

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ATELIER EUMORI,

Plaintiff,

v.

THE PARTNERSHIPS, AND  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED IN SCHEDULE "A",

Defendants.

Civil Action No. 2:26-cv-899-MRH

JURY TRIAL DEMANDED

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**Memorandum of Law in Support of Plaintiff's Motion for Authorization to  
Perform Electronic Service of Process Under Fed. R. Civ. P. 4(f)(3)**

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Atelier Eumori, (“Plaintiff”) hereby seeks this Court’s authorization, *ex parte*<sup>1</sup> to effectuate alternative service of process on The Individuals, Partnerships, And Unincorporated Associations Identified In Schedule “A” (collectively, “Defendants”) by email and electronic publication in this action pursuant to Federal Rules of Civil Procedure 4(f)(3). In support for this request, Plaintiff submits as follows:

Defendants have offered for sale, sold, and distributed knock-off and infringing versions of Plaintiff’s copyrighted “Social Battery Pin” and “Mood Tracker Sliding Enamel Pin” within this district and throughout the United States. Plaintiff has sued Defendants for copyright infringement based on Defendants manufacturing, importing, exporting, advertising, marketing, promoting, distributing, offering for sale and/or selling unlicensed and infringing versions of Plaintiff’s Images (“Plaintiff’s Work”), which infringe at least one claim of the Asserted Copyrighted Images. Defendants are infringing the Asserted Copyrighted Images by offering for sale and selling the Infringing Plaintiff’s Products through their use of seller identifiers set forth in Schedule “A” to the Complaint (“Seller IDs”) and pseudo-anonymous online commerce storefronts (“Online Storefronts”) under Seller IDs on online commerce platforms including, but not limited to, Amazon.com, and Wal-Mart.com (“Online Marketplaces”).

Pursuant to Federal Rules of Civil Procedure 4(f)(3), Plaintiff requests an Order authorizing Plaintiff to serve process electronically by providing a link to an online repository maintained by

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<sup>1</sup> Plaintiff moves for alternate service *ex parte* because Plaintiff has not yet provided Defendants with notice of this action. Contemporaneously herewith, Plaintiff has filed its *Ex Parte* Motion For Temporary Restraining Order Including: A Temporary Injunction, A Temporary Asset Restraint, And Expedited Discovery (“TRO Motion”), together with the supporting Memorandum in Support, Declarations, and Exhibits. This Motion references Plaintiff’s TRO Motion and, as such, Plaintiff seeks to prevent premature disclosure of that filing. However, Plaintiff is filing this Motion so that, in the event Plaintiff’s TRO Motion and this Motion are granted, Plaintiff can effectuate service of process pursuant to Rule 4 of the Federal Rules of Civil Procedure simultaneously with providing notice of the Court’s order on Plaintiff’s TRO Motion.

Plaintiff containing the Complaint For Damages And Injunctive Relief, the Temporary Restraining Order, and all documents filed and discovery served in this action; and by sending an email to the addresses known and later-identified through expedited discovery, which email will include a link to Plaintiff's online repository for efficient access to all relevant filings in this action. Electronic notice from Plaintiff, along with the notice Defendants are expected to receive from the Online Marketplaces on which they operate, is reasonably calculated under the circumstances to notify Defendants of this action and afford an opportunity for Defendants to appear and respond.

### **I. STATEMENT OF FACTS**

Electronic service is appropriate here because Defendants are foreign entities operating Online Storefronts to promote, advertise, distribute, offer for sale, and sell Infringing Products through Online Marketplaces where Defendants: (1) provide incomplete and/or false identifying information, including false names and addresses, to conceal Defendants' identities and locations so as to avoid liability for unlawful conduct; and (2) rely primarily, if not solely, on electronic communications to communicate with third party service providers and customers located in the United States, which demonstrates the reliability of electronic service. (Wolfgram Declaration in Support of this Memorandum ("Wolfgram Decl."), ¶¶ 6-9. Defendants conduct their business operations in the United States primarily, if not exclusively, online, including through Online Marketplaces (*e.g.*, Amazon.com). Defendants further use electronic means of communication as part of their online operations such that Plaintiff will be able to provide Defendants with notice of this action via email and website publication. Plaintiff has created a file sharing link at <http://stratumlaw.quickconnect.to/d/s/18JxmUAg3KZYGSHc1uLR3z3W3P1mset6/IsUhA1Ny7v-wADHp9Tpd3xFAAFruJKU0-xbqAwikGNg0> such that anyone accessing Plaintiff's website will find a link to the online repository of

documents in this action.

