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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JFXD TRX ACQ LLC, dba TRX, a Florida
Limited Liability Company,

Plaintiff,

v.

CRANKIT INTERNATIONAL PTY LTD.,
dba CrankIt Fitness, an Australian
Company,

Defendant.

Case No.: 2:23-cv-00298-JHC

**ORDER GRANTING MOTION FOR
DEFAULT JUDGMENT**

I

INTRODUCTION

This matter comes before the Court on Plaintiff’s Motion for Default Judgment. Dkt. #
16. The Court has reviewed the materials submitted in support of the motion, pertinent parts of
the record, and the applicable law. For the reasons below, the Court GRANTS the motion.

II

BACKGROUND

In March 2023, Plaintiff brought this action against Defendant, an Australian company,

1 claiming infringement of three patents. Dkt. # 1. In May, Plaintiff served Defendant with
2 process in Australia. Dkt. # 11. In June, Plaintiff moved for default, Dkt. # 12, and the Clerk
3 of Court entered default against Defendant, Dkt. # 15. Plaintiff now moves for a default
4 judgment.

5
6 **III**
7 **DISCUSSION**

8 **A. Jurisdiction**

9 The Court has federal question subject matter jurisdiction over this case, as Plaintiff
10 asserts federal patent infringement claims under 35 U.S.C. § 271 *et seq.* See 28 U.S.C. § 1331;
11 28 U.S.C. § 1338. Also, it appears that the Court’s exercise of specific personal jurisdiction is
12 proper as (1) Plaintiff has indicated that Defendant has purposefully and intentionally availed
13 itself of the privilege of doing business in the State of Washington by alleging that Defendant
14 sells Plaintiff’s patented products here via Amazon.com and other websites and has entered into
15 contracts with customers here, Dkt. # 1; (2) the claims arise out of Defendant’s conduct
16 directed toward Washington (and elsewhere); and (3) nothing in the record suggests that the
17 exercise of such jurisdiction would be unreasonable. See *Schwarzenegger v. Fred Martin*
18 *Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004).

19
20 **B. Default Judgment**

21 If a defendant fails to plead or otherwise defend, as here, the Clerk enters the party’s
22 default. Fed. R. Civ. P. 55(a). Then, upon a plaintiff’s request or motion, the Court may grant
23 default judgment for the plaintiff. Fed. R. Civ. P. 55(b)(2); see *Aldabe v. Aldabe*, 616 F.2d
24 1089, 1092 (9th Cir. 1980). On default judgment motions, “[t]he court must accept all well-
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26 pled allegations of the complaint as established fact, except allegations related to the amount of

1 damages.” *UN4 Prods., Inc. v. Primozich*, 372 F. Supp. 3d 1129, 1133 (W.D. Wash. 2019)
2 (citing *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917–18 (9th Cir. 1987)). Courts
3 typically consider these “*Eitel* factors” on a motion for default judgment:

4 (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's
5 substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at
6 stake in the action; (5) the possibility of a dispute concerning material facts; (6)
7 whether the default was due to excusable neglect, and (7) the strong policy
underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

8 *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986). Default judgments are generally
9 disfavored, so “default judgment is appropriate only if the well-pleaded factual allegations of
10 the complaint suffice to establish a plaintiff’s entitlement to a judgment under the applicable
11 law.” *Dentist Ins. Co. v. Luke St. Marie Valley Dental Grp., P.L.L.C.*, No. 2:21-cv-01229-JHC,
12 2022 WL 1984124 (W.D. Wash. Jun. 6, 2022) (citing *DIRECTV, Inc. v. Hoa Huynh*, 503 F.3d
13 847, 855 (9th Cir. 2007)).

14
15 1. Prejudice to Plaintiff

16 “[P]rejudice exists where the plaintiff has no recourse for recovery other than default
17 judgment.” *Curtis v. Illumination Arts, Inc.*, 33 F. Supp. 3d 1200, 1211 (W.D. Wash. 2014)
18 (citation and internal quotation marks omitted). Defendant has failed to respond to this action,
19 so default judgment is Plaintiff’s only means for relief. *See Eve Nevada, LLC v. Derbyshire*,
20 No. 21-0251-LK, 2022 WL 279030 (W.D. Wash. Jan. 31, 2022); *Bd. of Trs. of U.A. Loc. No.*
21 *159 Health & Welfare Tr. Fund v. RT/DT, Inc.*, No. C 12-05111 JSW, 2013 WL 2237871, at *4
22 (N.D. Cal. May 21, 2013) (“Because ERISA provides that federal courts have exclusive
23 jurisdiction for claims of this nature, denial of Plaintiffs’ Motion would leave them without a
24 remedy.”). Thus, this factor supports default judgment.
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1 2. Merits of Plaintiff’s claims and Sufficiency of Complaint

2 “Courts often consider the second and third *Eitel* factors together.” *Developers Sur.*
3 *and Indem. Co. v. View Point Builders, Inc.*, No. C20-0221JLR, 2020 WL 3303046, at *5
4 (W.D. Wash. Jun. 17, 2022). Accepting the allegations of patent infringement as true, Plaintiff
5 presents enough facts to establish that such a claim is plausible as to three of its patents. Dkt. #
6

7 1. Thus, the second and third *Eitel* factors weigh in favor of Plaintiff.

8 3. Sum of money at stake

9 This factor “considers whether the amount of money requested is proportional to the
10 harm caused.” *Sun Life Assurance Co. of Canada v. Estate of Wheeler*, No. C19-0364JLR,
11 2020 WL 433352, at *4 (W.D. Wash. Jan. 28, 2020). For now, Plaintiff is requesting only
12 equitable relief and seeks discovery regarding damages.
13

14 4. Possibility of dispute over material facts

15 There is no sign that the material facts are in dispute. “The general rule of law is that
16 upon default the factual allegations of the complaint, except those relating to damages, will be
17 taken as true.” *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). Defendant did
18 not appear, so the Clerk correctly entered default against it. Dkt. # 15. This factor weighs in
19 favor of Plaintiff.
20

21 5. Probability that default was because of excusable neglect

22 The sixth *Eitel* factor assesses whether a defendant’s default for failure to appear was
23 because of excusable neglect. *Boards of Trustees of Inland Empire Elec. Workers Welfare Tr.*
24 *v. Excel Elec. Servs., Inc.*, No. 2:21-CV-00200-MKD, 2022 WL 1243663, at *4 (E.D. Wash.
25 Apr. 26, 2022). Generally, courts do not find excusable neglect when defendants were properly
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1 served with the complaint. *See, e.g., Maersk Line v. Golden Harvest Alaska Seafood LLC*, No.
2 C20-1140-JLR-MLP, 2020 WL 6083464, at *4 (W.D. Wash. Sept. 30, 2020), *report and*
3 *recommendation adopted*, No. C20-1140 JLR, 2020 WL 6077419 (W.D. Wash. Oct. 15, 2020).
4 Plaintiff establishes that it properly served Defendant. *See* Dkt. # 11.

5
6 6. Policy favoring decision on the merits

7 Generally, cases “should be decided upon their merits whenever reasonably possible,”
8 so courts disfavor default judgment on this factor. *Eitel*, 782 F.2d at 1472. But in this case,
9 Defendant’s failure to appear or respond “makes a decision on the merits impractical, if not
10 impossible,” so the Court is not precluded from granting default judgment. *PepsiCo, Inc. v.*
11 *Cal. Sec. Cans*, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002); *see also Empl. Painters’ Trust v.*
12 *Dahl Constr. Servs., Inc.*, No. C19-1541-RSM, 2020 WL 3639591 (W.D. Wash. July 6, 2020).
13 Thus, default judgment is an appropriate remedy in this case.
14

15 **IV**

16 **CONCLUSION**

17 In light of the foregoing, the Court GRANTS the motion for default judgment.

18 A permanent injunction is entered against CrankIt, its affiliates, officers, agents,
19 employees, and all persons acting for, with, by, through, under, or in active concert with,
20 CrankIt. Such persons are permanently enjoined and restrained from:
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- 22 a. making, offering for sale, selling, and importing the exercise strap products that
23 infringe U.S. Pat. Nos. D831,764, 10,857,413, and 11,400,334, including, those
24 products identified in Exhibit A of the Complaint (Dkt. # 1–1) as the CrankIt
25 Home Strap (the “Infringing Products”);
26 b. aiding, abetting, contributing to, or otherwise assisting anyone to make, offer for


1 sale, sell, and import the Infringing Products; and

- 2 c. effecting assignments or transfers, forming new entities or associations, or
3 utilizing other methods for the purpose of circumventing or otherwise avoiding
4 the prohibitions set forth in subparagraphs (a) and (b).

5 Plaintiff may pursue discovery under Fed. R. Civ. P. 69(a)(2) to determine its complete
6 damages due to Defendant's patent infringement.

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8 Plaintiff may submit a request for an award of fees and costs when it requests a final
9 judgment in this matter.

10 Dated this 24th day of August, 2023.

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15 John H Chun
16 United States District Judge
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