

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TEXAS, AUSTIN DIVISION

Michael Salcedo v. The Partnerships and Unincorporated
Associations Identified on Schedule A

Salcedo · No. 1:25-CV-1920-RP · Decided December 30, 2025

SUMMARY

The United States District Court for the Western District of Texas denied without prejudice the plaintiff’s motions for a temporary restraining order, preliminary injunction, and electronic service of process. The court found that the plaintiff had not sufficiently supported its allegations that 101 defendants were acting in concert or were properly joined under Federal Rule of Civil Procedure 20.

CASE DETAILS

COURT	United States District Court for the Western District of Texas, Austin Division
WRITING FOR THE COURT	Robert Pitman
JURISDICTION	United States District Court for the Western District of Texas, Austin Division
DECIDED	December 30, 2025
DOCKET	1:25-CV-1920-RP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought a temporary restraining order and preliminary injunction against 101 alleged trademark infringers, along with permission to serve defendants electronically. The district court denied both motions without prejudice.
STANDARD OF REVIEW	The court applied the four-factor standard for temporary restraining orders and required the plaintiff to clearly carry the burden of persuasion on each factor. It also evaluated the proposed joinder under Federal Rule of Civil Procedure 20.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential

TOPICS

- injunctions
- joinder
- service of process
- trademark infringement
- civil procedure

PRACTICE AREAS

civil procedure

trademark law

trademark infringement

injunctive relief

QUESTIONS PRESENTED

1. Whether the plaintiff established a sufficient basis to join 101 defendants in one action and restrain them collectively based on allegations that they were acting in concert.
2. Whether the plaintiff established the requirements for a temporary restraining order and preliminary injunction.
3. Whether the court should authorize electronic service of the TRO on defendants when no TRO had been granted and the plaintiff sought ex parte relief.

HOLDINGS

1. The proposed joinder allegations were insufficient because the plaintiff did not substantiate that the particular defendants acted in concert or that their alleged conduct arose from the same transaction, occurrence, or series of transactions or occurrences.
2. The motion for a temporary restraining order and preliminary injunction was denied without prejudice because the plaintiff failed at this stage to adequately support the asserted concerted conduct and proposed collective restraint.
3. The motion for electronic service of process was denied without prejudice because the court did not grant a TRO and the plaintiff sought ex parte relief before notifying defendants of the lawsuit.

KEY QUOTATIONS

“A TRO is “a highly accelerated and temporary form of preliminary injunctive relief, which may be granted without notice to the opposing party or parties.”” (Order)

“A [TRO] is an extraordinary remedy and should only be granted if the plaintiffs have clearly carried the burden of persuasion on all four requirements.” (Order)

“Without more, this allegation is insufficient for this Court to presume that joining the 101 Defendants in a TRO is appropriate.” (Order)

FACTUAL BACKGROUND

Michael Salcedo alleged that 101 partnerships and unincorporated associations were acting in concert to manufacture, import, distribute, offer for sale, and sell unauthorized or infringing goods. Salcedo relied on alleged similarities among e-commerce stores, including templates, registration patterns, payment and checkout methods, advertising tactics, text, images, and other identifiers, as well as generalized allegations that counterfeiters communicate through online forums. The court found that the exhibits showed substantial variation in prices, names, sellers, styles, and sales platforms and did not establish a commonality among the defendants beyond the allegedly trademarked material.

PROCEDURAL HISTORY

Plaintiff filed an amended complaint alleging trademark infringement and sought to join 101 defendants in a single action and restraining order. The court found the allegations that the defendants were acting in concert insufficiently substantiated and denied the requested injunctive relief without prejudice. Because no TRO was granted, the court also denied without prejudice the motion for electronic service of process.

DISPOSITION

other

CASES CITED

- Cotton v. Texas Express Pipeline, LLC, 2017 WL 2999430, at *1 (W.D. Tex. Jan. 10, 2017)
- Clark v. Prichard, 812 F.2d 991, 993 (5th Cir. 1987)
- Nichols v. Alcatel USA, Inc., 532 F.3d 364, 372 (5th Cir. 2008)
- Miss. Power & Light Co. v. United Gas Pipeline, 760 F.2d 618, 621 (5th Cir. 1985)
- Allied Mktg. Group, Inc. v. CDL Mktg., Inc., 878 F.2d 806, 809 (5th Cir. 1989)

