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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

AFFLICTION HOLDINGS, LLC, a
California limited liability company,

Plaintiff(s),

vs.

YING TAO; LINYIZHE; PAN
YINGDONG; BAILEY BLAKE;
KAILONG WEN; and DOE 1 through
DOE 10, inclusive;

Defendant(s).

CASE NO. SACV12-408-CJC(MLGX)
Assigned to Judge Cormac J. Carney
Magistrate Judge Marc L. Goldman

PRELIMINARY INJUNCTION

This Cause came for hearing on May 14, 2012, pursuant to this Court’s April 2, 2012, Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue. (Dkt. No. 18). For the Reasons that follow, the preliminary injunctive relief sought in Plaintiff’s *Ex Parte* Application for Entry of a Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue (“*Ex Parte* Application”) (Dkt. No. 15) is GRANTED.

1 **BACKGROUND**

2 On April 5, 2012, Plaintiff, Affliction Holdings, LLC (“Affliction” or
3 “Plaintiff”) filed its First Amended Complaint (Dkt. No. 7) against Defendants
4 Ying Tao, Linyizhe, Pan Yingdong, Bailey Blake, Kailong Wen, and Doe 1
5 through Doe 10, inclusive (collectively the “Defendants”) for alleged violations of
6 trademark counterfeiting and infringement, false designation of origin, and
7 cyberpiracy. On April 28, 2012, Plaintiff filed its *Ex Parte* Application for Entry
8 of a Temporary Restraining Order and Order to Show Cause Why a Preliminary
9 Injunction Should Not Issue (Dkt. No. 15), and this Court entered an Order
10 directing Defendants to show cause why Plaintiff’s request for a Preliminary
11 Injunction would not be granted. (Dkt. No. 18). The Court further ordered Plaintiff
12 to serve a copy of the Court’s Order on the Defendants via email. A Declaration
13 regarding Plaintiff’s compliance with the Court’s Temporary Restraining Order
14 was filed by Plaintiff on May 6, 2012. (Dkt. No. 22).

15 The Court convened the hearing on May 14, 2012, at which only counsel for
16 Plaintiff was present and available to present evidence supporting the *Ex Parte*
17 Application. No written response has been filed by the Defendants to the *Ex Parte*
18 Application, nor have Defendants appeared individually or through counsel in this
19 matter.

20 **CONCLUSIONS OF LAW**

21 The declarations and supporting evidentiary submissions Plaintiff submitted
22 in support of its *Ex Parte* Application and the facts presented at oral argument
23 support the following conclusions of law:

24 A. Plaintiff has shown a likelihood of success on its claims against
25 Defendants for federal trademark infringement and counterfeiting, false
26 designation of origin, and cyberpiracy;

27 B. Plaintiff will suffer irreparable harm unless Defendants are enjoined;
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1 C. A preliminary injunction is necessary to prevent irreparable injury to
2 Plaintiff's reputation and business; and

3 D. The balance of equities and the interests of justice support granting
4 such relief.

5 Accordingly, IT IS HEREBY ORDERED that Defendants, their respective
6 officers, directors, employees, agents, subsidiaries, distributors, and all persons in
7 active concert or participation with Defendants having notice of this Order are
8 preliminarily restrained from manufacturing, importing, advertising, promoting,
9 offering to sell, selling, distributing, or transferring any products bearing the
10 Affliction trademarks which include the terms AFFLICTION, SINFUL,
11 AFFLICTION LIVE FAST, AFFLICTION AMERICAN CUSTOMS, or any
12 confusingly similar trademark; from secreting, concealing, destroying, selling off,
13 transferring, or otherwise disposing of: (i) any products, not manufactured or
14 distributed by Affliction, bearing the Affliction trademarks, or any confusingly
15 similar trademarks; or (ii) any evidence relating to the manufacture, importation,
16 sale, offer for sale, distribution, or transfer of any products bearing the Affliction
17 trademarks, or any confusingly similar trademarks.

