

United States District Court
For the Northern District of California

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E-FILED on 7/6/2010

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

AUTODESK, INC.,
Plaintiff,
v.
BUYPCSOFT.COM, et al.,
Defendants.

No. C-09-2337 RMW

ORDER DENYING MOTION TO SET ASIDE
DEFAULT AND DEFAULT JUDGMENT
AND LIFTING STAY OF ENFORCEMENT

The court previously deferred ruling on defendant Tabatabayee's motion to set aside default out of concern that the monetary judgment might be unreasonable under the circumstances. Tabatabayee was granted until March 19, 2010 in which to file and serve an accounting of the Autodesk products sold by BuyPCSoft.com, to be sworn under penalty of perjury. Tabatabayee failed to comply. His letter was sent two weeks after the March 19 deadline, was not sworn under penalty of perjury, and was not served on plaintiff. The letter also identified only seven sales of Autodesk products and is inconsistent with defendant's prior statements to plaintiff regarding the number of sales. See July 21, 2009 letter from Tabatabayee (stating that he has sold only two products) attached as Exhibit F to 10/22/09 Declaration of Handler, and July 30, 2009 letter from Tabatabayee (stating that he has sold only five products), attached as Exhibit H to the Handler Declaration. Moreover, the letter is also incomplete and fails to identify sales by BuyPCSoft.com

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1 that were identified in plaintiffs' papers submitted in connection with its initial motion for default
2 judgment. *See* Docket Nos. 20-24; *see also* Docket No. 48. Accordingly, the court gives little
3 weight to Tabatabayee's March 31, 2010 letter and finds it insufficient to justify modifying the
4 amount of the default judgment. Accordingly, defendant Tabatabayee's motion to set aside default
5 and default judgment is denied. The stay of enforcement of the judgment is hereby lifted.

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DATED: 7/6/2010



RONALD M. WHYTE
United States District Judge