

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 25-21134-CIV-RUIZ**

RICHEMONT INTERNATIONAL SA,

Plaintiff,

vs.

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

Defendants.

/

---

**PLAINTIFF'S *EX PARTE* APPLICATION FOR ENTRY OF  
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION AND  
MEMORANDUM OF LAW IN SUPPORT THEREOF**

Plaintiff, Richemont International SA ("Plaintiff"), hereby does apply, on an *ex parte* basis, for entry of a temporary restraining order and, upon expiration of the temporary restraining order, a preliminary injunction against Defendants, the Individuals, Business Entities, and Unincorporated Associations Identified on Schedule "A" hereto ("Defendants") pursuant to 15 U.S.C. § 1116, Fed. R. Civ. P. 65, The All Writs Act, 28 U.S.C. § 1651(a), and this Court's inherent authority. In support thereof, Plaintiff submits the following memorandum of law.<sup>1</sup>

**I. INTRODUCTION**

Defendants are knowingly and intentionally promoting, advertising, distributing, offering for sale, and selling goods bearing and/or using counterfeits and confusingly similar imitations of Plaintiff's registered trademarks within this district and throughout the United States (the "U.S."), by operating interactive, commercial Internet based e-commerce stores under the seller names identified on Schedule "A" hereto ("E-commerce Store Names"). Specifically, Plaintiff has

---

<sup>1</sup> Plaintiff filed its *Ex Parte* Application for Entry of Temporary Restraining Order and Preliminary Injunction (the "*Ex Parte* Application for Temporary Restraining Order") and the supporting declarations and exhibits with the Court in accordance with Local Rule 5.4(d), which requires, unless the Court directs otherwise, *ex-parte* filings be restricted from public view. However, Plaintiff is not requesting the Court seal its Order on the *Ex Parte* Application for Temporary Restraining Order. Further, Plaintiff respectfully requests that upon entry of the Court's Order on the *Ex Parte* Application for Temporary Restraining Order, that the Court unseal all docket entries in this case and the portions of the docket relating to Plaintiff's *Ex Parte* Application for Temporary Restraining Order be returned to the public portion of the Court file.

obtained evidence clearly demonstrating that Defendants (a) are engaged in the advertising, offering for sale, and sale of counterfeit and infringing versions of Plaintiff's goods; and (b) accomplish their sales of counterfeit and infringing goods via the Internet using, at least, e-commerce stores operating under the E-commerce Store Names. Plaintiff's Complaint thus alleges claims for trademark counterfeiting and infringement, false designation of origin, common law unfair competition, and common law trademark infringement.

Defendants' unlawful activities have caused and will continue to cause Plaintiff irreparable injury. Among other things, Defendants (1) deprive Plaintiff of its right to determine the way its trademarks are presented to the public through merchandising; (2) defraud the public into thinking Defendants' goods are valuable, authorized goods of Plaintiff; (3) deceive the public as to Plaintiff's sponsorship of and/or association with their goods and the websites through which such goods are marketed and sold; and (4) wrongfully trade and capitalize on Plaintiff's reputation and goodwill and the commercial value of Plaintiff's trademarks.

Moreover, Defendants have wrongfully damaged Plaintiff's ability to market its goods and educate consumers about its brand via the Internet in a free and fair marketplace, and are participating in the creation and/or maintenance of an illegal marketplace on the World Wide Web, the purposes of which are to (i) confuse consumers regarding the source of Defendants' goods for profit, and (ii) expand the marketplace for goods being sold using counterfeit versions of Plaintiff's trademarks while shrinking the legitimate marketplace for Plaintiff's genuine branded goods. The natural and intended byproduct of Defendants' combined, concurrent actions is the erosion and destruction of the overall legitimate marketplace in which Plaintiff operates and the goodwill associated with Plaintiff's names. Defendants are causing Plaintiff ongoing irreparable harm. Accordingly, Plaintiff seeks entry of a temporary restraining order (i) prohibiting Defendants' wrongful use of Plaintiff's trademarks and (ii) disabling Defendants' unlawful businesses operating under the E-commerce Store Names.

## **II. STATEMENT OF FACTS**

### **A. Plaintiff's Rights.**

Plaintiff is the owner of all rights, title, and interest in and to the federally registered trademarks listed in Paragraph 6 ("Plaintiff's Marks") of the Declaration of Emma-Jane Tritton in Support of Plaintiff's *Ex Parte* Application for Temporary Restraining Order ("Tritton Decl."), filed herewith, which are used in connection with the manufacture and distribution of high-quality

luxury goods in the categories identified therein. (See Tritton Decl. ¶¶ 5-7; see also U.S. Trademark Registrations for Plaintiff's Marks at issue ["Trademark Registrations"] attached as Comp. Ex. 1 to the Complaint [ECF No. 1-2], incorporated herein by reference.) Plaintiff's Marks are symbols of Plaintiff's quality, reputation, and goodwill and have never been abandoned. (See Tritton Decl. ¶ 9.) Moreover, Plaintiff expends substantial resources developing, advertising, and otherwise promoting its trademarks. (Id. at ¶¶ 7-8.) Accordingly, Plaintiff's Marks qualify as famous marks as the term is used in 15 U.S.C. § 1125(c)(1).

