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 MAGPUL INDUSTRIES CORP.

8  
 9 **UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11  
 12 MAGPUL INDUSTRIES CORP.,  
 13 Plaintiff,  
 14 v.  
 15 JOHN DOE 1-10,  
 16 Defendants.

Case No.

**[AMENDED PROPOSED] ORDER  
 GRANTING ASSET FREEZE**

17  
 18 **ORDER**

19 Plaintiff MAGPUL INDUSTRIES CORP.’S (“Magpul’s”) Ex Parte Application seeking  
 20 an Order to freeze assets held in certain accounts held by Defendants JOHN DOE 1-10  
 21 (“Defendants”), and other relief, with supporting papers, were presented to this Court. After full  
 22 consideration of the matter and for good cause shown, Magpul’s Application is GRANTED.

23 **FINDINGS OF FACT**

24 Based upon the Declarations filed concurrently with Magpul’s *ex parte* application, and the  
 25 pleadings filed in this matter, the Court makes the following findings of fact:

26 1. Magpul has filed a Complaint that alleges, *inter alia*, that Defendants have engaged  
 27 in a scheme through which they offer to sell Magpul-branded products on eBay.com (“eBay”),  
 28 using the seller names “arctic\_trader” (hereinafter “Arctic Trader”), and “thebuzzybeecentral”

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1 (hereinafter “Buzzy Bee”), and Defendants sell counterfeit Magpul-branded products.

2 2. Magpul is likely to prevail in their lawsuit against Defendants for trademark  
3 counterfeiting (15 U.S.C. § 1114) because there is sufficient evidence to support findings that:  
4 Magpul has a protectable ownership interest in various trademarks that are registered with the U.S.  
5 Patent and Trademark Office (“Magpul’s Registered Marks”); Defendants have repeatedly sold  
6 products that appear identical, or substantially similar to products that are sold by Magpul, which  
7 also had Magpul’s Registered Marks affixed to them; these products were not manufactured by  
8 Magpul, nor by its authority; Defendants’ unauthorized use of Magpul’s Registered Marks are  
9 likely to cause confusion or deception amongst the consuming public as to the products’ origins,  
10 and; that these products are “counterfeit,” as that term is defined at 15 U.S.C. § 1116(d)(B)(i).

11 3. Magpul is likely to establish that Defendants’ trademark counterfeiting was done  
12 willfully in that: Defendants were provided notice on at least seventy-seven occasions that they  
13 were selling products that infringed upon Magpul’s trademarks, but continued to sell them  
14 anyway; Defendants have received numerous notices from its customers who complained through  
15 eBay that the products sold by Defendants were inferior, or counterfeit, but continue to sell these  
16 products, and; the price at which Defendants were selling their products was so far below the  
17 market price for genuine products that they must have known that the products were derived  
18 through an illegal source.

19 4. Defendants have used PayPal to process financial transactions associated with their  
20 sale of Magpul-branded products. Defendants’ PayPal accounts are identified by the following  
21 email addresses: “arctictraders@yahoo.co.uk,” “buzzybeecentral@yahoo.co.uk,” and  
22 “sj\_group@foxmail.com.”

23 5. Defendants have exhibited behaviors that make it likely that they will seek to avoid  
24 legal responsibility that may arise from this lawsuit: Defendants have used multiple addresses to  
25 conduct business that are not traceable to them; Defendants use multiple seller names on eBay that  
26 seem intended to allow listings under one seller name if the listings are removed under the other  
27 seller name; the names used by Defendants are not traceable to them because they are either too  
28 common, or because they have used only initials to identify themselves, and; according to

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1 customer complaints, Defendants refused to honor obligations to ship products that had been  
2 ordered by those customers. Based upon this finding, it is likely that Defendants will attempt to  
3 disperse their assets from PayPal to accounts beyond the jurisdiction of the United States, if they  
4 were to receive notice that those assets were at risk in this litigation.

5 6. In the likelihood that Magpul prevails in this action, it will be entitled to an  
6 accounting of Defendants' profits. It is necessary that the assets remain in Defendants' PayPal  
7 accounts to provide for this equitable remedy.

8 7. An Order, freezing the assets in Defendants' PayPal accounts is necessary to  
9 preserve Magpul's equitable remedies.

10 **IT IS THEREFORE ORDERED** that:

11 A. PayPal shall prevent the disbursement of any assets held in accounts associated  
12 with the email addresses: "arctictraders@yahoo.co.uk," "buzzybeecentral@yahoo.co.uk," and  
13 "sj\_group@foxmail.com." However, PayPal shall still allow the deposit of funds that are destined  
14 to those accounts.

15 B. Defendants are Ordered to appear in this Court ~~in fourteen days~~, on April 28, at  
16 10 O'Clock to show cause why this temporary restraining order should not become a  
17 preliminary injunction. Defendants shall file and serve any papers in support of their position by  
18 April 18, 2014

19 \_\_\_\_\_. Magpul shall file and serve any reply to Defendants by April 22, 2014

20 DATED: April 16, 2014

21 7758-11\2061993v1

To the extent Magpul has not yet been able to serve a defendant, it shall  
serve copies of the Orders entered in this case, in addition to its complaint  
and application for a temporary restraining order by no later than 12:00  
p.m. on April 16, 2014, and shall file proof of such service by close of  
business on April 16, 2014  
\_\_\_\_\_  
Judge, United States District Court