Amazon.com, and Wal-Mart.com maintain contact email addresses for sellers operating via the Online Marketplaces and, based on previous actions, Online Marketplaces identify these contact email addresses upon compliance with a TRO such as Plaintiff has requested contemporaneously in this case. Electronic service by email and online publication is beneficial to the parties and the Court, as it allows for prompt service and the ability to move this action forward, and is appropriate here. *See Rio Props., Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1017-18 (9th Cir. 2002) (holding that email service was constitutionally acceptable because the defendant conducted business over the internet, used email regularly, and encouraged contact by email); *Aquapaw Brands LLC v. Yan-Peng*, No. 2:21-CV-01784-CCW, 2023 WL 3538551, at \*3 (W.D. Pa. May 18, 2023) (citing *Rio Props.* with approval to permit email service) (*Aquapaw I*).

Defendants are all foreign entities and, upon information and belief, all reside in and conduct business from the People's Republic of China ("China"), which is a signatory to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ("Hague Convention"). (Wolfgram Decl., ¶¶ 12-16, Ex. 1 and Ex. 2.). Courts routinely permit alternative service under Rule 4(f). *See, e.g., Nifty Home Prods., Inc. v. Ladyana US*, No. 22cv0994, 2023 WL 3276407, at \*7, 9 (W.D. Pa. May 5, 2023). The Hague Convention "does not displace Rule 4(f)(3)." *Nagravision SA v. Gotech Int'l Tech. Ltd.*, 882 F.3d 494, 498 (5th Cir. 2018). Furthermore, neither the U.S. Constitution, Federal Rules of Civil Procedure, the Hague Convention, nor the laws of the China appear to prohibit email service. (Wolfgram Decl., ¶¶ 12-16 and Ex. 1 and Ex. 2 to Wolfgram Decl.).

Plaintiffs are not required to attempt service of process on Defendants by traditional methods prior to requesting alternative service. *See Rio Props.*, 284 F.3d at 1014-15; *In re LDK*

*Solar Sees. Litig.*, No. 3:07-cv-05182, 2008 WL 2415186, \*2 (N.D. Cal. Jun. 12, 2008) (authorizing an alternative means of service on Chinese defendants without first attempting service through the Hague Convention’s Chinese Central Authority). Service by email is simply one option used to serve international defendants and is not a “last resort” or “extraordinary.” *Rio Props.*, 284 F.3d at 1014-15; *see also Aquapaw I*, 2023 WL 3538551, at \*2-3.

Accordingly, Plaintiff requests permission to electronically serve Defendants. The proposed Temporary Restraining Order (“TRO”) includes authorization for electronic service and provides for issuance of a single original summons in the name of all Schedule “A” Defendants, which shall apply to all Defendants in accordance with Fed. R. Civ. P. 4(b).

Defendants operate online businesses and use electronic means of communication such that notice of this action via electronic means will be the most efficient form of notice for Defendants. As a practical matter, it is necessary for sellers who operate entirely online (such as Defendants) to communicate with customers electronically (so that customers may contact the sellers to ask questions about the products, place orders, and receive other information from the sellers). Further, online sellers such as Defendants generally must maintain accurate email addresses to facilitate communication with Online Marketplaces and other financial institutions, payment processors, banks, escrow services, money transmitters, marketplace platforms, or third party service providers (including, but not limited to, Amazon.com, Inc., Amazon Capital Services, Inc., Amazon.com Services LLC, Amazon Payments, Inc., Wal-Mart.com USA, LLC, Walmart Inc.), and their related companies and affiliates (the “Third Party Institutions”). (Wolfgram Decl., ¶¶ 6-9).

The Online Marketplaces used by Defendants (*e.g.*, Amazon.com and Wal-Mart.com) maintain contact email addresses for merchants operating through their online platforms and,

based on past actions, these third parties identify the contact email addresses of Defendants during the course of compliance with a TRO (such as the TRO sought by Plaintiff in the instant case). (Woflgram Decl., ¶¶ 6-9). Additionally, Defendants operating through at least Amazon.com provide an electronic form of contact in the form of Amazon.com's internal messaging system, which facilitates communication between customers and merchants in the Amazon.com marketplace (a similar system appears to be used by Wal-Mart.com, Temu.com and Alibaba.com as well). (*Id.*).

