

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 26-26668-CIV-ALTONAGA/Reid

**SHENZHEN XINBENCHUANG
ELECTRONICS CO., LTD.,**

Plaintiff,

v.

**THE INDIVIDUALS, PARTNERSHIPS
AND UNINCORPORATED ASSOCIATIONS
LISTED ON SCHEDULE “A,”**

Defendants.

**PLAINTIFF’S EXPEDITED EX PARTE MOTION TO CONTINUE THE TEMPORARY
RESTRAINING ORDER FOR GOOD CAUSE UNDER FEDERAL RULE OF CIVIL
PROCEDURE 65(b)(2)**

Plaintiff, Shenzhen Xinbenchuang Electronics Co., Ltd. (“Plaintiff”), moves under Federal Rule of Civil Procedure 65(b)(2) to extend the Temporary Restraining Order [ECF No. 17] (the “TRO”) through October 29, 2026, at 5:00 p.m. The TRO expires on Thursday, October 15, 2026, at 5:00 p.m. (TRO ¶ 7). Plaintiff needs a ruling before that hour, because once the TRO lapses it cannot be extended, and no Defendant has appeared who could consent to a longer one.

I. WHERE THE CASE STANDS

1. The Court entered the TRO without notice on October 6, 2026. By its terms it did not take effect until Plaintiff posted a \$5,000 bond (TRO ¶ 5), which Plaintiff did on October 8, 2026. [ECF No. 21].

2. On October 9, 2026, a process server delivered the TRO to Amazon.com, Inc. and Walmart Inc. The TRO was also sent by email to Amazon and Walmart. Amazon has implemented the restraint. Walmart has not yet confirmed that it has implemented the restraint.

3. On October 2, 2026, the Court denied Plaintiff's motion for a preliminary injunction without prejudice because no Defendant had been served. [ECF No. 15]. That order fixes the sequence that remains. The Defendants must be served before Plaintiff can be heard on a preliminary injunction, and because every Defendant is located abroad and is identified only through its marketplace account, service on most of them requires an order under Federal Rule of Civil Procedure 4(f)(3).

4. On October 9, 2026, the Court denied Plaintiff's motion for leave to effect alternative service because the Per-Defendant Service Chart on which that motion relied was not filed with it. [ECF No. 22]. That was counsel's error. The Court had granted leave to file the chart under seal two days earlier. [ECF No. 20]. Plaintiff has since lodged under seal the unredacted Schedule A, Exhibit 3 to the Amended Verified Complaint, and Exhibits C-1 and C-2 to the Declaration of Cole Carlson. [ECF No. 23]. Together with this motion, Plaintiff files its Renewed Ex Parte Motion for Leave to Effect Service by Alternative Means, with the Service Chart lodged under seal as Exhibit A as the October 7 Order permits. [ECF No. 25].

5. The Court also authorized one limited subpoena each to Amazon and Walmart for each Defendant's account contact information, account balance, and sales of the accused listings, returnable within five days of service. The responses supply the email addresses through which any authorized alternative service would be made and the account information the Court will need at a preliminary injunction hearing.

II. GOOD CAUSE EXISTS TO EXTEND THE TRO

6. A temporary restraining order issued without notice expires at the time the court sets, "unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record."

Fed. R. Civ. P. 65(b)(2). No Defendant has appeared, so consent is not available. Plaintiff relies on good cause.

7. The Court has already said what an ex parte order is for: preserving the status quo and preventing irreparable harm “just so long as is necessary to hold a hearing, and no longer.” (TRO at 3 (quoting *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974))). Plaintiff asks for an extension for that purpose and no other. The hearing cannot take place before October 15. Service depends on the Court’s ruling on the renewed service motion, and the Court has held that Plaintiff cannot proceed on a preliminary injunction until service is made. [ECF No. 15]. Rule 65(b)(3) requires Plaintiff to proceed with its motion at that hearing, and Plaintiff will. An extension is the only way to reach the hearing with the restraint still in place.

8. The harm the Court found has not passed. It is at its height. The Court found that Plaintiff’s costume sales are concentrated in the weeks before Halloween and that Defendants sell competing copies at lower prices during those same weeks. (TRO at 4). Halloween falls on October 31. If the TRO lapses on October 15, the disabled listings can be restored and the restrained funds withdrawn for the final two weeks of the season, which is the period in which the Court found the injury least capable of repair by a later damages award. The Court also found good cause to believe Defendants would move funds and alter listings once they learned of this action. (TRO at 4-5). That risk grows, not shrinks, once the marketplaces implement the restraint, because Defendants will learn of it through their own accounts.

9. An extension imposes nothing on Defendants that the Court has not already weighed. Any Defendant may appear and move to dissolve or modify the TRO, including on the ground that particular restrained funds are not attributable to sales of the accused products. (TRO

¶ 3); Fed. R. Civ. P. 65(b)(4). Plaintiff's bond remains in place as security for any Defendant found to have been wrongfully restrained.

10. Plaintiff does not ask the Court to overlook its own part in the timing. Had the Service Chart been filed with the first service motion, the Court could have ruled on service on October 9. That delay is Plaintiff's, not the Defendants'. But the conduct the TRO restrains continues regardless, and the consequence of counsel's filing error should not be the return of the accused listings during the weeks the Court found most damaging to Plaintiff.

III. THE LENGTH OF THE EXTENSION

11. Rule 65(b)(2) permits an extension "for a like period." The TRO ran nine days from entry. Plaintiff asks that it be extended through October 29, 2026, at 5:00 p.m., fourteen days from its present expiration and no longer than the fourteen days the Rule allows for the original order. A nine-day extension would run out before email service could be completed, Defendants given a fair opportunity to respond, and a hearing held. If the Court concludes that the extension may not exceed the TRO's original nine-day term, Plaintiff asks in the alternative that the TRO be extended through Monday, October 26, 2026, at 5:00 p.m.¹

12. Plaintiff proposes the following schedule. Within two business days after the Court rules on the renewed service motion, Plaintiff will serve each Defendant by the method the Court authorizes, file proof of that service, and file its renewed motion for a preliminary injunction. Plaintiff will appear at any hearing the Court sets on or before the extended expiration date.

¹ Undersigned counsel is also out of the country from October 14 through October 23 and would be unavailable for a hearing on a motion for preliminary injunction during that time.

IV. DATE BY WHICH A RULING IS NEEDED

13. Under Local Rule 7.1(d)(2), Plaintiff states that it needs a ruling before 5:00 p.m. on Thursday, October 15, 2026, when the TRO expires by its terms. A ruling after that hour cannot extend an order that has already lapsed.

V. CONCLUSION

Plaintiff respectfully requests that the Court extend the Temporary Restraining Order [ECF No. 17] on its existing terms through October 29, 2026, at 5:00 p.m., or in the alternative through October 23, 2026, at 5:00 p.m., and enter the accompanying proposed order, which states the reasons for the extension as Rule 65(b)(2) requires.

CERTIFICATION UNDER LOCAL RULE 7.1(a)(3)

This motion seeks injunctive relief and is properly filed ex parte, so no conferral is required. S.D. Fla. L.R. 7.1(a)(3). No Defendant has appeared.

Date: October 13, 2026

Respectfully submitted,

/s/ Cole Carlson
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 13, 2026, I filed this motion with the Clerk of Court using CM/ECF. Because the motion is submitted ex parte and no Defendant has appeared or been served, it has not been served on any Defendant. Plaintiff will serve this motion, together with any order entered on it, by the method the Court authorizes.

/s/ Cole Carlson

Cole Carlson