

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 24-24178-CIV-BECERRA**

TIFFANY (NJ) LLC,

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, Tiffany (NJ) LLC (“Tiffany” or “Plaintiff”), 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 (“Defendants”), pursuant to Federal Rule of Civil Procedure 4(f)(3). In support thereof, Tiffany submits the following Memorandum of Law.

¹ Tiffany is moving for alternate service *ex parte* as Tiffany has yet to provide Defendants with notice of this action. (See Declaration of Stephen M. Gaffigan in Support of Plaintiff’s *Ex Parte* Motion for Order Authorizing Alternate Service of Process on Defendants [“Gaffigan Decl.”] ¶ 1 n.1, filed herewith.) Tiffany 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 instant Motion makes reference to Tiffany’s Application for Temporary Restraining Order, and as such, Tiffany seeks to prevent premature disclosure of that filing. (*Id.*) However, Tiffany is filing this Motion so that, in the event Tiffany’s Application for Temporary Restraining Order and the instant Motion are granted, Tiffany 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 Tiffany’s Application for Temporary Restraining Order. (*Id.*)

I. INTRODUCTION

Tiffany 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 one or more of Tiffany's registered trademarks within this district and throughout the United States by operating Internet based e-commerce stores under the seller names set forth on Schedule "A" hereto (the "E-commerce Store Names").

Pursuant to Federal Rule of Civil Procedure 4(f)(3), Tiffany 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, Tiffany has the ability to contact Defendants directly and provide notice of Tiffany's claims against them electronically via e-mail. Additionally, Tiffany has created a website and will be posting copies of the Complaint, this instant Motion, and all other documents filed in this action upon providing Defendants with notice of the action. Tiffany 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, Tiffany will almost certainly be left without the ability to pursue a remedy.

II. STATEMENT OF FACTS

A. Defendants Have Valid Means of Electronic Contact.

Defendants operate Internet-based businesses and identify e-mail, including onsite contact forms and private messaging accounts and/or services, as a means of communication such that Tiffany will be able to provide Defendants with notice of this action via e-mail and website posting. (See Declaration of Stephen M. Gaffigan in Support of Plaintiff's *Ex Parte* Motion for Order Authorizing Alternate Service of Process on Defendants ["Gaffigan Decl."] ¶¶ 3-5, filed herewith.) As a practical matter, it is necessary for merchants who operate entirely online, such as Defendants, to provide customers with 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 shipments 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 for goods. Additionally, Tiffany has created a website that will be appearing at the URL <http://servingnotice.com/TB29mE/index.html> ("Plaintiff's Website"), such that anyone accessing Plaintiff's Website will find copies of all documents filed in this action. (See Gaffigan Decl. ¶ 5.)

Specifically, Defendants use money transfer and/or retention/processing services, or have their payments processed on their behalf, using various financial entities, including PayPal, Inc. and/or Stripe, Inc., a third-party payment processing service (collectively, the "Financial Entities"), as methods to receive monies generated through the sale of their counterfeit and infringing products. (See Gaffigan Decl. ¶ 3; Declaration of Kathleen Burns in Support of

Plaintiff's Application for Temporary Restraining Order ["Burns Decl. in Support of Appl. for TRO"] ¶ 4 and Comp. Ex. 1 thereto, incorporated herein by reference.) These Financial Entities identify contact e-mail addresses for the respective defendants at issue upon compliance with a temporary restraining order, such as the temporary restraining order Tiffany is requesting in the instant case. (Id.) As a practical matter, payment accounts in the form of e-mail addresses must necessarily be working e-mail addresses, otherwise Defendants would not be able to process payments via those accounts. (Id.)

Defendants can also be contacted via their customer service e-mail addresses, via the onsite contact forms embedded directly on Defendants' e-commerce stores, including messaging services provided by e-commerce platforms that facilitate communication between customers and merchants, and/or via other private messaging applications or services Defendants use in connection with their E-commerce Store Names. (See Gaffigan Decl. ¶ 4.) Additionally, Tiffany's counsel's firm obtained the publicly available registration records for the E-commerce Store Names, identifying the registrars for each E-commerce Store Name. (Id.) As such, Defendants are able to receive notice of this action by e-mail via the designated Registrar's e-mail address or contact form, or via the e-commerce platform that Defendants use to conduct their commercial transactions via the E-commerce Store Names. (Id.)

