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CISCO TECHNOLOGY, INC., and CIENA CORPORATION
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 CISCO SYSTEMS, INC.; CISCO
TECHNOLOGY, INC.; and CIENA
14 CORPORATION,

15 Plaintiffs,

16 v.

17 WUHAN WOLON COMMUNICATION
TECHNOLOGY CO., LTD. and WUHAN
18 WOLON CLOUD NETWORK
COMMUNICATION TECHNOLOGY CO.,
19 LTD.,

20 Defendants.
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Case No. 5:21-cv-04272-EJD

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF CIENA CORPORATION'S
MOTION FOR PRELIMINARY
INJUNCTION

(MODIFIED BY THE COURT)

1 On July 23, 2021, upon a motion by Plaintiff Ciena Corporation (“Ciena”) (*see* ECF No.
2 38), the Court issued a Temporary Restraining Order (“TRO”) and an Order to Show Cause
3 (“OSC”) why a preliminary injunction should not also be issued enjoining Defendants Wuhan
4 Wolon Communication Technology Co., Ltd. and Wuhan Wolon Cloud Network Communication
5 Technology Co., Ltd. (“Defendants”), and their owners, principals, agents, officers, directors,
6 members, servants, employees, successors, assigns, and all other persons in concert and
7 participation with them (collectively, the “Restrained Parties”) from actions relating to their
8 alleged counterfeiting and infringement of Ciena’s trademarks, among other things, and enjoining
9 financial institutions, eCommerce websites, domain name registrars, Internet search engines, and
10 common carriers (collectively, “Third Parties”) from providing related services to Defendants,
11 among other things. *See* ECF No. 43, attached and incorporated herein as **Exhibit A**. In
12 compliance with such Order, on July 30, 2021, Ciena served Defendants by email with, among
13 other things, the Summonses, Amended Complaint, Ciena’s Motion for a TRO and supporting
14 papers, and the Court’s TRO and OSC as to Ciena, including notice of the requirement that
15 Defendants respond to the OSC by August 16, 2021 and notice of the hearing set for August 26,
16 2021 at 10:00 a.m. *See* ECF No. 44.

17 Despite receiving notice of the requirement to respond to the OSC, Defendants filed no
18 response.

19 The Court held a hearing on the OSC on August 26, 2021, at which Ciena was represented
20 by Gabriella A. Wilkins and Stephen C. Steinberg. Despite receiving notice of the hearing,
21 Defendants failed to appear.

22 Having considered Ciena’s Motion and Memorandum in support thereof (*see* ECF No. 38),
23 the Declarations of the First, Second, and Third Witnesses in Support of Ciena’s Motion and
24 exhibits thereto (*see* ECF Nos. 38-1, 38-2, 38-3), and the arguments by Ciena’s counsel at the
25 hearing on the OSC on August 26, 2021, the Court hereby affirms its prior findings of fact and
26 legal conclusions set forth in the Court’s TRO. *See* ECF No. 43, attached and incorporated herein
27 as **Exhibit A**. Thus, for the reasons set forth in the Court’s TRO, the Court hereby issues a
28

1 preliminary injunction enjoining the Restrained Parties and the Third Parties as set forth below,
2 pending entry of the final judgment in this action.

3 **I. ORDER**

4 **A. Preliminary Injunction**

5 Pending entry of the final judgment in this action, ~~Wolon and its~~ **Defendants and their** owners, principals,
6 agents, officers, directors, members, servants, employees, successors, assigns, and all other
7 persons in concert and participation with them (collectively, the “Restrained Parties”) shall be
8 restrained from:

9 1. Purchasing, selling, distributing, marketing, manufacturing, or otherwise using any of
10 the CIENA Marks (as defined below), whether counterfeit or authentic, or any marks
11 confusingly similar thereto in connection with the manufacture, sale, offer for sale,
12 distribution, advertisement, or any other use of counterfeit or authentic Ciena products.

13 The “CIENA Marks” are:

- 14 • “CIENA” (U.S. Trademark Reg. Nos. . 2,070,330 and 3,026,860)

15 The Ciena logo consists of the word "ciena" in a bold, lowercase, sans-serif font. The letter "i" has a dot above it. The logo is positioned to the right of a bullet point.

- 16
- 17 2. Using any logo, trade name, or trademark confusingly similar to any of the CIENA
18 Marks which may be calculated to falsely represent or which has the effect of falsely
19 representing that the services or products of any or all of the Restrained Parties or
20 others are sponsored by, authorized by, or in any way associated with Ciena;
21
- 22 3. Infringing any of the CIENA Marks;
- 23 4. Otherwise unfairly competing with Ciena in the manufacture, sale, offering for sale,
24 distribution, advertisement, or any other use of Ciena products;
- 25 5. Falsely representing ~~Wolon~~ **Defendants** as being connected with Ciena or sponsored by or
26 associated with Ciena or engaging in any act which is likely to cause the trade,
27 retailers, and/or members of the purchasing public to believe that any or all of the
28 Restrained Parties are associated with Ciena;

- 1 6. Using any reproduction, counterfeit, copy, or colorable imitation of any of the CIENA
- 2 Marks in connection with the publicity, promotion, sale, or advertising of counterfeit
- 3 Ciena products, or labels;
- 4 7. Affixing, applying, annexing, or using in connection with the sale of any goods, a false
- 5 description or representation including words, other symbols, or labels tending to
- 6 falsely describe or represent such goods as being Ciena products and from offering
- 7 such goods in commerce;
- 8 8. Diluting any of the CIENA Marks;
- 9 9. Removing from its premises, or discarding, destroying, transferring, or disposing in
- 10 any manner any information, computer files, electronic files, business records
- 11 (including but not limited to e-mail communications), or other documents relating to
- 12 ~~Wolon's~~ **Defendants'** assets and operations or relating in any way to the purchase, sale,
- 13 manufacture, offer for sale, distribution, negotiation, importation, advertisement,
- 14 promotion, or receipt of any products purporting to be Ciena; and
- 15 10. Assisting, aiding, or abetting any other person or business entity in engaging in or
- 16 performing any of the activities referred to in subparagraphs (1) through (9) above.

17 **B. Freezing ~~Wolon's~~ **Defendants'** Assets**

18 Pending entry of the final judgment in this action, ~~Wolon~~ **Defendants** shall be restrained from secreting
19 any assets, and from transferring or conveying any assets held by, for, or on account of any of the
20 Restrained Parties, and a full accounting of the restrained assets shall be provided to counsel for
21 Ciena within three business days of receipt of this Order.

- 22 1. Pending entry of the final judgment in this action, all assets and funds held by, for, or
- 23 on account of any of the Restrained Parties, or in an account owned or controlled by
- 24 any of the Restrained Parties, or in an account as to which any of the Restrained Parties
- 25 has signature authority, shall be frozen and restrained, and a full accounting of the
- 26 restrained assets shall be provided to counsel for Ciena within three business days of
- 27 receipt of this Order.

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1 2. Pending entry of the final judgment in this action, any bank, brokerage house, financial
2 institution, credit card association, merchant account provider, escrow service, savings
3 and loan association, payment provider, payment processing service provider, money
4 transmission service, third-party processor, or other financial institution (including, but
5 not limited to, Alipay (a payment platform affiliated with Alibaba), MasterCard, VISA,
6 American Express, Discover, PayPal, Inc., Wish.com, Amazon Pay, WeChat Pay, and
7 any correspondent, issuing, or member bank or account) (collectively, “Payment
8 Services”) holding any assets by, for, or on account of, or any balance, payable, or
9 receivable owed to or held on account of, any of the Restrained Parties, or in an
10 account as to which any of the Restrained Parties has signature authority, including but
11 not limited to China Construction Bank, CITIBANK N.A., and Alipay, shall locate all
12 accounts and funds, whether located inside or outside the United States, connected to
13 any Restrained Parties and be restrained from releasing such funds until further order
14 of this Court, and within three business days of receipt of this Order shall provide to
15 counsel for Ciena a full accounting of the restrained assets.

16 3. Pending entry of the final judgment in this action, any eCommerce Website, retailer,
17 wholesaler, fulfillment center, warehouse, or any business or individual that has any
18 money, property, or inventory owned by, or receivable owed to, any Restrained Party
19 shall hold such money, property, inventory, or receivable until further order of this
20 Court, and shall within three business days of receipt of this Order provide to counsel
21 for Ciena a full accounting of all money, property, inventory, and receivables being
22 held.

23 **C. eCommerce Websites**

24 Pending entry of the final judgment in this action, any Internet store or online marketplace
25 platform, including, but not limited to, iOffer, eBay, AliExpress, Alibaba, Amazon, Wish.com,
26 Facebook, and Dhgate (collectively, “eCommerce Websites”) shall disable and be restrained from
27 providing any services or payment to any Restrained Party, currently or in the future, in relation to
28 any Ciena-marked product and/or product advertised using the CIENA Marks, including

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