

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

NIFTY HOME PRODUCTS, INC.,

Plaintiff,

v.

LADYNANA US, *et al.*,

Defendants.

Civil Action No. 22-994

(Judge Schwab)

MOTION FOR ENTRY OF DEFAULT JUDGMENT AND PERMANENT INJUNCTION

Plaintiff hereby moves 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 **Schedule A**, all of whom are in default. The grounds for this Motion are set forth in the accompanying Memorandum in Support. This Motion excludes defendants that have settled or are in the process of settling with Plaintiff.¹ In the unlikely event such settlements do not come to fruition, Plaintiff will move to amend any default judgment that has been entered to include such non-settling defendants. *See Airigan Solutions, LLC v. Abigail*, No. 19-cv-503 [Doc. No. 64] (W.D. Pa. June 24, 2020) and *Apple Corps Ltd. v 3W Store*, No. 18-cv-60656 [Doc. No. 66] (S.D. Fla. May 17, 2018).

¹ As of the date of this filing, these Defendants are All4UGood, Carb Omar, Collections Etc, Hesu-US, Happy House Life Store, Homei Life Store, HomyTool Store, Mr. Good's shop Store, SONIRY-Home Store, Your Homie Store, Shenzhen Ruimiaoqian Network Technology Co., Ltd., Qingtian Diaocheng Trading Co., Ltd., Jingdong E-commerce (Trade) Hong Kong Corporation, Ding, shenzhenshimeihuidawangluokejiyouxiangongsi, XiaMen Shi AiDeMan XinXiKeJi YouXian GongSi, Shenzhen Xiaoyanzifei Network Technology Co., Ltd., Shanghai Leiyuan Energy Technology Co., Ltd., Shenzhen Rongxiner Network Technology Co., Ltd., Shenzhen Linglangxi Network Technology Co., Ltd., Mafanikio, shenzhenshijiahuoyuandianzishangwuyouxiangongsi, Shenzhen Weitian Industrial Co., Ltd., Shenzhen Dali Industry Co., Ltd., Luxe Designs LLC, and Hang Zhou Dui Shu Dian Zi Shang Wu You Xian Gongsi.

Plaintiffs respectfully request the following relief against Defendants: 1) the entry of a final judgment of \$2,000,000.00 of disgorgement of profits against each individual Defendant as listed on Schedule A, and a permanent injunction in order to prevent Defendants from infringing Plaintiff's intellectual property rights in the future; 2) a post-judgment asset restraining order; and 3) an order authorizing the release and transfer of Defendants' frozen assets to satisfy the ; damages awarded to Plaintiffs.

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 in similar cases based upon the papers and without holding a hearing. *See Osprey, LLC v. Alfie Pet*, No. 21-cv-790 [Doc. No. 43] (W.D. Pa. July 28, 2022) (default judgment entered three days after motion filed); *Osprey, LLC v. Alladinbox*, No. 21-cv-1095 [Doc. No. 39] (W.D. Pa. July 21, 2022) (default judgment entered one day after motion filed); *BBC Studios Distribution Ltd. v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 22-cv-1441 (N.D. Ill. July 20, 2022) (default judgment entered one day after motion filed); *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

² It is respectfully submitted there is no reason to conduct a hearing on the Plaintiff's request for damages since all of the evidence needed for an award of damages is 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).

(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).

A proposed Order granting the relief sought is submitted herewith.

Respectfully submitted,

Dated: October 19, 2022

/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