

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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LG CAPITAL FUNDING, LLC

Plaintiff,

v.

NYXIO TECHNOLOGIES CORP.

Defendant.

Civil Action No.: 1:21-cv-2044 (VEC)

**~~PROPOSED~~
DEFAULT JUDGMENT**

This matter, having been commenced on March 9, 2021 by filing of a Summons and Complaint, the Court finds as follows:

1. Defendant Nyxio Technologies Corp. was served vis-à-vis Kris Osborne who is designated to accept service on behalf of Defendant’s Registered Agent, Registered Agent Corporation Service Company on April 13, 2021, and its Answer to the Complaint was due on or before May 4, 2021. Dkt. 7.
2. Defendant failed to Answer, and Plaintiff requested a Certificate of Default from the Clerk of this Court on May 10, 2021, Dkts. 12 and 13, which was issued on the same day. Dkt. 14.
3. Defendant is a corporation, and therefor is not a minor, is not incompetent, and is not a member of the military. Kehrli Decl., ¶ 12; Lerman Decl., ¶ 3.
4. On May 14, 2021, Plaintiff moved for Default Judgment by Order to Show Cause, supported by the Declaration of Kevin Kehrli, and exhibits, and the Declaration of Joseph Lerman.
5. Contained in the Complaint and the Declaration of Joseph Lerman are well-pleaded allegations supporting Plaintiff’s motion for default judgment on its claim of breach of contract against Defendant.

6. The terms of the Note, as well as the evidence provided in the Declaration of Joseph Lerman, support a finding of damages in the amount of \$121,853.61, as well as daily interest of \$30.61 from May 14, 2021 to the date of entry of judgment.

7. The well-pleaded allegations in the Complaint and the Declaration of Joseph Lerman also support of a finding that Plaintiff is entitled to its costs and attorneys' fees incurred in conjunction with this action pursuant to the terms of the notes.

8. In conjunction with Plaintiff's motion, it submitted contemporaneous time records supporting Plaintiff's request for \$3,575.00 in attorneys' fees, on the basis of 14.3 hours of work at a rate of \$250.00 per hour, which the Court finds reasonable both in terms of counsel's rate within this District and time spent prosecuting this matter.


9. Finally, Plaintiff submitted a receipt for service of process showing that \$101.30 was paid to serve the Summons and Complaint of Defendant, and the record shows a filing fee of \$402.00 was paid to commence this action.

10. Following supplemental service of the Order to Show Cause, on July 16, 2021, the Court held a hearing on Plaintiff's motion for default judgment, and Defendant failed to appear.

THEREFORE, it is ORDERED, ADJUDGED, and DECREED: That the Court enter judgment against Defendant:

- i. For damages in the amount of \$123,751.85;
- ii. Continuing interest in the amount of \$30.61 per day, totaling _____ from July 17, 2021 to date of entry of judgment;
- iii. For attorneys' fees in the amount of \$3,575.00; and,
- iv. For costs in the amount of \$503.80.

DATED: New York, New York
July 16, 2021

A handwritten signature in black ink, appearing to read "Valerie Caproni", written over a horizontal line.

Hon. Valerie E. Caproni
United States District Court