CF6BA98171AB85CCDB9.PROTECT@ WITHHELDFORPRIVACY.COM
21	fashionreps.me	info@stagelightingwholesale.com
22	fast-world-leather.com	fastworldleather@gmail.com FAST-WORLD-LEATHER.COM@WIX-DOMAINS.COM
23	finerlabels.net	finerlabels@gmail.com CONTACT@PRIVACYPROTECT.ORG
24	fortok.ru	Fortok.Ru@Gmail.Com zbags.su@gmail.com
25	highstreetporter.com	highstreetporter@gmail.com HIGHSTREETPORTER@GMAIL.COM
26	hypetrndz.com	orders@hypetrndz.com DATAPRIVACYPROTECTED@IONOS.DE
27	joyrep.ru	Service via Registrar
27	vincystore.com	joy-rep@outlook.com
28	kickbulk.co	kickbulk@gmail.com
29	lakshory.shop	support@lakshory.com
30	luxurydeal.cc	luxurydealservice@gmail.com LUXURYDEAL.CC@SHIELDWHOIS.COM
31	mydevalie.com	info@mydevalie.com GEPORTER777@GMAIL.COM
32	mywikibag.com	bagbagseller@gmail.com E0E34884CA@MYWIKIBAG.COM.WHOISTRUSTEE.COM
33	ourfashion.net	SUPPORT@OURFASHION.NET OURFASHION.NET@GMAIL.COM
34	perfectkick.org	info@supbreath.com
35	replicagods.com	repgod.global@gmail.com
36	topbagsclub.com	sellbestone@gmail.com
37	uafactory.co	uafactory@outlook.com uafactory@hotmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 19, 2023, a true copy of the foregoing was served upon Defendants via the e-mail accounts provided by the Defendants as part of the data related to their respective domain name, including customer service e-mail addresses, and onsite contact forms, or via the registrar of record for their respective domain names, and by posting copies of the same on Plaintiff's designated service notice website appearing at the URL: <http://servingnotice.com/G29ap/index.html>.

T. Raquel Wiborg-Rodriguez
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