

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WEST COAST PRODUCTIONS, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:12CV01551 AGF
)	
JEFF RILEY AND LAMONT BROOKFIELD,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff West Coast Productions, Inc.’s motion for default judgment. Plaintiff brought this action under the Copyright Act, 17 U.S.C. §§ 101 et seq., seeking damages and injunctive relief for alleged copyright infringement and contributory copyright infringement against approximately 71 Doe Defendants. In its amended complaint Plaintiff named six defendants: Carl Garrett, Jeff Riley, Lamont Brookfield, and John Does 12, 39, and 69. By Order dated September 30, 2013 (Doc. No. 44), the claims against John Does 12, 39, and 69 were severed and dismissed. Thereafter, Plaintiff and Defendant Garrett entered into a Stipulation for Dismissal. (Doc. Nos. 45 & 46.) At this juncture, only Plaintiff’s claims against Riley and Brookfield remain before the Court. Plaintiff has moved for default judgment against Riley but not against Brookfield.

Where multiple defendants are sued under a theory of joint liability and less than all of them default, a court may not enter default judgment against the defaulted defendants until the liability of the nondefaulted defendants has been decided. *See*

McMillian/McMillian, Inc. v. Monticello Ins. Co., 116 F.3d 319, 320 (8th Cir. 1997); *see also F.F. Heating & Cooling, Inc. v. Lewis Mech. Servs.*, No. 4:09CV1496 CAS, 2010 WL 3720190, at *2 (E.D. Mo. Sept. 13, 2010) (refusing to enter partial default judgment in action for breach of contract and quantum meruit where liability of similarly situated answering defendants was yet to be determined). For this reason, the Court will deny the pending motion for default without prejudice to refiling at such time as Plaintiff dismisses its claims or moves for default against Brookfield.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff shall file, not later than seven (7) days from the date of this Order, either a stipulation for dismissal of its claims or a motion for default judgment against Lamont Brookfield.

IT IS FURTHER ORDERED that Plaintiffs' Motion for Default Judgment against Defendant Jeff Riley is **DENIED without prejudice**. (Doc. No. 43).



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of February, 2014.