Accordingly, each Defendant will be provided timely and efficient notice of this action through their primary means of communication; specifically, Plaintiff will electronically send to Defendants' corresponding email addresses (or communicate through direct messaging/inquiry systems) electronic correspondence including a link to an online repository maintained by Plaintiff and regularly updated with all filings in this action. In this manner, Defendants will receive real-time access to all electronic filings in this action for their review, download, or printing – a real-time and efficient mechanism similar to the Court's CM/ECF procedures. (Wolfgram Decl., ¶¶ 10-11).

Finally, Plaintiff will be able to provide each Defendant notice of this action via public announcement on Plaintiff's designated website. Plaintiff has created a publication website available at

<http://stratumlaw.quickconnect.to/d/s/18JxmUAg3KZYGSHc1uLR3z3W3P1mset6/IsUhA1Ny7v-wADHp9Tpd3xFAAFruJKU0-xbqAwikGNg0>, where Plaintiff will provide a link to the documents in this case such that anyone accessing Plaintiff's website will be able to access such documents for free and with the same convenience as this Court's CM/ECF system. The address for Plaintiff's website will be provided to Defendants via their email addresses and will be

included as part of service of process in this matter. (Wolfgram Decl., ¶ 11).

## **I. ARGUMENT**

Pursuant to Federal Rules of Civil Procedure 4(h)(2), a foreign partnership or other unincorporated association may be served with process in any matter permitted by Rule 4(f) for serving foreign individuals. Rule 4(f)(3) allows a district court to authorize an alternate method of service to be effected upon a foreign defendant, provided that it is not prohibited by international agreement and is reasonably calculated to give notice to the defendant. Alternative service of process electronically is appropriate here given that Defendants have established exclusively online businesses that rely primarily, if not solely, on electronic communications for their operation. Accordingly, this Court should permit service on Defendants electronically.

### **A. The Court May Authorize Service Via Electronic Means Pursuant To Fed. R. Civ. P. 4(f)(3)**

Federal Rules of Civil Procedure 4(f) governs service of process upon individuals in foreign countries, and provides that service may be accomplished “by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention....” Fed. R. Civ. P. 4(f)(1). In addition to this provision, Rule 4(f)(3) also allows service “by other means not prohibited by international agreement, as the court orders.” Fed. R. Civ. P. 4(f)(3); *see also Henry F. Teichmann, Inc. v. Caspian Flat Glass OJSC*, No. 2:13-cv-00458, 2013 WL 1644808, at \*1-2 (W.D. Pa. Apr. 16, 2013). Notably, service under subsection 4(f)(3) is “neither a last resort nor extraordinary relief.... it is merely one means among several which enables service of process on an international defendant.” *Aquapaw I*, 2023 WL 3538551, at \*2 (quoting *Rio Props.*, 284 F.3d at 1015). Since online commerce sellers using Online Marketplaces, like Defendants, have been known to use aliases,

false addresses, and other incomplete identification information to shield their true identities and there are, in fact, no physical addresses associated with several Defendants, this is the exact circumstance where the Court should exercise the authority to grant alternative methods of service. *See id.* at \*3; *see also Henry F. Teichmann*, 2013 WL 1644808 (“The decision of whether to allow alternative service of process under Rule 4 is committed to the district court’s sound discretion.”).

Federal Rule 4(f)(3) permits service in a place not within any judicial district of the United States<sup>2</sup> “by any internationally agreed means of service that is reasonably calculated to give notice.” *See Rio Props*, 284 F. 3d at 1014 & n2. The Ninth Circuit held, “[w]ithout hesitation,” that email service of an online business defendant “was constitutionally acceptable.” *Id.* at 1017. The Court reached its conclusion because, *inter alia*, the defendant conducted its business over the internet, used email regularly in its business, and encouraged parties to contact it via email. *Id.* at 1017-18.

Rule 4 does not require attempting to serve process by other enumerated methods before petitioning the court for alternative relief and Rule 4(f) does not create a hierarchy of preferred service methods. *Rio Props.*, 284 F. 3d at 1014-15. The plain language of the Rule requires only that service be directed by the Court and not prohibited by international agreement – there are no other requirements. *Id.* at 1014 (holding that alternative service is neither a “last resort” nor “extraordinary relief” but just one method among several available); *see also Aquapaw I*, 2023 WL 3538551, at \*2. Accordingly, service of Defendants by email

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<sup>2</sup> In the unlikely event that a Defendant maintains a United States presence despite the inability to find such address, service would be governed by Fed. R. Civ. P. 4(e)(1), which provides for “following state law for service a summons in an action brought in courts of general jurisdiction in the state where the district court is located.” Pennsylvania Rule of Civil Procedure 430 provides: “If service cannot be made under the applicable rule the plaintiff may move the court for a special order directing the method of service.” Thus, service by electronic means would also be sufficient

and electronic publication is proper under the present circumstances.

Likewise, the United States Constitution does not mandate that service be effected in any particular way. Constitutional due process requires only that the method of service 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.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *see also Rio Props.*, 284 F.3d at 1016-17; *Aquapaw I*, 2023 WL 3538551, at \*3. Accordingly, courts in this district have allowed a variety of alternative service methods, including email service and electronic publication, where the proposed alternative service method is reasonably likely to notify the defendant of the pendency of the action. *See, e.g.*, in the event of any Defendant in the United States. *See Power Corp. of Canada v. Power Financial*, No. 4:09-cv-00510, 2009 WL 982750, at \*1-2 (M.D. Pa. Apr. 13, 2009) (holding email service proper under Rule 430 when a defendant takes steps to physical address). *Aquapaw I*, 2023 WL 3538551, at \*2-3; *Nifty Home Prods.*, 2023 WL 3276407, at \*7, 9; *Aquapaw LLC v. Allnice*, No. 2:20-cv-01954-CCW, 2022 WL 3019808, at \*4 (W.D. Pa. July 29, 2022) (*Aquapaw II*); *see also National Assoc. for Stock Car Auto Racing, Inc. v. Does*, 584 F. Supp. 2d 824, 826 (W.D.N.C. 2008) (“acknowledging the realities of the twenty-first century and the information age” in permitting electronic service).

Here, electronic service on Defendants will satisfy due process by apprising each Defendant of this action and giving them the opportunity to answer Plaintiff’s claims. Based on Plaintiff’s investigation, each Defendant has at least one form of electronic means of contact – accordingly, this form of contact is not just effective but, also, the likely most reliable means of communicating with Defendants to provide notice of this action and the

filings herein. Further, providing a link to an online repository of the filings in this case will provide more efficient and reliable notice to Defendants than traditional service. *See, e.g., Aquapaw II*, 2022 WL 3019808, at\*4 (“Here, the Court authorized alternative service, finding that service by e-mail and website publication was reasonably calculated to apprise the interested parties of the pendency of this action and afford them an opportunity to present their objections.”); *see also Rio Props.*, 284 F.3d at 1017 (finding “not only that service of process by email was proper—that is, reasonably calculated to apprise [the defendant] of the pendency of the action and afford it an opportunity to respond—but in this case, it was the method of service most likely to reach [the defendant].”); *Popular Enters., LLC v. Webcom Media Grp., Inc.*, 225 F.R.D. 560, 562 (E.D. Tenn. 2004) (“Rule 4(f)(3) ... is expressly designed to provide courts with broad flexibility in tailoring methods of service to meet the needs of particularly difficult cases. Such flexibility necessarily includes the utilization of modern communication technologies to effect service when warranted by the facts.”). As was determined in *Aquapaw I*, *Aquapaw II*, and *Nifty Home*, among other authority, this Court should permit email and electronic publication as alternative means of service because such service is the *best* means of service given Defendants’ primary, if not exclusive, online activities and regular use of electronic communication. *Aquapaw I*, 2023 WL 3538551, at \*2-3; *Nifty Home Prods.*, 2023 WL 3276407, at \*7, 9; *Aquapaw II*, 2022 WL 3019808, at \*4; *see also e.g., Aquapaw Brands, LLC v. Joyi Yan*, No. 2:22-cv-01607, slip op. (W.D. Pa. Nov. 17, 2022) (*Aquapaw III*); *Talisman Designs v. Dasani, et al.*, No. 2:20-cv-01084, slip op. (W.D. Pa. Jul. 22, 2022).

Additionally, service of a Defendant by publication on a designated website, such as the website to be offered by Plaintiff, has been deemed appropriate where the website

publication “was reasonably calculated to apprise the interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Aquapaw II*, 2022 WL 3019808, at \*4. Plaintiff has created a file sharing link at <http://stratumlaw.quickconnect.to/d/s/18JxmUAg3KZYGSHe1uLR3z3W3P1mset6/IsUhA1Ny7v-wADHp9Tpd3xFAAFruJKU0-xbqAwikGNg0>, such that anyone accessing Plaintiff’s website will find a link to the online repository of documents in this action. The address for Plaintiff’s website will be provided to Defendants via their email addresses and will be included as part of service of process in this matter. Providing updated access to the case filings (including Summons, Complaint, Motions, Orders, etc.) will provide timely notice to Defendants more than sufficient to satisfy due process.

