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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LEVI STRAUSS & CO.,

Plaintiff,

v.

TOYO ENTERPRISE CO., LTD., et al.

Defendants.

No. C 07-0245 PJH

ORDER

The above-entitled action was originally filed on January 12, 2007. On July 25, 2007, plaintiff filed an amended complaint naming eleven defendants, all of which are located in Japan. Plaintiff subsequently filed notices of dismissal as to four of those eleven defendants.

On November 21, 2008, plaintiff filed a request seeking entry of default by the Clerk of the Court as to six defendants – Samauri Co., Ltd.; Studio D’Artisan International Co., Ltd.; Full Count Co., Ltd., John Bull Co., Ltd.; Flat Head Co., Ltd. and Yugen Kaisha Seiaiya. Court staff contacted plaintiff’s counsel to advise that the proofs of service of the summons and complaint were insufficient as to two of the defendants (Flat Head Co., Ltd.; and Yugen Kaisha Seiaiya), and requested that plaintiff’s counsel call the court. Plaintiff’s counsel did not do so.

On December 5, 2008, the court ordered plaintiff to file a motion for dismissal or default judgment, or a stipulated judgment as to the remaining defendants by February 4, 2009. On February 4, 2009, plaintiff filed a motion for default judgment as to the six defendants listed above. On February 5, 2009, the court referred the motion to Magistrate Judge Maria-Elena James for a report and recommendation.

1 Having been made aware thereafter that default had not been entered by the Clerk,
2 court staff contacted plaintiff's counsel and requested that she call the court. Plaintiff's
3 counsel did not do so.

4 On February 20, 2009, the Clerk entered the default of defendants Samauri Co.,
5 Ltd.; Studio D'Artisan International Co., Ltd.; Full Count Co., Ltd., and John Bull Co., Ltd.;
6 and declined the default as to defendants Flat Head Co., Ltd.; and Yugen Kaisha Seiaiya.

7 This order is to clarify that the reference to Judge James is for a report and
8 recommendation as to defendants Samauri Co., Ltd.; Studio D'Artisan International Co.,
9 Ltd.; Full Count Co., Ltd., and John Bull Co., Ltd. only.

10 In addition, no later than March 13, 2009, plaintiff is ORDERED to file a proof of
11 receipt of the summons and complaint as to defendants Flat Head Co., Ltd.; and Yugen
12 Kaisha Seiaiya, or SHOW CAUSE IN WRITING why the claims against those two
13 defendants should not be dismissed.

14 Plaintiff is further ORDERED, no later than February 27, 2009, to file a request for
15 entry of default against the remaining defendant, Works, Inc., and no later than March 13,
16 2009, to file a motion for default judgment as to that defendant (assuming the default has
17 been entered).

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19 **IT IS SO ORDERED.**

20 Dated: February 23, 2009



PHYLLIS J. HAMILTON
United States District Judge

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