

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CV-61875-RAR

SHARP SHIRTER INC.,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS, AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”,

Defendants.

ORDER ON MOTION FOR ENTRY OF FINAL JUDGMENT BY DEFAULT

THIS CAUSE comes before the Court upon Plaintiff Sharp Shirter Inc.’s (“Sharp Shirter” or “Plaintiff”) Motion for Entry of Final Judgment by Default as to Certain Defendants Identified on Schedule “A” and Incorporated Memorandum of Law (“Motion”), filed on April 5, 2023. [ECF No. 44]. A Clerk’s Default was entered against Defendants listed in Schedule “A” to the Complaint as 1-62, 64, 66-68, 71, and 73-121 (collectively, “Defaulting Defendants”). [ECF No. 1].¹ Defaulting Defendants failed to appear, answer, or otherwise plead to the Complaint [ECF No. 1] despite having been served. The Court has carefully considered the Motion, the record in this case, the applicable law, and is otherwise fully advised. For the reasons stated herein, it is hereby **ORDERED AND ADJUDGED** that Plaintiff’s Motion is **GRANTED**.

¹ This Order does not apply to the Defendants identified in Schedule “A” who have been dismissed from the case. *See* [ECF Nos. 31, 38, 42].

BACKGROUND²

Plaintiff is the owner of copyrights in two dimensional artworks and illustrations (the “Works”). Plaintiff registered the Works with the Register of Copyrights (the “Copyrighted Works”), shown in the chart below. Plaintiff is the owner of all the Works through copyright, and some by written assignment.

Copyright Title	Registration Number	Registration Date
Haymaker	VA 1-866-764	11/30/2012
Christmas Bear Punch	VA 1-848-644	11/30/2012
Punch Trunk Love	VAu 1-169-652	03/13/2014
Shark Punch, et al.; Content Title: Shark Punch, Deep Sea Discovery, 20,000 Leagues Under The Trees, Majestic Owl, Rhinocorn, Bloodsport Barbie.	VA00001925607	08/27/2014
Caticorn, Flowers, SlothVegas, Hot Air Bearoons, Sea Creatures, Slothzilla Titanic, Meowmore, Goodnight Sloth	VAu 1-217-520	05/05/2015
Sir Catspian, et al.; Content Title: Sir Catspian, CLAWS, Hammer Time, Siamese Cats, Seahorse Hug,	VAu 1-237-859	11/16/2015

² The factual background is taken from Plaintiff’s Complaint [ECF No. 1], Plaintiff’s Motion [ECF No. 44], and supporting evidentiary submissions.

Octohug, Synchronized Sloth, Fish & Ships, Llamadeus, Attack of 50 Foot Feline, Elegant turtle, Octoparty.		
Rockstars	VA0002312295	07/14/2022
Bear Spotting	VA0002312296	07/14/2022
Having a bear	VA0002312297	07/14/2022
Bearial Attack	VA0002312298	07/14/2022
Bear Strike Back	VA0002312299	07/14/2022
Bear Pong	VA0002312316	07/14/2022

Defendants, through the various Internet based e-commerce stores operating under each of the Seller IDs identified on Schedule “A” hereto (the “Seller IDs”) have advertised, promoted, offered for distribution, and/or distributed products using counterfeits, infringements, reproductions, and/or colorable imitations of the Copyrighted Works. Plaintiff has submitted sufficient evidence showing each Defendant has infringed, at least, one of the Copyrighted Works. Defendants are not now, nor have they ever been, authorized or licensed to use, reproduce, or make counterfeits, or distribute the Copyrighted Works. *See* Compl. ¶¶ 40–90.

As part of its ongoing investigation regarding the sale of counterfeit and infringing products, Sharp Shirter asserted that Defaulting Defendants are using the various webstores on platforms such as AliExpress, Amazon.com, Alibaba, eBay.com, Wish.com and others to sell Counterfeit Products from foreign countries such as China to consumers in the United States. *See* Compl. ¶¶ 48–66. Sharp Shirter accessed defendants’ Internet based e-commerce stores operating

under their respective Seller ID names through AliExpress.com, Amazon.com, eBay.com, and Wish.com.

