

SEALED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**
Case No. 1:25-cv-23374-JB

KITSCH LLC,
a Delaware limited liability company,

Plaintiff,

v.

THE PARTNERSHIPS AND
UNINCORPORATED CORPORATIONS
IDENTIFIED ON SCHEDULE “A”,

Defendants.

**SEALED ORDER ON PLAINTIFF’S *EX PARTE* APPLICATION
FOR ENTRY OF TEMPORARY RESTRAINING ORDER AND
ORDER RESTRAINING TRANSFER OF ASSETS**

THIS CAUSE comes before the Court on Plaintiff Kitsch Technology Limited’s Plaintiff Kitsch LLC’s (“Kitsch”) *Ex Parte* Motion for Entry of a Temporary Restraining Order, including a temporary injunction against Defendants enjoining the manufacture, distribution, offering for sale, and sale of counterfeit products, a temporary asset restraint, and expedited discovery in this action, (the “Motion”), ECF No. [11]. Defendants are the partnerships, business entities and unincorporated associations identified in Schedule A to the Complaint, and attached hereto (the “Defendants”). Plaintiff asks the Court to enter: (1) a temporary restraining order against Defendants, and (2) an order restraining the financial accounts used by Defendants. Upon due consideration of the Motion, the pertinent portions of the

record, the relevant authorities and for the reasons set forth herein, the Application is hereby **GRANTED**.

I. FACTUAL BACKGROUND

The following factual background is taken from Plaintiff's Complaint, ECF No. [1], the Application, and supporting evidentiary submissions and exhibits.

Plaintiff, Kitsch LLC, claims it is the owner of all rights in and to the federally registered copyright, Registration No. VA 2-379-721, which protects the following photograph for its heatless hair curler (the "Kitsch Copyright").

Registration Number	Heatless Curl Photograph	Date of Publication
VA 2-379-721		Jan. 4, 2022

ECF No. [11] at 3; *see also* ECF No. [1] at 5; ECF No. [1-1]. According to Plaintiff, the above photograph is one of the key advertising photographs which is used in connection with the manufacture and distribution of its product. ECF No. [11] at 2.

Plaintiff alleges that it has identified numerous fully interactive e-commerce storefronts, including those operated by Defendants, which import, advertise, and sell unauthorized reproductions of the copyrights Kitsch heatless hair curler photograph to consumers in this Judicial District and across the United States. *See* ECF No. [11-2] at ¶ 16 (“Thurswell Decl.”). Plaintiff has submitted screenshots of each infringing product listing as evidence of the infringing products and attaches them to Exhibit 2 to the Thurswell Declaration. *See* ECF No. [11-2]. According to Plaintiff, Defendants use of near-identical copies of Plaintiff’s copyrighted work to advertise an identical product lead consumers to believe that the infringing products are associated with Plaintiff’s. ECF No. [11] at 4.

On July 28, 2025, Plaintiff filed its Complaint against Defendants for copyright infringement arising under the Copyright Act of the United States, 17 U.S.C. § 101, *et seq*, including 17 U.S.C. §§ 501–505, and false association arising under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a). ECF No. [1] at ¶ 1. On September 5, 2025, Plaintiff filed the instant Motion. ECF No. [11].

II. LEGAL STANDARD

To obtain a temporary restraining order, a party must demonstrate “(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 the entry of the relief would serve the public interest.” *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005).

Additionally, Federal Rule of Civil Procedure 65 provides that a court may only issue a temporary restraining order without notice to the adverse party or its attorney if:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1). *Ex parte* temporary restraining orders “should be restricted to serving their underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974).

III. CONCLUSIONS OF LAW

The declarations Plaintiff submitted in support of its Motion support the following conclusions of law:

Plaintiff has a strong probability of proving at trial that (1) it owns a valid copyright and (2) that Defendants have copied original elements of the work. *See Feist Publications, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 349 (1991). Further, Plaintiffs have alleged and provided evidence that defendants had access to the copyrighted work, and that Defendants' products are substantially similar to Plaintiffs'. *See Simmons v. W. Pub. Co.*, 834 F. Supp. 393, 395 (N.D. Ga. 1993) (citing *Ferguson v. Nat'l Broadcasting Co., Inc.*, 584 F.2d 111, 113 (5th Cir. 1978)). *See also Peter*

Letterese and Assocs., Inc. v. World Inst. of Scientology Enters., 533 F.3d 1287, 1301 (11th Cir. 2008). Further, Plaintiff has alleged that it has not licensed or authorized Defendants to use its copyrighted work.

Plaintiff has alleged that consumers are likely to be confused by Defendants' advertisement, promotion, sale, offer for sale, or distribution of goods bearing and/or using counterfeits, reproductions, or colorable imitations of the Kitsch Copyright, and that Defendants are selling and promoting for sale copies of Plaintiff's products that bear and/or use copies of the Kitsch Copyright, and that the infringement of the Kitsch Copyright will likely cause Plaintiff to suffer immediate and irreparable injury if a Temporary Restraining Order is not granted.

The following specific facts, as set forth in Plaintiff's Complaint, the Motion, and accompanying declarations, demonstrate that immediate and irreparable loss, damage, and injury will result to Plaintiff and consumers before Defendants can be heard in opposition unless Plaintiff's request for *ex parte* relief is granted: (1) Defendants own or control Internet based e-commerce stores operating under their seller names which advertise, promote, offer for sale, and sell products bearing and/or using counterfeit and infringing copyrights in violation of Plaintiff's rights; (2) there is good cause to believe that more infringing products bearing and/or using Plaintiff's trademarks will appear in the marketplace, that consumers are likely to be diverted away from Plaintiff's due to loss of confidence in Kitsch's brand, and that Plaintiff may suffer loss of sales for its genuine products; and (3) there is good cause to believe that if Plaintiff proceeds to put Defendants on notice of this Application, Defendants

can easily and quickly change the ownership or modify e-commerce store data and content, redirect consumer traffic to other e-commerce store names, change payment accounts, and transfer assets and ownership of the E-commerce Store Names, thereby thwarting Plaintiff's ability to obtain meaningful relief.

