

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-cv-994

(Judge Schwab)

MEMORANDUM IN SUPPORT OF RENEWED MOTION FOR DEFAULT JUDGMENT

Plaintiff Nifty Home Products, Inc. (“Nifty”) submits this Memorandum in Support of its Renewed Motion for Default Judgment pursuant to Fed. R. Civ. P. 55 (b)(2) seeking entry of default judgment against the defaulting defendants (“Defaulting Defendants”) on the sole count of Copyright Infringement.

I. INTRODUCTION

Nifty previously filed successful motions for default judgment. Two groups of the defendants moved to vacate the default judgments entered against them, which the Court denied. These defendants then appealed the denial of their motions to vacate the default judgment against them, with one group arguing that they did not receive seven-days prior notice of the default judgments and that they did not, by their defaults, admit the amount of damages that Nifty sought in its complaint and a second group arguing they should have the opportunity to argue to the District Court that it lacked personal jurisdiction over them. The Third Circuit accepted these arguments and vacated the default judgment. Having cured the errors that the Third Circuit

identified, Nifty respectfully submits that it is now entitled to default judgments against the defendants who are in default.

II. PROCEDURAL HISTORY

This Court previously entered a default, default judgment, and permanent injunction against the defendants who had defaulted. (ECF Nos. 69 and 80.) Certain of the defendants then filed motions to vacate the defaults and default judgments and to void the permanent injunction. (ECF Nos. 87¹ and 99².) This Court issued memorandum orders denying these motions. (ECF Nos. 93 and 116.)

Two groups of the defendants chose to appeal this order. (ECF No. 99 and 119.) On appeal, the Third Circuit overturned the Court’s decision denying the two motions to vacate and vacated the default judgment as to these defendants, citing: (1) Nifty’s failure to provide the defendants with notice seven days prior to the entry of a default judgment as grounds to vacate the default judgment and (2) the defendants’ presentation of a “colorable” argument against personal jurisdiction that should be resolved on the merits. (ECF No. 122.) On remand, the Group 1 Defendants filed a motion for Reconsideration as to the Clerk’s entry of default against

¹ The first Motion to Vacate was filed by the following 11 defendants: (Def. No. 25) Shenzhen Ruimiaoqian Network Technology Co., Ltd., (Def. No. 26) Qingtian Diaocheng Trading Co., Ltd., (Def. No. 28) Ding/Shenzhen Dingkunhui Network Technology, (Def. No. 29) shenzhenshimeihuidawangluokejiyouxiangongsi, (Def. No. 30) XiaMen Shi AiDeMan XinXiKeJi YouXian GongSi, (Def. No. 31) Shenzhen Xiaoyanzifei Network Technology Co., Ltd., (Def. No. 32) Shanghai Lei yuan Energy Technology Co., Ltd., (Def. No. 34) Shenzhen Rongxiner Network Technology Co., Ltd., (Def. No. 37) Shenzhen Linglangxi Network Technology Co., Ltd., (Def. No. 52) Shenzhen Weitian Industrial Co., Ltd., and (Def. No. 54) Shenzhen Dali Industry Co., Ltd. (collectively the “Group 1 Defendants”). The Group 1 Defendants were included in the Motion to Amend the Default Judgment. (ECF No. 119.)

² The second Motion to Vacate was filed by the following 21 defendants: (Def. No. 35) Nafxzy, (Def. No. 36) Yszodd, (Def. No. 39) Quintina, (Def. No. 40) Fortioo, (Def. No. 41) Peysaitr, (Def. No. 42) Miruku, (Def. No. 43) Brandslc, (Def. No. 44) Smileol, (Def. No. 45) Mafanikio, (Def. No. 46) Peantioia, (Def. No. 47) Heopbird, (Def. No. 48) Xmastr, (Def. No. 49) Gyuunyuu, (Def. No. 51) Donewelo, (Def. No. 53) Brottfor, (Def. No. 58) Vadunsuz, (Def. No. 59) Merzam, (Def. No. 61) Ineticiam, (Def. No. 62) Rykwurde, and (Def. No. 63) Blikrik, and (Def. No. 64) Comdar (collectively the “Group 2 Defendants”). The Group 2 Defendants were included in the original Default Judgment. (ECF No. 99.)

them. (ECF No. 164.) The Court denied this motion, stating that the defendants had presented “no errors of law or fact, changes in controlling law, or new evidence necessary to justify the relief requested at this time.” (ECF No. 176.) The Group 1 Defendants then filed a motion to dismiss for lack of prosecution, which the Court also denied. (ECF Nos. 184 and 191.)

