

**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY FLORIDA**

KEYFLOW USA, INC.,
Plaintiff(s)

CASE NO. CACE25-015847
DIVISION: 12

v.

TYLER WEITH, et al.
Defendant(s)

KEYFLOW FEEDS INC, et al.
Counter-Plaintiff(s)

v.

KEYFLOW USA, INC. et al.
Counter-Defendant(s)

**ORDER GRANTING IN-PART AND DENYING IN-PART
COUNTER-PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION,
AND ORDER RESTRAINING TRANSFER OF ASSETS**

THIS MATTER comes before the Court on Counter-Plaintiff, Keyflow Feeds Inc. ("Keyflow Feeds") and Keyflow (UK) Ltd. ("Keyflow UK") (collectively, "Counter-Plaintiffs") Motion for Temporary Injunction and Order Restraining Transfer of Assets (the "Motion").

Counter-Plaintiffs moved for entry of a temporary injunction against Counter-Defendants Keyflow USA, Inc. ("Keyflow USA"), Premier Holdings Group USA LLC ("Premier Holdings"), Key Performance Feeds, LLC ("KPF LLC"), James Blackburn ("Blackburn"), and Kathryn Ann Serio ("Serio") (collectively, "Counter-Defendants"), and an order restraining financial accounts used by Counter-Defendants pursuant to 15 U.S.C. §§ 1116, 1117, Fla. Const. Art. V., § 5(b), and The All Writs Act, 28 U.S.C. §

1651(a). Counter-Plaintiffs Motion is premised on their likelihood of prevailing on their claims for trademark infringement and breach of an agreement between Keyflow UK, on the one hand, and Keyflow USA and Premier Holdings, on the other hand.¹

Counter-Plaintiffs certified their Motion should be heard on an expedited, emergency basis pursuant to Administrative Order 2021-Civ based on immediate and ongoing irreparable harm. Counter-Defendants filed a response to the Motion on February 27, 2026.

The Court held an evidentiary hearing on March 4, 2026, where the Parties presented evidence and witness testimony. In support of their Motion, Counter-Plaintiffs submitted sworn declarations from Cameron Price (“Price Decl.”) and Tyler Weith (“Weith Decl.”), who are defendants in this matter, as well as a Lainie Wimberly (“Wimberly Decl.”), a third-party witness who is a customer of the Counter-Plaintiffs. Each of Counter-Plaintiffs’ declarants appeared at the hearing and was subject to cross-examination. Counter-Plaintiffs also presented testimony from Ms. Danielle Weith, another defendant in this case and an employee of Counter-Plaintiffs. Counter-Defendants submitted a sworn declaration from counter-defendant James Blackburn (“Blackburn Decl.”) and also presented testimony from counter-defendant Kathy Serio.

Having reviewed the Motion and otherwise being fully advised, the Court hereby **GRANTS IN-PART and DENIES IN-PART** the Motion.

FINDINGS OF FACT

¹ Because the Court resolves Counter-Plaintiffs Motion on the basis of the trademark infringement claim, it does not reach any conclusion with respect to Counter-Plaintiffs’ likelihood of prevailing on the breach of contract claim.

Keyflow UK, a British company, is the manufacturer of equine nutrition products, namely horse feed (the “Keyflow Products”). Price Decl., at ¶ 3. The Keyflow Products have garnered popularity amongst horse breeders, equestrians, and other owners and caregivers of horses. *Id.*, at ¶ 4. Keyflow UK is also the owner of several trademarks, under which the Keyflow Products are manufactured, promoted, sold, and distributed to consumers world-wide including in the United States. *Id.*, ¶¶ 7-8. At issue in this Motion is the flagship KEYFLOW mark, which is protected by a federal trademark registration with the United States Patent and Trademark Office:

Keyflow Mark	U.S. Reg. No.	Registered goods
KEYFLOW	8,017,412	Foods for animals; Foodstuffs for animals; Foodstuffs for animals containing botanical extracts; Foodstuffs for animals on a milk basis; Foodstuffs for farm animals; Foodstuffs and beverages for animals; Horse feed; Edible food for animals for chewing

On May 8, 2023, Keyflow UK entered into a Distribution Agreement with counter-defendant Premier Holdings granting Premier Holdings the exclusive right to import, market, purchase, distribute, and resell Keyflow Products in the United States. Price Decl., ¶¶ 9-10.

