

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DOGGIE DENTAL INC., *et al.*,

Plaintiffs,

v.

MAX_BUY, *et al.*,

Defendants.

Civil Action No.

19-746

Judge Hornak

MOTION FOR ENTRY OF DEFAULT JUDGMENT AND PERMANENT INJUNCTION

Plaintiffs hereby move for entry of Default Judgment and Permanent Injunction pursuant to Federal Rule of Civil Procedure 55(b)(2) against the Defendants set forth on **Exhibit A** hereto, all of whom are in default.¹ The grounds for this Motion are set forth in the accompanying Memorandum in Support.

Plaintiffs respectfully requests the following relief against Defendants: 1) the entry of a final judgment and permanent injunction by default in order to prevent Defendants from infringing Plaintiffs' intellectual property rights in the future; 2) disgorgement of Defendants' profits pursuant to U.S.C. § 1117(a); 3) an award of statutory damages against certain defendants pursuant to 17 U.S.C. § 504 (c) against certain Defendants; 4) a post-judgment asset restraining order; and 5) an order authorizing the release and transfer of Defendants' frozen assets to satisfy the damages awarded to Plaintiffs. A proposed Order granting the relief sought is submitted herewith.

¹ On August 27, 2019, the Clerk's Entry of Default was entered against most of the Defendants. [DE 48, 49] The remainder of the Defendants were defaulted on January 9, 2020 and January 13, 2020, respectively [DE 74, 75, and 76].

Plaintiffs do not believe it is necessary for the Court to hold a hearing on this Motion, and the Motion may be decided on the papers.² Although a hearing has been held in some online counterfeiting cases in this District, in other online counterfeiting case default judgment has been entered without a hearing. *Airigan v. Belvia, et al.*, No. 20-cv-284 [DE 34] (default judgment entered day after motion filed). Other Courts routinely enter default judgments based upon the papers and without holding a hearing. *See Apple Corps. Limited v. The Individuals, Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 19-cv-62853 (S.D. Fla. Feb. 13, 2020) (default judgment entered one day after motion filed); and *Chanel, Inc. v. The Individuals, Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 19-cv-61416 (S.D. Fla. Aug. 12, 2019) (default judgment entered six days after motion filed).

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² It is respectfully submitted there is no reason to conduct a hearing on the Plaintiff's request for statutory damages since all of the evidence needed for an award of statutory damages is already before the court. Courts have awarded damages post-default without an evidentiary hearing based upon affidavits like those submitted by the plaintiff in this case. *See Rios v. Loves*, No. 13-CV-1619 (E.D. Pa. 2015) (After a Court determines that judgment by default should be entered as to liability, the court must address the quantum of damages or other recovery to be awarded. The Court may determine the amount of damages by conducting a hearing or upon submission of affidavits.); *see also Jonestown Bank and Trust Co. v. Automated Teller Mach., Services, Inc.*, 2012 WL 6043624, *4 (M.D. Pa. 2012) (explaining that the Court may determine damages by asking parties to submit "affidavits and other materials from which the court can decide the issue.") (citing 10 James Wm. Moore, et al., *Moore's Federal Practice* § 55.32[2][c] (Matthew Bender ed. 2010)); *Frenkel v. Baker*, No. 13-5880, 2014 WL 5697449, at *12 (E.D. Pa. Nov. 4, 2014) (citing *Amresco Fin. Financial I L.P. v. Storti*, 2000 WL 284203, at *2 (E.D. Pa. Mar. 13, 2000)) (entry of default with an award of damages proper where award can be ascertained from figures in evidence and affidavits).

Respectfully submitted,

Dated: May 12, 2020

/s/ Stanley D. Ference III

Stanley D. Ference III

Pa. ID No. 59899

courts@ferencelaw.com

Brian Samuel Malkin

Pa. ID No. 70448

bmalkin@ferencelaw.com

FERENCE & ASSOCIATES LLC

409 Broad Street

Pittsburgh, Pennsylvania 15143

(412) 741-8400 – Telephone

(412) 741-9292 – Facsimile

Attorneys for Plaintiff

Schedule "A"
Defendants

Defendant No.	Defendant/ eBay Seller Name	eBay Item No.
2	adamchahir91	173621663654
6	cute-little-bear	283429929853
8	deals4you9	142946752219
9	dedicatedsalesman	113291620121
12	malifa168	254193025258
13	parts_online_2015	333134236938
15	shopiline	143070043285
17	4dice_international	113719563861
19	a281768443	123728836755
22	awesome*deals*today	264257214090
26	chawtabso0	333152522862 333152558517
27	crab-store	132917299708
28	dd2004720	163648416417
31	global-onlineshop	192875156977
33	hanguang2018	183570344990 183594630051
36	homca2018	333151368645
37	home-store01	192877988183
38	ilovehome2018	153397186403
40	jostegen0	303047473519
41	lagacreye	264247037577 264247044239
44	mai202	392262076927
46	miggie77392012	183524497018 183568259837
47	nununy3090	233100866536
48	nutrasil	173831912125
50	oz-sweetdeals	132987937936
51	paradisestore12	123689950279
52	parmesan_cliche	254136633195 254137985242 254137941237 254136632680 254137510050
53	parsayt0	323760244487
54	pha_6296	401732550025

56	poramatse	143137777670
62	redflower88	192864978584
63	ricji-45	312460809336
66	sellingdaily90	293068665207
68	slayway	372601630606 372601629978
71	thph_5710	133021409411
72	timetree88	352625751236
76	us2014.runzh	254095575455
77	usa.best.buying.experience	183681120066
78	usa ezra	183680993414
84	yvsg7734	163479765919
88	daos_34	372655989805
89	elshm_23	382855286796
91	gohastings	382909773600
92	japanmarketplace	153397624294
93	ljsuperiorchew	163605701520
97	oobest_shop	123690828930
98	pege-318	202660041223
100	power-option	254033147886
101	presst_55	392187927096
102	ramah76m9	382911102525
103	raysal_64	143224397484
104	rm_best_4u	163549164611
108	simshop2018	323499684952
113	vestut-56	143222917427

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2020, the foregoing document is being filed via the Case Management/Electronic Case Filing (CM/ECF) system; I also certify that on the same day, a true copy of the foregoing is being served in accordance with the Order Authorizing Alternate Service.

/s/ Stanley D. Ference III
Stanley D. Ference III