

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STANDARD PROCESS INC.,

Plaintiff,

v.

STEPHEN DIAZ, et al.,

Defendant.

OPINION AND ORDER

20-cv-373-wmc

In this lawsuit, plaintiff Standard Process Inc. (“Standard Process”) asserts various claims against Stephen Diaz under the Lanham Act and state common law. (Dkt. #1.) The claims all arise out of Diaz’s alleged misappropriation of Standard Process’s trademarks in conjunction with the unauthorized sale of Standard Process’s products online. Diaz failed to appear, plead, or otherwise defend against this lawsuit, and the clerk’s office entered default judgment against him. (Dkt. #15.) Before the court is plaintiff’s motion for default judgment, in which it seeks a permanent injunction barring Diaz from continuing to sell materially different products bearing trademarks owned by Standard Process. (Dkt. #16.) Plaintiff does not seek monetary damages in this motion. The court held a telephonic hearing on plaintiff’s motion on August 19, 2020, at which Standard Process appeared through counsel. Defendant failed to participate.

With default having already been entered against Diaz, the court accepts as true all of the factual allegations in the complaint, except those relating to the relief plaintiff seeks. *In re Catt*, 368 F.3d 789, 793 (7th Cir. 2004). As noted at today’s hearing, plaintiff has set forth its factual basis for entry of a permanent injunction. (Dkt. #16.) Without recounting them here, the court accepts those facts as true, and finds that the Lanham Act

and Wisconsin state law provides a legal basis for granting the requested relief. *See Standard Process, Inc. v. AVC Infinite*, No. 18-cv-849 (W.D. Wis. Jan. 9, 2020); *Standard Process, Inc. v. Galeev*, No. 19-cv-710 (W.D. Wis. Mar. 10, 2020). Still, as the court explained in entering relief in those other *Standard Process* cases, which were brought against similar unauthorized resellers, the court will limit some of the injunctive relief to a period of five years.

ORDER

IT IS ORDERED that:

- 1) Plaintiff's motion for permanent injunction and default judgment (dkt. #16) is GRANTED.
- 2) The clerk's office is directed to enter final judgment as follows:

Defendant and any of his employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns, other entities owned or controlled by Diaz, and all those acting in concert with Diaz or on Diaz's behalf (collectively, the "Enjoined Parties"), are:

- a. ENJOINED for five years from:
 - i. distributing, circulating, selling, offering to sell, advertising, promoting, or displaying, via the Internet or otherwise, any Standard Process products or products bearing Standard Process trademarks.
 - ii. using Standard Process trademarks in any manner, including advertising on the Internet.
- b. In addition, the Enjoined Parties SHALL take all actions needed to remove Standard Process trademarks and any reference to Standard Process products from any website owned by, operated by, or associated with the Enjoined Parties. These actions include but are not limited to removing all Standard Process products and trademarks from any Amazon storefronts owned by, operated by, or associated with the Enjoined Parties, including but not limited to the Amazon storefront with Amazon Merchant ID A3DJLQ5D6BEDP, the storefront called

“Pineapple Petes,” and any other renamed or substantially similar storefront.

Entered this 19th day of August, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge