

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

JUANREN WU,

Plaintiff,

v.

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

Defendants.

Case No. 26-cv-01515

**Judge April M. Perry**

**Magistrate Judge Gabriel A. Fuentes**

**MEMORANDUM IN SUPPORT OF PLAINTIFF’S MOTION FOR ENTRY OF  
DEFAULT PURSUANT TO FED. R. CIV. P. 55(a) AND MOTION FOR FINAL  
JUDGMENT PURSUANT TO FED. R. CIV. P. 55(b)**

Plaintiff Juanren Wu (“Plaintiff”) by and through its undersigned counsel, seeks entry of default and default judgment as to Defendant Aqur2020 identified on the Second Amended Schedule A (the “Defaulting Defendant”).

**I. BACKGROUND AND PROCEDURAL HISTORY**

1. On April 8, 2026, Plaintiff filed its Second Amended Complaint (the “Complaint”) in the instant civil action, alleging design patent infringement (35 U.S.C. §271) against the Defaulting Defendant. [Doc. 36].

2. On April 10, 2026, Plaintiff served the Defaulting Defendant with the Complaint. [Doc. 41]. The Defaulting Defendant’s Answer was due on May 1, 2026. *Id.*

3. The time allowed for the Defaulting Defendant to respond to the Complaint has expired.

4. By choosing not to participate in this case, the Defaulting Defendant has failed to produce any documents or information for: (1) identifying each and every domain name, online

marketplace account and/or financial account used by the Defaulting Defendant, including the owner and/or operator of each Online Marketplace; (2) showing costs, cost allocations, revenues, and profits of the Defaulting Defendant for the last five (5) years; or (3) relating to each and every purchase that the Defaulting Defendant has made relating to the Patented Design and/or the Infringing Products, records of steps taken by the Defaulting Defendant to determine whether such products were new or genuine, and investigation records regarding purchase of the Infringing Products, including the identity of the person(s) responsible for such investigation. *See* Declaration of William J. Hausman (“Hausman Dec.”) at ¶8.

5. Limited information provided by Amazon for the Defaulting Defendant indicates that the Defaulting Defendant currently has \$17,305.40 in its Amazon account. Additionally, the limited information provided by Amazon indicates that the known revenue generated by the Defaulting Defendant from the sale of the specific Infringing Product is up to at least \$40.13. Hausman Dec. at ¶9. Plaintiff does not have any infringing sales information for other potential Infringing Products sold by the Defaulting Defendant.

6. Plaintiff is informed and believes that the Defaulting Defendant is not considered an infant or incompetent person. *See* Hausman Dec. at ¶10.

7. Plaintiff is informed and believes that the Service Members Civil Relief Act does not apply. *Id.*

8. Plaintiff respectfully requests that an entry of default under Fed. R. Civ. P. 55(a) be entered, as well as an order of final judgment under Fed. R. Civ. P. 55(b). Plaintiff respectfully requests for the entry of a final judgment under Fed. R. Civ. P. 55(b) finding that the Defaulting Defendant is liable for infringement of Plaintiff’s federally registered design patent, No. US-D1,049,230-S. Plaintiff further seeks an order that the greater amount between the revenue in the

Defaulting Defendant's Amazon account and the known infringing product revenue be awarded to Plaintiff. Plaintiff further seeks entry of a permanent injunction prohibiting the Defaulting Defendant from selling Infringing Products.

## **II. SUMMARY OF THE ARGUMENT**

Jurisdiction and venue are proper in this court. Plaintiff has met the requirements for default and for an entry of final judgment. Plaintiff is entitled to an award of damages for willful design patent infringement. A high damages award is appropriate and just. A permanent injunction must be granted to prevent any further acts of design patent infringement by the Defaulting Defendant.

## **III. ARGUMENT**

### **A. Jurisdiction and Venue are Proper in This Court**

This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Patent Act, 35 U.S.C. § 1, et seq., 28 U.S.C. § 1338(a), and 28 U.S.C. § 1331. [Doc. 36 at ¶1]. Venue is proper in this Court under 28 U.S.C. § 1391. *Id.* at ¶5-6. This Court may properly exercise personal jurisdiction over the Defaulting Defendant since the Defaulting Defendant directly targets business activities toward consumers in the United States, including Illinois, through at least the fully interactive, commercial Internet stores operating under the Defaulting Defendant. *Id.* at ¶2-3; *uBID, Inc. v. GoDaddy Grp., Inc.*, 623 F.3d 421, 423-24 (7th Cir. 2010) (without the benefit of an evidentiary hearing, the plaintiff bears only the burden of making a prima facie case for personal jurisdiction; all of plaintiff's asserted facts should be accepted as true and any factual determinations should be resolved in its favor). Through the fully interactive commercial Defendant's Internet Stores, upon information and belief, Illinois residents can purchase products from the Defaulting Defendant that are sold and advertised in listings for sale utilizing Plaintiff's registered design patent without authorization.

