

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

HOMEVESTORS OF AMERICA, INC.,

Plaintiff,

v.

DAVID BECKER D/B/A
DAVEBUYSUGLYHOUSES.COM,

Defendant.

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Civil Action No. 6:18-cv-00893-GKS-TBS

**ORDER ENTERING FINAL DEFAULT JUDGMENT AND PERMANENT
INJUNCTION**

This matter is before the Court on consideration of United States Magistrate Judge Thomas B. Smith’s Report and Recommendation (doc. 14), filed on December 11, 2018, recommending that Plaintiff’s Motion for Entry of Default Judgment against Defendant (doc. 12) be granted.

As of this date, there are no objections to the report and recommendation, and the time for the parties to file such objections has elapsed. After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge’s report and recommendation. 28 U.S.C. § 636(B)(1); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). In the absence of specific recommendations, there is no requirement that a district judge review factual findings de novo. *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1994).

After conducting a careful and complete review of the findings, conclusions and recommendations, and giving de novo review to matters of law, the Court accepts the factual



findings and legal conclusions of the magistrate judge and the recommendations of the magistrate judge.





Accordingly, it is now


ORDERED, ADJUDGED, and DECREED:

- (1) The Report and Recommendation (doc. 14) is accepted and adopted.
- (2) Judgment of liability is entered in favor of Plaintiff as to Counts I and II, and the Court finds that Defendant has engaged in willful trademark/service mark infringement under the Lanham Act, 15 U.S.C. § 1114, and engaged in willful false designation of origin and unfair competition under the Lanham Act, 15 U.S.C. § 1125(a), as to the following United States registered marks belonging to Plaintiff described in Table 1:

Table 1

MARK	REG. NO.	GOODS/SERVICES
 <p>WE BUY UGLY HOUSES. HomeVestors[®]</p>	<p>2,761,385 (Incontestable)</p>	<p>IC 35. Franchising services, namely, offering technical assistance in establishing, operating, marketing and developing franchised businesses that purchase, finance and sell residential real estate.</p>
<p>WE BUY UGLY HOUSES[®]</p>	<p>3,099,814 (Incontestable)</p>	<p>IC 36. Real estate services, namely, real estate brokerage, and providing mortgage, title and home insurance brokerage services.</p>
<p>WE BUY UGLY HOUSES[®]</p>	<p>2,999,705 (Incontestable)</p>	<p>IC 36. Real estate services, namely real estate acquisition, real estate brokerage services and real estate financing services.</p>
 <p>WE BUY UGLY HOUSES <i>and make them</i> NICE <i>again</i></p>	<p>2,827,136 (Incontestable)</p>	<p>IC 35. Franchising services, namely, offering technical assistance in establishing, operating, marketing and developing franchised businesses that purchase, finance and sell residential real estate.</p>

	2,797,429 (Incontestable)	IC 26. Ornamental novelty buttons.
	2,797,374 (Incontestable)	IC 35. Franchising services, namely, offering technical assistance in establishing, operating, marketing and developing franchised businesses that purchase, finance and sell residential real estate.
UGLY'S OK ®	2,794,480 (Incontestable)	IC 35. Franchising services, namely, offering technical assistance in establishing, operating, marketing and developing franchised businesses that purchase, finance and sell residential real estate.
THE UGLIEST HOUSE OF THE YEAR ®	3,641,362 (Incontestable)	IC 35. Organizing and promoting contests for advertising purposes.
	3,641,361 (Incontestable)	IC 35. Organizing and promoting contests for advertising purposes.
THE GOOD, THE BAD AND THE UGLY ®	3,350,752 (Incontestable)	IC 36. Real estate services, namely, purchase, finance, acquisition and brokerage of residential real estate properties for others.
WE BUY THE GOOD, THE BAD AND THE UGLY ®	3,307,918 (Incontestable)	IC 36. Real estate services, namely purchase, finance, acquisition and brokerage of residential real estate properties.
	3,128,574 (Incontestable)	IC 36. Real estate services, namely, real estate acquisition, real estate brokerage services, and real estate financing services.
UG BUYS UGLY HOUSES ®	2,999,978 (Incontestable)	IC 35. Franchising services, namely, offering technical assistance in establishing, operating, marketing and developing franchised businesses that purchase, finance and sell residential real estate.
UG BUYS UGLY HOUSES ®	2,935,916 (Incontestable)	IC 36. Real estate services, namely, real estate acquisition, real estate brokerage services, and real estate financing services.
UGLY OPPORTUNITIES ®	4,313,868 (Incontestable)	IC 35. Franchise consulting services, namely, consultation in connection with marketing and advertising of franchise businesses, franchise lead generation, strategic franchise planning, territory management and franchise sales; concept and brand

		development in the field of franchising; marketing and promotion of franchise sales services; business advisory and consulting services relating to franchise sales; broker referral services in the field of franchises.
UG SELLS UGLY HOUSES ®	4,786,527 (Incontestable)	IC 35. Real estate sales management; sales promotion services; providing web site for investors to access properties for sale. IC 36. Real estate services, namely, real estate brokerage, and providing mortgage, title and home insurance brokerage services; real estate services, namely, real estate acquisition, real estate brokerage services and real estate financing services; real estate consultation, management, brokerage, and leasing services; real estate sales, namely, real estate agency services and real estate listing.
WE SELL UGLY HOUSES ®	4,638,341 (Incontestable)	IC 035. Real estate sales management; sales promotion services; providing web site for investors to access properties for sale. IC 036. Real estate services, namely, real estate brokerage, and providing mortgage, title and home insurance brokerage services; real estate services, namely, real estate acquisition, real estate brokerage services and real estate financing services; real estate consultation, management, brokerage, and leasing services; real estate sales, namely, real estate agency services and real estate listing.
WE SELL UGLY HOUSES, TOO!	86/098,386	IC 35. Real estate sales management; sales promotion services; providing web site for investors to access properties for sale. IC 036. Real estate services, namely, real estate brokerage, and providing mortgage, title and home insurance brokerage services; real estate services, namely, real estate acquisition, real estate brokerage services and real estate financing services; real estate consultation, management, brokerage, and leasing services; real estate sales, namely, real estate agency services and real estate listing.
	86/651988	IC 35. Real estate sales management; sales promotion services; providing web site for investors to access properties for sale. IC 036. Real estate services, namely real estate brokerage, and providing mortgage, title and home insurance brokerage services; real estate services, namely, real estate acquisition, real estate brokerage services and real estate financing services; real estate consultation, management, brokerage, and leasing services; real estate sales, namely real estate agency services and real estate listing.

COMPRAMOS CASAS FEAS ®	2,988,337 (Incontestable)	IC 36. Real estate services, namely, the acquisition and brokerage of residential real property and real estate financing services.
COMPRAMOS CASAS FEAS ®	2,982,363 (Incontestable)	IC 35. Franchising services, namely, offering technical assistance in establishing, operating, marketing and developing franchised businesses that purchase, finance and sell residential real estate.
#WEBUYUGLYHOUSES	5297521	IC 35. Real estate sales management; sales promotion services; franchising services, namely offering technical assistance in establishing, operating, marketing and developing franchised businesses that purchase, finance and sell residential real estate. IC 36. Real estate services, namely, real estate brokerage, and providing mortgage, title and home insurance brokerage services; real estate services, namely, real estate acquisition, real estate brokerage services and real estate financing services; real estate consultation, management, brokerage, and leasing services; providing a website for investors to access listings of real estate properties that are for sale.

(3) The Court issues a permanent injunction against Defendant enjoining him from the following activity:

- i. Using HOMEVESTORS' name-mark, variations on the HOMEVESTORS' name-mark, and any colorable imitations of any of HOMEVESTORS' other registered marks as described in Table 1, above; and from
- ii. Using metatags, source codes, or URLs with any variation of the name mark "HOMEVESTORS" or any variation of HOMEVESTORS' other registered marks as described in Table 1, above;

- iii. Doing any other act or thing likely to confuse, mislead, or deceive others into believing that Defendant, or his services and/or products, are connected with, sponsored or approved by HOMEVESTORS; and
- iv. Assisting, directing, authorizing, ordering, facilitating, aiding, or abetting, whether directly or indirectly, any other individual or entity in engaging or performing any of the activities referenced above.

(4) The Court further directs Defendant to:

- i. Immediately and permanently remove any of the HOMEVESTORS' marks depicted in Table 1, above, or any colorable imitations thereof, from Defendant's website(s), social media, online or print advertisements, or anywhere else in connection with Defendant's business; and
- ii. In accordance with Section 34(a) of the Lanham Act, 15 U.S.C. § 1116(a), Defendant shall file with the Court, and serve upon Plaintiff, within thirty (30) after entry and service on Defendant of an injunction, a report in writing and under oath, setting forth in detail the manner and form in which Defendant has complied with the terms of this Default Judgment.

DONE and ORDERED in Chambers in Orlando, Florida, this 17 day of

[Signature], 2018. 9

[Signature]
THE HONORABLE G. KENDALL SHARP
UNITED STATES DISTRICT COURT JUDGE

Copies to: Counsel of record

Unrepresented Parties