

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HONG KONG YU'EN E-COMMERCE CO.
LIMITED,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED IN
SCHEDULE "A" HERETO,

Defendants.

Case No. 1:24-cv-12909-CPK-JTG

**Honorable Judge Charles P. Kocoras
Magistrate Jeffrey T. Gilbert**

Hearing Date: March 25, 2025

Hearing Time: 9:50 AM CST

PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT

Plaintiff Hong Kong Yu'En E-Commerce Co. Limited ("Plaintiff") hereby moves for entry of Default and Default Judgment against the Defendants identified by name and defendant number in Amended Schedule A, attached hereto as Exhibit A. In support of this motion, Plaintiff files herewith its Memorandum of Law and the Declaration of Katherine M. Kuhn. If granted, this motion would dispose of all remaining party defendants in this matter.

DATED: March 19, 2025

Respectfully submitted,

By: /s/ Joseph W. Droter

Joseph W. Droter (IL Bar No. 6329630)

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of March 2025, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Illinois, Eastern Division, using the electronic case filing system. Notice of this filing is provided to unrepresented parties for whom contact information is listed below and has been provided via email and by posting the filing on a URL contained on our website <http://blointernetenforcement.com>, and a link to said website in the email provided by third-party, Walmart.

By: /s/ Joseph W. Droter
Joseph W. Droter (IL Bar No. 6329630)

No.	Defendant's Name	Defendant's Contact
1	guangzhoucankaijikejiyouxiangongsi CanJIKJ Storefront 9 Infringements	cankaijikeji@163.com
2	guangzhoubomingumaoyiyouxianongsi CHANGMOO Storefront 64 Infringements	changmoo@yeah.net
6	GuangZhouShiTangShengFuZhuangYouXianGongSi Tang Shen Storefront 35 Infringements	tangshengfuzhuang@163.com
8	Guangzhoumaoyuanzemaoyiyouxianongsi Encouthre Storefront 24 Infringements	tremenis@163.com
10	SHENZHENSHI TongMankejiyouxiangongsi TMKBGHML Storefront 1Infringement	m662tmkbg@yeah.net
14	shenzhenshikedardianzikejiyouxiangongsi XILIFAN Storefront 502 Infringements	dakeeryy@163.com

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**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT**

Plaintiff Hong Kong Yu'En E-Commerce Co. Ltd. ("Plaintiff") hereby submits this Memorandum of Law in support of its Motion for Entry of Default and Default Judgment (the "Motion") pursuant to Federal Rule of Civil Procedure 55 ("Rule 55") against the identified Schedule "A" Defendants (collectively, the "Defaulting Defendants"), which have been separately listed in Exhibit "A" to the accompanying Declaration of Katherine M. Kuhn (the "Kuhn Decl."). Plaintiff's Motion is made and based upon this Memorandum of Law, the Kuhn Declaration, the Declaration of En Fang (the "Fang Decl."), the papers and pleadings on file in this action, and any argument of counsel the Court may entertain. Plaintiff's Motion for entry of Default and Default Judgment disposes of all remaining defendants.

I. INTRODUCTION

Plaintiff's request for entry of default is straightforward, the Court authorized electronic service of process on the named Schedule "A" Defendants via email as part of issuing a Temporary Restraining Order (the "TRO") in this matter on December 20, 2024 Dkt. No. 22 .

Plaintiff effectuated service on all named Schedule “A” Defendants and a Return of Service was filed attesting to service having been completed on January 3, 2025 Dkt. No. 31 . As set forth in the docket entry for the Return of Service, a response to Plaintiff’s operative Complaint was due on or before January 24, 2025.

Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A) (“Rule 12(a)(1)(A)”), the Defaulting Defendants had twenty-one (21) days to answer or otherwise respond to Plaintiff’s Complaint in this action. As of the filing of this Motion, more than seventy (70) days have expired since electronic service was effectuated on the Schedule “A” Defendants, which includes the Defaulting Defendants that are the subject of Plaintiff’s Motion. (Kuhn Decl. 4.) To date, none of the Defaulting Defendants have answered or otherwise responded to Plaintiff’s Complaint. (*Id.*) Accordingly, the Clerk of the Court is compelled to enter default pursuant to Rule 55(a) against the Defaulting Defendants.

Pursuant to Rule 55(b)(2), Plaintiff now also respectfully moves this Court for entry of a default judgment finding the Defaulting Defendants liable on all counts asserted in Plaintiff’s Complaint. Dkt. No. 1. These asserted counts include claims for Trademark Infringement and Counterfeiting (Count I), Unfair Competition under 15 U.S.C. 1125(a) (Count II), False Designation of Origin under 35 U.S.C. 1125(a) (Count III), and violation of the Illinois Uniform Deceptive Trade Practices Act (the “Uniform Deceptive Trade Practices Act”) (Count IV). Dkt. No. 1 at 20-56.

In connection with its asserted claims for relief, Plaintiff seeks an award of statutory damages pursuant to 15 U.S.C. 1117(c) against all Defaulting Defendants, which should be enhanced, for their willful infringement of the following federally registered trademark number asserted in this action: 5,994,759 (the “Trademark” or “Brand Trademark”). (Kuhn Decl. 5.)

Plaintiff additionally requests the Court issue a permanent injunction against the Defaulting Defendants. *See* 15 U.S.C. 1116. Furthermore, Plaintiff requests an award attorneys' fees and costs for the Defaulting Defendants' willful infringement of the company's Brand Trademark pursuant to 15 U.S.C. 1117. Alternatively, Plaintiff requests issuance of a permanent injunction and an award of attorneys' fees and costs based on the Defaulting Defendants' willful violation of the Uniform Deceptive Trade Practices Act.

As alleged in the Complaint, the Defaulting Defendants have displayed, without authorization, the Brand Trademark on the Walmart online sales platform (the "Platform") to market and sell knockoff, counterfeit products resembling Plaintiff's authentic Modlily brand products, thereby deceiving public consumers as to the quality, nature, and source of goods being purchased. (Kuhn Decl. 6.) Moreover, the Defaulting Defendants are alleged to be operating as part of a coordinated, sophisticated counterfeit product network that utilizes a common supply chain and manufacturing source to fulfill consumer orders for knockoff Modlily brand products by displaying, without authorization, Plaintiff's Brand Trademark on their online storefronts. (Kuhn Decl. 8, 10.) These circumstances clearly demonstrate the Defaulting Defendants have willfully and intentionally infringed Plaintiff's Brand Trademark, thereby supporting the company's request for enhanced statutory damages and its entitlement to an award of attorneys' fees and costs under either the Lanham Act (15 U.S.C. 1117) or the Uniform Deceptive Trade Practices Act (815 ILCS 510/3). (*Id.*)

Procedurally, Rule 55(b)(2) provides for a court-ordered default judgment which establishes, as a matter of law, that defendants are liable to plaintiff on each cause of action alleged in the complaint. *United States v. Di Mucci*, 879 F.2d 1488, 1497 (7th Cir. 1989). When the Court determines that a defendant is in default, the factual allegations of the complaint are taken as true

and may not be challenged, and the defendants are liable as a matter of law as to each cause of action alleged in the complaint. *Black v. Lane*, 22 F.3d 1395, 1399 (7th Cir. 1994). Plaintiff meets the requirements for entry of the requested default judgment under Rule 55(b)(2).

II. ARGUMENT

A. Jurisdiction And Venue Are Proper In This Court

This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act, Federal, 15 U.S.C. 1051 et seq., 28 U.S.C. 1338(a) (b) and 28 U.S.C. 1331. Dkt. No. 1 at 2-3. Venue is proper in this Court pursuant to 28 U.S.C. 1391, and this Court may properly exercise personal jurisdiction over Defendants since each of the Defendants directly targets business activities toward consumers in Illinois and causes harm to Plaintiff's business within this judicial district. Dkt. No. 1 at 2-3 *see also uBID, Inc. v. GoDaddy Grp., Inc.*, 623 F.3d 421, 423-24 (7th Cir. 2010) (without benefit of an evidentiary hearing, plaintiff bears only the burden of making a prima facie case for personal jurisdiction all of plaintiff's asserted facts should be accepted as true and any factual determinations should be resolved in its favor).

In addition to the foregoing, the Court has determined that it can properly exercise specific personal jurisdiction over the Schedule "A" Defendants, which includes the Defaulting Defendants, in issuing the TRO on December 20, 2024 Dkt. No. 22 . Moreover, the Court additionally issued a Preliminary Injunction on January 13, 2025February 5, 2025, further solidifying this determination. Dkt. No. 37. Accordingly, it is unquestionable that the Defaulting Defendants are subject to personal jurisdiction in this action.

B. Plaintiff Meets the Requirements for Entry Of Default Under Rule 55 A

Pursuant to Rule 55(a), “when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). Plaintiff clearly meets these requirements.

On December 16, 2024, Plaintiff filed its Complaint in this action alleging, among other claims, Trademark Infringement and Counterfeiting (Count I), Unfair Competition under 15 U.S.C. 1125(a) (Count II), False Designation of Origin under 35 U.S.C. 1125(a) (Count III), and violation of the Illinois Uniform Deceptive Trade Practices Act (the “Uniform Deceptive Trade Practices Act”) (Count IV). Dkt. No. 1 at 20-56. All Defendants, which includes the Defaulting Defendants, were properly served with the Complaint, TRO, all supporting documents via electronic service on January 3, 2025. Dkt. No. 31. Specifically, the Defaulting Defendants were required to answer or otherwise respond to the Complaint on or before January 24, 2025.

Id. As such, the Defaulting Defendants had twenty-one (21) days to answer or otherwise respond to Plaintiff’s complaint pursuant to Rule 12(a)(1)(A). As of the filing of this Motion, over forty-five (45) days have expired since electronic service was effectuated on the Schedule “A” Defendants, which includes the Defaulting Defendants that are the subject of Plaintiff’s Motion. (Kuhn Decl. 4.) To date, none of the Defaulting Defendants have answered or otherwise responded to Plaintiff’s Complaint. (*Id.*) Accordingly, the Clerk of the Court is compelled to enter default and default judgment pursuant to Rule 55 against the Defaulting Defendants.

C. Plaintiff is Entitled to Default Judgment.

Rule 55(b)(2) of the Federal Rules of Civil Procedure generally provides for entry of a court-ordered default judgment against one or more defending parties that failure to appear, answer, and/or defendant allegations asserted against them. Fed.R.Civ.P. 55(b)(2). A default judgment

establishes, as a matter of law, that named, unresponsive, defendants are liable on each cause of action alleged against them in the complaint. *Di Mucci*, 879 F.2d at 1497. When a court determines that a defendant is in default, the factual allegations of the complaint are taken as true and may not be challenged, and the defendants are liable as a matter of law as to each cause of action alleged in the complaint upon entry of default judgment. *Black*, 22 F.3d at 1399.

