UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 25-cv-26100-BLOOM/Elfenbein

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

Plaintiff,

v.

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

Defendants.
_______________________________________/

ORDER ON MOTION FOR DEFAULT JUDGMENT

THIS CAUSE is before the Court upon Plaintiff's Motion for Entry of Final Default Judgment ("Motion") ECF No. [31]. The Court has reviewed the Motion, the record, and is otherwise fully advised. For the reasons that follow, Plaintiff's Motion is granted in part and denied in part.

I. BACKGROUND

On February 19, 2026, the Clerk entered default against Defendant No. 1 CA-YI 7-14 Days Delivery, Defendant No. 2 Mumingsm, Defendant No. 3 haonuokang kl, Defendant No. 4 OSFVNOXV lightning deal, Defendant No. 5 Zhengqianqian, and Defendant No. 6 forerruti (Deals of The Day Clearance) (collectively the "Defaulting Defendants") for failure to respond to the Complaint or otherwise appear in this action. ECF No. [29]. Plaintiff filed its Motion for Entry of Default Judgment against the Defaulting Defendants. ECF No. [31]. Defendants subsequently failed to move to set aside the Clerk's Entry of Defaults or otherwise respond to the Motion. Thereafter, Plaintiff filed notices of voluntary dismissal as to Defendants 1-5 and Defendants 1-5 were dismissed from the case. *See* ECF Nos. [33], [34], [35], [36], [37], and [38]. Therefore, the Motion is denied as moot as to Defendants 1-5. As such, the only remaining Defendant is No. 6 forerruti (Deals of The Day Clearance).

The allegations of the Complaint are admitted by virtue of Defendant No. 6's default. The Court finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendant No. 6 because Defendant No. 6 directly targeted 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 Defendant No. 6 has targeted sales to Florida residents by setting up and operating e-commerce stores by using one or more seller aliases, offer 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 "MODLILY", with U.S. Trademark Registration No. 5,994,759 ("Plaintiff's Mark").

II. LEGAL STANDARD

Pursuant to Federal Rule of Civil Procedure 55(b), the Court is authorized to enter a final judgment of default against a party who has failed to plead in response to a complaint. This Circuit maintains a "strong policy of determining cases on their merits and we therefore view defaults with disfavor." *In re Worldwide Web Sys., Inc.*, 328 F.3d 1291, 1295 (11th Cir. 2003). Nonetheless, default judgment is entirely appropriate and within the district court's sound discretion to render where the defendant has failed to defend or otherwise engage in the proceedings. *See, e.g., Tara Prods., Inc. v. Hollywood Gadgets, Inc.*, 449 F. App'x 908, 910 (11th Cir. 2011); *Dawkins v. Glover*, 308 F. App'x 394, 395 (11th Cir. 2009); *In re Knight*, 833 F.2d 1515, 1516 (11th Cir. 1987); Wahl v. McIver, 773 F.2d 1169, 1174 (11th Cir. 1985); *Pepsico, Inc. v. Distribuidora La Matagalpa, Inc.*, 510 F. Supp. 2d 1110, 1113 (S.D. Fla. 2007); *see also Owens v. Benton*, 190 F. App'x 762 (11th Cir. 2006) (default judgment within district court's direction).

