

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

ORNUA FOODS NORTH AMERICA, INC.,
a New York Corporation
and
ORNUA CO-OPERATIVE LIMITED,
an Ireland Corporation

Plaintiffs,

Case No. _____

v.

EUROGOLD USA LLC,
a Wisconsin Limited Liability Company
and
OLD WORLD CREAMERY LLC,
a Wisconsin Limited Liability Company

Defendants.

MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs Ornuia Foods North America, Inc. (“Ornuia N.A.”) and Ornuia Co-Operative Limited (“Ornuia Co-Operative”) (collectively, “Plaintiffs”), by and through their attorneys, and pursuant to Fed. R. Civ. P. 65(b), move for entry of a Temporary Restraining Order against Defendants Eurogold USA LLC and Old World Creamery LLC (collectively, “Defendants”) and all those in privity or acting in concert with them with respect to Defendants’ marketing of butter under the name “Irishgold” (“IRISHGOLD”) and its associated packaging, which infringes upon certain registered trademarks belonging to Ornuia Co-Operative and for which Ornuia N.A. is a licensee. Plaintiffs request a hearing date of today, April 10, 2017 or as soon as possible thereafter.

In support of this Motion, Plaintiffs state:

1. As set forth in Plaintiffs' Complaint, Motion for Temporary Restraining Order, and supporting documents filed herewith, Plaintiffs have already suffered and certainly will suffer substantial irreparable harm as a result of Defendants' willful and calculated trademark infringement and associated false advertising and unfair competition.

2. Allowing Defendants to continue their trademark infringement, associated false advertising and unfair competition, and other unlawful activities will cause immediate and irreparable harm to Plaintiffs.

3. Plaintiffs have taken the following steps to present and set a hearing for their Motion for Temporary Restraining Order, and notify Defendants thereof:

a. Plaintiffs first learned of Defendants' intent to sell butter under the infringing name IRISHGOLD late in the afternoon on April 6, 2017 and contacted their Counsel the following day, April 7, 2017.

b. The next day, on April 8, 2017, Plaintiffs' counsel reached out to who it believed to be Defendants' counsel by telephone and also sent a cease and desist e-mail detailing the infringement and demanding that Defendants cease and desist. Plaintiffs' counsel advised Defendants' counsel that Plaintiffs would seek immediate injunctive relief in the form of a Temporary Restraining Order, on

Monday April 10, 2017, if Defendants did not agree to cease and desist, and also requested that if they were not counsel for Defendants to please advise.

c. The next day, on April 9, 2017, Plaintiffs' counsel again reached out to who it believed to be Defendants' counsel by telephone and also sent another cease and desist e-mail detailing the infringement and demanding that Defendants cease and desist. Counsel again advised Defendants' counsel that Plaintiffs would seek immediate injunctive relief in the form of a Temporary Restraining Order, on Monday April 10, 2017, if Defendants did not agree to cease and desist, and also requested that if they were not counsel for Defendants to please advise.

d. The next day, on April 10, 2017, Plaintiffs' counsel reached out to who it believed to be Defendants' counsel by telephone and also sent copies of Ornuva's complaint and motion papers seeking a Temporary Restraining Order and Permanent Injunction, and a hearing on Monday April 10, 2017.

e. As of the filing of this Motion on Monday, April 10, 2017, Defendants have been placed on notice (through counsel) that Plaintiffs are seeking a Temporary Restraining Order and Preliminary Injunction, and Plaintiff will immediately notify Defendants upon the Court's setting of a hearing date on Plaintiffs' Motion for Temporary Restraining Order and Motion for Preliminary Injunction. Specifically, in addition to the above described communications, counsel

for Defendants responded in writing to Plaintiffs' cease and desist demand, and conferred on the telephone with Plaintiffs' counsel on Monday, April 10, 2017.

4. Plaintiffs respectfully request a hearing on Monday, April 10, 2017, or as soon as possible thereafter, in order to prevent any further and future damage from Defendants' unlawful actions.

Thus, Plaintiffs respectfully request that this Court schedule a hearing on this Motion and Plaintiffs' Motion for Preliminary Injunction on April 10, 2017, or as soon as possible thereafter, and enter a temporary restraining order against Defendants ordering that Defendants and their officers, managers, members, employees, attorneys, accountants, assigns, corporate parents, subsidiaries, agents, representatives, and other persons or entities acting on their behalf or under their control, or anyone else working with or on behalf of Defendants, are temporarily enjoined and restrained, directly or indirectly, and whether alone or in concert with others, from using the IRISHGOLD marks and associated packaging in the form attached to the Proposed Order accompanying this Motion, or similar trademarks and trade names, in Defendants' product packaging, advertisements, brochures, pamphlets, marketing pieces, or similar media relating to the sale of butter.

KRAVIT, HOVEL & KRAWCZYK S.C.

s/ Michael D. Huitink

Michael D. Huitink

Attorneys for Plaintiffs Ornuu Food North America, Inc., and Ornuu Co-Operative Limited

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