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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VENICE PI, LLC,

Plaintiff,

v.

MICHAEL SMITH,

Defendant.

C17-1211 TSZ

MINUTE ORDER

12 The following Minute Order is made by direction of the Court, the Honorable
Thomas S. Zilly, United States District Judge:

13 (1) Plaintiff has settled with or voluntarily dismissed its claims against all but
14 one defendant, namely Michael Smith. Smith has asserted counterclaims for declaratory
15 judgment of non-infringement and abuse of process. On May 22, 2018, the Court struck
16 certain affirmative defenses asserted by Smith, but denied plaintiff's motion to dismiss
17 Smith's counterclaims. Minute Order (docket no. 62). Plaintiff's answer to Smith's
18 counterclaims was due on June 5, 2018, *see* Fed. R. Civ. P. 12(a)(4)(A), but no answer
19 was timely filed. Smith, who is proceeding pro se, has not moved for entry of default
20 against plaintiff. Plaintiff has been on notice since October 19, 2018, that its copyright
infringement claim might be dismissed pursuant to *Cobbler Nevada, LLC v. Gonzales*,
901 F.3d 1142 (9th Cir. 2018). *See* Minute Order (docket no. 69). In a related action, the
Court dismissed a similar claim brought by plaintiff, but without prejudice and with leave
to amend. *See* Order (C17-1160, docket no. 58). The Court makes the same ruling in
this matter. Plaintiff's Amended Complaint, docket no. 17, is DISMISSED without
prejudice and with leave to amend.

21 (2) Any Second Amended Complaint shall be filed and served within fourteen
22 (14) days of the date of this Minute Order. In addition, plaintiff shall show cause within
fourteen (14) days of the date of this Minute Order why default should not be entered
against it for failing to timely answer Smith's counterclaims.

1 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
record and to defendant pro se Michael Smith.

2 Dated this 19th day of June, 2019.

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4 William M. McCool
Clerk

5 s/Karen Dews
6 Deputy Clerk

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