

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

CASE NO. 25-22562-CIV-MARTINEZ

HONG KONG LEYUZHEN
TECHNOLOGY CO. LIMITED,

Plaintiff,

v.

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

Defendants.

ORDER

THIS CAUSE is before the Court on Plaintiff's Renewed Motion for Default Judgment Against Certain Defendants Identified in Schedule "A" [ECF No. 49].

Plaintiff has voluntarily dismissed six Defendants from this case, (*see* [ECF No. 48]), and now moves for an entry of default final judgment against the two remaining Defendants listed on Schedule "A" to the Complaint, Defendant Number 1 (QingYing) and Defendant Number 5 (LaysamTops) (collectively, the "Defaulting Defendants"). The Defaulting Defendants each failed to appear, answer, or otherwise plead to the Complaint [ECF No. 1], despite having been served. The Court has carefully considered the Motion, the record in this case, the applicable law, and is otherwise fully advised. For the following reasons, Plaintiff's Motion is **GRANTED**.

I. FACTUAL BACKGROUND

On June 4, 2025, Plaintiff filed its Complaint against Defendants, alleging Trademark Infringement under 15 U.S.C. § 1114 (Count I); False Designation of Origin under 15 U.S.C. § 1125 (Count II); Common Law Trademark Infringement (Count III); and Common Law Unfair

Competition (Count IV). (*See generally* Compl.). Plaintiff filed a Return of Service on November 26, 2025, making the deadline for Defendants to respond December 17, 2025. (*See* [ECF No. 21]). To date, the Defaulting Defendants have not appeared in this case.

In connection with its asserted claims for relief, Plaintiff seeks an award of statutory damages pursuant to 17 U.S.C. § 1117(a)(1)–(2) against the Defaulting Defendants, which Plaintiff argues should be enhanced based on the willful infringement of Plaintiff’s federally registered trademark “ROTITA,” bearing U.S. Trademark Registration Number 6,243,678 and Serial Number 88-954,974 (“Plaintiff’s Mark”). (*See* Mot. 2; *see also* Plaintiff’s *Ex Parte* Motion for TRO, Ex. 1 to the Declaration of Liangjie Li [ECF No. 13-4] 2). Plaintiff additionally requests that the Court issue a permanent injunction against the Defaulting Defendants and an award of attorneys’ fees and costs for the Defaulting Defendants’ willful infringement of Plaintiff’s Mark pursuant to 15 U.S.C. § 1117(b). Alternatively, Plaintiff requests the issuance of a permanent injunction and an award of damages, including pre-judgment interest, for lost sales and the loss of goodwill suffered by Plaintiff.

II. LEGAL STANDARD

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. “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., Ltd. v. Houston Nat’l Bank*, 515 F. 2d 1200, 1206 (5th Cir. 1975)); *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987). “Because a defendant is not held to admit facts that are not well pleaded or to admit conclusions of law, the Court must first determine whether there is a sufficient basis in the pleading for judgment to be entered.” *Luxottica Group*

S.p.A. v. Individual, P'ship or Unincorporated Ass'n, No. 17-cv-61471, 2017 WL 6949260, at *2 (S.D. Fla. Oct. 3, 2017); *see also Buchanan*, 820 F.2d at 361 (“[L]iability is well-pled in the complaint[] and is therefore established by the entry of default . . .”). Indeed, a defendant’s default alone does not warrant the entry of a default judgment. *See 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.”)).

When there are multiple defendants, the plaintiff must state in the motion for default final judgment that there are no allegations of joint and several liability and set forth the basis why there is no possibility of inconsistent liability. Generally, if one defendant is alleged to be jointly and severally liable with other defendants’ defaults, judgment should not be entered against that defendant until the matter is adjudicated against the remaining defendants. *See* 10A Charles Alan Wright and Arthur R. Miller, *Federal Practice and Procedure* § 2690 (3d ed. 1998) (citing *Frow v. De La Vega*, 82 U.S. 552, 554 (1872) (“[A] final decree on the merits against the defaulting defendant alone, pending the continuance of the cause, would be incongruous and illegal.”)). “Even when defendants are similarly situated, but not jointly liable, judgment should not be entered against a defaulting defendant if the other defendant prevails on the merits.” *Gulf Coast Fans, Inc. v. Midwest Elecs. Imp., Inc.*, 740 F.2d 1499, 1512 (11th Cir. 1984).

III. DISCUSSION

In its Motion, Plaintiff states that these prerequisites for a default judgment have been met. (*See* Mot. 3–5). The Defaulting Defendants have neither appeared nor responded and are therefore in default. (*See id.*). Given the absence of any Defendants to contest or produce inconsistent liability outcomes, the Court finds sufficient justification in the pleadings to grant a default judgment against the Defaulting Defendants.

The well-pleaded allegations of the Complaint are admitted by virtue of the Defaulting

Defendants' default. The Court finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendants because Defendants directly target their business activities toward consumers in the United States, including consumers in the State of Florida. Specifically, Plaintiff has provided a basis to conclude that Defendants have targeted sales to Florida residents by setting up and operating e-commerce stores by using one or more seller aliases, offering shipping to the United States, including to the State of Florida, and intentionally offering for sale women's apparel and fashion items ("Infringing Products") using Plaintiff's federally registered trademark "ROTITA," with U.S. Trademark Registration No. 6,243,678.