More than twenty-one (21) days have passed since Defendants were served, and no answer or other responsive pleading has been filed by any of the Defaulting Defendants identified in Schedule “A.” *See* Fed. R. Civ. P. 12(a)(1)(A). Thus, default judgment is appropriate, and Plaintiff is entitled to entry of a default judgment pursuant to Rule 55(b)(2) against the Defaulting Defendants for trademark infringement, unfair competition, false designation of origin, and violation of the Uniform Deceptive Trade Practice Act as asserted in the Complaint. Dkt. No. 1 at 20-56.

As argued below, Plaintiff is entitled to the following remedies through the issuance of a default judgment against the Defaulting Defendants: (1) an award of statutory damages and profits for trademark infringement under 15 U.S.C. 1117(c), enhanced due to the willful infringement of Defaulting Defendants (2) entry of a permanent injunction pursuant to 15 U.S.C. 1116 (3) alternatively, entry of a permanent injunction pursuant to 815 ILCS 510/3 and (4) an award of attorneys’ fees and costs pursuant to 15 U.S.C. 1117 for willful trademark infringement and/or for willful violation of the Uniform Deceptive Trade Practices Act pursuant to 815 ILCS 510/3.

D. Plaintiff is Entitled to the Relief Requested.

Through entry of default, Plaintiff has established that all Defaulting Defendants: (1) are liable for intentionally and willfully infringing the Brand Trademark (2) are liable for false designation of origin and (3) have willfully violated the Uniform Deceptive Trade Practices Act.

Dkt. No. 1 at 20-56. As such, the only the following issues remain to be adjudicated through the Motion: (1) Plaintiff's entitlement to an award of statutory damages for infringement of the Brand Trademark (2) the company's request that any statutory damage award be enhanced based on the Defaulting Defendants' willful trademark infringement (3) the company's right to issuance of a permanent injunction against the Defaulting Defendants and (4) the propriety of an award of attorneys' fees and costs for the Defaulting Defendants' willful infringement of the Brand Trademark and/or their willful violation of the Uniform Deceptive Trade Practices Act. Plaintiff asserts that it is entitled to all relief requested through its Motion.

1. Plaintiff is entitled to enhanced statutory damages under 15 U.S.C. § 1117(c).

Turning first to the request for an award of statutory damages under 15 U.S.C. § 1117(c) against the Defaulting Defendants. Plaintiff is entitled to such relief for the Defaulting Defendants' infringement of the company's Brand Trademark, which it maintains was done willfully and intentionally. (Kuhn Decl. ¶ 8, 10-11.)

Pursuant to the statutory damages provision of the Lanham Act, 15 U.S.C. § 1117(c), a plaintiff in a case involving the use of a counterfeit mark may elect to receive "not less than \$1,000 or more than \$200,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just." 15 U.S.C. § 1117(c)(1). When the counterfeiting is found to be willful, 15 U.S.C. § 1117(c)(2) provides for statutory damages of up to "\$2,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just." 15 U.S.C. § 1117(c)(2).

Although 15 U.S.C. § 1117(c) contains the dollar range for possible statutory damage awards, the only guidance provided by the statute for how to determine a damage award within the statutory dollar range is "as the court considers just." 15 U.S.C. § 1117(c). Courts interpreting

15 U.S.C. 1117(c) have analogized case law applying the statutory damage provision of the Copyright Act contained in 17 U.S.C. 504(c). *See Lorillard Tobacco Co.*, 2004 U.S. Dist. LEXIS 22563, 10 *Sara Lee v. Bags of New York, Inc.*, 36 F. Supp. 2d 161, 166 (S.D.N.Y. 1999). In *Sara Lee*, 36 F. Supp. 2d at 170, the court awarded statutory damages in the amount of 750,000 after estimating the defendants' ill-gotten gains and trebling them to "deter and punish a willful continuous course of infringements and defiance of the judicial process." The *Sara Lee* analysis included seven factors: (1) the profits made by the defendants (2) the revenues lost by plaintiff (3) the value of the mark (4) the deterrent effect on others (5) whether the conduct was innocent or willful (6) whether a defendant has cooperated in providing records and (7) the deterrent effect on the defendant.

First, the Defaulting Defendants were provided with notice of these proceedings and, apparently, intentionally elected not to appear and defend. (Kuhn Decl. 7). As a result of the Defaulting Defendants' intentional decision not to appear and defend this action, Plaintiff has been deprived of a meaningful opportunity to assess the true nature of its actual damages. (*Id.*).

In addition, Plaintiff has also expended considerable capital in securing registration of the Brand Trademark and advertising its brand in the United States and in the State of Illinois. (Fang. Decl. 10.) This includes spending approximately 8,000,000 to 12,000,000 annually to advertise and promote its Modlily brand in the United States. (*Id.*)

Lastly, a significant consideration should be whether infringing sales were made over the Internet, the rationale being that sales over the Internet increase the amount of an award because use of the Internet made the infringement widely available. The lack of information regarding Defaulting Defendants' sales and profits makes statutory damages particularly appropriate for default cases like the instant case. *See Petmed Express, Inc. v. medpets.com, Inc.*, 336 F. Supp. 2d

1213, 1220 (S.D. Fla. 2004). Likewise, Courts have recognized that statutory damages should be awarded without requiring an evidentiary hearing. *See Lorillard Tobacco Co. v. Montrose Wholesale Candies & Sundries, Inc.*, 2008 U.S. Dist. LEXIS 31761, 11 (N.D. Ill. Apr. 17, 2008).

