

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

GABRIELLE BRIANNA DELGADO,

Plaintiff,

v.

THE PARTNERSHIPS AND  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE A,

Defendants.

No. 24 C 11940

Judge Thomas M. Durkin

**ORDER**

Plaintiff has moved for a temporary restraining order based on her claim for copyright infringement. The Supreme Court has “made clear that there is no . . . presumption” of irreparable harm simply by showing the defendant infringed a copyrighted work. *See Flava Works, Inc. v. Gunter*, 689 F.3d 754, 755 (7th Cir. 2012). However, “it is well established that the loss of goodwill and reputation, if proven, can constitute irreparable harm,” and courts have applied this principle to find irreparable harm in copyright cases. *See Life Spine Inc. v. Aegis Spine, Inc.*, 8 F.4th 531, 546 (7th Cir. 2021).

Plaintiff alleges that she is “irreparably damaged through loss of control over the creative content of the valuable copyright, reputation, goodwill, the quality, and ability to license as a result of Defendants’ actions.” R. 1 at 3. Plaintiff also states in her declaration that the copyrighted image “is widely recognized and exclusively associated by consumers, the public, and the trade with my name.” R. 15-3 at 3. But

Plaintiff alleges no facts to support her allegation that she possesses a valuable reputation or goodwill that Defendants could injure. Mere allegation that Plaintiff has such a reputation is insufficient without more to establish irreparable harm that justifies the extraordinary remedy of an ex parte temporary restraining order. More factual allegations are required. *See, e.g., Spin Master Ltd. v. The Partnerships etc. on Schedule A*, 24 C 3006, Dkt. # 16 (N.D. Ill. Apr. 17, 2024) (declaration containing allegations the Court found sufficient to establish irreparable harm from a copyright violation); *Peanuts Worldwide LLC v. The Partnerships etc. on Schedule A*, 24 C 8685, Dkt. # 17 (N.D. Ill. Sept. 24, 2024 (same)).<sup>1</sup>

Even if Plaintiff does not have goodwill or a reputation among consumers, Plaintiff's work might be sufficiently unique that it is recognized and sought after by consumers such that Defendants' sales of copies directly harm Plaintiff's business in a one-to-one or zero-sum fashion. Courts have found irreparable harm in such circumstances from a copyright violation where the plaintiff's works are "unique" or "niche" and it can be readily inferred that the defendant's sale of copies will directly harm the plaintiff's business, as opposed to more general harm to the market for Plaintiff's product. *See Life Spine*, 8 F.4th at 546 ("The court explained that Life Spine had worked to develop 'niche contracts' with hospitals by marketing the ProLift as a unique product."); *M1 Holdings Inc. v. Members 1st Fed. Credit Union*, 2022 WL

---

<sup>1</sup> The Court acknowledges that it has in the past entered temporary restraining orders based on allegations similar to those Plaintiff makes here. The Court is aware that this order marks a reconsideration by the Court of the proper application of the standard for establishing irreparable harm.

17487942, at \*11 (N.D. Ill. Dec. 7, 2022) (“It claims it will suffer damage to its reputation and goodwill but provides no objective evidence of its own standing in the market, nor any evidence that M1 Holdings’ reputation or quality is inferior such that confusion would negatively reflect on Members 1st.”); *see also Wainwright Sec., Inc. v. Wall St. Transcript Corp.*, 558 F.2d 91, 94 (2d Cir. 1977) (defendant’s sales of the alleged copies would “materially reduce the demand for [the plaintiff’s] services”).

Plaintiff, however, has not made such allegations here. Plaintiff’s copyright is for a non-descript drawing of a mushroom. Without more specific facts demonstrating that consumers recognize Plaintiff’s drawing and seek it out for purchase, it is not plausible that purchases of Defendants’ products directly harm Plaintiff’s sales, which might justify a temporary restraining order.

Regardless of the copyrighted work’s unique nature, some courts have found sales on “internet stores” of products that allegedly violate a copyright demonstrate irreparable harm because “the customers are unquantifiable and not easily identified.” *Antsy Labs, LLC v. Individuals Identified on Schedule A*, 2022 WL 17176498, at \*3 (N.D. Ill. Nov. 23, 2022); *see also Roadget Bus. Pte. Ltd. v. PDD Holdings Inc.*, 2023 WL 4865005, at \*10 (N.D. Ill. July 31, 2023). This Court disagrees. The number of customers and sales is easily determined with a subpoena to Amazon or the other relevant e-commerce platform.

For these reasons, the Court finds that Plaintiff has not established that it will suffer irreparable harm without injunctive relief. Therefore, Plaintiff’s motion [14] is denied in part and granted in part. The motion is denied in that the Court will not

enter a temporary restraining order, a temporary asset restraint, or order expedited discovery. The motion is granted in that service of process by email and/or electronic publication is permitted. The motion for leave to file under seal [12] is denied. The motion for leave to file excess pages [13] is granted.

ENTERED:

A handwritten signature in black ink, reading "Thomas M. Durkin". The signature is written in a cursive, flowing style.

---

Honorable Thomas M. Durkin  
United States District Judge

Dated: December 19, 2024