

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

OSPREY LLC,

Plaintiff,

v.

24 HOURS ONLINE *et al.*,

Defendants.

Civil Action No. 21-cv-1095

Judge Hardy

MOTION FOR ENTRY OF DEFAULT JUDGMENT AND PERMANENT INJUNCTION

Plaintiff hereby moves for entry of Default Judgment and Permanent Injunction pursuant to Federal Rule of Civil Procedure 55(b)(2) against the Defendants set forth on **Schedule A** hereto, all of whom are in default.¹ The grounds for this Motion are set forth in the accompanying Memorandum in Support. This court has granted default judgment for Plaintiff under similar facts in *Osprey LLC. v. Poolwhale et. al.* Case No. 20-cv-01253 (W.D. Pa. 2020).

Plaintiff 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 Plaintiff's 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 Plaintiff. A proposed Order granting the relief sought is submitted herewith.

¹ On October 04, 2021, Plaintiff filed its Request for Clerk's Entry of Default against the Defendants listed in **Schedule A** and which has now been entered.

Plaintiff does 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 Courts, including this Court, enter default judgments based upon the papers and without holding a hearing. *See Airigan Solutions, LLC v. Belvia*, No. 20-cv-284 [Doc. No. 35] (W.D. Pa. April 22, 2020) (default judgment entered one day after motion filed); *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).

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 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: July 20, 2022

/s/ Stanley D. Ference III

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CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2022, 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 via email to the e-mail addresses at which Defendants were served or via publication by posting a true and correct copy on the website www.ferencelawsuit.com in accordance with the Order Authorizing Alternate Service, as amended.

/s/ Stanley D. Ference III