

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 0:23-cv-60780-BLOOM/Valle

CREELED, INC.,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A,"

Defendants.

**ORDER DIRECTING CLERK TO ENTER DEFAULT
AGAINST UNREPRESENTED CORPORATE DEFENDANTS**

THIS CAUSE is before the Court upon a *sua sponte* review of the record. On October 13, 2023, the Court granted Plaintiff CreeLED, Inc.'s ("Plaintiff") Motion for Order Setting Date for New Counsel to Appear, ECF No. [149]. ECF No. [150]. Defendants Binwo Smart Home, CraBow and yinghuatiyu ("Defendants") are corporate entities. *See* CraBow's Rule 7.1 Corporate Disclosure Statement, ECF No. [52], Yinghuatiyu's Rule 7.1 Corporate Disclosure Statement, ECF No. [53], and Binwo Smart Home's Rule 7.1 Corporate Disclosure Statement, ECF No. [56]. The Court ordered Defendants to find and secure new counsel and for that new counsel to enter an appearance **on or before October 27, 2023**. *Id.* at 1. The Court advised Defendant that failure to comply with the Order will result in appropriate sanctions, including entry of default. *Id.* at 2. To date, no counsel for Defendants has entered an appearance. Neither has counsel for Defendants nor Defendants requested additional time for counsel for Defendants to make an appearance. As such, Defendants have failed to "otherwise defend" in this action, so an entry of default is appropriate. Fed. R. Civ. P. 55(a); *see also Nerestant v. ASN Faith Corp.*, No. 18-22810-CIV, 2018

WL 11466502, at *1 (S.D. Fla. Dec. 26, 2018) (finding that entry of default by clerk was appropriate where corporate defendant, who was not represented by counsel, failed to retain counsel, as required by the district court's order (citing *Compania Interamericana Export-Import, S.A. v. Compania Dominicana de Aviation*, 88 F.3d 948, 950 (11th Cir. 1996) (affirming district court's denial of corporate defendant's motion to set aside an order of default where corporate defendant failed to retain counsel))).

The filing by Plaintiff of a notice of joint liability of Defendants is also appropriate. *See Gulf Coast Fans, Inc. v. Midwest Elecs. Imp., Inc.*, 740 F.2d 1499, 1512 (11th Cir. 1984) (holding that judgment should not be entered against a defaulting defendant if another defendant who is similarly situated prevails on the merits); *see also* ECF No. [158] at 9 (denying without prejudice Plaintiff's Renewed Motion for Entry of Final Default Judgment given the possibility of inconsistent judgments in this action).

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Clerk is **DIRECTED** to enter default against **Defendants Binwo Smart Home, CraBow and yinghuatiyu.**
2. Plaintiff is directed to file a Notice of Joint Liability as to Defendants by **November 20, 2023.**
 - a. The Notice of Joint Liability must briefly describe the allegations and advise the Court of the status of the other Defendants' liability.
 - b. Once liability is resolved as to all Defendants, Plaintiff may move for the entry of default final judgment against Defendants, no later than 14 days thereafter.

- c. To that end, Plaintiff shall advise the Court of the identity of the Defendants that have not defaulted by **November 20, 2023**. For example, counsel for Defendant Phixtonus, Defendant No. 39 of Schedule A, has entered an appearance in this action. *See* ECF Nos. [146], [147].
3. Plaintiff's failure to file a Notice of Joint Liability within the specified time will result in sanctions, including but not limited to, dismissal without prejudice as to Defendant.
4. Plaintiff's Motion to Strike the Answers of, and to Default, Defendants Binwo Smart Home, Crabow, and Yinghuatiyu, **ECF No. [168]**, is **DENIED AS MOOT**.
5. Plaintiff's Motion to Compel Defendants, Binwo Smart Home, Crabow, Yinghuatiyu, and ZStone to Answer Interrogatories and Produce Documents Responsive to Plaintiff's Requests for Production, **ECF No. [157]**, is **DENIED AS MOOT**.

DONE AND ORDERED in Chambers at Miami, Florida, on November 13, 2023.



BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record