

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.

**PLAINTIFF’S *EX PARTE* 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, Omega SA (“Plaintiff” or “Omega”), hereby moves this Honorable Court, on an *ex parte* basis,¹ for an order authorizing alternate service of process on Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule “A” hereto (collectively “Defendants”), pursuant to Federal Rule of Civil Procedure 4(f)(3). In support thereof, Omega submits the following Memorandum of Law.

¹ Omega is moving for alternate service *ex parte* as Omega has yet to provide Defendants with notice of this action. On March 10, 2025, Omega filed its *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (“*Ex Parte* Application for Temporary Restraining Order”) [ECF No. 6], together with the supporting Declarations and Exhibits, which is currently pending before the Court. (See Declaration of Virgilio Gigante in Support of Plaintiff’s *Ex Parte* Motion for Order Authorizing Alternate Service of Process on Defendants (“Gigante Decl.”) ¶ 1, n.1, filed herewith.) This instant Motion makes reference to Omega’s *Ex Parte* Application for Temporary Restraining Order, and as such, Omega seeks to prevent premature disclosure of that filing. (*Id.*) However, Omega is filing this Motion so that, in the event Omega’s *Ex Parte* Application for Temporary Restraining Order and the instant Motion 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 *Ex Parte* Application for Temporary Restraining Order. (*Id.*)

I. INTRODUCTION

Omega is suing Defendants for trademark counterfeiting and infringement, false designation of origin, common law unfair competition, and common law trademark infringement. Defendants are knowingly and intentionally promoting, advertising, distributing, offering for sale, and selling goods bearing and/or using counterfeits and infringements of Omega's registered trademarks within this district and throughout the United States by operating Internet based e-commerce stores under the seller names identified on Schedule "A" hereto (the "E-commerce Store Names").

Pursuant to Federal Rule of Civil Procedure 4(f)(3), Omega requests an order authorizing service of process on Defendants via electronic mail ("e-mail") and via website posting. Service of process 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, Omega has the ability to contact Defendants directly and provide notice of Omega's claims against them electronically via e-mail. Additionally, Omega has created a serving notice website and will be posting copies of the Complaint, this Motion, and all other documents filed in this action. Omega 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, Omega will almost certainly be left without the ability to pursue a remedy.

II. STATEMENT OF FACTS

A. Defendants Identify Electronic Means of Contact.

Defendants operate Internet-based businesses and identify e-mail, including onsite contact forms and private messaging applications and/or services, as a means of communication such that Omega will be able to provide Defendants with notice of this action via e-mail and website posting. (See Gigante Decl. ¶¶ 3-5.) As a practical matter, it is necessary for merchants who operate entirely online, such as Defendants, to provide customers with a valid electronic means by which customers may contact the merchants to ask questions about the merchants' products, place orders from the merchants, and receive information from the merchants regarding the shipment of orders. Moreover, e-commerce defendants generally must maintain accurate e-mail addresses or other electronic contact where their e-commerce store administrator and payment processor may communicate with them regarding issues related to the maintenance of their e-commerce store accounts and transfer of funds for the payment of goods. Additionally, Omega has created a serving notice website that will be appearing at the URL <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. (Gigante Decl. ¶ 5.)

Specifically, 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, and PayPal identifies contact e-mail addresses for the respective defendants at issue upon compliance with a temporary restraining order, such as the temporary restraining order Omega is requesting in the instant case. (See Gigante Decl. ¶ 3; see also Declaration of Kathleen Burns in Support of Plaintiff's *Ex Parte* Application for Temporary Restraining Order ("Burns Decl. in Support of

Appl. for TRO”) [ECF No. 6-4] ¶ 4, incorporated herein by reference.)² Plaintiff’s investigator documented Defendants’ financial account information in connection with the investigation into their E-commerce Store Names. (See Burns Decl. in Support of Appl. for TRO ¶ 4 and Comp. Ex. 1 thereto.) Upon providing the financial account information to PayPal, it will identify a corresponding e-mail address associated with the identified financial account information. (Gigante Decl. ¶ 3 n.2.) PayPal accounts are actually the e-mail addresses used by PayPal to communicate with the account owners. (Gigante Decl. ¶ 3.) Clearly, Defendants’ PayPal account e-mail addresses must necessarily be valid, working e-mail addresses; otherwise, Defendants would not be able to process payments through their PayPal accounts. (Id.) 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. (Id.) 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 deem the account to be inactive and disable transaction activity until a valid, working e-mail address is provided. (Id.)

Moreover, Defendants can 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. (See Gigante Decl. ¶ 4; see also Burns Decl. in Support of Appl. for TRO ¶ 4.) 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. (Gigante Decl. ¶ 4.) The e-mail addresses and other means of electronic contact for all Defendants are provided on Schedule “A” hereto. (Id.)

² Plaintiff’s *Ex Parte* Application for Temporary Restraining Order, together with declarations and exhibits filed in support thereof, [ECF No. 6], are all incorporated herein by reference.

Omega will also be able to provide each Defendant notice of this action via public announcement on Omega's designated serving notice website. Omega has created a serving notice website that will be appearing at the URL <http://servingnotice.com/Qa9m7h/index.html>, whereon copies of the Complaint, this Motion, and all other pleadings, documents, and orders issued in this action will be posted, such that anyone accessing Plaintiff's Website will find copies of all documents filed in this action. (Gigante Decl. ¶ 5.) 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. (Id.)

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 e-commerce store name registrar. (Gigante Decl. ¶ 6.) 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.)

B. Defendants Rely on Electronic Communications.

Defendants have structured their e-commerce store businesses so that the means for customers to purchase Defendants' counterfeit and infringing goods at issue is by placing an order electronically. Defendants take and confirm orders online or via electronic messaging and rely on electronic means to receive payment. (See Burns Decl. in Support of Appl. for TRO ¶ 4 and Comp. Ex. 1 thereto.) Indeed, Omega's investigator placed orders for the Omega branded goods electronically using Defendants' Internet based E-commerce Store Names. (See id.) The orders placed by Omega's investigator while investigating the E-commerce Store Names were processed

electronically, which included providing information such as billing and payment information. (*Id.*) Clearly, Defendants rely on electronic means as reliable forms 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) 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 via 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 communications for their operations. 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, 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, 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.”); Nat’l Ass’n 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 by posting on Plaintiff’s Website will satisfy due process by apprising them of the action and giving them the opportunity to answer Omega’s claims. Based on Omega’s investigation, 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 Gigante Decl. ¶¶ 3–4; Burns Decl. in Support of Appl. for TRO ¶ 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 Gigante Decl. ¶ 5.)

E-mail service on an online business defendant is appropriate and constitutionally acceptable in a case such as this when a plaintiff has proven that e-mail is the most effective means of providing a 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., LLC 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 regularly 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 Properties, 284 F.3d at 1018; see 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).³

Omega submits that allowing e-mail service in the present case is appropriate and comports with

³ See, e.g., adidas AG v. AdidasNo.Com, No. 23-60090-CIV-ALTMAN, 2023 U.S. Dist. LEXIS 231645 (S.D. Fla. Jan. 24, 2023, docketed Jan. 25, 2023) (Order authorizing alternate service of process via, *inter alia*, e-mail); Chanel, Inc. v. Individuals, No. 22-22693-CIV-ALTMAN, 2022 U.S. Dist. LEXIS 244777 (S.D. Fla. Aug. 29, 2022, docketed Aug. 30, 2022) (same); Goyard St-Honore v. Bagsgoyard.us, No. 21-61346-CIV-ALTMAN, 2021 U.S. Dist. LEXIS 264245 (S.D. Fla. July 1, 2021, docketed July 7, 2021) (same); see also Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 25-cv-20600-RKA (S.D. Fla. Feb. 11, 2025, docketed Feb. 12, 2025) (same); Chanel, Inc. v. The Individuals, Business Entities, and Unincorporated Associations Identified on Schedule “A”, No. 24-cv-24594-RKA (S.D. Fla. Nov. 25, 2024, docketed Nov. 26, 2024) (same); MPL Communications Limited v. The Individuals, Business Entities, and Unincorporated Associations Identified on Schedule “A”, Case No. 24-cv-23960-RKA (S.D. Fla. Oct. 17, 2024) (same). Accord On Clouds GmbH v. Individuals, Bus. Entities, & Unincorporated Ass’ns, No. 24-23160-CIV-BECERRA, 2024 U.S. Dist. LEXIS 190285 (S.D. Fla. Aug. 27, 2024, docketed Aug. 28, 2024) (same); Malletier v. Individuals, No. 24-23194-CIV-RUIZ, 2024 U.S. Dist. LEXIS 188548 (S.D. Fla. Aug. 26, 2024, docketed Aug. 27, 2024) (same); Tiffany NJ LLC v. Individuals, No. 24-61345-CIV-DIMITROULEAS, 2024 U.S. Dist. LEXIS 156994 (S.D. Fla. July 30, 2024) (same); Chanel, Inc. v. Individuals, No. 0:24-cv-60970-LEIBOWITZ, 2024 U.S. Dist. LEXIS 188587 (S.D. Fla. July 25, 2024) (same).

