

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

SHENZHEN NANLIU OPTOELECTRONIC  
TECHNOLOGY CO., LTD.,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS, OR  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE A,

Defendants.

No. 24 C 11654

Judge Thomas M. Durkin

**ORDER**

Plaintiff has moved for a temporary restraining order based on its claim for design patent infringement. The Court finds that Plaintiff's claim for design patent infringement, without more, is insufficient to demonstrate irreparable harm. The only harm at issue here is lost sales or improperly gained profits, and both can be remedied with damages.

Often, the producer of a consumer product will seek an injunction against a producer of similar products alleging that the defendant's product will dilute or injure the plaintiff's brand, i.e., a claim for trade dress or trademark infringement. Such harm is more difficult to quantify and remedy with damages, and more likely to call for preliminary injunctive relief. But Plaintiff has not brought such a claim. Plaintiff does not allege that it owns a legally protected brand, so there is no risk that consumers will confuse the source of Defendants' products with Plaintiff's brand. The only concern is sales and profits from otherwise anonymous products that are drops

in the bucket of the proliferation of generic consumer products available on e-commerce marketplaces. And loss of sales and profits for such products is easily remedied with damages.

The Court also finds that Plaintiff has not established (1) that the balance of harms is in its favor or (2) that an injunction is in the public interest. Regarding these two points, Plaintiff argues that Defendants are “knowing and intentional infringers [who] are entitled to little consideration in terms of balancing the harms.” R. 5-1 at 7. But this argument flies in the face of Plaintiff’s other allegations which indicate that Defendants are nothing more than Plaintiff’s competitors. For instance, Plaintiff alleges that “Defendants reside and/or operate in the Peoples Republic of China or other foreign jurisdictions with lenient intellectual property enforcement systems or redistribute products from the same or similar sources in those locations,” that “operate one or more of the e-commerce stores” using “seller aliases” that make it possible “to conceal their identities and the full scope of their operation to make it virtually impossible for Plaintiff to learn Defendants’ true identity and the scope of their infringing network operations.” R. 1 at 2 (¶¶ 7-8). These allegations are not so different from how Plaintiff characterizes itself as an entity located in China that sells its products through an e-commerce subsidiary. *See* R. 5-3 at 2-3 (¶¶ 5, 9). The most reasonable inference from Plaintiff’s allegations is not that Defendants are “intentional infringers,” but that Plaintiff and Defendants share the market for LED lamps, and Plaintiff seeks to assert its design patent as an aspect of its competition with Defendants. This is a perfectly legitimate reason to file a lawsuit. It is not,

however, a basis to enjoin Defendants' business and freeze the assets in their e-commerce accounts without first giving Defendants notice of Plaintiff's claim and the opportunity to defend themselves against Plaintiff's claim. Contrary to Plaintiff's arguments, Plaintiff's allegations do not indicate that Defendants are entitled to any less "consideration" from the Court than is Plaintiff. An ex parte injunction would impermissibly tip the Court's scales in Plaintiff's favor.

For these reasons, the Court finds that Plaintiff has not established that it will suffer irreparable harm without injunctive relief. For the same reasons, the Court finds that Plaintiff has not established that an injunction is in the public interest. And therefore, Plaintiff's motion for a temporary restraining order, temporary asset restraint, and limited expedited discovery [5] is denied. Plaintiff's motion to seal [7] is also denied. Plaintiff's motion for alternative service [6] is granted.

ENTERED:

A handwritten signature in cursive script, reading "Thomas M. Durkin".

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Honorable Thomas M. Durkin  
United States District Judge

Dated: November 14, 2024