

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 16-60618-CIV-MOORE

FENDI ADELE, S.R.L.,

Plaintiff,

v.

ALEXANDER OTT, *et al.*,

Defendants.

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**ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AND  
PERMANENT INJUNCTION**

THIS CAUSE came before the Court on Plaintiff's Motion for Entry of Final Default Judgment (the "Motion") (ECF No. 45) after the Clerk's Entry of Default (ECF No. 43). Defendants<sup>1</sup> failed to respond to Plaintiff's Motion and the time to do so has passed. The Motion is now ripe for review.

By the instant Motion, Plaintiff seeks permanent injunctive relief and an award of statutory damages against Defendants for Federal Trademark Counterfeiting and Infringement under 15 U.S.C. §1114 of the Lanham Act, False Designation of Origin under 15 U.S.C. §1125(a) of the Lanham Act, Common Law Unfair Competition, and Common Law Trademark Infringement.

The well-pleaded allegations made in Plaintiff's Complaint (ECF No. 1) are deemed to have been admitted by Defendants by virtue of the default entered against them. *Cotton v. Mass. Mut. Life Ins. Co.*, 402 F.3d 1267, 1277–78 (11th Cir. 2005) (citations omitted). Here, Plaintiff alleges that Defendants engaged in the sale or offering for sale of goods which bore marks which are "identical copies" of Plaintiff's trademarks through the Internet based e-commerce

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<sup>1</sup> "Defendants" collectively refers to the Defendants and Seller IDs identified in the attached Schedule A.

marketplace stores operating under the Seller IDs. The Court notes that such marks are within the definition of “counterfeit mark” as used in the Lanham Act. 15 U.S.C. §1116(d)(1)(B)(ii). Thus, the Court finds that Defendants infringed on Plaintiff’s Marks by their use of the counterfeit marks.

Accordingly, UPON CONSIDERATION of the Motion, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Plaintiff’s Motion (ECF No. 45) is GRANTED:

1. It is further ORDERED AND ADJUDGED that, pursuant to Federal Rules of Civil Procedure 55 and 58, Default Final Judgment is hereby entered in favor of Plaintiff and against Defendants as to all Counts of the Complaint.
2. It is further ORDERED AND ADJUDGED that, pursuant to Federal Rule of Civil Procedure 65, Defendants and their officers, agents, servants, employees and attorneys, and all persons acting in concert and participation with them are hereby PERMANENTLY RESTRAINED AND ENJOINED from:
  - a. manufacturing or causing to be manufactured, importing, advertising, or promoting, distributing, selling or offering to sell counterfeit and infringing goods bearing Plaintiff’s trademarks identified in Paragraph 15 of the Complaint (the “FENDI Marks”);
  - b. using the FENDI Marks in connection with the sale of any unauthorized goods;
  - c. using any logo, and/or layout which may be calculated to falsely advertise the services or products of Defendants offered for sale or sold via the Internet websites operating under the Internet based e-commerce stores identified on Schedule “A” hereto (collectively the “Seller IDs”) and/or any other e-commerce marketplace store, seller identity or business, as being sponsored by, authorized by, endorsed by, or in any way associated with Plaintiff;
  - d. falsely representing themselves as being connected with Plaintiff, through sponsorship or association;

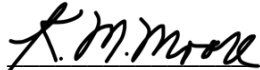
- e. engaging in any act which is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of Defendants offered for sale or sold via the Seller IDs and/or any other e-commerce marketplace store, seller identity, or business, are in any way endorsed by, approved by, and/or associated with Plaintiff;
  - f. using any reproduction, counterfeit, copy, or colorable imitation of the FENDI Marks in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants via the Seller IDs and/or any other e-commerce marketplace store, seller identity, or business;
  - g. affixing, applying, annexing, or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent goods offered for sale or sold by Defendants via the Seller IDs and/or any other e-commerce marketplace store, seller identity, or business, as being those of Plaintiff or in any way endorsed by Plaintiff;
  - h. otherwise unfairly competing with Plaintiff;
  - i. using the FENDI Marks, or any confusingly similar trademarks, within domain name extensions, metatags or other markers within website source code, from use on any webpage (including as the title of any web page), from any advertising links to other websites, search engines' databases or cache memory, and any other form of use of such terms which is visible to a computer user or serves to direct computer searches to websites registered by, owned, or operated by Defendants, including the e-commerce marketplace stores operating under all of the Seller IDs; and
  - j. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth above.
3. It is further ORDERED AND ADJUDGED that Plaintiff is entitled to the following statutory damages in addition to the permanent injunctive relief awarded to Plaintiff:
- a. Plaintiff is awarded \$1,000,000.00 against each Defendant pursuant to 15 U.S.C. § 1117(c), for which let execution issue.
4. All funds currently restrained by Amazon Payments, Inc. ("Amazon") and PayPal, Inc. ("PayPal") pursuant to the preliminary injunction (ECF No. 18) in

this action are to be immediately (within 5 business days) transferred to Plaintiff in partial satisfaction of the monetary judgment entered herein against each Defendant. Amazon and PayPal shall provide to Plaintiff at the time the funds are released, a breakdown reflecting the (i) total funds restrained in this matter per Defendant; (ii) the total chargebacks, refunds, and/or transaction reversals deducted from each Defendant's funds restrained prior to release; and (iii) the total funds released per Defendant to Plaintiff.

5. Plaintiff is awarded interest from the date of this Order, compounded annually pursuant to the provisions of 28 U.S.C. §1961.
6. The Court retains jurisdiction to enforce this Judgment and permanent injunction.
7. It is further ORDERED AND ADJUDGED that the bond posted by Plaintiff in the amount of \$10,000.00 SHALL BE RELEASED by the Clerk of the Court.

The Clerk of the Court is instructed to CLOSE this Case. All pending motions are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 27<sup>th</sup> day of June, 2016.



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K. MICHAEL MOORE  
CHIEF UNITED STATES DISTRICT JUDGE

c: All counsel of record

**SCHEDULE "A"**  
**DEFENDANTS BY SELLER ID AND ASSOCIATED PAYMENT ACCOUNTS**

<b>Def. No.</b>	<b>Seller Display Name</b>	<b>E-Commerce Store Type</b>
1	ALEXANDER OTT	Amazon.com
2	Amanda Presley	Amazon.com
3	Amaz0n Fashion classic case shop	Amazon.com
4	an an	Amazon.com
5	Chaoso Low Best	Amazon.com
6	chenciaodong	Amazon.com
7	DALKDAD	Amazon.com
8	Elliot Rosenau001	Amazon.com
9	Fanqiekuajing E-Commerce Co., Ltd..	Amazon.com
10	If you love me	Amazon.com
11	Janet Perkins	Amazon.com
12	jayson Manssur	Amazon.com
13	Kellycase	Amazon.com
14	Liantou Liu	Amazon.com
15	linxbox	Amazon.com
16	liulangtao	Amazon.com
17	LYL Custom Design	Amazon.com
18	Marjorie Marinelli	Amazon.com
19	meiyi	Amazon.com
20	M-Maz	Amazon.com
21	MOKEY	Amazon.com
22	Rookie Xue Case	Amazon.com
23	Somer Lester Shop	Amazon.com
24	2013service888	eBay.com
25	balevale	iOffer.com
26	hvolkan	iOffer.com
27	idobeautywigs	iOffer.com

**SCHEDULE “B”**  
**DEFENDANTS AND ASSOCIATED PAYMENT ACCOUNTS BY INVESTIGATION**

**1) Kathleen Burns’ Investigation – Purchases via the Seller IDs on Amazon.com**

<b>Def. No.</b>	<b>Seller Display Name</b>	<b>Item Purchased</b>	<b>Seller ID</b>	<b>Infringing Product ASIN</b>
1	ALEXANDER OTT	mobile phone case	A1RCI6NN4NZSZK	B00Y2F8C3Q
2	Amanda Presley	mobile phone case	A2LF7PVGPMAC	B00Y2F6ZKS
3	Amazon Fashion classic case shop	mobile phone case	ABSR8B2TX0JOU	B00XMBXQUK
4	an an	mobile phone case	AD7YOHS1K2IRU	B00XMBXQUK
5	Chaoso Low Best	mobile phone case	AA3BYZPWOMIMA	B015H21DOM
6	chenchadong	mobile phone case	A2TYFX59DW7QJA	B00Y2F6ZKS
7	DALKDAD	mobile phone case	A3MF79H6FS5Z30	B00Y2F6ZKS
8	Elliot Rosenau001	mobile phone case	A231J0EI3FZ400	B00Y2I24D2
9	Fanqiekuajing E-Commerce Co., Ltd..	mobile phone case	A2JQ85728RI9J	B019BBBHDW
10	If you love me	mobile phone case	ASRFLWNIKJEKC	B016NN29ME
11	Janet Perkins	mobile phone case	A22GL9BY4H8YZR	B015GHHJXW
12	jayson Manssur	mobile phone case	AIM1QM07QRNAJ	B0161CN3PE
13	Kellycase	mobile phone case	A2FUWD3QW92QCB	B00Y2F6ZKS
14	Liantou Liu	mobile phone case	A3KOZSNXZVV1M5	B00Y2F6ZKS
15	linxbox	mobile phone case	A176K10U1UFHFF	B00Y2F9RIU
16	liulangtao	mobile phone case	A2BHN5SSJ11PTI	B00Y2F6ZKS

<b>Def. No.</b>	<b>Seller Display Name</b>	<b>Item Purchased</b>	<b>Seller ID</b>	<b>Infringing Product ASIN</b>
17	LYL Custom Design	mobile phone case	A2N99WX6910YV4	B00Y2I4QRY
18	Marjorie Marinelli	mobile phone case	A3BI02KUQ0W33Q	B00Y2F6ZKS
19	meiyi	mobile phone case	A8ZT0XNUEJMTF	B00Y2FBX0K
20	M-Maz	mobile phone case	A2NB16Y8ZT7GTF	B017936WFM
21	MOKEY	mobile phone case	A23ODPNJB0GO1O	B00Y2F6ZKS
22	Rookie Xue Case	mobile phone case	AMHIT0BRZZAAY	B00Y2F6ZKS
23	Somer Lester Shop	mobile phone case	A35X4K5WA48XW4	B01BD0XRRI

**2) Kathleen Burns' Investigation – Purchases via the Seller IDs on eBay.com and iOffer.com**

<b>Def. No.</b>	<b>Seller Display Name</b>	<b>E-Commerce Store Type</b>	<b>Item Purchased</b>	<b>PayPal Account</b>
24	2013service888	eBay	mobile phone case	<a href="mailto:lianganbing@gmail.com">lianganbing@gmail.com</a>
25	balevale	iOffer	tee-shirt	<a href="mailto:gokhanbali@live.com">gokhanbali@live.com</a>
26	hvolkan	iOffer	handbag	<a href="mailto:fbvolkan2@yandex.com">fbvolkan2@yandex.com</a>
27	idobeautywigs	iOffer	Belt	<a href="mailto:ibeautywigs@hotmail.com">ibeautywigs@hotmail.com</a>