**1. Plaintiff Meets the Requirements for Fed. R. Civ. P. 55(a) Entry of Default**

On April 10, 2026, Plaintiff served the Complaint on the Defaulting Defendant. [Doc. 41]. Plaintiff is informed and believes that the Defaulting Defendant is not considered an infant or incompetent person. *See* Hausman Dec. at ¶10. Plaintiff is informed and believes that the Service Members Civil Relief Act does not apply. *Id.* The time allowed for the Defaulting Defendant to respond to the Complaint has expired. Neither Plaintiff nor the Court has granted the Defaulting Defendant an extension of time to respond to the Complaint. The Defaulting Defendant has failed to answer or otherwise respond to the Complaint and failed to serve a copy of an Answer or other response upon Plaintiff's attorney of record. This Court should enter default under 55(a).

**2. Plaintiff Meets the Requirements for Fed. R. Civ. P. 55(b) Entry of Final Default Judgment**

Rule 55(b)(2) of the Federal Rules of Civil Procedure provides for a court-ordered default judgment. A default judgment establishes, as a matter of law, that Defendant is liable to Plaintiff on each cause of action alleged in the complaint. *United States v. Di Mucci*, 879 F.2d 1488, 1497 (7th Cir. 1989). When the Court determines that a defendant is in default, the factual allegations of the complaint are taken as true and may not be challenged, and the defendant is liable as a matter of law as to each cause of action alleged in the complaint. *Black v. Lane*, 22 F.3d 1395, 1399 (7th Cir. 1994).

As noted above, Plaintiff served the Complaint on April 10, 2026. [Doc. 41]. The May 1, 2026 deadline set by the Court for the Defaulting Defendant to file an Answer or otherwise respond to the Complaint has passed. *See* Fed. R. Civ. P. 12(a)(1)(A). Accordingly, default judgment is appropriate. Pursuant to 35 U.S.C. § 289, Plaintiff requests an award of the Defaulting Defendant's profits resulting from the design patent infringement. Plaintiff also seeks entry of a permanent

injunction prohibiting the Defaulting Defendant from making, using, offering, for sale, selling, and importing into the United States Infringing Products. As the Defaulting Defendant's available product revenue information is limited, Plaintiff requests that the greater amount between the restrained funds and the known infringing product revenue be awarded to Plaintiff.

The United States Patent Act provides that “whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefore, infringes the patent.” 35 U.S.C. § 271(a). Plaintiff alleged in its Complaint that it is the owner of all right, title, and interest in and to the Paint Pen Patent. [Doc. 36 at ¶6]. Plaintiff has also alleged that the Defaulting Defendant makes, uses, offers for sale, sells, and/or imports into the United States for subsequent sale or use Infringing Products that infringe directly and/or indirectly the ornamental design claimed in the Paint Pen Patent. *Id.* at ¶29. Exhibit 3 to the Declaration of Juanren Wu demonstrates that an ordinary observer would be deceived into thinking that the Infringing Products were the same as the design embodied in the Paint Pen Patent. [Doc. 23]. *See Competitive Edge, Inc. v. Staples, Inc.*, 763 F. Supp. 2d 997, 1011 (N.D. Ill. 2010) (citing *Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665, 672 (Fed. Cir. 2008)). Finally, Plaintiff has alleged that it has not licensed or authorized the Defaulting Defendant to use the Paint Pen Patented Design, and the Defaulting defendant is not an authorized retailer of genuine Plaintiff products. [Doc. 36 at ¶¶13, 25].

Since the Defaulting Defendant has failed to answer or otherwise plead in this matter, the Court must accept the allegations contained in Plaintiff's Complaint as true. *See Fed. R. Civ. P.* 8(b)(6); *Am. Taxi Dispatch, Inc., v. Am. Metro Taxi & Limo Co.*, 582 F. Supp. 2d 999, 1004 (N.D. Ill. 2008). Accordingly, Plaintiff requests entry of a judgment finding the Defaulting Defendant liable for design patent infringement.

