

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

XYZ Corporation,

*Plaintiff,*

v.

THE PARTNERSHIPS and  
UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE “A,”

*Defendants.*

**CIVIL ACTION No: 1:22-cv-04189**

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S MOTION FOR  
ELECTRONIC SERVICE OF PROCESS PURSUANT TO FED. R. CIV. P. 4(f)(3)**

Pursuant to Federal Rule of Civil Procedure 4(f)(3), Plaintiff XYZ Corporation (“Plaintiff”) requests this Court’s authorization to serve process of the Complaint, the Temporary Restraining Order, Motion for Leave to Temporarily Proceed Under a Pseudonym and to File Certain Documents Under Seal, and other relevant documents by electronic publication and/or electronic mail, including by electronically publishing on a website and/or by sending an e-mail to the e-mail addresses identified in Exhibit 1 to the Declaration of Mir Y. Ali (“Ali Decl.”). Plaintiff submits that providing notice via electronic publication and e-mail, along with any notice that Defendants receive from payment processors, is reasonably calculated under all circumstances to apprise Defendants of the pendency of the action and afford them the opportunity to present their objections.

Electronic service is appropriate and necessary here because Defendants, on information and belief: (1) have provided false names and physical address information (in most cases, no physical address information) in their registrations for their respective marketplace accounts in order to

conceal their locations and avoid liability for their unlawful conduct; and (2) rely on electronic communications as their primary, if not sole, means of communicating with their registrars and customers, demonstrating the reliability of this method of communication by which the registrants of their respective marketplace accounts may be apprised of the pendency of this action. Authorizing service of process solely via e-mail and/or electronic publication will benefit all parties and the Court by ensuring that Defendants receive prompt notice of this action, thus allowing this action to move forward expeditiously. Absent the ability to serve Defendants in this manner, Plaintiff will almost certainly be left without the ability to pursue a final judgment. Moreover, authorizing service of process solely via e-mail and electronic publication will benefit all parties and the Court by ensuring that Defendants receive prompt notice of this action, thus allowing this action to move forward expeditiously.

Typically, Defendants are required to provide an e-mail address and physical address to third-party online marketplace platforms such as eBay, AliExpress, Alibaba, Amazon, Wish.com, and Dhgate when registering their accounts. Ali Decl. at ¶ 2.

Online marketplace operators must generally provide a valid e-mail address to customers for completing payment and/or managing their e-commerce stores. *Id.* Moreover, it is necessary for online marketplace operators to provide a valid e-mail address so that their marketplaces may communicate with them regarding issues related to the purchase, transfer, and maintenance of the various accounts. *Id.* Additionally, a valid email address is necessary for online marketplace account operators for completing payment via third-party payment platforms such as PayPal. *Id.* As such, it is far more likely that Defendants can be served electronically than through traditional service of process methods.

However, unlike an e-mail address, which is typically verified by the third-party online marketplace platforms, no verification typically occurs for physical addresses. *Id.* at ¶ 3. An online marketplace operator can input any physical address and, as a result, such addresses are usually false and/or are not where the online marketplace operator is located. *Id.* As such, even if a physical address is available, it is not a reliable means for identifying and locating Defendants. *Id.*

Federal Rule of Civil Procedure 4(f)(3) allows this Court to authorize service of process by any means not prohibited by international agreement as the Court directs. *Rio Props., Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002). The Ninth Circuit in *Rio Properties* held, “without hesitation,” that e-mail service of an online business defendant “was constitutionally acceptable.” *Id.* at 1017. The Court reached this conclusion, in part, because the defendant conducted its business over the Internet, used e-mail regularly in its business, and encouraged parties to contact it via e-mail. *Id.*

Courts in the Northern District of Illinois have followed *Rio Properties* and held that alternate forms of service pursuant to Rule 4(f)(3), including e-mail service, are appropriate and, in some instances, may be the only means of effecting service of process. *See, e.g., Gianni Versace, S.P.A. v. Yong Peng, et al.*, Dkt. No. 70, No. 18-cv-5385 (N.D. Ill. Feb. 27, 2019); *MacLean-Fogg Co. v. Ningbo Fastlink Equip. Co., Ltd.*, No. 1:08-cv-02593, 2008 WL 5100414, \*2 (N.D. Ill. Dec. 1, 2008) (holding e-mail and facsimile service appropriate).

Here, Plaintiff respectfully submits that permitting service by electronic publication and/or e-mail is appropriate and comports with constitutional notions of due process, particularly given that Defendants conduct their internet-based activities anonymously.

Rule 4 requires only that service be directed by the court and not be prohibited by international agreement. Alternative service under Rule 4(f)(3) is neither a “last resort” nor “extraordinary relief,” but is rather one means among several by which an international defendant may be served. *Id.* Accordingly, this Court may, and should, allow Plaintiff to serve the Defendants via electronic publication and/or e-mail.

For the reasons set forth herein, Plaintiff respectfully requests this Court’s permission to serve Defendants via electronic publication and e-mail. In accordance with this request, the proposed Sealed Temporary Restraining Order includes authorization to serve Defendants

electronically and provides for issuance of a single original summons<sup>1</sup> in the name of “The Partnerships and all other Defendants identified in the Complaint” that shall apply to all Defendants in accordance with Federal Rule of Civil Procedure 4(b).

Dated: August 10, 2022

Respectfully submitted,

/s/ Mir Y. Ali  
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<sup>1</sup> The Advisory Committee Notes to the 1993 Amendment to Rule 4(b) states, “If there are multiple defendants, the plaintiff may secure issuance of a summons for each defendant, *or may serve copies of a single original bearing the names of multiple defendants* if the addressee of the summons is effectively identified.” Fed. R. Civ. P. 4(b) advisory committee notes (1993) (emphasis added).

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was electronically-filed on August 10, 2022, with the Clerk of the Court using the CM/ECF system.

/s/ Mir Y. Ali

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