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 has been deemed an appropriate means of service by posting. See Nat’l Ass’n for Stock Car Auto Racing, 584 F. Supp. 2d at 826.⁴ A proposed method 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.” Nat’l Ass’n 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 Nat’l Ass’n 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.

⁴ See, e.g., adidas AG v. AdidasNo.Com, No. 23-60090-CIV-ALTMAN, 2023 U.S. Dist. LEXIS 231645 (S.D. Fla. Jan. 24, 2023, docketed Jan. 25, 2023) (Order granting alternative service via e-mail and by posting on plaintiff’s designated website); Chanel, Inc. v. Individuals, No. 22-22693-CIV-ALTMAN, 2022 U.S. Dist. LEXIS 244777 (S.D. Fla. Aug. 29, 2022, docketed Aug. 30, 2022) (same); Goyard St-Honore v. Bagsgoyard.us, No. 21-61346-CIV-ALTMAN, 2021 U.S. Dist. LEXIS 264245 (S.D. Fla. July 1, 2021, docketed July 7, 2021) (same); see also Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 25-cv-20600-RKA (S.D. Fla. Feb. 11, 2025, docketed Feb. 12, 2025) (same); Chanel, Inc. v. The Individuals, Business Entities, and Unincorporated Associations Identified on Schedule “A”, No. 24-cv-24594-RKA (S.D. Fla. Nov. 25, 2024, docketed Nov. 26, 2024) (same); MPL Communications Limited v. The Individuals, Business Entities, and Unincorporated Associations Identified on Schedule “A”, No. 24-cv-23960-RKA (S.D. Fla. Oct. 17, 2024) (same). Accord On Clouds GmbH v. Individuals, Bus. Entities, & Unincorporated Ass’ns, No. 24-23160-CIV-BECERRA, 2024 U.S. Dist. LEXIS 190285 (S.D. Fla. Aug. 27, 2024, docketed Aug. 28, 2024) (same); Malletier v. Individuals, No. 24-23194-CIV-RUIZ, 2024 U.S. Dist. LEXIS 188548 (S.D. Fla. Aug. 26, 2024, docketed Aug. 27, 2024) (same); Tiffany NJ LLC v. Individuals, No. 24-61345-CIV-DIMITROULEAS, 2024 U.S. Dist. LEXIS 156994 (S.D. Fla. July 30, 2024) (same); Chanel, Inc. v. Individuals, No. 0:24-cv-60970-LEIBOWITZ, 2024 U.S. Dist. LEXIS 188587 (S.D. Fla. July 25, 2024) (same).

Accordingly, Omega has created its serving notice website which will be appearing at the URL <http://servingnotice.com/Qa9m7h/index.html>, whereon copies of the Complaint, this Motion, and all other pleadings, documents, and orders issued in this action will be posted. (Gigante Decl. ¶ 5.) The address to Plaintiff's Website will be provided to Defendants via their known e-mail accounts and onsite contact forms, and will be included as part of service of process in this matter. (Id.) 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 and notice 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.

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

Service via e-mail and by posting on a designated website are not prohibited by international agreement. Based upon the data provided in connection with Defendants' E-commerce Store Names, including the shipping information and payment data, Omega 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. (Gigante Decl. ¶ 7.) The United States and China are signatories to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters (the "Hague Convention"). (See Gigante Decl. ¶ 8 and Comp. Ex. 1 thereto, Hague Convention and list of signatory Members.) However, the Hague Convention does not preclude the Court from authorizing service of process via e-mail or posting on a designated website. (See id.)

Alternative means of service, such as e-mail and website posting, are not prohibited by the Hague Convention where a signatory nation has not expressly objected to those means. See Stat Med. Devices, Inc. v. HTL-Strefa, Inc., 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 to).⁵ Article 10 to the Hague 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 has declared that it opposes the service of documents in its territory by the alternative means of service outlined in Article 10 of the Convention, including the service of process by postal channels. (Gigante Decl. ¶ 8 and Comp. Ex. 1 thereto, including a true and correct printout of China's Declaration/Reservation/Notification regarding the Hague Convention.) However, the objections are specifically limited to the means of service enumerated in Article 10, and China has not expressly objected to service via e-mail or website posting. (See id. and Comp. Ex. 1, thereto.) "Where a signatory nation has objected to only those means of service listed in Article [10], a court

