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**United States District Court
Central District of California**

12 OTTER PRODUCTS LLC; TREEFROG
13 DEVELOPMENTS, INC. d/b/a
14 LIFEPROOF,

15 Plaintiff,

16 v.

17 ACE COLORS FASHION, INC.;
18 ELECTRONICOS; SHAYNA'S CELL
19 PHONE ACCESSORIES; VANESSA
20 ACCESSORIES; DOES 1-10, inclusive,
21 Defendants.

Case No. 2:14-cv-00141-ODW(ASx)

ORDER TO SHOW CAUSE

**Re: ADEQUACY OF SERVICE TO
DEFENDANT ELECTRONICOS [45]**

22 On January 07, 2014, Plaintiffs Otter Products, LLC and Treefrog
23 Developments, Inc. filed a trademark-infringement suit against Defendant
24 Electronics and other parties. (ECF No. 1.) On April 28, 2014, Plaintiffs filed a
25 motion requesting entry of default judgment against Electronics. (ECF No. 45.) In
26 reviewing the papers, the Court has noted a potential problem with the notice as
27 served to Electronics on March 14, 2014, regarding the recipient of the service.
28 (ECF No. 26.)

1 The Federal Rules of Civil Procedure allows four possible avenues of proper
2 service to an individual within a judicial district of the United States. Fed. R. Civ.
3 P. 4(e). An individual may be served by:

4 (1) following state law for serving a summons in an action brought in
5 courts of general jurisdiction in the state where the district court is
6 located or where service is made; or (2) doing any of the following: (A)
7 delivering a copy of the summons and of the complaint to the individual
8 personally; (B) leaving a copy of [the summons and of the complaint] at
9 the individual's dwelling or usual place of abode with someone of
10 suitable age and discretion who resides there; or (C) delivering a copy of
11 [the summons and the complaint] to an agent authorized by appointment
12 or by law to receive service of process.

13 *Id.*

14 It is unclear whether Plaintiffs have fully complied with this notice requirement.
15 Plaintiffs state in their proof of service that the summons and complaint were served
16 to "Pedro Perez, Person In Charge, who is designated by law to accept service of
17 process on behalf of Electronicos." (ECF No. 26.) This suggests compliance with
18 Rule 4(e)(2)(C). However, Electronicos is an unknown business entity and there is no
19 indication as to its legal status. (Compl. ¶ 4.) As such, there is no way for the Court,
20 or the Plaintiffs, to know who the appropriate service agent is. Service to the
21 appropriate, legally-designated agent is a practical impossibility. For this reason,
22 notice is improper under Rule 4(e)(2)(C).

23 As this Court is located in the Central District of California, Plaintiffs may
24 satisfy service under Rule 4 by complying with California state law. *See* Fed. R. Civ.
25 P. 4(e)(1). California law permits that when service cannot be personally delivered to
26 the person to be served, a summons may be served by leaving a copy of the summons
27 and the complaint at the individual's "usual place of business" in the presence of "a
28 person apparently in charge of his or her office, [or] place of business . . . at least 18

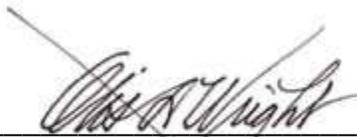
1 years of age.” Cal. Civ. Proc. Code § 415.20(b). Additionally, a copy of the
2 summons and complaint must be mailed by first-class mail “to the person to be served
3 at the place where a copy of the summons and complaint were left.” *Id.*

4 It appears that Plaintiffs may have been attempting to comply with this rule of
5 service. Personal service at Electronicos’s place of business and the inclusion of Mr.
6 Perez’s status as “Person In Charge” and a description of Mr. Perez, including his
7 age, mirrors some of the requirements of section 415.20(b). (ECF No. 26.) However,
8 it remains unclear whether Plaintiffs actually mailed the necessary copy of the
9 summons and complaint to Electronicos.

10 Accordingly, the Court **ORDERS** Plaintiffs **TO SHOW CAUSE** in writing by
11 **Monday, June 16, 2014**, why the Plaintiff’s Application for Default Judgment should
12 not be denied for lack of adequate notice. No hearing will be held; Plaintiffs shall
13 respond in writing. Failure to timely respond will result in denial of the default-
14 judgment application.

15 **IT IS SO ORDERED.**

16
17 June 9, 2014

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20 **OTIS D. WRIGHT, II**
21 **UNITED STATES DISTRICT JUDGE**