2. Plaintiff is entitled to enhanced statutory damages for Defendants' willful conduct.

The circumstances of infringement in the case at bar clearly support awarding an enhanced statutory damage award of, at least, treble damages against them. Simply put, the Defaulting Defendants' infringing conduct in this action is unquestionably willful, thereby justifying enhanced damages under 15 U.S.C. 1117(e).

Pursuant to 15 U.S.C. 1117(e), a counterfeiting violation is presumed willful "for purposes of determining relief if the violator ... knowingly provided ... materially false contact information to a domain name registrar...." 15 U.S.C. 1117(e). Many of the Defaulting Defendants Internet Stores look sophisticated and often include images and design elements that make it very difficult for consumers to distinguish the counterfeit sites from the authorized website, Modlily.com. (Fang Decl. 13). Thus, willfulness is presumed in the present case under 15 U.S.C. 1117(e).

It is without question that the Defaulting Defendants have engaged in the intentional misappropriation and unauthorized use of the Brand Trademark. (Kuhn Decl. 8, 10-11.) In this regard, Plaintiff's Brand Trademark, often representing recent product releases, have almost instantaneously appeared on the Defaulting Defendants' online stores maintained with the Platform. (Fang Decl. 7.) "Willful infringement may be attributed to the defendant's actions where he had knowledge that his conduct constituted infringement or where he showed a reckless disregard for the owner's rights." *Lorillard Tobacco Co. v. S & M Cent. Serv. Corp.*, 2004 LEXIS 22563, 19-20 (N.D. Ill. Feb. 25, 2005). As such, knowledge need not be proven directly but can

be inferred from a defendant's conduct. *Id.* at 20. Moreover, the Defaulting Defendants have clearly been operating their online stores using the misappropriated Brand Trademark through a sophisticated counterfeit network utilizing a highly developed supply chain capable of supplying thousands of knockoff products featuring an array of Plaintiff's textile patterns and designs that could not otherwise be accomplished on an individual basis. (Kuhn Decl. 8, 10-11.)

Finally, District Courts have deemed counterfeiting willful when defendants default. *See Estee Lauder Cosmetics Ltd. & Make-up Art Cosmetics Inc. v. Ali-Beauties Store Store, et al.*, No. 1:19-cv-04579 (N.D. Ill. Sept. 12, 2019) (unpublished) (Dkt. No. 49) *Bose Corp. v. Amilineinc, et al.*, No. 1:19-cv-05347 (N.D. Ill. Oct. 9, 2019) (unpublished) (Dkt No. 44) *Eye Safety Systems, Inc. v. ICN7085, et al.*, No. 1:19-cv-06005 (N.D. Ill. Nov. 19, 2019) (unpublished) (Dkt No. 49) *Levi Strauss & Co. v. Acinth Girl Hy Store, et al.*, No. 1:19-cv-06200 (N.D. Ill. Nov. 19, 2019) (unpublished) (Dkt. No. 48).

In similar cases involving willful Internet-based counterfeiting, Courts in this district have awarded significant damages, including up to the maximum provided by law, to the plaintiff to serve the purposes of: (1) deterring the defendant and others situated like him from bringing into commerce counterfeit goods, (2) compensating the plaintiff for damages caused by defendant's infringement, and (3) punishing the defendant appropriately for his counterfeiting activities. *See, e.g., Burberry Limited, et al. v. The Partnerships And Unincorporated Associations Identified On Schedule "A"*, No. 1:14-cv-04824 (N.D. Ill. Sep. 25, 2014) (unpublished) (Docket No. 38) (awarding 2,000,000 in statutory damages per defendant) *Calvin Klein Trademark Trust et al. v. Chen Xiao Dong, et al.*, No. 15-cv-2224 (N.D. Ill. May 12, 2015) (unpublished) (Docket No. 45) (awarding 2,000,000 in statutory damages per defendant.)

Courts in this district have also considered the significant value of a plaintiff's brand and the efforts taken to protect, promote and enhance that brand in determining the appropriate dollar figure for the award. *Lorillard Tobacco Co.*, 2004 U.S. Dist. LEXIS 22563, 16. Given the Court's clear discretion in determining the appropriate amount of the statutory damages award within the statutory limits of 15 U.S.C. 1117(c), Plaintiff respectfully request the Court's entry of an award of One hundred fifteen thousand dollars (\$115,000) per Defaulting Defendant.

Additionally, the remedy imposed under the statute must provide a sufficient deterrent effect to ensure that the guilty party will not engage in further infringing conduct. *Sands, Taylor & Wood v. Quaker Oats Co.*, 34 F.3d 1340, 1348 (7th Cir. 1994). For example, in *Phillip Morris USA Inc. v. Marlboro Express*, the Court stated that due to "the size of the potential profit given the quantities of counterfeit goods involved, and the need for a substantial deterrent to future misconduct by defendants and other counterfeit traffickers ... plaintiff is entitled to the maximum statutory award under 15 U.S.C. 1117(c)(2)." 2005 U.S. Dist. LEXIS 40359, 28 (E.D.N.Y. Aug. 26, 2005).