⁵ See adidas AG v. AdidasNo.Com, Case No. 23-60090-CIV-ALTMAN, 2023 U.S. Dist. LEXIS 231645 (S.D. Fla. Jan. 24, 2023, docketed Jan. 25, 2023) (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 e-mail or website posting); Chanel, Inc. v. Individuals, Case No. 22-22693-CIV-ALTMAN, 2022 U.S. Dist. LEXIS 244777 (S.D. Fla. Aug. 29, 2022, docketed Aug. 30, 2022) (same); Goyard St-Honore v. Bagsgoyard.us, Case No. 21-61346-CIV-ALTMAN, 2021 U.S. Dist. LEXIS 264245 (S.D. Fla. July 1, 2021, docketed July 7, 2021) (same). Accord On Clouds GmbH v. Individuals, Bus. Entities, & Unincorporated Ass'ns, No. 24-23160-CIV-BECERRA, 2024 U.S. Dist. LEXIS 190285 (S.D. Fla. Aug. 27, 2024, docketed Aug. 28, 2024) (same); Malletier v. Individuals, No. 24-23194-CIV-RUIZ, 2024 U.S. Dist. LEXIS 188548 (S.D. Fla. Aug. 26, 2024, docketed Aug. 27, 2024) (same); Tiffany NJ LLC v. Individuals, No. 24-61345-CIV-DIMITROULEAS, 2024 U.S. Dist. LEXIS 156994 (S.D. Fla. July 30, 2024) (same); Chanel, Inc. v. Individuals, No. 0:24-cv-60970-LEIBOWITZ, 2024 U.S. Dist. LEXIS 188587 (S.D. Fla. July 25, 2024) (same).

acting under Rule 4(f)(3) remains free to order alternative means of 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, 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 as 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, China’s objections 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 Service 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, 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.”).

Notwithstanding, Omega also submits that the Hague Convention does not apply in this case. Omega has not been able to verify a valid physical address for service of process on Defendants. (Gigante Decl. ¶ 7.) 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).

IV. CONCLUSION

For the foregoing reasons, Omega respectfully requests this Court grant the present motion and authorize service of the Summonses, 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 (i) as part of the data related to its e-commerce store names, including customer service e-mail addresses, onsite contact forms, corresponding private messaging accounts, or (ii) via the registrar of record for each of the e-commerce store names, and

(2) via website posting by posting a copy of the Summonses, Complaint, and all filings and discovery in this matter on Plaintiff's Website appearing at the URL <http://servingnotice.com/Qa9m7h/index.html>.

DATED: March 10, 2025.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: **Virgilio Gigante**

Stephen M. Gaffigan (Fla. Bar No. 025844)

Virgilio Gigante (Fla. Bar No. 082635)

T. Raquel Wiborg-Rodriguez (Fla. Bar. No. 103372)

401 East Las Olas Blvd., Suite 130-453

Ft. Lauderdale, Florida 33301

Telephone: (954) 767-4819

E-mail: stephen@smgpa.cloud

E-mail: leo@smgpa.cloud

E-mail: raquel@smgpa.cloud

Attorneys for Plaintiff, Omega SA

SCHEDULE “A”
DEFENDANTS BY NUMBER, E-COMMERCE STORE NAME,
AND MEANS OF CONTACT

Def. No	Defendant / E-commerce Store Name	Means of Contact Email and WhatsApp
1	elitetimepiecesusa.com	support@elitetimepiecesusa.com support@6188530.brevosend.com WhatsApp: +1 (479) 3852889
1	coolsar.com	support@coolsar.com fc73a45515c6494cb52367d7c8d4e35a.protect@withheldforprivacy.com WhatsApp: 1 (479) 3852889
1	doxsd.com	support@doxsd.com ec5eaa5e875b4451adfa76c1fccab73e.protect@withheldforprivacy.com WhatsApp: 1 (479) 3852889
1	atinowatch.com	support@atinowatch.com
1	luxyswear.com	support@luxyswear.com WhatsApp: 1 (479) 3852889
1	opulencewrist.com	support@opulencewrist.com support@6188530.brevosend.com WhatsApp: +1 (479) 3852889
2	ksisx.shop	watchbuybuy@outlook.com hibuynew@gmail.com f6457822ad4f42c2a834b09bcac592f8.protect@withheldforprivacy.com WhatsApp: 12812360702; 17622611080
2	euex.shop	watchbuybuy@outlook.com hibuynew@gmail.com 8975880ed742450db481dfc99c0741b9.protect@withheldforprivacy.com WhatsApp: 12812360702; 17622611080
2	kibux.site	ultramall@zohomail.com
2	bezs.shop	ultramall@zohomail.com 8faa4d7e64ac416da965f770deeab039.protect@withheldforprivacy.com
2	slrw.shop	ultramall@zohomail.com
3	aniwattey.shop	https://whois.dnspod.cn/aniwattey.shop

