

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 22-62000-CIV-RUIZ**

FEDERATION OF THE SWISS
WATCH INDUSTRY FH, *et al.*,

Plaintiffs,

vs.

BESTINTIMES.ME, *et al.*

Defendants.

**DECLARATION OF VIRGILIO GIGANTE IN SUPPORT OF
PLAINTIFFS' *EX PARTE* APPLICATION FOR ENTRY OF
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

I, Virgilio Gigante, state and declare as follows:

1. I am an attorney duly authorized and licensed to practice law before all courts in the State of Florida and the Southern District of Florida. I am counsel of record for Plaintiffs, Federation of the Swiss Watch Industry FH, Audemars Piguet Holding SA, Breitling SA, Breitling U.S.A. Inc., Hublot SA, Genève, Omega SA, Patek Philippe SA Geneve, Henri Stern Watch Agency, Inc., Turlen Holding SA, and LVMH Swiss Manufactures SA ("Plaintiffs") in the above captioned action. I submit this Declaration, which is filed in support of Plaintiffs' *Ex Parte* Application for Entry of Temporary Restraining Order and Preliminary Injunction (the "Application for TRO") against Defendants, the Individuals, Business Entities, or Unincorporated Associations identified on Schedule "A" to Plaintiffs' Application for TRO (collectively, "Defendants"). I am personally knowledgeable of the matters set forth in this declaration and, if called upon to do so, I could and would competently testify to the following facts set forth below.

2. Prior to filing this action, my firm accessed each of the commercial Internet websites operating under Defendants' domain names identified on Schedule "A" to Plaintiffs' Application for TRO (the "Subject Domain Names").¹ The websites advertise, offer for sale, and/or promote products bearing counterfeits of one or more of Plaintiffs' trademarks at issue in this action. The websites are fully-interactive and allow users to browse the online stores for products bearing Plaintiffs' trademarks, add products to the online shopping carts, proceed to a point of checkout, and otherwise actively exchange data electronically.² True and correct copies of the relevant web pages my firm captured reflecting samples of the Internet websites operating under the Subject Domain Names displaying Defendants counterfeit goods offered for sale using Plaintiffs' trademarks are attached as Composite Exhibit "9" to Plaintiffs' Complaint.

3. Plaintiffs are seeking *ex parte* relief because they reasonably believe if they proceed on normal advance notice to Defendants prior to seeking to preclude modification of control of the Subject Domain Names by having the registrars lock the same, as requested in the Application for TRO, Defendants can easily and quickly transfer the registrations for many of the Internet websites

¹ Some Defendants use their Subject Domain Names to act as supporting domain names to direct traffic to their fully interactive, commercial websites operating under other Subject Domain Names, from which consumers can complete purchases. Some of the supporting domain names, when accessed directly, appear to be blog style or non-operating websites; however, when visited from a search engine such as Google, visitors are redirected to the fully interactive websites operating under other Subject Domain Names. Other supporting domain names either automatically redirect and forward to a fully interactive, commercial Internet website operating under one of the Subject Domain Names or redirect a consumer to a fully interactive, commercial Internet website operating under one of the Subject Domain Names upon clicking a product or link on the website. Accordingly, the redirecting websites are identified as such in Schedule "A" to the Application for TRO and the web pages for the Subject Domain Names which operate as redirecting websites are included with the web pages to which those sites redirect, as shown in Composite Exhibit "9" to the Complaint.

² Some Subject Domain Names do not offer the shopping cart feature; rather, consumers are able to browse the listings of Plaintiffs' branded products online via the websites, ultimately allowing customers to inquire and make direct purchases of the products via electronic communication, including e-mail and/or private messaging services such as WhatsApp and WeChat, or via phone.

operating under the Subject Domain Names, or modify registration data and content, change hosts, and redirect traffic to other websites, thereby potentially thwarting Plaintiffs' ability to obtain meaningful relief and continuing to cause Plaintiffs irreparable injury. However, upon entry of a TRO in this matter, my firm will notify Defendants, by sending copies of the Order and Application for TRO and supporting papers via electronic mail ("e-mail") to the e-mail addresses Defendants provided to their registrars responsible for their respective domain names or the e-mail addresses and/or online contact forms identified on the websites operating under the Subject Domain Names. My firm will also provide a copy of the Order by e-mail to the registrar of record for each of the Subject Domain Names, so that the registrar of record for each of the Subject Domain Names may, in turn, notify each registrant of terms of the Order and provide notice of the locking of the domain name to the registrant of record.

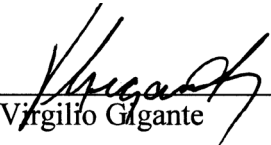
4. I have personal knowledge that under the operating rules of most domain name Registrars, Registrants can easily transfer ownership of domain names simply by submitting an authorization letter and an application form. Defendants involved in domain name litigation easily can, and often will, modify registration data and content, change hosts and redirect traffic to other websites they control. All of these things can happen in a very short span of time after Defendants are provided with notice of a lawsuit.

5. I have learned through multiple prior cases I have filed on behalf of Plaintiffs and other clients that, upon notice of a lawsuit, counterfeit website owners often immediately set up a redirect for their website which essentially informs a search engine that the website being crawled has permanently moved to another domain and instructs the search engine to divert traffic to the other website. The result is to slingshot the new domains to the top of the search engine results

pages by leveraging the Internet traffic to the domains in suit which was built through the illegal use of the plaintiff's trademarks.

6. Attached hereto as Composite Exhibit "1" are four examples of post-suit redirects captured by my Firm with respect to four domain names which previously were home to counterfeit websites. As reflected in the Composite Exhibit "1", after the domain name owners received notice of an action but before the domain names were transferred to the plaintiff through litigation, the owners simply redirected all traffic to new domain names. Accordingly, by the time the plaintiff obtained control of the domain names, all of the value to the counterfeiters had already been diverted to the new domain names, and the plaintiff was left to start over. In short, injunctive relief was rendered almost meaningless by advance notice to the domain name owners that the websites were the subject of a legal action. This case is being filed on an *ex parte* basis to prevent such an injustice from occurring herein.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 31st day of October, 2022, at Ft. Lauderdale, Florida.


Virgilio Gigante