Furthermore, Plaintiff extensively uses, advertises, and promotes Plaintiff's Marks in the U.S. in interstate commerce in association with its high-quality goods and has carefully monitored and policed the use of Plaintiff's Marks. (See Tritton Decl. ¶¶ 7-9.) As a result of Plaintiff's efforts, Plaintiff's Marks have acquired fame in the consumer market. (Id.) Plaintiff's Marks are among the most widely recognized trademarks in the U.S., and the trademarks have achieved secondary meaning. (Id.) Plaintiff's Marks have come to symbolize the enormous goodwill of Plaintiff's genuine products throughout the U.S. (See id.) At all times relevant hereto, Defendants have been aware of Plaintiff's (a) ownership of Plaintiff's Marks; (b) exclusive rights to use such Marks; and (c) substantial goodwill embodied in, and favorable recognition for, Plaintiff's Marks.

**B. Defendants Wrongfully Use Plaintiff's Trademarks.**

Defendants do not have, nor have they ever had, the right or authority to use Plaintiff's Marks for any purpose. (See Tritton Decl. ¶¶ 11-13.) Despite their known lack of authority to do so, Defendants are concurrently promoting and otherwise advertising, distributing, selling and/or offering for sale goods through their E-commerce Store Names bearing and/or using counterfeit and infringing trademarks that are exact copies of one or more of Plaintiff's Marks without authorization ("Defendants' Goods").<sup>2</sup> (See Tritton Decl. ¶¶ 11-13; Declaration of Stephen M. Gaffigan in Support of Plaintiff's *Ex Parte* Application for Temporary Restraining Order ["Gaffigan Decl."] ¶¶ 2-3, filed herewith; see also relevant web page captures from Defendants' Internet based e-commerce stores operating under the E-commerce Store Names displaying Plaintiff's branded items offered for sale attached as Comp. Ex. 1 to the Gaffigan Decl.

---

<sup>2</sup> Defendants use their e-mail addresses in connection with their counterfeiting activities, to promote, offer for sale, and/or sell goods bearing and/or using counterfeits and infringements of Plaintiff's trademarks via the E-commerce Store Names; accordingly, Defendants are using their e-mail addresses to facilitate their counterfeiting operations. (See Gaffigan Decl. ¶ 3, n.2.)

["Defendants' E-commerce Store Names"].) Under the direct supervision of Plaintiff's representative, Emma-Jane Tritton, Corsearch Inc.'s reviewing representatives reviewed and visually inspected the various products bearing and/or using Plaintiff's Marks offered for sale by Defendants via the Internet based e-commerce stores operating under the E-commerce Store Names and determined the products were non-genuine, unauthorized versions of Plaintiff's branded products. (Tritton Decl. ¶¶ 4, 11-13.)

Given Defendants' slavish copying of Plaintiff's Marks, Defendants' Goods offered for sale and sold under identical marks are indistinguishable to consumers, both at the point of sale and post-sale. Additionally, by using Plaintiff's Marks, Defendants have created a false association between their counterfeit and infringing goods and e-commerce stores and Plaintiff. Such false association is in violation of 15 U.S.C. § 1125(a) and is causing and will continue to cause Plaintiff irreparable injury and damage. (Tritton Decl. ¶¶ 10, 24.)

Section 45 of the Lanham Act defines a "counterfeit" as "a spurious mark which is identical with, or substantially indistinguishable from, a registered mark." 15 U.S.C. § 1127. Also, using the "ocular test" of direct comparison, courts have found that even marks that are slightly modified from the registered marks copied are to be considered counterfeit marks. See Fimab-Finanziaria Maglificio vs. Helio Import/Export, Inc., 601 F. Supp. 1 (S.D. Fla. 1983). Comparing Plaintiff's Marks to the marks used by Defendants in connection with Defendants' Goods reveals the obvious counterfeit and infringing nature of Defendants' Goods. (Compare Trademark Registrations with Defendants' E-commerce Store Names.)

Defendants' Goods bearing and/or using counterfeits of Plaintiff's Marks are being promoted, advertised, offered for sale, sold, and/or displayed by Defendants to consumers within this district and throughout the U.S. (See Tritton Decl. ¶¶ 6, 11-13; Gaffigan Decl. ¶ 2; see also Defendants' E-commerce Store Names.) Defendants are profiting by preying upon consumers, many of whom have no knowledge Defendants are defrauding them. The E-commerce Store Names are a substantial part of how Defendants further their scheme and cause harm to Plaintiff.

### **C. Defendants Unfairly Compete with and Cause Indivisible Harm to Plaintiff.**

Defendants are all using counterfeits and infringements of Plaintiff's famous names and Plaintiff's Marks to make their e-commerce stores appear more relevant and attractive to consumers shopping for Plaintiff's genuine products online. While each Defendant causes direct individual harm to Plaintiff, the combined effect of Defendants' unlawful activities functions as a

force multiplier to cause Plaintiff a single indivisible harm. (See Tritton Decl. ¶¶ 17, 23-24.) In other words, they are all logically part of the same occurrence. Defendants are therefore properly joined in this action pursuant to Fed. R. Civ. P. 20. See Bose Corp. v. The P'ships and Unincorporated Ass'ns Identified on Schedule "A", 334 F.R.D. 511 (N.D. Ill. Feb. 19, 2020) (holding that the combined effect of the individual harm suffered by a plaintiff from online counterfeiters creates injuries to the plaintiff in the aggregate constituting an occurrence under Rule 20.)

Plaintiff's genuine branded goods are widely legitimately advertised, promoted, offered for sale, and discussed by Plaintiff, its authorized distributors, and unrelated third parties via the Internet. (See Tritton Decl. ¶ 14.) Visibility on the Internet, particularly via search engines and social media platforms, is important to Plaintiff's overall marketing and consumer education efforts. (*Id.* at ¶ 15.) Plaintiff expends significant monetary and other resources on Internet marketing and consumer education regarding its products, including search engine optimization, search engine marketing, and social media strategies, which allow Plaintiff and its authorized retailers to educate consumers fairly and legitimately about the value associated with Plaintiff's brands and the goods sold thereunder. (*Id.*; see also Compl. ¶ 22.)