Keyflow USA was established on March 20, 2024, after the Distribution Agreement had been entered into between Keyflow UK and Premier Holdings. Price Decl., ¶ 11. Thereafter, Premier Holdings assigned the Distribution Agreement to Keyflow USA. Blackburn Decl., ¶ 4. Counter-Defendant Mr. Blackburn is an officer of Premier Holdings and KPF LLC, and was previously an officer of Keyflow USA. *Id.*, ¶ 3. Counter-Defendant Serio testified that she was previously the CEO of Keyflow USA.

Several disputes eventually arose between the Parties, and on October 3, 2025 Keyflow UK sent a notice of termination of the Distribution Agreement. Price Decl., ¶¶ 42-43; Blackburn Decl., ¶ 22. Counter-Plaintiff and Defendant Keyflow Feeds was established to undertake the continued distribution of Keyflow Products in the United States. Price Decl., ¶ 44. On or about that same day, Counter-Defendants began notifying its customers previously purchasing Keyflow Products, both directly for example through text message and e-mails as well as publicly for example through social media, that a new horse feed product with the name “Key Performance Feeds” or the abbreviation “KPF” (the “Key Performance Products”) was now available and that Counter-Defendants were discontinuing the sale of Key Flow Products. Price Decl., ¶ 27; Weith Decl., ¶ 9; Wimberly Decl., ¶ 6.



Key Performance Product
Counter-Plaintiff Ex. 5



Key Flow Product
Photograph of Counter-Plaintiff Ex. 31



Key Performance logo



Key Flow logo

In support of their Motion, Counter-Plaintiffs submitted several e-mails and text messages between customers and Keyflow UK regarding the introduction of the new Key Performance Products. See Price Decl., ¶¶ 37-39; Counter-Plaintiffs Ex. 18-19, 25-27. One such message was a text message from a customer Anna Merritt who indicated she was “a little confused because I received a message from my rep saying that Keyflow is launching a completely new feed line and that I’m expected to change my horses onto the new feed.” Counter-Plaintiff Ex. 26. Another such message was an e-mail from a customer Olga that “these people keeping the keyflow.us as there connection is very confusing and upsetting” and “Natalie was trying hard to tell me this new keyperformance was better and replaces keyflow.” Counter-Plaintiff Ex. 27.

Counter-Plaintiffs also submitted several written communications between Tyler Weith and Counter-Defendants prior to Mr. Weith’s departure from Keyflow USA. Weith Decl., ¶¶ 17-21; Counter-Plaintiff Ex. 20-21. In one such text message, Ms. Serio wrote to Mr. Weith that the Key Performance Product bags “looked like key flow too much but at the end of the day it might not be a bad thing for people already on key flow.” Counter-Plaintiff, Ex. 20.

Additionally, Ms. Lainie Wimberly is a customer of Keyflow Products who testified that she “received text messages from Tyler Weith and Kathy Serio that the Keyflow product was changing and I should switch to a new “Key Performance” product.” Wimberly Decl., ¶¶ 4-6; Counter-Plaintiff Exs. 23-24. Ms. Wimberly also testified that “[t]he initial messaging was confusing because I was unsure if this new product was related to Keyflow product or Keyflow. Part of this confusion was from how close the two names were. Another part of this confusion was the way the “Key Performance” product was

being marketed. There appeared to be an intent to make the “Key Performance” product similar to the Keyflow product.” Wimberly Decl., ¶ 7.

Finally, Counter-Plaintiffs submitted some evidence that Counter-Defendants may still be using the KEYFLOW mark in U.S. commerce, such as on still-active social media pages as well as the ownership of the domain keyflowusa.com, which re-directs to Counter-Defendants’ webpage at keyperformancefeeds.com. Price Decl., ¶¶ 31-34.

