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

DOGGIE DENTAL INC, *et al*., Plaintiffs, v. CDOFFICE, *et al*., Defendants.	Civil Action No. 21-271 (Judge Hornak)
DOGGIE DENTAL INC, *et al*., Plaintiffs, v. AVANTDIGITAL, *et al*., Defendants.	Civil Action No. 21-565 (Judge Hornak)

MEMORANDUM IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT AND PERMANENT INJUNCTION

Plaintiffs submit this Memorandum in Support of their Motion for Default Judgment pursuant to Fed. R. Civ. P. 55 (b)(2) seeking entry of Judgment against the defaulting Defendants ("Defendants") for patent infringement on the sole Count of the Complaint in each action.

I. INTRODUCTION

This memorandum is filed in support of the sixth and seventh lawsuit (as set forth in the

captions above)[1] that the Plaintiffs have brought before the Court seeking relief from the tireless efforts of the online copycats trying to destroy Plaintiffs' small business. In the *CDOFFICE* case, the defendants are sellers of infringing product on Amazon.com, Aliexpress.com, and wish.com. In the *AVANTDIGITAL* case, the defendants are sellers of infringing product on eBay. As in the five prior lawsuits, the remaining Defendants in this lawsuit have all defaulted and failed to cooperate in discovery. It remains for the Court to consider the unrefuted facts and the supporting law and render a judgment consistent with the Court's prior judgments against e-commerce scofflaws.

The Defendants have been properly served pursuant to Fed. R. Civ. P. 4 and are aware of this action, but nevertheless chose not to respond. The Clerk has entered default. The Plaintiffs also served discovery upon Defendants, including Requests for Admission, and no response to the discovery was received. Plaintiffs have filed a Motion with this Court under Fed. R. Civ. P. 55(b)(2) for a default judgment, in each case, against Defendants for patent infringement (Count I) after Defendants established internet stores to offer to sell, and sold, knock-off and infringing versions of Plaintiffs' BRISTLY® dog toothbrush.

There are no issues of fact remaining in this suit, and a default judgment should be entered against Defendants providing for permanent injunctive relief, a damage award of $2,128,500.00 against each individual Defendant, plus interest, a post-judgment asset restraining order, and an order authorizing the release and transfer of Defendants' assets, in whole or in part, awarded to Plaintiffs. The Court has previously entered a default judgment against each

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[1] For brevity, the AVANTDIGITAL and CDOFFICE lawsuits will be referred to as "the lawsuits" where further identification is not needed for clarity.

defendant in this amount, using the same methodology now used in the present cases, in *Doggie Dental, Inc. v Ahui, et al*., No. 19-cv-1627 (W.D. Pa., Sept. 27, 2021 (Hornak, CJ).

II. ARGUMENT

A. This Court has Jurisdiction to Enter Default Judgment Against the Defendants

This Court has jurisdiction to grant Plaintiffs' motion and enter default judgment against Defendants because the Court has subject matter jurisdiction over this action as well as personal jurisdiction over the Defendants. This Court has subject matter jurisdiction over this action pursuant the Patent Act, 35 U.S.C. § 271, and The All Writs Act, 28 U.S.C. § 1651(a).

Personal jurisdiction may be established either by specific or general jurisdiction, but specific jurisdiction is appropriate in this case because of Defendants' contact with the forum. *See* 42 P. A. Cons. Stat. § 5322. The factors to consider when establishing specific jurisdiction are: "(1) the extent to which defendant 'purposefully avail[ed]' itself of the privilege of conducting activities in the State; (2) whether the plaintiffs' claims arise out of those activities directed at the State; and (3) whether the exercise of personal jurisdiction would be constitutionally 'reasonable.'" *See IMO Industries, Inc. v. Kiekert AG*, 155 F.3d 254, 259 (3rd Cir.1998). Defendants satisfy each of the factors to establish specific personal jurisdiction. Likewise, Venue is proper pursuant 28 U.S.C. § 1391 and 28 U.S.C. § 1400(b).

First, Defaulting Defendants purposefully availed themselves of the privilege of conducting business in Pennsylvania and this Judicial District. Defendants purposefully targeted sales of Infringing Products to the Western District of Pennsylvania, offered to sell Infringing Products to Pennsylvania residents, and did in fact sell Infringing Products into Pennsylvania. *See Complaint* at 21-271, ¶ 14 [ECF No. 2] and *Complaint* at 21-565 ¶ 14 [ECF No. 2]. These

actions are sufficient to establish jurisdiction over Defaulting Defendants. 42 Pa. Cons. Stat. § 5322 (a). Second, Plaintiffs' claims arise directly from actions that occurred in this Judicial District. Plaintiffs purchased Infringing Products to determine their authenticity and had the Infringing Products shipped to Pennsylvania. *See Laplante Dec.* [ECF No. 11]. These unauthorized and unlicensed sales of Infringing Products in this Judicial district establish this Court's jurisdiction over Defaulting Defendants. Lastly, this Court's exercise of specific personal jurisdiction over Defendants is "reasonable" under the constitution. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292 (1980).

The record in this case does not suggest that the burden of litigation in this District is extraordinary. Defendants offered to ship and sell their Infringing Products to any part of the United States. *See Complaint*, ¶ 14 [ECF No. 2]. Pennsylvania and this Court have a valid interest in the resolution of the grievances of its citizens and businesses, particularly when they potentially involve issues of [Pennsylvania] law. *See Square D Co. v. Scott Elec. Co*., No. 06-459, 2008 WL 4462298, at *12 (W.D. PA September 30, 2008). Plaintiffs have a valid and substantial interest in having their legal rights recognized and vindicated. *Id*. Therefore, this Court's exercise of specific personal jurisdiction over Defendants is constitutionally reasonable.

B. Joinder of the Defendants is Appropriate

Joinder of defendants is proper when plaintiffs seek relief "jointly, severally, or in the alternative with respect to arising out of the same transaction, occurrence or series of transactions or occurrences relating to the making, using importing into the United States, offering for sale, or selling of the same accused product or process;" and "questions of fact common to all defendants will arise in the action." 35 U.S.C. § 299. Joinder is consistent with the strongly encouraged

policy of “entertaining the broadest possible scope of action consistent with fairness to the parties.” *See United Mine Workers of Am. v. Gibbs*, 383 U.S. 715. 724 (1966).

In a recent decision on joiner in an online counterfeiting case, the Northern District of Illinois found joinder was appropriate, stating:

> According to the Merriam-Webster dictionary, “transaction” generally involves a “reciprocal[] affect” or “exchange,” whereas an “occurrence” is defined as something that simply “happens” or “appears.” Unlike a “transaction,” an “occurrence” is not necessarily the product of joint or coordinated action.
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> The internet frequently produces occurrences that can be described as cooperative but not transactional or intentionally coordinated. Individual actions which alone may have minimal impact on society or the economy can have a substantial impact through aggregation that is only possible through the internet. Individuals on the internet can openly reach billions of people with a single click of a mouse, while at the same time hiding their identities, frustrating law enforcement. As a result, an “occurrence” of mass harm easily can be inflicted even if there is no express “transactional” coordination among the attackers.
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> Rule 20’s inclusion of the term “occurrence” should allow plaintiffs to join in a single case the defendants who participate in such unlawful occurrences, despite the lack of a “transactional link.” The kind of harmful occurrences the internet enables — including mass foreign counterfeiting — were inconceivable when Rule 20 was drafted. But the Rule’s inclusion of the term “occurrence” suggests that joinder is appropriate in cases alleging harm that is not strictly “transactional.”

Bose Corp. v. The Partnerships and Unincorporated Associations Identified on Schedule “A”, No. 19-cv-7467 (N.D. Ill. Feb. 19, 2020) (Durkin, J.) at 10-11 [ECF No. 46].

In the present case of *Doggie Dental, Inc. v. CDOFFICE, et al*, No. 21-cv-271, Chief Judge Hornak previously ruled joinder of the Defendants was permissible because the Complaint sufficiently alleged the right to relief against the joined defendants arises "out of the same transaction, occurrence, or series of transactions or occurrences," and that are “questions of law or fact common to all the defendants.” [ECF No. 126]. For at least these reasons, the Defendants are properly joined in this case.

