

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**


Bala Bangles, Inc.,)	
)	
Plaintiff,)	Case No. 1:21-cv-05051
)	
v.)	Judge John Robert Blakey
)	
The Entities and Individuals)	
Identified in Annex A,)	
)	
Defendants.)	

**SEALED ORDER GRANTING PLAINTIFF’S MOTION FOR A TEMPORARY
RESTRAINING ORDER, INCLUDING A TEMPORARY INJUNCTION, A
TEMPORARY ASSET RESTRAINT, AND EXPEDITED DISCOVERY**

This matter comes before the Court on Bala Bangles, Inc.’s (“Plaintiff”) *ex parte* Motion for a Temporary Restraining Order. Upon consideration of the Motion, Plaintiff’s Complaint, and the Declarations of Michelle Bolos and Maximilian Kislevitz, the Court hereby grants the Motion [10] in its entirety and finds and concludes as follows:

FINDINGS AND CONCLUSIONS

1. The Court finds that Plaintiff is the owner of the following trademarks (“the Bala Trademarks”):

Trademark	Status	Class	Reg. / App. No.	Reg./App. Date
BALA	Registered	28	5678006	2/19/2019
	Pending	28	90165497	9/08/2020

2. The Court finds that Plaintiff is the owner of the following registered copyrights (“the Copyrights”)

Title	Status	Type	Reg. No.
Bala Product Pictures 2017	Registered	Visual Material	VA 2-253-658
Bala Product Pictures 2018	Registered	Visual Material	VA 2-253-663
Bala Product Pictures 2019	Registered	Visual Material	VA 2-253-781
Bala Product Pictures 2020	Registered	Visual Material	VA 2-253-783

3. The Court finds that Plaintiff is the owner of the following design patent (“the Design Patent”)

Title	Status	Reg. No.	Reg. Date
Weighted Exercise Band	Registered	D 888,167	6/23/2020

4. The Court finds that it has personal jurisdiction over the Defendants in Annex A to Plaintiff’s Complaint because the Defendants target residents in this judicial district by offering to sell and, upon information and belief, shipping infringing and/or counterfeit products to residents within the Northern District of Illinois. This is further supported by the fact the Defendants, which use seller aliases in connection with their respective storefronts, accept US Dollars as payment for sales of infringing and/or counterfeit products.

5. The Court finds that Defendants have, without Plaintiff’s consent, engaged in the advertising, marketing, and offering for sale of goods under or in

connection with reproductions, copies, counterfeits, or colorable imitations of the Bala Trademarks.

6. The Court finds that Defendants, without Plaintiff's consent, have deliberately copied, reproduced, displayed, and/or created derivative works of Bala's material protected by the Copyrights.

7. The Court finds that Defendants, without Plaintiff's consent, have deliberately imported, made, used, sold, and/or offered to sell nearly identical versions of the protected Bala design reflected in the Design Patent, and an ordinary observer, giving such attention as a purchaser usually gives, would be so deceived by the resemblance between the design of the accused products and the Design Patent as to be induced to purchase the accused products believing they embody the design of the Design Patent.

8. The Court finds that Plaintiff is likely to prevail on its claims for trademark infringement, counterfeiting, false designation, unfair competition, copyright infringement, and design patent infringement.

9. The Court finds that Plaintiff will suffer immediate, irreparable injury, for which Plaintiff does not have an adequate remedy at law, if an *ex parte* temporary restraining order is not granted.

10. The Court finds that Plaintiff has demonstrated Defendants' ability and willingness to conceal these assets and identities if they learn of this action prior to entry and execution of this order.

11. The Court finds that a transfer of Defendants' assets to accounts outside of the United States and/or the closing of Defendants' accounts would likely deprive Plaintiff of crucial remedies sought in its Complaint.

12. The Court finds that the public interest is best served by upholding Plaintiff's rights in its trademark.

13. Pursuant to Fed. R. Civ. P. 65(b)(1), issuance of this Order without notice to the Defendants in Annex A to Plaintiff's Complaint is appropriate based on the specific facts presented by Plaintiff in the Declaration of Maximilian Kislevitz and the Declaration of Michelle Bolos in support of Plaintiff's Motion for Temporary Restraining Order and the accompanying exhibits evidencing that immediate and irreparable injury, loss, or damage will result to Plaintiff should Defendants have notice of the Motion for Temporary Restraining Order. Namely, if Defendants had notice of the Motion for Temporary Restraining Order, Defendants would likely transfer assets to offshore accounts outside this Court's jurisdiction, and attempt to disappear from detection by closing their respective current storefronts, only to likely reappear under another alias at a later date.

