

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 25-21058-CIV-ALTMAN

OMEGA SA,

Plaintiff,

vs.

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

Defendants.

**DECLARATION OF VIRGILIO GIGANTE IN SUPPORT OF PLAINTIFF'S
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 Plaintiff, Omega SA ("Omega" or "Plaintiff") in the above captioned action. I submit this Declaration, which is filed in support of Plaintiff's *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, and Unincorporated Associations identified on Schedule "A" to Plaintiff's 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 Omega's behalf, my firm retained Invisible Inc ("Invisible"), a licensed private investigative firm, to investigate the suspected sales of counterfeit versions of Omega's branded products by Defendants and to document Defendants payment account data for receipt of funds paid for the sale of counterfeit Omega branded products. At the conclusion of the investigation, I received the detailed web pages produced by Invisible reflecting the Omega-branded product ordered from Defendants via their Internet based e-commerce stores operating under the seller names identified on Schedule "A" to Plaintiff's Application for Temporary Restraining Order (the "E-commerce Store Names") and I provided copies of the same to Omega's representative for review. True and correct copies of the web page captures produced by Invisible and provided to my firm, reflecting samples of the Omega-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 Plaintiff's Application for Temporary Restraining Order. A chart has been prepared for the convenience of the Court providing an example of the trademarks counterfeited and types of goods offered for sale per Defendant, including citations to the evidence. (See Exhibit "1" hereto.)

3. My firm obtained the publicly available registration data for the Internet websites operating under Defendants' E-commerce Store Names. Additionally, my firm obtained the available e-mail addresses and WhatsApp phone numbers identified in connection with Defendants' respective E-commerce Store Names.¹

¹ The means of electronic contact provided by Defendants in connection with their respective E-commerce Store Names, including e-mail addresses and WhatsApp phone numbers, are included in Schedule "A" attached to the Application for Temporary Restraining Order.


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 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. Therefore, Defendants can change ownership or modify e-commerce store and private messaging account data and content, redirect consumer traffic to other e-commerce store names, change payment accounts, 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 Plaintiff's 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, Omega has 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 an injustice from occurring herein.

RE: RESTRAINING TRANSFER OF ASSETS

5. Omega obtained evidence that Defendants use money transfer and retention services with PayPal, Inc. ("PayPal"), as a method to receive monies generated through the sale of counterfeit products. Based on past experience in similar cases, I reasonably believe that PayPal has the ability to and will in fact comply with a temporary restraining order of the type now sought by Omega.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed March 7, 2025, at Ft. Lauderdale, Florida.


Virgilio Gigante