

The 2026 FIFA World Cup: Kick Off for Seizure Season 2026

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Kick-off of the FIFA World Cup 2026™ is almost here. The 2026 tournament marks the first time three nations will jointly host soccer's most significant event, with the United States hosting for the second time, alongside North American neighbors Mexico and Canada. Over the course of six weeks, the United States will host 78 matches across 11 cities from coast to coast. The tournament will culminate in New Jersey at MetLife Stadium in East Rutherford. At each match, in each city and outside each venue, you can expect to meet counterfeit merchandiser John Doe, ready to sell counterfeit World Cup merchandise to any willing purchaser on their way into and out of the stadium.

Trademark owners looking to enforce their rights and protect their brands, from the International Federation of Association Football (FIFA) to national federations to sponsors, have powerful enforcement tools at their disposal, but none more powerful and immediate than the "Schedule A" litigation scheme. However, courts have become increasingly skeptical of Schedule A litigation, and are making rulings and imposing standing orders systematically limiting the scheme's reach. This summer's World Cup is an opportunity for mark owners to use the Schedule A tool as it was originally intended, targeting John Doe outside venues. For trademark and brand owners, the work should begin well before any complaint is filed, with counsel investigating potential sellers, collecting evidence of contacts with the forum, documenting John Doe and his agents, purchasing samples of infringing merchandise, preparing witness affidavits and shaping any requested relief around the relevant geography, timing and upcoming matches.

For the last fifteen years, at least, mark owners have been employing a creative combination of Federal Rule of Civil Procedure 65 and the Trademark Counterfeiting Act of 1984 to counteract bootlegging, and seize and restrain ongoing sales of counterfeit merchandise. Typically, the complaint names "John Does 1–100, Jane Does 1–100, and XYZ Company" as defendants, attaching

a sealed list of defendants as "Schedule A." This mechanism combines five unusual, often disfavored, litigation tactics: 1) emergency proceedings, 2) *ex parte* seizure orders, 3) seizure without deprivation hearings, 4) Doe defendants, and 5) nationwide restraining orders. Merchandisers and brand owners see this strategy as one of the only ways to effectively stem the flood of illegal, bootleg merchandise by sellers who are not easily identifiable and who may not be susceptible to normal service of process and litigation practices.

Last summer, dubbed the Summer Concert (Seizure) Season, artists and promoters were denied nationwide temporary restraining orders (TRO) against John Doe ***before*** summer tours began, amid increasing judicial skepticism of the Schedule A scheme. From this, we learned that more narrowly tailored enforcement methods were necessary. Hypothetical injury and conclusory allegations based on past experiences were not enough to pass judicial scrutiny. To successfully obtain a TRO, targeted, venue-specific relief obtained ***after*** tours began and injury was "concrete and ongoing" was necessary. Specificity and certainty are key, even if the offenders are unidentified John Does.

District of New Jersey: A New Hotbed for Schedule A Litigation

With the World Cup Final taking place in New Jersey, a jurisdiction that is no stranger to Schedule A litigation, John Doe is sure to be outside MetLife Stadium for the match.

Historically, the Northern District of Illinois has been the favored jurisdiction for filing Schedule A cases, with the court even offering a "Schedule A Template" on its website. However, the last year has shown judges in the Northern District of Illinois are growing increasingly skeptical of the Schedule A litigation model, with one judge pausing his Schedule A docket and another openly challenging plaintiffs' generalized allegations and joinder practices. On March 9, the Seventh Circuit issued a ruling rejecting personal jurisdiction in a Schedule A case based solely on website screenshots, reinforcing limits on the theory that a seller's willingness to ship to Illinois, without proof of actual sales, is sufficient to establish jurisdiction. *See Liu v. Monthly*, 170 F.4th 1090 (7th Cir. 2026).

With the game changing in Illinois, plaintiffs have altered their pattern of play, instead filing cases in New Jersey.

In September 2025, District of New Jersey Chief District Judge Renee Marie Bumb issued Standing Order 2025-4 (Order) in response to the "uptick" in Schedule A cases filed in the jurisdiction. The Order sets a strict set of rules to curb abuse of the Schedule A scheme, striking a balance that lays out a mechanism for mark owners to utilize the Schedule A scheme with boundaries, while curbing due process concerns.

Judge Bumb's Order puts personal jurisdiction at the forefront of the inquiry, with the main concern being the targeting of large swaths of online sellers. Judge Bumb reasons, "[t]he law is well-settled

that simply being an online seller on Amazon isn't enough … [a] plaintiff cannot create personal jurisdiction by ordering a product to be shipped to the forum." Failure to comply with the Order will result in dismissal with prejudice.

First, to satisfy Federal Rule 20 and permissive joinder under the Order, each complaint must consist of a single defendant or group of defendants acting under the same operator, with separate filing fees paid for each separate complaint.

Second, the Order requires litigants to plausibly plead personal jurisdiction, including contacts with the forum if specific jurisdiction is invoked. As a refresher, *general* jurisdiction applies when a defendant is "at home" in the forum state. For a defendant to be subject to *specific* jurisdiction under the Due Process Clause, three requirements must be met: (1) the defendant's contacts with the forum state show the defendant purposefully availed themself of the privilege of conducting business in the forum state or purposefully directed their activities at the state (i.e., made sales in the state); (ii) the plaintiff's alleged injury must have arisen out of the defendant's forum-related activities; and (iii) the exercise of personal jurisdiction must comport with traditional notions of fair play and substantial justice. *See, e.g., Liu*, 170 F.4th at 1093.