These findings of fact support the following conclusions of law.

CONCLUSIONS OF LAW

Legal Standard

In order to obtain entry of a temporary injunction under Fla. R. Civ. P. 1.610, the moving party must plead and establish: (1) a likelihood of irreparable harm and the unavailability of an adequate remedy at law; (2) a substantial likelihood of success on the merits; (3) that the threatened injury to the petitioner outweighs any possible harm to the respondent; and (4) that the granting of a temporary injunction will not disserve the public interest. *Allied Universal Corp. v. Given*, 223 So.3d 1040, 1042 (Fla. 3d DCA 2017). On a temporary injunction motion for trademark infringement, the trial court “may rely on affidavits and hearsay materials which would not be admissible evidence for a permanent injunction, if the evidence is appropriate given the character and objectives of the injunctive proceeding.” *Levi Strauss & Co. v. Sunrise Intern. Trading Inc.*, 51 F.3d 982, 985 (11th Cir. 1995); *Bee Line Entertainment Partners v. State*, 791 So.2d 1197, 1205-06 (Fla. 5th DCA 2001).

Likelihood of Success - Trademark Infringement (Counterclaim Count II)

Section 32 of the Lanham Act provides liability for trademark infringement if, without the consent of the registrant, a defendant uses “in commerce any reproduction,

counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or cause mistake, or to deceive.” 15 U.S.C. § 1114(1)(a). To prevail, a plaintiff must demonstrate (1) that its mark has priority and (2) that the defendant’s mark is likely to cause consumer confusion.” *Frehling Enters v. Int’l Select Group, Inc.*, 192 F.3d 1330, 1335 (11th Cir. 1999).

Keyflow UK’s Ownership and Prior Use of the KEYFLOW Mark

Keyflow UK’s ownership and exclusive use of the Keyflow Marks is presumed through its registration of the Principal Register of the United States Patent and Trademark Office. *Vernon v. Ziel*, 2020 WL 4501802, at *4 (S.D. Fla. June 15, 2020) (*citing* 15 U.S.C. § 1115(a)). Moreover, in a dispute between a manufacturer and a distributor, the manufacturer is entitled to a presumption of trademark ownership. *Sengoku Works Ltd. v. RMC Intern., Ltd.*, 96 F.3d 1217, 1220 (9th Cir. 1996). Keyflow UK’s ownership and prior use of the KEYFLOW mark was not contested by Counter-Defendants.

Likelihood of Consumer Confusion

The Eleventh Circuit uses the following seven-factor test: (1) strength of the mark; (2) similarity of the marks; (3) similarity of the goods; (4) similarity of the sales methods; (5) similarity of advertising media; (6) defendants’ intent; and (7) evidence of actual confusion. *Ross Bicycles, Inc. v. Cycles USA, Inc.*, 765 F.2d 1502, 1506 (11th Cir. 1985). “In applying this test, no single factor is dispositive, but in the 11th Circuit greater weight is given to the type of mark and evidence of actual confusion.” *Canes Bar & Grill of South Florida, Inc. v. Sandbar Bay, LLC*, 343 F.Supp.3d 1236, 1242-43 (S.D. Fla. 2018). “The

existence of such confusion is best assessed when marks are compared in light of the way in which the marks are actually displayed or perceived by consumers.” *Id.*

a. Strength of the Marks

The spectrum of protectability and strength of a trademark is divided into the following four designations: (1) coined, fanciful, or arbitrary; (2) suggestive; (3) descriptive; and (4) generic. *See Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 768 (1992). Arbitrary or fanciful marks are the strongest and deemed inherently distinctive and entitled to protection. *Id.*

Here, the federal registration of the KEYFLOW mark creates a rebuttable presumption that the mark is inherently distinctive, meaning it has an arbitrary or at least suggestive level of strength. *Royal Palm Properties, LLC v. Pink Palm Properties, LLC*, 950 F.3d 776, 783 (11th Cir. 2020). Counter-Plaintiffs also contend that the KEYFLOW mark is arbitrary in connection with horse feed.

