

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IO GROUP, INC.,

No. C-09-0884 PJH (EMC)

Plaintiff,

v.

JASON JORDAN,

**ORDER RE BRIEFING SCHEDULE
FOR PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT AND
DEFENDANT'S MOTION TO SET
ASIDE ENTRY OF DEFAULT**

Defendant.

Plaintiff IO Group, Inc. has filed suit against Defendant Jason Jordan for copyright infringement. The Clerk of the Court entered Mr. Jordan's default on May 8, 2009. See Docket No. 7 (notice). Thereafter, IO Group filed a motion for default judgment against Mr. Jordan, which the presiding judge referred to the undersigned for a report and recommendation. This Court set the motion for default judgment for hearing on September 16, 2009.

Prior to the hearing date, Mr. Jordan did not file an opposition to the motion. However, on the day of the hearing, Mr. Jordan contacted the Court and made a telephonic appearance at the hearing. During the hearing, Mr. Jordan argued, *inter alia*, that he had not been served with the summons and complaint and that he wishes to oppose the motion.

In light of Mr. Jordan's appearance, the Court shall give Mr. Jordan the opportunity (1) to file an opposition to IO Group's motion for default judgment and (2) to file a motion to set aside the

1 entry of default.¹ Mr. Jordan shall have until **October 16, 2009**, to file both the opposition and the
2 motion to set aside. In turn, IO Group shall have until **October 30, 2009**, to file an opposition to the
3 motion to set aside the entry of default. There shall be no reply brief for either IO Group's motion
4 for default judgment or Mr. Jordan's motion to set aside, absent further order of this Court.

5 The Court further orders that, **within three days of the date of this order**, IO Group shall
6 re-serve on Mr. Jordan (1) the complaint, (2) its motion for entry of default, and (3) its motion for
7 default judgment (including all accompanying submissions). Service of these documents on Mr.
8 Jordan shall be made (a) by mail at P.O. Box 91742, Atlanta, GA 30364 **and** (b) by e-mail at
9 nubian101@gmail.com.² Service by this means complies with due process, particularly given Mr.
10 Jordan's representation at the hearing that he has no permanent address at this moment where he can
11 be personally served. *Cf.* Cal. Code Civ. Proc. § 415.40 (providing that "[a] summons may be
12 served on a person outside this state in any manner provided by this article or by sending a copy of
13 the summons and of the complaint to the person to be served by first-class mail, postage prepaid,
14 requiring a return receipt"). For all future service on Mr. Jordan, service shall be effected by this
15 same means -- *i.e.*, both mail and e-mail at the above-listed addresses. If Mr. Jordan elects to
16 register for e-filing, which allows a litigant to file and receive papers electronically, and the
17 presiding judge approves the election, then IO Group will no longer be subject to this specific
18 service requirement. To register for e-filing, Mr. Jordan should contact the ECF Help Desk at 866-
19 638-7829.

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26 ¹ As noted above, default was entered on May 8, 2009. As a general rule, upon entry of default,
27 all well-pleaded facts in the complaint are taken as true, except those relating to damages. *See Televideo*
Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir.1987).


28 ² These addresses were provided by Mr. Jordan at the hearing. Mr. Jordan also provided the
following telephone number as a contact number: 678-927-6067.

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Finally, the Court notes for Mr. Jordan's benefit that the Bar Association of San Francisco has a Legal Help Center, which provides limited legal assistance to litigants representing themselves at no charge to the litigants. The Legal Help Center can be reached at 415-782-9000, extension 8657.

IT IS SO ORDERED.

Dated: September 17, 2009



EDWARD M. CHEN
United States Magistrate Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IO GROUP, INC.,

No. C-09-0884 PJH (EMC)

Plaintiff,

v.

CERTIFICATE OF SERVICE

JASON JORDAN,

Defendant.

_____/

I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

JASON JORDAN
P.O. Box 91742
Atlanta, GA 30364
678/927-6067
nubian101@gmail.com

Dated: September 17, 2009

RICHARD W. WIEKING, CLERK

By: _____/s/
Leni Doyle
Deputy Clerk