

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

FENDI, S.R.L.,

Plaintiff,

v.

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

Case No. 1:24-cv-05629

District Judge April M. Perry

Magistrate Judge Beth W. Jantz

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

Plaintiff Fendi, S.R.L. (“Fendi” or “Plaintiff”) submits its Supplemental Brief 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 to the Complaint (collectively, the “Defaulting Defendants”) and in accordance with the Court’s December 19, 2024 Order (Order, Dkt. 42.)

**STATEMENT OF FACTS**

On July 3, 2024, Fendi filed its Complaint against 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”) (Complaint, Dkt. 1 at ¶ 15.) The full procedural history of this matter is set forth in Fendi’s Brief in Support of its Motion for Entry of Default and Default Judgment. (Dkt. 35.) On December 19, 2024, Fendi participated in a hearing on its Motion for Permanent Injunction and Motion for Entry for Default and Default Judgment. During the hearing, this Court entered a Permanent Injunction against all Defendants who are identified in Schedule A to the Complaint (Dkt. 43.) The Court

also ordered Fendi to file a supplemental brief in support of its request for \$500,000 in statutory damages from each of the 40 remaining defendants. *Id.*

The identity of the Seller Aliases remains unknown as these Defendants have not appeared or otherwise pled in this action. However, the sales data provided by Amazon and DHGate, the web-based hosts of the e-commerce stores operated by the Seller Aliases confirms the enormous breadth of Defendants' counterfeiting efforts throughout the United States. (Declaration of Paul Kossof ¶ 6-10, filed herewith.) As will be explained in further detail below, Defendants have sold thousands of counterfeit Fendi goods throughout the United States, resulting in at least hundreds of thousands of dollars in sales in a short period of time. *Id.* Fendi therefore respectfully requests that the Court utilize the broad discretion afforded by 15 U.S.C. § 1117(c) and award Fendi statutory damages of \$500,000 per Defendant for its willful counterfeiting activities and further order 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 Fendi.

## ARGUMENT

### **I. ENTRY OF DEFAULT JUDGMENT IS PROPER AS THE COURT HAS BROAD DISCRETION TO AWARD FENDI STATUTORY DAMAGES BASED ON THE CIRCUMSTANCES OF THE CASE**

When defendants choose not to appear or produce evidence in defense of their illegal activities, all allegations in the complaint must be taken as true. *Deckers Outdoor Corp. v. Doe*, 2011 WL 4929036 at \*2 (N.D. Ill. Oct. 14, 2011). Rule 55(a) of the Federal Rules of Civil Procedure establishes that a default may be entered by the court "when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend." *Id.* at \*4 (N.D. Ill. Oct. 14, 2011)(citing *Breuer Elec. Mfg. Co. v. Toronado Sys. of Am., Inc.*, 687 F.2d 182, 185

(7<sup>th</sup> Cir. 1982). In cases filed under the Lanham Act and at any time before final judgment is entered, a plaintiff may elect as a recovery option either actual damages caused by the infringement under 15 U.S.C. § 1117(a) or statutory damages allowed under 15 U.S.C. § 1117(c). *Id.* at \*4. Courts routinely find an award of statutory damages appropriate in default judgment cases as the information required to prove the actual damages is in the non-responding infringers' control and has not been disclosed to the victim of the infringement. *Id.* (citing *Microsoft Corp. v. McGee*, 490 F. Supp. 2d 874 (S.D. Ohio 2007); *Chanel, Inc. v. French*, No. 05-61838, 2006 WL 3826780 , \*2 (S.D. Fla. Dec. 22, 2006); *PetMed Express, Inc. v. MedPets.Com, Inc.*, 336 F. Supp. 2d 1213, 1220 (S.D. Fla. 2004); *Tiffany Inc. v. Luban*, 282 F. Supp. 2d 123, 123 (S.D.N.Y. 2003); *Philip Morris USA, Inc. v. Castworld Prods., Inc.*, 219 F.R.D. 494 (C.D. Cal. 2003); *Sara Lee Corp. v. Bags of New York*, 36 F. Supp. 2d 161, 165 (S.D.N.Y. 1999)). Courts have further recognized that statutory damages should be awarded without requiring an evidentiary hearing. *Lorillard Tobacco Co. v. Montrose Wholesale Candies & Sundries, Inc.*, 2008 U.S. Dist. LEXIS 31761, \*11 (N.D. Ill. Apr. 17, 2008).

Here, Fendi seeks an award of statutory damages against each of the Defaulting Defendants for willful trademark infringement and counterfeiting as authorized by 15 U.S.C. § 1117(c)(2). Section § 1117(c)(2) allows a statutory damage award of up to \$2,000,000 per counterfeit mark if the trademark infringement is willful. *Deckers Outdoor Corp.* at \*2. On December 19, 2024, this Court granted Fendi's Motion for Permanent Injunction, determining that the Defendants are liable for willful federal trademark infringement and counterfeiting (Dkt. 43, p.15). Considering this finding, the Court has discretion to order an award of up to \$2,000,000 per counterfeit mark to Fendi. *Id.* at \*4.

As § 1117(c) does not provide guidance on how to select a figure from the possible range of statutory damage awards, courts routinely turn to case law applying the statutory damage provision of the Copyright Act, 17 U.S.C. § 504(c) for a more specific directive. *Id.* at \*5. In awarding damages under the Copyright Act, the Seventh Circuit has routinely held that courts “enjoy wide discretion” and may consider such factors as “the difficulty or impossibility of proving, the circumstances of the infringement, and the efficacy of the damages as a deterrent to future copyright infringement.” *Chi-Boy Music v. Charlie Club*, 930 F.2d 1224, 1229 (7th Cir. 1991)(citing *Publications v. Catholic Bishop of Chicago*, 754 F.2d 216, 219 (7th Cir. 1985); *Harris v. Emus Records Corp.*, 734 F.2d 1329, 1335 (9th Cir. 1984)). Importantly, in cases involving willful infringement, “the statutory damage award may be designed to penalize the infringer and to deter future violations.” *Id.* at 1229 (citing *Illinois Bell Tel. Co. v. Haines & Co.*, 905 F.2d 1081, 1089 (7th Cir. 1990); *International Korwin Corp. v. Kowalczyk*, 850 F.2d 375, 380 (7th Cir. 1988)). As the Court has clear discretion in determining the appropriate amount of a statutory damage award within the statutory limits of 15 U.S.C. § 1117(c), Fendi respectfully requests the Court’s entry of an award of \$500,000 per defaulting Defendant.

II. **FENDI SHOULD BE AWARDED STATUTORY DAMAGES BASED ON DEFENDANTS WILLFUL TRADEMARK INFRINGEMENT AND DEMONSTRATED SALE OF COUNTERFEIT GOODS FOR SUBSTANTIAL PROFIT**

Statutory damages for counterfeiting and trademark infringement are designed to be “remedial in nature” and “protect an important public interest.” *Deckers Outdoor Corp.* at \*5. Defendants in this instance have willfully, repeatedly, and unabashedly engaged in counterfeiting and infringement of the Fendi trademark solely for their own financial gain. According to data provided by Amazon and DH Gate, Defendant sellers have collectively sold at least hundreds of thousands of dollars in product to consumers throughout the United States.

As of the filing of this Supplemental Brief, online sales of counterfeit Fendi jewelry sold on Amazon's platform by only three Seller Aliases total \$38,538.87 (Dec. of Paul Kossof ¶ 6, Ex. 1). These three Seller Aliases were selling one piece of counterfeit Fendi jewelry on each of their e-commerce stores, ranging in price from \$13.00 - \$21.65. *Id.* at ¶ 7. Additionally, online sales of counterfeit Fendi goods sold on DHGate's platform by 41 Seller Aliases total a startling \$383,458.10 for a mere 30 day time period. (*Id.* ¶ 8, Ex. 2). These 41 Seller Aliases were selling one counterfeited Fendi item on each of their e-commerce stores, ranging in price from \$9.99 to well under \$200, signifying that thousands of goods were sold by Defendants in the United States within a short period of time. *Id.* at ¶ 9-10.

