

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA**

**Obesity Research Institute, LLC v. Sunrise Selections LLC, et al.**

Obesity Research Institute · No. 3:25-cv-00877-BJC-AHG · Decided November 4, 2025

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**OPINION**

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF  
CALIFORNIA 10 11 OBESITY RESEARCH INSTITUTE, Case No.: 3:25-cv-00877-BJC-AHG  
LLC, 12 ORDER GRANTING PLAINTIFF’S Plaintiff, 13 EX PARTE APPLICATION FOR v.  
LEAVE TO SERVE THIRD-PARTY 14 SUBPOENA PRIOR TO A RULE SUNRISE  
SELECTIONS LLC, et al., 15 26(f) CONFERENCE Defendants. 16 [ECF No. 39] 17 18 Before  
the Court is Plaintiff Obesity Research Institute, LLC’s (“Plaintiff”) Ex Parte 19 Application for  
Leave to Serve Third Party Subpoena Prior to a Rule 26(f) Conference.

20 ECF No. 39. No opposition briefs have been filed. See also ECF No. 39 at 2 (Plaintiff 21  
contacted Amaz Group and counsel for Sunrise Selections regarding the instant ex parte 22  
application, and “Defendant Sunrise Selections’ counsel has not contacted Plaintiff 23 regarding  
this Application. Defendant Amaz Group has not contacted Plaintiff regarding 24 this  
Application”).

For the reasons discussed below, the Court GRANTS Plaintiff’s ex 25 parte application. 26 I.  
BACKGROUND 27 On April 14, 2025, Plaintiff filed a Complaint against Defendants Sunrise  
Selections 28 LLC, Amaz Group LLC, Leoris Holdings LLC, BuyGoods Inc., and Does 1–100 1  
(collectively, “Defendants”). ECF No. 1. Plaintiff asserts that Defendants are infringing 2 their  
trademarks for “Lipozene” and using marks confusingly similar to it and, thus, are 3 engaging in  
unfair competition.

Id. at 2; see id. at 1–2 (alleging violations of the Lanham 4 Act and California Business &  
Professions Code § 17200). For example, “Plaintiff became 5 aware that Defendants were selling  
health supplement products via online platforms using 6 the name Lipozem, Lipo-zem, Lipozeme,  
and Lipo-zeme, causing consumer confusion and 7 damage to Plaintiff’s protected name.” ECF  
No. 15 at 2.

8 On April 18, 2025, Plaintiff served Defendant Amaz Group LLC (“Amaz Group”) 9 with the  
summons and complaint. ECF No. 10. Defendant did not file a responsive pleading 10 by the  
applicable deadline. See FED. R. CIV. P. 12(a)(1)(A)(i) (a defendant must serve an 11 answer or  
responsive pleading within 21 days of service of the summons and complaint). 12 On August 11,  
2025, pursuant to Plaintiff’s request, the Clerk entered default against 13 Amaz Group.

ECF Nos. 29, 30. 14 Plaintiff thereafter filed the instant motion for early discovery, seeking financial and 15 sales information from Amazon regarding Amaz Group's sale of infringing products from 16 their online storefronts. ECF No. 39. Plaintiff explains that, "[b]y serving a subpoena on 17 Amazon.com seeking this information, Plaintiff will be able to connect additional 18 storefronts and ASINs to Amaz, collect any damages awarded by the Court, and enforce 19 any injunctive relief granted by the Court against the entities responsible for the infringing 20 conduct." Id. at 6.

Plaintiff contends that expedited discovery is necessary because it has 21 been unable to hold the Rule 26(f) conference and initiate discovery as Amaz Group has 22 failed to appear. Id. at 12–14. Plaintiff asserts that the only way that it can obtain discovery 23 regarding damages to support its motion for default judgment is through issuance of a 24 subpoena to Amazon.

Id. 25 II. LEGAL STANDARD 26 A party is generally not permitted to obtain discovery without a court order before 27 the parties have conferred pursuant to Federal Rule of Civil Procedure 26(f). FED. R. CIV. 28 P. 26(d)(1). A party who requests early or expedited discovery must make a showing of 1 good cause. See *Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D.

273, 275–76 (N.D. 2 Cal. 2002) (applying "the conventional standard of good cause in evaluating Plaintiff's 3 request for expedited discovery"). Good cause is established through a balancing test 4 "where the need for expedited discovery, in consideration of the administration of justice, 5 outweighs the prejudice to the responding party." Id. at 276. 6 Good cause for expedited discovery is frequently found in cases in which a defendant 7 has failed to appear, resulting in the entry of default against the defendant, and the plaintiff 8 seeks discovery to establish liability or calculate damages in pursuit of default judgment.

