

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.: 1:25-cv-23044-ALTONAGA/Reid**

TOHO CO., LTD.,

Plaintiff,

v.

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

Defendants.

**PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST THE  
IDENTIFIED SCHEDULE "A" DEFENDANTS**

Plaintiff TOHO CO., LTD. ("Plaintiff"), hereby moves for this Entry of Default Judgment (the "Motion") pursuant to Federal Rule of Civil Procedure 55 ("Rule 55") against Defendant No. 1, ADUVETAFFAIR, Defendant No. 2, PRINTYFLY Rela, and Defendant No. 3, PERSPIRATURE, as identified in Schedule "A" of the Complaint [Dkt. No. 1-1], (the "Defendants"). Plaintiff's Motion is made and based upon this Memorandum of Law, the Declaration of William Brees in Support of Plaintiff's Motion for Default Judgment filed herewith (the "Brees Decl."), the papers and pleadings on file in this action, and any argument of counsel the Court may entertain.

**I. INTRODUCTION**

On July 8, 2025, Plaintiff filed its Complaint for Damages and Injunctive Relief (the "Complaint") [Dkt. No. 1] in this action alleging, Trademark Infringement (Count I), False Designation of Origin (Count II), Common Law Trademark Infringement (Count III), Common

Law Unfair Competition (Count IV), and Copyright Infringement (Count IV) as to Plaintiff's federally registered trademarks and copyrights (respectively, the "Godzilla Trademarks" and "Godzilla Copyrights"). On July 25, 2025, the Court authorized electronic service via email on the Schedule "A" Defendants in connection with the Temporary Restraining Order ("TRO") [Dkt. No. 16]. On August 6, 2025, Plaintiff completed service on all named Defendants and filed a Return of Service. [Dkt. No. 18]. The deadline to respond to the Complaint was August 27, 2025.

Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A), the 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, approximately forty-four days (44) have expired since electronic service was effectuated on the Schedule "A" Defendants, which includes the Defendants that are the subject of Plaintiff's Motion. *See* Dkt. No. 26-1, ¶ 8. To date, the Defendants have not answered or otherwise responded to Plaintiff's Complaint. *Id.* at ¶ 9.

Plaintiff filed its Notice of Joint Liability [Dkt. No. 29] alleging that the Defendants have Joint and Several liability regarding the claims made in the Complaint because the Defendants act in concert to sell unauthorized, counterfeit versions of Plaintiff's Godzilla-brand products through internet stores. *See* Dkt. No. 1 ¶¶ 25, 27. The stores are alleged to feature the same distinct description text and design elements and operate under shared ownership, with a single PayPal account accepting payment for all three Defendants. *See id.* ¶ 27; *see also* Dkt. No. 9 at 2. Based on Defendants' shared ownership structure and coordinated activity, Defendants are jointly and severally liable for trademark and copyright infringement; violations of the Lanham Act, 15 U.S.C. § 1125(a); and unfair competition. *See* Dkt. No. 1 ¶¶ 39–85.

Pursuant to Rule 55(b)(2), Plaintiff now respectfully moves this Court for entry of a default judgment finding the Defendants liable on all counts asserted in the Complaint. In connection with

its asserted claims for relief, Plaintiff seeks an award of statutory damages pursuant to 15 U.S.C. § 1117(c)(1)-(2) and 17 U.S.C. § 504(c), against the Defendant, which should be enhanced by 17 U.S.C. § 504(c)(2), for its willful infringement of Plaintiff's federally registered trademarks and copyrights. Plaintiff additionally requests the Court issue a permanent injunction against the Defendants. *See* 15 U.S.C. § 1116; 17 U.S.C. § 502(a). Furthermore, Plaintiff requests an award of attorneys' fees and costs pursuant to 15 U.S.C. § 1117(b) and 17 U.S.C. § 505. Alternatively, Plaintiff requests issuance of a permanent injunction and an award of its damages, together with prejudgment interest, for lost sales, loss of goodwill suffered by Plaintiff as a result of the acts of trademark infringement and unfair competition pursuant to the laws of the State of Florida.

## II. ARGUMENT

### A. **Jurisdiction and Venue Are Proper in This Court**

This Court has original subject matter jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1338(a)-(b). This action also alleges violations under Florida common law. This Court has supplemental jurisdiction of those claims under 28 U.S.C. § 1367(a). 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 Florida and causes harm to Plaintiff's business within this judicial district.

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 Defendants, in issuing the Temporary Restraining Order ("TRO") on July 25, 2025. [Dkt. No. 15]. Moreover, the Court additionally issued a Preliminary Injunction on August 29, 2025, further solidifying this determination. [Dkt. No. 24.] Accordingly, it is unquestionable that the Defendants are subject to personal jurisdiction in this action.

## **B. Plaintiff Has Met 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). Upon entry of default by the clerk, the well-pled factual allegations of a plaintiff's complaint, other than those related to damages, will be taken as true. *PetMed Express, Inc. v. Medpets.com*, 336 F. Supp. 2d 1213, 1217 (S.D. Fla. 2004) (citing *Buchanan v. Bowman*, 820 F.2d 359 (11th Cir. 1987)). Plaintiff's complaint, pleadings, and declarations filed in this case clearly demonstrate that default judgment pursuant to Rule 55 should be entered against the Defendants.

## **C. The Factual Allegations Establish Liability**

### ***1. Trademark Infringement***

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." In order to prevail on its trademark infringement claim under Section 32 of the Lanham Act, 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) (citing *Lone Star Steakhouse & Saloon, Inc. v. Longhorn Steaks, Inc.*, 106 F.3d 355, 360 (11th Cir. 1997)).

To prevail on a claim of false designation of origin under Section 43(a) of the Lanham Act, a plaintiff must prove that the named defendants used in commerce, in connection with any goods or services, any word, term, name, symbol or device, or any combination thereof, or any false

designation of origin, which is likely to deceive as to the affiliation, connection, or association of defendants with plaintiff, or as to the origin, sponsorship, or approval, of defendants' goods by plaintiff. 15 U.S.C. § 1125(a)(1). The test for liability for false designation of origin under Section 43(a) is "whether the public is likely to be deceived or confused by the similarity of the marks at issue." *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 780 (1992).

Whether a defendant's use of a plaintiff's trademarks creates 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 Planetary Motion*, 261 F.3d at 1193 n.4 ("Courts may use an analysis of federal infringement claims as a 'measuring stick' in evaluating the merits of state law claims."). Further, the test to determine trademark infringement liability under Florida common law is the same as the likelihood of consumer confusion test outlined in § 32(a) of the Lanham Act. *See PetMed Express, Inc.*, 336 F. Supp. 2d at 1217-18.

The well-pled factual allegations of Plaintiff's Complaint properly allege the elements for trademark infringement and false designation of origin. Moreover, the factual allegations in Plaintiff's Complaint, substantiated by the evidence submitted, conclusively establish the Defendant's liability for infringing Plaintiff's Godzilla Trademarks. Default Judgment pursuant to Rule 55 of the Fed. R. Civ. P. should be entered against the Defendant.

## ***2. Copyright Infringement***

"To establish infringement, two elements must be proven: (1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original." *Feist Publications, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991).

Each Defendant has directly copied one or more copyright protected works, or, each Defendant's infringing photographs are strikingly similar, or at the very least substantially

identical, to the images protected by the Godzilla Copyrights and constitute unauthorized copying, reproduction, and distribution, creation of a derivative work, and/or public display of Plaintiff's copyrights for Plaintiff's Godzilla products. Defendant has made unauthorized copies of Plaintiff's works. Specifically, each Defendant also deceives unknowing consumers by using the Godzilla Copyrights without authorization in offering products for sale by referencing and/or embodying those copyrights on the Online Stores.

The well-pled factual allegations of Plaintiff's Complaint properly allege the elements for each claim. Moreover, the factual allegations in Plaintiff's Complaint, substantiated by the evidence submitted, conclusively establish the Defendants' liability under each claim asserted in the Complaint. Default Judgment pursuant to Rule 55 of the Fed. R. Civ. P. should be entered against the Defendant.

**D. Plaintiff is Entitled to Entry of the Requested 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 fail to appear, answer, and/or defend allegations asserted against them. Fed. R. Civ. P. 55(b)(2). A Defendant is deemed to have admitted to a plaintiff's well-pled allegations of fact. *Tyco Fire & Sec. LLC v. Alcocer*, 218 F. App'x 860, 863 (11th Cir. 2007); *U.S. v. Kahn*, 164 Fed. Appx. 855, 858 (11th Cir. 2006) (district court may enter default judgment when the complaint contained sufficient well-pleaded allegations to state a claim for injunctive relief).

More than twenty-one (21) days have passed since the Defendants were served, and no answer or other responsive pleading has been filed by any of the Defendants. Thus, default judgment is appropriate, and Plaintiff is entitled to entry of a default judgment pursuant to Rule

55(b)(2) against the Defendants for trademark and copyright infringement as asserted in the Complaint. Dkt. No. 1.

Accordingly, Plaintiff is entitled to the following remedies through the issuance of a default judgment against the Defendants: (1) an award of statutory damages resulting from their acts of infringement in order to redress Defendants' unjust enrichment and to deter its willful infringement of Plaintiff's trademarks and copyrights, pursuant to 17 U.S.C. § 1117(a)(1)-(2) and 17 U.S.C. § 504(c)(2); (2) entry of a permanent injunction pursuant to 17 U.S.C. § 502; and (3) an award of attorneys' fees and costs pursuant to 15 U.S.C. § 1117(b) and 15 U.S.C. § 505. Alternatively, Plaintiff requests issuance of a permanent injunction and an award of its damages, together with prejudgment interest, for lost sales, loss of goodwill suffered by Plaintiff as a result of the acts of trademark infringement and unfair competition pursuant to the laws of the State of Florida.

**1. *A Permanent Injunction Against the Defendants is Appropriate***

The Lanham Act authorizes a district court 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). "Injunctive 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) (citing *Century 21 Real Estate Corp. v. Sandlin*, 846 F.2d 1175, 1180 (9th Cir. 1988)). Defendant's failure to respond or otherwise appear in this action makes it difficult for Plaintiff to prevent further infringement absent an injunction. See *Jackson v. Sturkie*, 255 F. Supp. 2d 1096, 1103 (N.D. Cal. 2003) ("defendant'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.”). Pursuant to 15 U.S.C. § 1116, this Court should permanently enjoin the Defendants from continuing to infringe Plaintiff’s Godzilla Trademark.

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. *eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388, 392-93 (2006). As demonstrated in Plaintiff’s Motion, and based upon the issuance of the temporary restraining order and preliminary injunction entered in this matter, Plaintiff has carried its burden on each of the four factors, warranting permanent injunctive relief. Defendants unlawfully used Plaintiff’s goodwill to make a profit, thus permanent injunctive relief is appropriate.

Further, permanent injunctive relief is in the public interest because each Defendant is engaged in illegal activities and are directly defrauding the consuming public by palming off Defendant’s competing infringing products as genuine Godzilla products through the publication of the infringing works. The public interest favors maintaining the integrity of the copyright laws. *See C.B. Fleet Co.* 510 F. Supp. at 1084 (“The public interest can only be served by upholding copyright protection and preventing the misappropriation of protected works.”); *Salinger*, 607 F.3d at 82; *see also CBS Broad., Inc. v. EchoStar Comm’ns. Corp.*, 265 F.3d 1193, 1198 (11th Cir. 2001) (the public interest lies with protecting the rights of copyright owners); *Nailtiques Cosmetic Corp. v. Salon Sciences, Corp.*, 1997 WL 244746, 5, 41 (S.D. Fla. 1997) (“The interests of the public in not being victimized and misled are important considerations in determining the propriety of granting injunctive relief.”)

Defendant’s actions merit permanent injunctive relief, not only to protect Plaintiff’s reputation, but also to protect consumers from being deceived as to the quality and source of

products bearing the Godzilla Trademark. The facts alleged in Plaintiff's Complaint, substantiated by the evidence submitted, show that the Defendants are continuously infringing Plaintiff's mark by using GODZILLA in the description of the Defendant's goods. 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.” (alteration added) (citation omitted)); *BellSouth Adver. & and Publ'g. Corp. v. Real Color Pages, Inc.*, 792 F. Supp. 775, 785 (M.D. Fla. 1991) (holding “[i]n a trademark infringement or unfair competition case, a third party, the consuming public is present, and its interests are paramount.”). Ultimately, a permanent injunction will prevent consumer confusion and deception in the marketplace and will protect Plaintiff's property interest in its Godzilla Trademark.

Plaintiff will suffer irreparable injury if the Defendants' infringing activities are not permanently enjoined. A “sufficiently strong showing of likelihood of confusion . . . may by itself constitute a showing of a substantial threat of irreparable harm.” *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998); 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 LS & Co.'s business reputation and might decrease its legitimate sales.”). Additionally, Plaintiff has no adequate remedy at law so long as the Defendants continue to use Plaintiff's Godzilla Trademark in connection with the operation of its Internet based e-commerce stores, because Plaintiff has no control of the quality of what appears to be its products in the marketplace. An award of money damages alone will not cure the injury to Plaintiff's reputation and goodwill which will result if the Defendants' infringing and counterfeiting activities are allowed to continue. Further, it can hardly be said that the Defendants will face hardship in refraining from its willful infringement of Plaintiff's Godzilla Trademarks,

whereas Plaintiff faces hardship from loss of sales and its inability to control its reputation. In reality, the Defendants have no cognizable hardship, as they will just be prohibited from selling counterfeit goods, which is an illegal act to begin with.

Further, a copyright holder possesses “the right to exclude others from using his property.” *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 392 (2006) (citing *Fox Film Corp. v. Doyal*, 286 U.S. 123 (1932)). Defendants’ infringing conduct deprives Plaintiff of control over its exclusive copyright rights, causing irreparable harm. *Salinger v. Colting*, 607 F.3d 68, 82 (2d Cir. 2010) (holding violation of copyright owner’s “right to exclude” renders monetary remedies inadequate in a wide range of circumstances) (quoting *eBay, Inc.* at 395). These harms are notoriously difficult to quantify and are considered irreparable. *Id.* at 81 (loss of sales due to infringement is “notoriously difficult” to prove). Plaintiff’s Complaint alleges that Defendants’ unlawful actions have caused Plaintiff irreparable injury and will continue to do so if Defendants are not permanently enjoined. By failing to answer the Complaint, the Defendants have defaulted upon Plaintiff’s factual allegations in that respect.

The Defendants have admitted by their default that their e-commerce store names, the associated payment accounts, and the seller aliases or identification names, are used in connection with the sale of counterfeit and infringing goods by using of Plaintiff’s Godzilla Trademarks and Godzilla Copyrights in the description of the goods are essential components of the Defendants’ online activities and are one of the means by which the Defendants further their counterfeiting and infringement schemes and cause harm to Plaintiff. Therefore, in order to effectuate the injunction as a practical matter pursuant to the Court’s inherent authority and the All Writs Act, 28 U.S.C. § 1651(a), all listings using Plaintiff’s copyrights via the e-commerce store names, and any other e-commerce store names being used and/or controlled by the Defendants to promote, offer for sale,

and/or sell goods bearing and/or using a infringements of Plaintiff's Godzilla Trademarks and Godzilla Copyrights, should be permanently removed by Internet marketplace website operators and/or administrators.

Without removing the listings that use Plaintiff's trademarks and copyrights, the Defendants will remain free to continue infringing Plaintiff's trademarks and copyrights with impunity, will continue to benefit from the Internet traffic to its e-commerce store built through the unlawful use of the Godzilla Trademarks and Godzilla Copyrights, and will continue to defraud the public by their illegal activities. The Court's powers of equity can compel measures necessary to enforce an injunction against infringement. 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. . . the essence of equity jurisdiction has been the power of the Chancellor to do equity and to mould each decree to the necessities of the particular case."); *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.").

The Defendants have participated in an Internet-based infringement scheme and are profiting from the deliberate misappropriation of Plaintiff's rights. Unless the infringing online platform listings are permanently removed, the Defendants will be free to continue to defraud the public with its illegal activities. Accordingly, the Court should eliminate the means by which the Defendants conduct their unlawful activities to further prevent the use of these instrumentalities of infringement.

## 2. Damages for Trademark Infringement

In a case involving the use of counterfeit marks in connection with a 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. 15 U.S.C. § 1117(c)(1). In addition, if the Court finds that the 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. 15 U.S.C. § 1117(c)(2). Pursuant to 15 U.S.C. § 1117(c), Plaintiff elects to recover an award of statutory damages as to its claim for Trademark Infringement alleged in the Complaint.

This Court has wide discretion to set an amount of statutory damages. *PetMed Express, Inc.*, 336 F. Supp. 2d at 1219 (citing *Cable/Home Commc'n Corp. v. Network Prod., Inc.*, 902 F.2d 829, 852 (11th Cir. 1990)). An award of statutory damages is an appropriate remedy, despite a plaintiff's inability to provide actual damages caused by a defendant's infringement. *Ford Motor Co. v. Cross*, 441 F. Supp. 2d 837, 852 (E.D. Mich. 2006) (“[A] successful plaintiff in a trademark infringement case is entitled to recover enhanced statutory damages even where its actual damages are nominal or non-existent.”). Congress enacted the statutory damages remedy in trademark counterfeiting cases because evidence of a defendant's profits in such cases is almost impossible to ascertain. See, e.g., S. REP. NO. 104-177, pt. V(7) (1995) (discussing purposes of Lanham Act statutory damages). See also *PetMed Express, Inc.*, 336 F. Supp. 2d at 1220 (statutory damages are “especially appropriate in default judgment cases due to infringer nondisclosure”). The present action is no different.

A defendant's intent can be of probative value for establishing willfulness, triggering an enhanced statutory award. *PetMed Express, Inc.*, 336 F. Supp. 2d at 1220. A defendant is deemed

to have acted willfully where “the infringer acted with actual knowledge or reckless disregard” to a plaintiff’s intellectual property rights. See *Arista Records, Inc. v. Beker Enter., Inc.*, 298 F. Supp. 2d 1310, 1312 (S.D. Fla. 2003). Willfulness may also be inferred from the defendant’s default. See *PetMed Express, Inc.*, 336 F. Supp. 2d at 1217 (upon default, well plead allegations taken as true). In either case, a defendant is deemed to have the requisite knowledge that its acts constitute infringement.

Plaintiff’s Godzilla Trademarks are widely recognized as an identifier of high-quality goods from Plaintiff, and the fact that the Defendants 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. In a case of clear-cut copying such as this, it is appropriate to infer that the Defendants intended to cause confusion and benefit from Plaintiff’s reputation to Plaintiff’s detriment. See *PetMed Express, Inc.*, 336 F. Supp. 2d at 1220 (court infers intent to confuse consumers into believing affiliation from Defendants’ use of such a mark that was confusingly similar). In this district, it has been held that when an alleged infringer adopts a mark “with the intent of obtaining benefit from the plaintiff’s business reputation, ‘this fact alone may be sufficient to justify the inference that there is confusing similarity.’” *Turner Greenberg Assocs.*, 320 F. Supp. 2d 1317, 1333 (S.D. Fla. 2004) (citing *Carnival Corp. v. Seaescape Casino Cruises, Inc.*, 74 F. Supp. 2d 1261, 1268 (S.D. Fla. 1999)).

The evidence submitted in this case clearly establishes the Defendants intentionally copied Plaintiff’s Godzilla Trademarks for the purpose of deriving the benefit of Plaintiff’s famous reputation. However, by failing to respond to the Complaint the Defendants defaulted on Plaintiff’s allegations of willfulness. See *Arista Records, Inc.*, 298 F. Supp. 2d at 1313 (finding a Court may infer willfulness from the defendants’ default). This Court should award a significant amount of

statutory damages under the Lanham Act to ensure the Defendants do not continue their intentional and willful counterfeiting activities.

Based these considerations, Plaintiff requests the Court award statutory damages against the Defendants. The evidence in this case demonstrates that the Defendants promoted, distributed, advertised, offered for sale, and/or sold at least one type of good using Plaintiff's Mark. (Dkt. No. 1 ¶¶ 3, 44; Dkt. No. 1-4., Exhibit 2). In cases involving the same merits, issues, and requests for damages, this Court has found similar evidence of record sufficient to establish a defendant's infringement and enter a final default judgment and permanent injunction accordingly. See, e.g., *Fendi S.R.L. v. Individuals, P'ships, and Unincorporated Ass'ns Identified on Schedule "A"*, Case No. 20-CV-61724-RNS (S.D. Fla. Dec. 22, 2020, docketed Dec. 23, 2020). Based on the above, Plaintiff respectfully requests the Court award statutory damages in the amount of \$100,000.00 against each of the Defendants for which Plaintiff has alleged a trademark claim in respect to the Godzilla Trademarks.

