

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MUSIC CITY METALS CO., INC.,)
)
 Plaintiff,)
)
 v.)
)
 XIAO JIN HUA, HOU HUANQING,)
 KING SHIN INTERNATIONAL,)
 KING JING LLC, KING SHIN)
 INTERNATIONAL CO. LTD., KZNG)
 SHZN INTERNATIONAL CO., LTD.,)
 and BBQ PARTS LTD.,)
)
 Defendants.)

Civil No. 3:15-cv-00067
Judge Sharp

ORDER

After conducting an evidentiary hearing, and considering the Motion for Preliminary Injunction (Docket No. 4) and supporting Memorandum (Docket No. 5) filed by Plaintiff Music City Metals (hereinafter, “MCM”), the Court makes the following findings and orders:

1. MCM is the owner of trademarks and trademark registrations containing MCM and MUSIC CITY METALS. The trademark MCM has been used by MCM since at least as early as 2005 and is registered as U.S. Trademark Registration No. 4,196,254. The trademark MUSIC CITY METALS has been used by MCM since at least as early as 1989 and is registered as U.S. Trademark Registration No. 3,995,498. MCM uses unique numbers to identify its products that have come to be known in the industry (hereinafter collectively, “MCM’s Marks”).

2. On a yearly basis, MCM publishes a catalog that provides photographs, illustrations, and brand and model fitment data and for the replacement grill parts that it sells. At its product development center in Nashville, Tennessee, MCM conducts market research to

identify grill parts that may need replacement. MCM's artwork and brand and model fitment data are protected by U.S. Copyright Registration No. TX 5-258-606, U.S. Copyright Registration No. TX 7-268-508, and U.S. Copyright Registration TX 7-925-681, which protect the contents of MCM's catalogs (hereinafter, "Copyrighted Works").

3. MCM has established a likelihood of success on the merits of its copyright infringement, trademark infringement, trademark counterfeiting, and federal unfair competition claims.

4. MCM will suffer irreparable harm if a preliminary injunction does not issue.

5. The balance of hardships and public policy favor the issuance of a preliminary injunction in favor of MCM.

6. It is hereby ORDERED AND DECLARED that each of Defendants, their officers, agents, servants, employees, and attorneys, and all persons acting in active concert or in participation with any of them, be ENJOINED and restrained from:

(a) The manufacture, distribution, delivery, shipment, import, export, advertisement, marketing, promoting, consignment or sale of any of replacement grill parts utilizing MCM's Marks or MCM's Copyrighted Works, including on ecommerce sites such as www.amazon.com and www.ebay.com;

(b) The use of any mark or indicia that falsely represents, or is likely to confuse, mislead or deceive purchasers, customers, or members of the public and cause them to believe that the unauthorized product imported, exported, manufactured, reproduced, distributed, assembled, acquired, purchased, offered, sold, transferred, brokered, consigned, distributed, stored, shipped,

marketed, advertised and or promoted by Defendants originate from Plaintiff, or that said products have been sponsored, approved, licensed by, or associated with Plaintiff, or is, in some way, connected or affiliated with Plaintiff;

(c) Contacting persons or entities with contracts for the purchase or sale of Plaintiff's products, or who are in the business of purchasing or selling products similar to Plaintiff's products for the purpose encouraging such persons or entities not to do business with Plaintiff and/or not to purchase or sell Plaintiff's products; and

(d) Assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above subparagraphs (a) through (c), or effecting any assignments or transfers, forming new entities or associations, or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs (a) through (c).

7. IT IS FURTHER ORDERED that each of Defendants, their officers, agents, servants, employees, and attorneys, and all persons acting in active concert or in participation with any of them, and each of them, with notice of this Order, shall preserve, and not destroy, erase, delete, dispose of, or alter any documents or records or evidence, in whatever format, including electronic documents, computer files, computer discs and drives, that relate to, reflect, record, or contain information regarding the allegations in the Complaint.

It is SO ORDERED.

Handwritten signature of Kevin H. Sharp in black ink, written in a cursive style. The signature is positioned above a horizontal line.

KEVIN H. SHARP

UNITED STATES DISTRICT JUDGE