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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 AMAZON.COM, INC., et al.,

9 Plaintiffs,

10 v.

11 DAFANG HAOJIAFU HOTPOT STORE,  
et al.,

12 Defendants.

Consolidated Case  
No. 2:21-cv-00766-RSM

ORDER GRANTING PLAINTIFFS' *EX*  
*PARTE* MOTION FOR EXPEDITED  
DISCOVERY

13  
14 **I. INTRODUCTION**

15 This matter comes before the Court on Plaintiffs Amazon.com, Inc. ("Amazon"),  
16 HanesBrands, Inc., and HBI Apparel Enterprises, LLC ("HanesBrands") (collectively,  
17 "Plaintiffs")'s motion for expedited discovery relating to Defendants' identities. Dkt. #22.  
18 Defendants have not yet appeared in this matter. For the reasons set forth below, the Court  
19 GRANTS Plaintiffs' motion.

20 **II. BACKGROUND**

21 On June 10, 2021, Plaintiffs filed thirteen complaints alleging claims for trademark  
22 infringement, false designation of origin, and false advertising under the Lanham Act, and  
23 violations of the Washington Consumer Protection Act. *See, e.g.*, Dkt. #1. Plaintiffs' claims all

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1 arise from Defendants’ alleged operation of various seller accounts on Amazon’s online store to  
2 unlawfully sell silicone covers for earbud cases using the HanesBrands trademark. *See, e.g.*, Dkt.  
3 #1 ¶¶ 36–41. On July 9, 2021, Plaintiffs moved to consolidate the thirteen cases, which the Court  
4 granted on July 12, 202. Dkts. #9, 10.

5 Although Plaintiffs have undergone “extensive efforts” to determine the identities of the  
6 Defendants, Dkt. #22 at 6, the Amazon seller accounts used by Defendants to sell the counterfeit  
7 products either use addresses that do not exist, or the individuals associated with those addresses  
8 do not match the name or descriptors provided by the Defendants. *Id.* at 2–3. Despite reasonable  
9 efforts to search publicly available information, no such persons can be found at the addresses  
10 associated with the seller accounts. *Id.* Through additional investigations, Plaintiffs determined  
11 that Defendants have used virtual bank accounts associated with the following payment service  
12 providers: Payoneer Inc., WorldFirst, PingPong Global Solutions Inc., and LL Pay U.S., LLC. *Id.*  
13 at 4. They have also identified e-mail addresses associated with the Defendants’ accounts include  
14 the domains @hotmail.com, @outlook.com, and @gmail.com which are email services operated  
15 by Microsoft Corporation and Google LLC. *Id.*

16 Based on these findings, Plaintiffs move for leave to serve Fed. R. Civ. P. 45 subpoenas on  
17 Payoneer Inc., WorldFirst, PingPong Global Solutions Inc., LL Pay U.S., LLC, Microsoft  
18 Corporation, and Google LLC for purposes of obtaining information to locate the names and  
19 whereabouts of Defendants and information about the location of counterfeit goods and proceeds  
20 from their sale. *Id.* at 4–5; Dkt #24 at 2–3.

### 21 III. DISCUSSION

#### 22 A. Legal Standard

1 Federal Rule of Civil Procedure 26(d) bars parties from seeking “discovery from any  
2 source before the parties have conferred as required by Rule 26(f), except in a proceeding  
3 exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by  
4 stipulation, or by court order.” Fed. R. Civ. P. 26(d)(1). In determining whether to permit  
5 expedited discovery, courts in this jurisdiction require that the moving party demonstrate that  
6 “good cause” exists to deviate from the standard pretrial schedule. *See Sovereign Bank v.*  
7 *Terrence Scott Twyford, Jr.*, No. C11-1256RSM (W.D. Wash. Aug. 16, 2012) (adopting the  
8 “good cause” standard for motions for expedited discovery); *Renaud v. Gillick*, 2007 WL 98465  
9 (W.D. Wash. 2007) (finding that plaintiffs demonstrated good cause for expedited discovery);  
10 *see also Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D. Cal. 2002)  
11 (applying “the conventional standard of good cause in evaluating Plaintiff’s request for expedited  
12 discovery”). “Good cause may be found where the need for expedited discovery, in consideration  
13 of the administration of justice, outweighs the prejudice to the responding party.” *Semitool*, 208  
14 F.R.D. at 276. The Ninth Circuit has emphasized that diligence and the intent of the moving  
15 party are the *sine qua non* of good cause. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,  
16 609 (9th Cir. 1992); *Renaud*, 2007 WL 984645, at \*2.

### 17 **B. Good Cause for Expedited Discovery**

18 The Court begins by noting that the circumstances of this case are different from the  
19 ordinary circumstances giving rise to motions for expedited discovery, such as a motion seeking  
20 to identify an unknown Internet user that unlawfully accessed a plaintiff’s intellectual  
21 property. Here, Plaintiff Amazon entered into a business relationship with the Defendants  
22 despite not knowing their identities. Now, having found that choice imprudent, Amazon seeks  
23 to better identify its contractual partners. As such, the Court struggles to conclude that Amazon

1 has been fully diligent in seeking to learn the identity of the Defendants. Amazon—perhaps by  
2 design—elected not to seek additional verification of the Defendants’ identities at the time it  
3 agreed to allow Defendants to market goods on its website. However, despite this glaring  
4 omission, at least some of the Defendants actively misled Plaintiffs as to their identities. The  
5 Court finds that Defendants should not be afforded the benefit of anonymity in furtherance of  
6 their bad actions.