C. Plaintiffs Are Entitled to a Default Judgment Against Defendants

1. The Clerk Properly Entered Default as to Defendants

The Clerk of this Court enters a default "[w]hen a party against whom judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise." Fed. R. Civ. P. 55(a). The Clerk entered default against Defendants because, as the docket reflects, the time for filing a responsive pleading expired.

2. Factual Allegations Establish Defaulting Defendants' Liability

By failing to appear and defend against the Complaint, Defaulting Defendants are deemed to have admitted every allegation therein, and the Court must only determine whether Plaintiffs' Complaint properly states a claim for relief. *See Hritz v. Woma Corp*., 732 F.2d 1178, 1180 (3d Cir. 1984); *see also Pair Networks, Inc. v. Lim Cheng Soon*, 2013 WL 452565, *1 (W.D. Pa., February 6, 2013). Plaintiffs now move this Court for a default judgment finding that Defaulting Defendants are liable on Plaintiffs' Complaint.

"Section 271(a) of the Patent Act defines direct infringement as 'whoever without authority makes, uses, offers to sell, or sells any patented invention, within the U.S. or imports into the U.S. any patented invention during the term of the patent therefor, infringes the patent. 35 U.S.C. § 271(a)." *Grecia v. McDonald's Corp.*, 2018 U.S. App. LEXIS 5903, at *7-8 (Fed. Cir. Mar. 6, 2018).

In these cases, Plaintiffs Doggie Dental and Dertsakyan are the exclusive licensee and lawful owner, respectively, of the '838 patent. Plaintiffs have submitted extensive documentation showing that Defendants make, use, offer for sale, sell, and/or import in the United States for subsequent sale or use products that infringe directly at least claim 1 of the

‘838 patent. *Ray Dec.*, Composite Exhibit 1; *Dertsakyan Dec.*, ¶¶ 29-31; Exhibits 6 - 10 to the Complaint [ECF No. 2]. To show infringement, Plaintiffs submitted a detailed infringement claim chart for Plaintiffs’ ’838 patent that set forth the text of the patent claim compared with images of the infringing products. Exhibits 6 - 11 to the Complaint. Thus, Plaintiffs have proven by uncontroverted evidence their patent infringement claims.

As to validity, “[e]ach issued patent carries with it a presumption of validity under 35 U.S.C. § 282.” *Tinnus Enters., LLC v. Telebrands Corp.*, 846 F.3d 1190, 1205 (Fed. Cir. 2017). “This presumption is sufficient to establish a likelihood of success on the validity issue, absent a challenge by the accused infringer.” *Id.* Here, there is no challenge by any of the accused infringers, thus validity is established by default as well.

The well-pled factual allegations of Plaintiffs’ Complaint, including specifically those in Paragraphs 46 - 52, properly allege the elements for each of the above claims. Moreover, the factual allegations in Plaintiffs’ Complaint, substantiated by the evidence submitted, conclusively establish the Defaulting Defendants’ liability asserted in the Complaint.

In addition to the well pled factual allegations, admitted by default, and established by the evidence, Defendants have also made admissions by failing to respond to the *Requests for Admissions* served upon them concurrent with the service of the Complaint and Summons. In addition to the well-pled factual allegations, admitted by default, and established by the evidence, Defendants have also made certain admissions by failing to respond to the *Requests for Admissions* served upon them. *See Malkin Dec.*,[2] ¶ 5. These deemed admissions include the following:

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2 Refers to *Declaration of Brian Samuel Malkin* submitted herewith.

Plaintiffs are the owner of U.S. Patent No. 10,477,838 B2 ("the '838 Patent"), issued November 19, 2019, for "PET CHEW TOY FOR ECF No. NTAL SELF-CLEANING BY DOMESTIC PETS" and which covers Plaintiffs' Product.

You were on notice of the '838 patent before you began manufacturing, offering for sale, selling, promoting, advertising, and otherwise distributing the Infringing Product.

You have intentionally infringed and continue to infringe at least one claim of the '838 patent either directly or indirectly through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271, by making, using, selling, importing and/or offering to sell Infringing Products, namely the pet toothbrushes that are nearly identical to Plaintiffs' genuine BRISTLY® dog toothbrush.

But for your infringement and/or counterfeiting of Plaintiffs' products, Plaintiff would have made each sale you made instead and at Plaintiffs' pre-infringement selling price.

At all times relevant hereto, there was consumer demand for the Plaintiffs' BRISTLY® dog toothbrush.

At all times relevant hereto, Plaintiffs have the manufacturing and marketing capability to meet the consumer demand for the Plaintiffs' genuine BRISTLY® dog toothbrush.

Admit that there is no acceptable non-infringing substitute for the Plaintiffs' genuine BRISTLY® dog toothbrush.

Admit that you are selling the infringing product on multiple online platforms including the online platform identified in this lawsuit.

Accordingly, a Default Judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure as to liability should be entered against the Defaulting Defendants.

3. The Damages are Established by the Evidence

Defendants have also made certain admissions about damages by failing to respond to the *Requests for Admissions* served upon them. *See Malkin Dec.*, ¶ 5. These deemed admissions include the following:

Admit that the profit per unit of the Infringing Product was at least $20.00.

Admit that each month you sold 15,000 units of the Infringing Product.

Admit that the profit per unit of toothpaste sold was $7.50.

Admit that you sold 7300 units of toothpaste per month.

Accordingly, a Default Judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure considering the evidence on damages, as discussed below, should be entered against the Defaulting Defendants.

4. Plaintiffs are Entitled to a Damage Award Under the Patent Act

These lawsuits are for patent infringement damages. In each lawsuit, the Plaintiffs are seeking an award of $2,128,500.00 against each Defendant for their intentional patent infringement over a two-month period, based upon the following facts and the law below. Importantly, using the same methodology for calculating damages, the Court awarded individual judgments of $2,128, 500.00 against defendants in the prior related case of *Doggie Dental v. Ahui*, No. 19-cv-1627 (W.D. Pa., September 27, 2021) (Hornak, CJ).

Returning to the current cases, the Plaintiffs' Patent issued on November 19, 2019, placing the Defendants on notice of the Plaintiffs' Patent. For *AVANTDIGITAL*, the Plaintiffs' evidence shows that each Defendant offered the Infringing Product at least one month before the Plaintiffs filed their lawsuit on February 25, 2021; the Court entered its order restraining the infringing listings on March 11, 2021; the Third-Party Service Provider confirmed that the listings were suspended and no longer offering Infringing Products on or about March 25, 2021. For *CDOFFICE*, the Plaintiffs' evidence shows that each Defendant offered the Infringing Product at least one month before the Plaintiffs' filed their lawsuit on April 29, 2021; the Court entered its order restraining the infringing listings on May 13, 2021; the Third-Party Service

Provider confirmed that the listings were suspended and no longer offering Infringing Products on May 24. 2021.

Thus, as a matter of law, the Defendants in each case intentionally infringed on Plaintiffs' Patent for at least 2 months (about 1 month or more before the lawsuit and 1 month after the lawsuit was filed). Defendants admitted, by their failure to answer requests for admissions that they sold 15,000 infringing units each month depriving Plaintiffs of at least $20.00 profit per unit. Over 2 months, that amounts to $600,000.00 in lost profits. Further, the Defendants admitted that Plaintiffs' sell 7300 units of toothpaste as convoyed sales depriving Plaintiffs of at least $7.50 profit for unit. Over 2 months, that amounts to $109,500.00.00 in lost profits. When the combined lost profits of $709,500.00 is trebled for intentional infringement, also admitted by the Defendants, the total award is $2,128,500.00 in damages. This methodology for calculating damages is identical to the one approved by the Court in its most recent final judgment in *Ahui*.

Proving lost profits damages first requires evidence that the infringer's activities directly led to the lost profits. "To recover lost profits damages, the patentee must show a reasonable probability that, 'but for' the infringement, it would have made the sales that were made by the infringer." *Rite-Hite Corp. v. Kelley Co.*, 56 F.3d 1538, 1542 (Fed. Cir. 1995). One way to show the reasonable probability occurred is by applying the "Panduit test: (1) demand for the patented product; (2) absence of acceptable non-infringing substitutes; (3) manufacturing and marketing capability to exploit the demand; and (4) the amount of the profit it would have made." *Rite-Hite Corp. v. Kelley Co.*, 56 F.3d 1538, 1545 (Fed. Cir. 1995). Here, Plaintiffs have offered their testimony by way of declaration plus the admissions of the Defendants in order to meet each of these elements.

As for convoyed sales, the Federal Circuit has held that the test for calculating damages of a conveyed sale requires the two products function together to make one result and do not have independent uses. "Defendant was not liable for damages associated with a non-patented device sold with the patented product where the two did not function together to create one result and could be used independently." *Rite-Hite Corp*., 56 F.3d at 1542.

In *Whelan v. A. Ward Enters*., the plaintiff was awarded damages for the non-patented collar that went around a patented shifting knob for a vehicle because the plaintiff had evidence 90% of customers who purchased their knob also bought the collar as a separate purchase. *Whelan v. A. Ward Enters.*, No. 01-2874, 2002 U.S. Dist. LEXIS 13735, at *15 (E.D. Pa. July 23, 2002). The court found the collar and knob "function together as a unit." *Id.*

In *Juicy Whip v. Orange Bang*, the Fed. Circuit found a drink dispenser and syrup were analogous to parts of a single assembly because they function together to produce the visual appearance central to the patent. *Juicy Whip, Inc. v. Orange Bang, Inc.*, 382 F. 3d 1367, 1372 (Fed. Cir. 2004). The Federal Circuit held the district court erred by considering the drink dispenser's operability with a different brand of syrup meant they were not functioning as a single unit. *Id.*

Here, the special meat-flavored toothpaste sold by Plaintiffs to entice the pets to chew on the patented BRISTLY® dog toothbrush would have <u>no</u> use outside of placing it on the BRISTLY® dog toothbrush so that the pet chews on the brush to get the intended beneficial cleaning effects. Thus, it is appropriate to include the lost convoyed sales of the toothpaste in the calculation of damages against the Defendants.

In this case, Plaintiffs have handily proven each of the elements required to recover lost profits through their patent, claims chart, testimony and the admissions of the Defendants. Defendants have not contested or put forth any evidence to contradict the Plaintiffs' damages case as to the infringement of their patent.

This Court has relied, in part, on admissions made though failure to answer in awarding damages against similar counterfeiting and infringing defendants in four prior cases. *See Doggie Dental v. Ahui*, No. 19-cv-1627 (W.D. Pa., September 27, 2021) (Hornak, CJ); *Doggie Dental v. Anywill*, No. 19-cv-682 (W.D. Pa., August 14, 2020)(Hornak, CJ); *Doggie Dental v. Max_Buy*, 19-746 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Doggie Dental v. Go Well*, 19-1282(W.D. Pa., August 14, 2020) (Hornak, CJ); and *Doggie Dental v. Worthbuye*r, 19-1283 (W.D. Pa., August 14, 2020) (Hornak, CJ). It is submitted that the award sought in this case would achieve the purposes of punishment, deterrence, and parity with similar damage awards. This Court has recognized the importance of all of these points in its prior damage awards. *See id.*

A deemed admission of over two million dollars ($2,000,000) in profit to be disgorged is not objectively unreasonable. In similar cases in this District the Court has awarded two million dollars ($2,000,000) in statutory damages or more against each defendant. Such an award serves the public interest in making the misconduct unprofitable, deterring future willful violations, and achieving parity in damage awards in this District. *See Doggie Dental v. Ahui*, No. 19-cv-1627 (W.D. Pa., September 27, 2021 (Hornak, CJ); *See Doggie Dental v. Anywill*, No. 19-cv-682 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Doggie Dental v. Max_Buy*, 19-746 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Doggie Dental v. Go Well*, 19-1282 (W.D. Pa., August 14, 2020) (Hornak, CJ); and *Doggie Dental v. Worthbuye*r, 19-1283 (W.D. Pa., August 14, 2020) (Hornak, CJ). *See Airigan Solutions, LLC v. Belvia,* No. 20-cv-284 (W.D. Pa., April 21, 2020) (Schwab,

J.) ($2 million in damages against each defendant) [ECF No. 34]; *Airigan Solutions, LLC v. Abagail,* No. 19-cv-503 (W.D. Pa., Aug 13, 2019) (Fischer, J.) (same) [ECF No. 52], *Rapid Slicer LLC v. Art-House*, No. 19-411 (W.D. Pa., Jan. 9, 2020) (Horan, J.) (same) [ECF No. 44].

In short, since Plaintiffs have proven 2 months of damages, the total amounts having been supported by the fact and the law, the total damages awarded against each Defendant should be $2,128,500.00.

5. Plaintiffs Are Entitled to Permanent Injunctive Relief

In addition to the foregoing relief, Plaintiffs seeks entry of a permanent injunction enjoining Defaulting Defendants from infringing or otherwise violating Plaintiffs' rights in its BRISTLY® dog toothbrush, including at least all injunctive relief previously awarded to by this Court to Plaintiffs in the temporary restraining order and preliminary injunction. 35 U.S.C. § 283 and Federal Rule of Civil Procedure 65. Plaintiffs are also entitled to injunctive relief so they can take prompt action against any new online marketplace acounts or websites that are identified, found to be linking to Defendants, and selling Infringing Product. The injunctive relief ordering storefronts selling infringin products taken down ensures that "zombie" sales (sales of infringing products from prior restrained storefronts) cannot take place using that storefront's electronic commumincations and processing in the future. The Court has approved such relief in prior cases. *See See Doggie Dental v. Ahui*, No. 19-cv-1627 (W.D. Pa., September 27, 2021 (Hornak, CJ); *See Doggie Dental v. Anywill*, No. 19-cv-682 (W.D. Pa., August 14, 2020)(Hornak, CJ); *Doggie Dental v. Max_Buy*, 19-746 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Doggie Dental v. Go Well*, 19-1282(W.D. Pa., August 14, 2020) (Hornak, CJ); and *Doggie Dental v. Worthbuye*r, 19-1283 (W.D. Pa., August 14, 2020) (Hornak, CJ).

A permanent injunction, like the trebled lost profit damages, would help deter other individuals or corporations from infringing Plaintiffs' valuable patent rights. Additionally, entry of a permanent injunction against Defendants in these cases will help expedite any future litigations between the Defaulting Defendants and Plaintiff, if a case between the parties arises in the future. This equitable result would be in the interest of justice and provide Plaintiffs with more flexibility to protect its intellectual property rights. As such, permanent injunctions are routinely entered by other Courts in similar counterfeiting cases. *See Doggie Dental v. Ahui, No. 19-cv-1627 (W.D. Pa., September 27, 2021 (Hornak, CJ)*; *Doggie Dental v. Anywill*, No. 19-cv-682 (W.D. Pa., August 14, 2020)(Hornak, CJ); *Doggie Dental v. Max_Buy*, 19-746 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Doggie Dental v. Go Well*, 19-1282(W.D. Pa., August 14, 2020) (Hornak, CJ); and *Doggie Dental v. Worthbuye*r, 19-1283 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Airigan Solutions, LLC v. Belvia,* No. 20-cv-284 (W.D. Pa., April 21, 2020) (Schwab, J.) [ECF No. 34]; *Rapid Slicer LLC v. Art-House*, No. 19-411 (W.D. Pa., Jan. 9, 2020) (Horan, J.) [ECF No. 44]; and *Airigan Solutions, LLC v. Abagail,* No. 19-cv-503 (W.D. Pa., Aug 13, 2019) (Fischer, J.) [ECF No. 52].

6. Plaintiffs Request That This Court Order the Transfer to Them of Remaining Assets in Defaulting Defendants' Accounts

Plaintiffs requested a temporary restraining order and preliminary injunction, *inter alia*, to prevent Defaulting Defendants from transfering the funds held in their Third-Party Service Provider(s) and Financial Institution(s) accounts beyond this Court's jurisdiction. [ECF No. 2] This Court granted the temporary restraining order and preliminary injunction, preventing Defendants from accessing the funds in their Third-Party Service Provider(s) and Financial Institution(s) accounts. This Court found that Plaintiffs had established a likelihood of success

on the merits and irreparable harm in the absence of a temporary restraining order and preliminary injunction.

Plaintiffs now request that this Court order the Third-Party Service Provider(s) and Financial Institution(s) to transfer to Plaintiffs the assets currently held in the defaulting Defendants' Third-Party Service Provider(s) and Financial Institution(s) accounts in partial payment of any award of damages. In the absence of such an Order, it is likely that Plaintiffs will be left without any effective means by which to collect from Defendants any monetary judgment entered by this Court. As explained, previously, Defendants and any assets they own, other than those held in their respective Third-Party Service Provider(s) and Financial Institution(s) accounts, are presumably located in China. There is no bilateral treaty or mulitlateral convention in force between the United States and any other country on reciprocal recognition and enforcement of judgments. Moreover, as explained in some detail previously, Defendants are involved in illegal counterfeiting operations and go to great lengths to conceal their identities and whereabouts. As a result, even in the unlikely event that Plaintiffs could enforce a U.S. judgment in the Chinese courts, it will be virtually impossible to locate Defendants or any assets they may hold in order to satisfy any monetary damages awarded in this case.

Such orders are routinely entered by this Court to satisfy monetary judgment awards in similar counterfeiting cases. *See Doggie Dental v. Ahui*, No. 19-cv-1627 (W.D. Pa., September 27, 2021 (Hornak, CJ)*; Doggie Dental v. Anywill*, No. 19-cv-682 (W.D. Pa., August 14, 2020)(Hornak, CJ); *Doggie Dental v. Max_Buy*, 19-746 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Doggie Dental v. Go Well*, 19-1282(W.D. Pa., August 14, 2020) (Hornak, CJ); and *Doggie Dental v. Worthbuye*r, 19-1283 (W.D. Pa., August 14, 2020) (Hornak, CJ); *Airigan Solutions,*

LLC v. Belvia, No. 20-cv-284 (W.D. Pa., April 21, 2020) (Schwab, J.) [ECF No. 34]; *Rapid Slicer LLC v. Art-House*, No. 19-411 (W.D. Pa., Jan. 9, 2020) (Horan, J.) [ECF No. 44]; and *Airigan Solutions, LLC v. Abagail,* No. 19-cv-503 (W.D. Pa., Aug 13, 2019) (Fischer, J.) [ECF No. 52]. *See also Eye Safety Sys., Inc. v. The Partnerships and Unicorporated Ass'ns. Identified in Schedule "A"*, Case No. 18-cv-00034 (N.D. Ill. Mar. 1, 2018) (ordering PayPal to transfer defendants' funds to plaintiffs as partial satisfaction of judgment) [ECF No. 41]; *Yeti Coolers, LLC v. Taneil George*, Case No. 17-cv-62215 [ECF No. 46] (S.D. Fl. Mar. 29, 2018) (same).

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their Motion for Default Judgment and Permanent Injunction, in each of these cases; enter judgment against Defendants for patent infringement (Count I); permanently enjoin Defendants; award Plaintiffs trebled lost profits and convoyed sales consistent with 35 U.S.C. § 284; award Plaintiffs pre-judgment interest on the above damage awards; and grant such further relief as this Court deems appropriate. Plaintiffs additionally request that this Court order the Third-Party Service Provider(s) and Financial Institution(s) to transfer Defendants' assets held by the Third-Party

Service Provider(s) and Financial Institution(s) to Plaintiffs in partial payment of any default judgment entered against Defendants.

Respectfully submitted,

Dated: December 10, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2021, 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