

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 12-22057-CIV-SEITZ/SIMONTON

CHANEL, INC.,

Plaintiff,

vs.

7PERFECTHANDBAGS.COM, *et al.*,

Defendants.


**ORDER GRANTING PLAINTIFF'S FOURTH MOTION
FOR ENTRY OF FINAL DEFAULT JUDGMENT AGAINST
DEFENDANTS 215-333 AND CLOSING CASE**





THIS MATTER is before the Court upon Plaintiff's Fourth Motion for Entry of Final Default Judgment Against Defendants 215-333 [DE 207]. Plaintiff, Chanel, Inc. ("Chanel" or "Plaintiff") moves for final default judgment against Defendants 215-333, the Partnerships or Unincorporated Associations identified on Schedule "A" hereto (collectively "Defendants")¹ for alleged violations of the Lanham Act, codified at 15 U.S.C. §§ 1114, 1116, 1121, 1125(a), and 1125(d). As Defendants have failed to appear, plead or otherwise defend this action, and given the documentary evidence submitted in support of its motion, the Court shall grant Plaintiff's Fourth Motion for Final Default Judgment.



¹ Plaintiff's Seventh Amended Complaint [DE 189] filed against Defendants 215-333 included additional Subject Domain Names operated by Defendants 132 and 155, specifically, Subject Domain Names mensjewellerystores.com (Defendant 132) and igogoshopping.com (Defendant 155). Defendant 132 - chanel-necklace.net and Defendant 155 - caps-trade.com a/k/a/ vip-sell.com are subject to the Court's October 28, 2013 Final Default Judgment and Permanent Injunction Against Defendants 67-214. [DE 206, entered on the docket October 29, 2013.] Plaintiff's Fourth Motion for Entry of Final Default Judgment Against Defendants 215-333 requests that this Court enter default judgment against the Subject Domain Names mensjewellerystores.com (Defendant 132) and igogoshopping.com (Defendant 155) identified on Schedule "A" hereto.


I. FACTUAL AND PROCEDURAL BACKGROUND

Chanel, Inc. (“Chanel”) is a corporation duly organized under the laws of the State of New York with its principal place of business in the United States located at Nine West 57th Street, New York, New York 10019. (Seventh Amended Complaint [DE 189 at ¶ 4].) Chanel is engaged in the promotion, distribution, and sale in United States interstate commerce of high quality goods under the Chanel Marks. (Declaration of Adrienne Hahn Sisbarro in Support of Plaintiff’s Eighth *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets Tied to the Counterfeiting Operation (“Hahn Decl.”) ¶¶ 4, 5 [DE 177-1].) Chanel is, and at all times relevant hereto has been, the owner of all rights in and to the following Federally registered trademarks:

Trademark	Registration Number	Registration Date	Class(es)/Goods
CHANEL	0,612,169	September 13, 1955	(Int'l Class: 14) Necklaces
CHANEL	0,626,035	May 1, 1956	(Int'l Class: 18) Women's handbags
CHANEL	0,906,262	January 19, 1971	(Int'l Class: 25) Coats, suits, blouses, and scarves
CHANEL	0,955,074	March 13, 1973	(Int'l Class: 14) Watches
	1,241,264	June 7, 1983	(Int'l Class: 25) Suits, jackets, skirts, dresses, pants, blouses, tunics, sweaters, cardigans, tee-shirts, coats, raincoats, scarves, shoes and boots

Trademark	Registration Number	Registration Date	Class(es)/Goods
CHANEL	1,241,265	June 7, 1983	(Int'l Class: 25) Suits, jackets, skirts, dresses, pants, blouses, tunics, sweaters, cardigans, coats, raincoats, scarves, shoes and boots
	1,347,094	July 9, 1985	(Int'l Class: 3) A full line of perfumery, cosmetics, and toiletries
CHANEL	1,348,842	July 16, 1985	(Int'l Class: 3) Full line of perfumery, cosmetics and toiletries
	1,501,898	August 30, 1988	(Int'l Class: 6) Keychains (Int'l Class: 14) Costume jewelry (Int'l Class: 16) Gift wrapping paper (Int'l Class: 25) Blouses, shoes, belts, scarves, jackets, men's ties (Int'l Class: 26) Brooches, buttons for clothing
CHANEL	1,510,757	November 1, 1988	(Int'l Class: 9) Sunglasses
	1,654,252	August 20, 1991	(Int'l Class: 9) Sunglasses
CHANEL	1,733,051	November 17, 1992	(Int'l Class: 18) Leather goods; namely, handbags, wallets, travel bags, luggage, business and credit card cases, change purses, tote bags, cosmetic bags sold empty, and garment bags for travel
	1,734,822	November 24, 1992	(Int'l Class: 18) Leather goods; namely, handbags, wallets, travel bags, luggage, business card cases, change purses, tote bags, and cosmetic bags sold empty

Trademark	Registration Number	Registration Date	Class(es)/Goods
J12	2,559,772	April 9, 2002	(Int'l Class: 14) -Timepieces; namely, Watches, and Parts Thereof
	3,025,934	December 13, 2005	(Int'l Class: 18) – Handbags
	3,025,936	December 13, 2005	(Int'l Class: 9) Eyeglass frames, sunglasses (Int'l Class: 25) Gloves, swimwear (Int'l Class: 26) Hair accessories namely barrettes
CHANEL	3,133,139	August 22, 2006	(Int'l Class: 14) Jewelry and watches
CHANEL	3,134,695	August 29, 2006	(Int'l Class: 9) Ski goggles, eyeglass frames, mobile phone straps, sunglasses, sunglass parts, cases for spectacles and sunglasses (Int'l Class: 20) Mirrors, namely personal compacts and hand-held mirrors (Int'l Class: 25) Ski boots, sun visors, suspenders, sweatbands, swimwear, stockings and socks (Int'l Class: 26) Hair accessories namely barrettes and pony-tail holders (Int'l Class: 28) Bags specially adopted for sports equipment, basketballs, kites, skis, ski polls, tennis rackets, tennis balls, tennis racket covers, golf clubs, golf bags, snow boards
CHANEL	3,890,159	December 14, 2010	(Int'l Class: 9) Cases for telephones (Int'l Class: 16) Temporary tattoos (Int'l Class: 18) Key cases

Trademark	Registration Number	Registration Date	Class(es)/Goods
	4,074,269	December 20, 2011	(Int'l Class: 9) Protective covers for portable electronic devices, handheld digital devices, personal computers and cell phones (Int'l Class: 16) Temporary tattoos (Int'l Class: 18) Key cases

(the “Chanel Marks”) which are registered on the Principal Register of the United States Patent and Trademark Office and are used in connection with the manufacture and distribution of high quality goods in the categories identified above. (Hahn Decl. ¶ 4; *see also* United States Trademark Registrations of the Chanel Marks at issue (“Chanel Trademark Registrations”) attached as Composite Exhibit A to the Hahn Decl. [DE 177-2])

As set forth more fully in Plaintiff’s Eighth *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining the Transfer of Assets Tied to the Counterfeiting Operation [DE 177]², and the Declarations of Chanel’s representative Adrienne Hahn Sisbarro filed in support of Plaintiff’s Eighth Application for Temporary Restraining Order [DE 177-1], Defendants are promoting, selling, offering for sale and distributing goods bearing counterfeits of Plaintiff’s trademarks within this Judicial District through various fully interactive commercial Internet websites and commercial e-stores in direct contravention of Chanel’s rights.³ (*See* web page printouts from each of the Defendants’ websites

² Plaintiff’s Eighth *Ex Parte* Application for Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets Tied to the Counterfeiting Operations, together with supporting exhibits and declarations are incorporated herein by reference (the “Eighth Application for Temporary Restraining Order”). [DE 177.]