Accordingly, the Court issues this Order temporarily:

- a. Enjoining Defendants, their affiliates, officers, agents, servants, employees, attorneys, and others acting under, through, or in active concert with Defendants from:
 - i. further infringing the Bala Trademarks, Copyrights, and Design Patent;

- ii. advertising, marketing, offering to sell, or selling products or inducing others to advertise, market, offer to sell, or sell products that are not authentic, nor authorized Bala product in connection with the Bala's intellectual property or any reproduction, counterfeit, copy, or colorable imitation therefrom;
 - iii. causing or attempting to cause a likelihood of confusion among consumers between Defendants' products and Plaintiff's products;
 - iv. producing, manufacturing, shipping, storing, distributing, or disposing of products that bear the Bala Trademarks or any reproduction, counterfeit, copy, or colorable imitation therefrom;
 - v. transfer of any assets until further order of this Court, so that Bala's right to an equitable accounting of Defendants' profits from sales of counterfeit Bala product is not impaired; and
- b. Granting Bala's request to conduct expedited discovery with respect to: (1) the bank and payment system accounts Defendants use for their counterfeit operations so that the accounts can be frozen ensuring Defendants' counterfeiting activities are stopped, and (2) email addresses or other identifying information that Defendants use in connection with their marketplace accounts, such that upon request by Plaintiff and within five (5) business days of such request, any third party with actual notice of this Order who is providing services for any of the Defendants or in connection with any of the online marketplaces where Defendants maintain storefronts, including

but not limited to, Alibaba, Ali Express, Amazon, DH Gate, eBay, Joom, Newegg, Shopify, or Wish, shall provide to Plaintiff the following:

- i. Documentation disclosing the identity of the Defendants, their affiliates, officers, agents, servants, employees, attorneys, and others acting under, through, or in active concert with Defendants, including all known contact information and e-mail addresses;
 - ii. Documentation disclosing all bank and payment system accounts owned or controlled by Defendants, their affiliates, officers, agents, servants, employees, attorneys, and others acting under, through, or in active concert with Defendants, including, but not limited to PayPal, Inc., Alipay, Alibbaba, Wish.com, Amazon Pay or other merchant specific providers, as well as third party payment processors and/or credit card processors such as VISA®, MasterCard®, and AmericanExpress®;
 - iii. Documentation identifying Defendants' sales history, including a full accounting of Defendants' sales and number of units sold.
- c. Upon such written request outlined in paragraph b. above, any third party provider or payment processor shall within five (5) business days of receipt of this Order: (1) locate and identify all accounts and funds associated with Defendants, their affiliates, officers, agents, servants, employees, attorneys, and others acting under, through, or in active concert with Defendants; (2) freeze all accounts and funds identified pursuant to paragraph c herein until further order of this Court; (3) provide Plaintiff with all email addresses or

other identifying information and account balance associated with the accounts identified pursuant to paragraph c herein.

- d. Plaintiff is authorized to issue expedited written discovery to Defendants pursuant to Fed. R. Civ. P. 33, 34, and 36 related to any of the information outlined in paragraph c. above, which Plaintiff is authorized to serve via e-mail. Defendants shall respond to any such requests within three (3) business days of being served via e-mail.

ORDER AS TO BOND

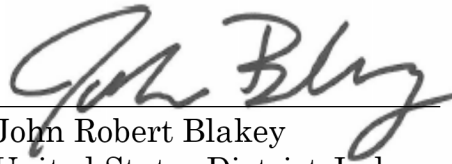
This Order shall be granted on the condition that an undertaking in the sum of \$10,000 be filed by Plaintiff in the form of a surety bond to make good such damages, not to exceed such sum, as may be sustained by the Defendants if this Temporary Restraining Order shall have wrongfully issued.

It is further ordered that the Temporary Restraining Order granted herein shall expire on October 12, 2021 unless within such time the Order is extended, or unless, as to any Defendant, the Defendants consent that it should be extended for a longer period of time.

SO ORDERED.

Dated: September 28, 2021

Entered:


John Robert Blakey
United States District Judge