

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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D & K (ASIA) LIMITED,

Plaintiff,

-against-

INNOVATION BARGAIN, LLC,

Defendant.

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ORDER

CV 10-1107 (LDW)(ARL)

LINDSAY, Magistrate Judge:

On October 24, 2011, defendant's former counsel was given leave to withdraw and defendant was given sixty days to retain new counsel. *Electronic Order*, dated October 24, 2011. Outgoing counsel was directed to serve a copy of the electronic order on defendant and to file proof of service with the court. Despite this direction, however, proof of service was not filed until January 30, 2012. Defendant's former counsel states he served his client on October 24, 2011. However, the sixty day period has lapsed and there has been no new appearance of counsel for defendant. As the prior order noted, the defendant, a corporation, must appear by counsel or risk entry of default against it. *See United States ex rel. Mergent Serv. v. Flaherty*, 540 F.3d 89, 92 (2d Cir. 2008).

In light of the uncertainty as to whether defendant was apprised of the Court's October 24, 2011 electronic order, the undersigned will give defendant a final opportunity to appear and defend this case. A conference has been scheduled for **March 29, 2012 at 11:30 a.m. in courtroom 810 of the federal courthouse in Central Islip, New York**. At that time, defendant must appear by counsel. If no counsel appears for defendant, the undersigned will immediately recommend that its answer be stricken and a default judgment be entered against it. Plaintiff's counsel is directed to serve a copy of this order upon defendant at the entity's last known address immediately upon receipt of this order and file proof of such service.

Dated: Central Islip, New York
March 20, 2012

SO ORDERED:

/s/
ARLENE ROSARIO LINDSAY
United States Magistrate Judge