

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
ILLINOIS EASTERN DIVISION**

CELINE, SA,

Plaintiff,

v.

THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”,

Case No. 24-cv-09199

District Judge Lindsay C. Jenkins

Magistrate Judge Jeannice W. Appenteng

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF
ITS MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT**

Plaintiff Celine SA (“Celine” or “Plaintiff”) submits its Memorandum in support of its Motion for Entry of Default and Default Judgment under Federal Rules of Civil Procedure 55(a) and 55(b)(2) against the Defendants identified on Schedule A as 1-7 and 9-64 (collectively, the “Defaulting Defendants”).

STATEMENT OF FACTS

Celine is a luxury French fashion house that is part of the Louis Vuitton Moet Hennessy (LVMH) Group. (Complaint, Dkt. 1 ¶¶ 6-7.) Celine is a world-famous luxury brand engaged in the business of styling and selling a diverse portfolio of ready-to-wear men’s and women’s apparel, fashion accessories, and leather goods (collectively, the “Celine Products”). *Id.* Celine uses its trademarks in connection with the marketing of its Celine Products (collectively, the “Celine Trademarks”). *Id.* ¶ 12.

Defaulting Defendants are individuals and business entities of unknown makeup who own and/or operate one or more of the e-commerce stores operating under the seller aliases identified in Schedule A to the Complaint (collectively, the “Seller Aliases”). *Id.* ¶ 18. Each Defaulting

Defendant targets sales to Illinois residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offers shipping to the United State, including Illinois, accepts payment in U.S. dollars and has sold products using counterfeit versions of the Celine Trademarks (the “Counterfeit Celine Products”) to residents of Illinois. *Id.* ¶ 25.

Celine filed this action on September 30, 2024. *Id.* On October 15, 2024, this Court granted Celine’s *Ex Parte* Motion for Entry of a Temporary Restraining Order (the “TRO”), subsequently extended the TRO, and converted the TRO to a Preliminary Injunction. (Dkts. 28, 32 and 38.) The TRO permitted Celine to complete service of process on Defaulting Defendants by electronically publishing a link to the Complaint, TRO and other relevant documents on a website and by sending an e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Nicolas Lambert and any e-mail addresses provided for Defaulting Defendants by third parties that includes a link to said website. (Dkt. 28.) The Defaulting Defendants were properly served with the Complaint at TRO October 31, 2024, and then the Summons on November 2, 2024. Each email attached copies of these documents and contained a link to a website where the pleadings could be found. (Declaration of John Haarlow, Jr. at ¶ 3, filed herewith; Dkt. 41.) None have answered or otherwise appeared herein.

Pursuant to Federal Rules of Civil Procedure 55(a) and 55(b)(2), Celine moves this Court for an Order entering default and default judgment finding that Defaulting Defendants are liable on all counts of Celine’s Complaint. Celine further seeks an award of statutory damages as authorized by 15 U.S.C. § 1117(c)(2) for willful trademark counterfeiting against each of the Defaulting Defendants. Celine also seeks entry of a permanent injunction prohibiting Defaulting Defendants from selling Counterfeit Celine Products, and that all assets in Defaulting Defendants’

financial accounts, including those operated by PayPal, Inc. (“PayPal”), Alipay, DHGate, and Amazon, as well as any newly discovered assets, be transferred to Celine.

ARGUMENT

I. JURISDICTION AND VENUE ARE PROPER IN THIS COURT

This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act, 15 U.S.C. § 1051, et seq., 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defaulting Defendants. Through at least the fully interactive, e-commerce stores operating under the Seller Aliases, each of the Defaulting Defendants has targeted sales from Illinois residents by setting up and operating e-commerce stores, offering shipping to the United States, including Illinois, accepting payment in U.S. dollars, and attempting to do business with Illinois residents by operating the e-commerce stores under the Seller Aliases through which Illinois residents can purchase Counterfeit Celine Products. (Dkt. 1 at ¶¶ 2, 25.) *uBID, Inc. v. GoDaddy Grp., Inc.* 623 F.3d 421, 423-24 (7th Cir. 2010) (without benefit of an evidentiary hearing, plaintiff bears only the burden of making a prima facie case for personal jurisdiction; all of plaintiff’s asserted facts should be accepted as true and any factual determinations should be resolved in its favor); *see also Monster Energy Co. v. Wensheng*, 136 F. Supp. 3d 897, 906-08 (N.D. Ill. 2015).

