
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DOTERRA HOLDINGS, LLC, a Utah
limited liability company; and DOTERRA
INTERNATIONAL, LLC, a Utah limited
liability company,

Plaintiffs,

v.

AGILGO, a person or business entity of
unknown type; and JOSEPH CARBONETTA,
an individual,

Defendants.

**MEMORANDUM DECISION AND
ORDER GRANTING MOTION FOR
EXPEDITED THIRD-PARTY
DISCOVERY (DOC. NO. 9)**

Case No. 2:22-cv-00509

Magistrate Judge Daphne A. Oberg

Plaintiffs doTERRA Holdings, LLC and doTERRA International, LLC (collectively, “doTERRA”) move for expedited discovery in advance of a Rule 26(f) scheduling conference in order to identify a defendant in this case. (Mot., Doc. No. 9.) DoTERRA alleges defendant “AGilgo,” an unknown person or entity, advertises and sells counterfeit versions of doTERRA products on the website mercari.com. (Compl. ¶¶ 3, 18–19, Doc. No. 2.) DoTERRA asserts claims for trademark infringement and unfair competition, among other claims. (*Id.* ¶¶ 37–63.) DoTERRA seeks leave to serve Mercari, Inc. with a subpoena for information regarding the AGilgo account in order to identify this defendant. (Mot. 2, Doc. No. 9.)

Rule 26 of the Federal Rules of Civil Procedure provides “[a] party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except . . . when authorized by these rules, by stipulation, or by court order.” Fed. R. Civ. P. 26(d)(1). “[A] party seeking expedited discovery in advance of a Rule 26(f) conference has the burden of

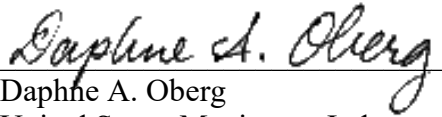
showing good cause for the requested departure from usual discovery procedures.” *Vient v. Ancestry*, No. 2:19-cv-00051, 2019 U.S. Dist. LEXIS 237828, at *2 (D. Utah Mar. 4, 2019) (unpublished) (quoting *Qwest Commc’ns Int’l, Inc. v. WorldQuest Networks, Inc.*, 213 F.R.D. 418, 419 (D. Colo. 2003)). “Good cause may be satisfied in cases involving claims of unfair competition and infringement.” *Crazy ATV, Inc. v. Probst*, No. 1:13-cv-00114, 2014 U.S. Dist. LEXIS 6414, at *4–5 (D. Utah Jan. 16, 2014) (unpublished) (internal quotation marks omitted).

DoTERRA has shown good cause to permit expedited discovery regarding the AGilgo account, based on doTERRA’s claim that this account is being used to sell counterfeit, infringing products. DoTERRA also presented evidence that the website operator will not release nonpublic account information without a subpoena. (Decl. of Kipp S. Muir ¶ 7, Doc. No. 10.) Under these circumstances, DoTERRA has demonstrated this discovery is necessary to identify and serve the unknown defendant.

DoTERRA’s motion for expedited discovery is GRANTED. DoTERRA may serve a subpoena on Mercari, Inc. for information related to the AGilgo account, including the identity and contact information of the account holder.

DATED this 30th day of August, 2022.

BY THE COURT:



Daphne A. Oberg
United States Magistrate Judge