

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

DOGGIE DENTAL INC, *et al.*,

Plaintiffs,

v.

WORTHBUYER, *et al.*,

Defendants.

Civil Action No.

19-1283

(Judge Hornak)

MOTION FOR ENTRY OF DEFAULT JUDGMENT AND PERMANENT INJUNCTION

Plaintiffs hereby move for entry of a 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.

Plaintiff respectfully request 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) individual statutory damages awards pursuant to 15 U.S.C. § 1117(c) of \$2,000,000.00 against each individual Defendant, plus post-judgment interest; 3) a post-judgment asset restraining order and 4) an order authorizing the release and transfer of Defendants' frozen assets to satisfy the damages awarded to Plaintiffs.

¹ On January 9, 2020, Plaintiffs filed a Request for Entry of Default against the Defaulting Defendants [DE 45]. On January 10, 2020, the Clerk's Entry of Default was entered. [DE 47].

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 cases default judgment has been entered without a hearing. *Airigan v. Belvia, et al.*, No. 20-cv-284 (W.D. Pa. April 21, 2020) [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 13, 2020

/s/ Stanley D. Ference III

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SCHEDULE "A"
DEFENDANTS BY SELLER ID AND ITEM NUMBER

Defendant No.	Defendant/ eBay Seller ID	eBay Item No.
2	junmaioo-7	362491524324
3	xieji-52	383050819764
5	chensini2	163777846497
6	hanbi-57	143329672188
8	carmha_84	362738344333
9	mrsrespect	323794418886
10	treasures-of-rare	254299882645
11	family-store-online	392390249370
12	is_2863	362731337189
13	joetrib	163693407367

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 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