

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DIRECT BIOLOGICS, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:18CV2039 HEA
)	
KIMERA LABS, INC.,)	
)	
Defendant.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff’s Emergency Motion to Extend Temporary Restraining Order, [Doc. No. 6]. Defendant opposes the Motion. For the reasons set forth below, the Motion will be granted.

Procedural Background

On November 30, 2018, Judge Dunne of the Circuit Court of St. Louis County entered the Temporary Restraining Order in this matter. The TRO is set to expire on December 17, 2018 at 9:00 A.M.

On December 6, 2018, Defendant removed the matter to this Court based on the Court’s diversity of citizenship jurisdiction. Plaintiff filed its Motion to Remand that same day, urging that the amount in controversy does not exceed \$75,000. The motion to remand remains pending at this time.

Discussion

Judge Dunne found that a temporary restraining order was warranted. In her Order, Judge Dunne determined Plaintiff had demonstrated immediate and irreparable injury, loss, or damage will result in the absence of relief.

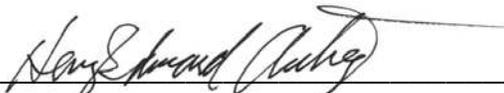
Plaintiff presented evidence of websites from four companies that appeared to be currently advertising the sale of Defendant's products. This evidence tended to suggest that Defendant was in violation of the parties' Exclusive Agreement, which requires that Defendant exclusively sell its products to Plaintiff. Judge Dunne also found that the cure provision in the Agreement had not yet expired, and the fact that Dr. Ross from Kimera Labs sent an email threatening to put Plaintiff out of business demonstrated a threat of irreparable harm to Plaintiff.

Likewise, Judge Dunne found that the limited shelf life of the product also demonstrated the threat of irreparable harm to Plaintiff.

The Court finds that the status quo should be maintained, and therefore, the Temporary Restraining Order will be extended for 14 days. The reasons set forth in Judge Dunne's original TRO remain valid at this time. In the event that the TRO is dissolved, Defendant may offer to sell its products to other entities in violation of the Exclusive Distribution and Supply Agreement, which would result in irreparable harm to Plaintiff.

The Temporary Restraining Order [Doc. No. 5] remains in effect until December 31, 2018 at 9:00 A.M. The bond will remain as the bond for the extension of the Temporary Restraining Order.

Dated this 17th day of December, 2018.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE