

NDIL Hits Pause: “Schedule A” Suits Face New Scrutiny

R Corp. v. P’ships & Unincorporated Ass’ns Identified in Schedule A,
Case No. 1:25-cv-06337 (N.D. Ill. June 9, 2025)

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The Northern District of Illinois (“NDIL”) has been a hotbed for “Schedule A” litigation—a legal tactic often used by intellectual property (“IP”) owners to crack down on online counterfeiters by filing a single complaint against sometimes hundreds of alleged defendants. NDIL Judge John Kness, however, recently stayed dozens of Schedule A cases while the court considers whether Schedule A litigation is an appropriate procedure and an exercise of sound judicial discretion. He joins other NDIL judges who *sua sponte* have dismissed cases for improper joinder or who have issued orders requiring plaintiffs to demonstrate proper joinder.



With increasing frequency, IP owners have used Schedule A litigation to enforce IP rights against online sellers. Sellers, often operating under aliases, sell counterfeit goods on online marketplaces and e-commerce platforms such as Amazon or eBay, disappear before they can be tracked down and legal action can commence, and resurface under new aliases. Instead of naming individual sellers as defendants, plaintiffs file with their complaints a sealed “Schedule A” often listing hundreds of alleged infringers. Plaintiffs then seek *ex parte* temporary restraining orders (“TROs”), which courts often grant, and serve the TROs on the e-commerce platforms to freeze the sellers’ assets and halt sales on the e-commerce platform before the sellers are aware they have been sued.

Critics of Schedule A litigation argue *ex parte* proceedings deny defendants a fair opportunity to respond, risking overreach and harm to non-infringing sellers, who may lack resources to contest the claims. Moreover, joinder rules require a common thread among defendants, such as a common transaction, which is not always present in Schedule A cases. Proponents counter that Schedule A litigation is speedy and efficient, allowing plaintiffs to quickly stop infringement and freeze defendants’ inventories and accounts through the e-commerce platform—even against hard-to-identify defendants.

Judge Kness’s minute order stated the Court needs to reconsider (1) whether *ex parte* proceedings are appropriate in these types of cases; (2) whether the routine sealing of parts or all of the docket is appropriate; (3) whether the routine granting of temporary restraining orders on an *ex parte* basis is a sound exercise of judicial discretion; (4) whether the routine granting of prejudgment asset restraints is a sound exercise of judicial discretion; and (5) whether the mass joinder of defendants is appropriate under the circumstances typically present in Schedule A cases. The Court did not ask for briefing on these issues.

Judge Kness’s stay of Schedule A cases and further inquiries are a clear signal that he and NDIL are looking into the potential downsides of Schedule A cases, such as potential abuse by plaintiffs and unfairness to defendants. Judge Kness’s order foreshadows the possibility of significant changes in Schedule A litigation in NDIL, including stricter review before granting TROs and greater opportunities for defendants to take part in proceedings. If NDIL decides to approach Schedule A cases with increased scrutiny, plaintiffs will face new challenges in enforcing IP rights. For example, plaintiffs may need to find a new venue to file their Schedule A cases, file more cases against fewer defendants at a time, and show more due diligence. Indeed, Judge Kness is not the first NDIL judge to crack down on Schedule A litigation, but he is the first to stay cases in bulk while he considers policy implications. Irwin IP attorneys are closely following these cases and will report when there are new developments.