UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-cv-21356-ALTMAN

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

Plaintiff,

v.

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

Defendants.
_____/

ORDER GRANTING MOTION FOR FINAL DEFAULT JUDGMENT

The Plaintiff has filed a Motion for Entry of Final Default Judgment (the "Motion") [ECF No. 38] against he only remaining defendant in this case—Defendant No. 2 (Clothing and Home Décor) identified in Schedule "A" of the Complaint [ECF No. 1-1] (the "Defaulting Defendant"). The Defaulting Defendant did not file a response to the Motion, and the time to do so has passed. *See generally* Docket. Upon consideration of the Motion, the declarations submitted in support thereof, the pertinent portions of the record, and the relevant legal authorities, the Plaintiff's Motion is **GRANTED**.

THE FACTS

Our Plaintiff, Hong Kong Yu'en E-Commerce Co. Ltd., is the owner of the MODLILY trademark, which is used in "connection with women's fashion and apparel products" ("Plaintiff's Mark"). Complaint [ECF No. 1] ¶ 27. The Plaintiff claims that named defendants, including the Defaulting Defendant, are unlawfully using the Plaintiff's Mark "to promote, advertise, market, distribute, offer for sale, and sell knockoff products, including women's clothing, merchandise, and

related items, (the "Counterfeit Products") through their marketplace accounts (the "Online Marketplaces") maintained on the Walmart marketplace online sales platform (the "Platform")." [ECF No. 5] at 1. Plaintiff contends that the defendants, including the Defaulting Defendant, have used Plaintiff's Mark, without authorization, in "the descriptions of Counterfeit Products, meta tags, hyperlinks, and other digital assets to direct consumers to their Online Marketplaces under the auspices that they are selling authentic Brand products when they are not doing so." Motion for Preliminary Injunction [ECF No. 5] at 1–2.

The Plaintiff filed its Complaint on March 24, 2025, against the named defendants in Schedule "A" on March 5, 2025, [ECF No. 1]. Specifically, the Plaintiff seeks monetary and injunctive relief for trademark counterfeiting and infringement activities under the Lanham Act and common law. *See generally* [ECF Nos. 1, 5, and 38].

On March 25, 2025, the Plaintiff filed its *Ex Parte* Motion for Temporary Restraining Order, Including a Temporary Injunction, a Temporary Asset Restraint, Expedited Discovery, and Service of Process by Email and/or Electronic Publication [ECF No. 5], which the Court granted on March 28, 2025, [ECF No. 11]. The Order further authorized the Plaintiff to serve the Defendants with the Summonses, Complaint, and other relevant filings in this matter via e-mail and via website posting, by posting copies of the same on Plaintiff's designated serving notice website. *Id.* at 9. The Plaintiff then served all Defendants via e-mail service and via website posting. *See* Proof of Service [ECF No. 17].

Thereafter, on April 17, 2025, we entered an Order granting Plaintiff's Motion for Preliminary Injunction [ECF No. 30]. In the Temporary Restraining Order, the Court ordered the Platform and their related companies and affiliates (each, a "Third Party," and collectively, the "Third Parties") to locate all accounts and funds connected to the Defendants' seller aliases, restrain, and enjoin any such accounts or funds from transferring or disposing of any money or other of the Defendants' assets

until further order by this Court. *Id.* at 8. A Clerk's Default was entered against all Defendants on May 6, 2025 [ECF No. 35]. The Plaintiff thereafter filed the instant Motion on May 20, 2025 [ECF No. 38].

THE LAW

"Pursuant to Federal Rule of Civil Procedure 55(b)(2), the Court is authorized to enter a final judgment of default against a party who has failed to plead in response to a complaint." *Chanel, Inc. v. Sea Hero*, 234 F. Supp. 3d 1255, 1258 (S.D. Fla. 2016). However, "[a] defendant's default does not in itself warrant the court entering a default judgment." *Id.* (quoting *DIRECTV, Inc. v. Huynh*, 318 F. Supp. 2d 1122, 1127 (M.D. Ala. 2004)). Indeed, the Court's decision whether to grant a motion for default is discretionary. *Id.* (citing *Nishimatsu Constr. Co., Ltd. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975)). A defendant is not held to admit conclusions of law or facts that are not well pled; accordingly, the Court must determine whether the complaint adequately states a claim upon which relief may be granted. *See id.* (citing *Nishimatsu*, 515 F.2d at 1206); *see also Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987) ("[L]iability is well-pled in the complaint, and is therefore established by the entry of default…").

To adequately state a claim, a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Well-pled factual allegations are deemed to have been admitted by the defaulting defendant. *Cotton v. Mass. Mut. Life Ins. Co.*, 402 F.3d 1267, 1278 (11th Cir. 2005) (citing *Nishimatsu*, 515 F.2d at 1206). Once liability is established, the Court must also assess forms of relief. *See Chanel, Inc. v. French*, No. 05-cv-61838, 2006 WL 3826780, at *2 (S.D. Fla. Dec. 27, 2006). Remedies for trademark infringement include injunctive relief. *See Hard Candy, LLC v. Anastasia Beverly Hills, Inc.*, 921 F.3d 1343, 1353 (11th Cir. 2019).

ANALYSIS

The Court determines that it has personal jurisdiction over the Defaulting Defendant, as the evidence presented on the Motion shows that Defaulting Defendant has been served with process as authorized by the Court's Order. *See generally* Order Granting Temporary Restraining Order [ECF No. 11]. The Court also determines that the Defaulting Defendant directly targets its business activities toward consumers in the United States, including Florida, by setting up and operating e-commerce stores that target United States consumers by using one or more seller aliases, offer shipping to the United States, including to the State of Florida, and intentionally offering for sale the Counterfeit Products. *See id.* at 2.

A. Plaintiff Has Sufficiently Pled its Claims

The Plaintiff's Complaint includes four claims against the Defaulting Defendant. *See generally* [ECF No. 1]. Count I alleges trademark infringement pursuant to Section 32 of the Lanham Act, in violation of 15 U.S.C. § 1114, unfair competition, and false designation of origin pursuant to Section 43(a) of the Lanham Act, in violation of 15 U.S.C. § 1125(a). *Id.* ¶¶ 22–33. Count II alleges Florida common law trademark infringement and unfair competition. *Id.* ¶¶ 34–42. The Court analyzes whether Plaintiff has adequately stated each claim.

1. Claims for Federal Trademark Infringement, False Designation of Origin, and Florida Common Law Trademark Infringement

To prevail on its claim of trademark infringement in violation of 15 U.S.C. § 1114 in Count I, Plaintiff would have to "demonstrate '(1) that [it] had prior rights to the mark at issue and (2) that the defendant[s] had adopted a mark or name that was the same, or confusingly similar to its mark, such that consumers were likely to confuse the two.'" *Fendi S.r.l. v. Bag,* 2019 WL 4693677, at *2 (S.D. Fla. Aug. 28, 2019) (Ruiz, J.) (quoting *Planetary Motion, Inc. v. Techsplosion, Inc.*, 261 F.3d 1188, 1193 (11th Cir. 2001)). As to Count II, "[t]he test for liability . . . under 15 U.S.C. section 1125(a) is the same as

for a trademark counterfeiting and infringement claim— *i.e.*, whether the public is likely to be deceived or confused by the similarity of the marks at issue." *Id.* at *3.

As to Count II, "[t]he analysis of liability for Florida common law trademark enforcement is the same as the analysis of liability for trademark infringement under § 32(a) of the Lanham Act." *Tiffany (NJ) LLC v. Benefitfortiffany.com*, 2016 WL 8679081, at *5 (S.D. Fla. Nov. 3, 2016) (Goodman, Mag. J.), *report and recommendation adopted*, 2016 WL 8678880 (S.D. Fla. Dec. 20, 2016) (Lenard, J.) (citing *PetMed Express, Inc. v. MedPets.Com, Inc.*, 336 F. Supp. 2d 1213, 1217–18 (S.D. Fla. 2004) (Cohn, J.)). For the reasons that follow, the Court finds that Plaintiff has pled sufficient facts to establish all three claims.