Plaintiff's requested damages amount as to the Defendants is well within the permissible range prescribed under 15 U.S.C. § 1117(c)(2) and should be sufficient to deter the Defendants and others from continuing to counterfeit or otherwise infringe Plaintiff's Godzilla Trademark, compensate Plaintiff, and punish the Defendants, all stated goals of 15 U.S.C. § 1117(c). Joint Statement of Trademark Counterfeiting Legislation, H.R.J. Res. 648, 98th Cong., 2nd Sess., 130 Cong.Rec. H12076, H12083; *PetMed Express, Inc.*, 336 F. Supp. 2d at 1220-21 ("statutory damages under § 1117(c) are intended not just for compensation for losses, but also to deter

wrongful conduct.”). This Court and others have granted statutory damages under the Lanham Act using methodology similar to Plaintiff’s request herein.<sup>1</sup>

### 3. *Damages for Copyright Infringement*

In a case involving the use of infringing works in connection with a sale, offering for sale, or distribution of goods, 17 U.S.C. § 504(c), provides that a plaintiff may elect an award of statutory damages which may be enhanced by 17 U.S.C. § 504(c)(2) if the Court finds that the Defendants’ infringing actions were willful. The range of statutory damages is between \$750 and \$30,000 for each infringed work, 17 U.S.C. § 504(c)(1), but the Act also allows "the court in its discretion [to] increase . . . award[s] of statutory damages" in cases involving willful infringement to \$150,000 per work. *Yellow Pages Photos, Inc. v. Ziplocal, LP*, 795 F.3d 1255, 1271. Pursuant to 15 U.S.C. § 504, Plaintiff elects to recover an award of statutory damages as to its claim for Copyright Infringement alleged in the Complaint.

This Court has wide discretion to set an amount of statutory damages. *PetMed Express, Inc.*, 336 F. Supp. 2d at 1219 (citing *Cable/Home Commc’n Corp. v. Network Prod., Inc.*, 902 F.2d 829, 852 (11th Cir. 1990)). An award of statutory damages is an appropriate remedy, despite a plaintiff’s inability to provide actual damages caused by a defendant’s infringement. *Ford Motor Co. v. Cross*, 441 F. Supp. 2d 837, 852 (E.D. Mich. 2006). A defendant’s intent can be of probative

---

<sup>1</sup> See, e.g., *Yip, LLC v. Individuals*, U.S. Dist. LEXIS 124150, No. 21-61580-CIV-ALTMAN (S.D. Fla. July 18, 2022) (awarding Plaintiff \$1,000,000.00 against each Defendant based on at least one mark counterfeited and one type of good sold); *Chanel, Inc. v. Individuals*, Case No. 23-cv-62186-RKA (S.D. Fla. Feb. 7, 2024) (same); *Louis Vuitton Malletier v. Individuals*, No. 23-cv-60520-RKA (S.D. Fla. May 17, 2023) (same); *Specialized Bicycle Components, Inc. v. Individuals*, No. 23-cv-60252-RKA (S.D. Fla. Apr. 17, 2023) (same); *Goyard St-Honore v. Individuals*, No. 22-cv-61837-RKA (S.D. Fla. Feb. 22, 2023) (same). See also *Chanel, Inc. v. Individuals*, No. 22-61082-CIV-SINGHAL, 2022 U.S. Dist. LEXIS 184619 (S.D. Fla. Sept. 7, 2022) (same); *Tiffany (NJ) LLC v. Individuals*, No. 20-cv-60299-MOORE, 2020 U.S. Dist. LEXIS 143158 (S.D. Fla. June 26, 2020) (same).

value for establishing willfulness, triggering an enhanced statutory award. *PetMed Express, Inc.*, 336 F. Supp. 2d at 1220. A defendant is deemed to have acted willfully where “the infringer acted with actual knowledge or reckless disregard” to a plaintiff’s intellectual property rights. See *Arista Records, Inc. v. Beker Enter., Inc.*, 298 F. Supp. 2d 1310, 1312 (S.D. Fla. 2003). Willfulness may also be inferred from the defendant’s default. See *PetMed Express, Inc.*, 336 F. Supp. 2d at 1217 (upon default, well plead allegations taken as true). In either case, a defendant is deemed to have the requisite knowledge that its acts constitute infringement.

The evidence submitted in this case clearly establishes the Defendants intentionally copied the Godzilla Copyrights to for use in selling bedding using images competing by the Godzilla Copyrights. By failing to respond to the Complaint the Defendants defaulted on Plaintiff’s allegations of willfulness. See *Arista Records, Inc.*, 298 F. Supp. 2d at 1313 (finding a Court may infer willfulness from the defendants’ default). This Court should award a significant amount of statutory damages under the Copyright Act to ensure the Defendants do not continue their intentional and willful counterfeiting activities.

Based these considerations, Plaintiff requests the Court award statutory damages against the Defendants. The evidence in this case demonstrates that the Defendants promoted, distributed, advertised, offered for sale, and/or sold goods using Plaintiff’s copyrights. Based on the above, Plaintiff respectfully requests the Court award statutory damages in the amount of \$100,000.00 against each Defendant for which Plaintiff has alleged a copyright claim in respect to the Godzilla Copyrights.