**B. Electronic Service is Not Prohibited by International Agreement**

The alternative electronic service sought in this case is not prohibited by international agreement. Based upon the limited information available through Defendants’ Online Storefronts, Plaintiff has good cause to believe the Defendants may reside in China and/or redistribute products from sources in China. Both China and the United States are signatories to the Hague Convention. (Wolgram Decl., ¶¶ 12-16, and Ex. 1 and Ex. 2 to Wolgram Decl.). However, the Hague Convention does not preclude the Court from authorizing alternative electronic service. *See Aquapaw II*, 2022 WL 3019808, at \*4 (“service by e-mail and website publication is not prohibited by international agreement”).

Alternative means of service are not prohibited where a signatory to the Hague Convention has not expressly objected to those means of service. *See Aquapaw I*, 2023 WL 3538551, at \*2. While China has objected to Article 10 of the Hague Convention, that Article references service of process through “postal channels” and “judicial officers”, *not* electronic service as sought here; accordingly, China has not objected to the alternative means of service

sought by Plaintiff – email service and electronic website publication. (Wolfgram Decl., ¶¶ 12-16 and Ex. 1 and Ex. 2 to Wolfgram Decl.). Accordingly, “a court acting under Rule 4(f)(3) remains free to order alternative means of service that are not specifically referenced in Article [10].” *Gurung v. Malhotra*, 279 F.R.D. 215, 219 (S.D.N.Y. 2011). And, as other courts have held, an objection to the enumerated alternative means of service in Article 10 does not constitute a *per se* objection to other forms of service (*i.e.*, email and website publication). *See In re S. African Apartheid Litig.*, 643 F. Supp. 2d 423, 434, 437 (S.D.N.Y. 2009). Consequently, China’s objections do not prevent this Court from authorizing the alternative service methods requested by Plaintiff herein. *See, e.g., Nifty Home Prods.*, 2023 WL 3276407, at \*7, 9 (permitting email service to defendants located in China); *see also Gurung*, 279 F.R.D. 215 at 219-20 (approving service of process on foreign defendants via email despite India’s objection to Article 10 because an “objection to service through postal channels does not amount to an express rejection of service via electronic mail,” and collecting cases finding same). Here, electronic service on Defendants is not only “reasonably calculated” to notify Defendants – such electronic notice is the single best method of service given Defendants’ primary, if not sole, method of communication is electronic. Due process is clearly satisfied under these circumstances and Defendants will receive timely and efficient notice of this action so that they may appear and respond. *See Aquapaw I*, 2023 WL 3538551, at \*2-3; *Nifty Home Prods.*, 2023 WL 3276407, at \*7, 9; *Aquapaw II*, 2022 WL 3019808, at \*4; *see also e.g., Aquapaw Brands, LLC v. Joyi Yan*, No. 2:22-cv-01607, slip op. (W.D. Pa. Nov. 17, 2022) (*Aquapaw III*); *Talisman Designs v. Dasani, et al.*, No. 2:20-cv-01084, slip op. (W.D. Pa. Jul. 22, 2022). As in *Aquapaw I*, *Aquapaw II*, and *Nifty Home*, among other authority cited herein, email service is appropriate here because Defendants

conduct their business online, use email regularly in support of that business, and encourage parties to contact them through email. *Id.*

## II. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court grant the present motion and authorize service of the summonses, the Complaint, discovery, and all filings in this matter upon each Defendant in this action by electronic means, specifically:

Via email by providing a link to an online repository maintained by Plaintiff and regularly updated with all documents filed and all discovery served in this action sent via email to each Defendant through (i) the contact email addresses identified by third party online commerce platforms including, but not limited to, Amazon.com and Wal-Mart.com (“Online Marketplaces”) used by Defendants identified through expedited discovery provided by third parties, or (ii) the direct messaging/inquiry systems used by Online Marketplaces; and Via website publication by providing access to copies of the publicly-available documents filed, and discovery served, in this action on Plaintiff’s designated a file sharing link located <http://stratumlaw.quickconnect.to/d/s/18JxmUAg3KZYGSHc1uLR3z3W3P1mset6/IsUhA1Ny7v-wADHp9Tpd3xFAAFruJKU0-xbqAwikGNg0>.

A Proposed Order granting the Authorization to Perform Electronic Service of Process Under Fed. R. Civ. P. 4(f)(3) is being submitted concurrently herewith.

May 18, 2026.

Respectfully submitted,

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