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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOE HAND PROMOTIONS, INC.,
Plaintiff,
v.
CEDRIC WASHINGTON,
Defendant.

No. 2:11-cv-1213 KJM CKD

ORDER

Plaintiff’s motion for default judgment is pending before the court. Default was entered against defendant on June 23, 2014. ECF No. 31. The court previously vacated entry of default against defendant (ECF No. 9) because there was no proof that defendant had been properly served. ECF No. 18. As the court noted in its prior order:

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 the WestLaw database, between these two individuals or any indication that they are one and the same. In the absence of further

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evidence that defendant has been properly served, the court cannot recommend entry of default judgment.

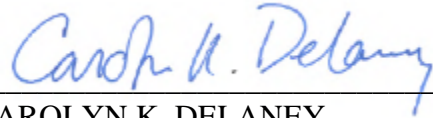
ECF No. 18, Order filed September 26, 2012 at 1:17-2:3.

In plaintiff's new request for entry of default, plaintiff again references the previously filed proof of service. In addition, plaintiff submits the affidavit of plaintiff's counsel (ECF No. 30-1) but the affidavit offers no evidence curing the deficiencies with respect to proof of service of summons previously noted. Again, the court cannot recommend entry of default judgment.

Accordingly, IT IS HEREBY ORDERED that:

1. The motion for default judgment (ECF No. 32) is denied without prejudice.
2. The entry of default (ECF No. 31) is vacated.

Dated: June 26, 2014



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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