

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**UNITED COMMUNICATIONS  
CORPORATION**

**PLAINTIFF**

**V.**

**NO. 4:08CV03004**

**AMR INTERNATIONAL, INC.**

**DEFENDANT**

**V.**

**ECOLOGICAL NETWORKING SYSTEMS, LTD, ET. AL**

**THIRD PARTY  
DEFENDANT**

**ORDER**

On September 16, 2009 the Court entered an Order, *sua sponte*, that the defendant AMR International, Inc. (“AMRI”) show cause why the court should not strike its Answer and enter a Default Judgment based upon the Defendant’s failure to comply with the Court’s Order of July 14, 2009. Defendant has not responded to the Court’s Show Cause Order. Upon review of the pleadings filed herein, the Court finds and orders as follows:

1. Plaintiff, United Communications Corporation (“UCC”) filed its Complaint against Defendant AMRI in the Circuit Court of Pulaski County, Arkansas, on August 26, 2008.
2. On September 22, 2008, AMRI timely removed the matter to this Court based upon diversity jurisdiction.
3. On September 29, 2008, AMRI timely filed its Answer and Counterclaim against UCC.
4. On the same date, AMRI filed a motion to transfer this matter to the United States District Court for the Southern District of Ohio. UCC objected, the parties briefed the issues and the Court denied the motion to transfer by Order entered November 24, 2008.

5. On October 17, 2008, UCC timely filed its Answer to AMRI's counterclaim.
6. On January 16, 2009, AMRI filed a motion to join two additional defendants as additional counter-defendants or third-party defendants. On January 20, 2009, AMRI filed a motion to continue the trial date. UCC objected and the parties briefed the issues.
7. On January 28, 2009 the Court entered an Order granting AMRI's motions to join additional parties and to continue the trial.
8. On February 2, 2009, AMRI filed its "Answer and Amended Counterclaims against United Communications Corporation and Counterclaims against Ecological Networking System, Ltd, and Secure Read, LLC." Summons was issued as to the additional parties on the same date.
9. On February 12, 2009, UCC timely filed its Answer to AMRI's Amended Counterclaim.
10. There is nothing in the record to indicate that either Ecological Networking Systems, Ltd. or Secure Read, LLC has been served and neither has appeared in this matter.
11. On July 13, 2009, attorneys for AMRI filed a Motion for Leave to Withdraw as counsel for said defendant. The Court granted the motion on July 14, 2009.
12. The Court's Order granting the motion to withdraw directed AMRI to notify the Court of substitute counsel within sixty (60) days. The Court advised AMRI that it could not proceed *pro se*.
13. AMRI failed to respond as directed by the Court. Accordingly, on September 16, 2009 the Court entered a Show Cause Order directing AMRI to show cause why it had not responded to the Court's July 14, 2009 Order.
14. The Order to Show Cause was served on AMRI's registered agent for service of process by certified mail on September 21, 2009.

15. AMRI failed to comply with the Court's September 16, 2009 Order.

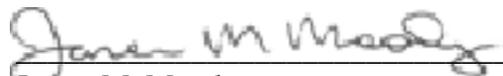
16. The Court finds that AMRI's Answer should be, and hereby is, stricken for failure to comply with the Court's Order and because AMRI cannot proceed *pro se*. See *Rowland v. California Men's Colony*, 506 U.S. 194, 201-02 (1993)(a corporation may appear in federal courts only through licensed counsel) and *Ackra Direct Marketing Corp. v. Fingerhut Corp.*, 86 F. 3d 852 (8<sup>th</sup> Cir. 1996)(finding that a corporation is technically in default as of the date its counsel is permitted to withdraw from the case without substitute counsel appearing)

17. AMRI's Counterclaims against UCC and Third Party Claims are dismissed without prejudice for failure to prosecute.

18. Judgment will be entered in favor of UCC.

19. UCC may file a separate motion for attorneys' fees and costs.

IT IS SO ORDERED, this 16<sup>th</sup> day of October, 2009.

  
James M. Moody  
United States District Judge