

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOE HAND PROMOTIONS, INC.,

Plaintiff,

No. 2:11-cv-1213 KJM CKD

vs.

CEDRIC WASHINGTON,

Defendant.

ORDER

_____/

Plaintiff's motion for default judgment is pending before the court. Default was entered against defendant on August 23, 2011. Dkt. No. 9. The proof of service, upon which default was entered, indicates that defendant was served by substituted service at an address of 254 Redstone Circle, Suisun City, CA 94585. Dkt. No. 7. The process server indicated on the proof of service that the "[b]usiness address was not known at the time of service." This averment is plainly contradicted by the allegations of the complaint, which sets forth defendant's business address. See Dkt. No. 1 at ¶ 7. A review of the WestLaw PeopleFinder database indicates that although a Cedric Marvell Washington resides at the Suisun City address, there is also an individual listed with that same name having an address of 6590 Stockton Blvd., Sacramento, CA 95823, which is the address alleged in the complaint as the location of the infringing business. There is no connection evident, either on the record before the court or in

1 the WestLaw database, between these two individuals or any indication that they are one and the
2 same. In the absence of further evidence that defendant has been properly served, the court
3 cannot recommend entry of default judgment.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The hearing date of October 31, 2012 on plaintiff's motion for default
6 judgment is vacated.

7 2. The motion for default judgment (Dkt. No. 15) is denied without prejudice.

8 3. The entry of default (Dkt. No. 9) is vacated.

9 Dated: September 26, 2012

10 
11 CAROLYN K. DELANEY
12 UNITED STATES MAGISTRATE JUDGE

13
14 ⁴
15 joe-hand-washington1213.def