7 Having considered the balance of factors, the Court concludes that Plaintiffs’ intent in  
8 seeking expedited discovery justifies their request. Courts routinely allow early discovery for  
9 the limited purpose of identifying defendants on whom process could not otherwise be served.  
10 *See, e.g., Music Grp. Macao Commercial Offshore Ltd. v. John Does I-IX*, No. 14-CV-621 RSM,  
11 2014 WL 11010724, at \*1–2 (W.D. Wash. July 18, 2014) (granting expedited discovery from  
12 Twitter, Inc. sufficient to identify Doe defendants); *The Thompsons Film, LLC. v. Does 1–194*,  
13 Case No. 2:13-cv-00560RSL (W.D. Wash. Apr. 1, 2013) (allowing early discovery from internet  
14 service providers to identify Doe defendants); *Digital Sin, Inc. v. Does 1–5698*, 2011 WL  
15 5362068 (N.D. Cal. 2011) (same); *Cottrell v. Unknown Correctional Officers, 1–10*, 230 F.3d  
16 1366, \*1 (9th Cir. 2000) (explaining that “[t]he Federal Rules of Civil Procedure do not require  
17 that a district court dismiss unknown defendants simply because the plaintiff is unaware of the  
18 identity of those defendants at the time of the filing of the complaint.”). “[W]here the identity of  
19 the alleged defendant[ ] [is] not [ ] known prior to the filing of a complaint[,], the plaintiff should  
20 be given an opportunity through discovery to identify the unknown defendants, unless it is clear  
21 that discovery would not uncover the identities, or that the complaint would be dismissed on  
22 other grounds.” *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (quoting *Gillespie*  
23 *v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)). And as Plaintiffs point out, the Court has granted

1 requests to issue subpoenas to payment service providers for financial records associated with  
2 defendants' selling accounts in cases with similar facts also involving Plaintiff Amazon, which  
3 led to the identification of previously unknown defendants involved in the alleged schemes. *See,*  
4 *e.g., Amazon.com v. Yong*, 2:21-cv-00170-RSM, Dkt. #15 (order granting motion for expedited  
5 discovery to Payoneer); Dkt. #28 (amended complaint adding defendant identified through data  
6 received in response to Payoneer subpoena).

7 Here, Plaintiffs seek expedited discovery to ascertain sufficient identifying information  
8 about Defendants in order to effect service. Good cause exists where, as here, a plaintiff has  
9 exhausted its means to identify the defendant through publicly-available information and has no  
10 other way to identify the bad actors involved in the scheme. *Facebook, Inc. v. Various, Inc.*,  
11 2011 WL 2437433, at \*3 (N.D. Cal. 2011) ("Courts in [the Ninth] Circuit permit expedited  
12 discovery to identify unknown defendants usually when the plaintiff simultaneously can identify  
13 no defendants and legitimately fears that information leading to their whereabouts faces  
14 imminent destruction."); *see also Semitool*, 208 F.R.D. at 277 (granting expedited discovery  
15 where narrowly tailored requests will "substantially contribute to moving this case forward").  
16 Having reviewed Plaintiffs' declarations, it appears they have exhausted publicly available  
17 means to trace specific names and addresses to the various Amazon seller accounts. *See* Dkt.  
18 #23 ¶ 15; Dkt. #24 ¶¶ 4–5.

19 Furthermore, the Court finds good cause for expedited discovery given Plaintiffs' claims  
20 that irreparable harm will result through Defendants' continued use of their trademarks, unfair  
21 competition and false advertising. Dkt. #1 ¶¶ 38–41; 46–48; 52–53; 59–63; 67–68.; *Music Grp.*  
22 *Macao Commercial Offshore Ltd.*, 2014 WL 11010724, at \*2 (finding good cause where  
23 plaintiffs alleged irreparable harm through infringement and unfair competition); *see also Qwest*

1 *Comm. Intl, Inc. v. WorldQuest Networks, Inc.*, 213 F.R.D. 418, 419 (D. Co. 2003) (“The good  
2 cause standard may be satisfied . . . where the moving party has asserted claims of infringement  
3 and unfair competition.”). For these reasons, Plaintiffs’ intent in seeking expedited discovery  
4 supports a finding of good cause.

5 Finally, the Court finds minimal prejudice to Defendants if Plaintiffs are granted leave to  
6 conduct expedited discovery. Plaintiffs’ discovery request is narrowly tailored to seek  
7 information only from those accounts on virtual payment platforms and email accounts  
8 associated with the Amazon seller accounts for the purpose of identifying the individuals  
9 connected to those accounts. *See* Dkt. #24 at 2–6. Furthermore, Plaintiffs have requested  
10 discovery directed at non-parties—not the Defendants—which courts recognize as “not  
11 impos[ing] a significant burden upon defendants.” *Renaud*, 2007 WL 98465, at \*3. To the extent  
12 Plaintiffs discover new information warranting additional Rule 45 subpoenas, they may file a  
13 supplemental motion for expedited discovery with information supporting their requests.

#### 14 IV. CONCLUSION

15 Having reviewed Plaintiffs’ Motion and the declarations filed in support thereof, the Court  
16 ORDERS:

17 (1) Plaintiffs’ Ex Parte Motion for Expedited Discovery, Dkt. #22, is GRANTED.  
18 Plaintiffs are granted leave, prior to the Rule 26(f) conference, to serve Rule 45 subpoenas on the  
19 following companies for the purpose of obtaining information that may identify Defendants:

- 20 a. Payoneer Inc.;
- 21 b. WorldFirst;
- 22 c. PingPong Global Solutions Inc.
- 23 d. LL Pay U.S., LLC;

1 e. Microsoft Corporation; and

2 f. Google LLC.

3 (2) Plaintiffs shall provide a copy of this Order with each subpoena issued pursuant thereto.

4  
5 DATED this 8<sup>th</sup> day of June, 2022.

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9 RICARDO S. MARTINEZ  
10 CHIEF UNITED STATES DISTRICT JUDGE