### **III. CONCLUSION**

Based on the foregoing, Plaintiff respectfully requests entry of default judgment against the Defendants pursuant to Rule 55. In granting its request, Plaintiff asks the Court to award the

following: (1) an award of the Defendants' profits resulting from its acts of infringement in order to redress Defendants' unjust enrichment and to deter its infringement of Plaintiff's Godzilla Trademark, pursuant to 15 U.S.C. § 1117(a)(1); (2) an award of the Defendant's profits resulting from its acts of infringement in order to redress Defendants' unjust enrichment and to deter its infringement of Plaintiff's Godzilla Copyrights, pursuant to 17 U.S.C. § 504(b); (3) triples of any damages and increases of profits pursuant to 15 U.S.C. § 1117(b); (4) enhanced damages pursuant to 17 U.S.C. § 504(c)(2) because of Defendants' willful copyright infringement.; (5) entry of a permanent injunction pursuant to 15 U.S.C. § 1116 and 17 U.S.C. § 502; and (4) an award of attorneys' fees and costs pursuant to 15 U.S.C. § 1117(b) and 17 U.S.C. § 505.

DATED: September 19, 2025

Respectfully Submitted,

By: /s/ William R. Brees

William R. Brees (FL Bar No. 98886)

william@bayramoglu-legal.com

Emily Heim (Bar No. 1015867)

emily@bayramoglu-legal.com

**BAYRAMOGLU LAW OFFICES LLC**

1540 West Warm Springs, Suite 100

Henderson, NV 89014

Telephone: (702) 462-5973

Fax: (702) 553-3404

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of September 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 e-mail provided by third-party, PayPal.

By: /s/ William R. Brees  
WILLIAM R. BREES (FL BAR NO. 98886)

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:25-cv-23044-ALTONAGA/Reid

TOHO CO., LTD.,

Plaintiff,

v.

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

Defendants.

**DECLARATION OF WILLIAM R. BREES ESQ. IN SUPPORT OF  
PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT**

I, William R. Brees, Esq., of St. Petersburg, Florida, declare as follows:

1. I am an attorney duly licensed to practice before this Court, and I am counsel for Plaintiff, TOHO CO. LTD., ("Plaintiff") in the above-captioned matter. I make this Declaration, which is filed in support of Plaintiff's Motion for Entry of Default Judgment, and I could and would testify competently to the matters set forth herein.

2. On July 8, 2025, Plaintiff filed its Complaint for Damages and Injunctive Relief (the "Complaint") [Dkt. No. 1] against the Individuals, Corporations, Limited Liability Companies, Partnerships and Unincorporated Associations identified on Schedule "A" [Dkt. No. 1-1] (collectively, the "Defendants").

3. On August 6, 2025, Defendants were served with their respective Summons and copies of the Complaint via electronic mail ("e-mail") and via website posting pursuant to the

Court’s Order authorizing alternate service of process. *See* Dkt. No. 18, the Return of Service on file with the Court.

4. The deadline to respond to the Complaint was August 27, 2025.
5. The Defendants have failed to answer or otherwise respond to the Complaint or serve a copy of the Answer or other response upon Plaintiff’s attorneys of record.
6. The Defendants’ information is as follows:

DEFENDANT NUMBER	DEFENDANT NAME	DEFENDANTS’ INTERNET STORE
1	ADUVETAFFAIR	<a href="https://aduvetaffair.com">https://aduvetaffair.com</a>
2	printyfly	<a href="https://printyfly.com">https://printyfly.com</a>
3	Perspiration	<a href="https://perspiration.com">https://perspiration.com</a>

7. As of the filing of this Motion, approximately forty-four (44) have expired since electronic service was effectuated on the Schedule "A" Defendants.

8. The Defendants have not been granted an extension of time to respond to the Complaint.

9. Clerk’s Entry of Default was entered on September 2, 2025. [Dkt. No. 27].

10. Plaintiff filed its Notice of Joint Liability on September 5, 2025 [Dkt. No. 29].

11. Servicemembers Civil Relief Act, 50 U.S.C. app. § 521(b):

- a. I am unable to determine whether the Defendants are in military service because the Defendants’ true identity is unknown.
- b. The Defendants are believed to be persons that are citizens of Vietnam or companies that are organized under the laws of Vietnam.
- c. The Defendants have provided the following fictitious addresses on their e-commerce webpages:

NO.	SELLER NAME AND URL	CONTACT INFORMATION
1	ADUVETAFFAIR <a href="https://aduvetaffair.com">https://aduvetaffair.com</a>	PayPal email: <a href="mailto:payment@wyanme.com">payment@wyanme.com</a> Customer Service email: <a href="mailto:contact@aduvetaffair.com">contact@aduvetaffair.com</a> Business Address: 2nd floor Hongkong Tower, 243A La Thanh Street, Lang Thuong ward, Dong Da District Hanoi city 100000 Vietnam
2	PRINTYFLY <a href="https://printyfly.com">https://printyfly.com</a>	PayPal email: <a href="mailto:payment@wyanme.com">payment@wyanme.com</a> Customer Service email: <a href="mailto:support@printyfly.com">support@printyfly.com</a> Business Address: 6th floor Hongkong Tower, 243A La Thanh Street, Lang Thuong ward, Dong Da District Hanoi city 100000 Vietnam
3	PERSPIRATURE <a href="https://perspirature.com">https://perspirature.com</a>	PayPal email: <a href="mailto:payment@wyanme.com">payment@wyanme.com</a> Customer Service email: <a href="mailto:support@perspirature.com">support@perspirature.com</a> Business Address: 48 Hao Nam, O Cho Dua, Dong Da, Hanoi 100000, Vietnam

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

Executed on September 19, 2025, in St. Petersburg, Florida.

Respectfully Submitted

By: /s/ William R. Brees  
 WILLIAM R. BREES (FL BAR NO. 98886)

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO.: 1:25-cv-23044-ALTONAGA/Reid**

TOHO CO., LTD.,

Plaintiff,

v.

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

Defendants.

**PROPOSED ORDER GRANTING MOTION FOR  
FINAL DEFAULT JUDGMENT**

**THIS CAUSE** is before the Court on Plaintiff's Motion for Entry of Final Default Judgment (the "Default Judgment Motion") [Dkt. No. 31]. For the reasons discussed below, the Court grants Plaintiff's Default Judgment Motion.

"Rule 55 of the Federal Rules of Civil Procedure establishes a two-step process for obtaining a default judgment. First, when a defendant fails to plead or otherwise defend the lawsuit, the Clerk of Court must enter a clerk's default against the defendant. Second, when the requirements for a clerk-entered default judgment cannot be met under Rule 55(b)(1), the plaintiff must apply to the court for a default judgment under Rule 55(b)(2)." *Cleveland v. JH Portfolio Debt Equities, LLC*, 2020 U.S. Dist. LEXIS 220450, 2020 WL 8167356, at 2 (S.D. Ala. Nov. 23, 2020), report and recommendation adopted, 2021 U.S. Dist. LEXIS 6450, 2021 WL 136287 (S.D. Ala. Jan. 13, 2021).

A "defendant's default alone does not warrant the entry of a default judgment." *Id.* (citing *Nishimatsu Constr. Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) ("[A] default is not treated as an absolute confession by the defendant of his liability and of the plaintiff's right

to recover.”)). “Rather, a court must ensure there is a sufficient basis in the pleadings for the judgment to be entered.” *Id.* “Entry of default judgment is only warranted when there is a sufficient basis in the pleadings for the judgment entered.” *Surtain v. Hamlin Terrace Foundation*, 789 F.3d 1239, 1245 (11th Cir. 2015) (quotation omitted). The Eleventh Circuit has stated that a default judgment may only be entered where the Complaint is sufficient to withstand a motion to dismiss. *Id.* (“Conceptually, then, a motion for default judgment is like a reverse motion to dismiss for failure to state a claim.”).

On September 2, 2025, the Clerk entered default against Defendant Nos. 1-3 (“Clerk’s Entry of Default”) [Dkt. No. 27] (Defendant Nos. 1-3 collectively referred to as the “Defendants”) for failure to respond to the Complaint or otherwise appear in this action. On September 19, 2025, Plaintiff filed the Default Judgment Motion [Dkt. No. 31] the Defendants subsequently failed to move to set aside the Clerk’s Entry of Default or otherwise respond to the Default Judgment Motion.

The well-pled allegations of the Complaint are admitted by virtue of the Defendants default. The Court finds that Plaintiff’s Complaint [Dkt. No. 1] adequately states a claim for federal copyright infringement and federal trademark infringement, pursuant to 15 U.S.C. §§ 1114, 1125(a), 17 U.S.C. §§ 501, 502, and 504(c), and The All Writs Act, 28 U.S.C. § 1651(a). Default judgment against the Defendants is, therefore, appropriate.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Plaintiff’s Default Judgment Motion [Dkt. No. 31] is **GRANTED**. In accordance with Federal Rule of Civil Procedure 58, judgment for Plaintiff will be entered separately.

DATED: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE CECILIA M. ALTONAGA  
CHIEF UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO.: 1:25-cv-23044-ALTONAGA/Reid**

TOHO CO., LTD.,

Plaintiff,

v.

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

Defendants.

**PROPOSED FINAL DEFAULT JUDGMENT AND PERMANENT INJUNCTION**

**THIS CAUSE** comes before the Court on the Plaintiff's Motion for Entry of Final Default Judgment (the "Motion"). For the reasons set forth in the Order Granting Plaintiff's Motion for Default Judgment, [Dkt. No. 32], this Court now enters this separate final judgment pursuant to Federal Rule of Civil Procedure 58(a). Pursuant to Federal Rule of Civil Procedure 58(a), the Court hereby **ENTERS THIS SEPARATE FINAL JUDGMENT**. Accordingly, it is **ORDERED and ADJUDGED** that Final Default Judgment is hereby entered in favor of the Plaintiff, TOHO CO., LTD., ("Plaintiff"), and against Defendant No. 1, ADUVETAFFAIR, Defendant No. 2, PRINTYFLY, and Defendant No. 3, PERSPIRATURE, identified in Schedule "A" of the Complaint [Dkt. No. 1-1], (the "Defendants") as follows:

1. **Permanent In unctive Relief**

The Defendants, their officers, directors, agents, representatives, subsidiaries, distributors, servants, employees and attorneys, and all persons in active concert or participation therewith are hereby permanently restrained and enjoined from:

- a. manufacturing or causing to be manufactured, importing, advertising, or promoting, distributing, selling or offering to sell counterfeit and infringing goods bearing and/or using Plaintiff's "GODZILLA" trademarks, or any confusingly similar trademark, (the "Godzilla Trademarks");
- b. using Plaintiff's Godzilla Trademarks in connection with the sale of any unauthorized goods;
- c. using any logo, and/or layout which may be calculated to falsely advertise the services or products of the Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with Plaintiff;
- d. falsely representing themselves as being connected with Plaintiff, through sponsorship or association;
- e. engaging in any act which is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of the Defendants are in any way endorsed by, approved by, and/or associated with Plaintiff;
- f. using any reproduction, counterfeit, copy, or colorable imitation of Plaintiff's Godzilla Trademarks in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants;
- g. affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent goods offered for sale or sold by the Defendant as being those of Plaintiff or in any way endorsed by Plaintiff;
- h. otherwise unfairly competing with Plaintiff in connection with Plaintiff's Godzilla Trademarks;

- i. using Plaintiff's Godzilla Trademarks or any confusingly similar trademark, on e-commerce marketplaces, metatags or other markers within website source code, from use on any webpage (including as the title of any web page), from any advertising links to other websites, from search engines' databases or cache memory, and from any other form of use of such terms which are visible to a computer user or serves to direct computer searches to Internet based e-commerce stores, seller identities or domain names registered by, owned, or operated by Defendants; and
- j. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth above.
- k. Using or displaying Plaintiff's federally-registered, copyright-protected works (the "Godzilla Copyrights"), in any medium, whether it be print, digital or otherwise, in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine Godzilla product or is not authorized by Plaintiff to be sold in connection with Plaintiff's Godzilla Copyrights;
- l. passing off, inducing, or enabling others to sell or pass off any product as a genuine Godzilla products or any other product produced by Plaintiff through the use or display of Plaintiff's Godzilla Copyrights;
- m. committing any acts calculated to cause consumers to believe that the Defendants' products are those sold under the authorization, control, or supervision of Plaintiff, or are sponsored by, approved by, or otherwise connected with Plaintiff;
- n. manufacturing, shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner,

- products or inventory not manufactured by or for Plaintiff, nor authorized by Plaintiff to be sold or offered for sale through the use or display of Plaintiff's Godzilla Copyrights; and
- o. otherwise unfairly competing with Plaintiff in connection with Plaintiff's Godzilla Copyrights.

**2. Additional Equitable Relief:**

Upon the Plaintiff's request, the Internet marketplace website operators and/or administrators for the Internet based e-commerce stores operating under the seller identification names identified on Schedule "A" hereto (the "Seller IDs"), including but not limited to AliExpress, Alipay, Dhgate, Dhpay, Joom, Wish, Wishpay, Walmart, Amazon, Amazon Pay, eBay, Etsy, and/or Taobao, shall permanently remove any and all listings and associated images of goods bearing counterfeits and/or infringements of Plaintiff's Godzilla Trademarks and unauthorized copies of Plaintiff's Godzilla Copyrights via the e-commerce stores operating under the Seller IDs, and any other listings and images of goods bearing counterfeits and/or infringements of Plaintiff's Godzilla Trademarks and Godzilla Copyrights associated with the same sellers or linked to any other alias seller identification names or e-commerce stores being used and/or controlled by the Defaulting Defendants to promote, offer for sale and/or sell goods in connection with Plaintiff's Godzilla Trademarks and Godzilla Copyrights.

**3. Statutory Damages in Favor of Plaintiff Pursuant to 15 U.S.C. 111 (c):**

Award the Plaintiff damages of \$100,000.00 against each of the Defaulting Defendants, each jointly and severably liable, for which let execution issue, based upon the Court's finding that the Defaulting Defendants infringed Plaintiff's Godzilla Trademarks on one type of good. The Court considered both the willfulness of the Defaulting Defendants' conduct and the deterrent

value of the award imposed, and the awarded amount falls within the permissible statutory range under 15 U.S.C. § 1117(c).

4. **Statutory Damages in Favor of Plaintiff Pursuant to 1 U.S.C. 504(c):**

Award the Plaintiff damages of \$100,000.00 against each of the Defaulting Defendants, each jointly and severably liable, for which let execution issue, based upon the Court's finding that each Defaulting Defendant infringed on Plaintiff's Godzilla Copyrights. The Court considered both the willfulness of the Defaulting Defendants' conduct and the deterrent value of the award imposed, and the awarded amount falls within the permissible statutory range under 17 U.S.C. § 504(c)(2).

5. **Disposition of Retained Funds**

All funds currently restrained or held on account for the Defaulting Defendants by all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to PayPal and its related companies and affiliates are to be immediately (within five (5) business days), transferred by the previously referred to financial institution, payment processors, banks, escrow services, money transmitters, or marketplace platforms and by the Defaulting Defendants, to the Plaintiff and/or the Plaintiff's counsel in partial satisfaction of the monetary judgment entered herein against the Defaulting Defendants. All financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to PayPal, and its related companies and affiliates, shall provide to the Plaintiff at the time the funds are released, a breakdown reflecting the (i) total funds restrained in this matter for the Defaulting Defendants; (ii) the total chargebacks, refunds, and/or transaction reversals deducted from the Defaulting

Defendant' funds restrained prior to release; and (iii) the total funds released for Defaulting Defendants to Plaintiff.

6. **Interest**

Interest from the date this action was filed shall accrue at the legal rate pursuant to 28 U.S.C. § 1961.

7. **Bond**

The Clerk is DIRECTED to RELEASE to Plaintiff the bond posted in this case in the amount of \$5,000.00.

8. **Jurisdiction**

The Court retains jurisdiction to enforce this Judgment and permanent injunction.

9. **Closure of Case**

The Clerk is DIRECTED to CLOSE this case and DENY all pending motions as MOOT.

**DONE AND ORDERED** in Miami, Florida this        day of        , 2025.

**HONORABLE CECILIA M. ALTONAGA  
UNITED STATES CHIEF DISTRICT JUDGE**