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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

SAMSUNG ELECTRONIC CO.,  
LTD., a Korean corporation; and  
SAMSUNG  
TELECOMMUNICATIONS  
AMERICA, LLC, a Delaware  
corporation,

Plaintiffs,

vs.

EARLY BIRD SAVINGS, a company  
operating from China; SHENZHEN  
OKELER SCIENCE &  
TECHNOLOGY CO., LTD., a  
company operating in China,

Defendants.

CASE NO. 13-CV-3105-BEN (JLB)

**ORDER:**

**(1) GRANTING MOTION TO  
EXTEND THE EXISTING  
TEMPORARY RESTRAINING  
ORDER**

**(2) GRANTING MOTION FOR  
LEAVE TO SERVE DEFENDANTS  
BY ALTERNATIVE MEANS**

[Docket Nos. 31, 32]

Plaintiffs Samsung Electronic Co. Ltd. and Samsung Telecommunications America, LLC (collectively, “Samsung”) filed (1) a Motion to Extend the Existing Temporary Restraining Order and (2) a Motion for Leave to Serve by Alternative Means. (Docket Nos. 31, 32.) For the reasons stated below, this Court **GRANTS** the Motions.

**BACKGROUND**

On December 20, 2013, Samsung brought this trademark infringement action against Defendants who are Chinese companies. (Docket No. 1.) On January 7,

1 2014, this Court issued a Temporary Restraining Order (“TRO”) freezing  
2 Defendants Paypal account. (Docket No. 11.) On September 15, 2014, Samsung  
3 received its first response from the Chinese Central Authority (“CCA”) that service  
4 had been attempted on Defendants. However, the CCA indicated that service was  
5 not completed because Defendants refused to accept the documents. In granting an  
6 extension of the existing TRO, the Court instructed Samsung to make a second  
7 attempt to serve Defendants according to the Hague Convention and Chinese Civil  
8 Procedure Law. (Docket No. 24.) On October 3, 2014, Samsung prepared a second  
9 Request for Service Abroad, including explicit instructions to leave the documents  
10 with Defendants, even where they refuse to accept, according to Chinese law.  
11 (Docket No. 26, Ex. 1.)

12 On June 24, 2015, Samsung received a response from the CCA regarding its  
13 second request for service. (Mot. on TRO 2-3.) The CCA indicated that service had  
14 not been completed for two reasons: first, that Defendant Early Bird Savings is not  
15 located at the address; and second, the Defendant Okeler refused to accept the  
16 documents. (*Id.*) The existing TRO is set to expire on August 4, 2015. (Docket No.  
17 30.)

## 18 DISCUSSION

19 Pursuant to Federal Rule of Civil Procedure 4(h)(2) and (f)(3), a plaintiff may  
20 effect service upon a foreign company by any means “not prohibited by international  
21 agreement, as the court orders.” The alternative method must be “reasonably  
22 calculated, under all the circumstances, to apprise the interested parties of the  
23 pendency of the action and afford them an opportunity to present their objections.”  
24 *Rio Props., Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1016 (9th Cir. 2002) (citation  
25 omitted).

26 Samsung asks this Court to allow service by email. When the TRO first went  
27 into effect, Paypal notified the account holders by email that their assets had been  
28 frozen by court order. Paypal also stated email is its only method of communicating

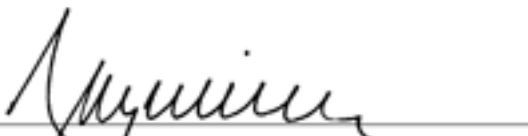
1 with an account holder. After learning of the frozen Paypal account, a Mr. Brooks,  
2 asserting that he represented Defendants, contacted Samsung's counsel to attempt to  
3 resolve the matter. Further, Defendants represent to the public that they may be  
4 contacted by the emails listed below. Samsung has therefore provided adequate  
5 explanation that the following three email addresses will adequately notify  
6 Defendants of the instant lawsuit: kings67299@yahoo.com;  
7 ebs.wholesale@yahoo.com; and earlybirdebs0@yahoo.com. As it appears that the  
8 CCA service agent did not comply with Samsung's requested service by a particular  
9 method, the Court agrees that an extension of the TRO to allow for service by email  
10 is appropriate.

### 11 CONCLUSION

12 Accordingly, Samsung's Motions are **GRANTED**. The TRO is **EXTENDED**  
13 until **November 4, 2015**. Samsung may serve the Complaint and Summons on  
14 Defendants by sending copies of the documents to kings67299@yahoo.com;  
15 ebs.wholesale@yahoo.com; and earlybirdebs0@yahoo.com. The Motion Hearing  
16 scheduled for August 24, 2015 is vacated.

17 **IT IS SO ORDERED.**

18 DATED: August 3, 2015

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20 Hon. Roger T. Benitez  
21 United States District Judge  
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