UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

ROKU INC.

Plaintiff,

-against-

THE INDIVIDUALS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, AND UNINCORPORATED ASSOCIATIONS IDENTIFIED ON SCHEDULE A HERETO,

Defendants,

ORDER

22 Civ. 202 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

Proceeding by Order to Show Cause, Plaintiff Roku Inc. seeks a preliminary injunction against the Defendants identified in Schedule A to the Complaint (Dkt. No. 13), except Defendants Parts Outlet, vtinva, Auteey, Carbonline, CØLIPSØ, JEM&JULES, USonline911, Buy & Delight, Melody Store, Sourcing Remote, Value Foremost, and Chunghop Store. (See Dkt. Nos. 26, 30-31, 33-34, 36-38, 39) The Defendants against whom Plaintiff seeks a preliminary injunction will be referred to as the "Remaining Defendants." The Remaining Defendants use at least the Domain Names and the Online Marketplace accounts identified in Schedule A to the Complaint and Schedule A to the Preliminary Injunction Order (attached hereto). Plaintiff alleges that the Remaining Defendants operate one or more commercial, interactive Internet stores through which New York residents can purchase counterfeit products bearing, using, or infringing on Plaintiff's trademarks, which are covered by U.S. Trademark Registration Nos. 6464718, 6076830, 5886527, 5886526, 5151588, 4937515, 4937514, 4937513, 4843920, 4839473, 4618984, 4286059, 4286058, and 3177666 (the "Roku Trademarks"); and

The Court has reviewed the papers submitted in support of Plaintiff's application

for a preliminary injunction, and finds that it has personal jurisdiction over all of the Remaining Defendants, except for Defendants akadaddy; EleLink Shop; and YJY Shop. The Defendants over whom this Court may exercise personal jurisdiction will be referred to as the "PI Defendants." This Court has personal jurisdiction over the PI Defendants because they directly target their business activities toward consumers in the United States, including in New York, and have each consummated a sale with a New York customer. (Levitian Decl., Ex. 2 (Dkt. Nos. 14-19)

The Court further finds that Plaintiff meets the criteria for entry of preliminary injunctive relief against the PI Defendants, in that the evidence establishes that Plaintiff has a likelihood of success on the merits; that no remedy at law exists; and that Plaintiff will suffer irreparable harm if the injunction is not granted. In this regard, this court finds that:

- 1. Through the Declarations of Michael Yellin and Karina Levitian and accompanying evidence, Plaintiff has proved a <u>prima facie</u> case of trademark infringement because the Roku Trademarks are distinctive marks and registered with the U.S. Patent and Trademark Office on the Principal Register and Supplemental Register, (2) through the substantial time, money, and other resources expended by Plaintiff to promote the Roku Trademarks, the Roku Trademarks are widely recognized and exclusively associated as being products sourced from Roku and thus are sufficiently distinctive to distinguish Roku's goods from the goods of others; (3) the PI Defendants are not licensed or authorized to use the Roku Trademarks, and (4) the PI Defendants' use of the Roku Trademarks is causing a likelihood of confusion as to the origin or sponsorship of PI Defendants' products with Plaintiff; and
- 2. The PI Defendants' continued and unauthorized use of the Roku Trademarks irreparably harms Plaintiff through diminished goodwill and brand confidence, damage to

Plaintiff's reputation, loss of exclusivity, and loss of future sales;

- 3. Monetary damages are not adequate to address such damage and, therefore, Plaintiff has an inadequate remedy at law; and
- 4. The public interest is served by entry of this Preliminary Injunction to dispel the public confusion created by PI Defendants' actions.

The Court therefore determines that a preliminary injunction is warranted under Federal Rule of Civil Procedure 65;

NOW THEREFORE, on this tenth day of February, 2022, this Court ORDERS that:

- 1. The PI Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under, or in active concert with them be temporarily enjoined and restrained from:
 - a. using Plaintiff's Roku Trademarks or any reproductions, counterfeit copies, or colorable imitations thereof in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not authorized by Plaintiff to be sold in connection with Plaintiff's Roku Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine Roku product or any other produced by Plaintiff that is not Plaintiff's or not produced under the authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale under the Roku Trademarks;
 - c. committing any acts calculated to cause consumers to believe that the PI

 Defendants' products are those sold under the authorization, control or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;

- d. further infringing Plaintiff's Roku Trademarks and damaging Plaintiff's goodwill;
 - e. otherwise competing unfairly with Plaintiff in any manner;
- f. shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale, and which bear any of Plaintiff's Roku Trademarks and/or any reproductions, counterfeit copies, or colorable imitations thereof;
- g. using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Marketplace Accounts, the PI Defendant Domain Names, or any other domain name or online marketplace account that is being used to sell or is the means by which the PI Defendants could continue to sell counterfeit products bearing, using, or infringing on the Roku Trademarks; and
- h. operating and/or hosting websites at the PI Defendant Domain Names and any other domain names registered or operated by the PI Defendants that are involved with the distribution, marketing, advertising, offering for sale, or sale of any product bearing the Plaintiff's Roku Trademarks and/or any reproductions, counterfeit copies, or colorable imitations thereof that is not authorized by Plaintiff to be sold in connection with the Plaintiff's Roku Trademarks.
- 2. Each of the PI Defendants, within fourteen (14) days after receiving notice of this Order, shall serve upon Plaintiff a written report under oath providing: (a) their true name and physical address, (b) all websites and online marketplace accounts on any platform that they own and/or operate, (c) their financial accounts, including all Amazon, PayPal, Payoneer, LianLian, AllPay, Ping Pong, Coinbase, Union Mobile, and eBay accounts, and (d) the steps taken by each

Defendant to comply with paragraph 1, a through h, above.

- 3. The domain name registries for the PI Defendant Domain Names, including, but not Limited to, VeriSign, Inc., Neustar, Inc., Afilias Limited, CentralNic, Nominet, and the Public Interest Registry, within three (3) business days of receipt of this Order or prior to expiration of this Order, whichever date shall occur first, shall disable the PI Defendant Domain Names and make them inactive and untransferable until further ordered by this Court.
- 4. Those in privity with the PI Defendants and with actual notice of this Order, including any online marketplaces such as Amazon and Wish, social media platforms, Facebook, YouTube, LinkedIn, Twitter, Internet search engines such as Google, Bing, and Yahoo, web hosts for the PI Defendant Domain Names, and domain name registrars, shall within three (3) business days of receipt of this Order:
- a. disable and cease providing services for any accounts through which PI Defendants engage in the sale of counterfeit and infringing goods using the Roku Trademarks, including any accounts associated with the PI Defendants;
- b. disable and cease displaying any advertisements used by or associated with the PI Defendants in connection with the sale of counterfeit and infringing goods using the Roku Trademarks; and
- c. take all steps necessary to prevent links to the PI Defendant Domain Names from displaying in search results, including, but not limited to, removing links to the PI Defendant Domain Names from any search index.
- 5. The PI Defendants and any third party with actual notice of this Order who is providing services for any of the PI Defendants, or in connection with any of PI Defendants' websites at the PI Defendant Domain Names or other websites operated by PI Defendants,

including, without limitation, any online marketplace platforms such as Amazon and Wish, Facebook, Internet Service Providers ("ISP"), web hosts, back-end service providers, web designers, sponsored search engine or ad-word providers, banks, merchant account providers, including Amazon, PayPal, Payoneer, LianLian, AllPay, Ping Pong, Coinbase, Union Mobile, and eBay, third party processors and other payment processing service providers, shippers, and domain name registrars (collectively, the "Third Party Providers") shall, within five (5) business days after receipt of such notice, provide to Plaintiff expedited discovery, including copies of all documents and records in such person's or entity's possession or control relating to:

- a. the identities and locations of the PI Defendants, their agents, servants, employees, confederates, attorneys, and any persons acting in concert or participation with them, including all known contact information;
- b. the nature of the PI Defendants' operations and all associated sales and financial information, including, without limitation, identifying information associated with the Online Marketplace Accounts, the PI Defendant Domain Names, and the PI Defendants' financial accounts, as well as providing a full accounting of the PI Defendants' sales and listing history related to their respective Online Marketplace Accounts and the PI Defendant Domain Names;
 - c. the PI Defendants' websites and/or any Online Marketplace Accounts;
- d. the PI Defendant Domain Names or any domain name registered by PI Defendants; and
- e. any financial accounts owned or controlled by the PI Defendants, including their agents, servants, employees, confederates, attorneys, and any persons acting in concert or participation with them, including such accounts residing with or under the control of

any banks, savings and loan associations, payment processors or other financial institutions, including, without limitation, Amazon, PayPal, Payoneer, LianLian, AllPay, Ping Pong, Coinbase, Union Mobile, and eBay, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).

