

United States District Court
Southern District of Texas

ENTERED

January 23, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GRYPHON OILFIELD SOLUTIONS, §
LLC, §
Plaintiff, §

v. §

CIVIL ACTION NO. H-17-3220

STAGE COMPLETIONS (USA) §
CORPORATION, *et al.*, §
Defendants. §

ORDER

Plaintiff Gryphon Oilfield Solutions, LLC (“Gryphon”) filed a patent infringement complaint against Defendants Stage Completions (USA) Corporation (“Stage USA”) and Stage Completions Inc. (“Stage Inc.”), a Canadian company. After Stage Inc. failed to respond, Gryphon filed a Motion for Default Judgment [Doc. # 53] against Stage Inc., who filed a Motion to Dismiss [Doc. # 59] pursuant to Rule 12(b)(4) of the Federal Rules of Civil Procedure for lack of proper service, pursuant to Rule 12(b)(5) for insufficient service of process, and pursuant to Rule 12(b)(2) for lack of personal jurisdiction. Gryphon filed a Motion to Strike the Motion to Dismiss [Doc. # 66] as untimely.

Federal courts disfavor default judgments, and will generally vacate a default judgment if a late response is ultimately filed. *See, e.g., Harper Macleod Solicitors*

v. Keaty & Keaty, 260 F.3d 389, 393 (5th Cir. 2001); *APD Tech, LLC v. Emeritus Equity Holdings, LLC*, 2017 WL 6284678, *2 (S.D. Tex. Nov. 9, 2017) (noting that the Federal Rules of Civil Procedure disfavor default judgments and that “they should only be resorted to by courts in extreme situations”), report and recommendation adopted, 2017 WL 6209612 (S.D. Tex. Dec. 7, 2017). Indeed, the Fifth Circuit requires a district court to “set aside a default judgment as void if it determines that it lacked personal jurisdiction over the defendant because of defective service of process.” *See id.* (citing *Bludworth Bond Shipyard, Inc. v. M/V Caribbean Wind*, 841 F.2d 646, 649 (5th Cir.1988)). Because Stage Inc. has filed a Motion to Dismiss challenging both service and personal jurisdiction, even if it were untimely, default judgment would be inappropriate. Accordingly, it is hereby

ORDERED that the Motion for Default Judgment [Doc. # 53] and the Motion to Strike Motion to Dismiss [Doc. # 66] are **DENIED**.

SIGNED at Houston, Texas, this **23rd** day of **January, 2018**.



NANCY F. ATLAS
SENIOR UNITED STATES DISTRICT JUDGE