

1 KENNETH E. KELLER (SBN 71450) kkeller@kksrr.com
 2 ANNE E. KEARNS (SBN: 183336) akearns@kksrr.com
 3 KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP
 4 114 Sansome Street, Suite 400
 5 San Francisco, California 94104-3839
 Telephone: (415) 249-8330
 Facsimile: (415) 249-8333

6 STEPHEN M. GAFFIGAN (*Pro Hac Vice Pending*)
 7 STEPHEN M. GAFFIGAN, P.A.
 8 401 East Las Olas Blvd., Suite 130-453
 9 Ft. Lauderdale, Florida 33301
 Telephone: (954) 767-4819
 Facsimile: (954) 767-4821
stephen@smgpa.net

10 Attorneys for Plaintiff CHANEL, INC.

11
 12 THE UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 14

15 CHANEL, INC.,)	Case No. C-09-04979 MHP
16 a New York corporation,)	
)	
17 Plaintiff,)	PROPOSED PRELIMINARY
)	INJUNCTION
18 v.)	
)	Date: November 13, 2009
19 RENE PALEY d/b/a)	Time: 2:00
20 CHEAP-CHANEL-WATCHES.COM;)	Courtroom: 15, 18th Floor
21 and DOES 1-10,)	Judge: Marilyn H. Patel
)	
22 Defendants.)	
)	
23)	

24 This Cause came for hearing on November 13, 2009, pursuant to this Court's October 26,
 25 2009 Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should
 26 Not Issue. [D.E. 18.] For the reasons that follow, the preliminary injunctive relief sought in
 27 Plaintiff's *Ex Parte* Application for Entry of a Temporary Restraining Order and Order to Show
 28

1 Cause Why a Preliminary Injunction Should Not Issue (“*Ex Parte* Application”) [D.E. 6] is
2 GRANTED.

3 **BACKGROUND**

4 On October 19, 2009, Plaintiff, Chanel, Inc (“Chanel”) filed its Complaint [D.E. 1] against
5 Defendant Rene Paley (“Paley”), and Does 1-10 (collectively the “Defendants”), for alleged
6 violations of trademark counterfeiting and infringement, false designation of origin, and cyberpiracy.
7 Before the Court is Plaintiff’s *Ex Parte* Motion for Entry of a Temporary Restraining Order and
8 Order to Show Cause Why a Preliminary Injunction Should Not Issue. On October 23, 2009,
9 Plaintiff filed its *Ex Parte* Application [DE 6], and this Court entered an Order directing Defendants
10 to show cause why Plaintiff’s request for a Preliminary Injunction should not be granted. [D.E. 18.]
11 The Court further ordered Plaintiff serve a copy of its *Ex Parte* Application and the Court’s October
12 26, 2009 Order on all Defendants on or before October 27, 2009. A notice of compliance with that
13 Order was filed on November 4, 2009 [D.E. 24], certifying service of the *Ex Parte* Application and
14 the Court’s order upon Defendants on October 27, 2009.

15 The Court convened the hearing on November 13, 2009, at which only counsel for Plaintiff
16 were present and available to present evidence supporting the *Ex Parte* Application. No written
17 response has been filed in response to the *Ex Parte* Application, nor have Defendants appeared
18 individually or through counsel in this matter.

19 **CONCLUSIONS OF LAW**

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

- 23 A. Plaintiff has shown a likelihood of success on its claims against Defendants for
24 federal trademark infringement and counterfeiting, false designation of origin, and cyberpiracy;
- 25 B. Plaintiff will suffer irreparable harm unless Defendants are enjoined;
- 26 C. A preliminary injunction is necessary to prevent irreparable injury to Plaintiff’s
27 reputation and business; and

1 D. The balance of equities and the interests of justice support granting such relief.
2 Accordingly,

3 IT IS HEREBY ORDERED that Defendants, their respective officers, directors, employees,
4 agents, subsidiaries, distributors, and all persons in active concert or participation with Defendants
5 having notice of this Order are temporarily restrained from manufacturing, importing, advertising,
6 promoting, offering to sell, selling, distributing, or transferring any products bearing the Chanel
7 trademarks CHANEL and J12 or any confusingly similar trademark; from secreting, concealing,
8 destroying, selling off, transferring, or otherwise disposing of: (i) any products, not manufactured or
9 distributed by Chanel, bearing the Chanel trademarks, or any confusingly similar trademarks; or (ii)
10 any evidence relating to the manufacture, importation, sale, offer for sale, distribution, or transfer of
11 any products bearing the Chanel trademarks, or any confusingly similar trademarks.

12 IT IS FURTHER ORDERED that Defendants, their respective officers, directors, employees,
13 agents, subsidiaries, distributors, and all persons in active concert or participation with Defendants
14 having notice of this Order shall immediately discontinue the use of the Chanel trademarks
15 CHANEL and J12 or any confusingly similar trademarks in any manner, including on or in
16 connection with Internet website businesses owned and operated or controlled by them, specifically
17 including the Internet websites operating under the domain names: cheap-chanel-watches.com,
18 mywatchsky.com, replica-watches-mall.com, wristfavorite.com, and zenroad.com (the "Subject
19 Domain Names").

20 IT IS FURTHER ORDERED that Defendants, their respective officers, directors, employees,
21 agents, subsidiaries, distributors, and all persons in active concert or participation with Defendants
22 having notice of this Order shall immediately discontinue the use of the Chanel trademarks
23 CHANEL and J12 or any confusingly similar trademarks (1) within domain names, domain name
24 extensions, metatags or other markers within their websites' source code, (2) on any webpage
25 (including as the title of any web page), (3) in any advertising links to other websites, from search
26 engines' databases or cache memory, and (4) in any other manner of use in which such Marks are
27 visible to a computer user or serve to direct computer searches on search engines to websites

1 registered by, owned, or operated by Defendants, including the Internet website operating under the
2 Subject Domain Names.

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

5 IT IS FURTHER ORDERED that the Registrar(s) for each of the Subject Domain Names
6 shall continue to lock the Subject Domain Names and, to the extent not already done, provide to
7 Plaintiff's counsel, for deposit with this Court, a Registrar Certificate for each of the Subject Domain
8 Names.

9 IT IS FURTHER ORDERED that the top level domain (TLD) Registry for the Subject
10 Domain Names, Verisign, Inc., shall continue to maintain the Subject Domain Names on Registry
11 Hold status, thus removing them from the TLD zone files maintained by the Registry which link the
12 Subject Domain Names to the IP addresses where their associated websites are hosted.

13 IT IS FURTHER ORDERED Defendants shall continue to preserve copies of all their
14 computer files relating to the use of any of the Subject Domain Names and continue to take all steps
15 necessary to retrieve and preserve computer files relating to the use of any of the Subject Domain
16 Names and/or the websites operating thereunder which may have been deleted before the entry of
17 this Order.

18 IT IS FURTHER ORDERED that Plaintiff shall maintain its bond in the amount of Ten
19 Thousand Dollars (\$10,000.00), as payment of damages to which Defendants may be entitled for a
20 wrongful injunction or restraint, during the pendency of this Action, or until further Order of the
21 Court.

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

25 IT IS SO ORDERED.

26 DATED: Nov. 13, 2009

27 
Marilyn H. Patel
UNITED STATES DISTRICT JUDGE