

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-62215-CIV-SINGHAL

SHENZHENJIERMAOYIYOUXIANGONGSI,
A Chinese Corporation,

Plaintiff,

v.

The Partnerships And
Unincorporated Associations
Identified On Schedule "A,"

Defendants. /

ORDER GRANTING MOTION FOR FINAL DEFAULT JUDGMENT

THIS CAUSE is before the Court on Plaintiff Shenzhenjiermaoyiyouxiangongsi's, ("Plaintiff") Motion for Entry of Final Judgment by Default (DE [38]) ("Motion"), filed on May 12, 2023. The Court has carefully considered the Motion, the record in this case, the applicable law, and is otherwise fully advised. For the following reasons, Plaintiff's Motion is granted.

"Rule 55 of the Federal Rules of Civil Procedure establishes a two-step process for obtaining a default judgment. First, when a defendant fails to plead or otherwise defend the lawsuit, the Clerk of Court must enter a clerk's default against the defendant. Second, when the requirements for a clerk-entered default judgment cannot be met under Rule 55(b)(1), the plaintiff must apply to the court for a default judgment under Rule 55(b)(2)." *Cleveland v. JH Portfolio Debt Equities, LLC*, 2020 WL 8167356, at *2 (S.D. Ala. Nov. 23, 2020), *report and recommendation adopted*, 2021 WL 136287 (S.D. Ala. Jan. 13, 2021).

A “defendant’s default alone does not warrant the entry of a default judgment.” *Id.* (citing *Nishimatsu Constr. Co. v. Houston Nat’l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) (“[A] default is not treated as an absolute confession by the defendant of his liability and of the plaintiff’s right to recover.”)). “Rather, a court must ensure there is a sufficient basis in the pleadings for the judgment to be entered.” *Id.* “Entry of default judgment is only warranted when there is a sufficient basis in the pleadings for the judgment entered.” *Surtain v. Hamlin Terrace Foundation*, 789 F.3d 1239, 1245 (11th Cir. 2015). (quotation omitted). The Eleventh Circuit has stated that a default judgment may only be entered where the Complaint is sufficient to withstand a motion to dismiss. *Id.* (“Conceptually, then, a motion for default judgment is like a reverse motion to dismiss for failure to state a claim.”).

On May 10, 2023, a Clerk’s Default was entered against Defendants listed in Schedule “A” to the Complaint as Defendant Nos. 1, 3-35¹ (collectively, “Defaulting Defendants”). (DE [37]). On May 22, 2023, Plaintiff filed the Default Judgment Motion (DE [38]). Defendants subsequently failed to move to set aside the Clerk’s Entry of Default or otherwise respond to the Default Judgment Motion.

The well-pleaded allegations of the Complaint are admitted by virtue of Defendants’ default. The Court finds that Plaintiff’s Complaint (DE [1]) adequately states a claim for federal trademark counterfeiting and infringement and false designation of

¹ Defendants 2, 6, 18, 20, 25, 29, 32, and 36 are excluded from this Motion. Defendant 2 was dismissed on May 26, 2023 (DE [41]); Defendant 20 was dismissed on June 26, 2023 (DE [46]). A consent judgment and permanent injunction was issued against Defendants 25, 29, and 32 on August 11, 2023 (DE [47]). Defendant 6 was dismissed on March 20, 2024 (DE [51]). A consent judgment and permanent injunction was issued against Defendant 18 on March 20, 2024 (DE [52]). Plaintiff directed the Court to exclude Defendant 36 from this order; following this order, Defendant 36 is the only remaining Defendant in this case.

origin, pursuant to 15 U.S.C. §§ 1114, 1116, and 1125(a), and The All Writs Act, 28 U.S.C. § 1651(a). Default judgment against the Defaulting Defendants is, therefore, appropriate.

Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Default Judgment Motion (DE [38]) is **GRANTED**. In accordance with Federal Rule of Civil Procedure 58, final judgment for Plaintiff will be entered separately.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 20th day of March 2024.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished to counsel of record via CM/ECF