

NDIL Shreds the “Schedule A” Playbook: Specificity Required

Eicher Motors Limited v. Partnerships & Unincorporated Ass’ns Identified on Schedule “A”, No. 25-cv-02937
(N.D. Ill. Aug. 8, 2025)

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For years, the Northern District of Illinois has served as the hub for “Schedule A” cases—mass actions against online sellers premised on allegations of counterfeiting across e-commerce platforms. Notably, the parties being sued in this case were only identified in a document filed under seal on a so-called “Schedule A,” and their identities were known only to the plaintiff and the Court. Typically in Schedule A cases, the Plaintiff would move for an asset seizure order without providing notice to the parties. Many defendants would first find out about the accusations of infringement when they learned that their bank accounts had been frozen.

In a comprehensive opinion, Judge John F. Kness denied the plaintiff’s ex parte Temporary Restraining Order and prejudgment asset restraint, explaining that the hallmarks of the Schedule A model do not comport with the Federal Rules or serve the public interest. This decision follows the Court’s earlier move to stay all newly-filed Schedule A cases in its docket to reevaluate whether ex parte proceedings, sealing judicial documents from public scrutiny, prejudgment asset freezing, and mass joinder align with the Federal Rules of Civil Procedure and principles of due process.

Rule 65(b) permits ex parte TROs only upon specific facts *clearly* showing immediate, irreparable injury before the adverse party can be heard. Judge Kness found that the generalized, “boilerplate” allegations typical of Schedule A filings do not meet those requirements, and lack the particularity Rule 65(b) demands. The Court also questioned the use of secret proceedings if the stated goal is to stop infringement—orders that actually stop sellers generally require publicity, not secrecy. The Court found it “all but impossible” to assess likelihood of success with a one-sided record, particularly on issues like counterfeiting or confusion, without adversarial briefing or access to the actual products. Even assuming irreparable harm, the balance of equities and public interest did not favor granting extraordinary, ex parte relief.

The Court also refused to enter a prejudgment asset restraint, emphasizing that courts may not freeze assets to secure potential money damages when no equitable interest is claimed. As the opinion notes, Schedule A plaintiffs “almost never” pursue a true equitable accounting—they seek statutory damages, rendering a freeze inconsistent with Supreme Court precedent. The Court highlighted how rapid asset freezes and secret TROs can create coercive settlement dynamics that distort litigation outcomes—precisely why these asset restraints should be a rare exception, not the norm they have become. Additionally, the Court echoed concerns raised by other Schedule A cases: conclusory allegations without specific facts are not sufficient to satisfy the Federal Rules for joinder. It is not sufficient to simply allege that multiple defendants are infringing the same patent or trademark.

Eicher Motors does not end Schedule A litigation nationwide, but it significantly raises the bar for obtaining ex parte relief and prejudgment asset restraints in the Northern District of Illinois. The opinion invites appellate guidance and all but ensures that future Schedule A cases will proceed with narrower joinder, more particularized proofs, and remedies better tailored to equitable limits. Intellectual property owners seeking to halt infringing activities on online marketplaces should be prepared to do significantly more investigation of infringers to follow this ruling – or seek alternative remedies when they’re available.