

1 JAN P. WEIR, STATE BAR NO. 106652
 2 DOUGLAS Q. HAHN, STATE BAR NO. 257559
 3 TAYLOR C. FOSS, STATE BAR NO. 253486
 4 KATHRINE J. WEIR STATE BAR NO. 262740
 5 STRADLING YOCCA CARLSON & RAUTH
 A Professional Corporation
 6 660 Newport Center Drive, Suite 1600
 Newport Beach, CA 92660-6422
 Telephone:(949) 725-4000
 Fax:(949) 725-4100

NOTE: CHANGES MADE BY THE COURT

7 Attorneys For Plaintiffs
 8 KINGSTON TECHNOLOGY CORPORATION,
 KINGSTON DIGITAL, INC., and
 KINGSTON TECHNOLOGY COMPANY, INC.

9 UNITED STATES DISTRICT COURT

10 CENTRAL DISTRICT OF CALIFORNIA

11
 12 KINGSTON TECHNOLOGY
 CORPORATION, a California
 13 corporation, KINGSTON DIGITAL,
 INC., a Delaware corporation,
 14 KINGSTON TECHNOLOGY
 COMPANY, INC., a Delaware
 15 Corporation

Case No. SACV-09-1038 CJC (RNBx)

Honorable Cormac J. Carney
Courtroom 9B

16 Plaintiffs

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY INJUNCTION

17 vs.

18
 19 JIAXIN TECHNOLOGY, a Chinese
 company, YONG LIU, an individual,
 20 ADD2NET, INC., a California
 Corporation, and DOES 1-10

21 Defendants.
22

1 Whereas Plaintiffs Kingston Technology Corporation, Kingston Digital,
2 Inc., And Kingston Technology Company, Inc. (collectively “Kingston”) have
3 established: (i) that *ex parte* relief is necessary to give effect to the remedies
4 afforded Kingston by law under 15 U.S.C. § 1114; (ii) that Plaintiffs are likely to
5 succeed in showing that the Defendants used a counterfeit mark in connection with
6 the sale, offering for sale, or distribution of goods or services; (iii) that an
7 immediate and irreparable injury will occur if a temporary restraining order is not
8 issued; (iv) and that the harm to Plaintiffs from denying the application outweighs
9 the potential harm to Defendants from granting the temporary restraining order.

10 Therefore, pursuant to Kingston’s *Ex Parte* Application for Temporary
11 Restraining Order, Plaintiff’s Memorandum of Points and Authorities in support
12 thereof, and good cause appearing, it is hereby

13
14 ORDERED:

15 (1) Jiaxin Technology Corporation, Yong Liu, and all DOES receiving
16 notice of this Order, their officers, agents, assigns and representatives (“Jiaxin, Liu,
17 and DOES”) are hereby preliminarily enjoined from operating, hosting, registering,
18 or facilitating any website or domain name, including but not limited to
19 “kingstonusbcf.com,” containing the KINGSTON, KINGSTON TECHNOLOGY,
20 or DATATRAVELER marks (collectively the “Kingston Marks”) or any variation,
21 combination, misspelling, or colorable imitation thereof.

22 (2) Jiaxin, Liu, and DOES are further enjoined from manufacturing,
23 selling, offering for sale, promoting, advertising, shipping, or transferring any
24 counterfeit, copy, or colorable imitation of any product labeled, designated or
25 referred to by the Kingston Marks or any variation or combination thereof.

26 (3) Jiaxin, Liu, and DOES are further enjoined from transferring,
27 withdrawing, hiding, spending, or otherwise making unavailable any money or
28

1 assets which Jiaxin, Liu, and DOES have acquired through the sale of counterfeit
2 products containing the Kingston Marks.

3 (4) On two days' written notice to this Court and plaintiff, Jiaxin, Liu,
4 and DOES may appear and move for the dissolution or modification of this order.

5 (5) Jiaxin, Liu, and DOES are further hereby given notice that violation
6 of any of the terms of this Order may be considered contempt of court.

7
8 ORDERED:

9 (1) Add2Net, Inc. is hereby preliminarily enjoined from operating,
10 hosting, registering or facilitating the domain name <http://www.kingstonusbcf.com>
11 (hereinafter the "Subject Domain Name").

12 (2) Add2Net, Inc. shall terminate the web hosting account containing the
13 subject domain name and any other web hosting account under the name of the
14 account holder of the Subject Domain Name or Jiaxin Technology or Yong Liu.

15 (3) Within three days of the effective date of this order, Add2Net, Inc.
16 shall provide counsel for the plaintiff a current list of all account level domain
17 names containing the words Kingston or Datatraveler (hereinafter "First Disclosure
18 List").