A. Plaintiff Sufficiently Pleads its Claims.

Plaintiff's Complaint includes four claims against the Defendants. The Court analyzes whether Plaintiff has adequately stated each claim.

1. Federal Trademark Infringement and Florida Common Law Trademark Infringement

To prevail on a claim of trademark infringement under Section 32 of the Lanham Act, a plaintiff must establish that: (1) the plaintiff had prior rights to the trademarks at issue, and (2) the defendants adopted a mark or name that was the same or confusingly similar to Plaintiff's 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)). "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." *Tiffany (NJ) LLC v. Benefitfortiffany.com*, No. 16-cv-60829, 2016 WL 8679081, at *5 (S.D. Fla. Nov. 3, 2016), *report and recommendation adopted*, No. 16-cv-60829, 2016 WL 8678880 (S.D. Fla. Dec. 20, 2016) (citing *PetMed Express, Inc. v. MedPets.Com, Inc.*, 336 F. Supp. 2d 1213, 1217–18 (S.D. Fla. 2004)).

2. False Designation of Origin

Section 43(a) “prohibits a broader range of practices than does § 32.” *Inwood Laboratories, Inc. v. Ives Laboratories, Inc.*, 456 U.S. 844, 858 (1982). To prevail on a false designation of origin claim under this section, a plaintiff must demonstrate that:

It was either actually or likely to be damaged by the fact that the defendant used a “false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which was likely to cause confusion, or to cause mistake, or to deceive . . . as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person.”

Lipscher v. LRP Publications, Inc., 266 F.3d 1305, 1312–13 (11th Cir. 2001) (quoting 15 U.S.C. § 1125(a)(1)(A)). Thus, as with trademark infringement claims, liability for false designation of origin under § 43(a) depends on “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).

3. 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).

4. Defaulting Defendants’ Liability

The well-pleaded factual allegations of Plaintiff’s Complaint [ECF No. 1], which the Court deems admitted by virtue of the Defaulting Defendants’ failure to answer or respond, sufficiently establish the elements of each above claim. (*See generally* Compl.). Moreover, the factual allegations in the Complaint have been substantiated by sworn declarations and other evidence. (*See, e.g.*, Mot., Ex. 1, Declaration of William R. Brees, Esq. (“Brees Decl.”) [ECF No. 49-1]; Plaintiff’s Ex Parte Motion for TRO, Ex. 1 to the Declaration of Liangjie Li [ECF No. 13-4]).

Accordingly, entry of default judgment pursuant to Federal Rule of Civil Procedure 55(b) is appropriate.

Specifically, Plaintiff pleads that it has prior rights to Plaintiff's Mark, (*see* Compl. ¶¶ 9–15; [ECF No. 13-4]), and that the mark used by Defendants was so similar that it was likely to cause confusion or deception, (*id.* ¶ 30) (“The Defendants’ willful, intentional, and unauthorized use of Plaintiff’s Mark for goods identical, nearly identical, directly competing, and/or overlapping to Plaintiff’s Goods is likely to cause . . . confusion, mistakes, confusion, and deception as to the quality, origin, sponsorship, or approval of Defendants’ Products among the general public.”). 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, 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.* ¶ 37).

Plaintiff also alleges that Plaintiff has not licensed or authorized Defendants to use Plaintiff’s Mark, and none of the Defendants are authorized retailers of genuine ROTITA brand products. (*See* Compl. ¶ 20). 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 Plaintiff’s Mark. (*See id.* ¶ 16). 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.

Plaintiff also states a claim for Florida common law unfair competition. First, Plaintiff pleads that its use of the Plaintiff’s Mark predates the Defaulting Defendants’ uses. (*See* Compl. ¶¶ 9–15). Second, Plaintiff alleges that its extensive and continuous use of Plaintiff’s Mark in connection with Plaintiff’s Goods has indelibly impressed on the minds of the relevant consuming

public that Plaintiff's Mark identifies Plaintiff as the source of Plaintiff's Goods. (*See id.* ¶ 10). As to the third and fourth elements, Plaintiff alleges Defendants each are "advertising, promoting, offering for sale, and/or selling infringing products using Plaintiff's Mark in the description of goods" to consumers "who will believe Defendants' Goods are genuine goods originating from, associated with, and/or approved by Plaintiff." (*Id.* ¶¶ 14, 16). Accordingly, Plaintiff has established liability for Defendants' unfair competition.

B. Plaintiff Is Entitled to Relief.

Given that Plaintiff has established the Defaulting Defendants' liability, and finding entry of default judgment pursuant to Federal Rule of Civil Procedure 55(b) appropriate, the Court now turns to the issue of the appropriate relief for each Count.

1. Injunctive Relief

Under 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; quotation marks omitted; quoting *Century 21 Real Estate 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. v. MedPets.Com, Inc.*, 336 F. Supp. 2d 1213, 1222–23 (S.D. Fla. 2004), as defendant's 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.") (alteration added)).

Permanent injunctive relief is appropriate where a plaintiff demonstrates that (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). Plaintiff has carried its burden on each of the four factors. Accordingly, permanent injunctive relief is appropriate.

First, “a sufficiently strong showing of likelihood of confusion [caused by trademark infringement] may by itself [show] . . . a substantial threat of irreparable harm.” *E. Remy Martin & Co., S.A. v. Shaw-Ross Int’l Imps., Inc.*, 756 F.2d 1525, 1530 (11th Cir. 1985) (alterations added; footnote call number 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.” (alteration added)). The facts alleged in the Complaint establish that Plaintiff has suffered and will continue to suffer irreparable injury because the counterfeit goods that are promoted, advertised, and offered for sale by the Defaulting 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* Compl. ¶¶ 9–17).

Second, Plaintiff has no adequate remedy at law if the Defaulting Defendants continue their infringing activities, as the unauthorized use of Plaintiff’s Mark compromises Plaintiff’s ability to control product quality, customer service, and the overall goodwill associated with its brand. An award of monetary damages alone will not cure the injury to Plaintiff’s reputation and goodwill that will result if the Defaulting Defendants’ infringing activities are allowed to continue. (*See* Compl. ¶¶ 24, 30).

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.*, No. 12-cv- 21919, 2013 WL

12247802, at *4 (S.D. Fla. Apr. 22, 2013). By contrast, the Defaulting Defendants face no hardship if they are prohibited from the infringement of Plaintiff’s trademark—an illegal act in itself. *See id.*; *see also Tiffany*, 2016 WL 8679081, at *6.

Fourth and finally, the public interest supports the issuance of “a permanent injunction against Defendants to prevent consumers from being misled by Defendants’ products.” *Atmos Nation, LLC v. Pana Depot, Inc.*, No. 14-cv-62620, 2015 WL 11198010, at *3 (S.D. Fla. Apr. 8, 2015); *see also Nike, Inc. v. Leslie*, No. 85-cv-960, 1985 WL 5251, at *1 (M.D. Fla. June 24, 1985) (“[A]n injunction to enjoin infringing behavior serves the public interest in protecting consumers from such behavior.”). The Court’s broad equity powers allow it 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 . . . [t]he essence of equity jurisdiction has been the power of the Chancellor to do equity and to mold each decree to the necessities of the particular case.” (citation and internal quotation marks omitted)); *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.”).

Accordingly, Plaintiff has demonstrated that it is entitled to injunctive relief against the Defaulting Defendants.

2. Statutory Damages

In addition to injunctive relief, Plaintiff seeks statutory damages as to its claim for trademark infringement pursuant to 15 U.S.C. § 1117(c).

a. Damages as to Count I

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* 15 U.S.C. § 1117(c)(2). Pursuant to § 1117(c), Plaintiff elects to recover an award of statutory damages as to Count I of the Complaint. (*See* Mot. 10–13).

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 Prod., 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. *Under Armour, Inc. v. 51nfljersey.com*, No. 13-62809-CIV, 2014 WL 1652044, at *7 (S.D. Fla. Apr. 23, 2014) (“[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.”); *Playboy Enter., Inc. v. Universal Tel-A-Talk, Inc.*, No. CIV.A. 96-6961, 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.” *Chanel, Inc.*, 769 F. Supp. 3d at 1309 (citing 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 (recognizing that statutory damages are “[e]specially appropriate in default judgment cases due to infringer nondisclosure” (alteration added; citations omitted))).

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 also may be inferred from the defendant's default. *See id.*; *PetMed Express, Inc.*, 336 F. Supp. 2d at 1217. In either case, a defendant is deemed to have the requisite knowledge that its acts constitute an infringement.


Here, the allegations in the Complaint, taken as true, establish that the Defaulting Defendants used, promoted, advertised, distributed, offered for sale, and/or sold at least one type of good bearing and/or using a counterfeit of Plaintiff's Mark. (*See* Compl. ¶ 16). Moreover, the Defaulting Defendants have "defaulted on Plaintiff's allegations of willfulness," and courts may infer willfulness upon default. *See Arista Records*, 298 F. Supp. 2d at 1312; *PetMed Express, Inc.*, 336 F. Supp. 2d at 1217. Plaintiff requests that the Court award statutory damages in the amount of \$15,000.00 against the Defaulting Defendants. (*See* Mot. 12, 14). This award is within the statutory range for a willful violation and is sufficient to compensate Plaintiff, punish the Defaulting Defendants, and deter the Defaulting Defendants and others from continuing to infringe Plaintiff's Mark.

IV. CONCLUSION

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiff's Renewed Motion for Default Judgment Against Certain Defendants Identified in Schedule "A" [ECF No. 49] is **GRANTED**.
2. Final Default Judgment will be entered by separate order.

DONE AND ORDERED in Miami, Florida, this 13 day of February 2026.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

cc: all counsel of record