For the first element of a trademark infringement claim, Plaintiff has pled that it had prior rights to Plaintiff's Mark. *See* Complaint ¶ 24. The second element of trademark infringement (as well as false designation of origin) requires that Plaintiff allege that Defendants' mark was so similar that it was likely to cause confusion or deception. In the Complaint, Plaintiff alleges that "Defendants' use of a mark identical to Plaintiff's Mark for goods identical, nearly identical, directly competing, and/or overlapping to Plaintiff's Goods and Services is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants with Plaintiff, or as to the origin, sponsorship, or approval of Defendants' goods, services, or commercial activities." *Id.* ¶ 28. Further, Plaintiff has "used Plaintiff's Mark continuously and consistently for an extended period of time to identify, advertise, promote, and sell Plaintiff's Goods and Services, which has indelibly impressed on the minds of the consuming public the impression that Plaintiff's Mark identifies Plaintiff as the source of its women's fashion and apparel products." *Id.* ¶ 36. Plaintiff's Mark, which Plaintiff alleges has indelibly impressed on the minds of the relevant consuming public that Plaintiff's Mark identifies Plaintiff as the source of Plaintiff's Goods and Services. *Id.* ¶ 15. Further, Plaintiff alleges that Plaintiff has not licensed or authorized Defendants to use its MODLILY trademark, and none of the

Defendants are authorized retailers of genuine MODLILY products. Motion for Preliminary Injunction at 8. Defendants allegedly operate a highly sophisticated network whereby they offer the Counterfeit Products, of lesser quality and at a discounted price, by associating these inferior products with Plaintiff's Mark through the unauthorized use of the MODLILY trademark. *Id.* at 1. Thus, the Court finds that Plaintiff has adequately stated a cause of action as to Plaintiff's federal trademark infringement, false designation or origin, and Florida common law trademark infringement claims. *See Tiffany*, 2016 WL 8679081, at *3.

2. Claims for Florida Common Law Unfair Competition

To prevail on a Florida common law unfair competition claim, a plaintiff must prove that:

> (1) the plaintiff is the prior user of the mark; (2) the mark is arbitrary, suggestive, or has secondary meaning; (3) the defendant is using a confusingly similar mark to indicate similar goods marketed in competition with the plaintiff in the same trade area in which the plaintiff has already established its mark; and (4) because of the defendant's action, consumer confusion regarding the defendant's goods is likely.

Tiffany, 2016 WL 8679081, at *5 (citing *PetMed Express, Inc.*, 336 F. Supp. 2d at 1219).

Plaintiff has adequately stated a claim for Florida common law unfair competition such that the Defaulting Defendant admits the allegations by default. First, Plaintiff has pled that its use of the Plaintiff's Mark predates the Defaulting Defendant's use. Complaint ¶ 24. Second, Plaintiff has alleged that the Plaintiff's Mark is famous and has secondary meaning as an identifier of Plaintiff's goods. *Id.* ¶ 36. As to the third and fourth elements, Plaintiff alleges that Defendants are each "engaged in the offering, distribution, sale, and advertising of counterfeit and infringing products using Plaintiff's Mark in the description of goods" "in the same geographic regions to the same class of purchasers and through the same trade channels and online marketplaces" as Plaintiff. *Id.* ¶¶ 16, 20. Accordingly, Plaintiff has established liability for Defendants' unfair competition.

B. Plaintiff Is Entitled to Relief

Given that Plaintiff has established Defendants' liability, as discussed above, the Court turns to the issue of the appropriate relief for each Count.

1. Plaintiff is Entitled to a Permanent Injunction Against Defendants

Pursuant to the Lanham Act, a court may issue an injunction "according to the principles of equity and upon such terms as the court may deem reasonable,' to prevent violations of trademark law." *Tiffany*, 2016 WL 8679081, at *5 (quoting 15 U.S.C. § 1116(a)). To obtain a permanent injunction pursuant to 15 U.S.C. § 1116, a plaintiff must demonstrate that:

> (1) it has suffered an irreparable injury; (2) remedies at law, such as monetary damages, are inadequate to compensate for that injury; (3) considering the balance of hardship between plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

Ibid. (citing *eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388, 391 (2006)). For trademark and unfair competition cases, "[i]njunctive relief is the remedy of choice . . . since there is no adequate remedy at law for the injury caused by a defendant's continuing infringement." *Id.* at *6 (quoting *Burger King Corp. v. Agad*, 911 F. Supp. 1499, 1509–10 (S.D. Fla. 1995) (Kehoe, J.)).

The Court finds that Plaintiff has met its burden to demonstrate that it is entitled to a permanent injunction against the Defaulting Defendant. First, Plaintiff has established that it has suffered and will continue to suffer irreparable injury because the counterfeit goods that are promoted, advertised, and offered for sale by Defendants are nearly identical to Plaintiff's genuine goods utilizing Plaintiff's Mark such that consumers may confuse Defendants' counterfeit goods for Plaintiff's genuine goods. *See* Complaint ¶¶ 18-19, 21, 28, 38. Indeed, in trademark cases, "a sufficiently strong showing of likelihood of confusion . . . may by itself constitute a showing of a substantial threat of irreparable harm." *Tiffany*, 2016 WL 8679081, at *6 (alteration in original) (quoting *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998)). Second, Plaintiff has no adequate remedy at law if

the Defaulting Defendant continues its infringing activities because Plaintiff has no control over the quality of goods that are easily confused with theirs, and monetary damages alone will not cure any harm to Plaintiff's reputation. Motion for Preliminary Injunction at 11. Third, the balance of hardships favors Plaintiff due to its inability to control its reputation in the marketplace. *See Chanel, Inc. v. J.M.C. Wholesale, Inc.*, 2013 WL 12247802, at *4 (S.D. Fla. Apr. 22, 2013) (Altonaga, J.); *see also* Motion for Preliminary Injunction at 11–12. By contrast, the Defaulting Defendant faces no hardship if they are prohibited from the infringement of Plaintiff's trademark, which is an illegal act. *See id.*; *see also Tiffany*, 2016 WL 8679081, at *6. Finally, it is in the public interest to issue "a permanent injunction against Defendants to prevent consumers from being misled by Defendants' products." *Atmos Nation, LLC v. Pana Depot, Inc.*, 2015 WL 11198010, at *3 (S.D. Fla. Apr. 8, 2015) (Bloom, J.).

In sum, the Plaintiff has demonstrated that it is entitled to injunctive relief as against the Defaulting Defendant.

2. Plaintiff is Entitled to Statutory Damages.

In addition to injunction relief, Plaintiff also seeks statutory damages as to its claim for trademark infringement pursuant to 15 U.S.C. § 1117(c). The Court addresses the grounds for damages below.

a. Damages as to Count I[1]

In trademark counterfeiting matters, the Lanham Act provides "that a plaintiff may elect an award of statutory damages at any time before final judgment is rendered in the sum of not less than $1,000.00 nor more than $200,000.00 per counterfeit mark per type of good." *Louis Vuitton Malletier v. aaaimitationbags.com*, 2019 WL 2008910, at *5 (S.D. Fla. Mar. 29, 2019) (Altonaga, J.) (citing 15 U.S.C.

[1] In the Motion, Plaintiff submits that judgment should be "limited to the amount awarded pursuant to Count I for federal trademark infringement and false designation of origin and entry of the requested equitable relief." Motion at 15.

§ 1117(c)(1)). Moreover, where a court "finds Defendants' counterfeiting actions were willful, it may impose damages above the maximum limit up to $2,000,000.00 per mark per type of good. *Ibid.* (citing 15 U.S.C. § 1117(c)(2)). Such damages are particularly appropriate in the default judgment context, given the difficulty of ascertaining the defendants' profits because the defendants have neither responded to complaints or motions nor participated in discovery. *See Tiffany*, 2016 WL 8679081, at *7 (citing *Tiffany (NJ) LLC v. Dongping*, 2010 WL 4450451, at *6 (S.D. Fla. Oct. 29, 2010) (Seitz, J.)); *Rolex Watch U.S.A., Inc. v. Lynch*, 2013 WL 2897939, at *6 (M.D. Fla. June 12, 2013) (Steele, J.); *Nike, Inc. v. Lydner*, 2008 WL 4426633, at *4 (M.D. Fla. Sept. 25, 2008) (Presnell, J.). The Court has wide discretion in determining the appropriate amount of statutory damages, and statutory damages may be properly awarded even where a plaintiff is unable to prove actual damages due to defendants' infringement. *See Louis Vuitton Malletier*, 2019 WL 2008910, at *5. Further, statutory damages in this context are "intended not just for compensation for losses, but also to deter wrongful conduct." *PetMed Express, Inc.*, 336 F. Supp. 2d at 1220–21.

Here, the Plaintiff has alleged that each Defendant promoted, distributed, advertised, offered for sale, and/or sold at least one type of good bearing and/or using a counterfeit of Plaintiff's Mark. *See* Motion ¶ 13. Plaintiff has also alleged that "the Defaulting Defendant offered for sale and sold goods using a mark which is identical or altered to be identical to such a well-known mark shows its desire and purpose to trade upon Plaintiff's goodwill." *Id.* ¶ 12. Accordingly, the Defaulting Defendant has "defaulted on Plaintiff's allegations of willfulness," and courts may infer willfulness where defendants default. *Louis Vuitton Malletier*, 2019 WL 2008910, at *5 (citing *Arista Records, Inc. v. Beker Enters., Inc.*, 298 F. Supp. 2d 1310, 1313 (S.D. Fla. 2003) (Cohn, J.); *PetMed Express, Inc.*, 336 F.Supp.2d at 1217).

Based on the Plaintiff's well-pled allegations, the Court is permitted "to award up to $ 2,000,000.00 per infringing mark on each type of good as statutory damages" to ensure the Defaulting

Defendant does not continue its intentional and willful counterfeiting activities. *Louis Vuitton Malletier*, 2019 WL 2008910, at *5. Here, Plaintiff requests the Court to award statutory damages in the amount of $15,000.00 against the Defaulting Defendant. Motion at 13, 15. Accordingly, given the available evidence and the goal of deterrence, the Court finds, in its discretion, that an award of $15,000.00 against the Defaulting Defendant, which is within the range of statutory damages available, is just, as it "should be sufficient to deter Defendants and others from continuing to counterfeit or otherwise infringe Plaintiff's trademark, compensate Plaintiff, and punish Defendants—all stated goals of 15 U.S.C. section 1117(c)." *Chanel, Inc.,* 2023 WL 2540439; at *6 (quoting *Louis Vuitton Malletier*, 2019 WL 2008910, at *6) (recommending that Plaintiff's request for an award of statutory damages in the amount of $100,000.00 against each Defendant for trademark infringement be granted); *Chanel, Inc., v. Individuals*, 2024 WL 5267144, at *5 (S.D. Fla. Sept. 25, 2024) (Becerra, J.) (awarding statutory damages of $100,000.00 per trademark counterfeited, per type of good offered against each Defendant). Thus, the Court will award award statutory damages in the amount of $15,000.00 against the Defaulting Defendant.

CONCLUSION

For the foregoing reasons, the Plaintiff is entitled to the entry of final default judgment. Accordingly, it is hereby **ORDERED AND ADJUDGED** that Plaintiff's Motion for Default Final Judgment [ECF No. 38] is **GRANTED**. Pursuant to FED. R. CIV. P. 58, default final judgment and a permanent injunction will be entered by separate order.

DONE AND ORDERED in the Southern District of Florida on June 4, 2025.

ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

cc: counsel of record