19 (4) Within three (3) days of providing the First Disclosure List, plaintiff
20 shall provide counsel for defendant Add2Net, Inc. with a list of any domain names
21 contained within the First Disclosure List together with a written statement that
22 plaintiff has determined through its investigation that those domain names are
23 linked to websites that contain counterfeit items as described elsewhere in this
24 order.

25 (5) Within three (3) days of receipt of such list and statement Add2Net
26 shall terminate the web hosting account containing the domain name identified in
27 any such list and statement.

1 (6) Within ten (10) days after ninety (90) days of the effective date of this
2 order, Add2Net, Inc. shall provide counsel for the plaintiff a then current list of all
3 account level domain names containing the words Kingston or Datatraveler
4 (hereinafter “Second Disclosure List”).

5 (7) Within three (3) days of providing the Second Disclosure List,
6 plaintiff shall provide counsel for defendant Add2Net, Inc. with a list of any
7 domain names contained within the Second Disclosure List together with a written
8 statement that plaintiff has determined through its investigation that those domain
9 names are linked to websites that contain counterfeit items as described elsewhere
10 in this order.

11 (8) Within three (3) days of receipt of such list and statement Add2Net
12 shall terminate the web hosting account containing the domain name identified in
13 any such list and statement.

14 (9) On two days’ written notice to this Court and plaintiff, Add2Net may
15 appear and move for the dissolution or modification of this order.

16 (10) Add2Net is further hereby given notice that violation of any of the
17 terms of this Order may be considered contempt of court.

18
19 ORDERED:

20 (1) PayPal, a subsidiary of eBay Inc. and MoneyGram International Inc.
21 are hereby preliminarily enjoined pending the hearing on this Order to Show Cause
22 from transferring, disbursing, or releasing any monies of Jiaxin Technology, Yong
23 Liu or any entity associated with the website “www.kingstonusbcf.com” without
24 prior approval of this Court.

25 (2) PayPal, a subsidiary of eBay Inc. and MoneyGram International Inc.
26 are hereby preliminarily enjoined pending the hearing on this Order to Show Cause
27 from accepting any monies on behalf of Jiaxin Technology, Yong Liu or any entity
28

1 associated with the website “www.kingstonusbcf.com” without prior approval of
2 this Court.

3 (3) On two days’ written notice to this Court and plaintiff, PayPal, a
4 subsidiary of eBay Inc. or MoneyGram International Inc. may appear and move for
5 the dissolution or modification of this order.

6 (4) PayPal, a subsidiary of eBay Inc. and MoneyGram International Inc.
7 are further hereby given notice that violation of any of the terms of this Order may
8 be considered contempt of court.

9
10 ORDERED:

11 (1) Western Union Financial Services, Inc. is hereby preliminarily
12 enjoined from releasing any funds transferred to Jiaxin Technology or to Yong Liu,
13 with an address of No. 39 Yongquan Lane, Shiba District, Ruian, Zhejiang 325200
14 China or with any other address provided to Western Union Financial Services,
15 Inc. by counsel for Plaintiff, to these Defendants. If money is transferred to Jiaxin
16 Technology or to Yong Liu as identified above, it will be returned to the sender.
17 This paragraph and the obligation set forth herein shall be limited to transfers that
18 are sent from the United States to Jiaxin Technology or Yong Liu in China.

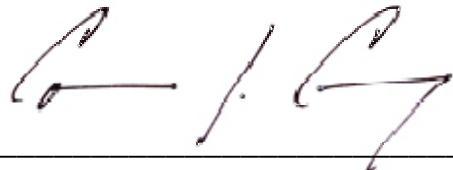
19 (2) Western Union Financial Services, Inc. is hereby preliminarily
20 enjoined from paying out any funds transferred by Jiaxin Technology or by Yong
21 Liu, with an address of No. 39 Yongquan Lane, Shiba District, Ruian, Zhejiang
22 325200 China, or with any other address provided to Western Union Financial
23 Services, Inc. by counsel for Plaintiff, to the recipients designated by these
24 Defendants. If funds are accepted from Jiaxin Technology or Yong Liu as
25 identified above, Western Union Financial Services, Inc. will temporarily seize
26 such funds and will notify counsel for the Plaintiff. Counsel for the Plaintiff will
27 then seek a court order that sets forth the disposition to be made of the seized
28 funds. This paragraph and the obligation set forth herein shall be limited to

1 transfers that are sent from Jiaxin Technology or Yong Liu in China to the United
2 States.

3 (3) Western Union Financial Services, Inc. reserves the right to seek a
4 modification of this Order. On two days' written notice to the Court and the
5 Plaintiff, Western Union Financial Services, Inc. may move the Court for a
6 modification or dissolution of this Order.

7
8 IT IS SO ORDERED.

9
10
11 Dated: October 15, 2009



12 _____
13 Honorable Cormac J. Carney
14 United States District Court Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28