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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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Neon Network, LLC, a New York
limited liability company,

No. CV-08-1188-PHX-DGC

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Plaintiff,

ORDER

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vs.

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Aspis Liv Forsakrings, a limited liability
company organized under the laws of
Sweden,

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Defendant.

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Plaintiff Neon Network, LLC filed a complaint against Defendant Aspis Liv Forsakrings seeking a declaratory judgment that Plaintiff is entitled to use the Internet domain name www.aspis.com, that Plaintiff's use of that domain name does not constitute trademark infringement, and that Defendant's alleged mark in the domain name is invalid and unenforceable. Dkt. #1. Plaintiff has filed a motion for default judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure. Dkt. #23. For reasons that follow, the Court will deny the motion without prejudice.

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Because Defendant's default has been properly entered under Rule 55(a) (*see* Dkt. ##14, 17, 18), the Court has discretion to grant default judgment against Defendant pursuant to Rule 55(b). *See Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980); *Draper v. Coombs*, 792 F.2d 915, 924 (9th Cir. 1986). Factors the Court should consider in deciding whether to grant default judgment include (1) the possibility of prejudice to Plaintiff, (2) the

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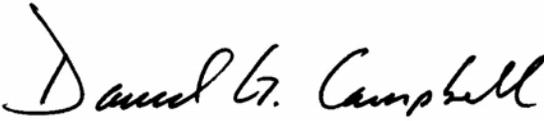
1 merits of the claims, (3) the sufficiency of the complaint, (4) the amount of money at stake,
2 if any, (5) the possibility of a dispute concerning material facts, (6) whether default was due
3 to excusable neglect, and (7) the policy favoring a decision on the merits. *See Eitel v.*
4 *McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

5 Because Plaintiff does not address the *Eitel* factors (*see* Dkt. #23), the Court
6 will deny the motion for default judgment without prejudice. Plaintiff shall have until
7 **May 22, 2009** to refile the motion.

8 **IT IS ORDERED:**

- 9 1. Plaintiff's motion for default judgment (Dkt. #23) is **denied** without prejudice.
- 10 2. Plaintiff shall have until **May 22, 2009** to file a new motion for default
11 judgment.

12 DATED this 8th day of May, 2009.

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15 David G. Campbell
16 United States District Judge
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