Finally, in determining an appropriate damage award, this Court should be guided by the *Lorillard* case and consider the "significant value of the Plaintiff brand and the efforts taken to protect, promote and enhance that brand." *Lorillard Tobacco Co.*, 2004 U.S. Dist. LEXIS 22563, 16. Thus, Plaintiff's request for statutory damages award of One hundred fifteen thousand dollars (\$115,000) per Defaulting Defendant should be given favorable consideration in view of Plaintiff's effort to protect, promote and enhance the Modlily brand.

3. Plaintiff is entitled to a permanent injunction.

Next, Plaintiff is entitled to entry of a permanent injunction against the Defaulting Defendants. This request is justified under either 15 U.S.C. 1116 or, alternatively, under the Uniform Deceptive Practices Act pursuant to 815 ILCS 510/3.

First, the Court has already determined that Plaintiff is entitled to preliminary injunctive relief in this action, which includes issuance against the Defaulting Defendants. Dkt. No. 37. Nothing has occurred since entry of the preliminary injunction that would alter or prohibit entry of a permanent injunction against the non-appearing Defaulting Defendants. In short, the compelling fact presented to the Court that justified entry of preliminary injunctive relief stand unchallenged by the Defaulting Defendants. As such, Plaintiff's right to permanent injunctive relief under 15 U.S.C. 1116 or, alternatively, under the Uniform Deceptive Practices Act pursuant to 815 ILCS 510/3, is uncontested and supported by the substantial evidentiary record previously provided to the Court when preliminary injunctive relief was issued. Accordingly, Plaintiff is entitled to issuance of permanent injunctive relief against the Defaulting Defendants.

4. Plaintiff is entitled to an award of attorneys' fees and costs.

Plaintiff is also entitled to an award of attorneys' fees and costs against the Defaulting Defendants. Such relief should be granted pending Plaintiff moving the Court for a specific award pursuant to its submission of a "Fee Award" pursuant to LR 54.3.

Plaintiff's request for an award of attorneys' fees and costs is two-fold. First, such an award is warranted on the grounds of enhanced statutory damages which are warranted for the Defaulting Defendants' willful infringement of the company's Asserted Brand Trademark. *See* 15 U.S.C. 1117. Second, and alternatively, Plaintiff is entitled to an award of attorneys' fees and costs based on the Defaulting Defendants' willful violation of the Uniform Deceptive Trade Practices Act. *See*

815 ILCS 510/3. Under either statutory provision, the facts presented clearly justify the willful infringement and violation of Plaintiff's federally secured rights in and to the Brand Trademark, which was expressly undertaken to deceive the consuming public. (Kuhn Decl. 8, 10-11.) Accordingly, Plaintiff is entitled to an award of attorneys' fees and costs, subject to the company filing a "Fee Award" pursuant to LR 54.3.

III. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests entry of default and default judgment against the Defaulting Defendants pursuant to Rule 55. Plaintiff additionally requests that the Court enter an order granting the following: (1) statutory damages of \$115,000.00 per Defaulting Defendant per infringed Trademark based on their willful infringement pursuant to 15 U.S.C. 1117(c) (2) issuance of a permanent injunction against the Defaulting Defendants pursuant to 15 U.S.C. 1116 or, alternatively, under the Uniform Deceptive Practices Act pursuant to 815 ILCS 510/3 (3) an award of attorneys' fees and costs pursuant 15 U.S.C. 1117 and/or 815 ILCS 510/3 based on the Defaulting Defendants' willful conduct in an amount to be determined upon submission of a "Fee Award" under LR 54.3 and (4) such other relief as the Court deems just and proper.

DATED: March 19, 2025

Respectfully submitted,

By: /s/ Joseph W. Droter

Joseph W. Droter (IL Bar No. 6329630)

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of March 2025, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Illinois, Eastern Division, using the electronic case filing system. Notice of this filing is provided to unrepresented parties for whom contact information is listed below and has been provided via email and by posting the filing on a URL contained on our website <http://blointernetenforcement.com>, and a link to said website in the email provided by third-party, Walmart.

By: /s/ Joseph W. Droter

Joseph W. Droter (IL Bar No. 6329630)

No.	Defendant's Name	Defendant's Contact
1	guangzhoucankaijikejiyouxiangongsi CanJIKJ Storefront 9 Infringements	cankaijikeji@163.com
2	guangzhoubomingumaoyiyouxiangongsi CHANGMOO Storefront 64 Infringements	changmoo@yeah.net
6	GuangZhouShiTangShengFuZhuangYouXianGongSi Tang Shen Storefront 35 Infringements	tangshengfuzhuang@163.com
8	Guangzhoumaoyuanzemaoyiyouxiangongsi Encouthre Storefront 24 Infringements	tremenis@163.com
10	SHENZHENSHI TongMankejiyouxiangongsi TMKBGHML Storefront 1Infringement	m662tmkbg@yeah.net
14	shenzhenshikedardianzikejiyouxiangongsi XILIFAN Storefront 502 Infringements	dakeeryy@163.com

**IN THE UNITED STATES DISTRICT COURT
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EASTERN DIVISION**

HONG KONG YU'EN E-COMMERCE CO.
LIMITED,

Plaintiff,

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THE INDIVIDUALS, CORPORATIONS,
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**Honorable Judge Charles P. Kocoras
Magistrate Jeffrey T. Gilbert**

Hearing Date: March 25, 2025

Hearing Time: 9:50 AM CST

**DECLARATION OF KATHERINE M. KUHN IN SUPPORT OF PLAINTIFF'S
MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT**

I, Katherine M. Kuhn, of the City of Chicago, in the State of Illinois, declare as follows:

1. Except as otherwise expressly stated to the contrary, this declaration is based upon my personal knowledge of the following facts and, if called as a witness, I could and would competently testify to the statements made herein.