³ Plaintiff’s Statements of Facts regarding its rights and Defendants’ infringing activities are outlined in the Seventh Amended Complaint in Paragraphs 62-87 [DE 189] and in Plaintiff’s

and e-stores showing each Defendants' advertisements and offers to sell counterfeit Chanel branded products attached as Composite Exhibit B to the Hahn Decl. [DE 177-3 through DE 177-9] (hereafter, "Defendants' Websites and E-Stores".) As such, Defendants are the active, conscious, and dominant forces behind the promotion, advertisement, distribution, offering for sale, and sale of handbags, wallets, shoes, boots, belts, scarves, sunglasses, watches, cases for telephones, protective covers for portable electronic devices, including cell phones, cosmetics, and costume jewelry, including necklaces, bracelets, earrings and rings using trademarks which are exact copies of the Chanel Marks (the "Counterfeit Goods"). (Seventh Amended Complaint ¶¶ 7, 56, 71-73, 75-78, 93-94; *see also* Hahn Decl. ¶¶ 9-13, and Defendants' Websites and E-Stores; Declaration of Eric Rosaler in Support of Plaintiff's Eighth *Ex Parte* Application for Temporary Restraining Order (hereafter, "Rosaler Decl.") [DE 177-12 through DE 177-19]; Declaration of Kathleen Burns in Support of Plaintiff's Eighth *Ex Parte* Application for Temporary Restraining Order (hereafter, "Burns Decl.") [DE 177-20 through DE 177-24]; Declaration of Stephen M. Gaffigan in Support of Plaintiff's Eighth *Ex Parte* Application for Temporary Restraining Order (hereafter, "Gaffigan Decl.") ¶¶ 2, 3 [DE 177-25 through 177-28]; *see also* a chart outlining the Registrant and Administrative and Contact information identified on the WHOIS domain registration records for the Group VIII Subject Domain Names attached as Composite Exhibit A to the Gaffigan Decl.)

Plaintiff retained Eric Rosaler ("Rosaler"), an officer of AED Investigations, Inc., a licensed private investigative firm, and Kathleen Burns ("Burns"), a partner of Aries Claims Services, a licensed private investigative firm, to investigate the suspected sales of counterfeit Chanel branded products by the Defendants. (*See* Gaffigan Decl. ¶ 4; Rosaler Decl. ¶ 3; Burns

Eighth Application for Temporary Restraining Order [DE 177] and are incorporated herein by reference.

Decl. ¶ 3.) Rosaler accessed commercial Internet websites operating under certain Group VIII Subject Domain Names, and went through the purchasing process⁴ for various products, most of which bore counterfeits of, at least, one of the Chanel Marks at issue in this action. (*See* Rosaler Decl. ¶ 4].) Following submission of his orders, Rosaler received information for finalizing payment for each of the items ordered via PayPal and/or bank transfer to Defendants' respective PayPal and/or bank accounts. (*Id.*)

Additionally, Burns, accessed the fully interactive commercial e-stores identified on Schedule "A" hereto, and went through the purchasing process for various products, most of which bore counterfeits of, at least, one of the Chanel Marks at issue in this action. (*See* Burns Decl. ¶ 4 and Comp. Ex. A thereto.) Following submission of her orders, Burns received information for finalizing payment for each of the items ordered via PayPal. (*Id.*)

Chanel's representative Adrienne Hahn Sisbarro, accessed the commercial Internet websites bagsdotcome.com, diytrade88.com, nicediytrade.com, mensjewellerystores.com, and hotshoptrade.com, and captured the "Payment" pages providing the bank transfer information for finalizing payments for purchases identifying the bank accounts for each website. (*See* Hahn Decl. ¶ 12 and Comp. Ex. D thereto.)

Ms. Hahn Sisbarro reviewed and visually inspected Defendants' Websites and E-Stores, as well as pictures of items bearing the Chanel Marks offered for sale by Defendants via their Internet websites and e-stores operating under the Group VIII Subject Domain Names and E-Stores, and likewise determined the products were not genuine Chanel goods. (*See* Hahn Decl. ¶ 13].)

⁴ Rosaler intentionally did not finalize his purchases from the Internet websites operating under the remaining Subject Domain Names so as to avoid contributing funds to Defendants' coffers.

