



Plaintiff's request for a Preliminary Injunction, the Court hereby makes the following findings of fact and conclusions of law:

1. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over all parties hereto; the Complaint states a claim upon which relief may be granted against Defendants John Doe 1 and 2 ("Defendants") under 18 U.S.C. § 1030 (the Computer Fraud and Abuse Act), 15 U.S.C. §§ 1114(a)(1), 1125(a), (c) (the Lanham Act), and 28 U.S.C. § 1651(a) (the All Writs Act), and common law doctrines of intentional interference with contractual relationships, trespass to chattels, unjust enrichment and conversion.

2. Defendants have been provided copies of the pleadings and notice of the Preliminary Injunction hearing in this action, pursuant to terms set forth in the Court's April 20, 2021 Order and Defendants have not responded to the Court's April 20, 2021 Order to Show Cause.

3. There is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that violate the Computer Fraud and Abuse Act (18 U.S.C. § 1030) and the Lanham Act (15 U.S.C. §§ 1114(a)(1), 1125(a), (c)) and that constitute common law trespass to chattels, unjust enrichment, conversion, and that Plaintiff is, therefore, likely to prevail on the merits of this action.

4. Instacart owns the registered trademarks Instacart®, Instacart's carrot logo, and other trademarks used in connection with its services, software and products.

5. There is good cause to believe that, unless Defendants are restrained and enjoined by Order of this Court, immediate and irreparable harm will result from the Defendants' ongoing violations. The evidence set forth in Plaintiff's Brief in Support of *Ex Parte*

Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction (“TRO Application”), and the accompanying declarations and exhibits, demonstrates that Plaintiff is likely to prevail on its claim that Defendants have engaged in violations of the foregoing law by:

- a. intentionally accessing proprietary code, authentication tokens and order batch data residing in protected computers and computer networks of Instacart, without authorization or exceeding authorization;
- b. deploying Internet domains, IP addresses and e-commerce facilities to establish an infrastructure by which means Defendants conduct illegal activities, including unauthorized access to computers and networks, creating a counterfeit Instacart application, and unauthorized access to proprietary code, authentication tokens and order batch data; and
- c. creating a counterfeit Instacart application that reproduces Instacart’s trademarks.

6. There is good cause to believe that if such conduct continues, irreparable harm will occur to Instacart, Instacart’s Shoppers, and the public. There is good cause to believe that the Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court.

7. There is good cause to believe that immediate and irreparable damage to this Court’s ability to grant effective final relief will result from the continued operation, sale, transfer, or other disposition or concealment by Defendants of the counterfeit software at issue, related software distribution facilities and related discoverable evidence of Defendants’ misconduct that are hosted at, operate through or otherwise available through the infrastructure identified in **Appendix A**. Based on the evidence cited in Instacart’s TRO Application and accompanying declarations and exhibits, Instacart is likely to be able to prove that:

- a. Defendants are engaged in activities that directly violate United States law and harm Instacart, Instacart’s Shoppers, and the public;
- b. Defendants have continued their unlawful conduct despite the clear injury to

the foregoing interests;

- c. Defendants are likely to continue their unlawful conduct and are likely to delete or to relocate the counterfeit software at issue, related software distribution facilities and related discoverable evidence disseminated through or available at the Internet domains, IP address and e-commerce account listed in **Appendix A**, thereby permitting them to continue their illegal acts; and
- d. Defendants are likely to warn their associates engaged in such activities if informed of Instacart's action.

8. Plaintiff's request for this emergency *ex parte* relief is not the result of any lack of diligence on Plaintiff's part, but instead based upon the nature of Defendants' unlawful conduct.

9. There is good cause to believe that Defendants have specifically directed their activities to Instacart's servers located in the Eastern District of Virginia. There is further good cause to believe that Defendants have engaged in illegal activity using the infrastructure identified in **Appendix A** to host software that uses Instacart's trademarks and deceives Instacart's Shoppers and the public into believing the unauthorized software is sanctioned or associated with Instacart, in order to perpetuate Defendants' illegal activities. There is good cause to believe that Defendants have directed said unauthorized application and content through certain instrumentalities – specifically the domains, the domain registration facilities of the domain registries, the IP address, the hosting providers of the IP addresses, the e-commerce account, and the e-commerce platform provider identified in **Appendix A**.

10. There is good cause to believe that Defendants have engaged in illegal activity by using the infrastructure identified in **Appendix A** so as to deceive Instacart's Shoppers to misuse authentication tokens for their Shopper accounts, and to deliver from those domains, IP address and e-commerce account the code and application that Defendants use to access Instacart's infrastructure to obtain order batch data without authorization.

11. There is good cause to believe that to immediately halt the injury caused by

Defendants, Defendants must be prohibited from accessing Instacart's infrastructure without authorization from the Internet domains, IP address and e-commerce account identified in **Appendix A**.

12. There is good cause to believe that Defendants have engaged in illegal activity using the Internet domains, IP addresses, and an account with an e-commerce platform identified in **Appendix A** to host the malicious content used to access without authorization Instacart's servers to obtain batch data. There is good cause to believe that to immediately halt the injury caused by Defendants, each of Defendants' domains set forth in **Appendix A** must be immediately transferred beyond the control of Defendants, that Defendants be denied access to the IP address identified in **Appendix A**, and that Defendants be denied access to an account with an e-commerce platform identified in **Appendix A**.

#### **PRELIMINARY INJUNCTION**

**IT IS THEREFORE ORDERED** that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants, are restrained and enjoined from: (1) intentionally accessing and sending any communication to Instacart and the protected computers of Instacart and its Shoppers, without authorization; (2) sending unauthorized software designed to create a counterfeit Instacart application; (3) configuring, deploying, operating, or otherwise participating in or facilitating infrastructure described in the TRO Application, including but not limited to the software hosted at and operating through the Internet domains set forth in **Appendix A**, the IP address identified in **Appendix A**, and an account with an e-commerce platform identified in **Appendix A**, and through any other component or element of the Defendants' illegal infrastructure at any location; (4) misappropriating that which rightfully belongs to Instacart or in which Instacart or its Shoppers

have a proprietary interest; (5) undertaking any similar activity that inflicts harm on Instacart, Instacart's Shoppers, or the public.

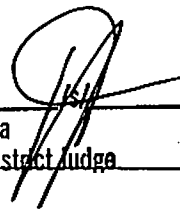
**IT IS FURTHER ORDERED** that, Defendants, Defendants' representatives, and persons who are in active concert or participation with Defendants are restrained and enjoined from (1) using and infringing Instacart's trademarks, including specifically Instacart's registered trademarks Instacart®, Instacart's corporate logo, and/or other trademarks, trade names, service marks, or Internet Domain addresses or names containing or infringing such trademarks, trade names or service marks; (2) using in connection with Defendants' activities, products, or services any false or deceptive designation, representation or description of Defendants or of their activities, whether by symbols, words, designs or statements, which would damage or injure Instacart or give Defendants an unfair competitive advantage or result in deception of Instacart's Shoppers, customers or the public; or (3) acting in any other manner which suggests in any way that Defendants' activities, products or services come from or are somehow sponsored by or affiliated with Instacart, or passing off Defendants' activities, products or services as Instacart's.

**IT IS FURTHER ORDERED** that copies of this Order and all other pleadings and all documents in this action may be served on Defendants by any means authorized by law, including (1) transmission by email, facsimile, mail and/or personal delivery to the contact information provided by Defendants to Defendants' domain registrars and/or hosting companies and as agreed to by Defendants in the domain registration and/or hosting agreements; (2) publishing notice on a publicly available Internet website; (3) by personal delivery upon Defendants, to the extent Defendants provided accurate contact information in the U.S.; and/or (4) personal delivery through the Hague Convention on Service Abroad or similar treaties upon Defendants, to the extent Defendants provided accurate contact information in foreign countries

that are signatories to such treaties and Instacart is unable to successfully serve Defendants through other means.