**B. Plaintiff is Entitled to the Defaulting Defendant's Profits, but not Less Than \$250, Pursuant to 35 U.S.C. § 289.**

In the case of design patent infringement, a patentee may recover the total profits made by a defendant under 35 U.S.C. § 289. Section 289 provides that “[w]hoever during the term of a patent for a design, without license of the owner, (1) applies the patented design, or any colorable imitation thereof, to any article of manufacture for the purpose of sale, or (2) sells or exposes for sale any article of manufacture to which such design or colorable imitation has been applied shall be liable to the owner to the extent of his total profit, but not less than \$250.” 25 U.S.C. § 289.

Determining an award under Section 289 involves two steps: “First, identify the ‘article of manufacture’ to which the infringed design has been applied. Second, calculate the infringer’s total profit made on that article of manufacture.” *Samsung Elecs. Co. v. Apple, Inc.*, 137 S. Ct. 429, 434 (2016). The plaintiff has the initial burden to show the article of manufacture and the defendant’s total profit on that article. *Nordock, Inc. v. Systems, Inc.*, Case No. 11-cv-00118, 2017 WL 5633114, at \*3 (E.D. Wisc. Nov. 21, 2017). However, if the defendant believes that the article of manufacture is different, it has the burden to produce evidence showing the article of manufacture. *Id.* The defendant also has the burden to produce evidence as to any deductions from the total profit identified by plaintiff. *Id.* The Seventh Circuit has made it clear that:

The burden is the infringer’s to prove that his infringement had no cash value in sales made by him. If he does not do so, the profits made on sales of goods bearing the infringing mark properly belong to the owner of the mark. There may well be a windfall to the trademark owner where it is impossible to isolate the profits which are attributable to the use of the infringing mark. But to hold otherwise would give the windfall to the wrongdoer.

*WMS Gaming, Inc. v. WPC Prods. Ltd.*, 542 F.3d 601, 608 (7th Cir. 2008) (citing *Mishawaka Rubber & Woolen Mfg. Co. v. S.S. Kresge Co.*, 316 U.S. 203, 206-07, 62 S. Ct. 1022, 86 L. Ed. 1381, 1942 Dec. Comm’r Pat. 767 (1942)). “Although § 289 does not explicitly impose any burden

on the defendant, this shift in the burden of production is consistent with the disgorgement of profits in other contexts.” *Nordock*, 2017 WL 5633114, at \*3. “[Patent holders] are entitled to an award best approximating their actual loss, and the infringers must bear the burden of uncertainty.” *In re Mahurkar Double Lumen Hemodialysis Catheter Patent Litigation*, 831 F. Supp. 1354, 1388 (N.D. Ill. 1993) (citations omitted).

In cases where defendants have failed to produce documents to characterize revenue, courts have entered a profits award for the entire revenue amount. *See Bergstrom v. Sears, Roebuck and Co.*, 496 F. Supp. 476, 497 (D. Minn. 1980) (“The burden of establishing the nature and amount of these costs, as well as their relationship to the infringing product, is on the defendants.”); *see also WMS Gaming*, 542 F.3d at 608 (“The burden was therefore on PartyGaming to show that certain portions of its revenues... were not obtained through its infringement of WMS’s marks.”); *Chole v. Queen Bee of Beverly Hills*, Case No. 06-cv-03140, 2009 U.S. Dist. LEXIS 84133, at \*15-17 (S.D.N.Y. Jul. 16, 2009) (entering profits award for the entire revenue amount in a trademark infringement case even though “records offer no guidance as to how much of this revenue stream related to [Plaintiff’s] products [as opposed to other products not at issue in this case] or as to the costs incurred in acquiring and selling these products”). Under normal circumstances, it is the infringer who bears the burden of “offering a fair and acceptable formula for allocating a given portion of overhead to the particular infringing items in issue.” *Deckers Outdoor Corp. v. ShoeScandal.com, Ltd. liability Co.*, Case No. 12-cv-07382, 2013 WL 6185203, at \* (C.D. Cal. Nov. 25, 2013) (quoting *Sunbeam Prods., Inc. v. Wing Shing Prods. (BVI) Ltd.*, 311 B.R. 378, 401 (S.D.N.Y. 2004) *aff’d*, 153 F. App’x 703 (Fed. Cir. 2005)). “But if the infringer has failed to produce any evidence... the Court must determine the costs to be subtracted from

revenue based on the evidence it has to determine profits.” *See Nike, Inc. v. Wal-Mart Stores, Inc.*, 138 F.3d 1437, 1447 (Fed. Cir. 1998).

Here, Plaintiff claims “[t]he ornamental design for a paint pen tip, as shown and described.” [Doc. 36-1]. In the case of a design for a single-component product, such as the Paint Pen Patented Design, the “product is the article of manufacture to which the design has been applied.” *Samsung*, 137 S. Ct. at 367. As such, the relevant article of manufacture is the Infringing Product sold by the Defaulting Defendant.

Since the Defaulting Defendant has chosen not to participate in these proceedings, Plaintiff has limited available information regarding the Defaulting Defendant’s profits from the sale of Infringing Products. The Defaulting Defendant has failed to appear in this matter and has not produced any documents or information: (1) characterizing each of the transactions in its financial accounts; (2) the nature and amount of costs, if any, as well as their relationship to the Infringing Products; or (3) other Internet stores that they may be operating and other financial accounts that they accept payment for sale of Infringing Products. As such, the Defaulting Defendant has not met its burden to apportion gross receipts between infringing and non-infringing product sales, or to show any deductions. *WMS Gaming*, 542 F.3d at 601; *Nordock*, 2017 WL 5633114, at \*3.

Since the Defaulting Defendant has not met their burden of apportioning gross sales or showing any deductions, the Court should award the amount of \$6,356.16 in the Defaulting Defendant’s Amazon account, since the full extent of infringing product revenue is unknown. *See* 35 U.S.C. § 289; *Oakley, Inc. v. The P’ships, et al.*, Case No. 20-cv-02970 (N.D. Ill. Oct. 26, 2020) [Doc. 61] (“Although the information about defendants’ profits and revenues is sparse and there is the possibility that the restrained funds were generated by non-infringing sales, the court concludes that plaintiff’s efforts provide the best available measure of profits.”); *Mosse Labs LLC*

*v. The P'ships, et al.*, Case No. 22-cv-04227 (N.D. Ill. Dec. 5, 2022) [Doc. 43] (“Accordingly, and because no defendant has appeared to rebut the presumption that the contents of defendants’ financial accounts are profits from infringing activity, plaintiff’s request for damages is granted.”) The limited information provided by Amazon for the Defaulting Defendant indicates that the amount currently in the Defaulting Defendant’s known financial accounts is \$6,356.16. Hausman Dec. at ¶9. However, the limited Infringing Product revenue information available to Plaintiff only includes revenue figures for a single product having a unique product identification number. Because the Defaulting Defendant has failed to participate in the proceedings, Plaintiff is unable to obtain complete information regarding additional e-commerce stores owned by the Defaulting Defendant and additional products sold by the Defaulting Defendant that infringe on the Paint Pen Patent. Further, Plaintiff is unable to obtain information regarding what portion of the amount currently contained in the Defaulting Defendant’s accounts are proceeds from the sale of Infringing Products.

**C. Plaintiff is Entitled to Permanent Injunctive Relief**

In addition to the foregoing relief, Plaintiff respectfully requests entry of a permanent injunction enjoining the Defaulting Defendant from infringing or otherwise violating Plaintiff’s rights in the Paint Pen Patent. Plaintiff is also entitled to injunctive relief so it can quickly take action against any new e-commerce stores that are identified, found to be linked to the Defaulting Defendant, and selling Infringing Products. *See, e.g., Tuf-Tite, Inc. v. Fed. Package Networks, Inc.*, Case No. 14-cv-02060, 2014 WL 6613116, at \*8 (N.D. Ill. Nov. 21, 2014); *Scholle Corp. v. Rapak LLC*, 35 F. Supp. 3d 1005, 1009 (N.D. Ill. 2014); *Nike, Inc. v. Fujian Bestwinn Industry Co., Ltd.*, 166 F. Supp. 3d 1177, 1178-79 (D. Nev. 2016).

#### IV. CONCLUSION

Plaintiff respectfully requests that the Court enter default judgment against the Defaulting Defendant and award the greater amount between the amount contained in the Defaulting Defendant's Amazon account and the known infringing product revenue, but no less than \$250, be awarded to Plaintiff. Furthermore, Plaintiff respectfully requests that the Court enter a permanent injunction order prohibiting the Defaulting Defendant from selling Infringing Products.

Respectfully Submitted this 15th of May, 2026.

*/s/ William Hausman*  
Bar No. 6353083  
Ford Banister LLC  
305 Broadway – Floor 7  
New York, NY 10007  
Telephone: +1 (212) 500-3268  
Email: [whausman@fordbanister.com](mailto:whausman@fordbanister.com)  
*Counsel for Plaintiff*