

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERMÈS INTERNATIONAL and
HERMÈS OF PARIS, INC.,

Plaintiffs,

-v-

MASON ROTHSCHILD,

Defendant.

22-cv-384 (JSR)

ORDER OF
PERMANENT INJUNCTION

JED S. RAKOFF, U.S.D.J.:

Following a jury trial in which an eight-person jury rendered a unanimous verdict in favor of plaintiffs Hermès International and Hermès of Paris, Inc. (collectively, "Hermès") on its claims for trademark infringement, trademark dilution, and cybersquatting and determined that the First Amendment did not bar defendant Mason Rothschild's liability on these claims, and for the reasons detailed in the Court's Opinion and Order dated June 23, 2023, it is hereby ORDERED that Rothschild, and his associates, business partners, influencers, representatives, and all others in active concert or participation with him who receive actual notice of this Order, are permanently enjoined from:

1. Manufacturing, minting, issuing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting, or otherwise disposing of the "MetaBirkins" non-fungible tokens ("NFTs") and any

merchandise related to the "MetaBirkins" NFTs, including without limitation, listing the "MetaBirkins" NFTs or related merchandise for sale on any marketplace, collecting royalties in connection with the "MetaBirkins" NFTs, and/or otherwise disposing of the "MetaBirkins" NFTs;

2. Making any statement or representation or performing any act that is likely to lead the public to believe that any "MetaBirkins" NFTs or related merchandise are in any manner associated or connected with Hermès and/or its "Birkin" trademark and/or trade dress;
3. Using the infringing "MetaBirkins" mark on social media platforms to facilitate the circulation, sale, marketing, advertising, promoting, and renting of the "MetaBirkins" NFTs or related merchandise;
4. Registering, using, or trafficking any domain names or social media or NFT platform usernames or handles that use and/or incorporate the "MetaBirkins" mark; and
5. Providing any benefits to holders of the "MetaBirkins" NFTs, such as airdrops, or otherwise creating incentives for third parties to purchase "MetaBirkins" NFTs.

It is further ORDERED that Rothschild shall, by no later than July 15, 2023, at Rothschild's expense:

1. Transfer any domain names containing the "Birkin" mark to Hermès, including "metabirkins.com";

2. Contact by e-mail, text, or other written form of communication all persons to whom Rothschild gave, sold, issued, or distributed a "MetaBirkins" NFT or whitelist spot to mint a "MetaBirkins" NFT, and provide each of those persons with a copy of this Order; and
3. Airdrop to all "MetaBirkins" NFTs holders a copy of this Order.

It is further ORDERED that Rothschild shall, by no later than June 30, 2023, specify in writing any royalties, transfer income, or financial benefits that he has earned from the "MetaBirkins" NFTs from January 31, 2023 through June 30, 2023, and shall transfer these earnings to Hermès by no later than July 15, 2023.

It is further ORDERED that Hermès, Rothschild, and any of Rothschild's associates, business partners, influencers, representatives and other affiliates, and all others in active concert or participation with him who receive actual notice of this Order, are enjoined from destroying, hiding, dissipating, or altering any documents, including electronic records and social media posts, that relate in any way to this lawsuit.

It is further ORDERED that, pending the final disposition of any post-trial motion or appeal in this case, Hermès shall archive the webpage that is currently posted on the "metabirkins.com" website and on any other domain name that is transferred to it.

It is further ORDERED that Rothschild shall file a declaration under penalty of perjury stating that he has complied with the

foregoing requirements, including a list of all persons to whom he has sent the required Order, by no later than August 1, 2023.

This Court shall retain jurisdiction over this action for the purpose of implementing and enforcing this Permanent Injunction.

SO ORDERED.

New York, NY
June 23, 2023



JED S. RAKOFF, U.S.D.J.