

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**GREGORY D. EVANS, LIGATT
SECURITY INTERNATIONAL,
INC., and SPOOFEM.COM USA
INC.,**

Plaintiff,

v.

1:11-cv-458-WSD

JOHN DOES 1-8,

Defendant.

ORDER

This matter is before the Court on Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction [2]. On March 1, 2011, the Court entered a Temporary Restraining Order [8] in this action. The Temporary Restraining Order sets out the facts of this matter, the injunctive relief ordered by the Court, and the Court's basis for providing temporary injunctive relief. The Temporary Restraining Order set March 10, 2011, as the date for a hearing on Plaintiffs' Motion for a Preliminary Injunction. [8 at 12].

I. BACKGROUND

The hearing on Plaintiffs' request for entry of a preliminary injunction was held on March 10, 2011. At the hearing, Plaintiffs' counsel advised the Court that

the Temporary Restraining Order was served on the John Doe Defendants¹ and that certain of the John Doe Defendants, specifically, John Does 2, 6 and 7 have taken steps to remove online access to Plaintiffs' confidential information. Thus, it appears that Plaintiffs' service of the Temporary Restraining Order on the John Doe Defendants using email addresses associated with them has put defendants, at least John Does 2, 6 and 7, and likely the others, on notice of the order and the March 10, 2011 hearing.

The Court notes that none of the Defendants appeared at the March 10, 2011, preliminary injunction hearing and no lawyers have made an appearance in this case to represent any of the Defendants.

At the hearing, Plaintiffs' counsel requested the Court to "transfer [sic] its TRO into the preliminary injunctive relief." Transcript of March 10, 2011 hearing at 5. Because the Defendants did not appear at the hearing, the motion was unopposed.

II. DISCUSSION

To be eligible for preliminary injunctive relief under Rule 65 of the Federal Rules of Civil Procedure, a movant must establish each of the following elements: (1) a substantial likelihood of success on the merits; (2) that irreparable injury will

¹ The "John Doe Defendants" include John Does 1-4 and 6-8 [8 at 2 n. 1].

be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest. See Schiavo ex rel. Schindler v. Schiavo, 403 F.3d 1223, 1225-26 (11th Cir. 2005); Parker v. State Bd. of Pardons and Paroles, 275 F.3d 1032, 1034-35 (11th Cir. 2001). Such an order “is an extraordinary and drastic remedy not to be granted until the movant clearly carries the burden of persuasion as to the four prerequisites. The burden of persuasion in all of the four requirements is at all times upon the [movant].” Ne Fla. Chapter of Ass’n of Gen. Contractors of Am. v. City of Jacksonville, Fla., 896 F.2d 1283, 1284 (11th Cir. 1990) (quotations omitted). Every injunction must “(A) state the reasons why it issued; (B) state its terms specifically; and (C) describe in reasonable detail - and not by referring to the complaint or other document - the act or acts restrained or required.” Fed. R. Civ. P. 65 (d)(1).

A. The John Doe Defendants

The Court determines that Plaintiffs have established that preliminary injunctive relief should be entered requiring John Doe 1 to discontinue all transmission, posting, and allowing access to the Confidential Information² and to take action to prohibit the Confidential Information from being accessed by any

²The term “Confidential Information” is defined in the Court’s March 1, 2011 order.

other person or entity. Specifically, the Court finds that Plaintiffs have alleged sufficient evidence to show that they are likely to prevail on their claim that John Doe 1 violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 et. The threatened harm substantially outweighs any potential harm John Doe 1 will suffer if he is enjoined from further distributing the Confidential Information. Weighing the equities, temporary injunctive relief is in the public interest.

The Court also determines that temporary injunctive relief is required to be granted against John Does 2-4 and 6-8.³ The Complaint alleges that these John Doe Defendants accessed the Confidential Information, believing it was wrongfully acquired by John Doe 1, and republished portions of it using various internet devices. The Court further determines that the publication of the Confidential Information by these Defendants is alleged to be have been for the purpose of damaging the Plaintiffs in Georgia and, accordingly, the Court preliminary concludes it may, under these circumstances assert personal

³The Court has supplemental jurisdiction over the claims asserted against John Does 2-4 and 6-8. 28 U.S.C. § 1367(a) provides:

[I]n any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

jurisdiction over these John Doe Defendants.⁴ See Avocent Huntsville Corp. v. Aten Int'l Co., 552 F.3d 1324, 1346 (11th Cir. 2008) (“In general, the courts tend to allow personal jurisdiction when the injury to the plaintiff has been manifested in the forum, and when fairness is not compromised thereby.”) The threatened harm to Plaintiffs also substantially outweighs any potential harm John Does 2-4 and 6-8 would suffer if they are enjoined from further distributing the Confidential Information. Weighing the equities, preliminary injunctive relief is in the public interest.

B. The Registrars and Twitter

While neither the Registrars nor Twitter are parties to this action, the Court believes the continuation of injunctive relief against them is necessary to affect its judgment. The All Writs Act provides that federal courts “may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). Despite the Acts’ express language referring to the “aid of . . . jurisdictions,” the Eleventh Circuit has held that the All Writs Act “empowers federal courts to issue injunctions to protect or

⁴ The Court, as it did in its March 1, 2011, order, acknowledges that one or more of John Does 2-4 and 6-8 may seek to challenge personal jurisdiction over them depending on the particular conduct in which they engaged. The Court will allow any such John Doe defendant to make a limited appearance to contest the Court’s jurisdiction over them.

effectuate their judgments.” Burr & Forman v. Blair, 470 F.3d 1019, 1026 (11th Cir. 2006). The All Writs Act also allows a district court to issue an injunction against third parties. United States v. New York Telephone, Co., 434 U.S. 159, 174 (1977) (“The power conferred by the [All Writs] Act extends, under appropriate circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order on the proper administration of justice.”).

The Court determines it is appropriate to enter limited preliminary injunction relief enjoining the Registrars and Twitter to prohibit the Defendants from taking any action to make the Confidential Information unavailable or to take further action to avoid detection. The Court concludes that the limited injunctive relief ordered will not impose a burden on the Registrars and Twitter and is necessary and appropriate to preserve and maintain all files and other records that may assist the Plaintiffs in determining the identities of the Defendants.

The Court acknowledges that the Registrars and Twitter are not parties to this action. As a result, the Court advised the Registrar and Twitter in its Temporary Restraining Order that it would conduct a telephone hearing at 10:00 a.m. EST on Friday, March 4, 2011, for the Registrars and Twitter to object to the injunctive relief entered, or to provide information to the Court that may be helpful

in relieving or lessening any burden this Order may impose on them. The March 4, 2011 telephone hearing was conducted. Before the hearing Registrar 1&1 Internet, advised the Court by phone that it did object to the limited injunctive relief entered against it. GoDaddy.com and Wild West Domains, Inc.'s counsel participated in the telephone hearing. They also stated that neither GoDaddy.com nor Wild West Domains, Inc. objected to the injunctive relief affecting them.

II. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Plaintiffs' Motion for a Preliminary Injunction is **GRANTED**.

IT IS FURTHER ORDERED that:

The John Doe Defendants shall preserve all Confidential Information in their possession or to which they have access, shall discontinue all transmission, posting, and allowing access to the Confidential Information, and shall prohibit the Confidential Information from being accessed by any other person or entity. This Order specifically restrains John Doe 1 from allowing any person or entity to access any Confidential Information posted by John Doe 1 to www.pastebin.com and John Doe 1 is ordered to change the password and other information required to access the Confidential Information posted to www.pastebin.com so that no

person or entity may access it pending the preliminary injunction hearing in this matter.

IT IS HEREBY FURTHER ORDERED that:

The domain name registrars (the “Registrars”) listed below are enjoined from (i) transferring, amending, altering, or assigning the below listed domain names, and (ii) transferring the accounts associated with the following domain name registrations to another registrar. The Registrars shall take prompt steps to preserve, maintain, and keep from destruction any and all files, logs, sheets, records, or any such other items of information that may reasonably identify or assist in identifying the account owner(s) of the domain name or the operator(s) of the website hosted using the domain name.

<u>Domain Name</u>	<u>Registrar</u>
Ligattleaks.com	1&1 Internet, Inc. 701 Lee Road, Suite 300 ATTN: ligattleaks.com Chesterbrook, PA 19087
Ligattleaks.org	1&1 Internet, Inc. 701 Lee Road, Suite 300 ATTN: ligattleaks.com Chesterbrook, PA 19087

<p>Ligattleaks.net</p>	<p>1&1 Internet, Inc. 701 Lee Road, Suite 300 ATTN: ligattleaks.com Chesterbrook, PA 19087</p>
<p>Pastebin.com</p>	<p>GoDaddy.Com, Inc. 14455 North Hayden Rd, Suite 226 Scottsdale, AZ 85260</p>
<p>TheTechHerald.com</p>	<p>Wild West Domains, Inc. 14455 North Hayden Rd, Suite 219 Scottsdale, AZ 85260</p>

IT IS HEREBY FURTHER ORDERED that:

The company that owns and operates the website located at www.twitter.com (“Twitter”) shall preserve and maintain any and all files, logs, sheets, records, or any such other items of information that identifies the owner(s) or operator(s) of the Twitter accounts associated with the following names: “ligattleaks,” “attritionorg” and “lucky225.”

IT IS HEREBY FURTHER ORDERED that a hearing on entry of a Permanent Injunction shall be held on May 23, 2011, at 10:00 a.m. EDT in Courtroom 1705, Richard B. Russell Building, 75 Spring Street, Atlanta, Georgia, 30303.

SO ORDERED this 10th day of March, 2011.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE