

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Brand Advance LLC v. Brand Advance UK et al.

24-CV-8384 (EK) (PCG) (E.D.N.Y. Feb. 13, 2026) · No. 24-CV-8384(EK)(PCG) · Decided February 13, 2026

SUMMARY

The United States District Court for the Eastern District of New York adopted a magistrate judge’s Report and Recommendation granting Brand Advance LLC’s motion for default judgment. The court awarded \$3,000,000 in statutory damages, permanently enjoined specified defendants from using the BRAND ADVANCE mark, denied attorney’s fees and costs without prejudice, and directed the Clerk to enter judgment and close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Eric Komitee
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	February 13, 2026
DOCKET	24-CV-8384(EK)(PCG)
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending default judgment, statutory damages, and a permanent injunction after defendants failed to appear or otherwise defend.
STANDARD OF REVIEW	Clear-error review of the Report and Recommendation because no party filed objections.
PRECEDENTIAL VALUE	unpublished district court decision

TOPICS

- default judgment
- trademark infringement
- injunctions
- damages
- attorney fees

PRACTICE AREAS

- trademark
- civil procedure
- remedies
- commercial litigation

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Report and Recommendation in the absence of objections.
2. Whether plaintiff should receive \$3,000,000 in statutory damages and a permanent injunction prohibiting defendants from using the BRAND ADVANCE mark and confusingly similar designations.
3. Whether plaintiff's requests for attorney's fees and costs should be denied without prejudice and with leave to renew.

HOLDINGS

1. When no party objects, the district court reviews the Report and Recommendation for clear error on the face of the record; finding no error, the court adopted the Report and Recommendation in its entirety.
2. The court awarded plaintiff \$3,000,000 in statutory damages and permanently enjoined the specified defendants and their representatives from using the BRAND ADVANCE mark, unauthorized trademarks, or confusingly similar designations in the prohibited activities and media.
3. Plaintiff's requests for attorney's fees and costs were denied without prejudice and with leave to renew by March 6.

FACTUAL BACKGROUND

The action concerns defendants' use of the BRAND ADVANCE mark and related trademarks, names, logos, designs, trade dress, and source designations in advertising, marketing, solicitation, online content, and search-engine optimization. The proposed injunction addressed uses likely to cause confusion regarding association, sponsorship, endorsement, or approval by Brand Advance LLC. The opinion does not provide additional factual findings because defendants did not object to the Report and Recommendation.

PROCEDURAL HISTORY

Magistrate Judge Cross-Goldenberg issued a Report and Recommendation on January 27, 2026, recommending that plaintiff's motion for default judgment be granted, that plaintiff receive \$3,000,000 in statutory damages, and that a permanent injunction issue. The magistrate judge recommended denying attorney's fees and costs without prejudice and with leave to renew. No party objected, so the district court reviewed the recommendation for clear error, adopted it in its entirety, entered the damages award and injunction, denied fees and costs without prejudice with leave to renew by March 6, and directed the Clerk to enter judgment and close the case.

DISPOSITION

other

CASES CITED

- State Farm Mut. Auto. Ins. Co. v. Grafman, 968 F. Supp. 2d 480, 481 (E.D.N.Y. 2013)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK -----
-----x BRAND ADVANCE LLC, Plaintiff, MEMORANDUM & ORDER 24-CV-
8384(EK)(PCG) -against- BRAND ADVANCE UK et al., Defendants. -----
---x ERIC KOMITEE, United States District Judge: The Court has received Magistrate Judge
Cross- Goldenberg's Report and Recommendation (R&R) dated January 27, 2026.

ECF No. 72. Judge Cross-Goldenberg recommends that the Court grant plaintiff's motion for default judgment, award \$3,000,000 in statutory damages, and enter plaintiff's proposed injunction permanently prohibiting defendants from using the Brand Advance mark. She also recommends that the Court deny plaintiff's requests for attorney's fees and costs without prejudice and with leave to renew.

No party has filed objections and the time to do so has expired. Accordingly, the Court reviews Judge Cross-Goldenberg's recommendation for clear error on the face of the record. See Fed. R. Civ. P. 72(b) advisory committee's note to 1983 addition; accord *State Farm Mut. Auto. Ins. Co. v. Grafman*, 968 F. Supp. 2d 480, 481 (E.D.N.Y. 2013).

Having reviewed the record, I find no error and therefore adopt the R&R in its entirety. Thus, plaintiff is awarded \$3,000,000 in statutory damages. Plaintiff's requests for attorney's fees and costs are denied without prejudice and with leave to renew by March 6. BA DIVERSITY MEDIA, INC. and its officers, agents, servants, employees, and attorneys, including defendant Kenna, are permanently enjoined as follows: A. BADM is enjoined from all actions (whether taken domestically or outside of the United States) taken for the purposes of directly or indirectly advertising, marketing and soliciting activities within the United States which utilize any trademark, name, logo, design, trade dress, or source designation of any kind on or in connection with BRAND ADVANCE that is likely to cause confusion, mistake, deception, or public misunderstanding that such goods or services are associated with, sponsored by, endorsed by, or approved by BRAND ADVANCE, LLC,.

B. BADM is also enjoined from performing any advertising, marketing and soliciting activities inside or outside of the United States which directly or indirectly uses any trademark, name, logo, design, trade dress, or source designation of any kind on or in connection with BRAND ADVANCE that is intended to or is likely to cause confusion, mistake, deception, or public misunderstanding that such goods or services are associated with, sponsored by, endorsed by, or approved by BRAND ADVANCE, LLC with customers in the United States or which solicits business from customers within the United States.

C. BADM is enjoined from directly or indirectly using the trademark BRAND ADVANCE; including U.S. Trademark Reg. No. 4571611; or any confusingly similar marks (the "Unauthorized Trademarks"), on any online, social media page or text hosted within the United States or which is used to advertise for customers within the United States, which is likely to cause confusion

between the source of the goods or services being offered including domains which feature BRAND ADVANCE in the title, URL, or text of any such web or social media page, post or advertisement including in meta data, keywords or any other data or information used in SEO marketing to identify and target customers and shall also take down any infringing page, post, advertising, or text that is currently or hereafter in use.

D. BADM is enjoined from directly or indirectly using the BRAND ADVANCE Mark in the United States and shall remove from public view all identifying materials and distinctive features bearing or embodying BRAND ADVANCE or the Unauthorized Trademarks which is likely to confusion consumers in the United States between the source of the goods or services being offered.

The Clerk of Court is respectfully directed to enter judgment and close this case. SO ORDERED.
/s/ Eric Komitee ERIC KOMITEE United State s District Judge Dated: February 13, 2026
Brooklyn, New York