

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

NETVUE TECHNOLOGIES CO., LTD.,
Plaintiff,
v.
2024 BEAUTIFUL STORE, *et al.*,
Defendants.

Civil Action No.
1:25-cv-06812-SDG

ORDER

This case is before the Court on two motions filed by Plaintiff Netvue Technologies Co., Ltd.: (1) an *ex parte* motion for a temporary restraining order (TRO), including a temporary injunction, temporary asset freeze, expedited discovery, and an order to show cause [ECF 4]; and (2) a motion for authorization to serve process on Defendants by electronic means [ECF 5]. Because Netvue has not provided specific facts that clearly show that it will suffer irreparable harm before Defendants can be heard in opposition, the *ex parte* TRO motion is **DENIED**. However, because service of process on Defendants by electronic means is appropriate under Fed. R. Civ. P. 4(f)(3), Netvue's motion for electronic service of process is **GRANTED**. Netvue is also **GRANTED LEAVE** to conduct early, expedited discovery into Defendants' identities.

I. Netvue is not entitled to an *ex parte* TRO.

Netvue sells tech-enabled bird feeders through its website as well as through online marketplaces such as Amazon.¹ Netvue owns three design patents for its bird feeders.² Defendants are various foreign entities, believed to be in China, that also sell tech-enabled bird feeders online.³ Netvue alleges that Defendants' bird feeders infringe on its patents.⁴ Netvue seeks an *ex parte* TRO enjoining Defendants from manufacturing or selling bird feeders that infringe on Netvue's patents and temporarily freezing Defendants' assets.⁵

A TRO may only be issued against an unserved party if both of the following conditions are met:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1).

¹ ECF 4-2, ¶¶ 8-9.

² *Id.* ¶ 5.

³ ECF 1, ¶¶ 29-30.

⁴ *Id.* ¶¶ 1, 30; *see also generally* ECFs 1-1, 1-2.

⁵ ECF 4.

Netvue’s filings do not clearly show that it will suffer immediate and irreparable injury *before Defendants can be heard in opposition*. It is not enough for Netvue to baldly allege that “Defendants are an interrelated group of infringers working in active concert,” or that Defendants’ “registration patterns, similarities among the Defendant E-commerce Stores, the Infringing Products for sale thereon, and common tactics employed to evade enforcement efforts establish a logical relationship among the Defendants.”⁶ None of these assertions are supported by “specific facts in an affidavit or a verified complaint.” Fed. R. Civ. P. 65(b)(1)(A). The hypothetical possibility that Defendants might re-register new online marketplace accounts, destroy electronic evidence, or transfer their assets out of the United States — unconnected to any specific facts — is not enough to justify the “extraordinary and drastic remedy” of a TRO. *Cooper v. Raffensperger*, 472 F. Supp. 3d 1282, 1288–89 (N.D. Ga. 2020) (quoting *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000)).

As Judge Kness of the Northern District of Illinois has recently observed, the bare argument that “foreign [] defendants are likely to dispose of assets or evidence and are thus primed to violate court orders if they knew they were subject to suit cannot be squared with Rule 65(b)’s specificity requirement,

⁶ ECF 4-1, at 5–6.

because it asks courts to assume what plaintiffs are required to allege as to each defendant.” *Eicher Motors Ltd. v. P’ships & Unincorporated Assocs. Identified on Schedule “A”*, 794 F. Supp. 3d 543, 550 (N.D. Ill. 2025). Thus, Netvue effectively “asks the Court to put the ex parte cart before the horse: presume that defendants will act nefariously unless shown otherwise. That gets Rule 65(b) backward. Our system defaults to the principles of transparency and notice, and *plaintiffs* must justify the extraordinary departure from that rule with specifics.” *Id.* at 550 (emphasis in original).⁷ Netvue has not done so here, and therefore an *ex parte* TRO is not warranted. However, for the avoidance of doubt, the Court takes no position on the merits of any future motion for preliminary injunctive relief against those adverse parties that receive notice and an opportunity to be heard in opposition.

II. Netvue may serve Defendants with process via electronic means.

Netvue also seeks authorization to serve Defendants with process via electronic means, because Defendants are online sellers located abroad known only by their store name and alphanumeric ID.⁸

⁷ As Judge Kness notes, the Lanham Act expressly allows *ex parte* seizures in trademark cases involving tangible counterfeit goods, while also incorporating several procedural safeguards. *Eicher Motors*, 794 F. Supp. 3d at 550 n.5. But this is a case of alleged design patent infringement, with no such statutory scheme.

⁸ ECF 5.

A plaintiff is not required to serve a person or corporation outside of the United States pursuant to the provisions of the Hague Service Convention “where the address of the person to be served with the document is not known.” Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters, Nov. 15, 1965, Art. 1, 20 U.S.T. 361, T.I.A.S. No. 6638, 658 U.N.T.S. 163. While it is unclear from Netvue’s filings whether Defendants’ addresses are truly unknown,⁹ Rule 4 “does not require a party to ‘attempt service under the Convention before seeking a court order directing alternative service.’” *Peanuts Worldwide LLC v. P’ships & Unincorporated Assocs. Identified on Schedule “A”*, 347 F.R.D. 316, 328 (N.D. Ill. 2024) (quoting *NBA Props., Inc. v. P’ships & Unincorporated Assocs. Identified in Schedule “A”*, 549 F. Supp. 3d 790, 796 (N.D. Ill. 2021), *aff’d on other grounds sub nom. NBA Props., Inc. v. HANWJH*, 46 F.4th 614 (7th Cir. 2022) and citing *Rio Props., Inc. v. Rio Int’l Interlink*, 284 F.3d 1007, 1015 (9th Cir. 2002); *Viahart, L.L.C. v. GangPeng*, No. 21-40166, 2022 WL 445161, at *3 (5th Cir. Feb. 14, 2022)).

Pursuant to Fed. R. Civ. P. 4(h), corporations may be served outside the United States in any manner prescribed by Rule 4(f) for serving an individual, except personal service. Fed. R. Civ. P. 4(h)(2). Rule 4(f)(3), in turn, provides that

⁹ See, e.g., ECF 1-1, at 24, 53, 82.

an individual outside the United States may be served by any means not prohibited by international agreement as the court orders. Additionally, any alternative method of service must comport with due process of law. Due process requires that persons whose property interests are at risk due to government action receive notice and an opportunity to be heard. *Thomas v. United States*, 681 F. App'x 787, 790 (11th Cir. 2017). The notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950)).

Consistent with the findings of numerous other courts, this Court finds that service on Defendants by email is reasonably calculated under the circumstances to apprise Defendants of the pendency of this action and to afford them an opportunity to appear and be heard. *Rio Props.*, 284 F.3d at 1017; *Nat'l Ass'n for Stock Car Auto Racing, Inc. v. Does*, 584 F. Supp. 2d 824, 826 (W.D.N.C. 2008); *Popular Enters., LLC v. Webcom Media Grp., Inc.*, 225 F.R.D. 560, 562 (E.D. Tenn. 2004). Finally, China has not objected to service of process by electronic means such as email, electronic messaging service, or website publication.

Accordingly, the Court **ORDERS** that, pursuant to Fed. R. Civ. P. 4(f)(3), Netvue is authorized to provide notice of these proceedings to Defendants, including notice of any preliminary injunction hearing, service of process pursuant

to Fed. R. Civ. P. 4(f)(3), and any future motions, by email using email addresses provided by Defendants or the online marketplaces.

The Court further **ORDERS** that, pursuant to Fed. R. Civ. P. 26(d)(1), Netvue is authorized to serve early, expedited discovery on Defendants and third parties via email, which shall serve their responses and objections to such discovery within seven days. This expedited discovery is limited to the identities and locations of the Defendants listed in Appendix A, including all known contact information and associated email addresses.

III. Conclusion

Netvue's *ex parte* motion for a TRO [ECF 4] is **DENIED**. Netvue's motion for authorization to serve process on Defendants by electronic means [ECF 5] is **GRANTED**. Netvue is **GRANTED LEAVE** to serve early, expedited discovery on Defendants and any third parties regarding the identities and locations of the Defendants listed in Appendix A, including contact information and associated email addresses. Netvue is further **DIRECTED** to move to unseal this case within 7 days of serving Defendants by electronic means as authorized in this Order.

SO ORDERED this 5th day of December, 2025.


Steven D. Grimberg
United States District Judge