Third, the Order is clear that the court will not allow plaintiffs to deviate from traditional and typical service requirements, as more lenient courts have allowed in the past. Under the Order, a particularized defendant and case-specific showing must be made before any form of alternate service is authorized by the court. In other words, personal service is the default, as with almost all other cases filed in federal court.

Fourth, the court will not automatically grant *ex parte* TRO motions. Plaintiffs will be required to show, at a minimum, that personal jurisdiction exists as to each defendant.

Fifth, the court is unlikely to seal any filings, considering the basis for such requests is typically driven by the *ex parte* TRO motions disfavored by the Order. In the past, Schedule A plaintiffs have succeeded in sealing the list of defendants, and often even the entire complaint, citing concern that the defendants will dissipate assets or destroy evidence. The District of New Jersey is one of many courts across the country that have come to particularly disfavor this aspect of the Schedule A scheme.

Sixth, any complaint filed must be accompanied by a declaration from counsel, identifying: any pending cases brought by the plaintiff(s) against any of the named defendants prior to this suit, the case number(s), whether the intellectual property at issue is the same, and the status and disposition of the other case(s) (e.g., pending, settlement, dismissal or other disposition).

Judge Bumb's concerns are clearly tied to the targeting of online sellers and insufficient contacts with the forum state. However, when it comes to John Doe's physical presence outside of MetLife Stadium, counterfeit merchandise in hand, the equation changes.

Merch Traffic, LLC v. John Doe: The Boss Wins in New Jersey

A recent case shows that when mark owners follow the lessons of last summer and pursue in-person bootleg merchandisers after a tour has commenced, injunctive relief is still attainable, even in the District of New Jersey.

On April 9, Plaintiff Merch Traffic, LLC filed suit against Doe defendants in the District of New Jersey, seeking a preliminary injunction against bootleg merchandisers selling counterfeit Bruce Springsteen tour merchandise. On April 13, US District Judge for the District of New Jersey Evelyn Padin granted a preliminary injunction and seizure order, authorizing law enforcement to confiscate bootleg Bruce Springsteen merchandise outside venues on Springsteen's tour. Critically, Plaintiff Merch Traffic, LLC filed the complaint after the tour and the defendants' infringing activities had begun. Judge Padin's Order barred defendants and their agents from using the mark "Bruce Springsteen & the E Street Band" on or in connection with the sale, manufacturing or distribution of any clothing or other merchandise bearing the mark. Further, the Order allowed law enforcement to seize and impound infringing merchandise. The Order also set specific boundaries for the relief granted, with seizure permitted within a four-mile radius of the venues, from four hours before to four hours after a performance. Law enforcement was ordered to serve a copy of the Order, together with the complaint, at the time of seizure. Defendants served were permitted to object and move for relief within 10 days of seizure.

The successes of Springsteen this summer and Phish last summer indicate that obtaining a seizure and restraining order for defined tour dates across the country is possible where the motion is made after the tour begins, once John Doe is present, and the injury is concrete and ongoing.

Applying Summer Concert Lessons to the World Cup

Against the backdrop of mounting judicial skepticism toward the online Schedule A model and New Jersey's reformed procedural landscape, the World Cup creates the conditions for the Schedule A enforcement tool to return to its original purpose.

Like summer concert tours, the World Cup will invite massive physical-venue counterfeiting opportunities, as opposed to online counterfeiting. John Doe, as an in-person seller, is identifiable (or at least locatable), present in the jurisdiction and engaged in conduct the court can observe. The Springsteen case should serve as a template for mark owners with stakes in the World Cup — seek targeted, venue-specific relief with a cognizable geographic and temporal scope. The deficiencies

with the online Schedule A scheme that Judge Bumb's Order seeks to target are addressed under this in-person model. Personal jurisdiction problems fall away when defendants are physically operating in the forum; joinder problems fail to materialize when a plaintiff targets sellers at the same event; and service of process is not subject to heightened scrutiny when sellers are personally served by law enforcement at the time of seizure.

The World Cup thus offers mark owners an opportunity to obtain *ex parte* seizure relief within proper procedural constraints. That is, if practitioners prepare accordingly by investing in pre-suit investigation and collecting evidence of contacts with the forum, setting the stage for personal jurisdiction and later compliance with Rule 11. Upon filing of complaints, specificity and particularized facts collected during the investigative period are critical. Litigants should request relief tailored to the harm, with geographic and temporal limitations, specifically identifying the upcoming matches and their locations.

The World Cup has the potential to generate a wave of physical-venue enforcement cases that may restore some judicial goodwill toward the Schedule A scheme, with the first match on US soil being USA v. Paraguay at SoFi Stadium (referred to by FIFA as Los Angeles Stadium) in Inglewood, CA. The Schedule A model of enforcement has rapidly transformed over the last 15 years, opening a Pandora's Box of procedural shortcuts. Courts around the country have made clear that enough is enough. This summer, mark owners who embrace transparency, proportionality and specificity may find courts are more likely to grant relief than throw up a red card.

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