

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-cv-21058-ALTMAN

OMEGA SA,

Plaintiff,

v.

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

Defendants.

SEALED ORDER AUTHORIZING ALTERNATE SERVICE OF PROCESS

The Plaintiff has filed an *Ex Parte* Motion for an Order Authorizing Alternate Service of Process on the Defendants Pursuant to Rule 4(f)(3) of the Federal Rules of Civil Procedure (the “Motion”) [ECF No. 7]. After careful review, we **GRANT** the Motion.

This is a trademark-counterfeiting and infringement case in which the Plaintiff alleges that the Defendants, through e-commerce stores, are advertising, promoting, offering for sale, or selling goods “bearing and/or using counterfeits and infringements of Omega’s registered trademarks within this district and throughout the United States[.]” *See* Motion at 2. In the Motion, the Plaintiff requests an order authorizing service of process on the Defendants by email and website posting. *See ibid.* The Plaintiff contends that “[s]ervice 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.” *Ibid.*

THE LAW

“Unless federal law provides otherwise, an individual—other than a minor, an incompetent person, or a person whose waiver has been filed—may be served at a place not within any judicial district

of the United States . . . by other means not prohibited by international agreement, as the court orders.” FED. R. CIV. P. 4(f)(3); *see also Brookshire Bros. v. Chiquita Brands Int’l, Inc.*, 2007 WL 1577771, at *2 (S.D. Fla. May 31, 2007) (Cooke, J.) (“[D]istrict courts have broad discretion under Rule 4(f)(3) to authorize other methods of service that are consistent with due process and are not prohibited by international agreements.”). “Constitutional due process requires only that service of process provide ‘notice 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.’” *Chanel, Inc. v. Zhixian*, 2010 WL 1740695, at *3 (S.D. Fla. Apr. 29, 2010) (Cohn, J.) (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)). “A party seeking authorization for alternate service under Rule 4(f)(3) need not attempt service by those methods enumerated under subsections (f)(1) and (f)(2), including by diplomatic channels and letters rogatory, before petitioning the Court for 4(f)(3) relief.” *Sec. & Exch. Comm’n v. Palm House Hotel, LLP*, 2018 WL 9849603, at *1–2 (S.D. Fla. Nov. 7, 2018) (Middlebrooks, J.) (citation omitted). “The decision to accept or deny service by alternate means pursuant to Rule 4(f)(3) falls soundly within the discretion of the district court.” *Ibid.*

DISCUSSION

The Plaintiff argues that service by email and website 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.” Motion at 10–11. According to the Plaintiff, “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.” *Id.* at 8–9; *see also* Declaration of Virgilio Gigante (“Gigante Decl.”) [ECF No. 7-1] ¶ 3 (“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. . . . As a practical matter, the PayPal account e-mail addresses for Defendants must necessarily be working e-mail addresses; otherwise, Defendants would not be able to process payments through their PayPal accounts.”).

Moreover, the Plaintiff has created a Website for the purpose of providing notice of this action to the Defendants, “whereon copies of the Complaint, this Motion, and all other pleadings, documents, and orders issued in this action will be posted[.]” Motion at 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.” *Ibid.*; *see also* Gigante Decl. ¶ 5 (same). Courts in this District have authorized service of process via email and website publication. *See Luxottica Grp. S.p.A & Oakley, Inc., v. The Individuals, P’ships & Unincorporated Ass’ns Identified on Schedule “A”*, 2020 WL 6529615, at *1-2 (S.D. Fla. Jan. 8, 2020) (Martinez, J.) (authorizing service of process via email, “private messaging” on an “e-commerce marketplace platform,” and website posting); *Chanel, Inc., v. The Individuals, P’ships & Unincorporated Ass’ns Identified on Schedule “A”*, 2021 WL 1053278, at *2 (S.D. Fla. Feb. 9, 2021) (Ruiz, J.) (same).

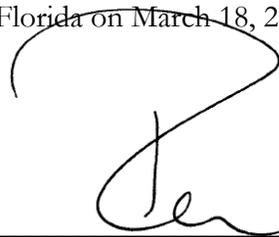
Service by email, website publication, or online messaging is therefore reasonably calculated, under all the circumstances, to apprise the Defendants of the pendency of this action and to afford them an opportunity to present their objections. Indeed, since the Defendants operate primarily through the Internet—and given how extensively they rely on electronic communications for the operation of their businesses—online communication and web publication are (in our view) the most likely means of providing the Defendants with notice of this action. *See* Motion at 8–11; *see also Nat’l Ass’n for Stock Car Auto Racing, Inc. v. Does*, 584 F. Supp. 2d. 824, 826 (W.D.N.C. 2008) (authorizing service via website publication due to “the realities of the twenty-first century and the information age”); *Tiffany (NJ) LLC v. DORAPANG Franchise Store*, 2018 WL 4828430, at *3 (S.D. Fla. July 17, 2018) (Ungaro, J.) (“The Court concludes that e-mail service and Internet publication are indeed the most likely means of

communication to reach Defendants, who operate via the Internet and rely on electronic communications for the operation of their businesses.”).

We therefore **ORDER** and **ADJUDGE** that the Motion [ECF No. 7] is **GRANTED**. The Plaintiff may serve the Summonses, the Complaint, and all other filings and discovery in this case on each Defendant:

- a) via e-mail by providing the address to the 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, including customer service e-mail addresses and/or onsite contact forms, corresponding private messaging accounts, or (ii) via the registrar of record for each of the e-commerce stores; and
- b) via website posting by posting a copy of the Summonses, Complaint, and other pertinent filings in this matter on Plaintiff’s Website appearing at <http://servingnotice.com/Qa9m7h/index.html>.

DONE AND ORDERED in the Southern District of Florida on March 18, 2025.



ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

cc: counsel of record
Seal Clerk