II. CELINE HAS MET THE REQUIREMENTS FOR ENTRY OF DEFAULT

Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, “when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a).

The Defaulting Defendants were properly served with the Complaint at TRO October 31, 2024, and then the Summons on November 2, 2024. Each email attached copies of these documents and contained a link to a website where the pleadings could be found. (Declaration of John Haarlow, Jr. at ¶ 3, filed herewith.) However, none of the Defaulting Defendants have filed an answer or otherwise pled in this action within 21 days of service. *Id.* at ¶¶ 5-6. Upon information and belief, the Defaulting Defendants are not active members of the armed forces, nor are they minors or incompetent persons. *Id.* ¶ 4. Accordingly, Celine is entitled to an entry of default against the Defaulting Defendants.

II. CELINE HAS MET THE REQUIREMENTS FOR ENTRY OF DEFAULT JUDGMENT

Rule 55(b)(2) of the Federal Rules of Civil Procedure provides for a court-ordered default judgment. A default judgment establishes, as a matter of law, that defendants are liable to plaintiff on each cause of action alleged in the complaint. *United States v. Di Mucci*, 879 F.2d 1488, 1497 (7th Cir. 1989). When the Court determines that a defendant is in default, the factual allegations of the complaint are taken as true and may not be challenged, and the defendants are liable as a matter of law as to each cause of action alleged in the complaint. *Black v. Lane*, 22 F.3d 1395, 1399 (7th Cir. 1994).

Celine properly served Defaulting Defendants, but the answer period has passed, and no answer or other responsive pleading has been filed by any of the Defaulting Defendants. *See* Fed. R. Civ. P. 12(a)(1)(A). Accordingly, default judgment is appropriate, and consistent with previous similar cases before this Court, Celine requests an award of statutory damages as authorized by 15 U.S.C. § 1117(c)(2) for willful trademark counterfeiting against each of the Defaulting Defendants for use of counterfeit Celine Trademarks on products sold through the e-commerce stores operating under the Seller Aliases. Celine also seeks entry of a permanent injunction

prohibiting Defaulting Defendants from selling Counterfeit Celine Products and that all assets in Defaulting Defendants' financial accounts, including those operated by PayPal, Alipay, DHgate and Amazon, and any newly identified accounts be transferred to Celine.

III. CELINE HAS PROPERLY PLED TRADEMARK INFRINGEMENT AND COUNTERFEITING AND FALSE DESIGNATION OF ORIGIN

To plead a claim of trademark infringement and counterfeiting pursuant to the Lanham Act, a plaintiff must allege that (1) its mark is distinctive enough to be worthy of protection, (2) defendants are not authorized to use the mark; and (3) defendant's use of the mark causes a likelihood of confusion as to the origin or sponsorship of defendant's products. *See Bliss Salon Day Spa v. Bliss World LLC*, 268 F.3d 494, 496-97 (7th Cir. 2001). To plead a claim for false designation of origin, a plaintiff must allege that "(1) its mark is protectable and (2) the defendant's use of the mark is likely to cause confusion among consumers." *SportFuel, Inc. v. PepsiCo, Inc.*, 932 F.3d 589, 595 (7th Cir. 2019). Celine has alleged sufficient facts in support of its claims here.

Celine has alleged that that it is the exclusive owner of the Celine Trademarks and the Celine Trademarks are distinctive when applied to Celine Products, signifying to the purchaser that the products come from Celine and are manufactured to Celine's high quality standards. (Dkt. 1 ¶ 14.) Celine further alleged that the Celine Trademarks have achieved tremendous fame and recognition, which has added to the distinctiveness of the marks. *Id.* Thus, the Celine Trademarks are sufficiently distinctive and protectable.

Celine further alleged that Defaulting Defendants are using the federally registered Celine Trademarks without authorization on the Counterfeit Celine Products. (*Id.* ¶¶ 23, 27.) As such, Defaulting Defendants have created a likelihood of confusion, mistake, and deception among the general public as to the affiliation, connection, or association with Celine or the origin,

sponsorship, or approval of Defaulting Defendants' Counterfeit Celine Products by Celine. (*Id.* ¶¶ 4, 34, 38, 43.)

Since the Defaulting Defendants have failed to answer or otherwise plead in this matter, the Court must accept the allegations contained in Celine's Complaint as true. *See* Fed. R. Civ. P. 8(b)(6); *Am. Taxi Dispatch, Inc., v. Am. Metro Taxi & Limo Co.*, 582 F. Supp. 2d 999, 1004 (N.D. Ill. 2008). Celine has pled allegations supporting all of its claims in this case. Accordingly, Celine requests entry of judgment with respect to Counts I and II for willful trademark infringement and counterfeiting of the Celine Trademarks, and for willful false designation of origin against the Defaulting Defendants.

IV. CELINE IS ENTITLED TO A STATUTORY DAMAGES AWARD

A. Statutory Damages Are Appropriate in this Case

Pursuant to the Lanham Act, 15 U.S.C. § 1117(c), a plaintiff in a case involving the use of a counterfeit mark may elect to receive "not less than \$1,000 or more than \$200,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just." 15 U.S.C. § 1117(c)(1). When the counterfeiting is found to be willful, 15 U.S.C. § 1117(c)(2) provides for statutory damages of up to "\$2,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just." 15 U.S.C. § 1117(c)(2).

The lack of information regarding Defaulting Defendants' sales and profits makes statutory damages particularly appropriate in default cases such as this one. *Lorillard Tobacco Co. v. S&M Cent. Serv. Corp.*, 2004 U.S. Dist. LEXIS 22563, at *9, (N.D. Ill. Nov. 5, 2004) (citing S. Rep. No. 177, 104th Cong. 1995). Likewise, Courts have recognized that statutory damages should be awarded without requiring an evidentiary hearing. *See Lorillard Tobacco Co. v. Montrose*

Wholesale Candies & Sundries, Inc., 2008 U.S. Dist. LEXIS 31761, at *11 (N.D. Ill. Apr. 17, 2008).

The statute leaves the determination of the amount of statutory damages to the Court's discretion, providing that the Court may set the statutory damages amount within the range "as the court considers just." 15 U.S.C. § 1117(c). Courts interpreting 15 U.S.C. § 1117(c) have analogized case law applying the statutory damage provision of the Copyright Act contained in 17 U.S.C. § 504(c). See *Lorillard Tobacco Co.*, 2004 U.S. Dist. LEXIS 22563, at *10; *Luxottica USA LLC v. The Partnerships, et al.*, 2015 U.S. Dist. LEXIS 78961, at *5 (N.D. Ill. June 18, 2015); *Sara Lee v. Bags of New York, Inc.*, 36 F. Supp. 2d 161, 166 (S.D.N.Y. 1999).

The Seventh Circuit's standard for awarding statutory damages for copyright infringement under 17 U.S.C § 504(c) is set forth in *Chi-Boy Music v. Charlie Club*, 930 F.2d 1224, 1229 (7th Cir. 1991). Under *Chi-Boy*, a court awarding statutory damages is "not required to follow any rigid formula," but instead "enjoys wide discretion." *Id.* In computing the award amount, a court may consider factors such as "the difficulty or impossibility of proving actual damages, the circumstances of the infringement, and the efficacy of the damages as a deterrent." *Id.* Courts in this District have also considered the significant value of a plaintiff's brand and the efforts taken to protect, promote and enhance that brand in determining the appropriate dollar figure for the award. *Lorillard Tobacco Co.*, 2004 U.S. Dist. LEXIS 22563, at *16. Courts have awarded significant damage amounts where a defendant's counterfeiting activities attracted wide market exposure through Internet traffic or advertisement. See *Coach, Inc. v. Ocean Point Gifts*, 2010 U.S. Dist. LEXIS 59003, *15-16 (D.N.J. Jun. 14, 2010) (significant damage awards in counterfeit cases were "due in part to the wide market exposure that the Internet can provide"); *Burberry Ltd. v. Designers Imports, Inc.*, 2010 U.S. Dist. LEXIS 3605, at *28-29 (S.D.N.Y. Jan. 19, 2010) (damages

amount based, in part, on “Defendant’s ability to reach a vast customer base through internet advertising”).