On May 23, 2013, Plaintiff filed its *Ex Parte* Motion for Leave to File Seventh Amended Complaint against Defendants 215-333 [DE 170] simultaneously with its Eighth *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets Tied to the Counterfeiting Operation. [DE 171.] On May 30, 2013, Plaintiff filed its Notice of Striking Docket Entry 171 [DE 174] due to the Court's Order Granting Plaintiff's Motion to Amend the Court's Order Granting Second Motion for Alternate Service of Process [DE 165], that required Plaintiff to secure leave for alternate service as to any additional defendants before making applications for temporary restraining orders against those defendants. On June 4, 2013, Plaintiff filed its *Ex Parte* Motion in Further Support of Plaintiff's Motion to Amend the Court's Order Granting Second Motion for Alternate Service and Memorandum of Law in Support Thereof [DE 175], which the Court granted on that same day. [DE 176.] On June 5, 2013, Plaintiff filed its Eighth Application for TRO. [DE 177.] On August 8, 2013,⁵ this Court granted Plaintiff's Eighth Application for TRO [DE 190], and subsequently converted the temporary restraining order into a Preliminary Injunction on August 19, 2013. [DE 195.] The Temporary Restraining Order and Preliminary Injunction required, *inter alia*, PayPal to freeze all accounts and to divert to a holding account for the trust of the Court all funds currently in, or which during the pendency of the Order come in to, Defendants' PayPal accounts. PayPal complied with the requirements of the Court's Orders and restrained the funds related to Defendants, including an identified amount of \$90,937.35. (See Declaration of Stephen M. Gaffigan in Support of Plaintiff's Fourth Motion for Entry of Final Default Judgment (hereafter, "Gaffigan Decl. in Support of Fourth FDJ" ¶ 6.)

⁵ Additionally, on August 8, 2013, the Court entered an Order Granting Plaintiff's *Ex Parte* Motion for Leave to File Plaintiff's Seventh Amended Complaint [DE 188], and the Clerk of Court entered Plaintiff's Seventh Amended Complaint for Damages and Injunctive Relief on the docket that same day. [DE 189.]

Pursuant to the Court's Order Granting Plaintiff's *Ex Parte* Motion in Further Support of Plaintiff's Motion to Amend the Court's Order Granting Second Motion for Alternate Service [DE 176], Plaintiff served each Defendant with a copy of their respective Summons, and copies of the Complaint, First, Second, Third, Fourth, Fifth, Sixth, and Seventh Amended Complaints via e-mail and/or via publication service on August 20, 2013. (See Gaffigan Decl. in Support of Fourth FDJ ¶ 7.) Plaintiff filed the Proofs of Service as to Defendants on August 23, 2013. [DE 197; DE 198.]

Plaintiff filed its Request for Clerk's Entry of Default on September 17, 2013. [DE 201]. On September 18, 2013, the Clerk of Court, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, entered default against Defendants for failure to appear, plead, or otherwise defend this action. [DE 202.] To date, Defendants have not sought to vacate the default or otherwise appear and defend this action. Plaintiff now moves the Court to grant Default Final Judgment against Defendants.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 55(b)(2) authorizes a court to enter a default judgment against a properly served defendant, who, like Defendants here, failed to file a timely responsive pleading. By such a default, all of Plaintiff's well-pled allegations in the Complaint are deemed admitted. See *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987); *Petmed Express, Inc. v. Medpots.com*, 336 F. Supp. 2d 1213, 1217 (S.D. Fla. 2004). If the admitted facts in the Complaint establish liability, then the Court must determine appropriate damages. Where all the essential evidence is on record, an evidentiary hearing on damages is not required. See *SEC v. Smyth*, 420 F.3d 1225, 1232 n. 13 (11th Cir. 2005) ("Rule 55(b)(2) speaks of evidentiary hearings in a permissive tone . . . We have held that no such hearing is required where all

essential evidence is already of record.") (citations omitted); *see also Petmed Express*, 336 F. Supp. 2d at 1223 (entering default judgment, permanent injunction and statutory damages in a Lanham Act case without a hearing). In this case, a hearing on damages is unnecessary as Plaintiff seeks statutory damages and has submitted detailed declarations with accompanying documentary evidence in support of its damages request.

III. LIABILITY

A. Trademark Infringement

The allegations in Plaintiff's Seventh Amended Complaint, in conjunction with record evidence, support a finding of liability against Defendants for trademark infringement. "[T]o prevail on a trademark infringement claim a plaintiff must demonstrate that (1) its mark has priority; (2) defendant used its mark in commerce [without consent]; and (3) defendant's mark is likely to cause consumer confusion." *Petmed Express*, 336 F. Supp. 2d at 1217-18 (citing *Int'l Cosmetics Exch., Inc. v. Gapardis Health & Beauty, Inc.*, 303 F.3d 1243 (11th Cir. 2002) and *Frehling Enter., Inc. v. Int'l Select Group, Inc.*, 192 F.3d 1330 (11th Cir. 1999)). Plaintiff has established each of these elements because: (1) Plaintiff's ownership and registration of the trademarks at issue precede Defendants' infringing conduct (Seventh Amended Complaint ¶ 62; Hahn Decl. ¶ 4); (2) Defendants advertised, offered for sale and/or sold goods bearing Plaintiff's marks in interstate commerce without Plaintiff's consent (Seventh Amended Complaint ¶ 71; *see also* Hahn Decl. ¶¶ 9-13 and Composite Exhibit C attached thereto [DE 177-10]; Rosaler Decl. ¶ 4 and Composite Exhibit A thereto; Burns Decl. and Composite Exhibit A thereto; *see generally* Defendants' Websites and E-Stores attached as Composite Exhibit B to the Hahn Decl.); and (3) the marks used on the goods Defendants advertised, offered for sale and/or sold are so similar to Plaintiff's marks that consumer confusion is likely. (Seventh Amended Complaint ¶¶ 59, 71, 72,

79); *see also* Hahn Decl. ¶¶ 9-13 and Composite Exhibit C attached to the Hahn Decl.; Rosaler Decl. ¶ 4 and Composite Exhibit A thereto; Burns Decl. ¶ 4 and Composite Exhibit A thereto; *see generally* Defendants' Websites and E-Stores attached as Composite Exhibit B to the Hahn Decl.)

B. False Designation of Origin

Plaintiff alleges false designation of origin under § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a). That section provides as follows:

Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which—

(A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities, shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

15 U.S.C. § 1125(a)(1).

The same set of facts allowing Plaintiff to prevail under § 1114(1)(a) will result in recovery under § 1125. *See Babbit Elecs.*, 38 F.3d at 1181 (11th Cir. 1994) (citing *Marathon Mfg. Co. v. Enerlite Prods. Corp.*, 767 F.2d 214, 217 (5th Cir. 1985)); *see also Clairol Inc. v. Save-Way Indus., Inc.*, 210 U.S.P.Q. 459, 469-70 (S.D. Fla. 1980). “This is because Section 1125(a) is broader than Section 1114 in that it covers false advertising or description whether or not it involves trademark infringement.” *Babbit Elecs.*, 38 F.3d at 1181 (citing *Silverstar Enters., Inc. v. Aday*, 537 F. Supp. 236 (S.D.N.Y. 1982)). As with trademark infringement claims, the test

for liability for false designation of origin under § 43(a) is also “whether the public is likely to be deceived or confused by the similarity of the marks at issue.” *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 780, 112 S. Ct. 2753, 763 (1992). As discussed above, Plaintiff has sufficiently shown there is a strong likelihood of confusion that arises because of the use by Defendants of the Chanel Marks. Thus, Plaintiff is entitled to default judgment on its false designation of origin claim.

C. Cybersquatting

The Anticybersquatting Consumer Protection Act (“ACPA”), 15 U.S.C. § 1125(d), imposes liability upon a person for the bad faith intent to profit from a protected mark by registering or using a domain name that is identical or confusingly similar, or dilutive of, that mark. *Petmed Express*, 336 F. Supp. 2d at 1218. To prevail under 15 U.S.C. § 1125(d), Plaintiff must demonstrate that “(1) its mark is distinctive or famous and entitled to protection; (2) the Defendant's domain name is identical or confusingly similar to the Plaintiff's mark; and (3) the Defendant registered or used the domain name with a bad faith intent to profit.” *Bavaro Palace, S.A. v. Vacation Tours, Inc.*, 203 Fed. App'x. 252, 256 (11th Cir. 2006). In this case, the well-pled allegations demonstrate Plaintiff's Marks are distinctive and famous, that the infringing domain names are confusingly similar, and that Defendants registered the cybersquatting domain names with the bad-faith intent to profit from them. As such, Defendants are liable for cybersquatting under 15 U.S.C. § 1125(d).

D. Common Law Unfair Competition

Whether a defendant's use of the plaintiff's trademarks created a likelihood of confusion between plaintiff's and defendant's products is also the determining factor in the analysis of unfair competition under the common law of Florida. *Rolex Watch U.S.A., Inc. v. Forrester*, No.

83–8381–Civ-Paine, 1986 WL 15668, at *3 (S.D. Fla. Dec. 9, 1987) (“The appropriate test for determining whether there is a likelihood of confusion, and thus trademark infringement, false designation of origin, and unfair competition under the common law of Florida, is set forth in *John H. Harland, Inc. v. Clarke Checks, Inc.*, 711 F.2d 966, 972 (11th Cir. 1983.)”) Plaintiff has established there is a likelihood of confusion regarding Defendants’ use of the Chanel Marks on their counterfeit and infringing products. Accordingly, Plaintiff has succeeded on the merits of its common law unfair competition claim.

IV. INJUNCTIVE RELIEF

Plaintiff is entitled to the requested injunctive relief pursuant to 15 U.S.C. § 1116 and 17 U.S.C. § 502. A plaintiff seeking a permanent injunction must demonstrate that (1) it has suffered an irreparable injury; (2) remedies at law, such as monetary damages, are inadequate to compensate for that injury; (3) considering the balance of hardship between plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. *See eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388, 391 (2006).

Here, the well-pled allegations and record evidence demonstrate that Plaintiff has developed goodwill among the consuming public which would be undermined if Defendants are not prohibited from further infringement. Defendants’ counterfeit products will create irreparable harm and confusion, particularly because the counterfeit products bear identical markings as Plaintiff’s genuine merchandise, and are not manufactured to Chanel’s quality standards. Furthermore, Defendants willfully infringed the Chanel Marks and continued to do so even after service of the Complaints in this matter upon them. Such willful conduct demonstrates a likelihood that Defendants would continue to harm Plaintiff’s trademarks if the Court declined to

issue an injunction. *Petmed Express*, 336 F.Supp. 2d 1222-23 (entering permanent injunction under 15 U.S.C. § 1116 to prevent further infringement of federally-protected trademarks).

V. DAMAGES

A. **Statutory Damages for the Use of Counterfeit Marks**

In a case involving the use of counterfeit marks in connection with a sale, offering for sale, or distribution of goods, 15 U.S.C. § 1117(c) provides that a plaintiff may elect an award of statutory damages at any time before final judgment is rendered in the sum of not less than \$1,000.00 and not more than \$200,000.00 per counterfeit mark per type of good. In addition, if the Court finds that Defendant's counterfeiting actions were willful, it may impose damages above the maximum limit up to \$2,000,000.00 per mark per type of good. 15 U.S.C. § 1117(c)(2). A statutory damage award is appropriate in a case where the defendant has defaulted. *See Petmed Express*, 336 F.Supp 2d at 1219-22. Pursuant to 15 U.S.C. § 1117(c), Plaintiff elects to recover an award of statutory damages as to Count I of the Seventh Amended Complaint.

The Court has wide discretion to set an amount of statutory damages. *Id.* at 1219 (citing *Cable/Home Commc'n Corp. v. Network Prod., Inc.*, 902 F.2d 829, 852 (11th Cir. 1990) (concluding that the court's discretion in setting the amount of copyright damages is "wide, constrained only by the specified maxima and minima")). Congress enacted a statutory damages remedy in trademark counterfeiting cases, because evidence of a defendant's profits in such cases is almost impossible to ascertain. *See e.g.*, S. REP. NO. 104-177, pt. V(7) (1995) (discussing purposes of Lanham Act statutory damages.). This case is no exception. Since Defendants have refused to participate in this litigation, Plaintiff has been deprived of the ability to obtain discovery from them.

In this case, Plaintiff is entitled to a statutory award of **\$6,000.00** per Chanel Mark counterfeited (20) per type of goods sold (15 - handbags, wallets, shoes, boots, belts, scarves, sunglasses, watches, cases for telephones, protective covers for portable electronic devices, including cell phones, cosmetics, and costume jewelry, including necklaces, bracelets, earrings and rings). Thus the Court shall award **\$1,800,000.00** in statutory damages pursuant to 15 U.S.C. § 1117.⁶

B. Statutory Damages for Cybersquatting

Plaintiff also seeks damages for violation of the Anticybersquatting Consumer Protection Act. Upon a finding of liability for cybersquatting pursuant to 15 U.S.C. § 1125(d)(1), “the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits, an award of statutory damages in the amount of not less than \$1,000 and not more than \$100,000 per domain name, as the court considers just.” 15 U.S.C. § 1117(d).

Here, Plaintiff seeks statutory damages in the amount of \$10,000.00 for each of the twenty-four (24) domain names violating the provisions of 15 U.S.C. 1125(d)(1) for a total award of \$240,000.00. Defendants’ registration of the Infringing Subject Domain Names⁷ is in bad faith and violates 15 U.S.C. § 1125(d). (Seventh Amended Complaint ¶¶ 80, 107.) In view of Defendants’ intentional, wrongful conduct, the Court finds that Plaintiff’s request is reasonable. *See Taverna Opa Trademark Corp. v. Ismail*, Case No. 08-20776-CIV, 2010 WL 1838384, at *3 (S.D. Fla. May 6, 2010) (awarding \$10,000.00 in statutory damages for domain name at issue). Thus, the Court shall award Plaintiff **\$240,000.00** in statutory damages pursuant to 15 U.S.C. § 1117(d).

⁶ In determining the appropriate damages award, the Court also considered the demonstrated willfulness of Defendants’ infringement.

⁷ The Infringing Subject Domain Names are identified on Schedule “B” hereto.

VI. CONCLUSION


For the reasons stated above, it is hereby

ORDERED THAT

Plaintiff's Fourth Motion for Entry of Final Default Judgment [DE 207] is **GRANTED**.

The Court shall concurrently enter Final Default Judgment against Defendants identified on Schedule "A" hereto.

DONE AND ORDERED in Miami, Florida, this 31st day of January, 2014.



PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: All Counsel of Record

SCHEDULE "A"
DEFENDANTS BY NUMBER AND
GROUP VIII SUBJECT DOMAIN NAMES AND E-STORES

Defendant Number	Defendant/Subject Domain Name and E-Store
132	mensjewellerystores.com
155	igogoshopping.com
215	chaneloutletsaleshop.com
216	4youstyle.com
217	93bab.com
218	aaabags4u.com
219	bagsdotcome.com
220	bijouxchanel.org
221	diy71.com
222	bisangliu.com
223	chanelbagsukmall.com
224	chanelclassicflapbag.com
224	chanelcom.com
224	chanelhandbags2013.com
224	cheapchanelwallet.com
225	chanelnac.org
225	chanelnacspascher.org
225	lessacschanel.com
226	cheapbrandsforsale.com
227	cheapchanelbagsale.org
228	cheapchinashopping.com
229	cheapgrandtrade.net
229	yannashop.com
229	yannatrade.net
230	cheapmax2013.com
231	ouyatrademall2013.com
232	diytrade88.com
232	nicediytrade.com
233	ecgo-shopping.com
234	efoto88.com
234	focushoping.com
235	etradebag.com
236	eurobrands.cc
237	hellochanelbags2013.com

Defendant Number	Defendant/Subject Domain Name and E-Store
238	hotshoptrade.com
239	kikipumps.com
240	louisvuittonredbottomshoes.com
241	lvlouis.com
242	markebags.com
242	buyzshop.com
243	muchbag.com
244	mychanelbags.com
245	very-trade.com
246	purstyles.com
247	selectbags.net
248	shoesdisplaycn.com
248	wholesalereport.com
249	soloffer2008.com
250	france-marque.com
250	thebolsoschanel.info
250	theborsechanel.info
250	thelouisvuittonbolsos.com
250	uhrenmarken1.com
250	vuittonborseonline.com
250	boutiquesfrance.com
250	sacschanelboutiques.org
251	trade778.com
252	ukchanelbags-outlet.com
253	tradeseaside8.com
253	vipvoguelife.com
254	wholesalesmakeups.com
255	fashioncenter365.com
255	mallstock.biz
255	mallstock.co
255	wholesale-jordansshoes.com
256	ebbagg.co
256	ebbaggs.com
256	jessicasbag.com
257	essentialzgroup.com
258	dwinfair.com
259	nnsale.net

Defendant Number	Defendant/Subject Domain Name and E-Store
260	stillcart.com
261	bestreplicabagsonline.com
261	replicabagonsale.com
262	chanel2us.com
262	chanel4us.com
262	chanellcom.com
262	xchanelbags.com
262	xchanelpurses.com
263	comprarboloschanel.com
264	handbagschn.com
265	handbags--store.com
266	scarpechanel.com
267	qsxcvb2010
268	cheapstore168
269	win2010
270	stalker519
271	kulidehk353
272	rayban2011
273	tongfa123
274	xixi2005
275	greatsell
276	virginiafu
277	yy_bo
278	newebay
279	mazhen
280	love2011
281	luckday
282	fallinfashion
283	honesbusiness
284	asics_onitsuka_tiger
285	cheers
286	good wish
287	goodluck2011
288	donglang2010
289	ringaa08
290	likelegantlive
291	superseller518

Defendant Number	Defendant/Subject Domain Name and E-Store
292	fashion888
293	hero
294	numb
295	paypal-seller
296	wholesale-i
297	7stars
298	llkkstyle96188
299	flagship2011
300	yuan5588558
301	vicky-ape
302	company
303	huihuang188
304	yijiaxingsheng
305	xionghao518
306	beijing
307	xuehui988
308	lovelydog
309	amigoodluck
310	kaitoushun518
311	yahoo
312	greatdream510
313	ilovemyhome
314	oudeguaibaobei
315	renshengdeyi
316	dennis2010
317	surprise
318	lishi988
319	binbin125
320	meibin668998
321	edhardy
322	xiayizhan698
323	yibenwanli
324	mary16889
325	great_deal
326	lingfeng19
327	vivi88
328	maotou

Defendant Number	Defendant/Subject Domain Name and E-Store
329	zhe2255188
330	enjoybags888
331	gongxifacai001
332	guolicheng2010
333	gaoshangren88

SCHEDULE "B"
INFRINGEMENT SUBJECT DOMAIN NAMES

Defendant Number	Domain Name
215	chaneloutletsaleshop.com
220	bijouxchanel.org
223	chanelbagsukmall.com
224	chanelclassicflapbag.com
224	chanelcom.com
224	chanelhandbags2013.com
224	cheapchanelwallet.com
225	chanelnac.org
225	chanelnacpascher.org
225	lessnacchanel.com
227	cheapchanelbagsale.org
237	hellochanelbags2013.com
244	mychanelbags.com
250	thebolsoschanel.info
250	theborsechanel.info
250	sacchanelboutiques.org
252	ukchanelbags-outlet.com
262	chanel2us.com
262	chanel4us.com
262	chanellcom.com
262	xchanelbags.com
262	xchanelpurses.com
263	comprarbolsoschanel.com
266	scarpechanel.com