Nifty has now filed a renewed motion for default judgment under Fed. R. Civ. P. 55(b)(2) seeking a default judgment against the Defaulting Defendants and an award of statutory damages against each Defaulting Defendant for its copyright infringement. As long as the Court waits at least seven days before ruling on this motion, the Defaulting Defendants will have received ample notice. Furthermore, because Nifty is now seeking only statutory damages in the default judgments, the record adequately supports damages without reliance on admissions of the amount of damages alleged in the Complaint.

III. ARGUMENT

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

This Court has subject-matter jurisdiction over this action pursuant to the Copyright Act, 17 U.S.C. §§ 101 et seq. While personal jurisdiction is normally waived if a defendant fails to raise the defense in a responsive pleading or by motion, in the context of a motion for default judgment, the court must sua sponte determine that there is proper personal jurisdiction over the defendants. *Gen. Nutrition Inv. Co. v. Laurel Season, Inc.*, No. CV 20-691, 2020 WL 5077465, at *1 (W.D. Pa. Aug. 26, 2020). As discussed below, multiple courts, including both appellate courts and this Court, have found personal jurisdiction over online sellers who have sold infringing product into the forum state.

1. Personal Jurisdiction Authorized by Rule 4(k).

Rule 4(k) provides the “Territorial Limits of Effective Service” for claims brought in federal courts. The primary provision is Rule 4(k)(1)(A), which “borrows” the state’s long-arm statute (authorizing jurisdiction over a defendant who is subject to personal jurisdiction under the long-arm statute of the state where the federal court is located). Rule 4(k)(2) provides an additional jurisdictional grant that is particularly relevant in cases like this when the defendant admits to conducting business across the United States but claims not to target business in any particular state.

a. The Pennsylvania Long-Arm Statute.

Pennsylvania’s long-arm statute provides that Pennsylvania courts’ exercise of personal jurisdiction is authorized “to the fullest extent allowed under the Constitution of the United States and may be based on the most minimum contact with this Commonwealth allowed under the Constitution of the United States.” 42 Pa. Cons. Stat. § 5322(b); *Marten v. Godwin*, 499 F.3d 290, 296 (3d Cir. 2007) (quoting *Provident Nat’l Bank v. Cal. Fed. Sav. & Loan Ass’n*, 819 F.2d 434, 436 (3d Cir. 1987)); *Hammons v. Ethicon, Inc.*, 240 A.3d 537, 548 (Pa. 2020).

Pennsylvania’s long -arm statute is, therefore, coextensive with the Due Process Clause. *Gentex Corp. v. Abbott*, 978 F. Supp. 2d 391, 395 (M.D. Pa. 2013). Although the personal jurisdiction analysis typically entails consideration of both the forum state’s long-arm statute and constitutional due process, when the long-arm statute is co-extensive with the Due Process Clause, these two steps consolidate into one analysis of due process. *Vetrotex Certaineed Corp. v. Consolidated Fiber Glass Prods. Co.*, 75 F.3d 147, 150 (3d Cir.1996). Accordingly, because the exercise of personal jurisdiction over the defendants in this case comports with constitutional

due process, as explained below, it also comports with § 5322(b) of the Pennsylvania long-arm statute and with Rule 4(k)(1)(A).

b. Personal Jurisdiction Authorized by Rule 4(k)(2).

The argument that third-party platform sellers like the defendants in these cases frequently advance to contest personal jurisdiction in a particular state is that the third-party platforms target the entire United States rather than any particular state. Although the vast majority of the courts have rejected that argument, the direct consequence of the argument is to implicate nationwide personal jurisdiction under Rule 4(k)(2). “Rule 4(k)(2) was adopted to provide a forum for federal claims in situations where a foreign defendant lacks substantial contacts with any single state but has sufficient contacts with the United States as a whole to satisfy due process standards and justify the application of federal law.” *Merial Ltd. v. Cipla Ltd.*, 681 F.3d 1283, 1293-94 (Fed. Cir. 2012).

Rule 4(k)(2) authorizes jurisdiction over a defendant anywhere in the United States when three conditions are satisfied: 1) the claims asserted against the defendant arise under federal law; 2) the defendant is not subject to personal jurisdiction in the courts of general jurisdiction in any state; and 3) exercising personal jurisdiction would be consistent with the United States Constitution and laws. *See Synthes (U.S.A.) v. G.M. Dos Reis Jr. Ind. Com de Equip. Medico*, 563 F.3d 1285, 1291 (Fed. Cir. 2009). For purposes of the final factor, the court examines the defendant’s contacts with the entire United States, not just the forum state. *Genetic Veterinary Scis., Inc. v. LABOKLIN GmbH & Co. KG*, 933 F.3d 1302, 1309 (Fed. Cir. 2019).

As discussed throughout this submission, this Court is authorized to exercise personal jurisdiction over the defendants in Pennsylvania under Pennsylvania’s long-arm statute and the U.S. Constitution. In the alternative, however, if the Court find that these Chinese defendants

lack specific jurisdiction in Pennsylvania because Amazon, Walmart.com, and Temu blanket the entire United States rather than targeting any specific state, then this situation is tailor made for Rule 4(k)(2).

First, the complaint asserts claims against the defendants under the Copyright Act, a federal law. Second, if the defendants are not subject to specific jurisdiction in Pennsylvania, they would not be subject to specific jurisdiction in any other state because they are foreign companies selling their products across the United States through online platforms. And third, because these platforms generically target sales across the United States rather than sales in any particular state, use of the platforms would establish purposeful availment of the privilege of conducting activities within the United States under the case law described below, thereby satisfying the final requirement for personal jurisdiction under Rule 4(k)(2). *See, e.g., Shu v. Grand Di*, No. 24-cv-01643 (W.D. Pa. Apr. 11, 2025) (applying Rule 4(k)(2) to a defendant selling products on Amazon); *Talisman Designs*, Case 20-cv-1084-AJS (W.D. Pa. Oct. 13, 2020) (same); *RE/MAX, LLC v. Shenzhen Remax Co., Ltd*, No. 115CV02496REBSKC, 2019 WL 1081039, at *4 (D. Colo. Jan. 18, 2019), *report and recommendation adopted*, No. 15-CV-02496-REB-SKC, 2019 WL 1437620 (D. Colo. Feb. 27, 2019) (same).

2. Personal Jurisdiction Authorized by the Constitution

In addition to satisfying Rule 4(k), every exercise of personal jurisdiction must accord the defendant due process under the U.S. Constitution. The record establishes that the Defaulting Defendants are subject to specific personal jurisdiction. The core principle of specific jurisdiction is that the defendant must have “minimum contacts with [the forum] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (cleaned up).

To assess whether a defendant has sufficient minimum contacts with the forum state, courts evaluate whether the defendant engaged in some behavior through which it “purposefully avail[ed] itself of the privilege of conducting activities within the forum state, thus invoking the benefits and protections” of that state’s laws. *Hanson v. Denckla*, 357 U.S. 235, 253 (1958). The contacts must “show that the defendant deliberately ‘reached out beyond’ its home—by, for example, ‘exploit[ing] a market’ in the forum State.” *Ford Motor Co.*, 592 U.S. at 359.

In addition to requiring minimum contacts, the specific jurisdiction analysis requires a connection between the defendant’s activities occurring in or directed towards the forum state and the claims asserted against the defendant—the claim must “arise out of or relate to” the defendant’s contacts in the forum state. *Id.* at 359. Here, Nifty is asserting copyright infringement against each defendant. The actions that Nifty alleges as constituting copyright infringement include the displaying, offering for sale, selling, and shipping infringing products. (*Complaint*, ECF No. 2 at ¶¶ 11(d), 22, 32, 36, 38, 40, 43, 60, and 62.) The evidence establishes that each Defaulting Defendant conducted each of these actions in Pennsylvania, such that Nifty’s claims directly arise out of the Defaulting Defendants’ activities in or directed towards Pennsylvania.

Each of Defaulting Defendants has displayed products bearing an infringing design in Pennsylvania, each has offered to sell products bearing an infringing design in Pennsylvania, each has accepted an order for a product bearing an infringing design from a Pennsylvania consumer, each has delivered an infringing product into Pennsylvania, each has collected payment from a Pennsylvania resident, and each has collected Pennsylvania sales tax and remitted that sales tax to the Pennsylvania government. (*Odell Declaration* and Exhibit 1 thereto, ECF Nos. 12, ¶ 3 and 12-1 through 12-5.)

Although the Third Circuit has yet to issue an opinion addressing personal jurisdiction over an online seller like the defendants in this case, four other circuits have: *American Girl, LLC v. Zembrka*, 118 F.4th 271 (2d Cir. 2024), *cert. denied*, 145 S. Ct. 1130 (2025), *Herbal Brands, Inc. v. Photoplaza, Inc.*, 72 F.4th 1085 (9th Cir. 2023), *NBA Props. v. HANWJH*, 46 F.4th 614 (7th Cir. 2022), *cert. denied*, 143 S. Ct. 577 (2023), and *Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F.3d 1339 (9th Cir. 2013). Each of these cases found that personal jurisdiction existed over online sellers who sell infringing products to customers in the forum state.

In *American Girl*, the Second Circuit reversed a district court’s dismissal of a lawsuit against a Chinese seller of an infringing product for lack of personal jurisdiction. The plaintiff placed an order for an infringing product but the defendant, after learning of the lawsuit, cancelled the order. The Second Circuit held that, by transacting of business in New York, the defendant “purposefully availed itself of the privilege of doing business in the forum and could foresee being haled into court there.” *Id.* at 279. In fact, the Second Circuit concluded, the defendant’s transaction of business in New York was a “quite strong” demonstration of the minimum contacts necessary to support personal jurisdiction. *Id.* Thus, even without a completed sale into the forum, the Second Circuit held that personal jurisdiction was constitutionally proper based on the defendant’s willingness to take an order for an infringing product.

In *Herbal Brands*, the Ninth Circuit reversed a district court’s dismissal of a lawsuit against an Amazon seller of an infringing product for lack of personal jurisdiction. The plaintiff brought suit in Arizona against New York residents who were unauthorized sellers of the plaintiff’s products through two Amazon storefronts. While the complaint alleged that the defendants sold products to Arizona residents “through the regular course of business,” the

plaintiff was unable to allege the exact number of sales made to Arizona customers because the plaintiff did not have access to the defendants' sales data prior to conducting jurisdictional discovery. *Herbal Brands*, 72 F.4th at 1089. Based on the allegations in the complaint, the Ninth Circuit held that "if a defendant, in its regular course of business, sells a physical product via an interactive website and causes that product to be delivered to the forum, the defendant 'expressly aimed' its conduct at that forum." *Id.* at 1093. The court also noted that "the identity of the purchaser is not relevant to whether the defendant expressly aimed its conduct at the forum." *Id.* at 1097.

In *NBA Props.*, the Seventh Circuit affirmed the district court's entry of a default judgment against a Chinese seller exercising personal jurisdiction based on a single sale to the plaintiff's counsel who was located in Illinois. As the Seventh Circuit stated, the defendant "shipped a product to the forum only after it had structured its sales activity in such a manner as to invite orders from Illinois and developed the capacity to fill them. It cannot now point to its customers in Illinois and tell us, 'It was all their idea.'" *NBA Props.*, 46 F.4th at 622 (cleaned up). The Seventh Circuit found that the defendant's single sale in Illinois "certainly can be characterized as purposeful. It established an online store, using a third-party retailer, Amazon.com. Through this online store, it unequivocally asserted a willingness to ship goods to Illinois and established the capacity to do so. When an order was placed, it filled the order, intentionally shipping an infringing product to the customer's designated Illinois address." *Id.* at 624.

In *Louis Vuitton Malletier, S.A. v. Mosseri*, 736 F.3d 1339, 1357-58 (11th Cir. 2013), the Eleventh Circuit held that a nonresident defendant was subject to jurisdiction in Florida in accordance with due process as the defendant had "purposefully solicited business from Florida

residents through the use of at least one, fully interactive website” and had sold allegedly infringing goods to Florida residents through that website.

Within the Western District of Pennsylvania and other districts within the Third Circuit, multiple judges have found personal jurisdiction over sellers on online marketplaces like Walmart.com. In early 2025, Judge Stickman refused to vacate a preliminary injunction that the defendants challenged on the basis of lack of personal jurisdiction. *Chen v. Adediy*, No. 24-cv-1516, 2025 WL 1146534 (W.D. Pa. March 5, 2025). As Judge Stickman stated, “[Plaintiff] has made the requisite showing of minimum contacts needed for the Court to exercise personal jurisdiction over Defendants as they offer to sell and sell infringing products to consumers residing in the United States, including Pennsylvania residents in this judicial district, through Defendants’ online storefronts (e.g., Amazon.com, Wal-mart.com/Walmart, Alibaba.com).” *Id.* at 4 n.2. See also *Xie v. Guanhe Home Essentials*, No. 25-cv-267, 2025 WL 1039233 at *3 (W.D. Pa. Apr. 8, 2025) (“[t]he maintenance of in interactive commercial website – with product listings in English and with prices in U.S. dollars – along with actual sales of alleged infringing products into Pennsylvania is sufficient to establish minimum contacts with Pennsylvania.”); *Shu v. Grand Di*, No. 24-cv-164, 2025 WL 1483497 at *6 n.3 (W.D. Pa. Apr. 11, 2025) (personal jurisdiction established by “offering to sell and selling infringing products to consumers residing in Pittsburgh.”); *Zhang v. AAGGO*, No. 25-cv-85, 2025 WL 1158909 at *4 (W.D. Pa. Apr. 21, 2025) (personal jurisdiction satisfied because “Defendants made sales to Pennsylvania residents, and more specifically, residents within the Western District, as evidenced by the receipt of sale with the [Plaintiff’s] Declarations.”); *BGSD, Inc. v. SpazeUp, LLC*, No. 5:23-CV-4855, 2024 WL 1619279, at *3 (E.D. Pa. Apr. 15, 2024) (authorizing personal jurisdiction based on an Amazon sale into Pennsylvania).

Moreover, the fact that the documented sales relate to test buys—purchases made by representatives of the plaintiff—has no bearing on the personal jurisdiction analysis. The Second Circuit in *American Girl*, the Ninth Circuit in *Herbal Brands*, the Seventh Circuit in *NBA Props.* (u above) all reject the argument that a test buy does not support personal jurisdiction. Judge Stickman has similarly rejected the argument in *De Sousa v. Moonbay*, No. 24-cv-1518, at 3–4 (W.D. Pa. May 5, 2025) (“Plaintiff’s evidence ... was that [Defendant] sold at least one of the infringing items directly into Pennsylvania and it was received and examined by Plaintiffs as part of the pre-filing investigation of the lawsuit. Record evidence exists that [Defendant] purposefully availed himself of conducting business activity in the Western District of Pennsylvania. [Defendant] made an actual, documented sale to the Western District of Pennsylvania. The Court remains convinced that [Defendant] is subject to the Court’s specific personal jurisdiction.”).

B. Nifty is Entitled to Default Judgment Against the Defaulting Defendants

1. The Clerk Properly Entered Default as to the Defaulting Defendants

Pursuant to the Fed. R. Civ. P. 55(a), when a party fails to plead, defend, or respond to the plaintiff’s complaint against them, the clerk must enter the party’s default. As the docket reflects, the Defaulting Defendants failed to respond to the Complaint. Thus, the Clerk properly entered default against them. Fed. R. Civ. P. 55. The Third Circuit left these defaults in place.

2. Factual Allegations Establish Defaulting Defendants’ Liability

By virtue of the defaults, the Defaulting Defendants are deemed to have admitted every allegation in the Complaint except for damages. *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., Feb. 6, 2013).

Liability for copyright infringement is established when the plaintiff demonstrates two elements: (1) ownership of a copyright and (2) copying by the defendant. *Dam Things From Denmark v. Russ Berrie & Co.*, 290 F.3d 548, 561 (3d Cir. 2002). These elements have been established by the admitted allegations of the Complaint. For example, the Complaint alleges “Plaintiff also owns U.S. Copyright Registration No. VA-2-214-107, the subject of which is photographs of Plaintiff’s Product” and “[a]dditionally, Plaintiff is the owner of U.S. Copyright Registration No. VA-2-218-985 for Plaintiff’s Pig Face Sculpture.” (ECF No. 2 at ¶ 7.) The Complaint further alleges that “[w]ithout permission. Defendants knowingly and intentionally reproduced, copied, and displayed the Plaintiff’s Work ...”. (*Id.* at ¶ 62.) The Complaint also alleges that “Defendants’ Merchant Storefronts reflect multiple sales to consumers all over the world, including repeat sales ... into this judicial district.” (*Id.* at ¶¶ 7(a), 7(b), and 7(c).)

In addition to the factual allegations in the Complaint admitted by default, the Defaulting Defendants have also made admissions by failing to respond to the requests for admission that Nifty served upon them. *See Malkin Dec.*³ These deemed admissions include:

At all times relevant hereto, Plaintiff owned the U.S. Copyright Registration No. VA 2-218-985 (“Pig Face Sculpture”) and Defendant knew that Plaintiff had the exclusive right to use and license its intellectual property and goodwill associated therewith.

Despite having the knowledge that you had no license or legal authority to do so, you engaged in the activity of promoting and otherwise advertising, selling, offering for sale, and/or distributing infringing products under your Seller ID or Seller IDs.

At all times relevant hereto, you have been engaged in the fraudulent promotion, advertisement, distribution, offering for sale, and/or sale of goods that are infringing at least one of Plaintiff’s Mark, or Plaintiff’s Trade Dress, and/or substantially similar copies of Plaintiff’s Works.

You intentionally make, use, offer to sell, or import into the United States counterfeit and substandard copies of Plaintiffs’ Product.

³ Refers to *Declaration of Brian Samuel Malkin*. (ECF No. 55-3.)

Accordingly, Nifty has properly established grounds for default judgment against the Defaulting Defendants.

3. Nifty is entitled to Statutory Damages Under the Copyright Act

The owner of a registered copyright may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action. 17 U.S.C. § 504(c)(1). Under Section 504(c)(2), the Court may award statutory damages of up to \$150,000 per work. 17 U.S.C. § 504(c)(2).

Each Defaulting Defendant has admitted that it knowingly, intentionally, and willfully infringed upon Nifty's copyrights. (*Complaint*, ECF No. 2 ¶¶ 44, 62, and 64; *Requests for Admission* Nos. 7, 12, 13, 18, ECF No. 55-3.)

Each Defaulting Defendant has infringed at least four works.⁴ (*Declaration of Stanley D. Ference III*, submitted herewith.) Thus, each defendant is liable for statutory damages of least \$600,000 (statutory damages of \$150,000 per infringed work times four infringed works). In this Court, statutory damages of \$150,000 per infringed work are typically awarded in default judgments. Recent examples of a \$150,000 statutory damages award per infringed work include: *Abraham Szomor v. A Canvas Painting*, No. 25-cv-1696 (W.D. Pa. March 5, 2026) (ECF No. 57); *Lisa Audit v. Herbert Décor*, No. 25-cv-1433 (W.D. Pa. Jan. 22, 2026) (ECF No. 58); *Ian Lusang v. Fenhose*, No. 25-cv-1027 (W.D. Pa. Dec. 18, 2025) (ECF No. 49); *Lee Ann Shepard v. LUYANZHENLUHENGSHENGBAIHUODIAN*, No. 25-cv-982 (W.D. Pa. Dec. 17, 2025) (ECF

⁴ All of the Defaulting Defendants have infringed five of Nifty's copyrighted works (\$750,000 in statutory damages), except for the following four Defendants in the Group 2 Defendants who have infringed four of Nifty's copyrighted works (\$600,000 in statutory damages): (Def. No. 28) Ding/Shenzhen Dingkunhui Network Technology; (Def. No. 29) shenzhenshimeihuidawangluokejijyouxiangongsi; (Def. No. 30) XiaMen Shi AiDeMan XinXiKeJi YouXian GongSi; and (Def. No. 31) Shenzhen Xiaoyanzifei Network Technology Co., Ltd. (*Declaration of Stanley D. Ference III*, submitted herewith.)

No. 38); *Kelsey McNatt v. Limanjun8868*, No. 25-cv-883 (W.D. Pa. Nov. 25, 2025) (ECF No. 49); and *Jessica Crupi v. Gwndhtbl*, No. 25-cv-902 (W.D. Pa. Nov. 25, 2025) (ECF No. 45).

Moreover, an award of \$150,000 in statutory damages per infringed work (for a total of \$600,000 per Defaulting Defendant) is not excessive as shown by the expert report of Paul Holmes (attached hereto as **Exhibit 1**). Licensing fees are often used as a measure of actual damages for copyright infringement. Although Nifty is not seeking its actual damages, Mr. Holmes' analysis of licensing fees demonstrates the reasonableness of the statutory damages Nifty seeks. Mr. Holmes sets forth two potential types of licenses – a promotional or advertising license and a consumer product license – which could be used by each Defaulting Defendant to license Nifty's copyrighted works. Mr. Holmes opines that the cost per promotional or advertising license to each of the Moving Defendants would be between \$530,000 and \$650,000 and the cost of a consumer product license would be between \$800,000 and \$1,350,000. The cost of either of these licenses demonstrates that an award of \$600,000 in statutory damages per Defaulting Defendant is more than reasonable.⁵

4. Nifty is Entitled to Permanent Injunctive Relief

Nifty also seeks a permanent injunction enjoining the Defaulting Defendants from infringing or otherwise violating Nifty's rights in its products, making permanent the injunctive relief this Court previously awarded in the temporary restraining order and preliminary injunction. Nifty has established its right to a permanent injunction under the four factors considered in *Shields v. Zuccarini* for injunctions under 17 U.S.C § 502(a). 254 F.3d 476, 482

⁵ Although Nifty requests judgment in the amount of \$600,000 in statutory damages, Nifty is unlikely to recover anything approaching this amount. The only likely source of recovery is the funds that are frozen in this action. Only four of the Defaulting Defendants have restrained amounts exceeding \$150,000, the statutory damages for infringement of a single work and the average amount frozen is far below that. (*Declaration of Stanley D. Ference III*, submitted herewith.)

(3d Cir. 2001). Nifty relies on its earlier briefing on its right to injunctive relief, which remains unchallenged.

Permanent injunctions are routinely entered by courts in default judgments entered in similar online copyright infringement cases. For example, a permanent injunction was entered as part of the default judgment in the following recent cases: *Abraham Szomor v. A Canvas Painting*, No. 25-cv-1696 (W.D. Pa. March 5, 2026) (ECF No. 57); *Lisa Audit v. Herbert Décor*, No. 25-cv-1433 (W.D. Pa. Jan. 22, 2026) (ECF No. 58); *Ian Lusang v. Fenhose*, No. 25-cv-1027 (W.D. Pa. Dec. 18, 2025) (ECF No. 49); *Lee Ann Shepard v. LUYANZHENLUHENGSHENGBAIHUODIAN*, No. 25-cv-982 (W.D. Pa. Dec. 17, 2025) (ECF No. 38); *Kelsey McNatt v. Limanjun8868*, No. 25-cv-883 (W.D. Pa. Nov. 25, 2025) (ECF No. 49); and *Jessica Crupi v. Gwndhtbl*, No. 25-cv-902 (W.D. Pa. Nov. 25, 2025) (ECF No. 45).

IV. CONCLUSION

For the foregoing reasons, Nifty respectfully requests that the Court grant its Motion for Default Judgment; enter judgment against the Defaulting Defendants for willful federal copyright infringement (Count I) in the amount of \$600,000 per Defaulting Defendant; enter a permanent injunction order prohibiting the Defaulting Defendants from selling infringing products; and enter an order transferring the Defaulting Defendant's funds to Nifty.

Respectfully submitted,

Dated: March 30, 2026

/s/ Stanley D. Ference III

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