

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

BROADWAY PINE BRANDS LLC,

Plaintiff,

v.

AMTOY, *et al.*,

Defendants.

Civil Action No. 22-358

(Judge Ranjan)

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** hereto, all of whom are in default. The grounds for this Motion are set forth in the accompanying Memorandum in Support.

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 Plaintiffs' intellectual property rights in the future; ¹ 2) an award, severally and individually, in the amount of \$3,800,000.00 against Defendant Nos. 1-36, 38-44, 46, 51, 57-61, and 63-72 (for their combined patent and trademark infringements), plus post-judgment interest; 3) an award, severally and individually, in the amount of \$1,800,000.00 against the other Defaulting Defendants as listed on Schedule A for their patent infringement, plus post-judgment interest; 4) a post-judgment asset restraining order and 5) an order authorizing the release and transfer of Defendants' frozen assets to

¹ Plaintiff hereby waives attorney's fees.

satisfy the damages awarded to Plaintiffs. An appropriate Proposed Judgment is filed herewith.

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 Talisman Designs LLC v. Yoomie*, No. 21-cv-121 [Doc. No. 52] (W.D. Pa. Nov. 8, 2022) (default judgment entered one day after motion filed); *Nifty Home Products, Inc. v. Ladyvana US*, No. 22-cv-994 [Doc. No. 69] (W.D. Pa. Oct. 25, 2022) (default judgment entered same day motion was filed); *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 (S.D. Fla. Feb. 13, 2020) (default judgment entered one day after motion filed); and *Chanel, Inc.*

² It is respectfully submitted there is no reason to conduct a hearing on the Plaintiff's request for damages. All 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 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).

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).

Respectfully submitted,

Dated: November 23, 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