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MAGPUL INDUSTRIES CORP.
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

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

Case No. 4:14-cv-1556 JSW

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY INJUNCTION

Judge: Honorable Jeffrey S. White
Date: April 28, 2014
Time: 11:00 a.m.
Crtrm.: 5

18 ~~PROPOSED~~ ORDER

19 Defendants JOHN DOE 1-10 (“Defendants”) were ordered to appear in this court on April
20 28, 2014, to show cause why a temporary restraining order [Doc. 28], which freezes assets held in
21 certain financial accounts belonging to them, should not become a preliminary injunction.
22 Defendants have failed to present any facts that would show cause to prevent entry of that
23 preliminary injunction.

24 FINDINGS OF FACT

25 Having considered all filings in this matter, as well as any evidence presented at a hearing,
26 this Court makes the following findings of fact:

27 1. Magpul has filed a Complaint that alleges, *inter alia*, that Defendants have engaged
28 in a scheme through which they offer to sell Magpul-branded products on eBay.com (“eBay”),

1 using the seller names “arctic_trader” (hereinafter “Arctic Trader”), and “thebuzzybeecentral”
2 (hereinafter “Buzzy Bee”), and Defendants sell counterfeit Magpul-branded products.

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

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

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

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

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1 common, or because they have used only initials to identify themselves, and; according to
2 customer complaints, Defendants refused to honor obligations to ship products that had been
3 ordered by those customers. Based upon this finding, it is likely that Defendants will attempt to
4 disperse their assets from PayPal to accounts beyond the jurisdiction of the United States, prior to
5 the time that this matter is finally adjudicated.

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

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

11 **IT IS THEREFORE ORDERED** that the temporary restraining order previously entered
12 by this Court [Doc. 28] shall become a preliminary injunction:

13 A. PayPal shall prevent the disbursement of any assets held in accounts associated
14 with the email addresses: “arctictraders@yahoo.co.uk,” “buzzybeecentral@yahoo.co.uk,” and
15 “sj_group@foxmail.com.” However, PayPal shall still allow the deposit of funds that are destined
16 to those accounts.

17 B. PayPal shall promptly notify the parties of any changes to the balance in these
18 accounts, including the reasons for any change.

19 C. This order shall remain in effect until further notice from this Court.

20 D. Magpul is directed to deposit \$ 100 with the clerk of this court, to be held as
21 security for any wrongful harm that Defendants experience as a result of this preliminary
22 injunction.

23 DATED: April 28, 2014

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26 _____
27 Judge, United States District Court
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