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4 **UNITED STATES DISTRICT COURT**
5 **NORTHERN DISTRICT OF CALIFORNIA**
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9 **ADT SECURITY SERVICES, INC.,**

10 **Plaintiff,**

11 **vs.**

12 **SECURITY ONE INTERNATIONAL, INC. *et al.*,**

13 **Defendant(s).**
14

Case No.: 11-CV-05149 YGR

**ORDER DENYING WITHOUT PREJUDICE
MOTION OF ADT SECURITY SERVICES, INC.
FOR ENTRY OF DEFAULT JUDGMENT**

15 Plaintiff ADT Security Services, Inc. ("ADT") has filed a Motion for Default Judgment
16 against Defendants Scellusaleads and Pure Clar, requesting fees, costs, damages, and a permanent
17 injunction.

18 Having carefully considered the papers submitted and the pleadings in this action, for the
19 reasons set forth below, the Court hereby **DENIES WITHOUT PREJUDICE** the Motion for Default
20 Judgment.

21 Subsequent to filing its Motion for Default Judgment, ADT filed a Third Amended
22 Complaint. Thus, the pleading on which ADT seeks default judgment is no longer the operative
23 pleading; nor is there any proof that the allegedly defaulting defendants have been served with the
24 operative pleading. What is more, the pleadings in this matter are not set. (*See* Defendant Safe
25 Home Security, Inc.'s Motion to Dismiss, Dkt. No. 158.) Further, damages are not for a sum
26 certain (or a sum that can be made certain by computation), and the evidence necessary to prove
27 damages against the defaulting defendants is nearly identical to the evidence ADT would need to
28 establish liability against the non-defaulting defendants. Thus, entering a default judgment would


1 risk inconsistent judgments between the defaulting and the non-defaulting parties and would result
2 in duplicative proceedings, which is contrary to the interests of judicial economy.

3 Based on the foregoing, ADT's Motion for Default Judgment is **DENIED WITHOUT**
4 **PREJUDICE.**

5 This Order Terminates Dkt. No. 121.

6 **IT IS SO ORDERED.**

7 **Date:** January 9, 2013


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE