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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STARWAY RESTAURANTS, LLC,

Plaintiff,

v.

GLOBAL BUSINESS ENTERPRISE, INC.,
et al.,

Defendants.

Cause No. C09-0421RSL

ORDER DENYING MOTION FOR
DEFAULT JUDGMENT

This matter comes before the Court on “Plaintiff’s *Ex Parte* Motion for Default Judgment Against Defendants Jae Hong, Global Business Enterprise, Inc., and JW US, Inc.” Dkt. # 61. As a result of defendants’ recalcitrance and plaintiff’s inaction, this case remains on the Court’s docket two months after it was scheduled for trial. Having reviewed plaintiff’s motion for default judgment, the supporting documents, and the remainder of the docket, the Court finds that judgment cannot be entered on the record as it currently stands.

BACKGROUND

Plaintiff filed a complaint for trademark infringement and unfair competition on March 30, 2009. Jae Hong and Global Business Enterprise, Inc., were named as defendants in the original complaint. Default was entered against both on June 24, 2009. Dkt. # 19. Five days

1 later, defendant Hong answered the complaint and filed a jury demand. Dkt. # 21.¹ Hong
2 subsequently participated in a scheduling conference regarding this matter. Dkt. # 24. On
3 September 25, 2009, plaintiff amended the complaint to add JW US, Inc., as a defendant. A
4 default was entered against JW US on November 6, 2009.

5 Plaintiff's claims against Hong were subject to an automatic bankruptcy stay
6 between April 27, 2010, and January 6, 2011. Nevertheless, plaintiff elected to proceed against
7 the non-bankrupt defendants, and this matter remained pending with a trial date of January 3,
8 2011. Plaintiff settled with two other defendants, but took no action to resolve its claims against
9 Global Business Enterprise or JW US. On January 18, 2011, the Court issued an order to show
10 cause why this case should not be dismissed. Plaintiff responded by filing a motion to dismiss
11 the remaining John Doe defendants (Dkt. # 62) and this motion for default judgment (Dkt. # 64).

12 DISCUSSION

13 Pursuant to Fed. R. Civ. P. 55(c), the Court may set aside an entry of default for
14 good cause. None of the defaulted defendants has requested that the default entered against
15 them be vacated or otherwise shown good cause for such relief. TCI Group Life Ins. Plan v.
16 Knoebber, 244 F.3d 691, 696 (9th Cir. 2000) (defendant bears burden of demonstrating good
17 cause). The defaults entered on June 24, 2009, and November 6, 2009, remain in effect.

18 Upon entry of default, the well-pleaded allegations of the complaint relating to
19 defendant's liability are taken as true, and the defaulting party is deemed to have admitted all
20 allegations in the complaint pertaining to liability (but not allegations as to the amount of
21 damages). See TeleVideo System, Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987);
22 Danning v. Lavine, 572 F.2d 1386, 1389 (9th Cir. 1978); Dundee Cement Co. v. Howard Pipe &
23 Concrete Prods., Inc., 722 F.2d 1319, 1323 (7th Cir. 1983). "[N]ecessary facts not contained in
24 the pleadings, and claims which are legally insufficient, are not established by default,"

25
26 ¹ To the extent Hong attempted to answer on behalf of defendant Global Business Enterprise,
Inc., the answer was stricken. Dkt. # 25.

1 however. Cripps v. Life Ins. Co., 980 F.2d 1261, 1267 (9th Cir. 1992). The Court has the power
2 to require additional proof of any fact alleged in the complaint or to “investigate any other
3 matter” necessary to establish liability or damages. Fed. R. Civ. P. 55(b)(2).

4 Having reviewed the complaint and the declarations and documents submitted by
5 plaintiff with its motion for default judgment, the Court finds that additional proof is necessary.
6 Plaintiff seeks injunctive relief and an award of \$74,832.52 in attorney’s fees and costs against
7 Hong, Global Business Enterprise, and JW US. Although the proposed injunction is consistent
8 with the complaint and of reasonable scope, the request for attorney’s fees is not adequately
9 supported. Plaintiff provides nothing more than the total amount billed in each billing cycle,
10 without stating the hourly rates charged, the work performed, or the number of hours expended
11 on particular tasks. A review of the record reveals the paucity of substantive legal work
12 performed and strongly suggests that fees totaling \$106,903.60 is excessive. Nor does the
13 allocation of 70% of those fees to Hong, Global Business Enterprise, and JW US appear to be
14 reasonable given their minimal participation in this litigation.

15 CONCLUSION

16 For all of the foregoing reasons, plaintiff’s motion for default judgment is
17 DENIED without prejudice. Plaintiff shall, within thirty days of the date of this Order, file an
18 adequately supported motion for default judgment or request that the Court assign a new trial
19 date to this matter. Failure to prosecute this matter in a timely fashion may result in dismissal of
20 the case.

21 DATED this 2nd day of March, 2011.

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25 Robert S. Lasnik
26 United States District Judge