- 6. The PI Defendants and any persons in active concert or participation with them who have actual notice of this Order shall be restrained and enjoined from transferring or disposing of any money or other of the PI Defendants' assets until further order of this Court.
- 7. Western Union shall, within five (5) business days of receipt of this Order, block any Western Union money transfers and funds from being received by the PI Defendants until further order of this Court.
- 8. Amazon and Wish shall, within five (5) business days of receipt of this Order, for any PI Defendant or any of the PI Defendants' Online Marketplace Accounts or websites:
- a. locate all accounts and funds connected to and related to the PI

 Defendants, the PI Defendants' Online Marketplace Accounts or the PI Defendants' websites,
 including, but not limited to, any Amazon, PayPal, Payoneer, LianLian, AllPay, Ping Pong,
 Coinbase, Union Mobile, and eBay accounts connected to and related to the information listed in
 the attached Schedule A to the Preliminary Injunction Order; and
- b. restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of the PI Defendants' assets until further order of this Court.
- 9. Any banks, savings and loan associations, payment processors, or other financial institutions, for any PI Defendant or any of the PI Defendants' Online Marketplace Accounts or websites, shall within five (5) business days of receipt of this Order:
 - a. locate all accounts and funds connected to the PI Defendants, the PI

Defendants' Online Marketplace Accounts or the PI Defendants' websites, including, but not

limited to, any accounts connected to the information listed in the attached Schedule A to the

Preliminary Injunction Order; and

b. restrain and enjoin such accounts from receiving, transferring or disposing

of any money or other of the PI Defendants' assets until further order of this Court.

10. Plaintiff may provide notice of these proceedings to the PI Defendants by

delivering, via e-mail, (1) PDF copies of this Order and other relevant documents or (2) a link

to a website where PDF copies of this Order and other relevant documents can be downloaded.

Such alternative service by electronic means shall constitute notice reasonably calculated under

all circumstances to apprise the PI Defendants of the pendency of the action and afford them the

opportunity to present their objections. Such alternative service by electronic means shall be

made within five days of this Order.

11. Any Defendant that is subject to this Order may appear and move to dissolve or

modify this Order on two days' notice to Plaintiff or on shorter notice as set by this Court.

12. The five thousand dollars (\$5,000.00) bond posted by Plaintiff shall remain with

the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

Dated: New York, New York

February 10, 2022

SO ORDERED.

Paul G. Gardephe

United States District Judge

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Schedule A to the Preliminary Injunction Order

| Defendant Seller | Defendant Online Marketplace |
|-------------------------|---|
| Auriver | https://www.amazon.co.uk/sp?seller=A1MS8VLVWO1JTO |
| Feitian shop | https://www.amazon.com/sp?seller=A2BK5CBS2FY994 |
| Flying's Shop | https://www.amazon.com/sp?seller=A2NU4BCWRI3E3S |
| Gaudi | https://www.amazon.com/sp?seller=A3SXZVKR9JCQKK |
| Hojay Store | https://www.amazon.com/sp?seller=A3PPY64DX3IRCS |
| HzgangDirect | https://www.amazon.com/sp?seller=A3E8ZAQLE3WB1O |
| JIANSHE | https://www.amazon.co.uk/sp?seller=A1UC9L6K2VZ1RH |
| JustFine | https://www.amazon.com/sp?seller=A23SYZU9KXD386 |
| Lazmin112 | https://www.amazon.co.uk/sp?seller=AKZ77D6L5UUJM https://www.amazon.es/sp?seller=AKZ77D6L5UUJM |
| Littlefishlittlecat | https://www.amazon.com/sp?seller=A3FLNV2TDV00UC |
| Luokeli | https://www.amazon.com/sp?seller=A1HXIVM39MVE9S |
| Outlet-Express Store | https://www.amazon.com/sp?seller=A3C72VOFBASADK |
| Paialu | https://www.amazon.com/sp?seller=A2Y74PRXV2P6SN |
| PARTS XPRESS STORE | https://www.amazon.com/sp?seller=A18943SGD7X6KS |
| Pottnar Store | https://www.amazon.com/sp?seller=A3UT223SO7JDA |
| Rankao-EU | https://www.amazon.co.uk/sp?seller=a16j79djhha579 |
| Rimous | https://www.amazon.com/sp?seller=A3HD80JAJMOZ8U |
| SB Components Ltd | https://www.amazon.co.uk/sp?seller=A2717MKXZVZ1ZW |
| SofaBaton | https://www.amazon.com/sp?seller=A1N3NJ1ATIMDAK |
| WINBOUS | https://www.amazon.com/sp?seller=A1KS4HXHOAA99V |
| Xinyu UK | https://www.amazon.es/sp?seller=A39V3CUVEQP3GOhttps://www.amazon.co.uk/sp?seller=A39V3CUVEQP3GO |
| Xuuyuu | https://www.amazon.ca/sp?seller=A3UOH6UFKYX3BS |
| Yaotieci SHOP | https://www.amazon.com/sp?seller=A2Q4LXGRPVHZRA |
| 15983070819@163.co | |
| <u>m</u> | https://www.wish.com/merchant/590d869a2da1ba196e0ad586 |
| AgileDragon | https://www.wish.com/merchant/547f0ba5653d51314ac44285 |
| Amargaret | https://www.wish.com/merchant/5831c4f7ef56284f7534b824 |
| ann-yanguang88 | https://www.wish.com/merchant/578b7bad095367532883d5d6 |
| AuntbingluuX | https://www.wish.com/merchant/5f4f6120fedbc502820a2e6b |
| Baihe | https://www.wish.com/merchant/57860a5294bcf1439be28066 |
| BeadDreamShop | https://www.wish.com/merchant/58af02739dc860521d2eb68d |
| blinbling001 | https://www.wish.com/merchant/578e386e6a303a0eec755c70 |
| Caeiore | https://www.wish.com/merchant/5832fd9c42abfb1b8455b5e4 |
| CartoonsDibujos | https://www.wish.com/merchant/57dba6428bc4e8109ad5ca11 |

| Chanvincy | https://www.wish.com/merchant/57149f2b853cde590cd98882 |
|-------------------|--|
| Chenliliang | https://www.wish.com/merchant/5931494f20e1bf316477f32c |
| Cherish | https://www.wish.com/merchant/55bad358ec31eb41e4cf7a2d |
| CONTROL INN | https://www.wish.com/merchant/5ecf4675fdf5965bbcd3bf4f |
| Crazy Gai | https://www.wish.com/merchant/582af230ae08867481e38edd |
| Cynthia Yoder | https://www.wish.com/merchant/58af04c315241652046542a9 |
| Dongfangfang | https://www.wish.com/merchant/584233ed1341994f72a70639 |
| Electronic_outlet | https://www.wish.com/merchant/607e381db20cf82213520cfc |
| EveryDayLifeStore | https://www.wish.com/merchant/565415b43608bc201c65acfc |
| f-cloths | https://www.wish.com/merchant/578e2eba2343010efaa2610b |
| Francisco Lima | https://www.wish.com/merchant/5859f51ed800734d59a0392c |
| Fuyangfamen | https://www.wish.com/merchant/56e3d8ee8582fb5e366be8d3 |
| Gogofast | https://www.wish.com/merchant/55166b0574c021216213583d |
| Graduator | https://www.wish.com/merchant/5645970eda9e8612a5403377 |
| Heibaipei | https://www.wish.com/merchant/5795cb70cb38dd21922fe825 |
| Herofun | https://www.wish.com/merchant/56fcc7067415f96ea3a29a76 |
| hexueqing0926 | https://www.wish.com/merchant/589983fa76209a4ffb3eac57 |
| hi_lee | https://www.wish.com/merchant/57838f17f1ab1f1131beacf6 |
| highest&coolman | https://www.wish.com/merchant/58501a992bf2c96a06a99de6 |
| hmx881800 | https://www.wish.com/merchant/584b9a54159145262176185b |
| Houguofang | https://www.wish.com/merchant/58a7fbd1a7a80b6f64ec95f9 |
| huangchen123 | https://www.wish.com/merchant/58410459a81dba0befad0921 |
| huangwenyuan1 | https://www.wish.com/merchant/5931110ca126a33883978c7a |
| jdjhru5478 | https://www.wish.com/merchant/59047ec61fb1dc1d00e138d1 |
| jiayunpeng12 | https://www.wish.com/merchant/584188cc8108912edcde366a |
| Jinyuzhir | https://www.wish.com/merchant/603379a313006b0dc16faa2d |
| jocelyn07 | https://www.wish.com/merchant/57de433ecc8b99102168403c |
| KamShun Fashion | https://www.wish.com/merchant/5846cc7acd7c006932f24fbb |
| Kappdo | https://www.wish.com/merchant/5e062a89a57753146b033050 |
| keyofsuccess2016 | https://www.wish.com/merchant/57b315d226c88d18eee94a0c |
| Laceskong | https://www.wish.com/merchant/56f8cb2d796b2f58ad96a139 |
| li yunyun | https://www.wish.com/merchant/58da0b45b7bb136efa0b8269 |
| lianghaiyan32 | https://www.wish.com/merchant/5844fc8e5291914d4adeaba9 |
| Lifefit | https://www.wish.com/merchant/565955e58f5f027e130604e5 |
| lili zhang | https://www.wish.com/merchant/584c17eb81089121f88b8aa3 |
| Liujinyang | https://www.wish.com/merchant/58dd14026067365f5d1dec08 |
| Longzhifanny | https://www.wish.com/merchant/5978471feea5c55998b8beea |
| Loverhart | https://www.wish.com/merchant/5a1e5e65ffccf24b61ca68e1 |

