

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

-----		:	CASE NO. 1:10 CV 00861
O.M.A., S.r.l.,		:	
	Plaintiff,	:	
		:	
	-vs-	:	<u>MEMORANDUM AND ORDER</u>
		:	<u>ADOPTING THE MAGISTRATE</u>
		:	<u>JUDGE'S REPORT AND</u>
		:	<u>RECOMMENDATION AND GRANTING</u>
		:	<u>THE PLAINTIFF'S MOTION FOR</u>
SIMON DeYOUNG CORP., et al.,		:	<u>DEFAULT JUDGMENT</u>
		:	
	Defendants.	:	

UNITED STATES DISTRICT JUDGE LESLEY WELLS

On February 13, 2015, the clerk entered default against defendants Simon DeYoung Corporation, Ohio Braiding Machinery, LLC, and Simon Arden DeYoung, pursuant to Fed. R. Civ. P. 55(a). The plaintiff O.M.A., S.r.l. ("OMA") now seeks entry of default judgment pursuant to Fed. R. Civ. P. 55(b) against the defendants, jointly and severally, in the amount of \$2,511,636.00, as to Counts 1, 3, 5, 6, 7, and 8 of the first amended complaint.

Once a default is entered, the defendants are considered to have admitted all of the well pleaded allegations in the complaint, including jurisdiction. Ford Motor

Company v. Cross, 441 F.Supp.2d 837, 845 (E.D.Mich. 2006) (citing Visioneering Construction v. U.S. Fidelity and Guaranty, 661 F.2d 119, 124 (6th Cir. 1981)). While the well-pleaded factual allegations in the complaint are taken as true when a defendant is in default, damages are not. Ford Motor Company, 441 F.Supp.2d at 848 (citing Thomson v. Wooster, 114 U.S. 104 (1885); Antoine v. Atlas Turner, Inc., 66 F.3d 105, 110–11 (6th Cir.1995)). In order for the Court to enter judgment, the Court must determine the amount of damages.

Under Rule 55, the Court may conduct hearings or make a referral if it needs to conduct an accounting, determine the amount of damages, or establish the truth of any allegation by evidence. In this case, the Court referred this matter to United States Magistrate Judge Kenneth S. McHargh for the purpose of determining the amount of damages that the plaintiff can prove to a reasonable certainty. On August 10, 2015, the Magistrate Judge submitted a Report and Recommendation in which he concluded that the plaintiff OMA can prove damages in the amount of \$2,511,636.00, as the plaintiff requested, to a reasonable certainty. In the absence of objections from the parties, the Court accepts the Magistrate Judge's conclusion and adopts the R&R in its entirety.¹ The Court accordingly concludes that the plaintiff OMA can prove damages in the amount of \$2,511,636.00 to a reasonable certainty.

Further, having reviewed the allegations stated in the First Amended Complaint, the Court concludes that the now unchallenged facts adequately support the causes of

¹ Pursuant to 28 U.S.C. § 636(b)(1), this Court makes a de novo determination of those portions of the R&R to which a timely objection is made." In this instance, no timely objections have been filed.

action stated in Counts 1, 3, 5, 6, 7, and 8 of the First Amended Complaint.

Accordingly, the plaintiff's unopposed motion for default judgment is granted.

IT IS SO ORDERED.

/s/ Lesley Wells
UNITED STATES DISTRICT JUDGE

Date: August 28, 2015