OPINION

Salcedo

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MICHAEL SALCEDO, §

§ Plaintiff, § § v. § 1:25-CV-1920-RP §

THE PARTNERSHIPS AND §

UNINCORPORATED ASSOCIATIONS §

IDENTIFIED ON SCHEDULE A, §

§ Defendants. §

ORDER

Before the Court is Plaintiff Michael Salcedo's ("Plaintiff") Motion for a Temporary Restraining Order ("TRO") and Preliminary Injunction, (Dkt. 6). Plaintiff requests that this Court restrain a list of 101 Defendants ("Defendants"), (Dkt. 9-2), because, according to Plaintiff, they are acting in concert to infringe its trademarks. Because Plaintiff's allegations that Defendants are working in active concert are unconvincing to the Court at this time, the Court will deny Plaintiff's Motion without prejudice. A TRO is "a highly accelerated and temporary form of preliminary injunctive relief, which may be granted without notice to the opposing party or parties." Cotton v. Texas Express Pipeline, LLC, 2017 WL 2999430, at *1 (W.D. Tex. Jan. 10, 2017). The party moving for a TRO must establish that: "(1) there is a substantial likelihood that the movant will prevail on the merits; (2) there is a substantial threat that irreparable harm will result if the injunction is not

granted; (3) the threatened injury outweighs the threatened harm to the defendant; and (4) the granting of the [TRO] will not disserve the public interest.” *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987). “A [TRO] is an extraordinary remedy and should only be granted if the plaintiffs have clearly carried the burden of persuasion on all four requirements.” *Nichols v. Alcatel USA, Inc.*, 532 F.3d 364, 372 (5th Cir. 2008) (citation and quotation marks omitted). It is the burden of the party seeking the TRO to establish each of the four elements. *Miss. Power & Light Co. v. United Gas Pipeline*, 760 F.2d 618, 621 (5th Cir. 1985); see also *Allied Mktg. Group, Inc. v. CDL Mktg., Inc.*, 878 F.2d 806, 809 (5th Cir. 1989). Because a TRO is extraordinary relief, and Plaintiff requests that the Court enjoin 101 defendants in a single TRO, the Court will carefully consider Plaintiff’s joinder allegations. Under Federal Rule of Civil Procedure 20, defendants may “be joined in one action” if “any right to relief is asserted to them . . . with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences.” The Court will deny Plaintiff’s motion without prejudice because Plaintiff’s joinder allegations are insufficient and appear potentially inaccurate. Plaintiff alleges that “Defendants are working in active concert to knowingly and willfully manufacture, import, distribute, offer for sale, and sell Unauthorized/Infringing Goods in the same transaction, occurrence, or series of transactions or occurrences.” (Am. Compl., Dkt. 5, at 11). However, at this stage, Plaintiff’s efforts to substantiate the assertion that these 101 Defendants are working in active concert fail. First, Plaintiff alleges that “e-commerce stores operating under the Seller Aliases often share unique identifiers” like “templates with common design elements,” “same registration patterns,” “accepted payment methods, check-out methods, keywords, advertising tactics, similarities in price and quantities, the same incorrect grammar and misspellings, and/or the use of the same text and images” that suggest “Unauthorized/Infringing Goods were manufactured by and come from a common source.” (Am. Compl., Dkt. 5, at 10). However, despite having filed exhibits with the Court documenting the allegedly infringing products, Plaintiff nowhere identifies in those exhibits what those common features are that indicate a common source, so the Court cannot assess Plaintiff’s claims. The Court also notes that the exhibits Plaintiff filed, (Dkts. 9-3 through 9-13), reveal that the allegedly infringing products in fact have a wide variety of price points, names, seller names, styles, and sales platforms, such that the Court cannot presume the 101 Defendants are acting in concert based on these attributes alone. In fact, in its own review of the exhibits, the Court cannot identify a commonality among the images of the allegedly infringing products beyond the trademarked material itself, which does not, alone, show that Defendants are acting in concert with one another. Second, Plaintiff bases its proposed joinder of Defendants in a common restraining order on the notion that “[e]-commerce store operators like Defendants are in regular communication with each other and regularly participate in QQ.com chat rooms and through websites such as sellerdefense.cn, kaidianyo.com, and kuajingvs.com regarding tactics for operating multiple accounts, evading detection, pending litigation, and potential new lawsuits.” (Am. Compl., Dkt. 5, at 11). Plaintiff does not suggest that these Defendants in particular use these websites or have

acted in collaboration with one another, only that counterfeiters in general have avenues for doing so. Without more, this allegation is insufficient for this Court to presume that joining the 101 Defendants in a TRO is appropriate. Accordingly, IT IS ORDERED that Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, (Dkt. 6), is DENIED WITHOUT PREJUDICE. Specifically, Plaintiff's motion is denied without prejudice to refile. In any re-filed Motion for a Temporary Restraining Order or Preliminary Injunction, Plaintiff must address the Court's above concerns. Also, in any re-filed Motion for a Temporary Restraining Order, Plaintiff must file a substantive proposed order including a background section, legal analysis, and requested relief. Further, Plaintiff's Motion for Electronic Service of Process, (Dkt. 7), requests permission to electronically serve Defendants with a copy of the TRO. Because the Court has not granted a TRO, and Plaintiff seeks ex parte relief prior to notifying Defendants of its lawsuit, IT IS FURTHER ORDERED that Plaintiff's Motion for Electronic Service of Process, (Dkt. 7), is DENIED WITHOUT PREJUDICE. SIGNED on December 30, 2025.

ROBERT PITMAN

UNITED STATES DISTRICT JUDGE