

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware corporation; AMAZON.COM SERVICES LLC, a Delaware limited liability company; and THERABODY, INC., a Delaware corporation,
Plaintiffs,

v.

WANG WEIYUAN, an individual; SHENZHEN YOUYUAN HUIPIN ECOMMERCE CO., LTD., a Chinese corporation; YANG TINGTING, an individual; TAIZHOU QISHENG E-COMMERCE CO., LTD., a Chinese corporation; HUANGSHAN, an individual; TONGSHAN COUNTY SHANRUN DEPARTMENT STORE, an unknown entity; YAN WEN JIAN, an individual; GUIZHOU YANMU TRADING CO., LTD., a Chinese corporation; Individuals and/or Entities Doing Business as Certain Amazon Selling Accounts Identified in SCHEDULE 1; and DOES 1-10,
Defendants.

Case No. 2:23-cv-00931-RSM

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

I. INTRODUCTION

This matter comes before the Court on Plaintiffs Amazon.com, Inc., Amazon.com Services LLC (collectively, "Amazon"), and Therabody, Inc. ("Therabody") (collectively,

1 “Plaintiffs”)’s *Ex Parte* Motion for Expedited Discovery related to Defendants’ identities. Dkt.
2 #8. Defendants have not yet appeared in this matter. For the reasons set forth below, the Court
3 GRANTS Plaintiffs’ Motion.

4 II. BACKGROUND

5 On June 21, 2023, Plaintiffs filed a complaint alleging trademark infringement, false
6 designation of origin, false advertising under the Lanham Act, violations of the Washington
7 Consumer Protection Act, and breach of contract. *See, e.g.*, Dkt. #1. Plaintiffs’ claims all arise
8 from Defendants’ alleged operation of various seller accounts on Amazon’s online store to
9 unlawfully selling massage guns using the Therabody trademark. See Dkt. #1 at ¶¶ 2-6.
10

11 Although Plaintiffs have undergone an “extensive investigation” to determine the
12 identities of the Defendants, the Amazon seller accounts used by Defendants to sell the
13 counterfeit products either used addresses that do not exist, or the individuals associated with
14 those addresses do not match the name or descriptors provided by Defendants. Dkt. #8 at 2.
15 Despite reasonable efforts, Plaintiffs have been unable to locate certain Defendants. *Id.* at 4.
16 Through additional investigations, Plaintiffs determined that Defendants have used virtual bank
17 accounts associated with the payment service providers PingPong Global Solutions, Inc. and LL
18 Pay U.S., LLC. *Id.* at 5.
19

20 Based on these findings, Plaintiffs move for leave to serve Fed. R. Civ. P. 45 subpoenas
21 on PingPong Global Solutions, Inc. and LL Pay U.S., LLC. for purposes of obtaining information
22 to locate the names and whereabouts of Defendants and information about the location of
23 counterfeit goods and proceeds from their sale. *Id.*
24
25
26
27
28

III. DISCUSSION

A. Legal Standard

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

B. Analysis

The Court begins by noting that the circumstances of this case are different from the ordinary circumstances giving rise to motions for expedited discovery, such as a motion seeking to identify an unknown Internet user that unlawfully accessed a plaintiff’s intellectual property. Here, Plaintiff Amazon entered into a business relationship with the Defendants

1 despite not knowing their identities. Now, having found that choice imprudent, Amazon seeks
2 to better identify its contractual partners. As such, the Court struggles to conclude that Amazon
3 has been fully diligent in seeking to learn the identity of the Defendants. Amazon—perhaps by
4 design—elected not to seek additional verification of the Defendants’ identities at the time it
5 agreed to allow Defendants to market goods on its website. However, despite this glaring
6 omission, at least some of the Defendants actively misled Plaintiffs as to their identities. The
7 Court finds that Defendants should not be afforded the benefit of anonymity in furtherance of
8 their bad actions.
9

10 Having considered the balance of factors, the Court concludes that Plaintiffs’ intent in
11 seeking expedited discovery justifies their request. Courts routinely allow early discovery for
12 the limited purpose of identifying defendants on whom process could not otherwise be served.
13 *See, e.g., Music Grp. Macao Commercial Offshore Ltd. v. John Does I-IX*, No. 14-CV-621 RSM,
14 2014 WL 11010724, at *1–2 (W.D. Wash. July 18, 2014) (granting expedited discovery from
15 Twitter, Inc. sufficient to identify Doe defendants); *The Thompsons Film, LLC. v. Does 1–194*,
16 Case No. 2:13-cv-00560RSL (W.D. Wash. Apr. 1, 2013) (allowing early discovery from internet
17 service providers to identify Doe defendants); *Digital Sin, Inc. v. Does 1–5698*, 2011 WL
18 5362068 (N.D. Cal. 2011) (same); *Cottrell v. Unknown Correctional Officers, 1–10*, 230 F.3d
19 1366, *1 (9th Cir. 2000) (explaining that “[t]he Federal Rules of Civil Procedure do not require
20 that a district court dismiss unknown defendants simply because the plaintiff is unaware of the
21 identity of those defendants at the time of the filing of the complaint.”). “[W]here the identity of
22 the alleged defendant[] is not [] known prior to the filing of a complaint[,], the plaintiff should
23 be given an opportunity through discovery to identify the unknown defendants, unless it is clear
24 that discovery would not uncover the identities, or that the complaint would be dismissed on
25
26
27
28

1 other grounds.” *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (quoting *Gillespie*
2 *v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)). And as Plaintiffs point out, the Court has granted
3 requests to issue subpoenas to payment service providers for financial records associated with
4 defendants’ selling accounts in cases with similar facts also involving Plaintiff Amazon, which
5 led to the identification of previously unknown defendants involved in the alleged schemes. *See,*
6 *e.g., Amazon.com v. Yong*, 2:21-cv-00170-RSM, Dkt. #15 (order granting motion for expedited
7 discovery to Payoneer); Dkt. #28 (amended complaint adding defendant identified through data
8 received in response to Payoneer subpoena); *see also Amazon.com v. Dafang Haojiafu Hotpot*
9 *Store*, 2:21-cv-0066-RSM, Dkt. #25 (order granting motion for expedited discovery).
10

11 Here, Plaintiffs seek expedited discovery to ascertain sufficient identifying information
12 about Defendants in order to effect service. Good cause exists where, as here, a plaintiff has
13 exhausted its means to identify the defendant through publicly-available information and has no
14 other way to identify the bad actors involved in the scheme. *Facebook, Inc. v. Various, Inc.*,
15 2011 WL 2437433, at *3 (N.D. Cal. 2011) (“Courts in [the Ninth] Circuit permit expedited
16 discovery to identify unknown defendants usually when the plaintiff simultaneously can identify
17 no defendants and legitimately fears that information leading to their whereabouts faces
18 imminent destruction.”); *see also Semitool*, 208 F.R.D. at 277 (granting expedited discovery
19 where narrowly tailored requests will “substantially contribute to moving this case forward”).
20 Having reviewed Plaintiffs’ declarations, it appears they have exhausted publicly available
21 means to trace specific names and addresses to the various Amazon seller accounts. *See* Dkt. #8
22 at 4-6.
23

24 Furthermore, the Court finds good cause for expedited discovery given Plaintiffs’ claims
25 that irreparable harm will result through Defendants’ continued use of their trademarks, unfair
26
27
28

1 competition and false advertising. Dkt. #1 at ¶¶ 51-86; Dkt. #8; *Music Grp. Macao Commercial*
2 *Offshore Ltd.*, 2014 WL 11010724, at *2 (finding good cause where plaintiffs alleged irreparable
3 harm through infringement and unfair competition); *see also Qwest Comm. Intl, Inc. v.*
4 *WorldQuest Networks, Inc.*, 213 F.R.D. 418, 419 (D. Co. 2003) (“The good cause standard may
5 be satisfied . . . where the moving party has asserted claims of infringement and unfair
6 competition.”). For these reasons, Plaintiffs’ intent in seeking expedited discovery supports a
7 finding of good cause.
8

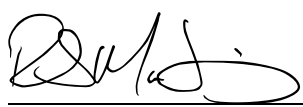
9 Finally, the Court finds minimal prejudice to Defendants if Plaintiffs are granted leave to
10 conduct expedited discovery. Plaintiffs’ discovery request is narrowly tailored to seek
11 information only from those accounts on virtual payment platforms associated with the Amazon
12 seller accounts for the purpose of identifying the individuals connected to those accounts. *See*
13 Dkt. #8 at 4-7. Furthermore, Plaintiffs have requested discovery directed at non-parties—not the
14 Defendants—which courts recognize as “not impos[ing] a significant burden upon defendants.”
15 *Renaud*, 2007 WL 98465, at *3. To the extent Plaintiffs discover new information warranting
16 additional Rule 45 subpoenas, they may file a supplemental motion for expedited discovery with
17 information supporting their requests.
18
19

20 IV. CONCLUSION

21 Having reviewed Plaintiffs’ Motion and the declarations filed in support thereof the Court
22 ORDERS that Plaintiffs’ *Ex Parte* Motion for Expedited Discovery, Dkt. #8, is GRANTED.
23 Plaintiffs are granted leave, prior to the Rule 26(f) conference, to serve Rule 45 subpoenas on the
24 companies PingPong Global Solutions, Inc. and LL Pay U.S., LLC. for the purpose of obtaining
25 information that may identify Defendants. Plaintiffs shall provide a copy of this Order with each
26 subpoena issued pursuant thereto.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED this 22nd day of February, 2024.


RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE