

United States District Court
for the
Southern District of Florida

Tapestry, Inc., and others,)
Plaintiffs,)
)
v.) Civil Action No. 17-24561-Civ-
) Scola
)
2012coachoutlets.com, and)
others, Defendants.)

Order Granting Motion to Authorize Alternate Service of Process

This matter is before the Court on Plaintiffs Tapestry, Inc., Coach IP Holdings LLC, Stuart Weitzman IP, LLC and Kate Spade LLC (collectively, “Plaintiffs”) Motion for Order Authorizing Alternate Service of Process on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3) (ECF No. 13). In their Complaint, the Plaintiffs set forth claims against the Defendants for (1) trademark counterfeiting and infringement, (2) cybersquatting, and (3) common law trademark infringement (ECF No. 1). More specifically, the Plaintiffs allege that the Defendants promote, sell, offer for sale, and distribute goods bearing counterfeits and confusingly similar imitations of the Plaintiffs’ trademarks, thereby infringing the Plaintiffs’ trademarks. The Plaintiffs contend that the Defendants are carrying out these infringement activities through various fully interactive, commercial Internet websites and supporting domain names operating under their individual and/or business association names identified on Schedule “A” hereto (the “Subject Domain Names”).

The Plaintiffs contend that the Defendants operate via the Internet and utilize electronic means as reliable forms of contact. (Mot. 3.) According to the Plaintiffs, they have good cause to believe that the Defendants are all residents of China or other foreign jurisdictions. (*Id.* at 9.) The Plaintiffs further contend that all but two of the Defendants have at least one operational e-mail, demonstrating that this means of contact is not just effective, but the most reliable means of communicating with the Defendants. (*Id.* at 2-4, 7-8.)¹ Consequently, the Plaintiffs assert that e-mail is the most reliable means of providing the Defendants with notice of this action. (*Id.* at 8.)

¹ Although e-mails sent by the Plaintiffs’ counsel to Defendants Nos. 49 (www.nystyleshop.com) and 60 (zcoachoutlet.com) were returned as “undeliverable,” the Plaintiffs suggest that they can contact these Defendants through e-mail to their prior designated Registrar of record. (Mot. 4.)

Rule 4(f)(3) allows a district court to order an alternate method for service to be effected upon foreign defendants, provided that it is not prohibited by international agreement, and is reasonably calculated to give notice to the defendants. See *Brookshire Bros. v. Chiquita Brands Int'l, Inc.*, No. 05-CIV-21962, 2007 WL 1577771, at *2 (S.D. Fla. May 31, 2007) (Cooke, J.) (“[D]istrict courts have found broad discretion under Rule 4(f)(3) to authorize other methods of service that are consistent with due process and are not prohibited by international agreements.”) (citing *Prewitt Enters., Inc. v. Org. of Petroleum Exporting Countries*, 353 F.3d 916, 921, 927 (11th Cir. 2003)); *Rio Props., Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1015 (9th Cir. 2002). The plain language of Rule 4(f)(3) reflects that the decision to issue an order allowing alternate means of service lies within the discretion of the district court.

Service by e-mail is not prohibited under international agreement in this case. Although the United States and China are signatories to the Hague Convention on the Service Abroad of Extra-Judicial Documents in Civil and Commercial Matters (the “Hague Convention”), the Hague Convention does not specifically preclude e-mail and publication service. Where a signatory nation has objected to the alternative means of service provided by the Hague Convention, that objection is expressly limited to those means and does not represent an objection to other forms of service, such as e-mail or publication.² *Stat Med. Devices, Inc. v. HTL-Strefa, Inc.*, No. 15-CV-20590, 2015 WL 5320947, at *1 (S.D. Fla. Sept. 14, 2015) (O’Sullivan, Mag. J.) (noting that an objection to the alternative forms of service set forth in the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, 658 U.N.T.S. 16, is limited to the specific forms of service objected to). A court acting under Rule 4(f)(3), therefore, remains free to order alternative means of service where a signatory nation has not expressly objected to those means. See *Gurung v. Malhotra*, 279 F.R.D. 215, 219 (S.D.N.Y. 2011). Accordingly, service by e-mail or internet communication does not violate an international agreement.

Rule 4(f)(3) was “adopted in order to provide flexibility and discretion to the federal courts in dealing with questions of alternative methods of service of process in foreign countries.” *In re Int'l Telemedia Assoc., Inc.*, 245 B.R. 713 (N.D. Ga. 2000). What constitutes appropriate service varies depending on the circumstances of the case and turns on the court’s determination of whether the alternative method is reasonably calculated to apprise the parties of the pendency of the action and afford them an opportunity to present their

² China has not expressly objected to service via e-mail or publication. See ECF No. [13-2]

objections. *Philip Morris USA, Inc. v. Veles Ltd.*, 2007 WL 725412, at *2 (S.D.N.Y. Mar. 12, 2007).

Here, the Court finds that the Plaintiffs have shown good cause for leave to allow service of the Summonses, Complaint, and all future filings in this matter upon each Defendant via e-mail and publication. Accordingly, after careful review of the motion, the evidence submitted in support of the motion, and the applicable law,

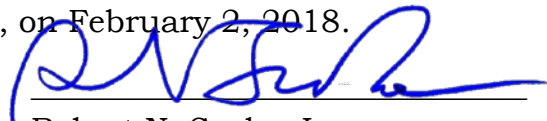
it is **ORDERED AND ADJUDGED** as follows:

1. The Plaintiffs' Motion for Order Authorizing Alternate Service of Process on Defendants Pursuant to Federal Rule of Civil Procedure 4(f)(3) (**ECF No. 13**) is **GRANTED**.

2. The Plaintiffs shall serve the Summonses, Complaint, and all filings in this matter upon the Defendants via the e-mail addresses provided by each Defendant as part of the domain registration records for each of their respective domain names or on their websites, including by onsite contact forms, or via e-mail to the current and prior registrar of record for their respective domain names. See attached Schedule "A" which lists the Defendants by Defendant number, Subject Domain Name, and associated e-mail.

3. The Plaintiffs shall effectuate service of process on the Defendants via publication by posting a copy of the Complaint and Summonses on the Internet website appearing at www.noticeoflawsuit1.com.

Done and ordered, Miami, Florida, on February 2, 2018.



Robert N. Scola, Jr.

United States District Judge

SCHEDULE "A"
DEFENDANTS BY NUMBER AND SUBJECT DOMAIN NAME

Defendant Number	Defendant / Domain Name	Email Address
1	2012coachoutlets.com	Customerservicesonline@gmail.com
2	Cheapcoachoutlet.net	Quenn7024@gmail.com
2	Cheapercoacchoutlet.net	Quenn7024@gmail.com
3	Classicbagonline.com	Nancybriles1124@hotmail.com
4	Classicbagssell.com	Evavernell0121@hotmail.com
5	Classicbagsonlinesale.com	Janiceadams0119@hotmail.com
6	Coach--outlet-online.org	Juxianlu890298@163.com
7	Coach-factoryoutlet-online.us.com	Sld-admin@us.com
8	Coach-outlet-online.com	Madeinputian@hotmail.com
9	Coach-outlet.net	Madeinputian@hotmail.com
10	Coachbags-outlet2017.org	Gaifan337@163.com
11	Coachbags2017.com	gvafk581205@gmail.com
12	Coachbagsforcheap.com	Svsagspp8@gmail.com
12	Coachoutletonline2017.com	Claralongoria16@yahoo.com
13	Coachbagsell.com	Kimadkins0223@hotmail.com
14	Coachbagsofficialsite.net	Successjerry@hxmail.com
15	Coachbagsonclearance.com	Svsagspp8@gmail.com
15	Coachoutletonline2017.com	Claralongoria16@yahoo.com
16	Coachbagusoutlet.com/	catherinemalandrinomr@gmail.com
17	Coachbagxen.com/	customer@servicer365d.com
18	Coachblacksales.com	fashionstoreonlines@outlook.com

19	Coachcoachtaiwan.com	2674580284@qq.com
20	Coachhandbagsshop.us.com/	Sld-admin@us.com
21	Coachoutlet-inc.net	Yangxianchengxn@163.com
22	Coachoutlet-site.com	Yudian382720@163.com
23	Coachoutletofficial.us.com	Sld-admin@us.com
24	Coachoutletonline-factory.us.com	Sld-admin@us.com
25	Coachbagsonsaleoutlet.com	Svsagspp8@gmail.com
25	Coachoutletonline2017.com/	Claralongoria16@yahoo.com
26	Coachoutletonlinecoachfactoryoutlet.com	Sld-admin@us.com
26	Coach-factoryoutletclearance.us.com/	Sld-admin@us.com
27	Coachoutletonlineestoresinc.com	Agrcc@fr-fr.in
28	Coachoutletonlineshop.com	customercareteam@onlinestoreforsales.com
29	Coachoutlets.us.org	Domains@centralnic.com
30	Coachoutletsale.net	Atwood0157@gmail.com
30	Cheapercoachoutlet.net	Quenn7024@gmail.com
31	Coachoutletsstore.net	1176250464@qq.com
32	Coachoutletstoress.us.com	Sld-admin@us.com
33	Coachoverbags.com	Sixtradings2@hotmail.com
34	Coachsaleus.com	Lshy123456@163.com
35	Coachuscom.com	1169152392@qq.com
36	Craftsbagdiscounts.com	Kathyrichey1209@hotmail.com
37	Craftsmanshipstore.com	Marejohnson1101@hotmail.com
38	Fashionbagsell.com	Rosenafus0213@hotmail.com
39	Hotbagsstore.com	Hotbagsstore.com@protecteddomainservices.com

40	Katespade-outlet.us.org	Domains@centralnic.com
41	Katespadeous.com	Customer@servicer365d.com
42	Katespadeoutletstore.us.org	Domains@centralnic.com
43	Katespadeoutletsus.com	Helponlineforsaleshop@outlook.com
44	Katespadeoutletuk.co.uk	selloutletstore@gmail.com
45	Katespadesen.com	Customer@servicer365d.com
46	Katespadewen.com	Customer@servicer365d.com
47	Katespadexen.com	Customer@servicer365d.com
48	Katespadexus.com	Customer@servicer365d.com
49	Nystyleshop.com	niginai@yahoo.com
50	Ofcoachoutlet.com	Sales.vogueelement@gmail.com
51	Online-coachbags.com	Atwood0157@gmail.com
51	Cheapercoacchoutlet.net	Quenn7024@gmail.com
52	Shangpin.com/women/brand/katespade	webadmin@shangpin.com
53	Shopcoach.us	WEBSITE FORM
54	Stuartweitzmanheels.com	Cqp4184013@yeah.net
55	Stuartweitzmanoutlet.store	Sarnie12780@outlook.com
56	Topclassicalshop.com	Reworyxkvnjr@yahoo.com
57	Topestcraft.com	Contact@privacyprotect.org
58	Topsclassicalart.com	Kimblqcpjjpte@yahoo.com
59	Vnhline.com	Glockner1988@163.com
60	Zcoachoutlet.com	Zhengsunbaoxn@163.com