**IT IS SO ORDERED**

Entered this 10<sup>th</sup> day of May, 2021

  
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Anthony J. Trenga  
United States District Judge

The Honorable Anthony J. Trenga  
United States District Judge

APPENDIX A

.COM DOMAINS

Registry

VeriSign, Inc.  
 VeriSign Information Services, Inc.  
 12061 Bluemont Way  
 Reston Virginia 20190  
 United States

SHOPPER-HELPER.COM	Domain Name: SHOPPER-HELPER.COM Registry Domain ID: 2567501652_DOMAIN_COM-VRSN Registrar WHOIS Server: whois.dnspod.com Registrar URL: https://www.dnspod.com Updated Date: 2020-11-20 17:06:24 Creation Date: 2020-10-22 15:06:23 Registry Expiry Date: 2021-10-22 15:06:23 Registrar: DNSPod, Inc. Registrar IANA ID: 1697 Registrar Abuse Contact Email: <a href="mailto:abuse@dnspod.com">abuse@dnspod.com</a> Registrar Abuse Contact Phone: +86.95716 Domain Status: ok https://www.icann.org/epp#ok Registry Registrant ID: REDACTED FOR PRIVACY Registrant Name: REDACTED FOR PRIVACY Registrant Organization: REDACTED FOR PRIVACY Registrant Street: REDACTED FOR PRIVACY Registrant City: REDACTED FOR PRIVACY Registrant State/Province: an hui sheng Registrant Postal Code: REDACTED FOR PRIVACY Registrant Country: CN Registrant Phone: REDACTED FOR PRIVACY Registrant Phone Ext: REDACTED FOR PRIVACY Registrant Fax: REDACTED FOR PRIVACY Registrant Fax Ext: REDACTED FOR PRIVACY Registrant Email: Select Contact Domain Holder link at https://whois.cloud.tencent.com/domain?domain=SHOPPER-HELPER.COM Registry Admin ID: REDACTED FOR PRIVACY Admin Name: REDACTED FOR PRIVACY Admin Organization: REDACTED FOR PRIVACY Admin Street: REDACTED FOR PRIVACY Admin City: REDACTED FOR PRIVACY Admin State/Province: REDACTED FOR PRIVACY Admin Postal Code: REDACTED FOR PRIVACY Admin Country: REDACTED FOR PRIVACY Admin Phone: REDACTED FOR PRIVACY Admin Phone Ext: REDACTED FOR PRIVACY
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	<p>Admin Fax: REDACTED FOR PRIVACY Admin Fax Ext: REDACTED FOR PRIVACY Admin Email: Select Contact Domain Holder link at <a href="https://whois.cloud.tencent.com/domain?domain=SHOPPER-HELPER.COM">https://whois.cloud.tencent.com/domain?domain=SHOPPER-HELPER.COM</a> Registry Tech ID: REDACTED FOR PRIVACY Tech Name: REDACTED FOR PRIVACY Tech Organization: REDACTED FOR PRIVACY Tech Street: REDACTED FOR PRIVACY Tech State/Province: REDACTED FOR PRIVACY Tech Postal Code: REDACTED FOR PRIVACY Tech Country: REDACTED FOR PRIVACY Tech Phone: REDACTED FOR PRIVACY Tech Phone Ext: REDACTED FOR PRIVACY Tech Fax: REDACTED FOR PRIVACY Tech Fax Ext: REDACTED FOR PRIVACY Tech Email: Select Contact Domain Holder link at <a href="https://whois.cloud.tencent.com/domain?domain=SHOPPER-HELPER.COM">https://whois.cloud.tencent.com/domain?domain=SHOPPER-HELPER.COM</a> Registry Billing ID: REDACTED FOR PRIVACY Billing Name: REDACTED FOR PRIVACY Billing Organization: REDACTED FOR PRIVACY Billing Street: REDACTED FOR PRIVACY Billing City: REDACTED FOR PRIVACY Billing State/Province: REDACTED FOR PRIVACY Billing Postal Code: REDACTED FOR PRIVACY Billing Country: REDACTED FOR PRIVACY Billing Phone: REDACTED FOR PRIVACY Billing Email: Select Contact Domain Holder link at <a href="https://whois.cloud.tencent.com/domain?domain=SHOPPER-HELPER.COM">https://whois.cloud.tencent.com/domain?domain=SHOPPER-HELPER.COM</a> Name Server:ns2.bodis.com Name Server:ns1.bodis.com DNSSEC: unsigned</p>
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**.VIP DOMAINS**