| Lujinling | https://www.wish.com/merchant/58f02c9a441fb82c7dd0c6e6 |
|--------------------------|--|
| Mazaolin | https://www.wish.com/merchant/58a9709396f1bb6f151155a6 |
| Мсстуу | https://www.wish.com/merchant/5b79265a559dbd25b255974e |
| MEFCreationsBoutique | https://www.wish.com/merchant/58b0219ef7f54a50a10aa5f2 |
| Merci smith | https://www.wish.com/merchant/582f229218183f424ca09af7 |
| Ming hing bully clothing | https://www.wish.com/merchant/5899c3197c0f924fed454c0e |
| Monsterlady | https://www.wish.com/merchant/5344c1a25aefb06607e48bcd |
| Moshanhua | https://www.wish.com/merchant/58e8bf86259689339ae07e80 |
| Mykshop | https://www.wish.com/merchant/5fd48a297885467e6b3935f6 |
| nice2seu | https://www.wish.com/merchant/56f501667b19c65ed788a3fe |
| Noral | https://www.wish.com/merchant/5a0956a00ec30f6ea1d5e36f |
| Orchidfarm | https://www.wish.com/merchant/571488554f5e5759357da868 |
| Owes | https://www.wish.com/merchant/5656793b86004b08b2d0f765 |
| Paomo | https://www.wish.com/merchant/57875849090d400af5f1e0bf |
| Phonemol | https://www.wish.com/merchant/58bd1f1f48f3a0527d18d535 |
| Principles | https://www.wish.com/merchant/57ecc9068bde84103e1f9cf4 |
| Richapex2016 | https://www.wish.com/merchant/5856abd0913e184c9c72c0bf |
| Rocknfemme | https://www.wish.com/merchant/5851e60479b45e6aeaf9dfb9 |
| Runandianli | https://www.wish.com/merchant/56a70cc41b8c5a3f1b1b8034 |
| Schaef | https://www.wish.com/merchant/5f42cc5ce84e07db8539ae63 |
| smart4u | https://www.wish.com/merchant/5645763c70337932d501afd2 |
| Smilebreath | https://www.wish.com/merchant/57d64383bc23d5101cd76c30 |
| Songguifang | https://www.wish.com/merchant/58df907d7f36b352ca3e6394 |
| SOPHWI-LP | https://www.wish.com/merchant/584c1b4b334bb04d51503d88 |
| Sunny | https://www.wish.com/merchant/584534057f6c0d4ca53569ae |
| Thumbup | https://www.wish.com/merchant/56fb6b2dc1bed17394d51c21 |
| Tiancong | https://www.wish.com/merchant/5840f04134599a698571b66b |
| Timesq | https://www.wish.com/merchant/56efa671a9f07f5860ee6311 |
| Wangguoqin | https://www.wish.com/merchant/5848e583d23c144d2c3b8781 |
| wangjing120803 | https://www.wish.com/merchant/589b0e4bbe0fe74ff78f76a9 |
| Wanglixia | https://www.wish.com/merchant/584139e6e88f6367d6ddc795 |
| Wasiteasy | https://www.wish.com/merchant/57e0ef2f3a02477561528254 |
| WJANU | https://www.wish.com/merchant/583c49150884751b85e98cef |
| Wudile | https://www.wish.com/merchant/57a2e9ebb2ea3e659e379098 |
| wumei150329 | https://www.wish.com/merchant/584a46fba55ed20948d5d9f9 |
| Xiaoxiaodedian | https://www.wish.com/merchant/5837f1032f5e53046e9cdeb2 |
| Xindong | https://www.wish.com/merchant/57aec069d25a4018b733a48b |
| xinglongzhuanqian | https://www.wish.com/merchant/582ec9368108914211fa2079 |

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| Xingstars | https://www.wish.com/merchant/570367598b7f1058f43e3363 |
|--------------|--|
| Xuenvzhuang | https://www.wish.com/merchant/5848d9b068eb840a4ffe9905 |
| Xutao | https://www.wish.com/merchant/5819d4354199ad024c4f3eb3 |
| Yangfanlsy | https://www.wish.com/merchant/5899bf818333d24fe970ff84 |
| Zhanghongyue | https://www.wish.com/merchant/58e635492d91301f043a9bf0 |
| Zhengzhi | https://www.wish.com/merchant/5784a8800d06001a7f062dfd |