Finally, Tiffany will be able to provide each Defendant with notice of this action via public announcement on Plaintiff's Website. Tiffany has created its Website that will be appearing at the URL <http://servingnotice.com/TB29mE/index.html>, whereon copies of the Complaint, the instant 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. (See Gaffigan Decl. ¶ 5.) The address for Plaintiff's Website will be provided to Defendants via their

known e-mail accounts, including onsite contact forms and private messaging accounts and/or services, and will be included as part of service of process in this matter.

Accordingly, each Defendant will be provided with notice of this action electronically by providing the address for Plaintiff's Website to their corresponding e-mail addresses, onsite contact forms, private messaging applications and/or services, or via the e-mail address for the designated Registrar and/or e-commerce platform that Defendants use to conduct their commercial transactions via the E-commerce Store Names. (See Gaffigan 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 Internet 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 and rely on electronic means to receive payment. (See Burns Decl. in Support of Appl. for TRO ¶ 4 and Comp. Ex. 1 thereto.) Indeed, Tiffany's investigator placed orders for Tiffany's branded goods electronically via Defendants' Internet based E-commerce Store Names. (See id.) The orders placed by Tiffany's investigator while investigating the E-commerce Store Names were processed electronically, which included providing billing and payment information, and confirmation of the orders via e-mail. (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, Case 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.”); National Association 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 Tiffany’s claims. Based on Tiffany’s investigation, Defendants have 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 Defendants, and consequently, the most reliable means of providing Defendants with notice of this action. (See Gaffigan Decl. ¶¶ 3-4; Burns Decl. in Support of Appl. for TRO ¶ 4 and Comp. Ex. 1 thereto.) 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. (Gaffigan 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 with 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, Inc. and Popular Enters., LLC courts each determined e-mail service to be appropriate in part because, as in this case, the defendants conducted their businesses online, used e-mail regularly in their businesses, and encouraged parties to contact them via e-mail. 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, Inc., 284 F.3d at 1018; see also 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).² Tiffany submits that allowing e-mail service in the present

² See 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) (Order authorizing alternate service of process via, *inter alia*, e-mail); Chanel, Inc. v. Individuals, No. 24-cv-22823-BECERRA, 2024 U.S. Dist. LEXIS 187283 (S.D. Fla. Aug. 5, 2024) (same). See also Louis Vuitton Malletier v. The Individuals, Business Entities, and Unincorporated Ass’ns, No. 1:24-23565-CIV-BECERRA (S.D. Fla. Sept. 24, 2024) (Order authorizing alternate service of process via, *inter alia*, e-mail). Accord Whirlpool Corp. v. Individuals, No. 24-61253-CIV-SMITH, 2024 U.S. Dist. LEXIS 187700 (S.D. Fla. Aug. 19, 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); Tiffany NJ LLC v. Individuals, No. 24-61195-CIV-MARTINEZ, 2024 U.S. Dist. LEXIS 157323 (S.D. Fla. July 11, 2024) (same); Omega SA v. Individuals, No. 24-60989-CIV-DAMIAN, 2024 U.S. Dist. LEXIS 157246 (S.D. Fla. June 25, 2024) (same); Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 24-22336-CIV-BLOOM, 2024 U.S. Dist. LEXIS 158231 (S.D. Fla. June 24, 2024) (same); Specialized Bicycle Components, Inc. v. Individuals, No. 24-60490-CIV-SINGHAL, 2024 U.S. Dist. LEXIS 158155 (S.D. Fla. April 11, 2024) (same); Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 23-62372-CIV-ROSENBERG, 2024 U.S. Dist. LEXIS 50947 (S.D. Fla. Jan. 31, 2024) (same); N. Face Apparel Corp. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 23-60653-CIV-SINGHAL, 2023 U.S. Dist. LEXIS 158055 (S.D. Fla. June 29, 2023, docketed June 30, 2023) (same); 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) (same).

case 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.

Additionally, service of a defendant by posting on a designated website has been deemed an appropriate means of service by posting. See National Association for Stock Car Auto Racing, Inc., 584 F. Supp. 2d at 826.³ 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." National Association for Stock Car Auto Racing, Inc., 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 National Association for Stock Car Auto Racing, Inc. v. Does, the United States District Court for the Western District of North

³ See 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) (Order granting alternative service via e-mail service and by posting on plaintiff's designated website); Chanel, Inc. v. Individuals, No. 24-cv-22823-BECERRA, 2024 U.S. Dist. LEXIS 187283 (S.D. Fla. Aug. 5, 2024) (same). See also Louis Vuitton Malletier v. The Individuals, Business Entities, and Unincorporated Ass'ns, No. 1:24-23565-CIV-BECERRA (S.D. Fla. Sept. 24, 2024) (Order authorizing alternate service of process via, inter alia, e-mail). Accord Whirlpool Corp. v. Individuals, No. 24-61253-CIV-SMITH, 2024 U.S. Dist. LEXIS 187700 (S.D. Fla. Aug. 19, 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); Tiffany NJ LLC v. Individuals, No. 24-61195-CIV-MARTINEZ, 2024 U.S. Dist. LEXIS 157323 (S.D. Fla. July 11, 2024) (same); Omega SA v. Individuals, No. 24-60989-CIV-DAMIAN, 2024 U.S. Dist. LEXIS 157246 (S.D. Fla. June 25, 2024) (same); Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass'ns Identified on Schedule "A", No. 24-22336-CIV-BLOOM, 2024 U.S. Dist. LEXIS 158231 (S.D. Fla. June 24, 2024) (same); Specialized Bicycle Components, Inc. v. Individuals, No. 24-60490-CIV-SINGHAL, 2024 U.S. Dist. LEXIS 158155 (S.D. Fla. April 11, 2024) (same); Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass'ns Identified on Schedule "A", No. 23-62372-CIV-ROSENBERG, 2024 U.S. Dist. LEXIS 50947 (S.D. Fla. Jan. 31, 2024) (same); N. Face Apparel Corp. v. Individuals, Bus. Entities, & Unincorporated Ass'ns Identified on Schedule "A", No. 23-60653-CIV-SINGHAL, 2023 U.S. Dist. LEXIS 158055 (S.D. Fla. June 29, 2023, docketed June 30, 2023) (same); 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) (same).

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.

Accordingly, Tiffany has created its Website that will be appearing at the URL <http://servingnotice.com/TB29mE/index.html>, whereon copies of the Complaint, this instant Motion, and all other pleadings, documents, and orders issued in this action will be posted. (Gaffigan Decl. ¶ 5.) The address for Plaintiff’s Website will be provided to Defendants via their known e-mail accounts, private message accounts, and/or onsite contact forms and will be included upon service of process in this matter. (Id.) Tiffany respectfully submits that alternative service by posting the Summonses, and Complaint on Plaintiff’s Website would provide notice to Defendants sufficient to meet the due process requirements for service of process 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 via posting on a designated website are not prohibited by international agreement. Based upon the information contained on Defendants’ actual e-commerce stores operating under their respective E-commerce Store Names and the investigative data provided thereunder, Tiffany has reasonable cause to suspect Defendants reside and/or operate in the People’s Republic of China (“China”), Iceland, Malaysia, Spain, the United Kingdom of Great Britain and Northern Ireland (“United Kingdom”), Socialist Republic of Viet Nam (“Vietnam”), or other foreign jurisdictions and/or redistribute products from sources in those locations. (Gaffigan Decl. ¶ 7.) The United States, China, Iceland, Spain, the United Kingdom, and Vietnam are signatories to the Hague Convention on the Service Abroad of Judicial and Extra-

Judicial Documents in Civil and Commercial Matters (the “Hague Service Convention”).⁴ (See Gaffigan Decl. ¶ 8 and Comp. Ex. 1 attached thereto, Hague Service Convention and list of signatory Members.) However, the Hague Service Convention does not preclude the Court from authorizing service of process via e-mail or posting on a designated website. (Id.)

Alternative means of service, such as e-mail and website posting, are not prohibited by the Hague Service Convention where a signatory nation has not expressly objected to those means. See Stat Med. Devices, Inc. v. HTL-Strefa, Inc., Case 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 Service Convention allows service of process through means other

⁴ Malaysia is not a signatory to the Hague Convention. (Gaffigan Decl. ¶ 8, n.5.)

⁵ See 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) (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, No. 24-cv-22823-BECERRA, 2024 U.S. Dist. LEXIS 187283 (S.D. Fla. Aug. 5, 2024) (same). See also Louis Vuitton Malletier v. The Individuals, Business Entities, and Unincorporated Ass’ns, No. 1:24-23565-CIV-BECERRA (S.D. Fla. Sept. 24, 2024) (Order authorizing alternate service of process via, inter alia, e-mail). Accord Whirlpool Corp. v. Individuals, No. 24-61253-CIV-SMITH, 2024 U.S. Dist. LEXIS 187700 (S.D. Fla. Aug. 19, 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); Tiffany NJ LLC v. Individuals, No. 24-61195-CIV-MARTINEZ, 2024 U.S. Dist. LEXIS 157323 (S.D. Fla. July 11, 2024) (same); Omega SA v. Individuals, No. 24-60989-CIV-DAMIAN, 2024 U.S. Dist. LEXIS 157246 (S.D. Fla. June 25, 2024) (same); Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 24-22336-CIV-BLOOM, 2024 U.S. Dist. LEXIS 158231 (S.D. Fla. June 24, 2024) (same); Specialized Bicycle Components, Inc. v. Individuals, No. 24-60490-CIV-SINGHAL, 2024 U.S. Dist. LEXIS 158155 (S.D. Fla. April 11, 2024) (same); Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 23-62372-CIV-ROSENBERG, 2024 U.S. Dist. LEXIS 50947 (S.D. Fla. Jan. 31, 2024) (same); N. Face Apparel Corp. v. Individuals, Bus. Entities, & Unincorporated Ass’ns Identified on Schedule “A”, No. 23-60653-CIV-SINGHAL,

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, Iceland, and Vietnam have declared that they either fully or partially oppose the service of documents in their respective territories by the alternative means of service outlined in Article 10 of the Convention. (See Gaffigan Decl. ¶ 8 and Comp. Ex. 1 thereto, a true and correct printout of China's, Iceland's, Spain's, the United Kingdom's, and Vietnam's Declaration/Reservation/Notification in regards to the Hague Convention.)⁶ However, these objections are specifically limited to the means of service enumerated in Article 10, and China, Iceland, Spain, the United Kingdom, and Vietnam have not expressly objected to service via e-mail or website posting. Thus, there are no international agreements prohibiting service by e-mail or website posting. (See id. and Comp. Ex. 1 attached thereto.) "Where a signatory nation has objected to only those means of service listed in Article [10], a court 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, Case No. 13-cv-00526-AJT, 2014 U.S. Dist. LEXIS 22084, at *9 (E.D. Va. Feb. 20, 2014)

2023 U.S. Dist. LEXIS 158055 (S.D. Fla. June 29, 2023, docketed June 30, 2023) (same); 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) (same).

⁶ Iceland objects to Article 10(b) and (c) but does not object to service of process by postal channels as set forth in paragraph (a) of Article 10 to the Hague Convention. Spain does not object to the alternate means of service, including postal channels, as outlined in Article 10 of the Hague Convention. The United Kingdom has not declared any opposition to the alternative means of service by postal channels outlined in Article 10(a) of the Hague Convention and sets out further requirements for Articles 10(b) and (c). Vietnam objects to the methods for service of process set forth in paragraphs (b) and (c) of Article 10 to the Hague Convention and sets forth additional requirements for the methods for service of process set forth in paragraph (a). (See Gaffigan Decl. ¶ 8, n.6.)

(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, Iceland’s, and Vietnam’s objections to the means of alternative service provided in Article 10 are no bar to court-directed service and do 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 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 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 e-mail 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, Case 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, Tiffany also submits that the Hague Convention does not apply in this case. Tiffany’s counsel reviewed the publicly available physical address information available in the registration records for the E-commerce Store Names and identified directly on the E-commerce Store Names. (Gaffigan Decl. ¶ 7.) However, Tiffany has not identified a valid address for service of process on Defendants or determined Defendants’ exact locations. (*Id.*) 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, Plaintiff, Tiffany (NJ) LLC, respectfully requests this Court grant the present motion and authorize service of the Complaint, Summonses, and all filings and discovery in this matter upon each Defendant in this action:

(1) via e-mail by providing the address for Plaintiff’s Website to Defendants via the e-mail addresses 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, and private messaging applications and/or services, or (ii) via the e-commerce platform or the designated registrar of record that Defendants use to conduct their commercial transactions via the E-commerce Store Names, and

(2) via website posting by posting a copy of the Complaint, Summonses, and all filings and discovery in this matter on Plaintiff's Website appearing at the URL <http://servingnotice.com/TB29mE/index.html>.

DATED: October 30, 2024.

Respectfully submitted,
STEPHEN M. GAFFIGAN, P.A.