**Registry**

**Minds + Machines Group Limited**  
**2505 Second Avenue, Suite 520**  
**Seattle, WA 98121**  
**United States**

**Minds and Machines, LLC**  
**3100 Donald Douglas Loop North Hanger 7**  
**Santa Monica, CA 90405**  
**United States**

SHOPPERHELPER.VIP	<p>Domain Name: SHOPPERHELPER.VIP Registry Domain ID: D_01ADA82A_AAFDA6F8ED534EA5B4CFB7C99F2C2F E1_0000017265CF37E4-VIP Registrar WHOIS Server: whois.godaddy.com Registrar URL: http://www.goaustraliadomains.com Updated Date: 2020-05-30T06:39:42Z Creation Date: 2020-05-30T13:39:38Z Registrar Registration Expiration Date: 2021-05-30T13:39:38Z Registrar: Go Australia Domains, LLC Registrar IANA ID: 1151 Registrar Abuse Contact Email: abuse@godaddy.com Registrar Abuse Contact Phone: +1.4806242505 Domain Status: clientTransferProhibited <a href="http://www.icann.org/epp#clientTransferProhibited">http://www.icann.org/epp#clientTransferProhibited</a> Domain Status: clientUpdateProhibited <a href="http://www.icann.org/epp#clientUpdateProhibited">http://www.icann.org/epp#clientUpdateProhibited</a> Domain Status: clientRenewProhibited <a href="http://www.icann.org/epp#clientRenewProhibited">http://www.icann.org/epp#clientRenewProhibited</a> Domain Status: clientDeleteProhibited <a href="http://www.icann.org/epp#clientDeleteProhibited">http://www.icann.org/epp#clientDeleteProhibited</a> Registry Registrant ID: CR426069585 Registrant Name: Registration Private Registrant Organization: Domains By Proxy, LLC Registrant Street: DomainsByProxy.com Registrant Street: 14455 N. Hayden Road Registrant City: Scottsdale Registrant State/Province: Arizona Registrant Postal Code: 85260 Registrant Country: US Registrant Phone: +1.4806242599 Registrant Phone Ext: Registrant Fax: +1.4806242598 Registrant Fax Ext: Registrant Email: shopperhelper.vip@domainsbyproxy.com Registry Tech ID: CR426069586 Tech Name: Registration Private Tech Organization: Domains By Proxy, LLC Tech Street: DomainsByProxy.com Tech Street: 14455 N. Hayden Road Tech City: Scottsdale Tech State/Province: Arizona Tech Postal Code: 85260 Tech Country: US Tech Phone: +1.4806242599 Tech Phone Ext: Tech Fax: +1.4806242598 Tech Fax Ext: Tech Email: shopperhelper.vip@domainsbyproxy.com</p>
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	<p>Registry Admin ID: CR426069587                  Admin Name: Registration Private                  Admin Organization: Domains By Proxy, LLC                  Admin Street: DomainsByProxy.com                  Admin Street: 14455 N. Hayden Road                  Admin City: Scottsdale                  Admin State/Province: Arizona                  Admin Postal Code: 85260                  Admin Country: US                  Admin Phone: +1.4806242599                  Admin Phone Ext:                  Admin Fax: +1.4806242598                  Admin Fax Ext:                  Admin Email: shopperhelper.vip@domainsbyproxy.com                  Name Server: NS67.DOMAINCONTROL.COM                  Name Server: NS68.DOMAINCONTROL.COM                  DNSSEC: unsigned</p>
<p>SSQIAN.VIP</p>	<p>Domain Name: SSQIAN.VIP                  Registry Domain ID:                  D_012A9006_D8C4AB3C35504DA9A8A3E26EC927FC13_0000016CBA249827-VIP                  Registrar WHOIS Server: whois.godaddy.com                  Registrar URL: http://www.godaddy.com                  Updated Date: 2019-08-22T22:47:53Z                  Creation Date: 2019-08-22T16:24:16Z                  Registrar Registration Expiration Date: 2022-08-22T16:24:16Z                  Registrar: GoDaddy.com, LLC                  Registrar IANA ID: 146                  Registrar Abuse Contact Email: abuse@godaddy.com                  Registrar Abuse Contact Phone: +1.4806242505                  Domain Status: clientTransferProhibited  <a href="http://www.icann.org/epp#clientTransferProhibited">http://www.icann.org/epp#clientTransferProhibited</a>                  Domain Status: clientUpdateProhibited  <a href="http://www.icann.org/epp#clientUpdateProhibited">http://www.icann.org/epp#clientUpdateProhibited</a>                  Domain Status: clientRenewProhibited  <a href="http://www.icann.org/epp#clientRenewProhibited">http://www.icann.org/epp#clientRenewProhibited</a>                  Domain Status: clientDeleteProhibited  <a href="http://www.icann.org/epp#clientDeleteProhibited">http://www.icann.org/epp#clientDeleteProhibited</a>                  Registrant Organization:                  Registrant State/Province: Beijing                  Registrant Country: CN                  Registrant Email: Select Contact Domain Holder link at <a href="https://www.godaddy.com/whois/results.aspx?domain=ssqian.vip">https://www.godaddy.com/whois/results.aspx?domain=ssqian.vip</a>                  Tech Email: Select Contact Domain Holder link at <a href="https://www.godaddy.com/whois/results.aspx?domain=ssqian.vip">https://www.godaddy.com/whois/results.aspx?domain=ssqian.vip</a>                  Admin Email: Select Contact Domain Holder link at</p>

