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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THERMOGENESIS CORP.,

Plaintiff,

v.

ORIGEN BIOMEDICAL, INC.,

Defendant.

No. 2:13-CV-02619-MCE-DAD

ORDER

Presently before the Court is a motion by Defendant Origen Biomedical, Inc. (“Defendant”) to dismiss the Complaint of Plaintiff Thermogenesis (“Plaintiff”) for failure to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 16. Plaintiff filed its Opposition to Defendant’s Motion over a week late, on April 11, 2014.

Pursuant to Local Rule 78-230(c), opposition to a motion must be filed not less than fourteen (14) days prior to the date of the hearing. The date of the hearing on Defendant’s Motion was set for April 17, 2014. Fourteen (14) days prior to the hearing was April 3, 2014. In explaining its failure to timely oppose the motion, Plaintiff states only that “[b]ecause of OriGen’s filing of their amended notice and change of the hearing date, the opposition was mis-docketed and is being filed today.” ECF No. 24 at 2. It is unclear what Plaintiff means by “mis-docketed,” and this explanation fails to adequately

1 account for Plaintiff's failure to comply with the local rules regarding the time for filing of
2 an opposition.

3 Because oral argument would not assist the Court, the matter is hereby submitted
4 on the briefs pursuant to Eastern District Local Rule 230(g), and the April 17, 2014,
5 hearing on this motion is hereby VACATED. In light of Plaintiff's failure to file an
6 opposition, Defendant's Motion to Dismiss, ECF No. 16, is GRANTED with leave to
7 amend.

8 Plaintiff may file an amended complaint not later than twenty (20) days after the
9 date this Memorandum and Order is filed electronically. If no amended complaint is filed
10 within said twenty (20)-day period, without further notice, Plaintiffs' claims will be
11 dismissed without leave to amend.

12 IT IS SO ORDERED.

13 Dated: April 11, 2014

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MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT