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 8 UNITED STATES DISTRICT COURT
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 KOON CHUN HING KEE SOY &
 12 SAUCE FACTORY, LTD., a company
 organized under the laws of Hong Kong

Case No. C 05-5127 MMC

**PRELIMINARY INJUNCTION
 (DEFENDANT CHEONG)**

13
 14 Plaintiff,

15 v.

16 AMERICA FOOD INT'L CORP., a California
 corporation; KWONK CHIO CHEONG, a
 17 California resident, and CANTON HERB CO.,
 a business organized under the laws of the State
 18 of California,

19 Defendants.
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 22 This is a trademark counterfeiting action in which plaintiff Koon Chun Hing Kee Soy & Sauce
 23 Factory, Ltd. ("Koon Chun") alleges that defendants distribute and sell counterfeits of Koon Chun's
 24 hoisin sauce food product. Koon Chun moved *ex parte* for an order of seizure, temporary restraining
 25 order, order to show cause re: preliminary injunction, and accelerated discovery. This Court granted
 26 Koon Chun's *ex parte* motion in an order dated December 13, 2005 (the "December 13 Order").

27 Defendant Kwonk Chio Cheong was served with the summons, complaint, and all other papers
 28 in this action – including the December 13 Order – on December 17, 2005. Pursuant to the December

1 13 Order, a hearing on the order to show cause re: preliminary injunction was held on December 28,
2 2005. Defendant Cheong did not file an opposition to the order to show cause, nor did defendant
3 Cheong appear at the hearing.

4 Accordingly, FOR GOOD CAUSE SHOWN:

5 1. Defendant Cheong, his agents, servants, employees, successors and assigns, his
6 businesses and their officers, directors, principals, and all those acting in concert or participation with
7 any of them (collectively "the Enjoined Parties") be, and they hereby are ENJOINED, pending a final
8 disposition of this action, from:

- 9 a) imitating, copying or making unauthorized use of the registered trademark **KOON CHUN**
10 **SAUCE FACTORY and Design** ("Plaintiff's Trademark"), including affixing, applying,
11 or annexing or using Plaintiff's Trademark in connection with any product, any designs,
12 containers, labels, displays, signs, prints, packages, wrappers, receptacles, promotions, or
13 advertisements bearing any simulation, reproduction, counterfeit, copy or colorable
14 imitation of Plaintiff's Trademark or any other false designation of origin, false description
15 or representation, and from causing said products to enter into commerce, or causing or
16 procuring the same to be transported or to be used in commerce, or delivering the same to
17 any carrier to be transported or used in commerce;
- 18 b) manufacturing, producing, distributing, importing, accepting for consignment, shipping,
19 circulating, selling, offering for sale, advertising, promoting or displaying any product
20 bearing any simulation, reproduction, counterfeit, copy or colorable imitation of Plaintiff's
21 Trademark and/or any other trademarks so similar as to be likely to cause confusion, to
22 cause mistake, or to deceive;
- 23 c) using any simulation, reproduction, counterfeit, copy or colorable imitation of Plaintiff's
24 Trademark or any terms confusingly similar thereto in connection with the importation,
25 shipment, promotion, advertisement, display, sale, offering for sale, manufacture,
26 production, circulation or distribution of any product;
- 27 d) making any statement or representation or using any false designation of origin or false
28 description (including, without limitation, any letters or symbols), or performing any act,

1 which can or is likely to lead the trade or public, or individual members thereof, to believe
2 that any product manufactured, distributed or sold by defendants is in any manner
3 associated or connected with the plaintiff, or is sold, manufactured, licensed, sponsored,
4 approved or authorized by the plaintiff or comes from the same source as plaintiff's goods,
5 and from otherwise competing unfairly with plaintiff and injuring their business
6 reputations;

7 e) engaging in any other activity constituting unfair competition with plaintiff, or constituting
8 an infringement of Plaintiff's Trademark, or any of plaintiff's rights in or to use or to
9 exploit said trademark, or constituting any dilution of Plaintiff's Trademark, reputation or
10 good will;

11 f) destroying, buying, selling or otherwise disposing of any merchandise bearing Plaintiff's
12 Trademark which is not manufactured by the plaintiff, and instead delivering the same to
13 plaintiff or to an agent authorized to act on behalf of plaintiff for destruction;

14 g) destroying, transferring, secreting or otherwise disposing of any documents, books or
15 records relating to the purchase, sale, importation or shipment of sauces or any
16 merchandise bearing Plaintiff's Trademark or any counterfeit or simulation thereof or any
17 other trademark so similar so as to cause confusion, mistake or deception;

18 h) removing, transporting, secreting, destroying, modifying, altering or otherwise affecting
19 the counterfeit products or the records relating to them;

20 i) passing off, inducing or enabling others to pass off any counterfeit product or products
21 bearing Plaintiff's Trademark or other trademarks so similar as to cause confusion; and

22 j) assisting, aiding or abetting any other person or business entity in engaging in or
23 performing any of the activities referred to herein.

24 2. Within three calendar days of the service of this order on defendant Cheong, defendant
25 Cheong shall:

26 a) deliver to plaintiff's representative for sequestration and then destruction all packages,
27 containers, products, merchandise, goods, labels, signs, bottles, prints, wrappers, overlays
28 and all advertisements which are, which embody, or which contain the counterfeit

1 trademarks used in connection with defendants' counterfeiting activities or any other
2 reproduction, copy, counterfeit or colorable imitation of the trademarks of plaintiff and all
3 plates, molds, matrices, and other means for making the same; and, further ordering
4 defendants to deliver to plaintiff's representatives all goods and items which are the subject
5 of the instant action for sequestration and then destruction;

6 b) to supply plaintiff with a complete list of the persons from whom defendants purchased and
7 to whom they sold their counterfeit products or any other product which bears or is sold
8 under counterfeit trademarks or any other trademark so similar to Plaintiff's Trademark as
9 to cause confusion, mistake or deception; to supply plaintiff with complete records
10 concerning any and all transactions related to the goods which are the subject matter of the
11 complaint, including but not limited to all records of purchase, transaction, financing, sale
12 and distribution of said goods; and to supply plaintiff with the location of any warehouse or
13 other facility at which goods bearing Plaintiff's Trademark, or any other trademark so
14 similar to Plaintiff's Trademark as to cause confusion, mistake or deception are stored.

15 Plaintiff previously posted a bond in the amount of \$5,000 pursuant to Fed.R.Civ.P. 65. No
16 further bond is required.

17 IT IS SO ORDERED.

18
19 Dated: December 29, 2005


United States District Judge