UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-CV-22489-RAR

XYZ CORPORATION,

Plaintiff,

v.

ABC CORPORATION 1, *et al*.,

Defendants.
_____/

ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT FINAL JUDGMENT

THIS CAUSE comes before the Court upon Plaintiff's Motion for Entry of Default Judgment ("Motion"), [ECF No. 37]. Plaintiff Hong Kong Rujing E-Commerce Co. Limited ("Plaintiff") seeks entry of a default final judgment against Defendants ChanPants and Laysam Tops ("Defendants") that operate e-commerce stores that infringe Plaintiff's trademarks and promote and sell counterfeit goods bearing and/or using Plaintiff's trademarks. *See* generally Mot.

Plaintiff requests that the Court: (1) enjoin Defendants from producing or selling goods that infringe its trademarks; (2) cancel, or at Plaintiff's election, transfer the e-commerce stores at issue to Plaintiff; (3) assign all rights, title, and interest to the e-commerce stores to Plaintiff and permanently disable, delist or deindex the websites' uniform resource locators ("URLs") and e-commerce stores from all Internet search engines; (4) authorize Plaintiff to request any e-mail service provider permanently suspend the e-mail addresses which are or have been used by Defendants in connection with Defendants' promotion, offering for sale, and/or sale of goods bearing counterfeits of Plaintiff's trademarks; and (5) award statutory damages. *See generally id.*

A Clerk's Default, [ECF No. 35], was entered against Defendants on August 12, 2025, after Defendants failed to respond to the Complaint, [ECF No. 16], despite having been served.

See Proofs of Service, [ECF Nos. 25–26]. The Court having considered the record and noting no opposition to the Motion, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Motion, [ECF No. 37], is **GRANTED** for the reasons stated herein.

BACKGROUND

A. Factual Background

Plaintiff is the owner of all rights, title, and interest in and to a Brand Trademark, with Registration No. 5,995,253, used in connection with the promotion and sale of women's apparel ("Rosewe Trademark"). Mot. at 2; Declaration of Tiaolou Tang ("Tang Declaration"), [ECF No. 17-3] ¶¶ 5, 7–8. The Rosewe Trademark is valid and registered on the Principal Register of the United States Patent and Trademark Office, [ECF No. 17-4], and is used in connection with the manufacture and distribution of Plaintiff's sale of women's apparel. Tang Decl. ¶ 5. Defendants, by operating e-commerce stores under the seller names identified on Schedule "A" hereto ("E-commerce Store Names"), have advertised, promoted, offered for sale, or sold goods bearing and/or using what Plaintiff has determined to be counterfeits, infringements, reproductions, and/or colorable imitations of the Rosewe Trademark. *See id.* ¶¶ 9, 11–12; Declaration of Joshua H. Sheskin ("Sheskin Declaration"), [ECF No. 17-1] ¶¶ 4–5; Declaration of Melissa Henderson ("Henderson Declaration"), [ECF No. 17-2] ¶¶ 3–6. Although each Defendant may not copy and infringe the Rosewe Trademark for each category of goods protected, *see* Tang Decl. ¶ 10, Plaintiff has submitted sufficient evidence showing each Defendant has infringed the Rosewe Trademark. *See generally* Henderson Decl; Sheshkin Decl. ¶¶ 11–21. Defendants are not now, nor have they ever been, authorized or licensed to use, reproduce, or make counterfeits, reproductions, and/or colorable imitations of the Rosewe Trademark. *See* Tang Decl. ¶ 10.

Plaintiff has investigated the promotion and sale of counterfeit and infringing versions of Plaintiff's branded products ("Counterfeit Goods") by Defendants and has documented the available payment account data for receipt of funds paid to Defendants for the sale of counterfeit branded products. *See generally* Henderson Decl. A representative for Plaintiff accessed each Defendant's online store on Walmart ("Online Marketplaces"). *Id.* ¶ 3. Upon access, Plaintiff's representative was able to view products bearing the Rosewe Trademark, add products to the online shopping cart, proceed to a point of checkout, and otherwise actively exchange data with each Defendant. *See id.* ¶¶ 3–4. Plaintiff's representative then placed an order from each Defendant via its respective E-commerce Store Name(s) for the purchase of, at least, one product bearing and/or using counterfeits and infringements of one or more of Plaintiff's trademarks at issue in this action, and requested each product be shipped to Florida. *See id.* ¶ 4. Each order was processed online and/or electronically and resulted in a completed sales transaction. *See id.* ¶ 6. Plaintiff's representative reviewed and visually inspected the detailed web page captures and images of the various branded products ordered from each Defendant via the Online Marketplaces operating under or through the E-commerce Store Name(s) and determined each product to be a non-genuine, unauthorized version of Plaintiff's branded product. *See id.* ¶ 5.

