

**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*
MOTION FOR ORDER AUTHORIZING ALTERNATE SERVICE OF PROCESS**

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*¹ Motion for Order Authorizing Alternate Service of Process (“Motion for Alternate Service of Process”) on Defendants, the Individuals, Business Entities, and Unincorporated Associations Identified on Schedule “A” thereto (“Defendants”). I am personally

¹ Omega is moving for alternate service *ex parte* as Omega has yet to provide Defendants with notice of this action. Omega filed its *Ex Parte* Application for Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (“Application for Temporary Restraining Order”) [ECF No. 6], which is currently pending before the Court. The Motion for Alternate Service of Process makes reference to Omega’s Application for Temporary Restraining Order, and as such, Omega seeks to prevent premature disclosure of that filing. However, Omega is filing this Motion so that, in the event Omega’s Application for Temporary Restraining Order and the Motion for Alternate Service of Process are granted, Omega 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 Omega’s Application for Temporary Restraining Order.

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 March 10, 2025, Omega filed its Application for Temporary Restraining Order [ECF No. 6]. I hereby incorporate by reference all factual allegations contained in my Declaration filed in Support of Omega's Application for Temporary Restraining Order [ECF No. 6-2].

3. Each Defendant uses money transfer and retention services with PayPal, Inc. ("PayPal") as a method to receive monies generated through the sale of counterfeit products. I know from multiple past actions that PayPal identifies contact e-mail addresses for a defendant at issue upon compliance with a temporary restraining order, such as the temporary restraining order Omega is requesting in the instant case.² Further, I know from multiple past actions involving the restraint of payment accounts that PayPal accounts are the e-mail addresses used by PayPal to communicate with the account owners. As a practical matter, the PayPal account e-mail addresses must necessarily be working e-mail addresses; otherwise, Defendants would not be able to process payments through their PayPal accounts. Moreover, pursuant to PayPal's Electronic Communications Delivery Policy (E-Sign Disclosure and Consent), PayPal account holders consent to receive all communication electronically, including via e-mail, and are required to maintain a valid e-mail address. In fact, if PayPal discovers an e-mail address has become invalid such that electronic communications sent to the e-mail address by PayPal are returned, PayPal may

² Plaintiff's investigator documented Defendants' financial account information in connection with the investigation into their E-commerce Store Names. (See Declaration of Kathleen Burns in Support of Plaintiff's Application for Temporary Restraining Order [ECF No. 6-4].) Upon providing the financial account information to PayPal, I know from past actions that PayPal will identify a corresponding e-mail address associated with the identified financial account information.

deem the account to be inactive and disable transaction activity until a valid, working e-mail address is provided.³.

4. Defendants can also be contacted via the available e-mail addresses and onsite contact identified in connection with Defendants' respective e-commerce stores, including private messaging applications and/or services Defendants use in tandem with their E-commerce Store Names. Defendants can further receive notice of this action by e-mail via their designated domain name registrar's e-mail address or domain contact form. The e-mail addresses and other means of electronic contact for all Defendants are provided on Schedule "A" to Plaintiff's Motion for Alternate Service.

5. Finally, Omega will notify Defendants of this action via website posting. Omega has created a serving notice website and will be posting copies of the Complaint, the Application for TRO, the Motion for Alternate Service, and all other pleadings, documents, and orders on file in this action on its designated website located at <http://servingnotice.com/Qa9m7h/index.html> ("Plaintiff's Website"), such that anyone accessing Plaintiff's Website will find copies of all documents filed in this action. The address to Plaintiff's Website will be provided to Defendants via e-mail to Defendants' known e-mail accounts or onsite contact forms 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 by providing the address to Plaintiff's Website to their corresponding e-mail addresses, customer service e-mail addresses and/or onsite contact forms, corresponding private messaging applications and/or services, or via the designated domain name registrar that

³ See PayPal's Electronic Communications Delivery Policy (E-Sign Disclosure and Consent), available at <https://www.paypalobjects.com/marketing/ua/pdf/US/en/esign-full.pdf> (last visited March 7, 2025).

Defendants use to conduct their commercial transactions via the E-commerce Store 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. Omega has investigated Defendants and has reasonable cause to suspect Defendants may reside and/or operate in the People's Republic of China ("China") or other foreign countries, and/or redistribute products from sources in those locations. Omega's investigation looked at multiple connection data points, such as information contained on Defendants' e-commerce stores operating under their respective E-commerce Store Names, payment and shipping information, and the investigative data provided thereunder. While Omega has not been able to verify a valid physical address for service of process on Defendants, Omega has 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 and China 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."⁴ China has declared that it opposes, either fully or partially, to the service of documents in its territory by the alternative means of service outlined in Article 10 of the Hague Convention, including the service of process by postal channels. However, the Hague Convention does not preclude service by e-mail or website posting, and the declaration to the Hague Convention filed by China, does not expressly

⁴ 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 March 7, 2025) (full text of the Hague Service Convention); <https://www.hcch.net/en/instruments/conventions/status-table/?cid=17> (last visited March 7, 2025) (listing the current contracting states).

prohibit e-mail service or website posting.⁵ Thus, there are no international agreements prohibiting service by e-mail or website posting.

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

⁵ Composite Exhibit “1” also contains a true and correct printout of China’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>; (last visited March 7, 2025).