In response, Counter-Defendants submitted a list of products or entities in the equine industry using the term “Key.” Blackburn Decl., ¶ 27. While evidence of a term’s use in the industry can demonstrate a mark’s weakness, such evidence is only probative if it “clearly establishes that these alleged third-party marks are in fact in use.” *Ocean Bio-Chem, Inc. v. Turner Network Television, Inc.*, 741 F.Supp. 1546, 1556 (S.D. Fla. 1990).

The Court finds that this list, and testimony regarding the “key” names on the list, was insufficient to rebut the presumption that the registered KEYFLOW mark is entitled to a strong level of protection. This factor supports a finding of a likelihood of consumer confusion.

b. Similarity of the Marks

“The likelihood of confusion is greater when an infringer uses the exact same trademark.” *Turner Greenberg Associates, Inc. v. C & C Imports, Inc.*, 320 F. Supp. 2d 1317, 1322 (S.D. Fla. 2004). Thus, any continued use of the identical KEYFLOW mark would support a finding of a likelihood of consumer confusion.

Counter-Defendants argue, however, that use of “Key Performance” or “Key Performance Feeds,” or its abbreviation KPF, is not similar and that this factor should weigh against a likelihood of consumer confusion with respect to these marks. “To determine if two marks are similar, the court considers the overall impressions that the marks create, including the sound, appearance, and manner in which they are used.” *Playnation Play Systems, Inc. v. Velez Corp.*, 924 F.3d 1159, 1168 (11th Cir. 2019). In compound word marks such as KEYFLOW and “Key Performance,” the first term is usually considered the “dominant” element in the mark’s commercial impression to consumers. See e.g. *Wreal, LLC v. Amazon.com, Inc.*, 38 F.4th 114, 130 (11th Cir. 2022) (comparing “FyreTV” and “fire TV” and finding “Fire” is the first and only dominant word in both marks and also the only abstract term in either mark that gives the marks meaning); *In re Detroit Athletic Co.*, 903 F.3d 1297, 1303 (Fed. Cir. 2018) (“[I]n view of the marks’ structural similarity, the lead words are their dominant portion and are likely to make the greatest impression on consumers.”); *Century 21 Real Estate Corp. v. Sandlin*, 846 F.2d 1175, 1179 (9th Cir. 1988) (use of “identical dominant term ‘Century’ [as] the lead word in each entity’s name [would] foster confusion”).

The Court finds that “Key Performance” is similar to KEYFLOW and that this factor also supports a finding of a likelihood of consumer confusion with respect to Counter-Defendants’ use of “Key Performance” and “Key Performance Feeds.”

c. Similarity of the Goods

“The greater similarity between the products and services, the greater the likelihood of confusion.” *John H. Harland Co. v. Clarke Checks, Inc.*, 711 F.2d 966, 976 (11th Cir. 1983). “The test for similar products is whether the products are the kind that the public attributes to a single source, not whether or not the purchasing public can readily distinguish between the products of the respective parties.” *Playnation*, 924 F.3d at 1168.

Here, the Keyflow Products and the Key Performance Products are both equine nutrition product, or horse feed. Counter-Defendants argue, and provided evidence, that there are dissimilarities between the composition or quality of the horse feed, but any such differences are immaterial to weighing this factor. Because both products are equine nutrition products, or horse feed, this factor supports a finding of a likelihood of confusion.

d. Similarity of Sales Method and Advertising Method

“Dissimilarities between the retail outlets for and the predominant customers of plaintiff’s and defendant’s goods lessen the possibility of confusion, mistake, or deception.” *Frehling Enterp.*, 192 F.3d at 1339. Convergent marketing channels increase the likelihood of confusion. See *Turner Greenberg Associates, Inc.*, 320 F.Supp.2d 1317, 1332 (S.D. Fla. 2004).

Both Counter-Plaintiffs and Counter-Defendants sell and advertise their products using similar marketing channels and sales methods (e.g. direct solicitations, social media), however the sales methods and marketing channels were not particularly unique to this industry or these parties. Virtually every consumer-product industry uses the sales

and advertising methods evidenced by the parties. Accordingly, these two factors do not support a finding of a likelihood of consumer confusion.

e. Counter-Defendants' Intent

When an infringer adopts a mark “with the intent of obtaining a benefit from Plaintiff’s business reputation, ‘this fact alone may be sufficient to justify the inference that there is confusing similarity.’” *Turner Greenberg Associates, Inc.*, 320 F.Supp.3d at 1333 (citing *Carnival Corp. v. Seaescape Casino Cruises, Inc.*, 74 F.Supp.2d 1261, 1268 (S.D. Fla. 1999)). Further, “[i]ntentional copying of another’s trademark is prima facie evidence both that mark has a secondary meaning, and that the imitation is likely to confuse consumers.” *Playboy Ent., Inc. v. P.K. Sorren Export Co. Inc. of Florida*, 546 F.Supp. 987, 996 (S.D. Fla. 1982).

Counter-Plaintiffs’ evidence supports a finding that Counter-Defendants intended to obtain a benefit from Plaintiff’s business reputation in selecting and promoting their marks. Ms. Serio’s written communication to Mr. Weith particularly supports this finding. Accordingly, this factor supports a finding of a likelihood of consumer confusion.

f. Evidence of Actual Confusion

Actual confusion is the best evidence of confusion, but it is not a prerequisite to establishing a likelihood of confusion. See *Frehling Enters v. Int’l Select Group, Inc.*, 192 F.3d 1330, 1340 (11th Cir. 1999). “Even a very little amount of actual confusion is highly probative.” *Wreal*, 38 F.4th at 137. For the Eleventh Circuit, a single professional buyer demonstrating actual confusion supported actual confusion. *Id.*, at 138 (citing *Frehling*, 192 F.3d at 1544).

Here, the testimony of Ms. Wimberly as well as the documented communications Mr. Price received from customers are examples of actual, consumer confusion. This factor supports a finding of a likelihood of consumer confusion.

Counter-Plaintiffs are Likely to Prevail on Their Trademark Infringement Claim

Five of the seven likelihood of confusion factors weigh in favor of Counter-Plaintiffs claim: strength of the mark; similarity of the marks; similarity of the goods; defendant's intent; and evidence of actual confusion. Accordingly, the Court finds that Counter-Defendants use of "Keyflow" and use of "Key Performance" or "Key Performance Feeds" is likely to cause consumer confusion, and that Counter-Plaintiffs are likely to prevail on their claim for trademark infringement.

Likelihood of Irreparable Harm, Balance of Hardships, and Public Interest

The Trademark Modernization Act established a rebuttable presumption of irreparable harm in Lanham Act claims for purposes of a preliminary injunction. See 15 U.S.C. § 1116(a). Even prior to the passage of the Trademark Modernization Act, "[i]n cases of unfair competition and trademark infringement, such as this one, where the court finds there is a likelihood of consumer confusion, irreparable harm and an inadequate remedy at law can be presumed." *M & E Distributors, Inc. v. Worley*, 840 So.2d 457, 459 (Fla. 4th DCA 2003). "Where there is a likelihood of consumer confusion, enjoining the trademark infringement will protect the public interest" because "the public is entitled to be free from deception and confusion." *Id.* "Any harm occasioned by enjoining Defendants' use of the [infringing marks] is therefore outweighed by the potential damage to Plaintiff's reputation by Defendant's use of its confusing similar mark." *Canes Bar & Grill*, 343 F.Supp.3d at 1247.

Having found that there is a likelihood of consumer confusion, the Court also finds that Counter-Plaintiffs are likely to suffer irreparable harm should Counter-Defendants infringement not be enjoined, that entry of a temporary injunction will serve the public interest, and that any potential harm to the Counter-Defendants is outweighed by the harm to Counter-Plaintiffs should they be permitted to continue infringing the KEYFLOW mark.