B. Procedural Background

On May 30, 2025, Plaintiff filed its Complaint, [ECF No. 1], and on June 26, 2025, filed a sealed Complaint, [ECF No. 26], against Defendants. On June 26, 2025, Plaintiff filed its *Ex Parte* Motion for Order Authorizing Alternate Service of Process ("Motion for Alternate Service"), [ECF No. 18]. The Court entered an Order Granting the Motion for Alternate Service on July 1, 2025 [ECF No. 19]. In accordance with the July 1, 2025 Order, Plaintiff served each Defendant with a Summons and a copy of the Amended Complaint via electronic mail and website posting on July 18, 2025. *See* Proofs of Service, [ECF Nos. 25–26].

Defendants failed to file an answer or other response, and the time allowed for Defendants to respond to the Amended Complaint has since expired. Sheshkin Decl. ¶ 8. To Plaintiff's knowledge, Defendants are not infants or incompetent persons, and the Servicemembers Civil Relief Act does not apply. *See id*. at ¶ 10. On August 12, 2025, the Clerk entered Default against Defendants, [ECF No. 35], for failure to plead or otherwise defend pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. Plaintiff now moves the Court for default final judgment against Defendants.

LEGAL STANDARD

A party may apply to the court for a default judgment when the defendant fails to timely respond to a pleading. FED. R. CIV. P. 55(b)(2). "A 'defendant, by his default, admits the plaintiff's well-pleaded allegations of fact, is concluded on those facts by the judgment, and is barred from contesting on appeal the facts thus established.'" *Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1307 (11th Cir. 2009) (quoting *Nishimatsu Const. Co. v. Hou. Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975)). However, conclusions of law are to be determined by the court. *See Mierzwicki v. CAB Asset Mgmt. LLC*, No. 14-61998, 2014 WL 12488533, at *1 (S.D. Fla. Dec. 30, 2014). Therefore, a court may only enter a default judgment if there is a "sufficient basis to state a claim." *Id.* (citing *Nishimatsu*, 515 F.2d at 1206).

Once a plaintiff has established a sufficient basis for liability, the Court must conduct an inquiry to determine the appropriate damages. *PetMed Express, Inc. v. MedPets.Com, Inc.*, 336 F. Supp. 2d 1213, 1217 (S.D. Fla. 2004) (citations omitted). Although an evidentiary hearing is generally required, the Court need not conduct such a hearing "when . . . 'additional evidence would be truly unnecessary to a fully informed determination of damages.'" *Safari Programs, Inc. v. CollectA Int'l Ltd.*, 686 F. App'x 737, 746 (11th Cir. 2017) (quoting *SEC v. Smyth*, 420 F.3d 1225, 1232 n.13 (11th Cir. 2005)). Therefore, where the record adequately supports the award of damages,

an evidentiary hearing is not required. *See Smyth,* 420 F.3d at 1232 n.13; *PetMed Express, Inc.*, 336 F. Supp. 2d at 1217 (finding an evidentiary hearing unnecessary because plaintiff was seeking statutory damages under the Lanham Act); *Luxottica Grp. S.p.A. v. Casa Los Martnez Corp.*, No. 14-22859, 2014 WL 4948632, at *2 (S.D. Fla. Oct. 2, 2014) (same).

ANALYSIS

A. Claims

Plaintiff seeks a default judgment for the relief sought in the Amended Complaint, asserting the following claims against Defendants: (1) trademark counterfeiting and infringement under § 32 of the Lanham Act, in violation of 15 U.S.C. § 1114 ("Claim 1"); (2) false designation of origin under section 43(a) of the Lanham Act, in violation of 15 U.S.C. § 1125(a) ("Claim 2"); (3) unfair competition under Florida common law ("Claim 3"); and (4) trademark infringement under Florida common law ("Claim 4"). *See* [ECF No. 16] ¶¶ 26–54.

1. Counterfeiting and Infringement

Section 32 of the Lanham Act, 15 U.S.C. § 1114, 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 . . . which . . . is likely to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. § 1114(1)(a). To prevail on its trademark infringement claim, a plaintiff must demonstrate "(1) that it had prior rights to the mark at issue and (2) that the defendant 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." *Planetary Motion, Inc. v. Techsplosion, Inc.*, 261 F.3d 1188, 1193 (11th Cir. 2001) (footnote and citations omitted).

2. False Designation of Origin

The test for liability for false designation of origin under 15 U.S.C. § 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. *See Two Pesos, Inc. v. Taco Cabana, Inc.,* 505 U.S. 763, 780 (1992) (Stevens, J., concurring in the judgment).

3. Common Law Unfair Competition

Whether a defendant's use of a plaintiff's trademarks created a likelihood of confusion between the plaintiff's and the defendant's products is also the determining factor in the analysis of unfair competition under the common law of Florida. *See Rolex Watch U.S.A., Inc. v. Forrester*, No. 83-CV-8381, 1986 WL 15668, at *3–4 (S.D. Fla. Dec. 9, 1986) ("[I]t is clear that the Court need not find 'actual confusion[.]' . . . The proper test is 'likelihood of confusion[.]'").

4. Common Law Trademark Infringement

The analysis of liability for Florida common law trademark infringement is the same as the analysis of liability for trademark infringement under § 32(a) of the Lanham Act. *See PetMed Express, Inc.*, 336 F. Supp. 2d at 1217–18.

B. Liability

The well-pleaded factual allegations of Plaintiff's Complaint properly contain the elements for each of the above claims and are admitted by virtue of Defendants' defaults. *See* Am. Compl. ¶¶ 26–36, 37–43, 44–49, 50–54. Moreover, the Complaint's factual allegations have been substantiated by sworn declarations and other evidence and establish Defendants' liability for each of the claims asserted. Accordingly, default judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure is appropriately entered against Defendants.

C. Relief

Plaintiff requests an award of equitable relief and monetary damages against Defendants for trademark infringement in Claim 1. The Court analyzes Plaintiff's request for relief as to Claim 1 only, as the judgment for Claims 2, 3, and 4—false designation of origin, common law unfair

competition, and common law trademark infringement—is limited to entry of the requested equitable relief for Claim 1. *See generally* Mot.

1. Injunctive Relief

Pursuant to the Lanham Act, a district court is authorized to 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. 15 U.S.C. § 1116(a). Indeed, "[i]njunctive relief is the remedy of choice for trademark and unfair competition cases, since there is no adequate remedy at law for the injury caused by a defendant's continuing infringement." *Burger King Corp. v. Agad*, 911 F. Supp. 1499, 1509–10 (S.D. Fla. 1995) (alteration in original) (internal quotation marks omitted) (quoting *Century 21 Real Est. Corp. v. Sandlin*, 846 F.2d 1175, 1180 (9th Cir. 1988)). Injunctive relief is available even in the default judgment setting, *see, e.g.*, *PetMed Express, Inc.*, 336 F. Supp. 2d at 1222–23, because Defendants' failure to respond or otherwise appear makes it difficult for a plaintiff to prevent further infringement absent an injunction. *See Jackson v. Sturkie*, 255 F. Supp. 2d 1096, 1103 (N.D. Cal. 2003) ("[D]efendant's lack of participation in this litigation has given the court no assurance that defendant's infringing activity will cease. Therefore, plaintiff is entitled to permanent injunctive relief.").

Permanent injunctive relief is appropriate where a plaintiff demonstrates: (1) it has suffered irreparable injury; (2) there is no adequate remedy at law; (3) the balance of hardship favors an equitable remedy; and (4) an issuance of an injunction is in the public's interest. *See eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388, 391 (2006). Plaintiff has carried its burden on each of the four factors.

Specifically, in trademark cases, "a sufficiently strong showing of likelihood of confusion [caused by trademark infringement] may by itself constitute a showing of . . . a substantial threat of irreparable harm." *E. Remy Martin & Co., S.A. v. Shaw-Ross Int'l Imp., Inc.*, 756 F.2d 1525, 1530

(11th Cir. 1985) (alterations added) (footnote omitted); *see also Levi Strauss & Co. v. Sunrise Int'l Trading Inc*., 51 F.3d 982, 986 (11th Cir. 1995) ("There is no doubt that the continued sale of thousands of pairs of counterfeit jeans would damage [the plaintiff's] business reputation and decrease its legitimate sales."). Plaintiff's Complaint and the submissions show that the goods produced and sold by Defendants are nearly identical to Plaintiff's genuine products, and consumers viewing Defendants' counterfeit goods post-sale would actually confuse them for Plaintiff's genuine products. *See, e.g.*, [ECF No. 16] ¶ 17 ("Defendants' actions [are] likely to cause confusion of consumers, at the time of initial interest, sale, and in the post-sale setting, who will believe Defendants' Goods are genuine goods originating from, associated with, and/or approved by Plaintiff.").

Plaintiff has no adequate remedy at law so long as Defendants continue to operate the E-commerce Store Names because Plaintiff cannot control the quality of what appears to be its products in the marketplace. An award of monetary damages alone will not cure the injury to Plaintiff's reputation and goodwill if Defendants' infringing and counterfeiting continue. Moreover, Plaintiff faces hardship from loss of sales and its inability to control its reputation in the marketplace. By contrast, Defendants face no hardship if they are prohibited from the infringement of Plaintiff's trademarks. Finally, the public interest supports the issuance of a permanent injunction against Defendants to prevent consumers from being misled by Defendants' products and potentially harmed by their inferior quality. *See Chanel, Inc. v. besumart.com,* 240 F. Supp. 3d 1283, 1291 (S.D. Fla. 2016) ("[A]n injunction to enjoin infringing behavior serves the public interest in protecting consumers from such behavior.") (citation omitted); *World Wrestling Entm't, Inc. v. Thomas*, No. 12-21018, 2012 WL 12874190, at *8 (S.D. Fla. Apr. 11, 2012) (considering the potential for harm based on exposure to potentially hazardous counterfeit merchandise in analyzing public's interest in an injunction).

Broad equity powers allow the Court to fashion injunctive relief necessary to stop Defendants' infringing activities. *See, e.g., Swann v. Charlotte-Mecklenburg Bd. of Educ.,* 402 U.S. 1, 15 (1971) ("Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies. The essence of equity jurisdiction has been the power of the Chancellor to do equity and to mould [sic] each decree to the necessities of the particular case." (citation modified)); *United States v. Bausch & Lomb Optical Co*., 321 U.S. 707, 724 (1944) ("Equity has power to eradicate the evils of a condemned scheme by prohibition of the use of admittedly valid parts of an invalid whole." (citations omitted)).

Defendants have created a counterfeiting scheme in which they are profiting from their deliberate misappropriation of Plaintiff's rights. Accordingly, the Court may fashion injunctive relief to eliminate the means by which Defendants are conducting their unlawful activities. Appropriate remedies to achieve this end include canceling or transferring the E-commerce Store Names; assigning all rights, title, and interest to the E-commerce Store Names to Plaintiff and disabling, delisting, or deindexing the websites' URLs and E-commerce Store Names from any Internet search engine; and suspending the e-mail addresses used by Defendants, such that these means may no longer be used as instrumentalities to further the sale of counterfeit goods.

2. Statutory Damages

In a case involving the use of counterfeit marks in connection with the sale, offering for sale, or distribution of goods, 15 U.S.C. § 1117(c) 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. *See* 15 U.S.C. § 1117(c)(1). In addition, if the Court finds Defendants' counterfeiting actions were willful, it

may impose damages above the maximum limit up to $2,000,000.00 per counterfeit mark per type of good. *See id.* § 1117(c)(2).

The Court has wide discretion to determine the amount of statutory damages. *See PetMed Express, Inc.*, 336 F. Supp. 2d at 1219 (citing *Cable/Home Commc'n Corp. v. Network Prods., Inc.*, 902 F.2d 829, 852 (11th Cir. 1990)). An award of statutory damages is appropriate despite a plaintiff's inability to prove actual damages caused by a defendant's infringement. *See Ford Motor Co. v. Cross*, 441 F. Supp. 2d 837, 852 (E.D. Mich. 2006); *Playboy Enters., Inc. v. Universal Tel-A-Talk, Inc.*, No. 96-CV-6961, 1998 WL 767440, at *8 (E.D. Pa. Nov. 3, 1998) (awarding statutory damages where plaintiff failed to prove actual damages or profits). The option of a statutory damages remedy in trademark counterfeiting cases is sensible given evidence of a defendant's profits in such cases is frequently almost impossible to ascertain. *See, e.g.*, S. Rep. No. 104-177, pt. V § 7, at 10 (1995) (discussing purposes of Lanham Act statutory damages); *PetMed Express, Inc.*, 336 F. Supp. 2d at 1220 (statutory damages are "specially appropriate in default judgment cases due to infringer nondisclosure") (citations omitted). This case is no exception.

Here, the allegations in the Complaint and the evidence establish that Defendants intentionally copied one or more of the Rosewe Trademarks for the purpose of deriving the benefit of Plaintiff's world-famous reputation. Defendants have defaulted on Plaintiff's allegations of willfulness. *See* [ECF No. 16] ¶ 31; *see also Arista Recs., Inc. v. Beker Enters., Inc.*, 298 F. Supp. 2d 1310, 1313 (S.D. Fla. 2003) (finding a court may infer willfulness from the defendants' default) (citations omitted); *PetMed Express, Inc.*, 336 F. Supp. 2d at 1218 (stating that upon default, well-pleaded allegations are taken as true). As such, the Lanham Act permits the Court to award up to $2,000,000.00 per infringing mark on each type of good as statutory damages to ensure Defendants do not continue their intentional and willful counterfeiting activities.

The only available evidence demonstrates that each Defendant promoted, distributed, advertised, offered for sale, and/or sold at least one (1) type of good bearing at least one (1) mark which is a counterfeit of at least one of the Rosewe Trademarks protected by federal trademark registrations. *See* [ECF No. 16] ¶¶ 16–20; [ECF No. 16-2] at 2. Based on the above considerations, Plaintiff has asked the Court to award statutory damages in the amount of $15,000.00 per mark, per type of good. *See* Mot. at 13–14. As each Defendant used at least one counterfeit mark on one type of good, Plaintiff requests a statutory damages award in the amount of $15,000.00 against each Defendant. *See id*. The award should be sufficient to deter Defendants and others from continuing to counterfeit or otherwise infringe Plaintiff's trademarks, compensate Plaintiff, and punish Defendants, all stated goals of 15 U.S.C. § 1117(c). The Court finds that this award of statutory damages falls well within the permissible range under 15 U.S.C. § 1117(c) and is just. *Cf. Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass'ns*, No. 25-21839 (S.D. Fla. July 14, 2025), ECF No. 45 (awarding plaintiff $1,000,000.00 against each defendant based on at least two marks counterfeited on one type of good); *Yeti Coolers, LLC v. Individuals, Bus. Entities, & Unincorporated Ass'ns*, No. 24-24499 (S.D. Fla. Feb. 26, 2025), ECF No. 39 (awarding plaintiff $1,000,000.00 against each defendant per mark counterfeited per type of good); *Abercrombie & Fitch Trading Co. v. Individuals*, No. 24-24707 (S.D. Fla. Jan. 13, 2025), ECF No. 34 (awarding plaintiff $1,000,000.00 against each defendant); *Chanel, Inc. v. Individuals, Bus. Entities, & Unincorporated Ass'ns*, No. 23-62201 (S.D. Fla. Feb. 5, 2024), ECF No. 34 (awarding the plaintiff $1,000,000.00 against each defendant); *Omega SA v. Individuals, Bus. Entities, & Unincorporated Ass'ns*, No. 23-60410 (S.D. Fla. April 29, 2023), ECF No. 30 (awarding plaintiff $1,000,000.00 against each defendant).

CONCLUSION

For the foregoing reasons, Plaintiff is entitled to the entry of default final judgment. Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Motion, [ECF No. 37], is **GRANTED**. Default final judgment and a permanent injunction shall be entered by separate order.

DONE AND ORDERED in Miami, Florida, this 27th day of August, 2025.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

SCHEDULE "A"

Defendant Number	Seller Name	Seller Website
1	ChanPants	https://www.walmart.com/global/seller/101206585
2	Laysam Tops	https://www.walmart.com/global/seller/101211405