18 IT IS FURTHER ORDERED that Defendants, their respective officers,
19 directors, employees, agents, subsidiaries, distributors, and all persons in active
20 concert or participation with Defendants having notice of this Order shall, until the
21 conclusion of this action, discontinue the use of the Affliction trademarks which
22 include the terms AFFLICTION, SINFUL, AFFLICTION LIVE FAST,
23 AFFLICTION AMERICAN CUSTOMS, and which are further identified in the
24 attached Schedule A ("Affliction Marks"), or any confusingly similar trademarks
25 in any manner, including on or in connection with Internet website businesses
26 owned and operated or controlled by them, specifically including the Internet
27 websites operating under the domain names listed on the attached Schedule B
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1 (collectively referred to herein as the “Subject Domain Names”).

2 IT IS FURTHER ORDERED that Defendants, their respective officers,
3 directors, employees, agents, subsidiaries, distributors, and all persons in active
4 concert or participation with Defendants having notice of this Order shall, until the
5 conclusion of this action, discontinue the use of the Affliction Marks (1) within
6 domain names, domain name extensions, metatags or other markers within their
7 websites’ source code, (2) on any webpage (including as the title of any web page),
8 (3) in any advertising links to other websites, from search engines’ databases or
9 cache memory, and (4) in any other manner of use in which such Affliction Marks
10 are visible to a computer user or serve to direct computer searches on search
11 engines to websites registered by, owned, or operated by Defendants, including the
12 Internet websites operating under the Subject Domain Names.

13 IT IS FURTHER ORDERED that Defendants shall not transfer ownership
14 of the Subject Domain Names during the pendency of this Action, or until further
15 Order of the Court.

16 IT IS FURTHER ORDERED that the Registrar(s) for the Subject Domain
17 Names, shall continue to lock the Subject Domain Names and, to the extent not
18 already done, provide to Plaintiff’s counsel, for deposit with this Court, a Registrar
19 Certificate for each of the Subject Domain Names.

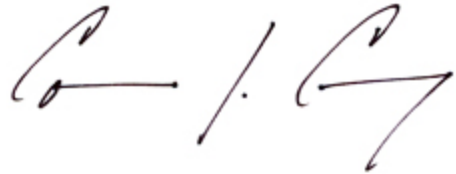
20 IT IS FURTHER ORDERED that the top level domain (TLD) Registries for
21 the Subject Domain Names, Verisign, Inc. (for the .net domains) and the Public
22 Interest Registry (for the .org domains), if any, shall immediately, or to the extent
23 already done continue to, maintain the Subject Domain Names on Registry Hold
24 status, thus removing them from the TLD zone files maintained by the respective
25 Registry which link the Subject domain Names to the IP addresses where their
26 associated websites are hosted.

27 IT IS FURTHER ORDERED that Defendants shall continue to preserve
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1 copies of all their computer files relating to the use of any of the Subject Domain
2 Names and shall take all steps necessary to retrieve and preserve computer files
3 relating to the use of any of the Subject Domain Names and\or the website
4 operating thereunder which may have been deleted before the entry of this Order.

5 IT IS FURTHER ORDERED that this Preliminary Injunction shall remain in
6 effect during the pendency of this action, or until such further date as set by the
7 Court or stipulated to by the parties.

8 IT IS FURTHER ORDERED that the bond posted on or about May 4, 2012,
9 in the amount of \$10,000.00 shall continue to be in effect during the pendency of
10 this preliminary injunction.



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13 DATED: May 14, 2012

14 HONORABLE CORMAC J. CARNEY
15 UNITED STATES DISTRICT JUDGE
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SCHEDULE A

Mark	Registration No.	Registration Date
SINFUL	2,639,453	October 22, 2002
AFFLICTION	3,109,069	June 27, 2006
AFFLICTION	3,706,917	November 3, 2009
AFFLICTION	3,747,346	February 9, 2010
AFFLICTION (stylized)	3,790,247	May 18, 2010
AFFLICTION LIVE FAST	3,888,936	December 14, 2010
AFFLICTION LIVE FAST	3,906,589	January 18, 2011
AFFLICTION AMERICAN CUSTOMS	4,032,767	September 27, 2011

SCHEDULE B
SUBJECT DOMAIN NAMES

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- afflictionclothingwholesale.com
- afflictionclothingwholesale.net
- afflictionaustralia.net
- afflictionsweden.com
- afflictionsverige.com
- afflictionstock.com
- afflictionmall.com