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Attorneys for Plaintiff, Tiffany (NJ) LLC

SCHEDULE “A”
DEFENDANTS BY E-COMMERCE STORE NAMES AND MEANS OF CONTACT

Def. No.	Defendant / E-commerce Store Name	Means of Contact
1	ccfashionjewelry.com	cc@ccfashionjewelry.com info@ccfashionjewelry.com xxy412308@gmail.com
2	blingblings.es	oliva.sunny.song@gmail.com service@blingblings.es
3	classport.shop	service@classport.shop Jessport@ruralshoes.com
4	cocoshoes.top	cocoshoes2011@gmail.com 17689611506@163.com WhatsApp: +852 6432 9578
5	correctkickz.com	correctkickz.cc@gmail.com 76398812@qq.com WhatsApp: +852 5614 0114
6	eleger.co	support@eleger.co
7	eukick.com	service@runningpro.shop WhatsApp: +86 173 2700 2347
8	evelynsneaker.com	evasneaker@gmail.com 1013573859@qq.com WhatsApp: +86 181 0058 6611
9	fcmg-sales.com	zzy925520@gmail.com
9	saleluxurycn.com	zzy925520@gmail.com r4c.lhikdl3t@gmail.com
10	fossilry.cc	fossilry@ontlook.net yangbing19988dkh@163.com
11	getreadys.org	cocosneakers@outlook.com wzb5556688@163.com WhatsApp: +86 180 5957 6801
12	greenutilityltd.online	support@greenutilityltd.online
13	jewelrybuild.com	aaabbbccc330626@gmail.com

14	Jinyi Shoes retail wholesale a.k.a. +8619359440554 a.k.a. 俊弟aj LJR版（本地支持送货 上门）	dgfsfaf@163.com zwypaypal@163.com WhatsApp: +86 193 5944 0554
15	jwfancy.com	support@jwfancy.com MANHSONLE@GMAIL.COM
16	kaideck.shop	SERVICE@KAIDECK.SHOP
17	kailin44088 a.k.a. luxury goods	469011636@qq.com 2687378995@qq.com WhatsApp: +86 183 1280 1720
18	kickspk.com	SUPPORT@KICKSPK.COM support@kickssu.com
18	kickssu.org	SUPPORT@KICKSSU.ORG support@kickssu.com
19	kolobag.com	info@spumall.com info@bxsale.com
20	koolmaker.com	support@koolmaker.com 6F7C571E6DC5414096967A6AD47644 EE.PROTECT@WITHHELDFORPRIV ACY.COM
21	kw-store.top	uuwa556@gmail.com eryuedeqing@outlook.com WhatsApp: +85253194272
22	lalsoft.com a.k.a. fspbo.shop a.k.a. kegegegghh.shop	contacts@lalsoft.com BELKAABSOLUTLYMAN4@GMAIL. COM
23	luxere.top	piyi2020@gmail.com info@luxere.top
24	maikesneakers111.com	zhusen19780926@gmail.com Annareps2023@gmail.com zhusen780926@gmail.com ZhangJinYu202424@163.com WhatsApp: +86 138 6099 5961
25	matoyli.com	support@matoyli.com AB28F948E2C64911B30DB106DA340 C57.PROTECT@WITHHELDFORPRI VACY.COM

25	testegrila.com	support@testegrila.com Contact@sample.com Support@sample.com contact@yourstore.com
26	monicasneaker.im	monicasneaker@gmail.com choice409@126.com WhatsApp: +86 183 9600 1806
27	niosneaker.com	niosneaker@gmail.com
28	obosneaker.com	onebyonemalls@gmail.com 15659915689@163.com
29	oldsnkrs.shop	onlykickz0706@gmail.com Godky@163.com jjligimvgj92@hotmail.com WhatsApp: +86 186 4960 5584
30	persting.live	csservice@splendorxa-live.com customercs@visable-online.com
31	poposhoes.top	liu31004@gmail.com info@poposhoes.top
32	sneakershop.ww	519097741@qq.com WhatsApp: +86 159 8011 9208
33	sneakerssport789	qiuxia96@163.com WhatsApp: +44 7473 486405
34	snkrsclub.cc	SUPPORT@SNKRSCLUB.CC support@snkrsclub.com snkrsclub-alan@outlook.com PWP- CE5127C33DCB144E78D80A5022CD7 CC7@PRIVACYGUARDIAN.ORG WhatsApp: +86 153 3001 0786
35	topfactory2166	topfactory2166@outlook.com WhatsApp: +86 166 2166 1166
36	usasiha.shop	SERVICE@USASIHA.SHOP
37	worlsoccer.com	hello@worlsoccer.com support@worlsoccer.com 8377557@gmail.com aidfen@hotmail.com

38	xsir.product a.k.a. welcome to xsir	zhuchuanzheng203@outlook.com WhatsApp: +86 181 5940 2993
39	zzmoonz.com a.k.a. zzmoonz.shop	zzmoonzshop@gmail.com