

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 21-cv-21088-BLOOM/Otazo-Reyes

ANIMACCORD LTD.,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS
AND UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A,

Defendants.


**ORDER GRANTING PLAINTIFF’S
MOTION FOR PRELIMINARY INJUNCTION**

THIS CAUSE is before the Court upon Plaintiff’s Motion for Entry of Preliminary Injunction, ECF No. [5] (“Plaintiff’s Motion”). Plaintiff, Animaccord Ltd. (“Plaintiff”), moves for entry of a preliminary injunction against the Defendants, Individuals, Partnerships, and Unincorporated Associations Identified on Schedule “A” attached to this Order (collectively “Defendants”), and an order restraining the financial accounts used by Defendants pursuant to 15 U.S.C. § 1116, 17 U.S.C. § 502, Rule 65 of the Federal Rules of Civil Procedure, and The All Writs Act, 28 U.S.C. § 1651(a). The Court has carefully reviewed Plaintiff’s Motion, the record in this case and the applicable law, and is otherwise fully advised. For the reasons that follow, Plaintiff’s Motion is granted.

The Court held a hearing on May 18, 2021, at which counsel for Plaintiff was present and available to present evidence supporting the Motion. Because Plaintiff has satisfied the requirement for the issuance of a preliminary injunction, the Court grants Plaintiff’s Motion for Preliminary Injunction as to Defendants.

I. FACTUAL BACKGROUND¹

Plaintiff is the owner of the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively, the “Masha and The Bear Marks”):

Trademark	Registration Number	Registration Date	First Use Date	Classes / Goods
	4,790,909	09/11/2015	4/15/2015	IC 009: Pre-recorded DVDs, namely, motion picture films featuring children's entertainment; IC 016: Paper products, namely, children's storybooks, notebooks, coloring books, greetings cards, stationery, stickers and pens; IC 018: Backpacks; IC 025: Apparel, namely, T-shirts and shoes; IC 028: Toys, namely, dolls, stuffed toys, board games and card games; and IC 030: Candy.
MASHA AND THE BEAR	4,790,906	08/11/2015		IC 009: Pre-recorded DVDs, namely, motion picture films featuring children's entertainment; and

¹ The factual background is taken from Plaintiff's Complaint, Motion, and supporting Declarations submitted by Plaintiff.

			08/04/2012	IC 041: Entertainment services, namely, production of motion picture films and motion picture film distribution services rendered through the media of cable television, broadcast television, and the Internet.
MASHA AND THE BEAR	5,420,550	03/13/2018	06/16/2016	<i>See n. 1 below</i> ²

² IC 003: Non-medicated soaps; almond soaps; antiperspirant soap; balms other than for medical or pharmaceutical purposes, namely, lip balms, body balms; bath salts, not for medical purposes; breath freshening sprays; breath freshening strips; cakes of toilet soap; cleaning preparations; cosmetic creams; cosmetic kits comprised on non-medicated cosmetics; cosmetics; cosmetic cotton wool; deodorant soap; deodorants for human beings or for animals; disinfectant soap; dry shampoos; dry cleaning preparations; hair lotions; hair sprays; laundry preparations, namely, laundry detergents, laundry softener, laundry bleach; lip glosses; lipstick; lipstick cases; lotions for cosmetic purposes; make-up; medicated soaps; mouth washes, not for medical purposes; mouthwashes; nail varnish; nail polish; nail art stickers; perfumes; shampoos; toilet water; toiletries, namely, non-medicated toiletry preparations; eau de cologne; perfumery; scented body splash water;

IC 012: Vehicles, namely, bicycles, tricycles, sleighs, kick sledges, baby carriages, prams, pushchairs, strollers; bicycles; tricycles; sleighs for transport purposes; kick sledges; baby carriages; prams; pushchairs; strollers; scooters, namely, motor scooters;

IC 014: Precious metals; jewelry; jewelry cases; imitation jewelry; clocks; wall clocks; electronic clocks; alarm clocks; clocks and watches; stands for clocks; horological instruments; chronometric instruments; precious stones; key rings of precious metal; watches;

IC 015: Accordions; cases for musical instruments; castanets; drums; drumsticks; electric musical instruments; flutes; guitars; harmonicas; horns; music synthesizers; music stands; musical boxes; pianos; saxophones; stands for musical instruments; tambourines; triangles; trombones; trumpets; violins; xylophones; musical instruments; basses;