4	zenithluxys.com	support@zenithluxy.com WhatsApp: (+1469) 587-0120
4	luxurytick.com	support@luxurytick.com WhatsApp: (+1469) 587-0120
4	atinolux.com	support@atinolux.com WhatsApp: (+1469) 587-0120
4	relaxtee.com	contact@relaxtee.com WhatsApp: +1 (979)-279-8357
5	jobuly.com	jobulywatch@gmail.com WhatsApp: 18182575506
5	bedliy.com	bedliyrole@outlook.com WhatsApp: 13462818224
6	camillaluxury.shop	Wathcesvipcenter@hotmail.com nedujzo@gmail.com WhatsApp: 12135565295
7	chrono26.com	support@chrono26.com suppoprt@chrono26.com support@nuewatch.com
8	clonewatches.com	support@clonewatches.com WhatsApp: 447410208835
9	dennistoystore.com	473613@qq.com pwp-b45244b63c4a37e306b31046aabcaa08@privacyguardian.org
10	dunekhing.com	support@roseliay.com WhatsApp: 8613652381765
10	weistwatch.com	support@roseliay.com WhatsApp: 12137919605
10	kimmyis.com	support@roseliay.com WhatsApp: 15109774882
10	sunfdht.com	support@roseliay.com WhatsApp: 15109774882
11	gccista.shop	gccista@outlook.com

12	gclvg.com	support@gclvg.com pwp-2fbd00232288cd177f0f43e85b512cb1@privacyguardian.org WhatsApp: 447856199796
13	getwatchpro.com	watcesgot@gmail.com WhatsApp: 12812360778
13	rallx.store	watcesgot@gmail.com CortinasHanss@gmail.com WhatsApp: 12812360778
14	high-w.store	nartofortest@gmail.com WhatsApp: 14152258725
14	top-swisstime.com	support@top-swisstime.com WhatsApp: 14152258725; 15042363820
15	hy-premium-watch.com	2732188342@qq.com huangmangman@outlook.com support@hy-premium-watch.com WhatsApp: 18153295760
16	idc022.com	hitea777@outlook.com WhatsApp: 8613926757799; 8618675426777
17	luxnob.com	15505970418@163.com support@luxnob.com riversky@luxnob.com WhatsApp: 447477483455; 447443756893
18	luxtick.com	support@luxtick.com pwp-65e1823973f5d2547a8f2d95a833eb0d@privacyguardian.org WhatsApp: 16232020012
19	luxuriousluxurywardrobe.com	llwardrobe999@gmail.com pw-7f32f55875b49d78a49a14b0d65f721a@privacyguardian.org WhatsApp: 8613178848887
20	luxurywatchessthlm.com	support@rrolxwatch.com support@luxurywatchessthlm.com WhatsApp: 46(0)86121088; 13213063327
21	luxuwatchs.com	sswisswatchesafter@gmail.com
22	luxyavia.com	support@luxyavia.com

23	menymoon.shop	https://whois.dnspod.cn/menymoon.shop
24	nic-watch.com	nicwatch01@gmail.com WhatsApp: 8618285839977
25	ocga.store	nicechicbuy@gmail.com chicsgo@zohomail.com WhatsApp: 18323325572; 4082078438; 12817772895
26	panda188.store	pandaluxurywatch@gmail.com WhatsApp: 12132654084; 15107174505
27	pdkicks.com	ceryslin2424@gmail.com support@pdkicks.com pw-ad13b3761586fb0e405751ca59894138@privacyguardian.org WhatsApp: 8615759912623
28	premiumwatchs.com	service@luxuryswatchs.com Support@premiumwatchs.com
29	sayhiyy.com	sayhiyy01@outlook.com anglebabemia@gmail.com
30	treasurk.com	gennapawelek@gmail.com 123456@gmail.com WhatsApp: 85253381445
31	trivorshop.com	watchvipservice@hotmail.com WhatsApp: 8614739706838
32	vernaculars.shop	enuertiom@outlook.com pwp-a083281edaae44123d6e6d341e7ca545@privacyguardian.org
33	warringtac.shop	jsjasmine04@gmail.com service@billuxury.com
34	watchwsr.com	higherwatch@outlook.com WhatsApp: 8613587735699
35	willy001.willyweb.shop	wzt952541276@gmail.com WhatsApp: 8615170471004