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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DON RUBIN,

No. C-09-2607 PJH (EMC)

Plaintiff,

v.

**ORDER RE SUPPLEMENTAL  
BRIEFING AND/OR EVIDENCE**

APPLE, INC., *et al.*,

**(Docket No. 57)**

Defendants.

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Plaintiff Don Rubin has filed suit against Defendants Apple, Inc., Quetouch.com, and Cancerian-9 for copyright infringement. *See* Docket No. 39 (amended complaint). Currently pending before the Court is Mr. Rubin’s motion for default judgment with respect to Quetouch.com and Cancerian-9, which Judge Hamilton has referred to the undersigned for a report and recommendation. Having considered the papers submitted, the Court hereby orders that Mr. Rubin provide supplemental briefing and/or evidence in support of his motion.

More specifically, the Court orders that Mr. Rubin provide supplemental briefing and/or evidence as to why there is personal jurisdiction over Quetouch.com and Cancerian-9. *See Tuli v. Republic of Iraq (In re Tuli)*, 172 F.3d 707, 712 (9th Cir.1999) (“[W]hen a court is considering whether to enter a default judgment, it may dismiss an action sua sponte for lack of personal jurisdiction.”); *see also Dennis Garberg & Assocs. v. Pack-Tech Int’l Corp.*, 115 F.3d 767, 772 (10th Cir.1997) (“[A] district court must determine whether it has jurisdiction over the defendant before entering judgment by default against a party who has not appeared in the case.”). The Court notes that, in *Brayton Purcell LLP v. Recordon & Recordon*, 575 F.3d 981 (9th Cir. 2009), the Ninth

1 Circuit held that, to establish specific jurisdiction in a copyright infringement action, as here, a  
2 purposeful direction analysis should be used. *See id.* (discussing *Calder* effects test).

3 The supplemental briefing and/or evidence shall be filed and served within a week of the  
4 date of this order. Service on Quetouch.com and Cancerian-9 shall be effected consistent with Judge  
5 Hamilton's order of February 17, 2010 -- *i.e.*, by e-mail (either confirmed or not returned as  
6 undeliverable) *and* by Federal Express. *See* Docket No. 51 (order).

7 IT IS SO ORDERED.

8  
9 Dated: April 20, 2010



EDWARD M. CHEN  
United States Magistrate Judge