IC 020: Furniture; furniture shelves; furniture of metal; figurines of wood, wax, plaster or plastic; fans for personal use, non-electric; air pillows, not for medical purposes; air mattresses, not for medical purposes; armchairs; baby changing mats; baskets, not of metal, namely, baker's bread baskets, Moses baskets; bead curtains for decoration; bed bases; bedding, except linen, namely, bed frames, bumper guards for cribs; beds; benches; bolsters; book rests; bottle caps, not of metal; cases of wood or plastic; bins of wood or plastic; boxes of wood or plastic; chests of drawers; chests for toys; clothes hooks, not of metal; coat hangers; clothes hangers; coat stands; containers,

MASHA AND THE BEAR	4,800,025	08/25/2015	04/15/2015	IC 016: Paper products, namely, children's storybooks, notebooks, coloring books, greetings cards, stationery, stickers and pens;
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not of metal for storage and transport; costume stands; cupboards; curtain rings; curtain rails; curtain rollers; curtain pins; curtain rods; curtain hooks; curtain fittings; cushions; deck chairs; decorations of plastic for foodstuffs; desks; divans; door handles, not of metal; door bells, not of metal, non-electric; door knockers, not of metal; doors for furniture; dressing tables; easy chairs; embroidery frames; toilet mirrors being hand-held mirrors; head-rests; high chairs for babies; house numbers, not of metal, non-luminous; hydrostatic beds, not for medical purposes; identification bracelets, not of metal; indoor window blinds; infant walkers; inflatable furniture; inflatable publicity objects; keyboards for hanging keys; ladders of wood or plastics; letter boxes not of metal or masonry; lockers; mats for infant playpens; mattresses; medicine cabinets; mirrors; decorative mobiles; office furniture; packaging containers of plastic; paper blinds; picture frames; pillows; placards of wood or plastics; plastic key cards, not encoded and not magnetic; playpens for babies; school furniture; chairs; shelves for storage; writing desks; sleeping bags for camping; sofas; stuffed animals; tables; tables of metal; tea trolleys; interior textile window blinds; tool and tool accessory trays, not of metal; umbrella stands; wall-mounted diaper changing platforms; table tops; slatted indoor blinds;

IC 021: Aerosol dispensers, not for medical purposes; baby bathtubs, portable; baskets for domestic use; bottles, sold empty; bowls; brushes, namely, toothbrushes, hair brushes; buckets; buckets made of woven fabrics; non-electric candelabra; candy boxes; ceramics for household purposes, namely, ceramic figurines, ceramic vases, ceramic vessels, bowls, plates and pots; coffeepots, non-electric; combs; electric combs; comb cases; confectioners' decorating bags; containers for household or kitchen use; cookery molds; cookie jars; cooking pots; cosmetic utensils, namely, cosmetic brushes; cups; cups of paper or plastic; dishes; disposable table plates; drinking bottles for sports; drinking glasses; dustbins; egg cups; floss for dental purposes; cups for eating fruits; frying pans; glass jars; glass bowls; gloves for household purposes; hot pots; ice buckets; ice cube molds; kitchen containers; lunch boxes; mugs; napkin holders; painted beverage glassware; paper plates; perfume vaporizers sold empty; perfume sprayers; porcelain ware, namely, mugs, statuettes; pots; pottery, namely, mugs, statuettes; salad bowls; soap holders; dishes for soap; soap boxes; soup bowls; straws for drinking; sugar bowls; tableware, other than knives, forks and spoons, namely, scoops for serving or portioning; tea services in the nature of tableware; teapots; toothbrushes, electric; toothbrushes; toothpicks; trays for domestic purposes; trays for domestic purposes, of paper; vases; vegetable dishes; and

IC 024: Textile material; bed covers; plastic table covers; bed linen; tablecloths, not of paper; handkerchiefs of textiles; travelling rugs; towels of textile; bed blankets; shower curtains of textile or plastic; curtains of textile or plastic; net curtains; table runners, not of paper; oilcloth for use as tablecloths.

