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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NYGARD INTERNATIONAL
PARTNERSHIP,

Plaintiff,

v.

CHRISTOPHER JOHNSON,

Defendant.

Case No. [13-cv-03750-VC](#)

**ORDER DISMISSING CASE FOR
FAILURE TO PROSECUTE**

Re: Dkt. No. 33

The plaintiff, Nygard International Partnership, brought a copyright infringement suit against the defendant, Christopher Johnson, in August 2013 for allegedly posting two videos on YouTube. Since filing the lawsuit, Nygard has done virtually nothing to prosecute it. When the Court held a case management conference on July 22, 2014 and questioned counsel for Nygard about why it had not been prosecuting the case, counsel informed the Court that Nygard intended to file a motion for default judgment. The Court gave Nygard a deadline for filing such a motion, and Nygard failed to meet the deadline. The Court issued an order to show cause for why the case should not be dismissed for failure to prosecute, and Nygard responded with an apology and a request for another chance. The Court gave Nygard a new deadline to file a motion for default judgment. Nygard requested a continuance, and the Court set yet another deadline. On September 11, 2014, Nygard filed a motion for default judgment, but had failed to first obtain an entry of default from the Clerk of the Court, apparently because Nygard never properly served Johnson with the complaint, contending incorrectly that service by email was sufficient. And today, counsel for Nygard has filed a letter asking for another continuance of the hearing on the motion for default judgment, even though the motion he filed was inherently defective. In light of the foregoing, the case is dismissed for failure to prosecute under Federal Rule of Civil Procedure

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41(b). Dismissal is without prejudice to filing a new complaint, paying the filing fee, and complying with all applicable legal requirements relating to service. The Clerk's Office is directed to close this case.

IT IS SO ORDERED.

Dated: October 10, 2014



VINCE CHHABRIA
United States District Judge