2. I make this declaration in support of Plaintiff's Motion for Default and Default Judgment against the Schedule "A" Defendants as listed and identified in Exhibit A (hereinafter, "Defaulting Defendants").

3. I am an attorney at law, duly admitted to practice before the Courts of the State of Illinois and the United States District Court for the Northern District of Illinois. I am one of the attorneys for Plaintiff Hong Kong Yu'En E-Commerce Co. Ltd. ("Plaintiff"). I make this declaration from matters within my own knowledge unless stated otherwise.

4. I hereby certify that the Defaulting Defendants have failed to plead or otherwise defend this action within twenty-one (21) days of being served with the Summons and Complaint

in this action in violation of Federal Rule of Civil Procedure 12(a)(1)(A). Specifically, all Defaulting Defendants received electronic service of process as authorized by the Court on January 3, 2025, as reflected in the duly executed Return of Summons. Dkt. No. 31. As of the date of this Declaration, more than seventy (70) days have lapsed since service was effected on the Defaulting Defendants, none of whom has answered or otherwise plead in response to Plaintiff's Complaint.

5. Plaintiff's claims for relief assert and pertain to the Defaulting Defendants' intentional, willful infringement of Plaintiff's federally registered trademark, U.S. Registration No. 5994759 ("Trademark").

6. As alleged in the Complaint, the Defaulting Defendants have displayed, without authorization, Plaintiff's Trademark on knockoff, counterfeit products which Defendants market and sell via "online stores" which can be accessed via Walmart, Inc.'s online sales platform at www.walmart.com. Defendants' products resemble Plaintiff's authentic Trademark, the Modlily brand, to deceive public consumers as to the quality, nature, and source of goods being purchased.

7. Plaintiff is entitled to statutory damages in the amount of 115,000.00 per Defaulting Defendant per each Trademark infringed upon due to the willful nature of Defendants' conduct. Defaulting Defendants received notice of these proceedings and knowingly elected not to appear and defend the action. As a result of their intentional conduct, Plaintiff has been deprived of a meaningful opportunity to assess and present the full extent and nature of its actual damages.

8. In addition, Defaulting Defendants in concert with other party defendants who have been named in trademark enforcement actions in this district have acted through and participated in a counterfeiting network which actively monitors and shares information regarding *all* litigation that has been filed by Plaintiff in the Northern District of Illinois by posting it to the website www.SellerDefense.com. This serves as a method to notify other defendants of the status

of Plaintiff's prosecution of its claims, the advisability of appearing in the action, and the overall viability of successfully defending the action, should one appear. More repugnant is the network's comprehensive strategy to save costs, which Defaulting Defendants have deployed in the case at hand: (1) ignore service (2) abandon any online store and monetary funds which the platform has restrained (3) exploit the near-certainty that a judgment in the United States will not be enforced or collected against a party in the Republic of China, where these Defaulting Defendants are conveniently located. In short, the Defaulting Defendants unquestionably know about this litigation but intentionally and willfully disregarded it in a bad faith attempt to save some money.

9. To maximize the deterrent effect of default judgment, Plaintiff requests that statutory damages be imposed on each Defaulting Defendant for each act of infringement of Plaintiff's Trademark. Such an award precludes Defaulting Defendants from shielding themselves from monetary responsibility for the collective infringement. See, *Desire, LLC v. Manna Textiles, Inc.*, 986 F.3d 1253, at 1264-72 (9th Cir. 2021). Given the Defaulting Defendants' willful and intentional misconduct and flagrant disregard for the Court and applicable law, Plaintiff respectfully submits that statutory damages in the amount of \$115,000 is appropriate as against each individual Defaulting Defendant in this case and seeks an order granting same. See, Exhibit 1 attached hereto.

10. Defaulting Defendants have not only engaged in the infringement of the Trademark, but they have done so through a highly intricate network of similarly situated counterfeiters. Moreover, the basic nature of the trademark infringement scheme employed here demonstrates that the Defaulting Defendants not only knew of the impropriety of their conduct but also chose to implement their counterfeit scheme by acting through sophisticated sources and established supply chains. This is the only possible scenario under which the Defaulting

Defendants could immediately procure, without authorization, Plaintiff's Trademark and offer the infringing products for sale through their online stores at such close intervals in time.

11. Plaintiff and undersigned law firm have investigated the infringing activities of the Defaulting Defendants and attempted to identify their contact information. Our investigation confirmed that the Defaulting Defendants are primarily domiciled in Asia. As such, I have information and belief that the Defaulting Defendants are not active-duty members of the U.S. armed forces.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: March 19, 2025

By: /s/ Katherine M. Kuhn
Katherine M. Kuhn (Bar No. 6331405)
BAYRAMOGLU LAW OFFICES LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of March 2025, I electronically filed the foregoing using the electronic case filing system. Notice of this filing is provided to unrepresented parties for whom contact information is listed below and provided via email and by posting the filing on a URL contained on our website <http://blointernetenforcement.com>, and a link to said website in the email provided by third-party, Walmart, Inc.

By: /s/ Katherine M. Kuhn
 Katherine M. Kuhn (Bar No. 6331405)
BAYRAMOGLU LAW OFFICES LLC

No.	Defendant's Name	Defendant's Contact
1	guangzhoucankaijikejiyouxiangongsi CanJIKJ Storefront 9 Infringements	cankaijikeji@163.com
2	guangzhoubomingumaoyiyouxiangongsi CHANGMOO Storefront 64 Infringements	changmoo@yeah.net
6	GuangZhouShiTangShengFuZhuangYouXianGongSi Tang Shen Storefront 35 Infringements	tangshengfuzhuang@163.com
8	Guangzhoumaoyuanzemaoyiyouxiangongsi Encouthre Storefront 24 Infringements	tremenis@163.com
10	SHENZHENSHI TongMankejiyouxiangongsi TMKBGHML Storefront 1Infringement	m662tmkbg@yeah.net
14	shenzhenshikedardianzikejiyouxiangongsi XILIFAN Storefront 502 Infringements	dakeeryy@163.com

EXHIBIT A

AME DED CHED E A

	r	r
1	guangzhoucankaijikejiyouxiangongsi C I r r I r	https://www.walmart.com/seller/101684203?itemId=9565062949&pageName=item&returnUrl=%2Fip%2FWomens-Clothing-Women-s-Casual-Fashion-Jacket-Knitted-Loose-Sweater-Fall-And-Winter-New-Short-Section-Of-The-Row-Buttons-Shirts-Modlily-Tops-Women-Be%2F9565062949
2	guangzhoubomingumaoyiyouxianongsi CHA GM r r I r	https://www.walmart.com/seller/101654694?itemId=7519619067&pageName=item&returnUrl=%2Fip%2FCHANGMOO-Womens-Hawaiian-Shirt-Big-and-Tall-Cotton-Hawaiian-Shirts-for-Women-Summer-Womens-Summer-Tops-and-Blouses-Work-Modlily-Tops-for-Women%2F7519619067
3	DISMISSED	DISMISSED
4	DISMISSED	DISMISSED
5	DISMISSED	DISMISSED
6	GuangZhouShiTangShengFuZhuang YouXianGongSi T r r I r	https://www.walmart.com/seller/101694887?itemId=5891544980&pageName=item&returnUrl=%2Fip%2FSummer-Savings-Clearance-2024-Women-s-Fashionable-V-Neck-Lace-Short-Sleeved-Casual-Solid-Color-T-shirt-Top-Womens-Shirt-Short-Sleeve-Modlily-Top%2F5891544980
7	DISMISSED	DISMISSED
8	Guangzhoumaoyuanzemaoyiyouxianongsi E r r r I r	https://www.walmart.com/seller/101672937?itemId=8837914981&pageName=item&returnUrl=%2Fip%2FWomens-Tops-Women-s-Casual-Knitted-Sweater-Short-Shawl-Hollow-Lightweight-Seven-Sleeves-Cardigan-Shirts-Women-Clothing-Modlily-Dark-Purple-M%2F8837914981
9	DISMISSED	DISMISSED
10	SHENZHENSHI TongMankejiyouxiangongsi TM BGHM r r I r	https://www.walmart.com/seller/101220824?itemId=1749275198&pageName=item&returnUrl=%2Fip%2FSwimsuit-Women-Tummy-Control-2-Piece-High-Waist-Bikini-Set-Push-Up-Sunflower-Print-Plus-Size-Women-Bathing-Suit-Boy-Shorts-Set%2F1749275198
11	DISMISSED	DISMISSED

AME DED CHED E A

	r	r
12	DISMISSED	DISMISSED
13	DISMISSED	DISMISSED
14	shenzhenshikedardianzikejiyouxiang ongsi XI IFA r r I r	https://www.walmart.com/seller/101671540?itemId=5946608356&pageName=item&returnUrl=%2Fip%2FWomen-Fashion-Trend-Leisure-Fashion-Chiffon-Dress-Modlily-Tops-for-Women%2F5946608356
15	DISMISSED	DISMISSED
16	DISMISSED	DISMISSED
17	DISMISSED	DISMISSED

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HONG KONG YU'EN E-COMMERCE CO.
LIMITED,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED IN
SCHEDULE "A" HERETO,

Defendants.

Case No. 1:24-cv-12909-CPK-JTG

**Honorable Judge Charles P. Kocoras
Magistrate Jeffrey T. Gilbert**

**DECLARATION OF EN FANG IN SUPPORT OF PLAINTIFF'S
MOTION FOR DEFAULT AND DEFAULT JUDGMENT**

I, EN FANG, of Hong Kong, a special administrative region of the People's Republic of China, declare as follows:

1. Except as otherwise expressly stated to the contrary, this declaration is based upon my personal knowledge of the following facts and, if called as a witness, I could and would competently testify to the statements made herein.

2. I make this declaration in support of Plaintiff's Motion for Default and Default Judgment (the "Motion").

3. I am a Director for Plaintiff Hong Kong Yu'En E-Commerce Co. Ltd. ("Plaintiff"). I am personally knowledgeable of, or have access to business records concerning, all information referenced herein including, but not limited to Plaintiff's trademarks, copyrights, other intellectual property, sales, on-line sales, advertising, marketing, and media coverage. I make this declaration from my matters within my own personal knowledge unless stated otherwise.

4. Plaintiff markets and sells women's clothing and related items under the "Modlily" brand name ("Modlily").

5. Modlily is an extremely well-known source of women's clothing in the United States and has been the subject of rampant counterfeit sales through online platforms such as Amazon, eBay, Alibaba, Temu, Aliexpress, and Walmart (the "Platform"), which is the online sales platform at issue in this action. These are the six largest online retailers in the World – and Plaintiff does not sell its products through any one of them. Rather, Plaintiff only sells its genuine Rotita brand products through its website modlily.com.

6. Plaintiff seeks an award of statutory damages against all defaulting Schedule "A" Defendants (the "Defaulting Defendants") in this action. The Defaulting Defendants are accused of intentionally and willfully infringing Plaintiff's federally registered trademark asserted in this action: (1) 5,994,759 (the "Trademark" or "Brand Trademark").

7. It is without question that the Defaulting Defendants have engaged in the intentional misappropriation and unauthorized use of the Brand Trademark. In this regard, Plaintiff's Trademark, often representing recent product releases, have almost instantaneously appeared on the Defaulting Defendants' online stores maintained with the Platform (the "Online Stores"). Moreover, the Defaulting Defendants have unquestionably been operating their Online Stores using the misappropriated Brand Trademark through a sophisticated counterfeit network utilizing a highly developed supply chain capable of supplying thousands of knockoff products featuring an array of Plaintiff's textile patterns and designs that could not otherwise be accomplished on an individual basis.

8. The basic nature of the copyright infringement scheme employed demonstrates that the Defaulting Defendants not only knew of the impropriety of their conduct but had to implement

their counterfeit scheme through sophisticated sources and established supply chains. This is the only possible scenario under which the Defaulting Defendants could immediately procure, without authorization, Plaintiff's new copyright protected product images and offer them for sale through their Online Stores. In addition, the Defaulting Defendants have intentionally used the Copyright Protected Images for soliciting counterfeit, knockoff Rotita product sales on a Platform that Plaintiff does not, and has not, utilized to sell its authentic products. Simply put, these facts not only establish the Defaulting Defendants' knowledge and intentional infringement of Plaintiff's Copyright Protected Images.

9. Plaintiff has paid the rate of \$500 per hour for Katherine M. Kuhn's, Esq.'s legal services in this action and in other pending actions. Plaintiff has also paid the rates of \$400 per hour for Joseph W. Droter, Esq.'s legal services in this action and in other pending actions. Plaintiff has also paid the rate of \$275 per hour for paralegal services provided by Heather Ikerd and Elizabeth Cummings in this action and in other pending actions.

10. Plaintiff's rough estimated gross revenue from United States sales likely exceeds \$25,000,000 USD per year. Of this amount, Plaintiff roughly estimates that over \$1,500,000 is derived from sales in the State of Illinois. Moreover, Plaintiff spends roughly anywhere from \$8,000,000 to \$12,000,000 USD each year to specifically advertise its Asserted Brand in the United States through such online advertising sources as Google Ads, Facebook, and Bing. Simply put, Plaintiff is an extremely successful company that earns millions of dollars from product sales in the United States – including within the State of Illinois. To do so, Plaintiff annually spends tens of millions of dollars advertising in the United States to promote the sale of its Brand.

11. Plaintiff expects to earn a net profit of approximately 30% on the sale of its Modlily brand products. This figure, however, includes substantial advertising expenses that the Defaulting

Defendants would not have to pay since they are largely capitalizing on Plaintiff's advertising efforts by misappropriating its copyright protected images and imbedding the term "Rotita" in their Temu.com search engine optimization. Doing so causes their online stores to be displayed whenever someone searches for "Modlily" on Walmart.com despite Plaintiff not selling authentic "Modlily" brand products on the platform. Based on the foregoing, I would estimate that the Defaulting Defendants' Online Stores operate at a net profit of between 40% to 50%. I believe that a disgorgement of the Defaulting Defendants' profits would fall within the net profit range. However, it is impossible to definitively calculate the Defaulting Defendants' total sales on the Platform through their Online Stores or to ascertain their expenses related to their infringing sales because they have failed to appear, defend, or otherwise participate in this action.

12. The Defaulting Defendants named in the company's trademark infringement enforcement actions are engaged in the practice of copying Plaintiff's Brand Trademark almost instantaneously after they are first displayed on the company's website and then associating these Trademarks with sale and promotion of unauthorized, counterfeit products of substandard quality, thereby deceiving consumers – including the citizens of the State of Illinois. Moreover, given the nature of Plaintiff's goods, such large-scale sales operations over multiple online retail platforms require considerable supply chain coordination that could not reasonably be accomplished independently by any of the named Defaulting Defendants. Simply put, Plaintiff maintains that the Defaulting Defendants are acting in concert, pursuant to a common scheme, whereby they independently copy the Brand Trademark, without authorization, from its website or such unauthorized images and Trademarks are being provided by the same common source associated with manufacturing the counterfeit products being sold on the Defaulting Defendants' Platform storefronts.

13. Many of the Defaulting Defendants Internet Stores look sophisticated and often include images and design elements that make it very difficult for consumers to distinguish the counterfeit sites from the authorized website, Modlily.com.

14. Plaintiff has suffered, and continues to suffer, irreparable harm through the Defaulting Defendants' unauthorized use of its federally registered Trademark asserted in this action. This results in the direct harm to Plaintiff's brand reputation and loss of consumer goodwill, both of which are harms that are virtually impossible to ascertain the resulting economic loss.

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct.

Executed on February 18, 2025, in Hong Kong.

By: En Fang
EN FANG