	<p>https://www.godaddy.com/whois/results.aspx?domain=ssqian.vip                  Name Server: BOB.NS.CLOUDFLARE.COM                  Name Server: CRUZ.NS.CLOUDFLARE.COM                  DNSSEC: unsigned</p>
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**IP ADDRESS**

**Hosting Company**

**Choopa LLC  
 100 Matawan Rd  
 Matawan, NJ 07747  
 United States**

**Choopa LLC  
 The Constant Company, LLC  
 319 Clematis St. Suite 900  
 West Palm Beach, FL 33401  
 United States**

<p>167.179.75.11</p>	<p>irt: IRT-CHOOPALLC-AP                  address: 100 Matawan Rd, Matawan NJ 07747                  e-mail: abuse@choopa.com                  abuse-mailbox: abuse@choopa.com                  admin-c: CLA15-AP                  tech-c: CLA15-AP                  auth: # Filtered                  remarks: abuse@choopa.com was validated on 2021-02-09                  mnt-by: MAINT-CHOOPALLC-AP                  last-modified: 2021-02-09T13:51:43Z                  source: APNIC</p> <p>role: ABUSE CHOOPALLCAP                  address: 100 Matawan Rd, Matawan NJ 07747                  country: ZZ                  phone: +000000000                  e-mail: abuse@choopa.com                  admin-c: CLA15-AP                  tech-c: CLA15-AP                  nic-hdl: AC1765-AP                  remarks: Generated from irt object IRT-CHOOPALLC-AP                  abuse-mailbox: abuse@choopa.com                  mnt-by: APNIC-ABUSE                  last-modified: 2020-06-18T15:26:12Z                  source: APNIC</p>
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	<p>role: Choopa LLC administrator                  address: 100 Matawan Rd, Matawan NJ 07747                  country: US                  phone: +1-973-849-0501                  fax-no: +1-973-849-0501                  e-mail: abuse@choopa.com                  admin-c: CLA15-AP                  tech-c: CLA15-AP                  nic-hdl: CLA15-AP                  mnt-by: MAINT-CHOOPALLC-AP                  last-modified: 2014-11-18T00:32:03Z                  source: APNIC</p> <p>route: 167.179.64.0/18                  origin: AS20473                  descr: Choopa, LLC                  14 Cliffwood Ave                  Suite 300                  mnt-by: MAINT-CHOOPALLC-AP                  last-modified: 2020-04-21T14:40:04Z                  source: APNIC</p>
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**E-COMMERCE ACCOUNT**

**E-Commerce Account Provider**

**Shopify, Inc.**  
 c/o  
**The Corporation Trust Company**  
 1209 Orange St  
 Wilmington, DE 19808  
 United States

**Shopify (USA), Inc.**  
 33 New Montgomery St., Suite 750  
 San Francisco, CA 94105-4537  
 United States

E-commerce account associated with the domain ShopperHelper.vip	Shopify, Inc. Shopify (USA), Inc.
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