In similar cases involving willful Internet-based counterfeiting, this Court has awarded statutory damages, including up to the maximum provided by law, to the plaintiff to serve the purposes of: (1) deterring the defendant and others situated like them from bringing into commerce counterfeit goods, (2) compensating the plaintiff for damages caused by defendant’s infringement, and (3) punishing the defendant appropriately for his counterfeiting activities. *See, e.g., Burberry Limited, et al. v. Xie Ji Ping, et al.*, No. 18-cv-07442 (N.D. Ill. Jan. 15, 2019) (unpublished) (awarding \$1,000,000 in statutory damages per defendant); *NBA Properties, Inc., et al. v. Yu Zicheng, et al.*, 19-cv-04412 (N.D. Ill. Oct. 8, 2019) (unpublished) (awarding \$500,000 in statutory damages per defendant); *H-D U.S.A., LLC v. DLLL, et al.*, No. 19-cv-07629 (N.D. Ill. Feb. 18, 2020) (unpublished) (awarding \$500,000 in statutory damages per defendant).¹ Given the Court’s discretion in determining the appropriate amount of the statutory damages award within the statutory limits of 15 U.S.C. § 1117(c), and the facts specific to this case, Plaintiff respectfully requests the Court’s entry of an award of five hundred thousand dollars (\$500,000) per Defaulting Defendant for the reasons set forth below.

B. Defaulting Defendants’ Willful Counterfeiting Supports the Requested Award

Defaulting Defendants’ counterfeiting was willful and, therefore, at a minimum, warrants the requested statutory damages award. “Willful infringement may be attributed to the defendant’s actions where he had knowledge that his conduct constituted infringement or where he showed a reckless disregard for the owner’s rights.” *Lorillard Tobacco Co. v. S & M Cent. Serv. Corp.*, 2004

¹ Copies of unpublished Orders cited herein are attached to the Haarlow Declaration.

LEXIS 22563, at *19-20 (N.D. Ill. Feb. 25, 2005). Knowledge need not be proven directly but can be inferred from a defendant's conduct. *Id.* at *20. As alleged in Celine's Complaint, Defaulting Defendants facilitated sales by designing the e-commerce stores so that they appeared to unknowing consumers to be authorized online retailers, outlet stores, or wholesalers. (Dkt. 1 ¶ 26.) From this, the Court can infer that Defaulting Defendants had knowledge that their activities constituted infringement or at least a reckless disregard for Celine's rights in the Celine Trademarks. (*Id.* ¶¶ 33, 38.) Further, this Court has deemed counterfeiting willful when defendants default. *See Burberry Limited, et al. v. The Partnerships, et al.*, No. 14-cv-08220 (N.D. Ill. Dec. 11, 2014) (unpublished); *Oakley, Inc. v. The Partnerships, et al.*, No. 13-cv-02958 (N.D. Ill. June 17, 2013) (unpublished).

C. **The Value of the Celine Trademarks and Celine's Efforts to Promote, Protect and Enhance the Celine Brand Justify the Requested Award**

In determining an appropriate statutory damage award, this Court should be guided by the *Lorillard* case and consider the "significant value of [the brand] and the efforts taken to protect, promote and enhance [that brand]." *Lorillard Tobacco Co.*, 2004 U.S. Dist. LEXIS 22563, at *16. Celine has expended substantial time, money, and other resources in developing, advertising and otherwise promoting the Celine Trademarks. (Dkt. 1 ¶ 17.) Thus, the requested statutory damages award should be given favorable consideration in view of the value of the Celine brand and the extensive steps being taken by Celine to protect, promote and enhance it. *See Luxottica USA LLC v. The Partnerships, et al.*, 2015 U.S. Dist. LEXIS 78961, at *7-8 (N.D. Ill. June 18, 2015).

D. **Defaulting Defendants' Wide Exposure Over the Internet Merits the Requested Award**

Defendants who operate online attract wide market exposure through Internet traffic and/or advertisement. Defaulting Defendants' wide market exposure over the Internet warrants the

requested statutory damages award. *See H-D U.S.A., LLC v. Guangzhou Tomas Crafts Co., et al.*, 125 U.S.P.Q.2d 1627, 1633 (N.D. Ill. 2017) (awarding \$150,000 in statutory damages, noting “the fact that defendant’s counterfeiting took place online favors a higher statutory damages award because online counterfeiting can reach a much wider audience than counterfeiting through a physical store.”); *Luxottica Grp., S.P.A. v. Li Chen*, No. 16 C 6850, 2017 BL 66235, at *4, 2017 U.S. Dist. LEXIS 29999 (N.D. Ill. Mar. 2, 2017) (summary judgment and awarding \$100,000 in statutory damages “because [defendant] advertised [counterfeit goods] on the internet, allowing for distribution far greater than if it sold the hats in a brick-and-mortar store.”).

E. The Requested Statutory Damages Award Must Sufficiently Deter Defaulting Defendants and Similar Online Counterfeit Sellers

The remedy imposed must provide a sufficient deterrent effect to ensure that the guilty party will not engage in further infringing conduct. *Sands, Taylor & Wood*, 34 F.3d at 1348. In *Phillip Morris USA Inc. v. Marlboro Express*, the Court stated that due to “the size of the potential profit given the quantities of [counterfeit goods] involved, and the need for a substantial deterrent to future misconduct by defendants and other counterfeit traffickers . . . plaintiff is entitled to the maximum statutory award under 15 U.S.C. § 1117(c)(2).” 2005 U.S. Dist. LEXIS 40359, at *28 (E.D.N.Y. Aug. 26, 2005); *see also Luxottica USA LLC v. The Partnerships, et al.*, 2015 U.S. Dist. LEXIS 78961, at *8.

To reach global consumers, counterfeiters advertise, offer for sale, and sell their products via social media platforms and popular e-commerce sites. In the fiscal year 2021 alone, U.S. Customs and Border Protection (“CBP”) “made over 27,000 seizures . . . with an estimated manufacturer’s suggested retail price (MSRP) of over \$3.3 billion, which represents an increase of 152% over the previous Fiscal Year, when goods valued at \$1.3 billion MSRP were seized for IPR [Intellectual Property Rights] violations.” (Dkt. 1 ¶ 21.) China and Hong Kong account for

the majority of counterfeit and pirated goods seized. *Id.* The U.S. Department of Homeland Security's Office of Strategy, Policy, and Plans found in 2020 that counterfeit products account for billions in economic losses, resulting in millions of lost jobs for legitimate businesses. (*Id.* ¶ 23.) As such, the requested statutory damages award is necessary to deter both Defaulting Defendants and other similarly situated online sellers.

V. CELINE IS ENTITLED TO PERMANENT INJUNCTIVE RELIEF

In addition to the foregoing relief, Celine respectfully requests entry of a permanent injunction enjoining Defaulting Defendants from infringing or otherwise violating Celine's registered trademark rights in the Celine Trademarks, similar to the injunctive relief previously awarded by this Court to Celine in the TRO and Preliminary Injunction. Celine requires injunctive relief so it can quickly take action against any e-commerce stores selling Counterfeit Celine Products that are found to be linked to Defaulting Defendants. *See Burberry Limited, et al. v. The Partnerships, et al.*, No. 14-cv-08220 (N.D. Ill. Dec. 11, 2014) (unpublished); *Oakley, Inc. v. The Partnerships, et al.*, No. 13-cv-02958 (N.D. Ill. June 17, 2013) (unpublished).

CONCLUSION

Celine respectfully requests that the Court enter default and default judgment against each Defaulting Defendant, award statutory damages in the amount of five hundred thousand dollars (\$500,000) per Defaulting Defendant pursuant to 15 U.S.C. § 1117(c) and enter a permanent injunction order prohibiting Defaulting Defendants from selling Counterfeit Celine Products and transferring all assets in Defaulting Defendants' financial accounts, including those operated by PayPal, Alipay, DHgate and Amazon, to Celine.

Dated November 25, 2024.

Respectfully submitted,

/s/ John Haarlow, Jr.

Counsel for Plaintiff Celine SA

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CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2024, I will cause the foregoing to be filed electronically with the Clerk of the Court using the CM/ECF system, published on a website, and sent by e-mail to the e-mail addresses identified in Exhibit 2 to the Declaration of Nicolas Lambert and any e-mail addresses provided for Defendants by third parties that includes a link to said website.

/s/ John Haarlow, Jr.

Counsel for Plaintiff Celine SA