

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

KERRY S. WELLS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 4:17-cv-02709-AGF
	)	
KESSLER CORPORATION,	)	
CHARLES C. MCCLOSKEY	)	
LINCOLN CORPORATION,	)	
DAVID MARK ALLEN,	)	
PAL G. CONKEY, and	)	
UNKNOWN NAMED DEFENDANTS,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on pro se Plaintiff Kerry Wells’s “Motion for Default Judgment.” ECF No. 13. In that motion, and supporting memorandum (ECF No. 14), Plaintiff states that Defendant Charles C. McCloskey has not served an answer to Plaintiff’s complaint in the time allowed.

Upon review of the record, the Court notes that Plaintiff has named five Defendants in his pro se complaint for patent infringement, but Plaintiff has served only one, McCloskey.<sup>1</sup> Rather than answering the complaint, McCloskey has filed a timely motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). In response to McCloskey’s motion, Plaintiff submitted additional documents in support of his complaint and stated that he needed “more time to conduct discovery.” ECF No. 8. McCloskey’s motion to dismiss is pending before the Court.

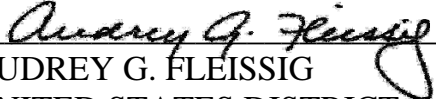
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<sup>1</sup> The time limit for serving the remaining Defendants, pursuant to Federal Rule of Civil Procedure 4(m), has not yet expired.

Because McCloskey has filed a timely motion to dismiss, he has not “failed to plead or otherwise defend,” and default judgment is not warranted under Federal Rule of Civil Procedure 44.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff’s pro se Motion for Default Judgment is **DENIED**. ECF No. 13.

  
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AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Dated this 26th day of December, 2017.