9 See, e.g., *Nintendo of Am. v. Williams*, No. 2:24-cv-960-LK, 2024 WL 5108471, at \*2 10 (W.D. Wash. Dec. 13, 2024) (collecting cases); *Kraho GmbH v. Overlord Ltd.*, No. 19-cv- 11 04050-AB-KSx, 2019 WL 8064249, at \*2 (C.D. Cal. Dec. 20, 2019) (collecting cases); 12 *Twitch Interactive, Inc. v. Johnston*, No. 16-cv-03404-BLF, 2017 WL 1133520, at \*1–\*4 13 (N.D. Cal. Mar.

27, 2017); *Adobe Sys. Inc. v. Bunhey*, No. 5:13-cv-01365-VAPOP, 2013 14 WL 12140304, at \*1–\*2 (C.D. Cal. Oct. 29, 2013). 15 III. DISCUSSION 16 Here, as noted above, the Clerk has entered the default of Amaz Group based upon 17 its failure to plead or otherwise defend in this action as directed in the summons and as 18 provided in the Federal Rules of Civil Procedure.

A plaintiff who prevails on a trademark 19 infringement claim may in some circumstances recover damages in the form of the 20 defendant's profits. 15 U.S.C. § 1117(a); see *Nutrition Distribution LLC v. Ironx LLC*, No. 21 17-cv-839-JLS-JMA, 2017 WL 4391709, at \*1–\*2 (S.D. Cal. Oct. 3, 2017) (granting 22 motion for early discovery and explaining that "[t]rademark infringement plaintiffs may 23 recover (1) defendant's profits; (2) damages sustained by the plaintiff; and (3)

the costs of 24 the action. [] Plaintiffs must meet a heightened level of proof of injury to recover money 25 damages.”) (internal citations omitted).

26 The instant motion seeks discovery from Amazon relating to transactions involving 27 the infringing items during the relevant time period. Such information is relevant to the 28 calculation of Plaintiffs’ damages in the form of Defendants’ revenue. ECF No. 39-1 at 13 1 (“The purpose of the subpoena to Amazon is to identify the online storefronts Amaz has 2 used to sell infringing products so that they can be encompassed within Plaintiff’s 3 requested injunctive relief, and to prove the specific dollar amounts of Amaz’s sales of 4 infringing products through the sales records acquired from Amazon.com.

This 5 information is solely within Amaz and Amazon.com’s control and Plaintiff will not be able 6 to otherwise obtain this information short of serving discovery to Amazon.com because 7 Amaz has defaulted”). However, since Amaz Group has refused to participate in this 8 action, Plaintiff has effectively been precluded from engaging in a Rule 26(f) conference 9 and cannot conduct traditional discovery.

Id. at 14. In light of the foregoing, the Court finds 10 that Plaintiff has established good cause to warrant expedited discovery to obtain evidence 11 of Amaz Group’s online sales of infringing items in order to support an anticipated motion 12 for entry of default judgment and claim for damages. See *Jesse Steele, Inc. v. Henderson*, 13 No. 17-cv-2179-RS-DMR, 2017 U.S. Dist.

LEXIS 142167, at \*5–\*8 (N.D. Cal. Sept. 1, 14 2017) (granting motion for early discovery, where plaintiff, who alleged Lanham Act 15 violations, sought to subpoena Amazon for information regarding sales of infringing goods 16 to use in default judgment motion). 17 IV. CONCLUSION 18 For the reasons set forth above, and for good cause shown, the Court GRANTS 19 Plaintiff’s ex parte application for leave to serve subpoena prior to a Rule 26(f) conference 20 (ECF No. 39).

See, e.g., *Nutrition Distribution LLC*, 2017 WL 4391709, at \*1–\*2 (granting 21 motion for early discovery, where plaintiff, who alleged trademark infringement, sought 22 revenue data to support its motion for default judgment, and collecting cases).

Accordingly, 23 the Court ORDERS as follows: 24 1. Plaintiff shall attach a copy of this Order to any subpoena. 25 2. Plaintiff may serve Amazon with a Rule 45 subpoena commanding it to 26 provide Plaintiff with the personally identifying information of the individuals 27 associated with the identified ASINs connected to sales made by Defendant 28 Amaz Group, other Amazon storefronts using or providing the same 1 personally identifying information, documentation provided to Amazon by 2 these storefronts, and documents reflecting the sales, revenues, and financial 3 information related to sales of “LIPOZEM” or similarly-named products 4 made under the identified ASINs.

5 3. If Amazon wishes to move to quash the subpoena, it shall do so before the 6 return date of the subpoena. The return date of the subpoena must allow for at 7 least forty-five (45) days from service to production. If a motion to quash or 8 other challenge is brought, Amazon must preserve the information sought by 9 Plaintiff in the subpoena pending resolution of such motion or challenge.

10 IT IS SO ORDERED. Dated: November 4, 2025 4. 13 Honorable Allison H. Goddard United States Magistrate Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28