Upon accessing each of the e-commerce stores, Sharp Shirter viewed counterfeit products using the Sharp Shirter's Copyrighted Works, added products to the online shopping cart, proceeded to a point of checkout, and otherwise actively exchanged data with each e-commerce store. [ECF No. 14-2]. Sharp Shirter captured detailed web pages for each defendant store. *Id.* A representative for Sharp Shirter personally analyzed the Sharp Shirter items wherein orders were initiated via each of the Seller IDs by reviewing the e-commerce stores operating under each of the Seller IDs, or the detailed web page captures and images of the items bearing the Sharp Shirter's Copyrighted Works, and concluded the products were non-genuine.³

A. Procedural History

Plaintiff sued Defendants for copyright infringement under the Copyright Act, 17 U.S.C. §§ 106(1), (2), (5) & 501. Compl. ¶ 1. The Complaint alleges that Defendants are promoting, advertising, distributing, selling, and/or offering for sale cheap copies of Plaintiff's works in interstate commerce that are counterfeits and infringements of plaintiff's intellectual property rights (the "Counterfeit Goods") within the Southern District of Florida by operating the Defendants' Internet based e-commerce stores operating under each of the Seller IDs identified on Schedule "A" attached to Plaintiff's Motion for Entry of Final Default Judgment (the "Seller IDs"). Compl. ¶¶ 33–38.

Plaintiff further asserts that Defendants' unlawful activities have caused and will continue to cause irreparable injury to Plaintiff because Defendants have 1) deprived Plaintiff of its right to determine the manner in which its copyrights are presented to consumers; (2) defrauded consumers

³ Evidence of each Defendant's infringement was attached as Exhibit 1 to the Declaration of Daniel Lachman. See [ECF No. 13–6].

into thinking Defendants' illicit copies of Plaintiff's copyrights are authorized by Plaintiff; (3) deceived the public as to Plaintiff's sponsorship of and/or association with Defendants' counterfeit products and the websites on online storefronts through which such products are sold, offered for sale, marketed, advertised, and distributed; and (4) wrongfully damaged Plaintiff's ability to market its copyrighted works and educate consumers about its brand via the Internet in a free and fair marketplace. Compl. ¶¶ 91–102.

In its Motion, Plaintiff seeks the entry of default final judgment against Defendants in an action alleging infringement of copyright. Mot. at 1. Plaintiff further requests that the Court (1) enjoin Defendants' unlawful use of Plaintiff's copyrighted works; (2) award Plaintiff damages; and (3) instruct any third-party financial institutions in possession of any funds restrained or held on behalf of Defendants to transfer these funds to the Plaintiff in partial satisfaction of the award of damages. *See generally* Mot.

LEGAL STANDARD

Pursuant to Federal Rule of Civil Procedure 55(b)(2), the Court is authorized to enter a final judgment of default against a party who has failed to plead in response to a complaint. “A ‘defendant, by his default, admits the plaintiff’s well-pleaded allegations of fact, is concluded on those facts by the judgment, and is barred from contesting on appeal the facts thus established.’” *Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc.*, 561 F. 3d 1298, 1307 (11th Cir. 2009) (quoting *Nishimatsu Const. Co., Ltd. v. Houston Nat’l Bank*, 515 F. 2d 1200, 1206 (5th Cir. 1975)); *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987). “Because a defendant is not held to admit facts that are not well pleaded or to admit conclusions of law, the Court must first determine whether there is a sufficient basis in the pleading for judgment to be entered.” *Luxottica Group S.p.A. v. Individual, P’ship or Unincorporated Ass’n*, 17-CV-61471, 2017 WL 6949260, at *2 (S.D.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.