Counterfeiters like Defendants embrace similar marketing strategies to Plaintiff and are concurrently leveraging them to cause greater, more significant harm to Plaintiff. The combination of all Defendants engaging in the same exact illegal activity for the same purpose over the same time span causes Plaintiff irreparable harm in a way that the individual actions occurring alone might not. See, e.g., Bose Corp., 334 F.R.D. at 517 (“[Plaintiff] does not perceive any one counterfeiter to be the problem. Each injury by itself is relatively inconsequential to [Plaintiff]. Rather, it is the injuries in the aggregate . . . that is harmful and from which [Plaintiff] seeks shelter.”) Defendants are jointly and concertedly harming Plaintiff's marketing efforts on the Internet by blocking and consistently increasing the cost of online visibility for Plaintiff's legitimate, authorized e-commerce website. (Tritton Decl. ¶¶ 20-21.) The combination of Defendants' unlawful activities increases Plaintiff's cost to market its genuine goods and educate consumers about its brand. *Id.* at ¶ 23; see Bose Corp., 334 F.R.D. at 517 (“[Seeking relief against each member of the swarm one by one defies common sense, because it is the swarm—the fact that all Defendants are attacking at once—that is the defining aspect of the harm from which [Plaintiff] seeks relief.”.)

Defendants, each of whom is likely aware of the existence of the illegal marketplace and the activities of the others to perpetuate the same, are combining the force of their actions to cause individual, concurrent, and indivisible harm to Plaintiff and consumers. (See Tritton Decl. ¶¶ 17-23; Compl. ¶¶ 26, 32-33.) See also Bose Corp., 334 F.R.D. at 517 (“Joinder of all defendants who are part of the swarm attacking [Plaintiff’s] trademarks flows easily from conceptualizing the swarm as the relevant Rule 20 ‘occurrence.’”) By engaging in market building strategies based upon an illegal use of Plaintiff’s Marks, Defendants are jointly obliterating the otherwise open and available marketplace space in which Plaintiff has the right to fairly market its goods and associated message. (See Tritton Decl. ¶ 22.) Through their combined concurrent actions, Defendants are causing individual, concurrent, and indivisible harm to Plaintiff and the consuming public by (i) depriving Plaintiff and other third parties of the ability to fairly compete for space within marketing results, (ii) causing an overall degradation of the value of the goodwill associated with Plaintiff’s Marks by viewing inferior products in either the pre or post sale setting, and/or (iii) increasing Plaintiff’s overall cost to market its goods and educate consumers about its brand via the Internet. (Tritton Decl. ¶ 23.) See also Bose Corp., 334 F.R.D. at 517 (“From the plaintiff’s perspective . . . it is irrelevant whether the swarm is intentionally coordinated or simply a product of market forces enabled by the internet.”)

Meaningful space on the World Wide Web, including marketplace and social media advertisement space, is akin to real estate – there is only so much of it available. E-commerce operators, including Plaintiff and Defendants, spend significant resources incorporating concepts and popular search terms, such as Plaintiff’s Marks, into their on-site and off-site content and advertising to promote visibility on the World Wide Web. Plaintiff is doing so through the use of its trademarks in which it has made a substantial economic investment, and Defendants are doing so through subterfuge and unlawful use of Plaintiff’s Marks. Each Defendant is helping to create and maintain the overall illicit marketplace where they market and sell their respective goods and confuse consumers.

Plaintiff, its trademark rights, and associated goodwill are suffering death by 1,000 cuts, caused by the combined force of all Defendants’ individual but concurrent unlawful activities. The combined force and effect of all of Defendants’ actions are causing the single indivisible harm of the mass consumer confusion and the denial of Plaintiff’s right to fairly compete for visibility on the Web.

### III. ARGUMENT

#### A. **A Temporary Restraining Order is Essential to Prevent Immediate Injury.**

Plaintiff is seeking entry of a temporary restraining order prohibiting Defendants' further wrongful use of Plaintiff's Marks and disabling Defendants' websites operating under the E-commerce Store Names during the pendency of this action. The requested relief is necessary to immediately stop Defendants' ongoing, intentional confusion of consumers and the associated irreparable harm occurring to Plaintiff.

Rule 65(b) of the Federal Rules of Civil Procedure provides, in part, that a temporary restraining order may be granted without written or oral notice to the opposing party or that party's counsel where "specific facts in an affidavit . . . clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b). Moreover, temporary restraining orders are available on an *ex parte* basis if the movant shows through an affidavit that there is a threat of intervening immediate, irreparable harm before the adverse party may be heard in opposition and the movant's attorney certifies in writing why notice should not be required. Fed. R. Civ. P. 65(b). As demonstrated herein, such irreparable and immediate injury will result to Plaintiff if Defendants' wrongful activities are not immediately stopped by the issuance of a temporary restraining order.

Defendants fraudulently promote, advertise, offer for sale, and sell goods bearing and/or counterfeits of Plaintiff's Marks via their E-commerce Store Names. Specifically, Defendants are wrongfully using counterfeits and infringements of Plaintiff's Marks to increase traffic to their illegal businesses. By their actions, Defendants are creating a false association in the minds of consumers between Defendants and Plaintiff. The entry of a temporary restraining order will serve to immediately stop Defendants from benefiting from their wrongful use of Plaintiff's Marks and preserve the status quo until such time as a hearing can be held. See Dell Inc. v. BelgiumDomains, LLC, No. 07-22674 2007 WL 6862341, at \*2 (S.D. Fla. Nov. 21, 2007) (finding *ex parte* relief more compelling where Defendants' scheme "is in electronic form and subject to quick, easy, untraceable destruction by Defendants.")

Absent a temporary restraining order without notice, Defendants can significantly alter the status quo before the Court can determine the parties' respective rights. The E-commerce Store Names at issue are under Defendants' complete control, and they can modify registration data and content, change hosts and, most importantly, redirect traffic to other e-commerce store names they

control. (See Gaffigan Decl. ¶¶ 4-6.) Moreover, Defendants operate Internet e-commerce store names, which they optimize for the sale of counterfeit and infringing merchandise bearing and/or using Plaintiff's Marks. This process provides Defendants with the power to unfairly compete with Plaintiff by catapulting their illegal websites into top search engine results. All that optimization power, built through the illegal use of Plaintiff's Marks, can easily be transferred to a new e-commerce store name in a matter of minutes through what is known as a redirect to push traffic from the E-commerce Store Names to new e-commerce store names not yet identified. (*Id.*) The result would be to slingshot the new e-commerce store names to the top of the search engine results pages by leveraging the Internet traffic to the e-commerce store names in suit, which was built through the illegal use of Plaintiff's Marks. (*Id.*) In short, Defendants would completely erase the status quo by transferring all the benefits of their prior illegal activities to new e-commerce stores. (*Id.*)

Federal courts have long recognized that civil actions against counterfeiters – whose very businesses are built around the deliberate misappropriation of rights and property belonging to others – present special challenges that justify proceeding on an *ex parte* basis. Columbia Pictures Indus., Inc. v. Jasso, 927 F. Supp. 1075, 1077 (N.D. Ill. 1996) (observing that “proceedings against those who deliberately traffic in infringing merchandise are often useless if notice is given to the infringers”); see also Richemont Int'l Sa v. Cartierclone.Com, No. 23-CV-60536-RAR, 2023 U.S. Dist. LEXIS 157948 (S.D. Fla. Mar. 22, 2023) (Order Granting *Ex Parte* Application for Temporary Restraining Order). This Court should prevent an injustice from occurring by issuing a temporary restraining order which precludes Defendants from continuing to display their infringing content via the e-commerce stores operating under the E-commerce Store Names and which, after allowing an opportunity for objections, temporarily places control of the websites in the hands of the Court. Only such an order will prevent ongoing irreparable harm and maintain the status quo.

**B. Standard for Temporary Restraining Order and Preliminary Injunction.**

In this Circuit, the standard for obtaining a temporary restraining order and the standard for obtaining a preliminary injunction are the same. See Emerging Vision, Inc. v. Glachman, 2010 WL 3293346, at \*3 (S.D. Fla. June 29, 2010) (citing Siegel v. LePore, 120 F. Supp. 2d 1041 (S.D. Fla. 2000) *aff'd* 234 F.3d 1163 (11th Cir. 2000)). To obtain a temporary restraining order or a preliminary injunction, a party must establish “(1) a substantial likelihood of success on the merits;



(2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest.” Schiavo ex rel. Schindler v. Schiavo, 403 F.3d 1223, 1225-26 (11th Cir. 2005). Plaintiff’s evidence establishes all relevant factors.

**1. Probability of Success on the Merits of Plaintiff’s Claims.**

**a) Likelihood of Success on Counterfeiting Claim.**

Title 15 U.S.C. §1114 provides liability for trademark infringement if, without the consent of the registrant, a defendant uses “in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.” 15 U.S.C. § 1114 (2025). Plaintiff must demonstrate (1) ownership of the trademarks at issue; (2) Defendants’ use of the trademarks is without Plaintiff’s authorization; and (3) Defendants’ use is likely to cause confusion, mistake, or deception as to the source, affiliation, or sponsorship of Defendants’ Goods. See 15 U.S.C. § 1114(1). Plaintiff’s evidence satisfies these requirements.

The first two elements of Plaintiff’s trademark counterfeiting and infringement claims are easily met. Plaintiff’s Marks are owned by Plaintiff and registered on the Principal Register of the U.S. Patent and Trademark Office, and all of Plaintiff’s Marks have become “incontestable” under 15 U.S.C. §§ 1058 and 1065. (See Tritton Decl. ¶ 6; see also Plaintiff’s Trademark Registrations). See Ocean Bio-Chem, Inc. v. Turner Network Television, Inc., 741 F. Supp. 1546, 1554 (S.D. Fla. 1990) (“Incontestable status provides conclusive evidence of the registrant’s exclusive right to use the registered mark, subject to §§ 15 and 33(b) of the Lanham Act.”). Moreover, Defendants have never had the right or authority to use Plaintiff’s Marks. (See Tritton Decl. ¶¶ 11-13.)

The Eleventh Circuit uses a seven-factor test in determining the third element, likelihood of confusion. See Ross Bicycles, Inc. v. Cycles USA, Inc., 765 F.2d 1502, 1506 (11th Cir. 1985). These factors, as outlined in Safeway Store, Inc. v. Safeway Discount Drugs, Inc., are: (1) the strength of the mark; (2) the similarity of marks; (3) the similarity of the goods; (4) similarity of the sales methods; (5) the similarity of advertising media; (6) defendant’s intent; and (7) evidence of actual confusion. See 675 F.2d 1160, 1164 (11th Cir. 1982); see also Lipscher v. LRP Publ’ns, Inc., 266 F.3d 1305, 1303 (11th Cir. 1997). The seven factors listed are to be weighed and balanced and no single factor is dispositive. (Id.)

**(1) Strength of the Marks.**

The spectrum of protectability and strength for trademarks is divided into four primary types of designations: (1) coined, fanciful or arbitrary; (2) suggestive; (3) descriptive; and (4) generic. See Two Pesos, Inc. v. Taco Cabana, Inc., 505 U.S. 763, 768, 112 S. Ct. 2753, 120 L.Ed.2d 615 (1992). Arbitrary or fanciful marks are the strongest and deemed inherently distinctive and entitled to protection. (See id.) It cannot be seriously disputed that Plaintiff's Marks are strong, arbitrary, and fanciful marks. (See Tritton Decl. ¶ 6; see also Plaintiff's Trademark Registrations).

Plaintiff's Marks have also acquired secondary meaning. Plaintiff expends substantial resources developing, advertising, and promoting Plaintiff's Marks. (See Tritton Decl. ¶¶ 7-9.) Plaintiff's Marks enjoy widespread recognition and are prominent in the minds of consumers. Indeed, products bearing Plaintiff's Marks are among the most widely recognized trademarks in the U.S. (Id.)

**(2) Similarity of the Marks.**

Likelihood of confusion is greater when an infringer uses the exact trademark. Turner Greenberg Assocs. v. C & C Imps., 320 F. Supp. 2d 1317, 1332 (S.D. Fla. 2004). Defendants are using marks that are identical to Plaintiff's Marks. (Compare Plaintiff's Trademark Registrations with Defendants' E-commerce Store Names).

**(3) Similarity of the Goods.**

"The greater the similarity between the products and services, the greater the likelihood of confusion." John H. Harland Co. v. Clarke Checks, Inc., 711 F.2d 966, 976 (11th Cir. 1983). Defendants are selling the same types of goods Plaintiff sells. (See Tritton Decl. ¶¶ 6-7, 11-13; see generally Defendants' E-commerce Store Names). Because they bear and/or use counterfeits and infringements of Plaintiff's Marks, Defendants' Goods appear virtually identical to Plaintiff's genuine products. Standing alone, this similarity can be held sufficient to establish a likelihood of confusion. See John H. Harland Co., 711 F.2d at 976.

**(4) Similarity of Sales Method and (5) Advertising Method.**

Convergent marketing channels increase the likelihood of confusion. See Turner Greenberg Assocs., 320 F. Supp. 2d at 1332. Both Plaintiff and Defendants advertise and sell their products using at least one of the same marketing channels, the Internet, in the same geographical distribution areas within the U.S., including the Southern District of Florida. (See Tritton Decl. ¶¶ 8, 11-14; see generally Defendants' E-commerce Store Names). Thus, the conditions of purchase

for both parties are unmistakably identical. Moreover, both target the same general U.S. consumers, and as such, Plaintiff is directly competing with Defendants' products.

**(6) Defendants' Intent.**

This district has held that when an alleged infringer adopts a mark "with the intent of obtaining benefit from the plaintiff's business reputation, 'this fact alone may be sufficient to justify the inference that there is confusing similarity.'" Turner Greenberg Assocs., 320 F. Supp. 2d at 1333 (citing Carnival Corp. v. Seaescape Casino Cruises, Inc., 74 F. Supp.2d 1261, 1268 (S.D. Fla. 1999)). In a case of clear-cut copying such as in this case, it is appropriate to infer Defendants intended to benefit from Plaintiff's reputation, to Plaintiff's detriment. See Playboy Ent., Inc. v. P.K. Sorren Export Co. Inc. of Fla., 546 F. Supp. 987, 996 (S.D. Fla. 1982).

**(7) Evidence of Actual Confusion.**

Actual confusion is unnecessary to establish infringement since the test is likelihood of confusion. See Frehling Enters. v. Int'l Select Group, Inc., 192 F.3d 1330, 1340 (11th Cir. 1999). In this case, however, it is reasonable to infer actual confusion exists in the marketplace because Defendants are advertising, offering to sell and selling counterfeit goods identical in appearance to those sold by Plaintiff. (See Tritton Decl. ¶¶ 6-7, 11-13; see generally Defendants' E-commerce Store Names). Even if buyers are told of the bogus nature of Defendants' Goods, other consumers viewing Defendants' Goods in a post-sale setting will obviously be confused, because they are viewing goods bearing Plaintiff's Marks creating the impression they are viewing genuine goods sold or authorized by Plaintiff. Such post-sale confusion is entirely actionable. See Remcraft Lighting Products, Inc. v. Maxim Lighting, Inc., 706 F. Supp. 855, 859 (S.D. Fla. 1989) ("The likelihood of confusion need not occur at wholesale level when the end user will be confused.").

The seven factors weigh only in Plaintiff's favor. Plaintiff has therefore shown a probability of success on the merits of its trademark counterfeiting and infringement claim.

**b) Likelihood of Success on False Designation of Origin, Common Law Unfair Competition, and Common Law Trademark Infringement Claims.**

As with a trademark infringement claim, the test for liability for false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), is also whether the public is likely to be deceived or confused by the similarity of the marks at issue. Two Pesos, 505 U.S. at 780. Additionally, whether a defendant's use of a plaintiff's trademarks creates a likelihood of confusion between the plaintiff's and the defendant's products is also the determining factor in the

analysis of unfair competition under the common law of Florida and Florida common law trademark infringement. See Planetary Motion, Inc. v. Techsplosion, Inc., 261 F.3d 1188, 1193 n.4 (11th Cir. 2001) (“Courts may use an analysis of federal infringement claims as a ‘measuring stick’ in evaluating the merits of state law claims.”); PetMed Express, Inc. v. MedPets.com, Inc., 336 F. Supp. 2d 1213, 1217-18 (S.D. Fla. 2004). Whether the violation is called infringement, unfair competition, or false designation of origin, the test is identical – is there a “likelihood of confusion?” Two Pesos, 505 U.S. at 763. Thus, because Plaintiff has established the merits of its trademark counterfeiting and infringement claims, a likelihood of success is also shown as to Plaintiff’s claim for false designation of origin, as well as its common law unfair competition and trademark infringement claims.

## **2. Plaintiff is Suffering Irreparable Injury.**

As the Eleventh Circuit expressed it: “[A] sufficiently strong showing of likelihood of confusion [caused by trademark infringement] may by itself constitute a showing of ... [a] substantial threat of irreparable harm.” Ferrellgas Ptnrs., L.P. v. Barrow, 143 Fed. Appx., 180, 191 (11th Cir. 2005) (citing McDonald’s Corp. v. Robertson, 147 F.3d 1301, 1310 (11th Cir. 1998)). Such a finding of irreparable injury following a showing of likelihood of confusion is virtually always made in cases like this, where a plaintiff demonstrated it will lose control of its reputation due to a defendant’s activities. See id. A likelihood of confusion exists herein because Defendants have engaged in counterfeiting and infringing activities using spurious designations indistinguishable from Plaintiff’s Marks.

## **3. The Balance of Hardship Tips Sharply in Plaintiff’s Favor.**

Plaintiff expends substantial resources to develop the quality, reputation, and goodwill associated with Plaintiff’s Marks. (See Tritton Decl. ¶¶ 7-9.) Should Defendants be permitted to continue their trade in counterfeit goods, Plaintiff will suffer irreparable injury to its reputation. (See id. at ¶¶ 10, 24.) However, Defendants will suffer no legitimate hardship in the event a temporary restraining order is issued, because Defendants have no right to engage in their present counterfeiting and infringing activities.

## **4. The Relief Sought Serves the Public Interest.**

Defendants are engaged in unlawful activities and are directly defrauding consumers by palming off Defendants’ Goods as Plaintiff’s genuine goods. The public has an interest in not being misled as to the origin, source, or sponsorship of trademarked products. See Nailtiques

Cosmetic Corp. v. Salon Sciences, Corp., 1997 WL 244746, 5, 41 U.S.P.Q.2d 1995, 1999 (S.D. Fla. 1997) (“The interests of the public in not being victimized and misled are important considerations in determining the propriety of granting injunctive relief.”).

**C. The Equitable Relief Sought is Appropriate.**

The Lanham Act authorizes courts to issue injunctive relief “according to principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of the registrant of a mark ...” 15 U.S.C. § 1116(a).

**1. Entry of an Order Immediately Enjoining Defendants’ Unauthorized and Unlawful Use of Plaintiff’s Trademarks is Appropriate.**

Plaintiff requests an order requiring Defendants to immediately cease all use of Plaintiff’s Marks, or substantially similar marks, including on or in connection with all e-commerce stores they own, operate, or control. Such relief is necessary to stop the ongoing harm to Plaintiff’s trademarks and goodwill and to prevent Defendants from continuing to benefit from the increased consumer traffic to their unlawful operations created by their unlawful use of Plaintiff’s Marks. This Court, and others, have authorized immediate injunctive relief in similar cases involving the unauthorized use of trademarks.<sup>3</sup>

**2. Entry of an Order Prohibiting Transfer of the E-commerce Store Names During the Pendency of this Action is Appropriate.**

To preserve the status quo, Plaintiff seeks an interim order temporarily modifying control of and prohibiting Defendants from transferring the E-commerce Store Names to other parties. Under the operating rules of e-commerce store name registrars, defendants involved in e-

---

<sup>3</sup> See, e.g., Richemont Int’l Sa v. Cartierclone.Com, No. 23-CV-60536-RAR, 2023 U.S. Dist. LEXIS 157948 (S.D. Fla. Mar. 22, 2023) (Order Granting *Ex Parte* Application for Entry of Temporary Restraining Order); adidas AG v. Adidasco.Com, No. 22-CV-61170-RAR, 2022 U.S. Dist. LEXIS 184722 (S.D. Fla. June 23, 2022) (same); Chanel, Inc. v. replicaschanelstore.com, No. 20-CV-62554-RAR, 2020 U.S. Dist. LEXIS 248399 (S.D. Fla. Dec. 17, 2020) (same); Abercrombie & Fitch Trading Co. v. Individuals, Case No. 24-cv-24707-RAR (S.D. Fla. Dec. 5, 2024) (same); Federation of the Swiss Watch Industry FH v. bestintimes.me, Case No. 22-cv-62000-RAR (S.D. Fla. Nov. 2, 2022) (same); Chanel, Inc. v. replicachanelproduct.com, Case No. 22-cv-61939-RAR (S.D. Fla. Oct. 27, 2022) (same). See also Tiffany NJ LLC v. Individuals, No. 24-CV-61345-WPD, 2024 U.S. Dist. LEXIS 156996 (S.D. Fla. July 30, 2024) (same); adidas AG v. Adidasemporium.Com, No. 24-CV-61158-MD, 2024 U.S. Dist. LEXIS 156988 (S.D. Fla. July 12, 2024) (same); Chanel, Inc. v. allswisswatch.si, No. 24-CV-61080-AHS, 2024 U.S. Dist. LEXIS 189269 (S.D. Fla. June 27, 2024) (same); Abs-Cbn Corp. v. Lambingantvs.Ph, No. 24-CV-60260-RLR, 2024 U.S. Dist. LEXIS 179335 (S.D. Fla. Feb. 21, 2024) (same).

commerce store name litigation easily can, and often will, change the ownership of an e-commerce store name and thereby frustrate the court's ability to provide relief to the plaintiff. (See Gaffigan Decl. ¶¶ 4-6.) Defendants can modify e-commerce store data and content to thwart discovery and redirect traffic to other e-commerce stores to thwart effective injunctive relief. (See id.) Accordingly, to preserve the status quo and ensure the possibility of eventual effective relief, courts in trademark cases involving e-commerce store names regularly grant such relief.<sup>4</sup> Here, an interim order prohibiting Defendants from transferring the E-commerce Store Names poses no burden on them, preserves the status quo, and ensures that this Court, after fully hearing the merits of this action, will be able to afford Plaintiff full relief.

### **3. Entry of an Order Modifying Control, Redirecting, and Disabling the E-commerce Store Names is Appropriate.**

Courts recognize an interim order redirecting, transferring, disabling, or canceling the offending e-commerce store names displaying the counterfeit goods is the only means of affording a plaintiff interim relief that avoids irreparable harm. Plaintiff requests the Court enter an order requiring the registrars and the registries that maintain the Top Level Domain ("TLD") Zone files for the E-commerce Store Names change the registrar of record for the E-commerce Store Names to a holding account with a Registrar of Plaintiff's choosing, where they will be held in trust for the Court during the pendency of this action and set to automatically redirect to Plaintiff's designated serving notice website appearing at the URL, <http://servingnotice.com/Rsf5ca/index.html>.<sup>5</sup> Upon such redirection, a copy of all pleadings,

---

<sup>4</sup> See, e.g., Richemont Int'l Sa v. Cartierclone.Com, No. 23-CV-60536-RAR, 2023 U.S. Dist. LEXIS 157948 (S.D. Fla. Mar. 22, 2023) (Order prohibiting Defendants from transferring, *inter alia*, e-commerce store names during pendency or until further Order of the Court); adidas AG v. Adidasco.Com, No. 22-CV-61170-RAR, 2022 U.S. Dist. LEXIS 184722 (S.D. Fla. June 23, 2022) (same); Chanel, Inc. v. replicaschanelstore.com, No. 20-CV-62554-RAR, 2020 U.S. Dist. LEXIS 248399 (S.D. Fla. Dec. 17, 2020) (same); Federation of the Swiss Watch Industry FH v. bestintimes.me, Case No. 22-cv-62000-RAR (S.D. Fla. Nov. 2, 2022) (same); Chanel, Inc. v. replicachanelproduct.com, Case No. 22-cv-61939-RAR (S.D. Fla. Oct. 27, 2022) (same). See also Tiffany NJ LLC v. Individuals, No. 24-CV-61345-WPD, 2024 U.S. Dist. LEXIS 156996 (S.D. Fla. July 30, 2024) (same); adidas AG v. Adidasemporium.Com, No. 24-CV-61158-MD, 2024 U.S. Dist. LEXIS 156988 (S.D. Fla. July 12, 2024) (same); Chanel, Inc. v. allswisswatch.si, No. 24-CV-61080-AHS, 2024 U.S. Dist. LEXIS 189269 (S.D. Fla. June 27, 2024) (same); Abs-Cbn Corp. v. Lambingantvs.Ph, No. 24-CV-60260-RLR, 2024 U.S. Dist. LEXIS 179335 (S.D. Fla. Feb. 21, 2024) (same).

<sup>5</sup> Such relief regarding a change of registrars was granted by this Court in Richemont Int'l Sa v. Cartierclone.Com, No. 23-CV-60536-RAR, 2023 U.S. Dist. LEXIS 157948 (S.D. Fla. Mar. 22,

documents and Court orders issued in this matter will be visible to Defendants the moment they type their own e-commerce store names into their web browsers. The E-commerce Store Names would remain in Defendants' legal ownership, but they would no longer be able to display infringing and counterfeit website content in this matter. Rather, this would serve as an effective means of notifying Defendants of the pendency of this action, the relief sought by Plaintiff and affording them and any other interested parties with an opportunity to object.

**D. An Appropriate Bond Should Secure the Injunction.**

The posting of security upon issuance of a temporary or preliminary injunction is vested in the Court's sound discretion. Fed. R. Civ. P. 65(c). Because of the strong and unequivocal nature of Plaintiff's evidence of counterfeiting, Plaintiff respectfully requests this Court require it to post a bond of no more than ten thousand dollars (\$10,000.00), subject to increase at the Court's discretion should an application be made in the interest of justice.

**IV. CONCLUSION**

In view of the foregoing, Plaintiff, Richemont International SA, respectfully requests this Court grant its *ex parte* application and enter a temporary restraining order as to Defendants in the form submitted herewith and schedule a hearing on Plaintiff's Motion for Preliminary Injunction before the expiration of the temporary restraining order.

DATED: March 12, 2025.

Respectfully submitted,

STEPHEN M. GAFFIGAN, P.A.

By: **Stephen M. Gaffigan**

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

Virgilio Gigante (Fla. Bar No. 082635)

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

Christine Ann Daley (Fla. Bar No. 98482)

401 East Las Olas Blvd., #130-453

---

2023); adidas AG v. Adidasco.Com, No. 22-CV-61170-RAR, 2022 U.S. Dist. LEXIS 184722 (S.D. Fla. June 23, 2022); Chanel, Inc. v. replicaschanelstore.com, No. 20-CV-62554-RAR, 2020 U.S. Dist. LEXIS 248399 (S.D. Fla. Dec. 17, 2020); Federation of the Swiss Watch Industry FH v. bestintimes.me, Case No. 22-cv-62000-RAR (S.D. Fla. Nov. 2, 2022); and Chanel, Inc. v. replicachanelproduct.com, Case No. 22-cv-61939-RAR (S.D. Fla. Oct. 27, 2022); and other Courts in Tiffany NJ LLC v. Individuals, No. 24-CV-61345-WPD, 2024 U.S. Dist. LEXIS 156996 (S.D. Fla. July 30, 2024); adidas AG v. Adidasemporium.Com, No. 24-CV-61158-MD, 2024 U.S. Dist. LEXIS 156988 (S.D. Fla. July 12, 2024); Chanel, Inc. v. allswisswatch.si, No. 24-CV-61080-AHS, 2024 U.S. Dist. LEXIS 189269 (S.D. Fla. June 27, 2024); and Abs-Cbn Corp. v. Lambingantvs.Ph, No. 24-CV-60260-RLR, 2024 U.S. Dist. LEXIS 179335 (S.D. Fla. Feb. 21, 2024).

Ft. Lauderdale, Florida 33301  
Telephone: (954) 767-4819  
E-mail: [Stephen@smgpa.cloud](mailto:Stephen@smgpa.cloud)  
E-mail: [Leo@smgpa.cloud](mailto:Leo@smgpa.cloud)  
E-mail: [Raquel@smgpa.cloud](mailto:Raquel@smgpa.cloud)  
E-mail: [Christine@smgpa.cloud](mailto:Christine@smgpa.cloud)

Attorneys for Plaintiff



**SCHEDULE “A”**  
**DEFENDANTS BY NUMBER, E-COMMERCE STORE NAME,**  
**AND E-MAIL ADDRESSES**

<b>Defendant Number</b>	<b>Defendant / E-commerce Store Name</b>	<b>E-Mail Addresses</b>
1	allswisswatchs.com	watchesc@outlook.com 2010watches@gmail.com
1	allwatchesen.com	2010watches@gmail.com
1	bestwatchss.com	watchesc@outlook.com
1	swissrepicass.com	2010watches@gmail.com
1	swisswatchesale.com	2010watches@gmail.com
2	any-replica-watches.com	anyreplicawatches@gmail.com Chrisanyreplicawatches@gmail.com Order@any-replica-watches.com
2	arwwatchpro.com	anyreplicawatches@gmail.com Chrisanyreplicawatches@gmail.com
3	bestcartierrep.com	bestcartierrep@gmail.com hello@unitedluxuryshop.com
4	bestfakejewelry.com	bestfakejewelry@gmail.com
4	luxuryjewelrywarehouse.com	replicajewelry98@gmail.com
5	buywatchesindubai.com	watchesindubai@gmail.com
5	replicawatchesinuae.com	watchesindubai@gmail.com
5	superclonewatchesdubai.com	watchesindubai@gmail.com
6	chreplica.is	chstore269@gmail.com
6	clean-factory.is	chstore269@gmail.com
7	clonewatch.is	contact@clonewatch.io
8	dubai-watchesuae.com	contact@dubai-watchesuae.com PW- F8E41551A887EB740C2AEE9048841C7B@PRI VACYGUARDIAN.ORG
9	hagobuy.ru	
10	geektime.watch	geektimewatch@outlook.com
11	getwatches.ru	kerytony88@gmail.com
12	giftwatchesboutique.in	Sales@giftwatchesboutique.in
13	goldluxurys.com	watcchgood@gmail.com info@goldluxurys.com
14	hellorolex.watch	sales@HelloRolex.com hellorolex@gmail.com hellook_sally@hotmail.com yuansunet@gmail.com

15	hontwatch-replica.si	oskarjohnatan54@gmail.com
16	hotwatchsreplica.com	salesreplicas@gmail.com
16	replicawatchshop.cc	salesreplicas@gmail.com
17	intime06.co	
18	iwatchclone.co	watchesppaservice@gmail.com
19	luxe-us.com	support@luxe-us.com
20	myswissclones.com	swisseta43@gmail.com
20	super-clones.com	swisseta43@gmail.com SUPER-CLONES.COM@WIX- DOMAINS.COM
20	swissauth.com	info@swissclones.com swisseta43@gmail.com SWISSAUTH.COM@WIX-DOMAINS.COM
20	swissclones.com	swisseta43@wixsiteautomations.com info@swissclones.com swisseta43@gmail.com
21	perfectrepwatches.com	info@perfectrepwatches.com 607D412D4ED1B7B05F30C43340E21AF2- 38626461@CONTACT.GANDI.NET
22	relojesreplicastarlujos.com	luxurys.club1@gmail.com relojesstarlujos@gmail.com 2508030trabajosstarlujos@gmail.com
23	replicaorologi.co	noobfactory@protonmail.ch
24	replicawatchescheap.com	Watchonlinestore1988@gmail.com carloasmatrix@gmail.com
24	reptime.us	watchonlinestore1988@gmail.com VATIFENS9@GMAIL.COM
25	replicawatchesusa.com	ReplicaWatches333@hotmail.com info@Royalwatchespakistan.com.pk info@Bob-Watches.com
25	royal-watches- pakistan.com.pk	info@Royalwatchespakistan.com.pk
25	Royalwatchespakistan.com.pk	
25	timezone.com.pk	info@TimeZone.com.pk
26	replicawatchtr.com	
27	rolexreplica.design	orders@rolexreplica.design
28	ukwatches.io	
28	ukshop.io	
29	watchcopiesale.co	popreplicaservice@gmail.com

30	18kcoraljewelry.com	coralperfect@gmail.com PW- 566B00F8A6987DB564DC9152F80FADC9@PR IVACYGUARDIAN.ORG
----	---------------------	---