

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MOTILE OPTICS, LLC,

Plaintiff,

v.

AZEND GROUP CORP.,

Defendant.

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CIVIL ACTION NO. 6:15-CV-01053-RWS

**ORDER ADOPTING REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On February 13, 2017, the Magistrate Judge issued a Report and Recommendation (Docket No. 22), recommending that Plaintiff Motile Optics, LLC (“Motile Optics” or “Plaintiff”) Motion for Default Judgment (Docket No. 21) against Defendant Azend Group Corp. (“Azend” or “Defendant”) be denied and that Plaintiff’s complaint be dismissed without prejudice. Docket No. 22 at 5. The Report and Recommendation informed the parties of their rights to object to those findings within 14 days, and further informed the parties that a failure to timely object “shall bar that party from de novo review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court.” Docket No. 22 at 5 (citing *Douglass v. United States Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996)). No party has filed objections within the prescribed time period for doing so.

Nonetheless, having reviewed the Magistrate Judge's findings, the Court agrees with the Magistrate Judge's findings. The Magistrate Judge found that Defendant Azend had filed an answer, denied Plaintiff's allegations of infringement, disputed jurisdiction, and pled several affirmative defenses. Docket No. 22 at 4–5, citing Docket No. 14. The Magistrate Judge noted that Plaintiff's motion did not provide any support for default judgment in light of these circumstances. Id. at 5. The Magistrate Judge also noted that while Azend has stopped defending this action, it has been dissolved by the California Secretary of State. Id. Weighing these relevant considerations, the Magistrate Judge therefore determined that Plaintiff was not entitled to default judgment. Id. The Court agrees with this conclusion.

Accordingly, it is **ORDERED** that Plaintiff's Motion for Default Judgment as to Defendant Azend (Docket No. 21) is **DENIED** and Plaintiff's Complaint is **DISMISSED** without prejudice.

SIGNED this 3rd day of March, 2017.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE