

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)

**REPLY MEMORANDUM IN SUPPORT OF  
RENEWED MOTION FOR DEFAULT JUDGMENT**

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

**INTRODUCTION**

Two groups of Defaulting Defendants have filed oppositions to Nifty’s Renewed Motion. Each opposition essentially makes the same argument – each Defaulting Defendant admits having made at least one sale of an infringing product into Pennsylvania but argues that those sales do not support personal jurisdiction because a representative of Nifty made the purchases as part of Nifty’s pre-suit investigation.<sup>1</sup> Circuit and District Court authority establishes that “test buys” made on behalf of the plaintiff and delivered into the forum support personal jurisdiction. Accordingly, Nifty respectfully submits that default judgment is appropriate.

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<sup>1</sup> The Third Circuit addressed three issues in its opinion remanding the case: the lack of sufficient notice, the basis for damages, and the potential for the defendants to raise personal jurisdiction challenges. Nifty modified its request for damages to conform to the Third Circuit’s opinion and the defendants now have adequate notice, so the only issue they address is their argument regarding personal jurisdiction.

## ARGUMENT

### **A. This Court has Personal Jurisdiction to Over the Defaulting Defendants.**

#### **1. There is Specific Personal Jurisdiction Over the Defaulting Defendants.**

The Defaulting Defendants argue that the court lacks personal jurisdiction over them because the only evidence Nifty has gathered relates to “test buys” made by Nifty’s representative as part of its pre-filing investigation. (ECF No. 233, at 4; ECF No. 234, at 3.) Nearly six years ago, this Court held that evidence of a single sale in Pennsylvania to Nifty’s counsel as part of the pre-suit investigation was sufficient for personal jurisdiction. *Talisman Designs, LLC v. Dasani*, No. 20-cv-1084 (Oct. 13, 2020) (ECF No. 58) (Schwab, J.) (copy attached as **Exhibit 1**). Since this Court issued that decision, both the Seventh Circuit and the Second Circuit have issued decisions confirming personal jurisdiction over Chinese online sellers like the Defaulting Defendants based on test buys. *American Girl, LLC v. Zembrka*, 118 F.4th 271 (2d Cir. 2024), *cert. denied*, 145 S. Ct. 1130 (2025), and *NBA Props. v. HANWJH*, 46 F.4th 614 (7th Cir. 2022), *cert. denied*, 143 S. Ct. 577 (2023). Additionally, this Court issued a decision approving of personal jurisdiction based on test buys. *De Sousa v. Moonbay*, No. 24-cv-1518, at 3–4 (W.D. Pa. May 5, 2025). These decisions are discussed in detail in Nifty’s Brief in Support of its Renewed Motion. (ECF No. 223 at 8-11.)

In addition to these cases, courts in the Northern District of Illinois have repeatedly held that test buys support personal jurisdiction. *See, e.g., Pit Viper, LLC v. XI'AN JIAYE TENGDA TRADING CO., LTD.*, 2024 WL 5039888 (N.D. Ill Dec. 9, 2024); *Manchester United Football Club Ltd. v. The P’ships and Unincorporated Associations Identified on Schedule A*, 2024 WL 5202272 (N.D. Ill. Dec. 23, 2024); *Comish v. The P’ships and Unincorporated Associations Identified on Schedule A*, No. 25 C 7049 (N.D. Ill. Jan. 28, 2026) (ECF No. 56). In fact, in *Comish*, the court denied a motion to dismiss for lack of personal jurisdiction where the three moving defendants did not ship any product into the forum because each moving defendant had canceled the single order by the plaintiff’s investigator. As the Court held, “[b]y accepting payment for the three Illinois orders, Defendants showed that they

were ‘ready, willing, and able to ship products to a specific address in’ [the forum state].” *Id.* at 4. The case for personal jurisdiction is much stronger in the present case, as each Defaulting Defendant not only accepted payment for an order to be shipped into Pennsylvania, each Defaulting Defendant actually shipped the order into Pennsylvania and collected Pennsylvania sales tax.

Moreover, this Court’s cases cited in the opposition filed by the Defaulting Defendants represented by Ford Bannister do not support the proposition that personal jurisdiction may not be based on test buys. *Hammond Murphy v. Humboldt Clothing Co.*, 2021 WL 307541 (W.D. Pa. Jan. 29, 2021), involved a claim that the defendant’s website was not properly accessible by those with vision-impairments in violation of the Americans with Disabilities Act. The case did not involve the purchase of a product and the court’s passing mention of test buys was in dicta. *Id.* at \*4. In *Mon Aimee Chocolat, Inc. v. Tushiya, LLC*, 2015 WL 2232270 (W.D. Pa. May 12, 2015), the court found no evidence of the defendant shipping any product to a Pennsylvania address, test buy or otherwise. *Id.* at \*5. Finally, *Forcel Media Limited v. DecYI*, 2025 WL 1665586 (W.D. Pa. June 12, 2025), also involved a situation where the defendant did not ship a single product into Pennsylvania, test buy or otherwise. Like in *Hammond*, the Court mentions test buys in dicta, but the primary case the Court cites is the Third Circuit opinion from this action in which the Third Circuit merely held that the Defaulting Defendants were entitled to present their arguments about test buys to this Court—the Third Circuit absolutely did not hold that test buys do not support personal jurisdiction. *Nifty Home Prods. Inc. v. Ladyana US*, 2024 WL 4987245, at \*3 (3d Cir. Dec. 5, 2024).

Moreover, although the Defaulting Defendants assert that their only contacts with Pennsylvania are in connection with sales to Nifty’s representative, they do not submit any evidence supporting their assertions.<sup>2</sup> Information obtained from the Walmart.com online marketplace shows

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<sup>2</sup> The Defaulting Defendants represented by Ford Banister also assert that Nifty failed to timely respond to their requests for admission and imply that this failure somehow supports their position. (ECF No. 344, at 3.) They do not attach the requests for admission or identify the facts that Nifty allegedly admitted. Furthermore, Nifty served responses to the requests for admission timely. (See ECF No. 118-1 at ¶ 4.)

that at least five Defaulting Defendants (Def. Nos. 25, 26, 31, 46, and 51) have had multiple sales to consumers in Pennsylvania. (*Declaration of Stanley D. Ference III*, ¶¶ 2-3, submitted herewith.)

Accordingly, while case law establishes that test buys are sufficient to support personal jurisdiction, the Defaulting Defendants' assertions that they only made a single sale into Pennsylvania are demonstrably unreliable.

## **2. Personal Jurisdiction Over Defaulting Defendants is Authorized by Rule 4(k)(2).**

Nifty asserted personal jurisdiction under Rule 4(k)(2) in the alternative to personal jurisdiction based on the test buys. The Defaulting Defendants represented by Attorney Urbanczyk observe that a defendant can avoid personal jurisdiction under Rule 4(k)(2) by identifying a different State in the U.S. where they are subject to personal jurisdiction, and argue that they could have been sued in Arkansas where Walmart is headquartered. (ECF No. 233 at 5.) The only support for their contention that they would be subject to personal jurisdiction where Walmart maintains its headquarters is *Kaiher Technology Co., Ltd. v. SCAN2CAD Inc.*, 2025 WL 2076666 (N.D. Ill. July 23, 2025), which they cite as holding that Rule 4(k)(2) did not apply to the defendant in that case because it could have been sued in Washington, where Amazon maintains its headquarters. However, the portion of that case discussing Rule 4(k)(2) does not mention Amazon or Washington. Instead, the court held Rule 4(k)(2) inapplicable because the defendant was a Florida corporation, and thus plainly subject to personal jurisdiction in Florida. *Id.* at \*4. These Defaulting Defendants do not advance an argument, much less supporting case law, suggesting that one defendant may be subject to personal jurisdiction in a state because a different company maintains its headquarters there. This Court previously held that Rule 4(k)(2) provided an alternative basis for asserting personal jurisdiction over the Defaulting Defendants and they have presented no basis to revisit that ruling. (ECF No. 116, at 12–13.) Accordingly, the Defaulting Defendants have failed to oppose personal jurisdiction under Rule 4(k)(2).

### 3. The Defaulting Defendants Remain in Default.

The Defaulting Defendants represented by Attorney Urbanczyk also contend that this Court should have set aside the default for the same reasons the Third Circuit vacated the default judgment. (ECF No. 233, at 6.) They relatedly argue that they have meritorious defenses but have been prevented from asserting them in an answer because of the default. *Id.* at 2.

The proper procedure for setting aside a default is a motion under Rule 55(c), not a request in an opposition to a motion for default judgment. All of the Defaulting Defendants previously filed one or more motions asking this Court to set aside their default, and the Court consistently and repeatedly denied those motions. (ECF Nos. 93, 116, 153, and 176.) Seeking to have the Court reconsider its decisions denying their prior motion to vacate their default in the guise of their response to Nifty's motion for a default judgment is procedurally improper, and the Defaulting Defendants offer no new grounds or explanation for this extraordinary request. Thus, they plainly and unambiguously remain in default, properly subject to all the limitations that default imposes.

### 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 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 Defendants' funds to Nifty.

Dated: April 16, 2026

Respectfully submitted,

/s/ Stanley D. Ference III

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