A defendant's "failure to appear and the Clerk's subsequent entry of default against him do[es] not automatically entitle Plaintiff to a default judgment." *Capitol Records v. Carmichael*, 508 F. Supp. 2d 1079, 1083 (S.D. Ala. 2007). Indeed, a default is not "an absolute confession by the defendant of his liability and of the plaintiff's right to recover," *Pitts ex rel. Pitts v. Seneca Sports, Inc.*, 321 F. Supp. 2d 1353, 1357 (S.D. Ga. 2004), but instead acts as an admission by the defaulted defendant as to the well-pleaded allegations of fact in the complaint. *See Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F.3d 1298, 1307 (11th Cir. 2009) ("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.") (citations omitted); *Descent v. Kolitsidas*, 396 F. Supp. 2d 1315, 1316 (M.D. Fla. 2005) ("the defendants' default notwithstanding, the plaintiff is entitled to a default judgment only if the complaint states a claim for relief"); *GMAC Commercial Mortg. Corp. v. Maitland Hotel Assocs., Ltd.*, 218 F. Supp. 2d 1355, 1359 (M.D. Fla. 2002) (default judgment is appropriate only if court finds sufficient basis in pleadings for judgment to be entered, and that complaint states a claim). Stated differently, "a default judgment cannot stand on a complaint that fails to state a claim." *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1370 n.41 (11th Cir. 1997). Therefore, before granting default judgment, "the district court must ensure that the well-pleaded allegations of the complaint ... actually state a cause of action and that there is a substantive, sufficient basis in the pleadings for the particular relief sought." *Tyco Fire & Sec., LLC v. Alcocer*, 218 F. App'x 860, 863 (11th Cir. 2007).

III. DISCUSSION

A. Plaintiff has Sufficiently Pled its Claims

Plaintiff's Complaint includes four claims against Defendant No. 6. ECF No. [1]. Count I alleges trademark infringement pursuant to Section 32 of the Lanham Act, in violation of 15 U.S.C.

§ 1114. *Id*. at ¶¶ 26–37, Count II alleges unfair competition, and false designation of origin pursuant to Section 43(a) of the Lanham Act, in violation of 15 U.S.C. § 1125(a). *Id*. at ¶¶ 38–44. Count III alleges Florida common law trademark infringement. *Id*. at ¶¶ 45–50. Count IV alleges common law unfair competition. *Id*. at ¶¶ 51-55. The Court analyzes whether Plaintiff has adequately stated each claim.

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

To prevail on its claim of trademark infringement in violation of 15 U.S.C. § 1114 in Count I, Plaintiff would have to "demonstrate '(1) that [it] had prior rights to the mark at issue and (2) that the defendant[s] had adopted a mark or name that was the same, or confusingly similar to its mark, such that consumers were likely to confuse the two.'" *Fendi S.r.l. v. Bag*, No. 19-cv-61356, 2019 WL 4693677, at *2 (S.D. Fla. Aug. 28, 2019) (quoting *Planetary Motion, Inc. v. Techsplosion, Inc.*, 261 F.3d 1188, 1193 (11th Cir. 2001)). As to Count II, "[t]he test for liability . . . under 15 U.S.C. section 1125(a) is the same as for a trademark counterfeiting and infringement claim— i.e., whether the public is likely to be deceived or confused by the similarity of the marks at issue." Id. at *3.

As to Count III, "[t]he analysis of liability for Florida common law trademark enforcement is the same as the analysis of liability for trademark infringement under § 32(a) of the Lanham Act." *Tiffany (NJ) LLC v. Benefitfortiffany.com*, 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)). For the reasons that follow, the Court finds that Plaintiff has pled sufficient facts to establish all three claims.

For the first element of a trademark infringement claim, Plaintiff has pled that it had prior rights to Plaintiff's Mark. See ECF No. [1] at ¶ 7-13. The second element of trademark infringement (as well as false designation of origin) requires that Plaintiff allege that Defendants' mark was so similar that it was likely to cause confusion or deception. In the Complaint, Plaintiff alleges that "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. It is causing confusion, mistakes, confusion, and deception as to the quality, origin, sponsorship, or approval of Defendants' Products among the general public." *Id*. at ¶ 30. 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*. at ¶ 39.

Plaintiff alleges the relevant consuming public identifies Plaintiff's Mark as the source of Plaintiff's Goods and Services. *Id*. at ¶ 10. Further, Plaintiff alleges that Plaintiff has not licensed or authorized Defendant No. 6 to use Plaintiff's Mark, and Defendant No. 6 is not an authorized retailer of genuine MODLILY brand products. *Id*. ¶ 15. Defendant No. 6 allegedly operates 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. *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.

ii. Claims for Florida Common Law Unfair Competition

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

(1) the plaintiff is the prior user of the mark; (2) the mark is arbitrary, suggestive, or has secondary meaning; (3) the defendant is using a confusingly similar mark to indicate similar goods marketed in competition with the plaintiff in the same trade area in which the plaintiff has already established its mark; and (4) because of the defendant's action, consumer confusion regarding the defendant's goods is likely. *Tiffany*, 2016 WL 8679081, at *5 (citing *PetMed Express, Inc.*, 336 F. Supp. 2d at 1219).

Plaintiff has adequately stated a claim for Florida common law unfair competition. First, Plaintiff has pled that its use of the Plaintiff's Mark predates Defendant No. 6's use. ECF No. [1] ¶¶ 7-15. Second, Plaintiff has alleged that Plaintiff's 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. *Id.* ¶ 10. As to the third and fourth elements, Plaintiff alleges that Defendant No. 6 was "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." as Plaintiff. *Id.* ¶¶ 14, 16. Accordingly, Plaintiff has established liability for Defendants No. 6's unfair competition.

B. Plaintiff is Entitled to Injunctive Relief

Pursuant to the Lanham Act, a court may issue an injunction "according to the principles of equity and upon such terms as the court may deem reasonable,' to prevent violations of trademark law." *Tiffany*, 2016 WL 8679081, at *5 (quoting 15 U.S.C. § 1116(a)). To obtain a permanent injunction pursuant to 15 U.S.C. § 1116, a plaintiff must demonstrate that: (1) it has suffered an irreparable injury; (2) remedies at law, such as monetary damages, are inadequate to compensate for that injury; (3) considering the balance of hardship between plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. *Id*. (citing *eBay, Inc. v. MercExchange*, LLC, 547 U.S. 388, 391 (2006)). For trademark and unfair competition cases, "[i]njunctive relief is the remedy of choice . . . since there is no adequate remedy at law for the injury caused by a defendant's continuing infringement." *Id*. at *6 (quoting *Burger King Corp. v. Agad*, 911 F. Supp. 1499, 1509- 10 (S.D. Fla. 1995)).

The Court finds that Plaintiff has met its burden to demonstrate that it is entitled to a permanent injunction against Defendant No. 6. First, Plaintiff has established that it has suffered and will continue to suffer irreparable injury because the counterfeit goods that are promoted, advertised, and offered for sale by Defendant No. 6 are nearly identical to Plaintiff's genuine goods utilizing Plaintiff's Mark such that consumers may confuse Defendant No. 6's counterfeit goods for Plaintiff's genuine goods. *See* ECF No. [1] ¶¶ 7-17. Indeed, in trademark cases, "a sufficiently strong showing of likelihood of confusion . . . may by itself constitute a showing of a substantial threat of irreparable harm." *Tiffany*, 2016 WL 8679081, at *6 (alteration in original) (quoting *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998)).

Second, Plaintiff has no adequate remedy at law if Defendant No. 6 continues its infringing activities because Plaintiff has no control over the quality of goods that are easily confused with theirs, and monetary damages alone will not cure any harm to Plaintiff's reputation. ECF No. [1] ¶¶ 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); [ECF No. 5 at 11-12]. By contrast, Defendant No. 6 faces no hardship if it is prohibited from the infringement of Plaintiff's trademark, which is an illegal act. *See Id.*; *see also Tiffany*, 2016 WL 8679081, at *6. Finally, it is in the public interest to issue "a permanent injunction against Defendants to prevent consumers from being misled by

Defendants' products." Atmos Nation, LLC v. Pana Depot, Inc., No. 14-cv-62620, 2015 WL 11198010, at *3 (S.D. Fla. Apr. 8, 2015).

C. Plaintiff is Entitled to Statutory Damages

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

i. Damages as to Count I[1]

In trademark counterfeiting matters, the Lanham Act provides "that a plaintiff may elect an award of statutory damages at any time before final judgment is rendered in the sum of not less than $1,000.00 nor more than $200,000.00 per counterfeit mark per type of good." *Louis Vuitton Malletier v. aaaimitationbags.com*, No. 18-cv-62354, 2019 WL 2008910, at *5 (S.D. Fla. Mar. 29, 2019) (citing 15 U.S.C. § 1117(c)(1)). Moreover, where a court "finds Defendants' counterfeiting actions were willful, it may impose damages above the maximum limit up to $2,000,000.00 per mark per type of good. *Id*. (citing 15 U.S.C. § 1117(c)(2)). Such damages are particularly appropriate in the default judgment context, given the difficulty of ascertaining the defendants' profits because the defendants have neither responded to complaints or motions nor participated in discovery. *See Tiffany*, 2016 WL 8679081, at *7 (citing *Tiffany (NJ) LLC v. Dongping*, No. 10-cv-61214, 2010 WL 4450451, at *6 (S.D. Fla. Oct. 29, 2010)); *Rolex Watch U.S.A., Inc. v. Lynch*, No. 12- cv-00542, 2013 WL 2897939, at *6 (M.D. Fla. June 12, 2013); *Nike, Inc. v. Lydner*, No. 07-cv-01654, 2008 WL 4426633, at *4 (M.D. Fla. Sept. 25, 2008)).

[1] In the Motion, Plaintiff submits that judgment should be "limited to the amount awarded pursuant to Count I for federal trademark infringement and false designation of origin and entry of the requested equitable relief." ECF No. [31] at 15.

The Court has wide discretion in determining the appropriate amount of statutory damages, and statutory damages may be properly awarded even where a plaintiff is unable to prove actual damages due to Defendants' infringement. *Louis Vuitton Malletier*, 2019 WL 2008910, at *5. Further, statutory damages in this context are "intended not just for compensation for losses, but also to deter wrongful conduct." *PetMed Express, Inc.*, 336 F.Supp.2d at 1220–21.

Here, Plaintiff has alleged that Defendant No. 6 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. ECF No. [1] ¶ 16. Accordingly, Defendant No. 6 has "defaulted on Plaintiff's allegations of willfulness," and courts may infer willfulness where defendants' default. *Louis Vuitton Malletier*, 2019 WL 2008910, at *5 (citing *Arista Records, Inc. v. Beker Enters.*, Inc., 298 F. Supp. 2d 1310, 1313 (S.D. Fla. 2003); *PetMed Express, Inc.*, 336 F.Supp.2d at 1217).

Based on Plaintiff's well-pled allegations, the Court is permitted "to award up to $2,000,000.00 per infringing mark on each type of good as statutory damages" to ensure that Defendant No. 6 does not continue its intentional and willful counterfeiting activities. *Louis Vuitton Malletier*, 2019 WL 2008910, at *5. Here, Plaintiff requests the Court to award statutory damages in the amount of $15,000.00 against Defendant No. 6. ECF No. [31] at 12, 14. Given the available evidence and the goal of deterrence, the Court finds, in its discretion, that an award of $15,000.00 against Defendant No. 6, is within the range of statutory damages available, and should be sufficient to compensate Plaintiff and deter Defendant No. 6 and others from continuing to counterfeit or otherwise infringe Plaintiff's trademark.

IV. CONCLUSION

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

1. Plaintiff's Motion**, ECF No. [31]** is **GRANTED** as to Defendant No. 6 forerruti (Deals of The Day Clearance);

2. Plaintiff's Motion, **ECF No. [31]**, is **DENIED AS MOOT** as to Defendants Nos. 1-5;
3. Final Default Judgment will be entered by separate order;
4. The Clerk is **DIRECTED** to **CLOSE** this case.

DONE AND ORDERED in Chambers at Miami, Florida, on May 4, 2026.

BETH BLOOM
UNITED STATES DISTRICT JUDGE

cc: counsel of record