				IC 018: Backpacks; IC 025: Apparel, namely, T-shirts and shoes; IC 028: Toys, namely dolls, stuffed toys, board games and card games; IC 030: Candy.
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See Declaration of Iullia Belkova in Support of Plaintiff’s Motion (ECF No. 5-1) (“Belkova Decl.”) at ¶ 4; *see also* United States Trademark Registrations for the Masha and The Bear Marks at issue attached as Composite Exhibit 1 to the Complaint. The Masha and The Bear Marks are used in connection with the design, marketing, and distribution of high-quality goods in the category identified above. *See id.*

Plaintiff is also the owner of the following copyrights registered in the United States of America:

Registration Number	Registration Date	Title of Work
VA 1-835-810	Aug. 21, 2012	Masha and the Bear Logo
PA 1-813-099	July 12, 2012	First day of school
PA 1-813-100	July 12, 2012	Laundry day
PA 1-813-101	July 12, 2012	Holiday on ice
PA 1-813-102	July 12, 2012	One, two, three! Light the Christmas tree!
PA 1-813-103	July 12, 2012	Recipe for disaster
TX 8-552-180	Dec. 27, 2017	Masha and the Bear: A Magical Holiday
TX 8-588-442	Aug. 14, 2017	Masha and the Bear: A Spooky Bedtime
TX 8-431-770	June 23, 2017	Masha and the Bear: Kidding Around!
TX 8-537-380	Dec. 27, 2017	Masha and the Bear: The Best Birthday
TX 8-444-776	Aug. 7, 2017	Masha and the Bear: The Girl Who Called Wolf

See Belkova Decl. at ¶ 5; *see also* United States Copyright Registrations for works at issue attached as Composite Exhibit 2 to the Complaint. Additionally, Plaintiff is the owner of may unregistered copyrighted works, originally produced in Russia, a Berne Convention signatory. *See id.* at ¶ 5;

see also Exhibit 3 to the Complaint. The copyrighted works identified in Composite Exhibit 2 and Exhibit 3 hereto are collectively referred to herein as the “Copyrighted Works.”

The Defendants, through the various Internet based e-commerce stores operating under the seller identities identified on Schedule “A” attached hereto (the “Seller IDs”), have advertised, promoted, offered for sale, or sold goods bearing and/or using what the Plaintiff has determined to be counterfeits, infringements, reproductions, or colorable imitations of the Masha and The Bear Marks and Copyrighted Works. *See* Balkova Decl. at ¶¶ 15-18; Declaration of Richard Guerra in Support of Plaintiff’s Motion, ECF No. [4-2] (“Guerra Decl.”) at ¶ 5.

Although each of the Defendants may not copy and infringe each of the Masha and The Bear Marks for each category of goods protected and/or Copyrighted Works, Plaintiff has submitted sufficient evidence showing each of the Defendants has infringed at least one or more of the Masha and The Bear Marks and/or Copyrighted Works. *See* Guerra Decl. at ¶ 4, Schedule E. The Defendants are not now, nor have they ever been, authorized or licensed to use, reproduce, or make counterfeits, reproductions, or colorable imitations of the Masha and The Bear Marks or Copyrighted Works. *See* Balkova Decl. at ¶ 15.

Plaintiff investigated the promotion and sale of counterfeit and infringing versions of Plaintiff’s branded and copyright protected products by the Defendants. *See* Balkova Decl. at ¶¶ 15-18. Plaintiff accessed each of the e-commerce stores operating under the Defendants’ Seller IDs, initiated the ordering process for the purchase of a product from each of the Seller IDs, bearing counterfeits of, at least, one of the Masha and The Bear Marks and Copyrighted Works at issue in this action, and requested each product to be shipped to an address in the Southern District of Florida. *See id.*; *see also* Guerra Decl. at ¶ 5. Plaintiff conducted a review and visually inspected the Masha and The Bear branded items for which orders were initiated by Plaintiff’s third party

investigator via the Seller IDs and determined the products were nongenuine, unauthorized versions of the Plaintiff's products. *See id.*

II. LEGAL STANDARD

To obtain a preliminary injunction, a party must demonstrate “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the nonmovant; and (4) that the entry of the relief would serve the public interest.” *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225-26 (11th Cir. 2005); *see also Levi Strauss & Co. v. Sunrise Int’l. Trading Inc.*, 51 F.3d 982, 985 (11th Cir. 1995) (applying the test to a preliminary injunction in a Lanham Act case).

III. CONCLUSIONS OF LAW

The declarations the Plaintiff submitted in support of its Motion for Preliminary Injunction support the following conclusions of law:

A. Plaintiff has a strong probability of proving at trial that (1) consumers are likely to be confused by the Defendants' advertisement, promotion, sale, offer for sale, or distribution of goods bearing and/or using counterfeits, reproductions, or colorable imitations of the Masha and The Bear Marks, and that (2) the products Defendants are selling and promoting for sale are copies of Plaintiff's products which bear copies of the Masha and The Bear Marks.

B. Because of the infringement of the Masha and The Bear Marks, Plaintiff is likely to suffer immediate and irreparable injury if a preliminary injunction is not granted. The following specific facts, as set forth in Plaintiff's Complaint, Motion, and accompanying declarations, demonstrate that immediate and irreparable loss, damage, and injury will result to Plaintiff and to consumers in view of the following considerations:

1. The Defendants own or control Internet based e-commerce stores and websites which advertise, promote, offer for sale, and sell products bearing counterfeit and infringing trademarks in violation of the Plaintiff's rights; and

2. There is good cause to believe that more counterfeit and infringing products bearing the Plaintiff's trademarks will appear in the marketplace; that consumers are likely to be misled, confused, and disappointed by the quality of these products; and that the Plaintiff may suffer loss of sales for its genuine products and an unnatural erosion of the legitimate marketplace in which it operates.

C. The balance of potential harm to the Defendants in restraining their trade in counterfeit and infringing branded goods if a preliminary injunction is issued is far outweighed by the potential harm to Plaintiff, its reputation, and its goodwill as manufacturers and distributors of quality products if such relief is not issued.

D. The public interest favors issuance of a preliminary injunction to protect the Plaintiff's trademark interests, to encourage respect for the law, to facilitate the invention and development of innovative products, and to protect the public from being defrauded by the illegal sale of counterfeit goods.

E. Under 15 U.S.C. § 1117(a), Plaintiff may be entitled to recover, as an equitable remedy, the illegal profits gained through the Defendants' distribution and sales of goods bearing counterfeits and infringements of the Masha and The Bear Marks. *See Reebok Int'l, Ltd. v. Marnatech Enters., Inc.*, 970 F.2d 552, 559 (9th Cir. 1992) (quoting *Fuller Brush Prods. Co. v. Fuller Brush Co.*, 299 F.2d 772, 777 (7th Cir. 1962) ("An accounting of profits under § 1117(a) is not synonymous with an award of monetary damages: '[a]n accounting for profits . . . is an equitable remedy subject to the principles of equity.'")).

F. Requesting equitable relief “invokes the district court’s inherent equitable powers to order preliminary relief, including an asset freeze, in order to assure the availability of permanent relief.” *Levi Strauss & Co.*, 51 F.3d at 987 (citing *Fed. Trade Comm’n v. United States Oil & Gas Corp.*, 748 F.2d 1431, 1433-34 (11th Cir. 1984)).

G. In light of the inherently deceptive nature of the counterfeiting business, and the likelihood that the Defendants have violated federal trademark laws, Plaintiff has good reason to believe the Defendants will hide or transfer their ill-gotten assets beyond the jurisdiction of this Court unless those assets are restrained.

IV. CONCLUSION

Upon review of Plaintiff’s Complaint, Motion, and supporting evidentiary submissions, it is **ORDERED AND ADJUDGED** that Plaintiff’s Motion for Preliminary Injunction, **ECF No. [5]**, is **GRANTED**, under the terms set forth below:

(1) Each of the Defendants, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any of the Defendants having notice of this Order are restrained and enjoined until further order from this Court as follows:

a. From manufacturing, importing, advertising, promoting, offering to sell, selling, distributing, or transferring any products bearing the Masha and The Bear Marks, or any confusingly similar trademarks, other than those actually manufactured or distributed by the Plaintiff;

b. From secreting, concealing, destroying, selling off, transferring, or otherwise disposing of: (i) any products, not manufactured or distributed by the Plaintiff, bearing and/or using the Masha and The Bear Marks, or any confusingly similar trademarks; (ii) any evidence relating to the manufacture, importation, sale, offer for sale, distribution, or transfer of

any products bearing and/or using the Masha and The Bear Marks, or any confusingly similar trademarks; or (iii) any assets or other financial accounts subject to this Order, including inventory assets, in the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, any of the Defendants, including, but not limited to, any assets held by or on behalf of any of the Defendants; and

c. From using any reproduction, counterfeit, copy, or colorable imitation of the Masha and The Bear Copyrighted Works in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants.

(2) Each of the Defendants, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any of the Defendants having notice of this Order shall immediately discontinue the use of the Masha and The Bear Marks, confusingly similar trademarks, or unauthorized copies of the Copyrighted Works on or in connection with all Internet based e-commerce stores owned and operated, or controlled by them, including the Internet based e-commerce stores operating under the Seller IDs.

(3) Each of the Defendants shall not transfer ownership of the Seller IDs during the pendency of this action, or until further order of the Court.

(4) Upon receipt of notice of this Order, the Defendants and any third party financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms who is providing services for any of the Defendants, including but not limited to, AliExpress, Alipay, Dhgate, Dhpay, Joom, Wish, Wishpay, Amazon, Amazon Pay, Ebay, Etsy, and/or Taobao, and their related companies and affiliates (collectively, the “Third Party Providers”), shall after receipt of notice of this Order, restrain the transfer of all funds, including funds relating to ongoing account activity, held or received for the Defendants’ benefit or to be

transferred into the Defendants' respective financial accounts, restrain any other financial accounts tied thereto, and immediately divert those restrained funds to a holding account for the trust of the Court. Such restraining of the funds and the disclosure of the related financial institution account information (as provided below) shall be made without notice to the account owners or the financial institutions until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by any Third Party Provider for any purpose (other than pursuant to a chargeback made pursuant to their security interest in the funds) without the express authorization of this Court.

(5) Any Defendant or Third Party Provider subject to this Order may petition the Court to modify the asset restraint set out in this Order.

(6) This Order shall apply to the Seller IDs, associated ecommerce stores and websites, and any other seller identification names, e-commerce stores, domain names, websites, or financial accounts which are being used by Defendants for the purpose of counterfeiting and infringing the Masha and The Bear Marks and Copyrighted Works at issue in this action and/or unfairly competing with Plaintiff.

(7) This Order shall remain in effect during the pendency of this action, or until such further dates as set by the Court or stipulated to by the parties.

(8) Pursuant to 15 U.S.C. § 1116(d)(5)(D) and Federal Rule of Civil Procedure 65(c), Plaintiff shall maintain its previously posted bond in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00), as payment of damages to which the Defendants may be entitled for a wrongful injunction or restraint, during the pendency of this action, or until further order of the Court.

DONE AND ORDERED in Chambers at Miami, Florida, on May 19, 2021.

A handwritten signature in black ink, appearing to be 'JB' with a long horizontal stroke extending to the right.

BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record

SCHEDULE A – Preliminary Injunction

Defendant No.	Company name
4	Quality Mascots Costumes
6	PersonalizedFun
7	Salens SVR Design
8	internationaltoyscom
9	kari882004
11	personalizedfun
12	angy_bay
14	edibleprintsoncake0
16	grfenterprises11
17	deadpunky
19	dpl-12
22	RinconOaxaca
23	babyedenboutique
25	jewelesdecor
26	SherriSewCuteDesigns
28	JoyJoeyKangaroo
29	CornerStorePinatas
34	ABCFABRICS
36	RachelTreasuresShop
38	amazingkidparty
44	PrettyInBowz
45	KdsUS
46	LilBirthdayBoutique
47	DurableFaceMasks
49	pinkbow89
50	MsCenterpieceGalore
53	ArtCityDigital
55	RoomOfDesign
56	LunaberryDreams
57	DaleyzasBowSupply
58	DaleyzasBowtique
61	LavandaBoutique
64	IzzysBowShop

Defendant No.	Company name
65	IbizaDesign
66	UbyUsDesign
67	PersonalizedTransfer
71	BooBooKittyBirthdays
75	ElenasCreativeShop
78	PinpointDesigns
80	Viktoriyasshop
82	OnceUponATutus
83	PersonalizedFunForU
85	EnilaDesigns
86	BoutiqueArtDesignUA
87	DESINGRSZNART
88	BubusMamaShop
90	Sparklyandparty
91	iCandiesCreation
92	UniqueGlitterShop
94	ISASANTO
95	FiestaOasis
100	ashSLAYScreationsco
103	DeLaFlorBoutique
108	Celebrationtshirts
110	Roy Parks
115	JoeJoestar
116	atiga jamel
117	Kicchetta95
121	pajon
122	GStyleD
123	Smiley Fashion Creations
124	Borntobechild
125	GGstd.
126	lomboklima
127	tembokbatas