The potential harm to Defendants in restraining their trade in counterfeit and infringing branded goods if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiff, its reputation, and its goodwill as a manufacturer and distributor of quality products if such relief is not issued. The public interest favors issuance of the temporary restraining order to protect Plaintiff's copyright interests and protect the public from being defrauded by the misleading advertisement.

Further, under 17 U.S.C. §§ 502(a) and 504, Plaintiff may be entitled to recover, as an equitable remedy, the illegal profits gained through Defendants' distribution and sales of goods bearing and/or using the Kitsch Copyright. Likewise, the Lanham Act provides for injunctive relief and monetary remedies, including actual damages, disgorgement of profits, and, in cases of willful violation, treble damages or statutory damages for counterfeiting. See 15 U.S.C. §§ 1116(a), 1117(a), (b), (c).

Requesting equitable relief "invokes the district court's inherent equitable powers to order preliminary relief, including an asset freeze, in order to assure the availability of permanent relief." *Levi Strauss & Co. v. Sunrise Intern. Trading Inc.*, 51 F.3d 982, 987 (11th Cir. 1995) (citing *FTC v. U. S. Oil & Gas Corp.*, 748 F.2d 1431,

1433-34 (11th Cir. 1984), *abrogated on other grounds by AMG Cap. Mgmt., LLC v. FTC*, 593 U.S. 67, 70 (2021)). Plaintiff has demonstrated that, in light of the inherently deceptive nature of the infringement, unless Defendants' assets are restrained, they will likely hide or move their ill-gotten funds to unidentifiable offshore bank accounts.

Accordingly, upon due consideration of Plaintiff's Complaint, Application, and supporting evidentiary submissions, it is hereby **ORDERED AND ADJUDGED** that the Motion, ECF No. [11], is **GRANTED** as follows:

1. Each Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this Order are hereby temporarily restrained as follows:

- a. using any reproduction, copy or colorable imitation of the design claimed in the Kitsch Copyright;
- b. aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon the Kitsch Copyright; and
- c. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (a) and (b).

2. Upon Kitsch's request, those with notice of the injunction, including Third Party Providers such as PayPal, eBay, Alipay, Alibaba, Ant Financial, Wish.com, Walmart, Etsy, DHgate and Amazon Pay, shall within seven (7)

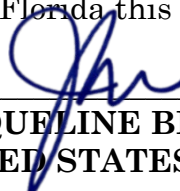
calendar days after receipt of such notice, disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of infringing goods using the Kitsch Copyright.

3. Defendants shall be temporarily restrained and enjoined from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
4. Any Third Party Providers, including PayPal, eBay, Alipay, Alibaba, Ant Financial, Wish.com, Walmart, Etsy, DHgate and Amazon Pay, shall, within seven (7) calendar days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants' Seller Aliases, and Online Marketplaces, including, but not limited to, any financial accounts connected to the information listed in Schedule A hereto, the Seller Aliases identified in Exhibit 2 to the Declaration of Jeremy Thurswell, and any Seller Aliases provided for Defendants by third parties; and
 - b. restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
5. Pursuant to Section 1116(d)(5)(D) of Title 15, United States Code, and Federal Rule of Civil Procedure 65(c), by no later than **five business days** from the date of this Order, Kitsch shall deposit with the Court ten thousand dollars (\$10,000.00), either cash or surety bond, as

security, which amount was determined adequate for the payment of such damages as any person may be entitled to recover as a result of a wrongful restraint hereunder. In the Court's discretion, the bond may be subject to increase should an application be made in the interest of justice. Plaintiff shall file a notice with the Court to confirm its compliance with this provision.

6. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order as permitted by and in compliance with the Federal Rules of Civil Procedure and Southern District of Florida Local Rules.
7. As a matter of law, this Order shall no longer apply to any Defendant or associated e-commerce store name dismissed from this action or as to which Plaintiff has withdrawn its request for a temporary restraining order.
8. This Temporary Restraining Order shall remain in effect for fourteen (14) calendar days. Any motion to extend this Order must be filed no later than 48 hours prior to the expiration of the TRO.
9. The Clerk shall file this Order under seal until further order of the Court.

DONE AND ORDERED in Miami, Florida this 12th day of September, 2025.



JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE

Schedule A

Brand	Sold By	ASIN
Befana Hair	xuchangmeishirangongyipinyouxiangongsi	B0DDTJYN7Z B0DDTK8ZL4 B0DPHH2XHT B0DPHK5DJN B0DPHLHNQ4 B0DPHHD693 B0DPHK5YCY B0DPHGY7CV B0DDTKK4L3
Duziur	nanjingqixingmaoyiyouxiangongsi	B0F5HBCNVH
Yanibest	Nanjing Migratory Bird Apparel Co.,Ltd	B0D91XCLRY B0D91XCLRY B0D9227CLR B0DWWW46PD B0D8T21MQ9 B0D8SX8Z45 B0D8T1XXB3 B0DY7HF32S B0DRX4LQFT B0DRX7JQDP B0DRX62LHJ B0DRX4DXXJ B0DN68JT1M/ B0DN62TZ4X B0DN678M3B