Restraint of Assets

Counter-Plaintiffs also requested a restraint of Counter-Defendants assets. The Lanham Act provides plaintiffs with the equitable remedy of a disgorgement of ill-gotten profits. 15 U.S.C. § 1117. A request for equitable relief invokes a trial court's "equitable powers to order preliminary relief, including an asset freeze, in order to assure the availability of permanent relief." *Levi Strauss & Co.*, 51 F.3d at 987. In this case, the Court declines to exercise its equitable powers to order a financial asset restraint, and Counter-Plaintiffs' Motion is DENIED with respect to this request for relief.

Bond

Having heard arguments and testimony on an appropriately sized bond, the Court finds that Counter-Plaintiffs' posting of a twenty thousand (\$20,000.00) bond is appropriate pursuant to Fla. R. Civ. P. 1.160(b).

Now therefore, the Court hereby **ORDERS AND ADJUDGES** that Counter-Plaintiffs' Motion is **GRANTED IN-PART and DENIED IN-PART**, under the terms set forth:

(1) Each of the Counter-Defendants including their officers, directors, employees, agents, sponsors, subsidiaries, distributors, retailers, and all persons in active concert or participation with any of the Counter-Defendants having notice of this Order,

including third-parties, are restrained and enjoined until further order from this Court as follows:

a. From advertising, promoting, offering to sell, selling, distributing, or transferring any goods bearing “Keyflow,” “Keyflow Feeds,” “Key Performance,” “Key Performance Feeds” or any other confusingly similar trademarks including immediately ceasing all advertising and promotion of the same; and

b. From secreting, concealing, destroying, selling off, transferring, or otherwise disposing of any evidence relating to the advertising, promotion, sale, or offer for sale of any goods bearing and/or using the KEYFLOW Mark or confusingly similar trademarks, including “Keyflow,” “Keyflow Feeds,” “Key Performance,” “Key Performance Feeds,” or any other confusingly similar trademarks in the United States.

(2) Each of the Counter-Defendants their officers, directors, employees, agents, sponsors, subsidiaries, distributors, retailers, and all persons in active concert or participation with any of the Counter-Defendants, including third-parties having notice of this Order, shall immediately discontinue use of “Keyflow,” “Keyflow Feeds,” “Key Performance,” “Key Performance Feeds,” or any other confusingly similar trademark in connection with the sale, offer for sale, promotion, display, or advertising of goods listed in the U.S. federal registration No. 8,017,412 for KEYFLOW, namely “Food for animals; Foodstuffs for animals; Foodstuffs for animals containing botanical extracts; Foodstuffs for animals on a milk basis; Foodstuffs for farm animals; Foodstuffs and beverages for animals; Horse feed; Edible food for animals for chewing” including the immediate cessation of physical advertising (e.g. product packaging, displays, advertisements on

delivery vehicles) and digital advertising (e.g. social media, domain names, marketing by electronic promotion).

(3) This Order shall remain in effect during the pendency of this action, or until such further dates as set by the Court or stipulated to by the parties.

(4) Pursuant to Fla. R. Civ. P. 1.1610(b), the Counter-Plaintiffs shall post a bond in the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00), either with or without surety, within five (5) days of the entry of this Order as payment of damages to which the Counter-Defendants may be entitled for a wrongful injunction or restraint, during the pendency of this action, or until further Order of the Court.

DONE AND ORDERED in Chambers, Fort Lauderdale, Broward County, Florida, this 17th day of March, 2026.



THE HONORABLE KEATHAN B. FRINK
CIRCUIT COURT JUDGE

Copies furnished to all parties via the Florida Courts E-Filing Portal.

Copies Furnished to:

Arthur R Weaver, Email : rweaver@brickellip.com

Gregory S Sconzo, Email : rachel@sconzolawoffice.com

Gregory S Sconzo, Email : greg@sconzolawoffice.com

JOHN J. MURPHY, Email : jmurphy@pozobellermediation.com

Raul Gastesi Jr, Email : Efiling@glmlegal.com

Raul Gastesi Jr, Email : acevedo@glmlegal.com

Raul Gastesi Jr, Email : gastesi@glmlegal.com