

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Ford Motor Company,

Plaintiff,

v.

The Individuals, Business Entities, and
Unincorporated Associations Identified in
Exhibit “A,”

Defendants.

Civil Action No. 1:24-cv-4076

Judge Sharon Johnson Coleman

Magistrate Judge M. David Weisman

**MOTION FOR LEAVE TO FILE AMENDED PLEADINGS AND OTHER MOVING
PAPERS UNDER SEAL**

Pursuant to Federal Rule of Civil Procedure 5.2 and Local Rule 26.2, Plaintiff Ford Motor Company (“Ford” or “Plaintiff”), through its undersigned counsel, files this Motion requesting leave to file the following amended documents under seal: (1) Exhibits A, C, and D to Ford’s First Amended Complaint (“FAC Exhibits A, C, and D”) under Dkt. Nos. 25-27; and (2) Amended Memorandum of Law in Support of Ford’s Amended *Ex Parte* Motion for Temporary Restraining Order and Other Relief (“Amended TRO Memorandum”) under Dkt. No. 29.¹ In this case, Ford seeks an *ex parte* temporary restraining order and other relief under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, enjoining the willful acts of trademark counterfeiting, trademark infringement, dilution, unfair competition, and violations of Illinois state and common law by the individuals, business entities, and unincorporated associations identified in Exhibit “A” attached to the Complaint (collectively, “Defendants”). Each of the original Complaint and FAC Exhibits A, C, and D, Original and Amended TRO Memorandum, Woods Declaration and Exhibits, and Moreau

¹ Ford previously filed a separate Motion to Seal requesting that other documents be temporarily sealed (Dkt. No. 17).

Declaration and Exhibits identifies the Defendants and their eBay stores, describes in detail their counterfeiting scheme and specific conduct by them, and/or provides other information that would enable them to learn they have been named in these proceedings. It is therefore necessary to temporarily seal these documents to prevent Defendants from prematurely learning of these proceedings prior to entry and execution of a temporary restraining order, thereby preserving the status quo and the claims and remedies available to Ford.

I. ARGUMENT

Courts have discretion in determining whether to seal documents and will do so when public access would otherwise undermine and deny the Court its ability to grant effective relief. *See Columbia Pictures Indus, Inc. v. Jasso*, 927 F. Supp. 1075, 1077 (N.D. Ill. 1996). Where defendants are engaged in counterfeiting, as is the case here, “there is every reason to believe that, once served with notice of a lawsuit, they will not carefully preserve the evidence of their illegality.” 5 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 30:37 (5th ed.).

As supported by the allegations and evidence in the Amended TRO Memorandum, Defendants are operating a sophisticated counterfeiting scheme that seeks to avoid detection and evade enforcement. If Defendants were to prematurely learn that they have been named in this action, they are likely to destroy relevant evidence, deplete, hide or transfer assets to foreign accounts outside the jurisdiction of this Court, change their current online identities, and engage in other acts that would frustrate Ford’s ability to obtain its requested relief. In fact, Defendants have shown a propensity to ignore the law and conceal their financial accounts, eBay accounts, and other information associated with their businesses.

For example, most if not all Defendants disable their eBay stores and/or products listings

in an attempt to disappear as soon as they receive takedown requests or notice of litigation against them, only to reappear shortly thereafter under new fictitious store names or product listings. Declaration of Lisa Woods at ¶ 28. Moreover, China-based ecommerce sellers like Defendants are known to actively monitor websites like www.sellerdefense.cn, which alerts them to recently filed trademark counterfeiting/infringement lawsuits such as this case so that they can quickly shut down products listings and/or eBay accounts and transfer money out of financial accounts to evade enforcement and cover their tracks. Declaration of Luis Moreau at ¶¶ 14-18. Such actions would render prosecution of the case much more difficult and would frustrate the ultimate relief Ford seeks in this action. *See Matter of Vuitton et Fils, S.A.*, 606 F.2d 1, 5 (2d Cir. 1979) (“If notice is required, that notice all too often appears to serve only to render fruitless further prosecution of the action. This is precisely contrary to the normal and intended role of ‘notice,’ and it is surely not what the authors of the rule either anticipated or intended”).

In light of Defendants’ pattern of conduct and willful counterfeiting and infringement, and given that Defendants are all located overseas in China, there is a legitimate concern that they will do anything to cover their tracks, including destroying evidence, deleting their eBay accounts, transferring and concealing ill-gotten profits, etc. If that were to happen, Ford would be prevented from uncovering the extent of the harm caused and retrieving the captured information and evidence, and Defendants are likely to restart their counterfeiting operation under a new name. These actions would also frustrate the purpose of the Lanham Act and interfere with this Court’s power to grant Ford’s requested relief.

As a result, it is appropriate for this Court to temporarily seal original Complaint and FAC Exhibits A, C, and D, the original and Amended TRO Memorandum, the Woods Declaration and Exhibits, and the Moreau Declaration and Exhibits to prevent the public disclosure of information

identifying Defendants until Ford is able to effectuate service on Defendants, as well as those acting at their direction, such as eBay and payment processors used by Defendants. Temporarily sealing these documents would preserve the status quo and does not harm the public or the judicial process. After the Temporary Restraining Order has been served and relevant information on the Defendants has been obtained, the documents can be unsealed.

II. CONCLUSION

In view of the foregoing, Ford respectfully requests that the Court grant this Motion and allow Ford to file FAC Exhibits A, C, and D and the Amended TRO Memorandum under seal (along with the other documents previously requested to be filed under seal) and to keep these documents under seal until further Order of the Court.

Respectfully submitted,

FORD MOTOR COMPANY

Dated: June 7, 2024

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