As these sales figures pertain only to one counterfeit product per Alias Seller across two U.S. web-based platforms, it is indisputable that the volume of counterfeit Fendi goods sold by these Alias Sellers is much higher as the Defendants typically list multiple counterfeit products across various platforms and under numerous store names. *Id.* at ¶ 10. It is further well known that Defendants will continue to engage in these illegal trademark infringing and counterfeiting practices if they are not deterred by the entry of a significant monetary judgment against them. *Id.* at ¶ 11. Considering the wide latitude afforded the Court in determining the damages to be awarded within the statutory limits of 15 U.S.C. § 1117(c) and the known sales figures generated by the Alias Sellers, entry of an award for the statutory amount of five hundred thousand dollars (\$500,000) per Defaulting Defendant is in line with Seventh Circuit precedent.

III. **RECENT PRECEDENT AFFIRMS FENDI IS ENTITLED TO A STATUTORY DAMAGES AWARD**

This Court routinely awards statutory damages for willful Internet-based counterfeiting for as much as \$1,000,000 per defendant in order to (1) deter the defendant and others situated like them from bringing into commerce counterfeit goods, (2) compensate the plaintiff for damages

caused by defendant's infringement, and (3) punish 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).<sup>1</sup>

In fact, this Court has recently awarded statutory awards in analogous cases involving willful Internet-based counterfeiting filed by Fendi's attorneys. *See Celine, SA v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 23-cv-02652 (N.D. Ill. Jan. 29, 2024); *Celine, SA v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 24-cv-03881 (N.D. Ill. July 10, 2024); *Fendi, S.R.L. v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 24-cv-3895 (N.D. Ill. July 29, 2024); *Celine, SA v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 24-cv-06208 (N.D. Ill. Nov. 14, 2024); *Celine, SA v. The Partnerships and Unincorporated Associations Identified on Schedule "A"*, No. 24-cv-09199 (N.D. Ill. Dec. 4, 2024)<sup>2</sup>. The award of statutory damages in these cases was crucial to deter future misconduct by the defendants and other counterfeit traffickers – precisely what Fendi is seeking in the instant case. It is therefore reasonable that Fendi requests entry of a judgment in the statutory amount of \$500,000 per Defendant to adequately compensate it for damages caused by Defendants'

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<sup>1</sup> Copies of unpublished Orders cited herein are attached to the Haarlow Declaration, Dkt. 36.

<sup>2</sup> Copies of the unpublished Orders cited herein are attached to the Dansdill Declaration.

infringement, further deter Defendant from bringing into commerce counterfeit goods as well as punish Defendant for the counterfeiting activities alleged in the Complaint.

**CONCLUSION**

Fendi 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 an order transferring all assets in Defaulting Defendants' financial accounts, including those operated by PayPal, Alipay, DHgate and Amazon, to Fendi.

Dated January 17, 2025.

Respectfully submitted,

*/s/ Lindsay E. Dansdill* \_\_\_\_\_  
Counsel for Plaintiff Fendi S.R.L.

John Haarlow, Jr. (ARDC #6283018)  
Lindsay E. Dansdill (ARDC #6289316)  
MERCER OAK LLC  
29 North Ada Street  
Chicago, IL 60607  
(872) 248-0601  
[john@merceroaklaw.com](mailto:john@merceroaklaw.com)  
[lindsay@merceroaklaw.com](mailto:lindsay@merceroaklaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on January 17, 2025, 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/ Lindsay E. Dansdill  
Counsel for Plaintiff Fendi S.R.L.